



The College of Business
AT THE UNIVERSITY OF NEVADA, RENO

Nevada Leadership Program

Conservation District Leadership Development Workshop

Speaker Biographies and Presentation Materials

May 21, 2016

UNCE Lifelong Learning Center
Classroom C
8050 Paradise Road
Las Vegas, Nevada 89123

University Center for Economic Development – Nevada Leadership Program
<http://www.unr.edu/business/research-and-outreach/nevada-leadership>

Speaker Biographies

Michael Harper, FAICP

Mike Harper, FAICP, is retired from a 32+ year local government planning career, primarily as a department director and program manager with Washoe County, NV. During his professional career, he managed both current planning and long range planning efforts for the county. His professional organization leadership positions have been with American Planning Association; American Institute of Certified Planners; American Society for Public Administration; National Association of County Planners; and Western Planning Resources, Inc. For over 30 years he was involved with Lake Tahoe as chair of the Tahoe Regional Planning Agency's advisory planning commission, chair of the Tahoe Transportation District and Commission, Chair of the State of Nevada commission on the purchase of land in the Lake Tahoe Basin; and as Washoe County's permanent alternate on the Tahoe Regional Planning Agency's Governing Board. As a trainer/teacher he has presented at the Rocky Mountain Land Use Institute's annual conference, Nevada Chapter of the American Planning Association's annual conference, the American Planning Association's national conference, Western Planning Resource's annual conference, at U.S. Forest Service forums on the national forest service's planning policy; and as faculty of the National Business Institute and the University of Nevada, Reno. Mike presently serves on Washoe County's design review committee and as the treasurer of 3 planning organizations. He has a Bachelor of Arts in history and the first Master of Public Administration from the University of Nevada, Reno.

Madelyn Shipman, J.D.

Madelyn Shipman has practiced law in northern Nevada since she moved here from Minnesota in 1982. Currently employed part-time at Laxalt & Nomura, Ltd., she retired from full-time public law practice in January 2005. Prior to her retirement, she was Assistant District Attorney and chief civil counsel to the Washoe County Commission. She has appeared before the 2nd Judicial District Court, the Nevada Supreme Court, the various Nevada federal courts and the 9th Circuit Court of Appeals in her various roles as counsel to the Nevada Department of Transportation, the City of Reno and Washoe County. She received her B.A. degree from The American University, Washington, D.C., and her J.D. degree from Hamline University College of Law in St. Paul, Minnesota. She is a Settlement Judge and Foreclosure Mediator for the Nevada Supreme Court, certified as an arbitrator by the First, Second and Ninth Judicial District Courts and is legal counsel currently for the Sun Valley General Improvement District.

Speaker Biographies

Frederick Steinmann, DPPD

Frederick Steinmann currently works for the University of Nevada, Reno and the University Center for Economic Development. He began his professional economic development career with the Reno Redevelopment Agency in the City of Reno, Nevada. Since then, he has worked for the Nevada Small Business Development Center, Bureau of Business and Economic Research, and for the Carson Economic Development Services Department in the City of Carson, California. Frederick has also worked as a Senior Associate for David Paul Rosen & Associates, one of the elite economic development and public policy consulting firms in California. Frederick earned his Doctorate in Policy, Planning, and Development, with areas of study including economic development, public policy, public finance, and real estate development, from the University of Southern California with the successful defense of his dissertation titled, “The Twilight of the Local Redevelopment Era: The Past, Present, and Future of Urban Revitalization and Urban Economic Development in Nevada and California.” He also earned a Bachelor’s of Science and Masters of Science in Economics from the University of Nevada, Reno.



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The University of Nevada, Reno, the University of Nevada, Reno College of Business, and the University Center for Economic Development would like to thank the Nevada Chapter of the American Planning Association for their generous support of this leadership development program and the Nevada Leadership Program.



For more information about the Nevada Chapter of the American Planning Association, including information about how to join, please visit their website:

<http://www.nvapa.org/>



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Further Support of this leadership development program was provided by the Nevada Association of Conservation Districts and the Nevada Department of Conservation and Natural Resources. The University of Nevada, Reno, the University of Nevada, Reno College of Business, and the University Center for Economic Development would like to further thank the Nevada Association of Conservation Districts and Nevada Department of Conservation and Natural Resources for their support of this leadership development program and the Nevada Leadership Program.



<http://dcnr.nv.gov/>

Conservation District Program:

<http://dcnr.nv.gov/conservation-district-program/>



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Nevada Leadership Program

Presentation Materials



Welcome!

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Objectives

The Nevada Leadership Program:

- Main Objective: To create a pool of qualified officials as the difficulty of challenges in Nevada grow; officials who understand the ins-and-outs of government Management and Administration.
- Secondary Objective: To reduce conflict between staff and elected/appointed officials over procedural matters pertaining to government Management and Administration.

Objectives

The Conservation District Leadership Development Program:

- To enhance the effectiveness of conservation efforts throughout Nevada through leadership and administrative skill development.
- To raise awareness of the important role conservation districts play in natural resource and land management in Nevada.
- To enhance the collaboration between local conservation districts and federal, state, and local entities.

Our First Exercise

On the inside of your table name tent:

1. Write down something that no else knows about you.
2. Pass your table name tent to someone else: Person 2: *make up (pure fiction)* something that no-one else knows about Person 1.
3. When called upon, Person 2 will introduce you reading both the true and false thing about you. Class guesses which fact is true about you.

Our Second Exercise

What is Leadership?

- As an **individual**, write down an answer to this question on the index card provided on your table. Think about qualities, responsibilities, activities, etc.
- As a **group**, and using your individual answers, write a single sentence on the flipcharts provided for your group.
- As a **class**, we will discuss and share our answers.

The Agenda


An exploration of thoughts and skills associated with leadership and the administration of conservation districts in Nevada:

1. An Introduction to the Conservation Movement.
2. Powers and Responsibilities of Local Conservation Districts.
3. Public Budgeting and Finance.
4. An Introduction to the Principles of Land Use Planning as it Pertains to Conservation
5. Nevada's Open Meeting Laws and the State Code of Administrative Ethics



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A History of the Conservation Movement

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Early Conservation Efforts in the United States

- Gifford Pinchot (Late 19th Century, 1st Chief of the US Forest Service:
 - Development
 - Conservation
 - Protection of the Public Interests
- Forest Reserve Act (1891) and Transfer Act (1905)
 - Within USDA...Division of Forestry to Bureau of Forestry to the US Forest Service
- Antiquities Act (1906)
 - National Parks Service (1916)
 - US Fish and Wildlife Service (1940)
- Weeks Act (1911)
 - "Examine, locate and recommend for purchase...such lands within the watersheds of navigable streams as...may be necessary to the regulation of flow of navigable streams..."
 - The Act further allowed for lands so acquired to be preserved and maintained as national forests.



An Apocalypse of Biblical Proportions

The Dust Bowl – It Sucked...

- Average price of corn at central markets fell from \$0.77 to \$0.19 per bushel in just three years.
- Average price of wheat dropped from \$1.08 to \$0.33 per bushel in just three years.
- Between 1929 and 1932, average prices received by farmers fell **56.0%**.
- 1932: **52.0%** of all farm debts and **45.0%** of all farm debtors were in default.
- Farm foreclosures: 14.9 per thousand farms in 1929; 18.0 per thousand farms in 1930; 27.8 per thousand farms in 1931; 38.1 per thousand farms in 1932.

The Dust Bowl – It Really Sucked...

Farm Prices and Incomes in the Depression, Selected Years

Year	Prices Received by Farmers	Prices Received by Farmers Relative to Prices Paid	Total Net Income of Farm Operators from Farming (Millions)	Net Income of Farm Operators (Millions) 1929 Prices
1929	100	100	\$6,152	\$6,152
1932	44	63	\$2,032	\$2,956
1937	82	101	\$6,005	\$7,206
1938	66	85	\$4,361	\$5,509
1939	64	83	\$4,414	\$5,726

Source: Walton and Rockoff (1998); Historical Statistics, Washington DC: Government Printing Office (1975)

The Dust Bowl – Why did it suck?

- Homestead Act (1862), end of the American Civil War (1865), First Transcontinental Railroad (1869)
 - Mass migration into the 'American Heartland'
 - Employment of European-style agricultural practices that worked well on the American east and west coasts.
- Morrill Act (1862) and the Hatch Act (1887)
 - Directed federal funding and assistance to state agricultural experiment stations.
- Homestead Act (1862): 160 acres offered.
- Kinkaid Act (1904): 640 acres offered in Nebraska.
- Enlarged Homestead Act (1909): 320 acres offered in the Great Plains.

Beyond Agriculture...

- **Timber-Culture Act (1873):** made 160 acres of federally owned land in mostly arid regions available to any individual willing to plant trees on at least 40 of the 160 acres.
- **Desert Land Act (1877):** any individual could purchase up to 640 acres of federally owned land at \$1.25 an acre if the purchaser agreed to irrigate the land within three years.
- **Timber and Stone Act (1878):** NV, CA, OR, WA...purchase federally owned timber and stone lands for \$2.50 an acre.
- **Timber-Cutting Act (1878):** existing residents could cut trees on federally owned lands if the timber cultivation led to agricultural, mining, or domestic building purposes.

Beginnings of the Contemporary Conservation Era

- **Agricultural Marketing Act (1929)** and the Federal Farm Board; "Stabilization Corporations" (**Ooops!**)
- **Agricultural Adjustment Act (1933):** "Acreage Allotment"
 - United States v. Butler (1935)
 - Basing allotments on the need for soil conservation.
- **Soil Conservation Act (1935)**
 - Sought to "control floods, prevent impairment of reservoirs and maintain the navigability of rivers and harbors, protect public health, public lands and relieve unemployment."
 - Farm subsidies to encourage the planting of native grasses and trees or raise vegetables rather than commercial crops that depleted soil nutrients.
- **Soil Conservation and Domestic Allocation Act (1936)**
 - "An Act to promote the conservation and profitable use of agricultural land resources by temporary Federal aid to farmers and by providing for a permanent policy of Federal aid to States for such purposes."
 - Soil erosion levels had declined by approx. 22.0% by 1940.

Conservation Efforts in the 21st Century

- National Environmental Policy Act (1969) – difficult to separate 'conservation' from the larger world of environmental policy.
- **Sustainable Economic Development** – Balancing Economic Growth with Environmental Protection...Environment, Social, and Economic:
 - Climate Change
 - Water Conservation (Drought and Fresh Water Availability)
 - Education of the Public
 - Economic Growth (Recession of 2001; Great Recession of 2008/2009)
- **Collaborative role** of individuals, grassroots organizations, nongovernmental organizations, educational institutions; national, state, and **local government** agencies and entities.

NRS Chapter 548 (1937, 1973) Conservation

- NRS 548.095, Declaration of Legislative Policy:
Conditions
 - That the renewable resources of the State of Nevada are basic assets.
 - That they are being affected by the ever-increasing demands of farm and ranch operations and by changes in land use from agricultural to nonagricultural uses...
 - That conservation, protection, and controlled development of these renewable natural resources are necessary...

NRS Chapter 548 (1937, 1973) Conservation

- NRS 548.100, Declaration of Legislative Policy:
Consequences
 - ...that the consequences of failing to plan for and accomplish the conservation and controlled development of the renewable resources of the State of Nevada are to handicap **economic development** and cause **degeneration of environmental conditions**...
- NRS 548.105, Declaration of Legislative Policy:
Appropriate Corrective Measures
 - ...that persons in **local communities** are best able to provide basic leadership and direction for the planning and accomplishment of the conservation and development of natural resources...

