



2020-2021

State & Local Policy Manual
&
Legislative Agenda

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INTRODUCTION

MISSION

Chartered in 1956, the Builders Association of Northern Nevada (BANN) is a non-profit organization affiliated with the National Association of Home Builders (NAHB). BANN is committed to education, information, representation, advocacy and benefits to and for our membership, community and the building industry. BANN achieves these goals through a team effort of our membership and community to create a better quality of life, housing for our citizens, and economic prosperity.

AFFILIATED ORGANIZATIONS

BANN represents the collective interests of the construction industry in Northern Nevada. BANN currently has nearly 600 member businesses representing more than 11,000 employees. State-wide efforts are coordinated through a partnership with our counterpart in southern Nevada, Southern Nevada Homebuilders Association (SNHBA). Both BANN and SNHBA are governed by a Board of Directors made up of volunteer members. Together, BANN and NVHBA make up the Nevada Homebuilders Association (NVHBA). This partnership allows the for a shared mission and unified voice of the industry on a state-wide platform.

The association offers information, training and education programs to all construction professionals. BANN is the primary administrative vehicle for affiliated organizations and sub-organizations that have been established to meet targeted member needs. These affiliated organizations include BANN-PAC, Build-PAC, and NVHBA-PAC.

Additionally, BANN's committee structure exists to foster member participation and enhance the programs designed by the association for the benefit of its members and the community as a whole.



POLICY & POLITICAL ENGAGEMENT

The primary goal of BANN is to enhance the economic climate in Northern Nevada, a major factor in housing affordability and a major employer. To facilitate our ability to educate those who regulate our industry, BANN maintains an ongoing dialogue with decision-makers and legislators at the local, state, and national levels.

The Builders Council, the Legislative, the Codes and the Infrastructure & Planning committees represent BANN members' interests in federal, state, and local government activities. This includes full time representation at the Federal, State and all local level. BANN is involved in various education campaigns and committees, and related community initiatives to improve our region and the further the mission of the association.

LEGISLATIVE POLICY

BANN legislative policy is reviewed and updated as needed by the BANN Board of Directors. Within the guidelines of this Legislative Policy Manual, BANN members and staff are able to make timely decisions, deliver testimony and implement personal contact with elected officials to convey a uniform and educated voice on behalf of the BANN membership.

GENERAL POLICY GUIDELINES

BANN's general policy considers a variety of factors in determining the Association's position on any given topic. Some general concerns are efforts that target a single industry (construction/homebuilding) to address a community problem, increasing construction costs without scientific data to show the necessity of the increase, adding unreasonable restrictions on construction, adding duplicative regulations and restrictions in the building sales and rental markets, adding difficulty to home purchases, restricting private property rights, and any regulation that increases construction costs or the construction timeline.



EDUCATION

BANN supports a world class education system for the future of our community. Members of BANN believe that a quality education system makes for a strong, desirable community. BANN believes that accountability at all levels – parents, teachers, administrators and students – is critical to ensure results from our school system.

Career and technical education is imperative to provide choices for our children and to provide options about on career choices to develop a well-rounded workforce. In fact, BANN is a founding member of ACE Charter High School.

BANN has a long history of supporting education, including active support for school construction needs for the Washoe County School District. BANN sat on the legislative committee to create and pass WC-1 (capital funding program).

Creative solutions for schools and funding must be considered.

SUPPORTS:

- Accurate and fair reporting of WCSD activities, including but not limited to spending per student, graduation rates, testing scores, and scholastic achievement.
- High Standards for all students and educators.
- Increased choices for students including Career and Technical curriculum.
- Greater accountability of voter approved and rollover bond funding.
- A plan for the backlog of deferred, current, and future maintenance needs.
- Cooperation with the development community on planning for future school sites, including preparation and ongoing Capital Improvement Program (CIP).
- Creative, broad based solutions to funding and building schools.
- Amendment of charter school legislation to provide equitable capital construction funding for successful programs like ACE High School.
- An increase in the Washoe County School District’s portion of the property tax to create better parity with the ratio of Clark County School District.
- Revising real property depreciation formula to create a larger and more stable source of revenue for schools
- Accountability for WCSD administrators and teachers. Continued revision to NRS 288 and other provisions to create accountability, including the removal of the “evergreen clause” of collective bargaining.



EDUCATION (continued)

OPPOSES:

- Impact fees for new schools. Use of impact fees only for new schools. Must be part of larger, broad based revenue formula.
- Any single industry taxes.
- So called “voluntary” exactions (impact fees) and/or contributions required by local governments of developers when the approval of a project is contingent upon the voluntary contribution.



