

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.



WORK SESSION

Assembly Committee on Government Affairs

PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU
Nonpartisan Staff of the Nevada State Legislature

ASSEMBLY BILL 390

Revises provisions relating to duties and liability of owner of property whose property includes or abuts public right-of-way. (BDR 22-965)

Sponsored by: Assemblyman Parks
Date Heard: April 2, 2003

Assembly Bill 390 adds a new section to Chapter 278 (Planning and Zoning) that prohibits a local government from requiring a property owner to maintain or repair improvements in the public right-of-way, such as sidewalks. The bill also adds a provision to Chapter 41 (Actions Concerning Persons) limiting the civil liability of property owners whose land abuts the public right-of-way.

Amendments: Amendments were proposed by Carson City (Mary Walker) and Clark County (Dan Musgrove). At the conclusion of the hearing, the Chair directed the opponents of the bill to work with the sponsor on proposed amendments.

A mock-up of the proposed amendments is attached.

Opposition: Representatives from the cities of Carson City, North Las Vegas, Las Vegas, Henderson, and Sparks opposed the bill.

Fiscal Impact: Local Government: Yes (Attached)
State Government: No

MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 390

PREPARED FOR ASSEMBLY GOVERNMENT AFFAIRS
APRIL 8, 2003

PREPARED BY THE RESEARCH DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) green bold italic underlining is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 278 of NRS is hereby amended by adding thereto
2 a new section to read as follows:

3 **1.** *A governing body shall not require an owner of property that*
4 ~~includes or abuts a public right-of-way to:~~

5 ~~(a) Maintain any unimproved portion of the public right-of-way; or~~
6 ~~(b) Maintain, reconstruct Reconstruct or repair an existing median,~~
7 ~~sidewalk, street improvement or other improvement in the public right-~~
8 ~~of-way that abuts his property.~~

9 **2.** *The provisions of subsection 1 do not prohibit a governing body*
10 *from:*

11 (a) imposing an assessment or other charge authorized by law for any
12 reconstruction described in subsection 1 that the governing body causes
13 to be performed within a public right-of-way;

14 (b) requiring reconstruction as a condition of approval for a change
15 in the use of the land; or

16 (c) entering into a license or maintenance agreement with a private
17 entity that requires the private entity to maintain sidewalks within a
18 public right-of-way that deviate from general standards.

Limits provisions of bill to sidewalks and removes duty by local governing body to maintain sidewalks.

Also allows for maintenance agreement with private entity for "above standard" sidewalks.

1 3. The owner of property abutting a public right-of-way may be made
2 responsible, by ordinance, for the following:

3 (a) The maintenance, repair and reconstruction of sidewalks in the
4 public right-of-way that abuts his property if it is determined by the local
5 governing body that the owner of the property abutting the public right-
6 of-way caused the necessity of such maintenance, repair or
7 reconstruction; and

8 (b) The general maintenance of the sidewalk shall include snow
9 removal and ice removal, weed removal, sweeping and maintenance of
10 trees, grass or shrubs encroaching on the sidewalk.

11 **Sec. 2.** NRS 278.010 is hereby amended to read as follows:

12 278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1*
13 *of this act*, unless the context otherwise requires, the words and terms
14 defined in NRS 278.0105 to 278.0195, inclusive, have the meanings
15 ascribed to them in those sections.

16 **Sec. 3.** Chapter 41 of NRS is hereby amended by adding thereto a
17 new section to read as follows:

18 No person who owns property that abuts a public right-of-way is
19 liable in a civil action for the use of sidewalks in the public right-of-way,
20 unless he has failed to comply with Section 1, subsection 3 of this act.
21 based on the grounds that the person failed to:

22 ~~1. Maintain any unimproved portion of the public right of way; or~~

23 ~~2. Maintain, reconstruct or repair an existing median, sidewalk,~~
24 ~~street improvement or other improvement in the public right of way.~~

25 **Sec. 4.** This act becomes effective upon passage and approval.

This provision clarifies the responsibility of the abutting owner to maintain the sidewalk as set forth in an ordinance.

This amendment provides for immunity from liability for the use of public sidewalks unless the abutting owner has failed to maintain the sidewalk as required by ordinance.

H

**BDR 22-965
A.B. 390**

**LOCAL GOVERNMENT
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: April 01, 2003

Agency Submitting: Local Government

Items of Revenue or Expense, or Both	Fiscal Year 2002-03	Fiscal Year 2003-04	Fiscal Year 2004-05	Effect on Future Biennia
Total				

Explanation (Use Additional Sheets of Attachments, if required)

Nevada's cities reported the following fiscal impacts:

City of Henderson – \$4,282,600 in FY 2004; \$4,282,600 in FY 2005; \$8,565,200 in future biennia. (See Attached)

City of Las Vegas – \$9,581,250 in FY 2004; \$10,060,314 in FY 2005; \$10,563,328 in future biennia. (See Attached)

Nevada's counties reported the following fiscal impacts:

- Carson City – Unknown impact.
- Churchill County – No fiscal impact.
- Clark County – No fiscal impact.
- Douglas County – Fiscal impact could be significant.
- Eureka County – No fiscal impact.
- Lincoln County – No fiscal impact.
- Washoe County – \$100,000 per fiscal year.

The following local governments did not provide a response:

- City of North Las Vegas
- City of Reno
- City of Sparks
- Elko County
- Esmeralda County
- Humboldt County
- Lander County
- Lyon County
- Mineral County
- Nye County
- Pershing County
- Storey County
- White Pine County

Name Rick Combs
Title Deputy Fiscal Analyst

BDR 22-965
A.B. 390

LOCAL GOVERNMENT
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 24, 2003

Agency Submitting: City of Las Vegas

Items of Revenue or Expense, or Both	Fiscal Year 2002-03	Fiscal Year 2003-04	Fiscal Year 2004-05	Effect on Future Biennia
Landscape utilities and maintenance (Expense)	\$3,000,000	\$3,150,000	\$3,307,500	\$3,472,875
Private Streets (Expense)	\$3,750,000	\$3,937,500	\$4,134,375	\$4,341,094
Sidewalk liability (Expense)	\$375,000	\$393,750	\$413,438	\$434,109
Sidewalk infill (Expense)	\$750,000	\$787,500	\$826,875	\$868,219
ADA compliance (Expense)	\$125,000	\$131,250	\$137,813	\$144,703
Sewer laterals (Expense)	\$375,000	\$393,750	\$413,438	\$434,109
Offsite improvements (Expense)	\$750,000	\$787,500	\$826,875	\$868,219
Total	\$9,125,000	\$9,581,250	\$10,060,314	\$10,563,328

Explanation (Use Additional Sheets of Attachments, if required)

Increased costs could range from \$5,000,000 to over \$10,000,000 annually.

Name Gail Hall

Title Administrative Officer