NRS Chapter 548 (1937, 1973) Conservation

- NRS 548.110, Declaration of Legislative Policy:
Conservation and Control
 - ...the policy of the Legislature to recognize the ever-increasing demands on the renewable natural resources of the State and the need to conserve, protect and develop such resources at such levels of quality as will meet the needs of the people of the State.
- NRS 548.115 through 548.180, State Conservation Commission
- NRS 548.185 through 548.245, Conservation Districts
 - Today, 28 active Conservation Districts managing approximately 70.1 million acres of land in Nevada.

Nevada Senate Bill 476 (2015)
Passed by the 75th Session of the Nevada
State Legislature

An act amending Nevada Revised Statute
 Chapter 548

Nevada SB 476 (2015)

Five Primary Functions:

1. Permits local conservation districts to use a new funding mechanism:
 - Annual fee of up to \$25 per parcel on land within the conservation district's boundaries.
 - A petition must be brought forth to the appropriate Board of County Commissioners who coordinates the future general election, special election or mail-in election to be considered by voters.
 - Any fee initially considered by the local conservation district Board of Supervisors must be approved by the voters of the district.
 - The fee **cannot** be imposed on property owners within the local conservation district **without** the proposed fee being approved by voters (impacted property owners) in a future general election special election or mail-in election.

Nevada SB 476 (2015)

Five Primary Functions:

2. Clarifies that local conservation districts in Nevada have the special expertise to participate as a cooperating agency through the National Environmental Policy Act and recognizes the ability of local conservation districts to coordinate as a local government under the Federal Land Policy and Management Act.
3. Clarifies the existing language in state law regarding identification of the primary federal land management and natural resource agencies local conservation districts in Nevada have historically partnered with.

Nevada SB 476 (2015)

Five Primary Functions:


- 4. Adds a legislative declaration to NRS 548 imploring the Legislature to consider future appropriations to local conservation districts within the state of Nevada to match the appropriations made by other state governments to local conservation districts located outside the state of Nevada (focus on comparable western states).

- 5. Enables local conservation districts to collaborate and work jointly with local weed districts under certain circumstances.



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Powers and Responsibilities of Local Conservation

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Powers and Responsibilities of Local Conservation Districts

- Conservation Districts as Elected and Appointed Officials.
- State Conservation Commission (Organization and Powers).
- Local Conservation Districts and Boards of Supervisors (Organization and Powers).

The Nuts and Bolts of Conservation Districts

NRS 282 (Official Bonds and Oaths), Section 010:

“I,, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any state notwithstanding, and that I will well and faithfully perform all the duties of the office of, on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury.”

The Nuts and Bolts of Conservation Districts

- NRS 548.032, "Conservation District" and "District" Defined:
 - "Conservation District" or "district" means a governmental subdivision of this State, and a public body corporate and politic...
 - Subject to Nevada's open meeting laws.
 - Subject to Nevada's Code of Administrative Ethics.
 - Subject to local, state, and federal election law.

- NRS 548.115 through 548.180, State Conservation Commission

- NRS 548.185 through 548.245, Conservation Districts

The State Conservation Commission

Organization:

- Three Areas: (1) Elko, Eureka, Humboldt, Lander and Pershing, (2) Carson City, Churchill, Douglas, Lyon, Storey and Washoe, and (3) Clark, Esmeralda, Lincoln, Mineral, Nye and White Pine.
- Two Ex Officio Members (Dean of CABNR and Director of the State Department of Agriculture, *or their appointees*).
- Seven Members Appointed by the Governor.
 - 2 members from each of the three areas and 1 person at large (all serve 4-year terms).
- The NvACD submits potential appointees to the Governor for consideration.

The State Conservation Commission

NRS 548.175 General Powers and Duties:

1. Carry out the polices of the State regarding conservation of the natural resources within the State at the state-wide level.
2. To offer appropriate assistance to local Conservation Districts, including: (1) development and implementation of programs, (2) review of local district programs, (3) provide assistance in coordination of programs and resolve potential conflicts, and (4) facilitate, promote, assist, harmonize, coordinate and otherwise guide programs and activities as they relate to other special purpose districts, counties, and other public agencies.
3. Promote cooperation between local conservation districts by facilitating an interchange of advice and experience between districts.

The State Conservation Commission

NRS 548.175 General Powers and Duties:

4. To secure the cooperation of other state and federal government agencies.
5. To serve as the official state agency for cooperating with the Natural Resource Conservation Service (NRCS) of USDA in carrying out conservation operations at the local level.
6. To secure the cooperation of state, federal, interstate, local, public and private agencies with local conservation districts and to facilitate the arrangements between the local conservation district and the local county government.
7. To make local, state, and federal agencies and policymakers and the public aware of the programs and activities of local conservation districts.

The State Conservation Commission

NRS 548.175 General Powers and Duties:

8. Run point for local (including other special districts), state, and federal agencies in carrying out the provisions of the Watershed Protection and Flood Prevention Act (1954).
 - Under this Act, the [Soil Conservation Service](#) at the [Department of Agriculture](#) provides planning assistance and construction funding for projects constructed by local sponsors, often in the form of [flood](#) control districts.
9. Review of plans, programs, and activities pertaining to conservation efforts in the State developed, implemented, and administered by different local, state, and federal agencies including the plans, programs, and activities of local conservation districts.
10. If a conflict between existing or proposed plans, programs, and activities, to report such a conflict to the Director of the Nevada Department of Conservation and Natural Resources.

The State Conservation Commission

NRS 548.175 General Powers and Duties:

11. The State Conservation Commission, with written approval of the local conservation district(s) involved, may:
 - Transfer lands from one local district to another.
 - Divide a single district into two or more legally separate districts.
 - Consolidate two or more districts into a single district.
12. To authorize the change of name of any local district.
13. To apply for any available grants and to accept and use any grants, gifts, or donations to make available grants to qualified local conservation districts.

The State Conservation Commission

NRS 548.178 Establishment of Programs for Distributing Grants to Local Districts:

1. The Commission may establish programs for distributing available grants of money to local districts in the following manner:
 - Distribution of grants with funds provided by the Legislature to local districts must be made in equal amounts to each district which the Commission determines qualifies for the grant.
 - Distribution of grants provided from other sources to local districts which the Commission determines qualified for the grant.
2. A local district may qualify for a grant from the Commission if the district has demonstrated that:
 - It has been established in accordance with NRS 548.
 - It is in compliance with NRS 548 and the regulations established by the Commission.

The State Conservation Commission

NRS 548.178 Establishment of Programs for Distributing Grants to Local Districts:

3. A local district may use any grant from the Commission for any reasonable and necessary expenses incurred by the district.
4. The Commission may adopt any regulations it considers necessary to carry out the provisions of NRS 548.

Local Conservation Districts

District Supervisors:

- NRS 548.280, District to be Governed by Elected and Appointed Supervisors: each district shall be governed by a board consisting of five supervisors elected at large and one or more appointed supervisors.
- NRS 548.283, Appointment of Supervisors to represent Cities and Counties; Alternates:
 - Incorporated cities get one appointed Supervisor on the local district board.
 - If multiple incorporated cities are included in the district but they cannot agree on an appointee, the Commission chooses the representative based on a list of nominees provided by the cities.
 - Each county within the local district may appoint one appointed Supervisor to the board.
 - Appointees to the local conservation district Board of Supervisors may appoint their own alternate to be approved by the district's Board of Supervisors.

Local Conservation Districts

Powers of Districts and Supervisors (NRS 548.340 through NRS 548.400):

- NRS 548.340: A Conservation District is a Governmental Subdivision with the authority (and responsibility) to exercise Public Powers.
- NRS 548.345: Conduct surveys, investigations, and research.
 - No district shall initiate any research program except in cooperation with the government of this State or any of its agencies, or with the United States or any of its agencies.
- NRS 548.350: Conduct demonstration projects.
 - To demonstrate the means, methods, and measures by which renewable natural resources may be conserved.

Local Conservation Districts

Powers of Districts and Supervisors (NRS 548.340 through NRS 548.400):

- NRS 548.355: Institute preventative and control measures; repair and restore property.
 - Engineering operations, methods of cultivation, growing of vegetation, and changes in land use.
 - Lands include, but not limited to, wetlands, stream corridors, and other riparian property.
- NRS 548.360: Development, implement, and administer cooperative agreements with other local, state, and federal agencies.
- NRS 548.365: May provide agricultural and engineering machinery, fertilizer, and seeds to land owners within the local district.
- NRS 548.370: May construct, operate, improve, and maintain facilities and structures necessary in the performance of the local district.

Local Conservation Districts

Powers of Districts and Supervisors (NRS 548.340 through NRS 548.400):

- NRS 548.375: Development of comprehensive plans for the conservation of renewable natural resources within the district (acts, procedures, performances, and avoidances; specification of engineering operations, methods of cultivation, growing of vegetation, cropping programs, tillage practices, and changes in land use).
- NRS 548.380: Administration of projects; acceptance of gifts; participation in cost-sharing on federal financed projects.
- NRS 548.393: Acquisition and disposition of property; the power to acquire, maintain, and improve property and the use of income received from the disposal of property.

Local Conservation Districts

Regulations for Land Use:

- NRS 548.410: Petition, Formulation, Hearings, and Determination:
 - The local district may prepare and file a petition with the Commission to formulate land use regulations applicable to the district.
 - The Commission has authority to formulate regulations governing the use of lands within a district.
 - The Commission shall conduct public meetings and public hearings with in the district(s) regarding the proposed land use regulations.
- NRS 548.415: Proposed Ordinances
 - The proposed land use regulations shall be embodied in a proposed **ordinance** (not a resolution).

Local Conservation Districts

Regulations for Land Use:

- NRS 548.430: Permissible Provisions:
 - Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dikes, dams, ponds, ditches, and other necessary structures.
 - Provisions requiring observance of particular methods of cultivation, including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation, and reforestation.
 - Specifications of cropping programs and tillage practices to be observed.
 - Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on.
 - Provisions for such other means, measures, operations, and programs as may assist conservation of renewable natural resources and prevent or control soil erosion and sedimentation in the conservation district.

Local Conservation Districts

Board of Adjustment:

- NRS 548.460: Where the Commission shall adopt an ordinance prescribing land use regulations, they shall further provide by ordinance for the establishment of a board of adjustment.
- NRS 548.465: Board of Adjustment; Number and Appointment of Members.
 - Must contain 3 members appointed by the Commission.
 - After the initial appointment with staggered terms (1, 2, and 3 year appointments), appointees serve for 3 year terms.
 - Members of the Commission and local district Supervisors are ineligible to serve as members of the Board of Adjustment.

Back to the oath...

NRS 282 (Official Bonds and Oaths), Section 010:

"I,, do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States, and the Constitution and government of the State of Nevada, against all enemies, whether domestic or foreign, and that I will bear true faith, allegiance and loyalty to the same, any ordinance, resolution or law of any state notwithstanding, and that I will well and faithfully perform all the duties of the office of, on which I am about to enter; (if an oath) so help me God; (if an affirmation) under the pains and penalties of perjury."



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An Introduction to NRS Chapter 354 Local Financial Administration

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Nevada Revised Statute (NRS) Chapter 354 Section 470-725: Budgets of Local Governments

NRS 354.472: Purposes of the *Local Government Budget and Finance Act*:

- a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.
- b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.
- c) To provide for estimation and determination of revenues, expenditures and tax levies.
- d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.
- e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.