ENERGY

BANN recognizes that energy efficiency and conservation is growing in acceptance at both state and national levels – within both the government and private sectors. Often this goes beyond simple energy conservation and energy alternatives and moves into the broader topic of “green building,” which emphasizes resource conservation, alternative construction materials, and energy use for the life of the home. BANN is proactive, working collaboratively to develop standards that are reasonable and cost effective for the home buying public. BANN supports the National Green Building Standard, which has been adopted by Reno, Sparks and Washoe County.

SUPPORTS:

- Incentives for developers and consumers to provide energy efficient homes.
- Working with the construction industry to develop appropriate, cost effective energy options desired by the consumer that will increase the value of the home.
- Recognition by State and Local entities of the ICC Published National Green Building Standard as a voluntary residential program
- Appraisals that reflect energy efficiency upgrades.
- Development of all forms of renewable energy.
- Promote an effective retrofit plan for older, less efficient housing that allows builders and remodelers to create benefits of energy efficiency for all housing.
- Multi-Jurisdictional Code Amendments to the International Energy Conservation Code (IECC) with jurisdictions having authority to adopt energy codes that best fit the needs of the community.
- Proper training of code and building professionals, especially when the codes and standards change.

OPPOSES:

- Arbitrary requirements and mandates for unproven energy efficient techniques that increase the price of housing without understanding the consumer purchasing preferences. The cost of building a house to one-sided cost benefit energy codes make homes unaffordable.
- Barriers in prescriptive codes that prevent builders from offering homebuyers features they demand.
- One-size fits all energy codes – codes not reflective of local climates.
- Mandated features that do not have a payback or carbon footprint reduction.



ENTERPRISE FUNDS

- Enterprise Funds are financed by user charges in order to pay for the provision of specific goods or services to citizens. See NRS 354.517. Common examples of enterprise funds financed by BANN members include sewer and building enterprise funds.
- During times of financial need, state and local governments sometimes look to move dollars from enterprise funds to general funds. BANN opposes any such actions by state or local governments as such actions are inconsistent with the purpose of an enterprise fund and effectively turn the enterprise fund fees into a tax for general services. Such taxation results in an unfair and disproportionate financial burden on those who pay enterprise fund fees.
- If enterprise funds are overfunded, a state or local government should either issue refunds to those who have paid into the enterprise funds, or suspend fees going into the enterprise funds until such time as additional funds are necessary. State and local governments should only use enterprise funds for purposes connected to the reason the fund was established in the first place and never for general fund purposes. State and local governments should closely monitor enterprise funds on an annual basis to ensure that funds are neither over nor under-funded.



INDOOR AIR QUALITY STANDARDS

BANN (and NAHB) is concerned about unhealthy Indoor Air Quality and supports reasonable standards based on science. Mold, lead, radon and CO₂ are examples of current concern by the public.

The presence of mold in residential buildings continues to generate litigation against builders, building owners, and property managers for personal injury and property damage. It is the subject of disputes between insurers and their policy holders. Mold occurs naturally, has been around since the beginning of human-built structures, and is everywhere.

Before the 1970s, household paint often contained lead. As lead-based paint ages, it can chip or crumble into dust. Exposure to lead-based paint dust or chips can cause serious health problems. Laws enacted by the Environmental Protection Agency (EPA) in 2010 are designed to prevent contamination from lead-based paints. Simple testing determines the presence of lead-based paint. A contractor who is certified in lead paint removal is trained to do the job safely and will determine the best abatement strategy.

Radon is a naturally occurring radioactive gas that has no odor, color or taste and is produced by the breakdown of uranium in soil, rock and water. Uranium is found in all soils and in higher concentrations in granite, shale and phosphates. As it decays into radon gas, it moves through the soil into the atmosphere, where it is harmlessly dispersed in outdoor air but can enter buildings through foundation openings and become trapped inside. When it enters a building, it can accumulate and present a health concern for occupants.

Carbon dioxide (CO₂) is a relatively easy to measure surrogate for indoor pollutants emitted by humans, and correlates with human metabolic activity. Carbon dioxide at levels that are unusually high indoors may cause occupants to grow drowsy, to get headaches, or to function at lower activity levels.

SUPPORTS:

- The development of indoor air quality standards with the State Board of Health and/or the Legislature.
- Proper ventilation standards to allow for air turnover – breathable homes. Use of environmentally sustainable design concepts correlates to the heating, ventilation and air-conditioning.
- Reduce energy consumption while maintaining adequate air quality.
- Increasing the role of green building (NAHB National Green Building Program) in construction and renovation practices provides an opportunity to ensure that housing units protect resident health while also conserving natural resources.



