



Pacific Law Journal Review of Selected Nevada Legislative

Volume 1989 | Issue 1

Article 4

1-1-1989

Administrative Law; city incorporation procedures

The University of the Pacific, McGeorge School of Law

Follow this and additional works at: <https://scholarlycommons.pacific.edu/nlr>



Part of the [Legislation Commons](#)

Recommended Citation

The University of the Pacific, McGeorge School of Law, *Administrative Law; city incorporation procedures*, 1989 U. PAC. L. REV. (2019).

Available at: <https://scholarlycommons.pacific.edu/nlr/vol1989/iss1/4>

This Legislative Review is brought to you for free and open access by the Journals and Law Reviews at Scholarly Commons. It has been accepted for inclusion in Pacific Law Journal Review of Selected Nevada Legislative by an authorized editor of Scholarly Commons. For more information, please contact mgibney@pacific.edu.

Administrative Law

Administrative Law; city incorporation procedures

NEV. REV. STAT. § 266. (new); §§ 266.016, 266.017, 266.019, 266.027, 266.028, 266.029, 266.032, 266.034, 354.594, 354.5988 (amended).

AB 161 (Committee on Government Affairs); 1989 STAT. Ch. 102 (Effective April 28, 1989)

Under existing law, prior to incorporating a city, a public hearing must be held on the petition for incorporation¹ by the Board of County Commissioners (Board).² Chapter 102 requires a Local Governmental Advisory Committee (Committee)³ to prepare an advisability and feasibility report for the Board on the proposed incorporation.⁴ Chapter 102 also requires the Department of Taxation

1. The petition must be certified as sufficient in its content and form. NEV. REV. STAT. § 266.019 (1987). Chapter 102 requires the petition to also include a surveyed description of the area and a statement of plans for services to be provided, as well as the proposed name, the acreage, and the number of persons and property owners in the area. 1989 Nev. Stat. ch. 102, sec. 13, at 235 (amending NEV. REV. STAT. § 266.019 1(c)).

2. NEV. REV. STAT. § 266.027 (1987). Chapter 102 requires notice of the hearing to be given to all city or town governing bodies in the county. 1989 Nev. Stat. ch. 102, sec. 14, at 236 (amending NEV. REV. STAT. § 266.027 3).

3. See 1989 Nev. Stat. ch. 102, sec. 2, at 231 (enacting NEV. REV. STAT. § 266.231) (creation of the Committee). The Committee is composed of three appointed members from each of the following: The Nevada League of Cities, the Nevada Association of County Commissioners, and the Nevada School Trustees Association; two additional members are appointed by the Nevada State Board of Accountancy. *Id.* Each appointee serves a three year term. *Id.* See also *id.* sec. 19, at 238 (amending NEV. REV. STAT. § 354.594) (responsibilities of the Committee to the Department of Taxation).

4. *Id.* sec. 3, at 231 (enacting NEV. REV. STAT. § 266.____). The report must be requested by the Board within 30 days after receiving a certified petition. *Id.* The written report must account for enumerated factors such as population, land area, composition of the area, and probable effects on services. *Id.* sec. 7, at 233 (enacting NEV. REV. STAT. § 266.____). The report must be presented to the Board within 90 days after the report is requested for the Board to issue copies to the executive director of the Department of Taxation, to all planning commissions or agencies concerned with the proposed area, and to all local county governments. *Id.* sec. 3, at 231 (enacting NEV. REV. STAT. § 266.____). Any commission, agency, or district receiving the report may make recommendations to the Board regarding the proposed incorporation within sixty days. *Id.* sec. 6, at 232 (enacting NEV. REV. STAT. § 266.____). Any submitted report is required to be included in the public record of the proceedings. *Id.* sec. 15, at 237 (amending NEV. REV. STAT. § 266.028).

to file a report with the Committee on the estimated fiscal effect of the proposed incorporation.⁵

Chapter 102 requires the Committee to only approve the report from the Department of Taxation at a public meeting and deliver it to the county clerk.⁶ A Committee judgment declaring that a petition is insufficient is a final judgment.⁷ A qualified elector⁸ with a land ownership interest in the proposed city area may appeal any Committee decision to a district court within thirty days after the Committee has notified the Board of its decision.⁹ Chapter 102 requires the Board to render a written advisory opinion concerning the proposed incorporation within thirty days after the hearing.¹⁰

Existing law requires the Board to designate an election date after rendering its opinion on the advisability of the incorporation.¹¹ Chapter 102 requires the county clerk to mail to every qualified voter a sample ballot with a map and description of the proposed area.¹² If approved by the voters, the Board must order and prepare a legally surveyed description of the incorporated city.¹³

BJM

5. *Id.* sec. 4, at 232 (enacting NEV. REV. STAT. § 266.____). The report is to be made to the Committee within thirty days after receipt of the petition and must include estimated tax rates and examples of a median tax rate change over a one-year period, as well as any necessary explanatory materials. *Id.*

6. *Id.* The Committee may make any necessary revisions, but the report will not affect any future determinations made after incorporation. *Id.*

7. *See id.* sec. 5, at 232 (enacting NEV. REV. STAT. § 266.____). The Committee must notify the Board in writing of the decision. *Id.* *See also id.* sec. 11, at 234 (amending NEV. REV. STAT. § 266.016) (definition of a certified and sufficient petition, urban in character, and used for residential purposes). In order to be sufficient, the proposed area of the city is required to be contiguous and urban in character, used or suitable for residential, commercial, industrial, or governmental purposes, have a required average population density, and not include any privately-owned land greater than one hundred acres without the owner's written consent. *Id.* sec. 12, at 235 (amending NEV. REV. STAT. § 266.017).

8. *See* NEV. REV. STAT. § 266.016 (1987) (definition of a qualified elector).

9. 1989 Nev. Stat. ch. 102, sec. 8, at 234 (enacting NEV. REV. STAT. § 266.____). A district court may only review issues presented at the public hearing on record, but other evidence may be considered on those issues. *Id.* A reversal will be granted only when the Committee decision has been found to be in violation of constitutional or statutory provisions, or arbitrary, capricious, or involving an abuse of discretion. *Id.* If reversed, the Committee is required to continue with the report procedures. *Id.*

10. *Id.* sec. 16, at 237 (amending NEV. REV. STAT. § 266.029).

11. NEV. REV. STAT. § 266.029 (1987). The election must be held within 120 days, but not earlier than 60 days after the opinion is rendered. *Id.*

12. 1989 Nev. Stat. ch. 102, sec. 9, at 234 (enacting NEV. REV. STAT. § 266.____). Chapter 102 requires the ballot to contain the estimated fiscal effect report. *Id.* sec. 17, at 237 (amending NEV. REV. STAT. § 266.032).

13. *Id.* sec. 10, at 234 (enacting NEV. REV. STAT. § 266.____). The survey and other Chapter 102 procedural costs are to be borne by the incorporated city. *Id.* sec. 18, at 238 (amending NEV. REV. STAT. § 266.034). If the voters disapprove the incorporation, costs are to be borne by the county. *Id.*