Nevada Revised Statute (NRS) Chapter 354 Section 470-725: Budgets of Local Governments

- NRS 354.578: "**Tentative budget**" means the budget that is prepared initially, published and recorded by each local government for an ensuing fiscal year prior to its approval by the Department of Taxation and such other supervisory bodies as are charged by law with the examination of tentative budgets, and prior to its subsequent adoption.
- NRS 354.524: "**Final budget**" means the budget which has been adopted by a local governing body or adopted by default as defined by NRS 354.470 to NRS 354.626, inclusive, and which has been determined by the Department of Taxation to be in compliance with applicable statutes and regulations.

Fiscal Authority and Stability

Tax Revenue = Tax Rate x Tax Base

where...

Tax Base is a function of the Economic Base

The Budget Deliberation Process

“Budget deliberations tend to focus on total spending or spending in specific expenditure categories, such as travel, printing or contracts. Important policy decisions may emerge as consequences of spending decisions, but budget deliberations are focused on ***fiscal policy*** rather than ***substantive policy***.”

- Gianakis and McCue (1999)

The Budget Deliberation Process

The Budget Process asks Program Managers for Information in Three Broad Areas:

- Provide an indication of what the program will accomplish.
- Consider how the mission will be accomplished and what resources will be required.
- COST: What will the program cost?

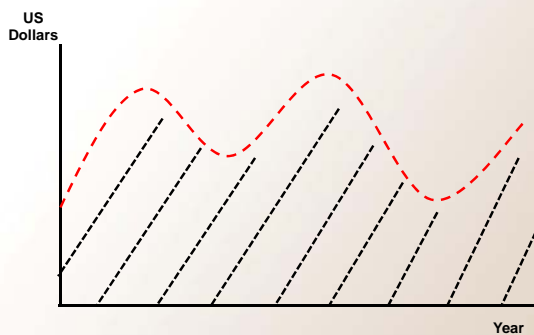
Functions of Budgets

- Three Functions (Allen Schick, "The Road to PPB", 1966):
 - **Control Mechanisms:** hold public managers accountable for using public funds for approved ends.
 - **Guides to Operations:** tell managers what is expected of them in terms of output; help managers plan their work.
 - **Enunciate Public Policy:** allow policy makers to plan how public funds will be used to achieve desired societal outcomes.
- Fourth Function (Gianakis and McCue):
 - **Influence Organizational Culture:** centrality as an organizational symbol and annual ritual; reflection of the basic values of the organization.

Functions of Budgets

- As a group, think about your organizations annual budget and identify examples of the following:
 - Control Mechanisms?
 - How does your annual budget guide organizational operations?
 - What public policies are enumerated in the budget?
 - How does your organizations annual budget influence your organizations culture?
- Discuss as a class in 10 minutes.

The Revenue Constraint



The Revenue Constraint

“Regardless of the format employed, budgetary decision making must usually be conducted within the constraints posed by available revenues.”

“Local government budgeting is *revenue-driven*, and all processes and formats operate under this constraint. *Tax policy* is inherently incremental, because large increases in tax rates are not well tolerated by those affected, regardless of the relative burdens they currently bear.”

The Revenue Constraint

Revenues = Spending

Taxes
Fees
Investment Income
Savings
Debt
Everything Else

The Revenue Constraint

Tax Revenue = Tax Rate x Tax Base

where...

Tax Base is a function of the Economic Base

The Revenue Constraint and the Revenue Forecast

"The centrality of the revenue constraint highlights the importance of the revenue forecast."

"...budgeters must forecast twenty months into the future.

The **actual collections** from the previous year are available to the forecasters at that time, but the current year's revenue have only begun to materialize. **Good budgeters** will continue to revise their forecasts as **more data** becomes available, but the initial estimate has great salience in the budget process."

Bad budgeters? Gaming? Under-Forecasting? Over-Forecasting?

Fiscal Authority and Stability

"Something is seriously out of sync in California. **Many of its cities' revenue sources aren't well aligned with their communities' changing service demands.** Diminishing local control over their finances and the unprecedented dominance of the state in local affairs has left city officials frustrated as they work to respond to the growing needs of their communities.

When legislators do seek to reform the current system of state-local finance, they encounter hundreds of distrustful local officials and technical complexities in a situation **where almost any change helps some communities and harms others.**"

- Coleman and Colantuono (2003)

Three Characteristics to Consider

- The degree of local control and discretion, including:
 - Control of the **tax base** (who pays).
 - Control of the **tax rate** (how much they pay).
- The degree of economic risk, including:
 - **Sustainability** (the capacity of the revenue to grow comparably to growth in service demand).
 - **Volatility** (the level of year-to-year fluctuation).
- The degree of political risk (the vulnerability of revenues to appropriation or reallocation by the state or federal government including the courts).

Local Control and Discretion

- Rate, Base, and Use – Discretion and Control?
- Degree of Flexibility:
 - Setting the rate(s) level.
 - Determining who pays and on what basis (the *base* of the revenue measure).
 - Using the revenues.

Economic Risk

Two Aspects of Long-Term Stability:

1. Sustainability: “A tax is best suited to fund programs where the demand for service changes in proportion to the proceeds of the tax...provides sufficient revenue to cover service costs even as service demands change over time.”
 - Services to People
 - Services to Property
 - Services to Businesses

Economic Risk

Two Aspects of Long-Term Stability:

2. Volatility: “...a measure of the degree of annual fluctuation from the average annual growth of a revenue source.” Generally unacceptable, except for when:
 - The source provides strong return in relation to service demand over time. **Example?**
 - Sufficient reserves and use of one-time programming can be used to cushion the impacts of fluctuation. **Example?**
 - The revenue budget contains a mix of other sources with different performance characteristics that mitigate volatility. **Example?**

Political Risk

“Local revenue stability is also affected by the potential for the state or federal governments (or courts) to reduce the revenue, which we label ‘political risk’.

To the extent that this delegation of authority is accomplished by the state Constitution, the risk of state actions impacting local finances and powers is reduced.”

Nevada? End of the 2015 Session?

Political Risk

▪ **Impacts on Fiscal Planning:**

“...certain bells cannot be unrung. Once a serious proposal is made to transfer a revenue stream on which local government has relied, the dependability of that revenue stream for long-range fiscal planning is significantly damaged for as long as the political memory of the debate remains.”


▪ **Impacts on the Cost of Financing Government:**

“Political risk means uncertainty, and in finance – whether public or private – uncertainty means at the very least higher costs and may mean complete frustration of important fiscal goals for a community.”



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Financial Responsibility and Reporting Requirements

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Financial Responsibility and Reporting Requirements

- On an **annual basis**, local conservation districts must prepare and submit the following to the Nevada State Conservation Program:
 - A properly prepared budget (includes a list detailing both Total Income and Total Expenditures) for the upcoming fiscal year.
 - An Annual Work Plan for the upcoming fiscal year.
- Both the Annual Budget and the Annual Work Plan should be submitted to the Conservation Districts Program.

Annual Receipts Report

Examples of Total Receipts:

- State Funds
- County Funds
- City Funds
- Other Government Funds (Specify)
- Administrative Income (Specify)
- Interest (CD's, Savings, Checking)
- Grants for Projects (Specify)
- Rental Income (Equipment, etc.)
- Contributions
- Building/Property Rental Fees
- Other Sources of Income

Annual Receipts Report

Examples of Total Expenditures:

- Employee Salary
- Fringe Benefit Expense
- Travel
- Building Rent
- Telephone
- Insurance
- Postage
- Copying Expense
- Office Supplies
- Equipment Purchase (Specify)
- Equipment Expenses (Maintenance, Repair, Operation)
- Dues - NvACD
- Dues - NACD
- Dues - Other
- Mileage
- Investments (Specify)
- Internet
- Bond and Insurance Expenses
- Projects Costs (Grant 1, Grant 2, Grant 3...)
- Other Expenses (Specify)

Annual Work Plan


Include the Following Elements:

- Name, Mailing Address, Phone Number of the Conservation District.
- Date the Annual Work Plan was adopted by the Conservation District Board of Supervisors.
- Fiscal Year covered by the Annual Work Plan.
- Provide an Executive Summary of the Annual Work Plan.
- Provide a reasonably detailed summary of each component, project or program summarized in the Executive Summary.
- The Annual Work Plan should also have a section dedicated to a summary of ongoing District Administration efforts and operations.



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Public Contracting

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Public Contracting

“Traditional public administration, with its focus on the management and control of governmental agencies, has only limited relevance to the operation of many of these newer forms of public action...the ***newer forms of action often involve elaborate partnership agreements with nongovernmental actors***...the newer forms of action utilize decentralized modes of operation and the techniques of bargaining and persuasion.”

- Lester Salamon (1989)

Public Contracting

Frederickson, *The Spirit of Public Administration*:

- Downsizing via public contracting can result in the loss of institutional memory and the 'hollowing out' of government.
- Hollowing out, combined with deregulation, can lead to corruption and scandal (i.e. the savings and loan crisis of the 1980's).
- Contracts and contracting can create a 'tempting environment' for kickbacks and frauds.
- Delivery of public service via contracting adds steps between the voter and the delivery of the service.

Public Contracting in Nevada
NRS Chapter 332 Purchasing: Local Governments

Key Sections:

- **NRS 332.039**: Advertisements or requests for bid on contract.
- **NRS 332.045**: Advertisement to be by notice to bid; contents of notice.
- **NRS 332.065**: Award of contract for which bids have been advertised or requested: Lowest responsive and responsible bidder; preference given to recycled products; rewarding contract.

Public Contracting in Nevada
NRS 332.039

NRS 332.039: Advertisements or requests for bid on contract.

- A governing body or its authorized representative shall advertise all contracts for which the estimated annual amount required to perform the contract exceeds \$50,000.
- A governing body or its authorized representative may enter into a contract of any nature without advertising if the estimated annual amount required to perform the contract is \$50,000 or less.
- If the estimated annual amount required to perform the contract is more than \$25,000 but not more than \$50,000, requests for bids must be submitted or caused to be submitted by the governing body or its authorized representative to two or more persons capable of performing the contract, if available. The governing body or its authorized representative shall maintain a record of all requests for bids and all bids received for the contract for at least 7 years after the date of execution of the contract.

Public Contracting in Nevada
NRS 332.045

NRS 332.045: Advertisement to be by notice to bid; contents of notice.

- Use of these options:
 - In a newspaper qualified pursuant to NRS 238 that has a general circulation within the county wherein the local government, or a major portion thereof, is situated at least once and not less than 7 days before the opening of bids; and
 - On the Internet website of the local government, if the local government maintains an Internet website, every day for not less than 7 days before the opening of bids.
- The notice must state:
 - The nature, character or object of the contract.
 - If plans and specifications are to constitute part of the contract, where the plans and specifications may be seen.
 - The time and place where bids will be received and opened.
 - Such other matters as may properly pertain to giving notice to bid.

**Public Contracting in Nevada
NRS 332.065**

NRS 332.065.1: Award of contract for which bids have been advertised or requested: Lowest responsive and responsible bidder

- The lowest responsive and responsible bidder may be judged on the basis of:
 - a) Price
 - b) Conformance to specifications
 - c) Qualifications
 - d) Past performance
 - e) Performance or delivery date
 - f) Quality and utility of services, supplies, materials or equipment offered and the adaptability of those services, supplies, materials or equipment to the required purpose of the contract
 - g) The best interests of the public
 - h) Such other criteria as may be set forth by the governing body or its authorized representative in the advertisement or request for bids, as applicable, that pertains to the contract.

10 Things You Should Know about Contracting and the Law (Kevin G. Ennis, ICMA)

1. **Key Principles:** Public contracting laws are designed to give all interested parties the opportunity to do business with the government or any government entity.
2. **Competitive Bid Requirements:** Many competitive bidding requirements are locally imposed. Most of these local 'purchasing ordinances' require competitive bids for contracts in excess of a designated dollar amount.
3. **Achieving an Open Process:** Any government agency (usually) must publicize the opportunity to do business with the government agency...inviting bids through a Request for Proposal/Qualification (RFP/RFQ), public notices, public meetings.

10 Things You Should Know about Contracting and the Law (Kevin G. Ennis, ICMA)

4. **Uniform Bidding Instructions and Information:** Ensure that bid documents and specifications are complete and identical for all bidders. Make changes to bids available to all bidders promptly...extending RFP/RFQ deadlines. Create a 'level playing field'.
5. **Contracts Awarded to the Lowest Responsible Bidder in a Sealed Bid Process:** Licensing, previous billing practices with the agency (nonresponsibility hearing), information regarding a contractor's competence.
6. **Consideration of Price versus Skill:** Price may not be the only consideration. Demonstrated competence and professional qualifications...architectural services, landscape architectural, engineering, environmental, land surveying, construction project management services, etc.


10 Things You Should Know about Contracting and the Law (Kevin G. Ennis, ICMA)

- 7. Consideration of Non-Price Issues in Awarding Contracts: EX: a special district in California found itself in legal trouble when it decided not to do business with a firm because of concerns regarding the firm's labor relations practices. Local preferences and 'Buy American' requirements. Avoid anything that even gives the appearance of 'favoritism'.
- 8. Disclosure of Ex Parte Communications and Meetings: 'Wining and Dining' by prospective contractors must be disclosed and may disqualify an official from participating in the contracting process...meals, sporting ticket events, and other such gifts.
- 9. An Agency may NOT enter into a Contract in which one of its Officials has a Financial Interest.
- 10. Receiving any kind of Gratuity for Awarding a Contract is a Crime.



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Local, State and National Associations and Partners

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Local, State, and National Associations and Partners

- Natural Resources Conservation Service (USDA)
<http://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/>
- National Association of Conservation Districts (NACD)
<http://www.nacdnet.org/>
- University of Nevada, Reno (Your Land Grant Institution)
<http://www.unr.edu/>
- University of Nevada Cooperative Extension
<http://www.unce.unr.edu/>
 - Agriculture; Children, Youth and Families; Health and Nutrition; Horticulture; Natural Resources
 - extension <http://www.extension.org/>
- Desert Research Institute <http://www.dri.edu/>

Local, State, and National Associations and Partners

- American Planning Association <http://www.planning.org/>
- APA American Institute of Certified Planners
<http://www.planning.org/aicp/>
- American Society for Public Administration
<https://www.aspanet.org/>
- International Economic Development Council
<http://www.iedconline.org/>
- International City/County Management Association
<http://icma.org/en/icma/home>

Nevada State Conservation Commission

- <http://dcnr.nv.gov/conservation-district-program/conservation-commission/>
- Responsible for carrying out the policies on renewable natural resource programs including guiding and regulating all active Conservation Districts within the State of Nevada:
 - Assist the districts in carrying out their powers as defined by Nevada state law.
 - Secure the cooperation and assistance of the federal government and federal agencies.
 - Serve as the official state agency for cooperating with the federal Natural Resources Conservation Service.
 - Enlist cooperation and collaboration with state, federal, interstate, local, public and private agencies and organizations on programs dealing with conservation.
 - Inform the Director of the Nevada Department of Conservation and Natural Resources on the needs of local conservation districts.
 - Assist local conservation districts in their planning efforts.
 - Amend, divide or consolidate local district areas.

Nevada State Conservation Districts Program

- <http://dcnr.nv.gov/conservation-district-program/>
- The Conservation Districts Program is part of the Nevada Department of Conservation & Natural Resources; the Department includes nine divisions or programs:
 - Environmental Protection
 - Forestry
 - State Parks
 - State Lands
 - Water Resources
 - State Historic Preservation Office
 - Nevada Natural Heritage Program
 - **Conservation District Program**
 - Sagebrush Ecosystem Program

Nevada State Conservation Districts Program

- Functions of the State Conservation Districts Program:
 - Coordinating available technical, financial and educational resources with the needs of landowners and land users within existing local conservation districts within the state.
 - Work collaboratively with county and other local governments, the US Department of Agriculture's Natural Resources Conservation Services, and other public and private entities for the conservation of soil, water and related natural resources.
- Key Partners:
 - National Association of Conservation Districts (<http://www.nacdnet.org>)
 - National Association of State Conservation Agencies (<http://www.nascanet.org>)
 - The Conservation Fund (<http://www.conservationfund.org>)
 - Nevada Department of Agriculture (<http://agri.nv.gov/>)
 - US Bureau of Land Management, Nevada (<http://www.blm.gov/nv/st/en.html>)
 - US Forest Service (<http://www.fs.fed.us/>)
 - Conservation Lands Foundation (<http://conservationlands.org/>)
 - Nevada Department of Wildlife (<http://www.ndow.org>)

Nevada Association of Conservation Districts (NvACD)

- A nongovernmental organization comprised of the existing and active local conservation districts within the state of Nevada.
- Serves as a state voice for the local conservation districts on state policy, legislation, communication, and funding for conservation activities.
- As a nongovernmental organization, the NvACD can lobby on issues pertaining to the conservation of natural resources unlike local conservation districts and the State Conservation Commission.
- Provides forums to inform, train and educate local conservation district supervisors, other elected and appointed officials, and the public about the important role conservation plays in the management of Nevada's natural resources.
- Part of the National Association of Conservation Districts.

National Association of Conservation Districts

- <http://www.nacdnet.org/>
- A nonprofit organization that represents local conservation districts and conservation district governing boards from the across the United States.
- NACD's mission is to "Serve conservation districts by providing national leadership and a unified voice for natural resource conservation."
- NACD's Goals:
 - Represent local districts as the national voice on conservation issues.
 - Provide useful information to conservation districts and their state associations.
 - Build partnerships with federal and state agencies and other organizations in order to carry out district priorities and programs.
 - Analyze programs and policies that have an impact on local districts.
 - Offer need and cost-effective services to local districts.

National Association of Conservation Districts

Resources (<http://www.nacdnet.org/resources>):

- Conservation Logos (<http://www.nacdnet.org/resources/logos>)
- District Guides (<http://www.nacdnet.org/resources/guides>)
- Computers for Districts (<http://www.nacdnet.org/resources/computers>)
- Presentations (<http://www.nacdnet.org/resources/presentations>)
- Reports (<http://www.nacdnet.org/resources/reports>)
- State Directory (<http://www.nacdnet.org/about/districts/directory>)
- NACD Store (<http://www.nacdstore.org/>)
- NACD Forestry Network (<http://www.nacdnet.org/resources/forestry/forestrynetwork>)
- District Official Training Program Recognition (<http://www.nacdnet.org/district-official-training-program-recognition>)
- Conservation Webinar Archive (<http://www.nacdnet.org/resources/webinar-archive>)
- NACD eLibrary (<http://www.nacdnet.org/resources/elibraryupdate/elibrary-home>)

Natural Resources Conservation Service (NRCS)

- <http://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/>
- Responsible for providing financial and technical assistance to farmers, ranchers and forest landowners via:
 - Farm Bill conservation programs.
 - Landscape Conservation initiatives.
 - Solutions for Small-Scale-Farms.
 - Drought resources.
 - Small Farm resources.

Natural Resources Conservation Service (NRCS)

NRCS Technical Resources:

- *Agroforestry Systems for Farms and Ranches*
- Climate Change Tools and Resources
- Energy Tools
- Engineering
- *Cropland Erosion*
- Environment Easement Boundaries
- *Economic Tools*
- Field Office Technical Guide
- *Nutrient Management Tools*
- *Organic Farming*
- *Pest Management Tools*
- *Science and Technology Conservation Tools*
- Snow Survey and Water Supply
- *Soil Survey Tools*
- Technical Service Providers
- Water Quality Models
- *Web Soil Survey*



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Local Government and the Law Home Rule vs. Dillon's Law

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Home Rule vs. Dillon's Rule

- **Home Rule:** States that give local governments wide latitude to decide which policies are appropriate for their communities.
- **Dillon's Rule:** States that give limited powers to local government to decide which policies are appropriate.

Home Rule

- "Local governments in home rule states are free to pass laws and ordinances as they see fit to further their operations, within the bounds of the state and federal constitutions."
- Somewhat akin to the "Bill of Rights" in the U.S. Constitution wherein the powers not reserved to the Federal Government may be exercised by the states.

Dillon's Rule

- A local government is authorized to exercise only those powers that are:
 - Expressly granted.
 - Necessarily or fairly implied in or incident to the powers expressly granted.
 - Essential to the accomplishment of the declared purposes of the local government.
- Judge John F. Dillon of the Iowa Supreme Court established the common-law rule known as "Dillon's Rule" (*Merriam v. Moody's Examiners* (25 Iowa 163 (Iowa 1868)))

Application of Dillon's Rule In Nevada

- *Tucker v. Mayor of Virginia City* (4 Nevada 20, 26 (1868)): A Nevada city government is authorized to exercise only those powers expressly granted by the charter or laws creating the city, and the necessary means of employing those powers.
- *Sadler v. Board of County Commissioners* (15 Nevada 39, 42 (1880)): County Commissioners in Nevada are authorized to exercise only those powers which are expressly granted and powers that are necessarily implied to carry out express powers.

Home Rule vs. Dillon's Rule

Issues Most likely to be "Home Rule":

- The rate of property taxation and structure of fees paid exclusively by local residents and businesses.
- Level of government services provided to local citizens and businesses.
- Design and management of local service roads and streets.
- Creation of local laws and policies, as long as local laws and policies are made clear to visitors using signs or other documentation.

Home Rule vs. Dillon's Rule

Issues Most likely to be "Dillon's Rule":

- A state bill of rights must exist to ensure that local governments both treat their citizens fairly, and most importantly visitors to the community fairly.
- Local laws need to be consistent enough so that visitors know what to reasonably expect when they visit a community and what those communities require.
- Inter-community highways need to be regulated by the state to promote the quick and convenient movement of goods and people.

Home Rule vs. Dillon's Rule
Nevada as a Dillon's Rule State
(is it uniformly so?)

Total Home Rule	Zoning	City/County Master Plans (under 100K population)	Maximum Property Tax Rates	Total Dillon's Rule
	Distribution of Property tax rate within counties	City/County Master Plans (over 100K population)	Subdivision of Property Process	

Limited Home Rule – 2015 Legislature

- Limited Home Rule granted to Cities and Counties:
 - AB 493 (Cities); SB 29 (Counties)
- "...authorize[s] the governing body of an incorporated city (board of county commissioners), with certain exceptions, to exercise all powers necessary or proper to address matters of local concern for the effective operation of city (county) government, whether or not the powers are expressly granted to the governing body, but such powers remain subject to all federal and state constitutional, statutory and regulatory provisions..."

Limited Home Rule – 2015 Legislature

“Matter of Local Concern” Includes:

- “... matter that primarily affects or impacts areas located in the incorporated city (county), or persons who reside, work, visit or are otherwise present in areas located in the city (county), and that does not have a significant effect or impact on areas located in other cities or counties.”
- “...does not include any matter that is within the exclusive jurisdiction of another governmental entity or any matter that concerns: (1) a state interest that requires statewide uniformity of regulation; (2) the regulation of business activities that are subject to substantial regulation by a federal or state agency; or (3) any other federal or state interest that is committed by the Constitution, statutes or regulations of the United States or this State to federal or state regulation that preempts local regulation.”

Limited Home Rule – 2015 Legislature

“Matter of Local Concern” Defined:

- Public health, safety and welfare in the city.
- Planning, zoning, development and redevelopment in the city.
- Nuisances and graffiti in the city.
- Outdoor assemblies in the city.
- Contracts and purchasing by city government.
- Operation, management and control of city jails and prisoners by city government.
- Any public property, buildings, lands, utilities and other public works owned, leased, operated, managed or controlled by city government, including, without limitation:
 - Roads, highways and bridges.
 - Parks, recreational centers, cultural centers, libraries and museums.
 - List intended to illustrative; not exclusive or exhaustive
 - Cannot be used to expand or contract definition of “Matter of Local Concern”

Limited Home Rule – 2015 Legislature

Presumptions:

- “...modify Dillon’s Rule as applied to the governing body so that if there is any fair or reasonable doubt concerning the existence of a power of the governing body to address a matter of local concern, it must be presumed that the governing body has the power unless the presumption is rebutted by evidence of a contrary intent by the Legislature.” [emphasis added]
- “...must not be interpreted to modify Dillon’s Rule with regard to: (1) any local governing body other than the governing body of an incorporated city (county); or (2) any powers other than those powers necessary or proper to address matters of local concern for the effective operation of city (county) government.”

Limited Home Rule – 2015 Legislature


Prohibitions:

- Cannot limit its civil liability with certain exceptions
- Cannot prescribe the law governing civil actions between private individuals or entities
- Impose duties on another governmental entity
- Impose a tax
- Order or conduct an election
- Unless authorized by statute, or charter (city); impose a service charge, or regulate business activities that are “substantially” regulated by the state or federal government



**Nevada Leadership Program
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Planning and Conservation Districts

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Land Use Planning is NOT NEW in the U.S. or in Nevada

- Land Use Planning can be traced back to the earliest days of our nation
- Land Use Planning in Nevada laws enacted in the 1920's
- Early references to Conservation Districts and planning authority appear in 1937 Nevada Statutes

Early Planning in the United States

Governments' effect on land design and subdivision dates from the Land Development Ordinance of 1785 (authored by Thomas Jefferson – One of America's earliest planners?)

- The Land Ordinance established the basis for the public land survey system.
- Land was to be systematically surveyed into square townships, six miles (9.656 km) on a side. Each of these townships were subdivided into thirty-six sections of one square mile (2.59 km²) or 640 acres. These sections could then be further subdivided for re-sale by settlers and land speculators.

The Response – Planning, Zoning, and Professional Management

- Planning – “Planning as a function of local government began in the early 20th century, stimulated by the wretched conditions of cities. The kinds of dirt, noise, and congestion of the city proposed by our first city planners consisted of physical alterations in the urban structure.” (David C. Ranney (1961))
- Planning as a precursor for the political and bureaucratic reform movement known as the PROGRESSIVE ERA (1890’s – 1920’s).

Two Important Early 20th Century Planning, Zoning, and Professional Management Responses

- *Euclid v. Ambler Realty Co.* (1926): “The biggest of them all” – US Supreme Court upheld the Euclid town comprehensive plan that outlawed the development of industrial uses and multi-family housing and established **zoning as a legitimate exercise of the police power.** [emphasis added]
- *Standard State Zoning Enabling Act* (SSZEA) of 1926. “The SSZEA gave state legislatures a procedure, based upon an accepted concept of property rights and careful legal precedent, for each community to follow.” (Cullingworth and Caves (2003))

Planning and Zoning – Early Nevada Efforts

- 1921 NRS 268.100 through 268.220 adopted by legislature, giving communities the ability to create city planning commissions; (This legislation was not compulsory.)
- 1924 NRS 268.230 through 268.300 adopted by legislature, giving to cities the process by which to adopt municipal zoning. (This legislation was not compulsory.)
- 1931 & 1937 State statute references to Conservation Districts
- 1941 Legislature adopted NRS 278.030 through 278.260 adopted by legislature, creating the procedure by which city and/or counties would create planning commissions. Legislation also allowed creation of a regional planning.
- 1947 Legislature adopted current NRS 278

Planning In Nevada - The Present and Enabling Legislation

- Nevada Revised Statutes (NRS) Chapter 268 enables planning commissions in cities and annexation by cities.
- Nevada Revised Statutes (NRS) Chapter 278 enables regional, county and city planning commissions, master planning, zoning, subdividing, variances, special use permits, etc.
- Nevada Revised Statutes (NRS) Chapter 278A enables planned unit development (PUD).
- Nevada Revised Statutes (NRS) Chapter 278B enables impact fees.
- Nevada Revised Statutes (NRS) Chapter 548 enables creation of Conservation Districts.

Master Planning and Zoning – An Important Distinction!

- Planning typically represented through a master plan document and master plan map(s).
- Zoning typically represented through a zoning ordinance and zoning map(s).
- **Zoning is not planning**, but a tool to implement a plan.

Master Plans in Nevada

- In Nevada Master Plan required for all counties over 45,000 population; all cities over 25,000 population.
 - Occurs because these jurisdictions required to have a planning commission and requirement of planning commission is to create a master plan
- Planning commission must adopt the master plan; elected body can only amend after consulting with planning commission.
- Except for counties over 100,000 population (and the municipalities within these counties), jurisdictions free to choose what elements in 278.160 they wish to include.

Master Plans in Nevada

- 8 main elements identified in NRS 278
 - Conservation, Historic Preservation, Housing, Land Use, Public Facilities, Recreation and Open Space, Safety, Transportation
- Number of sub-elements under each main element, e.g.
 - Conservation: Solid Waste Disposal Plan
 - Land Use: Community Design
 - Safety: Seismic Safety Plan
- Except for counties over 100,000 population (and the municipalities within these counties), jurisdictions free to choose what elements in 278.160 they wish to include.

Zoning in Nevada

- **Generally NRS provides for master plan map as basis for land use control.**
 - NRS states "...zoning regulations must be adopted in accordance with the master plan for land use".
- **Zoning considered most common method of implementing a master plan.**
 - NRS does not require zoning map or regulations; only authorizes adoption of same.
 - NRS does state, though, if zoning adopted – must be in conformance with adopted master plan.
 - Over past legislative sessions, zoning authorization has been broadened.
 - Density bonuses; inclusionary zoning; minimum densities.

Zoning in Nevada

NRS 278 identifies 14 issues that zoning is designed to address, e.g.

- Conservation of air and water
- Views and access
- Character & physical limitation of land
- Adequate supply of housing
- NRS 278.260:
 - "The governing body shall provide for the manner in which zoning regulations and restrictions and the boundaries of zoning districts are determined, established, enforced and amended."

Types of Zoning

- **Euclidian:** Most common; typically results in grid land use pattern and zoning classifications with separation of uses.
- **Planned Unit Development:** (a variation on Euclidian): Allows for variation of lot size and design and accommodates mixed use.
- **New Urbanism:** Uses transects and encourages more walkable and transit oriented development.
- **Form Based:** Eschews zoning classifications for more design focused development.
- Many updated zoning codes combine elements of above.

NRS 548: Legislature's Declaration

- [R]enewable natural resources of the State of Nevada are basic assets.
- [Renewable natural resources] are being affected by the ever-increasing demands of farm and ranch operations and by changes in land use from agricultural to nonagricultural uses, such as, but not limited to, residential and commercial developments, highways and airports.
- [C]onservation, protection, and controlled development of these renewable natural resources are necessary at such rate and such levels of quality as will meet the needs of the people of this State.

NRS 548: Legislature's Policy

- Consequences. [T]he consequences of failing to plan for and accomplish the conservation and controlled development of the renewable resources of the State of Nevada are to handicap economic development and cause degeneration of environmental conditions important to future generations.
- Appropriate corrective methods. [P]ersons in local communities are best able to provide basic leadership and direction for the planning and accomplishment of the conservation and development of renewable natural resources through organization and operation of conservation districts.
- Conservation and control. [R]ecognize the ever-increasing demands on the renewable natural resources of the State and the need to conserve, protect and develop such resources at such levels of quality as will meet the needs of the people of the State.

Conservation Districts' Planning Powers

- NRS 548.345: "Surveys, investigations and research. ... a district and the supervisors thereof shall have the power to conduct surveys, investigations and research relating to the conservation of renewable natural resources and the preventive and control measures needed, to publish the results of such surveys, investigations or research, and to disseminate information concerning such preventive and control measures..."
- ***Similar to process for master planning (NRS 278) in that an initial "environmental scan" is conducted to determine what exists and what might be possible.***

Conservation Districts' Planning Powers

NRS 548.355: Preventive and control measures; repair and restoration of property... a district and the supervisors ... may:

- Carry out preventive and control measures within the district, including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation and **changes in the use of land.** [emphasis added]
- ***Similar to the zoning authority conferred on local governments through NRS 278***

Conservation Districts' Planning Powers

▪ NRS 548.360: "Cooperation and agreements with agencies for conserving renewable natural resources. ... supervisors ... may cooperate or enter into agreements with and, within the limits of appropriations made available to it by law and any money it acquires from any other source, furnish financial or other aid to any governmental or other agency, or any occupier of land within the district, in conserving renewable natural resources within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this chapter."

- ***Similar to cooperative inter-agency agreements for conservation districts to supply recommendations for erosion control for projects***

Conservation Districts' Planning Powers

- NRS 548.375 "Comprehensive plans for conservation. ... a district and the supervisors ... shall have the power:
 1. To develop comprehensive plans for the conservation of renewable natural resources within the district, which plans shall specify in such detail as may be possible the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in the use of land; and
 2. To publish such plans and information and bring them to the attention of occupiers of lands within the district."
- **Similar to the master planning process authorized through NRS 278**

Conservation Districts' Planning Powers


- **NRS 548.410 "Petition; formulation; hearings; determination of whether referendum to be held.**
 - 1. The supervisors of any district may file petitions with the State Conservation Commission at any time to request it to formulate land use regulations applicable to the district."
- **NRS 548.420 "Approval of proposed ordinance; effect of regulations.**
 - 3. Land use regulations prescribed in ordinances adopted pursuant to the provisions of [NRS 548.410](#) to [548.435](#), inclusive, by the Commission shall have the force and effect of law in the conservation district and shall be binding and obligatory upon all occupiers of lands within such district."
- **Similar to the zoning process authorized through NRS 278**

Exception

- NRS244.361: "[County] Regulation and control of smoke and pollution of air:
1. [B]oards of county commissioners of the counties of this state may, by ordinance regularly enacted, regulate, control and prohibit, as a public nuisance, the excessive emission of dense smoke and air pollution caused by excessive soot, cinders, fly ash, dust, noxious acids, fumes and gases within the boundaries of the county.
 2. If an ordinance adopted pursuant to subsection 1 involves or affects agricultural operations, any plan or program to carry out that ordinance must allow for customarily accepted agricultural practices to occur on agricultural land. A **governmental entity which is considering the adoption of such a plan or program shall consult with the State Department of Agriculture or local conservation districts** to determine the customarily accepted agricultural practices that may be affected by the proposed plan or program."

Concluding Observations

- There are many powers of Conservation Districts that mirror master planning and zoning authority in NRS 278
- Conservation Districts can offer services to municipalities and counties in the form of advice, or even regulation, when it comes to conserving agricultural land, land subject to severe erosion, and even the appropriate use of certain land forms
- Cooperation between local government planning authority and conservation districts' planning authority can be a very positive symbiotic relationship



**Nevada Leadership Program
Conservation District Leadership
Development Workshop**

May 16, 2016



Local Government and the Law Nevada's Open Meeting Laws

Nevada Leadership Program
Conservation District Leadership Development Workshop

May 21, 2016

Why Hold Open Meetings?

"...together we craft for ourselves, through discourse and deliberation, conventions such as values, beliefs, and ethical norms to give meaning and order to our lives. **Collective decision making** in the governance process, including public administration, **works best** in a postmodern society **when it emerges out of an inclusive conversation about how to create order and meaning in our lives together.** Hence, democratic governance provides mechanisms and arenas for this social process."

- Terry Cooper, *The Responsible Administrator*

Definitions (NRS 241.015)

- **"Action"** - A decision made by a majority of the members present, whether in person or by means of electronic communication, during a meeting of a public body.
- **"Meeting"** - The gathering of members of a public body at which a quorum is present, whether in person or by means of electronic communication, to deliberate toward a decision or to take action on any matter over which the public body has supervision, control, jurisdiction or advisory power.
- **"Public Body"** - Designation of substitute to attend meeting must be authorized by ***ordinance approved by the local government (SB 70-2015 Legislature)*** in order to count towards quorum or to participate in vote.

Definitions (NRS 241.015)

- **“Quorum”** - means a simple majority of the constituent membership of a public body or another proportion established by law

- **“Deliberate”** – to collectively examine, weigh and reflect upon reasons for or against a proposed action

Participation by Electronic Means

- A member of a public body may participate by electronic means.

- Participation must allow the public to hear the member so participating and the member so participating to hear statements made by the public.
 - **ISSUE:** How is requirement met when new printed information is presented at meeting in which participating member cannot examine new material?

Meetings (NRS 241.020)

- **Open:** Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies.

- **Noticed.** Notice to include:
 - Time, place and location of meeting
 - List of locations where notice was posted
 - An agenda

- **Accommodation:** Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

Meetings (continued)

Agenda must include:

- Clear and complete statement of matters to be considered.
- Use of the phrase: "for possible action".
- Period(s) for Public Comment.
- Notifications that items may be taken out of order, may be combined, may be removed or may be delayed.
- Any restrictions on Public Comment.

Meetings (continued)

Minimum Notice Includes:

- Posting at principal office or where meeting is to be held
- Three additional prominent places
- Copies to persons requesting notice
- Email notice okay if agreed to by requestor
- Documentation required of every person who posts an agenda (SB 70 – 2015 Legislature)
 - Must be prepared by every person who posts an agenda
 - Must include
 - The date and time when the person posted the copy of the public notice;
 - The name, title and signature of the person who posted the copy of the notice;
 - The address of the location where the person posted the copy of the public notice

Meetings (continued)

- Include name and contact information of person able to provide supporting materials and locations where supporting materials may be obtained
- In counties of 45,000 or more, supporting materials to be posted on website

Meetings (continued)

- Website, if maintained, must include notice of meetings
- Free copies to requesting public
- Supporting materials to be provided to public at same time provided to public body
- May provide by email
- "Emergency"

Meetings (continued)

- AB 445 (2013) requires that all public body meeting notices be posted on the State's website at the same time posted in local area and to persons requesting notice
- AB 445 (2013) requires such posting by public bodies to commence no later than July 1, 2014
- AB 445 (2013) requires that the State Department of Administration have the State website prepared no later than January 1, 2014.

Exceptions (NRS 241.030)

- Personnel Matters
- Prepare, administer or grade examinations
- Appeals of examinations

Exceptions (continued)

- Person subject of closed meeting may waive closed meeting

- Agenda must state statute authorizing closed session and nature of business to be considered

- Exception may not be used to:
 - Prevent removal of disruptive persons
 - Prevent removal of witnesses
 - Discuss appointments
 - Discuss member

Closed Meetings (NRS 241.033)

- Written notice to person subject of closed meeting – proof of service:
 - In person – 5 working days
 - By certified mail – 21 working days
- Must include topic to be discussed and right of person to attend and be represented.
- Chair or public body decides attendees.
- Copy of record available to subject.
- Casual or tangential references to a person or the name of a person during a closed meeting do not constitute consideration of the character, alleged misconduct, professional competence, or physical or mental health of the person.

Administrative Action/Eminent Domain (NRS 241.034)

- Notice same as in NRS 241.033.
- Proof of service.
- Must be on agenda.
- Not required separate from notice per NRS 241.033.
- If eminent domain, real property must be described.

Record of Meeting (NRS 241.035)

- Minutes:
 - The “substance” of matters considered.
 - Must be approved by body at next meeting, or no later than 45 days after meeting (*SB 70-2015 Legislature*).
- Available within 30 days – retained for 5 years.
- May be recorded by public.
- Must tape or transcribe meeting – 1 year – available to public or AG.
- Same for closed meetings.

**Statements Privileged (NRS 241.0353)
Voting (NRS 241.0355)**

- Privilege applies to both member and public.
 - Privilege means that comments at public meetings cannot be construed as slanderous
- Action by Majority Vote of Entire Body.
 - In case of **Conservation Districts**, the quorum consists of all Board members – elected and appointed (Legal counsel opinion)
- Abstention not an affirmative vote (Legal counsel opinion).

**Action in Violation Void (NRS 241.036)
Action by AG or Person (NRS 241.037)**

- Attorney General may seek injunctive relief – no damage or harm required.
- Person may sue to:
 - Void an action
 - Require compliance with law
 - Seek determination of applicability of law to action
- Suit to require compliance – 120 days.
- Suit to void action – 60 days.

Action by AG or Person (continued)

- Attorney General may forgo prosecution of a violation if there is a correction within thirty days of the alleged violation if in the best interests of the public.
- If public body taking corrective action, agenda must state "for corrective action" – but such posting is not an admission of a violation.

**Role of AG (NRS 241.039)
AG Finding (NRS 241.0395)**

- Attorney General to investigate and prosecute violations.
- Attorney General may issue subpoenas.
- If violation found, Attorney General opinion must be included on following agenda.
- Inclusion on agenda is not an admission of guilt or wrong-doing.
- Re-do/ratification of questioned action.


Penalties (NRS 241.040)

- Violation, with knowledge, is a misdemeanor.
- Wrongful exclusion – misdemeanor.
- Civil penalty - \$500.
 - Must be sought by the Attorney General.



Nevada Leadership Program
Conservation District Leadership
Development Workshop

May 21, 2016



**Local Government and the Law
Administrative Ethics**

Nevada Leadership Program
Conservation District Leadership Development Workshop
May 21, 2016

Ethics

What are "Ethics"?

An Ethical Decision Making Model

Nevada's Code of Ethical Conduct

What Ethics Is

"...ethics may be understood as the study of moral conduct and moral status. *Ethics* and *morality* are often used interchangeably, but here I will distinguish them.

Morality assumes some **accepted modes of behavior** that are given by a religious tradition, a culture (including an organizational culture), a social class, a community, or a family. It involves **expected courses of conduct** that are rooted in both formal rules and informal norms.

Ethics, then, is one step removed from action. It involves the **examination and analysis** of the logic, values, beliefs, and principles that are used to justify morality in its various forms."

What Ethics Is

“Ethics considers what is meant by **principles such as justice, veracity, or the public interest**; their implications for conduct in particular situations; and how one might argue for one principle over another as determinative in a particular decision.

Ethics takes what is given or prescribed and **asks what is meant and why**.

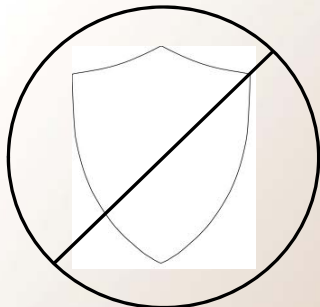
Ethics also **deals with the moral status of entities** such as families, organizations, communities, and societies.”

What Ethics Is

Dealing with Ethics *Descriptively* or *Normatively*:

- Descriptively, ethics attempts to reveal underlying assumptions and how they are connected to conduct. (What we believe as individuals, as a society, as an organization).
- Normatively, ethics attempts to construct viable and defensible arguments for particular courses of conduct as being better than others in specific situations. (Infers a **conflict** between choices).

What Ethics Isn't



What Ethics Is

An analytical tool to help us determine what course of action to take when we are confronted with two or more equally good or two or more equally bad choices when we are forced to choose.

Building an Ethical Decision Making Model

Levels of Ethical Reflection:

- The Expressive Level: "You should know better!"
- The Moral Rules Level: "Always be a good team player."
- The Ethical Analysis Level: "Always tell the truth unless innocent third parties are harmed."
- The Postethical Level: "Why should I be moral?"

Nevada's Code of Ethical Standards

**Nevada Ethics in Government Law NRS
281A.400-NRS 281A.480**



- **PUBLIC POLICY:**
Public office is a public trust for the sole benefit of the people.
- Public officers and public employees must avoid conflicts of interest between their private interests and their public duties

To Whom Does NRS 281A Apply?

- Public officers elected or appointed to a position created by:
 - Constitution
 - State law
 - Ordinance
- And who exercises public power, trust or duty.
- Specifically includes county or city manager, superintendent of schools (2013).
- Applies whether employed, appointed, or under contract with or without compensation and regardless whether acting temporary or interim (2013).

To Whom Does NRS 281A Not Apply?

- Judges.
- Justices.
- Officers of the court system.
- Members of board, commission, or other body that is advisory.
- Member of board of GID or special district only if duties do not include budget or expenditure approval.
- County Health Officer (NRS 439).

The Ten “DO NOTS”

1. Seek or accept any gift, service, favor, employment, etc. which would tend to improperly influence or cause a departure from faithful and impartial discharge of duties...
2. Use position in government to secure or grant unwarranted privileges for self, business interest in which one has significant pecuniary interest, or person to whom one has a commitment in a private capacity...
3. Participate in negotiation or execution of contract in which one has a significant pecuniary interest...

The Ten “DO NOTS” (cont’d)

4. Accept anything of value from a private party for the performance of public duties...
5. Use non-public information to further pecuniary interest of self, business entity or person...
6. Suppress government report or document because it might affect pecuniary interest of self, business entity or person...

The Ten “DO NOTS” (cont’d)

7. Use governmental time, property or equipment outside of any ‘limited use’ or ‘deminimus’ policy adopted by an entity represented or by whom employed...
8. Attempt to benefit personal or financial interest through the influence of a subordinate.

The Ten "DO NOTS" (cont'd)

9. Seek employment or contracts through use of official position...

10. Represent or counsel, for compensation, any person on issue before his/her entity or for one year after leaving entity on any issue under consideration at the time of leaving...

Definitions – Nevada SB 228

Commitment in a private capacity to the interests of another person" means commitment, interest or relationship to a person:

- Spouse or domestic partner
- Member of household
- Related within third degree of consanguinity or affinity
- Employs self, spouse, domestic partner or member of household
- With whom self has a substantial and continuing business relationship
- With whom self has a commitment, interest or relationship substantially similar to above

Definitions – Nevada SB 228

- "Pecuniary Interest" means any beneficial or detrimental interest that consists of or is measured in money, economic value and includes payments for government service and gifts.
- The determination regarding gifts is whether gift is token vs. sufficient to affect conduct of job or office...

Conflict of Interest NRS 281A.420

If the matter under consideration involves:

- A gift or loan to member;
- An economic or money interest of member; or
- The same with regard to a person to whom I have a commitment in a private capacity

DISCLOSE!! DISCLOSE!! DISCLOSE!! DISCLOSE!!

Conflict of Interest (cont'd)

- **Disclosure means:**
 - Specific identification of conflict; and
 - Specific identification of relationship involved in conflict
- **Disclosure must be made when matter considered:**
 - If member, publicly to chair and other members
 - If appointed, to supervisor/superior in charge

Voting and Abstaining

- Public policy favors participation and voting...
- Whether one votes, participates or abstains involves consideration of "the independence of judgment of the reasonable man"...
- "Reasonable man" means a consideration of whether a reasonable person would be materially affected by disclosed conflict...

Voting and Abstaining (cont'd)

- After disclosing, conduct “reasonable man” analysis to determine whether to participate and vote or to abstain from matter...
- If not a clear conflict, participate and vote...
- If a clear conflict, abstain...
- If abstaining, leave table for duration of item...
- Caveat...

Voting and Abstaining (cont'd)

- If abstaining, quorum requirement is reduced accordingly... but...
- Quorum not reduced for elected boards
 - Exception would be mixed boards of elected and appointed officials, e.g. Conservation District Boards

Violations

Civil Penalties – for **Willful Violations**:

- \$5,000 for first violation.
- \$10,000 for second violation.
- \$25,000 for third violation.
- \$5,000 for person interfering with investigation by State Ethics Commission.
- If a financial gain occurred, an additional penalty of up to 2 times the gain.

Opinion Requests

- First Party Advisory:
 - Forms/opinions on Commission website.
 - Confidential unless waived – how waived.
 - Type of request.
 - Effect of request.

- Third Party Complaint:
 - Forms on website.
 - Investigation/hearing/representation.

Opinion Requests (cont'd)

- When in doubt...
- Ask entity attorney for opinion...
 - As soon as you are aware of potential conflict...
 - Preferably in advance of meeting...
 - Call for short recess to allow discussion with attorney...
 - If you abide by opinion, no willful violation...if
 - 2015 Legislature (AB 60) amendments
 - Opinion by legal counsel was rendered **before** action by individual
 - Was not contrary to any published Ethics Commission opinion
 - An issue with above may be in whose favor a conflict between the requesting party (board or commission member) and the legal counsel may be resolved

Role of the Nevada State Ethics Commission <http://ethics.nv.gov/>

- Investigation of alleged violations.
- Imposition of fines for violations.
- Inform the attorney general or district attorney of all cases of noncompliance with the ethics law.
- Conduct hearings on requests for an opinion and render decisions.
- Recommend legislation to strengthen law.
- Publish the state's ethics law manual.

Role of the Nevada State Ethics Commission
<http://ethics.nv.gov/>

- Reviews, conducts hearing and makes determination of violation, or no violation.
- May report willful violations for purposes of initiating impeachment proceedings.
- May report willful violations to court for removal from office.
- Caveat: violation not willful if obtained legal counsel advice **prior to meeting** and if not contrary to prior Ethics Commission opinions.

Six Steps to Ethical Decision Making

- Define the Problem
- Identify Alternatives
- Evaluate the Alternatives
- Make the Decision
- Implement the Decision
- Evaluate the Decision



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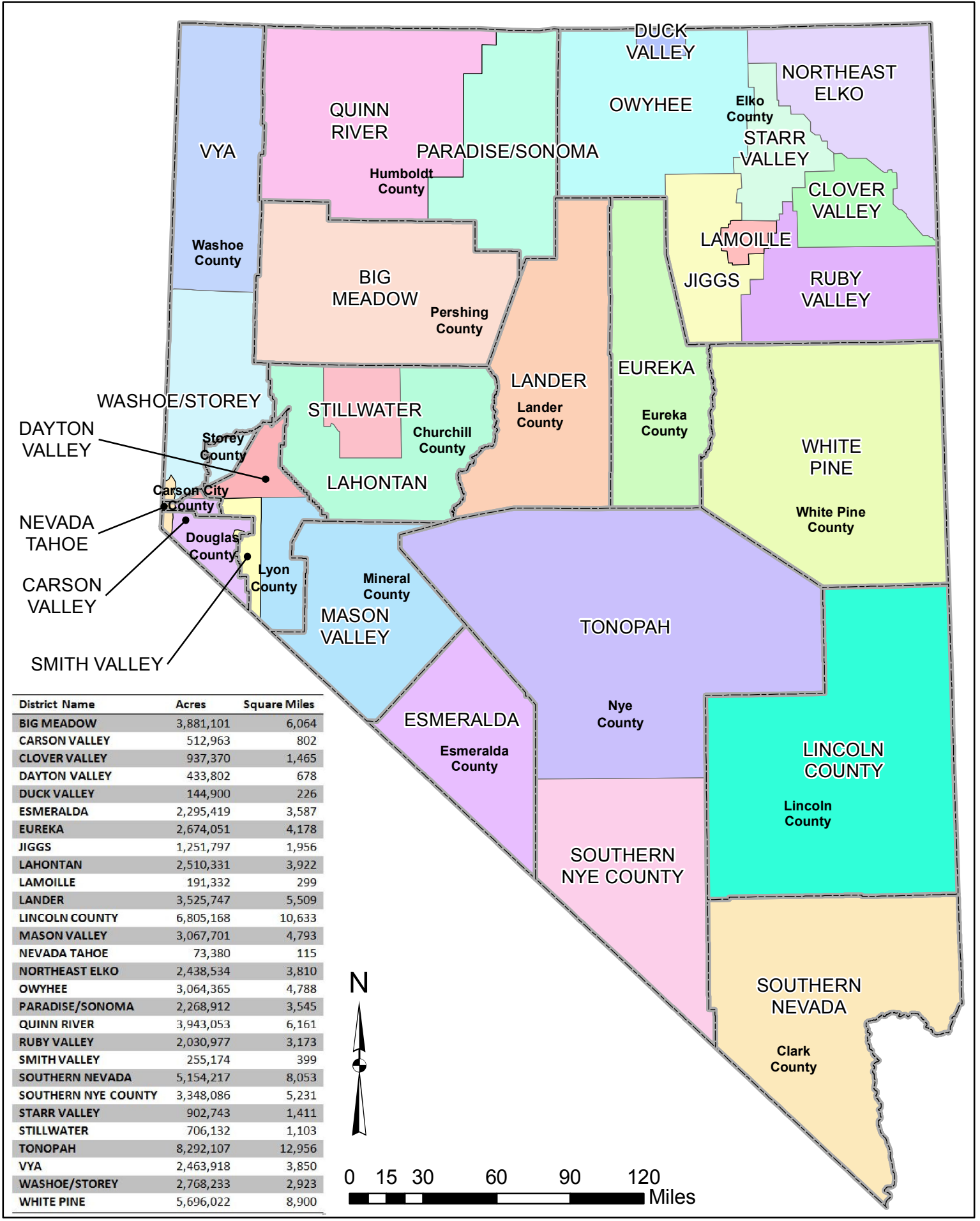


The College of Business
AT THE UNIVERSITY OF NEVADA, RENO

Nevada Leadership Program

Additional Supporting Material

Nevada Conservation District Map
Fact Sheet: Director Powers and Responsibilities
Fact Sheet: District as Employer
Fact Sheet: Effective Board Members
Fact Sheet: Ethics for Public Officials
Fact Sheet: Open Meeting Law
Fact Sheet: Public Records Law
Glossary of Key Planning Terms



Map Prepared by:
 Conservation Districts Program
 Department of Conservation & Natural Resources
 901 S. Stewart St., Ste 1003
 Carson City, NV 89701
 BNS 20160517

Nevada Conservation Districts



Director Powers and Responsibilities



Overview

“District Supervisor” is the title given to individuals who have been elected or appointed to serve on a Conservation District board. Nevada Conservation Districts are political subdivisions of state government but are not state agencies. They are considered municipal corporations, a form of local government that is required to follow many of the same laws that govern state agencies. The Conservation Districts work with landowners, communities, federal, state and local agencies, and organizations to protect natural resources and maintain a healthy environment.

Key Points

Powers of the Board

- Dillon’s Rule: A local government may exercise powers that are expressly provided for by law or are necessarily implied.
- Individual Board members do not have individual powers and authorities.
- Individual Board members may be given authority or power to act on behalf of the Board.
 - Power is granted through Board action and must be recorded in the Minutes.

Responsibilities of Supervisors to the Board

- Attend and actively participate in all Board meetings.
- Come to the meetings prepared, informed and on time.
- Carry out committee responsibilities.
- Represent the Board positions and actions.
- Treat fellow Board members, staff and public with respect.
- Stay abreast of local conservation issues.
- Attend area and state meetings of the state Association.
- Participate in training opportunities.
- Promote the District’s work to local landowners, local and state agencies, legislators, and other organizations.

Surety Bonds, Liability and Workers’ Compensation Insurance

- The District may provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property.
- Liability and Workers’ Compensation insurance can be provided by the District. This insurance is currently available to districts, at a reduced rate, from the State of Nevada.

Nevada Department of Conservation
and Natural Resources
Conservation Districts Program
775-684-2700
dcnr.nv.gov/conservation-district-program/

Resources

Conservation Districts Program
Contacts:

Tim Rubald	775-684-2717
Gerry Miller	775-461-6569
Bettina Scherer	775-461-6229
Ben Bolton	775-461-6469

Publication: *Nevada
Conservation District Guidebook*

Applicable Laws and Rules

Governing Statutes
Nevada Revised Statutes (NRS)
Chapter 548 and Chapter 241

Nevada Administrative Code
(NAC) Chapter 548 –
Conservation

Basic Legal Requirements in NRS 548 and NAC 548

- Hold at least (3) regularly scheduled meetings in different calendar months.
- Give proper Notice of meetings with agendas (NRS 241)
- Annual Work Plan and Budget
- Annual Report
- Annual Financial Report
- Annual Meeting and Notice

District as Employer



Overview

When a district hires an employee, the district is subject to the legal responsibilities of being an “employer.” There are a number of required personnel obligations and compliance requirements ranging from hiring practices to tax reporting. It is important to have well defined district policies and procedures, trained staff, and directors knowledgeable in personnel matters.

Key Points

Basic Legal Responsibilities

- Register as an employer.
- State and Federal withholding tax.
- Federal Medicare and Social Security taxes.
- Unemployment tax.
- Worker’s Compensation Insurance.
- Employment eligibility verification.
- New hire reporting.
- Year-end tax reporting responsibilities.
- State and Federal posting requirements.

Additional Responsibilities of an Employer

- Maintain an updated Personnel Policy Manual.
- Correctly classify and compensate employees.
 - Exempt vs. non-exempt
- Adequate and appropriate supervision of employees.

Employee vs. Independent Contractor

- Common law Rules – Three Categories
 - Behavioral: Does the district control or have the right to control what the worker does and how the worker does his or her job?
 - Financial: Are the business aspects of the worker’s job controlled by the district?
 - These include things like how the worker is paid, whether expenses are reimbursed, who provides tool/supplies, etc.
 - Type of Relationship: Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the district?
- The IRS has numerous “tests” that must be met in order to call an employee a contractor.

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Publication: *Nevada Conservation
District Guidebook*

Bureau of Labor and Industries
(BOLI)
775-684-7260
<http://dirweb.state.nv.us>

Nevada and Federal Posting
Requirements
[http://www.laborcommissioner.com/form
s_pubs.html](http://www.laborcommissioner.com/forms_pubs.html)

Nevada Employment Division
<http://www.nevadajobconnect.com>

Internal Revenue Service
800-829-1040
Employee vs. Contractor Info
[http://irs.gov/Businesses/Small-
Businesses-&Self-
Employed/Independent-Contractor-
Self-Employed-or-Employee](http://irs.gov/Businesses/Small-Businesses-&Self-Employed/Independent-Contractor-Self-Employed-or-Employee)

Nevada Dept. of Taxation
866-962-3707
<http://tax.state.nv.us>

Worker’s Compensation Div.
775-684-7260
<http://dirweb.state.nv.us/WCS/wcs.htm>

Reporting



Overview

The Conservation Commission uses reports from the Districts to determine if monies are being used appropriately. Reporting in a timely manner is very important. This information is used by the Conservation Commission to determine if a District is in “good standing” and can therefore continue to receive State funds.

Key Points

Minutes and Agendas

Minutes and Agendas must be submitted to the Conservation District Program Office within (30) working days of the meeting date.

Draft Minutes are fine if that is what is available.

Planning Reports

Annual Plans

An Annual Plan of Work outlines specific objectives and activities to complete long range plans.

Annual Plans are to be filed with the Conservation Commission by June 1st of each year.

Proposed Budget

The Proposed Budget shows how the District intends to receive and disburse funds. This will include recurring costs such as wages and insurance as well as specific financial events such as grants.

The Proposed Budget is to be filed with the Conservation Commission by June 1st of each year.

Basic Financial Responsibility

- Create and maintain a district budget.
- Manage funds consistent with fiduciary responsibility.
- Maintain accurate and complete financial records and reports.
- Manage cash deposits, investments, and other financial holdings.
- Review monthly financial and treasurer reports.
- Report to appropriate local, state, and federal entities.
- Provide an annual audit of the accounts of receipts and disbursements. (NRS 548.320)

Final Financial Reports are to be filed with the Conservation Commission by September 30th of each year.

Annual Reports are to be filed with the Conservation Commission by September 30th of each year.

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Publication: *Nevada
Conservation District Guidebook*

Audits

- Districts should conduct an annual audit of accounts, receipts, and disbursements. The District’s Treasurer leads this effort. An audit can also be completed by an outside accounting firm.

Annual Reports

The Annual Report explains what your District accomplished in the last year. It should include:

- The Treasurer’s Report.
- Highlights or special events of the year.
- Accomplishments (conservation projects, workshops, etc.).
- Goals that were not met.
- Any other information for the public to better understand what you’ve done.

Effective Board Meetings



Overview

Board meetings are fundamental to conducting conservation district business. They are often long, inefficient and discouraging. Effective board meetings can be conducted with planning and good facilitation by the Board Chair and participation by Supervisors.

Key Points

General Tips

- Send a clear and detailed agenda to board members at least one week before the meeting. Include a draft copy of the previous meeting's minutes, staff reports and other needed information.
 - Put the person responsible for each agenda topic on the agenda.
 - Write an "anticipated action" for each agenda item.
 - Put a timeline for discussion and action on the agenda.
- Start and End on time.
- Have staff submit written reports that are sent with the agenda. Use the staff report time at the meeting to highlight important items in the report and/or ask for feedback and decisions.
- Use at least a modified version of Robert's Rules of Order to keep the meeting moving and on track.
- Make sure the room is comfortable (temperature, chairs, etc.).
- Write up draft minutes and distribute them to board members as soon as possible after the meeting.

Responsibilities of Individual Board Supervisors

- Come prepared and have read Board packet before the meeting.
- Arrive on time.
- Respect fellow Supervisors and staff, their opinions, and the decisions of the board.
- Represent the board decisions and positions even when they are not the individual Supervisor's position.

Responsibilities of the Board Chair

- Keep the meeting on schedule. Ask permission to extend discussions.
- Manage side discussions and help board stay focused.
- Encourage "dumb" questions.
- Manage dissent and disagreements firmly and with respect.
- Recap each agenda item and the resulting action.
- Make sure each Supervisor has input on at least one thing at every board meeting.
- Don't be afraid to be creative!

Nevada Department of Conservation
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775-684-2700
dcnr.nv.gov/conservation-district-program/

A Good Board Will:

- Have all members contributing.
- Trust each other.
- Work through conflict.
- Have immediate resolution.
- Be accountable.
- Question practices.
- Understand the financials.
- Read and research topics before the meeting.

A Good Board Member Will:

- Turn off cell phones and refrain from using personal electronic devices during the meeting.
- Be conscious of body language and non-verbal responses. Body language can be as disrespectful as words.
- Keep an open mind and focus on the facts. Do not attack other board members, staff or public.
- Be respectful of differences and seek to reach a consensus.
- Listen to and respect others while they speak.
- Participate in discussions respectfully and in a constructive manner.

A Good Board Chair Will:

- Be interested and enthusiastic.
- Set and keep ground rules for the meeting.
- Ask open-ended questions.
- Listen carefully to each person.
- Avoid stating that a person is wrong.
- Clarify assumptions.
- Summarize the discussion.
- Ask for feedback and take action.

Ethics for Public Officials



Overview

Public officials are held personally responsible for complying with the provisions in Nevada Ethics in Government law. This means that each public official must make a personal judgment in deciding such matters as the use of official position for financial gain, what gifts are appropriate to accept, or when to disclose the nature of conflicts of interest. If a public official fails to comply with the operative statutes, a violation cannot be dismissed by placing the blame on the public official's government employer or the governing body represented by the public official.

Key Points

Who is covered?

- Public Officials.
- Volunteers with regular duties.
- Relatives, members of the household, and businesses with which you are associated.

Prohibited Uses

- Using or attempting to use an official position to obtain financial gain, or avoidance of financial detriment, which would not otherwise be available, but for the holding of your official position or office.
- Solicitation or promise of future employment based on decisions made or actions taken.
- Use of confidential information for personal gain.
- Conflict of interest.

Conflict of Interest

A "conflict of interest" is the private or personal interest of a public officer or someone close to a public officer that is sufficient to affect his or her independence of judgment or the objective exercise of public duty.

Public officers must disclose conflicts of interest at the time a matter is being considered – often at the opening of an item on a public meeting agenda. (NRS 281A.420)

Who is a public official?

A public official is a person elected or appointed to a position established by the Nevada constitution, state statute, or county or city ordinance who exercises a public power, trust or duty (NRS 281A.160)

In Nevada, a public office is a public trust held for the sole benefit of the people.

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<http://dcd.nv.gov/index.htm>

Publication: *Nevada
Conservation District Guidebook*

Applicable Laws and Rules

The Nevada Ethics in Government Law is limited to Chapter 281A of the Nevada Revised Statutes (NRS). It consists of five sections:

1. General Provisions
2. Commission on Ethics
3. Code of Ethical Standards
4. Miscellaneous Provisions
5. Financial Disclosure Statement

Who is a "relative" of a public official? (Partial list)

- Spouse.
- Your children or spouse's children.
- Siblings and spouses of siblings.
- Your spouses' siblings and their spouses.
- Your parents and spouse's parents.
- Any person for whom you have a legal support of obligation.

Open Meeting Law

Overview

The Nevada form of government requires an informed public aware of the deliberations and decisions of governing bodies, and the information upon which such decisions are made. It is the intent of the Open Meeting Law that decisions of governing bodies be arrived at openly. Thus, Open Meeting Law provides that any member of the public must be permitted to attend any meeting of the governing body, except for "closed sessions."

Key Points

Basic Requirements

- Open to the public. (closed sessions exemption)
- Advance Notice is given.
- Minutes are taken.
- Votes are made publicly and recorded.
- Audio recordings of all public meetings.

Notice

- Posted at the principal office of the public body, and at the building in which the meeting is to be held.
- Posted at not less than three other separate, prominent places within the jurisdiction of the public body.
- Posted on CDs website if one exists.
- Posted on State of Nevada Public Meeting website.
- Posted no later than 9 a.m. of the third working day before the meeting. (the day of the meeting does not count)
- Notice must include time, place and agenda.
- Agendas and support material must be made available to the public.
 - The name and contact information for a designated person who keeps supporting material for the public body and a list of locations where the supporting material is available to the public must be included on every agenda.

Minutes

- Written Minutes must be provided of all meetings.
- Contents:
 - All persons present.
 - All motions, proposals, resolutions, orders, ordinances, and measures and the dispositions.
 - The results of all votes.
 - The substance of any discussion on any matter.
 - A reference to any document discussed at the meeting.



Nevada Department of Conservation
and Natural Resources
Conservation Districts Program
775-684-2700
dcnr.nv.gov/conservation-district-program/

Resources

Conservation Districts Program
Contacts:
Tim Rubald 775-684-2717
Gerry Miller 775-461-6569
Bettina Scherer 775-461-6229
Ben Bolton 775-461-6469

Publication: *Nevada
Conservation District Guidebook*

Applicable Laws and Rules

Governing Statutes
Nevada Revised Statutes (NRS)
Chapter 548 and Chapter 241

Definitions

- *Governing bodies* are two or more members of any public body that makes decisions or recommendations.
- *Public bodies* include committees, subcommittees, and advisory groups that have authority to make decisions for or recommendations to a public body.
- A *meeting* is the convening of a governing body for which a quorum is required to make a decision or deliberate toward a decision.
- *Quorum*:
 - A majority of Board members must be present.
 - Majority vote of all members of a Board must occur to make a decision.

Public Records Law



Overview

The policy that underlies the Public Records Law is that the public is entitled to know how the public's business is being conducted. The Public Records Law details this policy by granting the public a broad right to examine records created, maintained, cared for, or controlled by public bodies. This law is primarily a disclosure statute, not a confidential statute. Public Records Retention rules provide for the retention and disposition of public records.

Key Points

Basic Law

- “The purpose of this chapter is to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law”. (NRS 239.001(1))

Definitions

- *Governmental entity*: Governmental entity means any elected or appointed officer of this State or of a political subdivision of this State and an institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State.
- *Public Records*: Public record includes any information relating to the conduct of public business that is prepared, owned, used, or retained by a public body regardless of medium in which the public record is readily available.
- *Privatization contracts*: Privatization contracts executed by or on behalf of a governmental entity is a public record and must be open to inspection.

Public Records Requests

- An officer, employee or agent of a governmental entity who has legal custody or control of a public record shall not refuse to provide a copy of that public record.
- Must segregate confidential material from public material and disclose the non-confidential material.
- Must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public records.
- May consult with counsel before responding to a request.
- May establish fees to reimburse for the actual cost in making records available, but may not exceed the actual cost.

The Conservation Districts Program provides the service of maintaining records for the Districts and providing them to Libraries and Archives when appropriate.

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Applicable Laws and Rules

Governing Statutes
Nevada Revised Statutes (NRS)
Chapter 239

Public Records Retention and Disposition

- A Records Retention and Disposition Schedule identifies the minimum time period the listed records must be retained in accordance with NRS 239.080
- Copies of minutes and agendas are retained for a period of (5) calendar years from the date submitted.
- Disposition will be through transfer to the State Archives.
- Do not “selectively retain” some records longer than others.
- “Disposition holds” may occur that require a stop to the regular disposition of records.