INDOOR AIR QUALITY STANDARDS (continued)

OPPOSES:

- National standards that do not allow different standards for different climates and regions.
- There is significant political and institutional momentum toward energy conservation in buildings which has led to building codes devoted solely to energy conservation and result in the tightening of building envelopes and reduced air infiltration and leakage. With air exchange significantly reduced, there is little room for error in protecting indoor air quality, other than providing more sophisticated, more tightly calibrated and highly coordinated systems. Increasing air turnover standards at an unreasonable rate can contribute to sick homes.
- Current energy codes indirectly cause negative pressure in the home because appliances can draw exhaust gasses back into the home or may also force air through the building envelope and create moisture/mold problems as humid air condenses within the building envelope.



NEVADA STATE CONTRACTORS BOARD (NSCB)

The NSCB is a licensing agency, funded solely by the revenues generated from license holders. BANN believes that the NSCB needs to be a fair, unbiased body that works to promote industry standards, as well as act as a consumer advocate agency.

SUPPORTS:

- Legislation to require a person who fills the position of investigator with the job scope to review plans or inspect a structure or building or a portion of a structure be certified by ICC. NSCB to adopt administrative language on issues such as inspector training and continuing educational requirements. Alternatively, require an enforcement officer to be accompanied by a local certified inspector with the proper training.
- A standard for “qualified” inspectors and a clear procedure for investigations, including published guidelines for NSCB inspectors’ determination of quality of workmanship and satisfaction of NSCB issued notices to correct.
- Aggregating bid limits on a per permit basis rather than the current vague language.
- Current licensing to support professionalism in the industry.
- NSCB as an economical, reliable and objective agency for consumers to depend on to resolve unfair practices and construction defect claims.
- Home building industry representation on the NSCB.
- Legislation that enables a licensee who successfully defends a NSCB complaint to recover the licensee’s reasonable attorney fees from the NSCB.

OPPOSES:

- The NSCB acting solely as a “consumer advocate.”
- Use of unlicensed contractors.



PUBLIC EMPLOYEE BARGAINING

Right-to-work laws prohibit agreements between labor unions and employers making membership in a union, or payment of union dues, a condition of employment. Nevada has proudly been a "right-to-work" state for more than 65 years. Yet, our current laws for government employees trend toward a "union state." Union state styled laws discourage dismissal of poorly performing employees, frequently result in higher costs, cost the state and tax-payers tax dollars, and negatively impact economic development efforts.

SUPPORTS:

- Limiting or removing police and other union policies that inhibit local governments from addressing civil rights movements
- Thorough third-party analysis on the budget ramifications of public employee bargaining.
- Contracts that reflect the region's economic times.
- A reform package of state and local policy changes that will help open this process to the public and bring this spending back under control.
- Elimination of collective bargaining and mandatory arbitration.
- Elimination of the "evergreen" clause of expired contracts.
- Making collective bargaining and contract negotiations subject to open meeting laws.
- Making defined contribution rather than defined benefit as part of public employee compensation packages.

OPPOSES:

- Collective bargaining and keeping this process closed to the public.
- Barriers to salary savings when consolidating services.
- Binding arbitration.



REGIONAL FLOOD PLANNING

Flood planning by our local jurisdictions is something that our entire community benefits from and therefore should be funded by broad based funding sources. The Regional Flood Protection Agency has proven to be unnecessary.

SUPPORTS:

- Unwinding the “super agency” Regional Flood Protection Agency formed under the Joint Powers Agreement and return management to local governments. Use the existing local review process, regulations and ordinances to review and analyze drainage and flood impacts from proposed development.
- Development of a flood control project that provides a minimum of 100-year flood protection for the entire region that is economically feasible, has a positive cost benefit for the community and can be funded with available federal, state and local resources.
- Long range flood control planning and implementation that allocates regional flood control improvements to support future growth as planned at regional and local levels.
- Develop and approve a single Hydrology/Hydraulic model to be used for the region to analyze public and private projects and their impact on flooding in the region. This single model should be transparent, readily available, user friendly and capable of producing consistent results.
- Presumption of validity in the information provided to the Flood Project by a Regional Infrastructure Agency, such as RTC, to avoid conflicts in proceeding with major infrastructure projects, especially those that have gone through an exhaustive planning process and, in some cases, those projects that are already under construction
- Rational nexus between regulation and impact/contribution to flood potential.
- Fair treatment of mitigating flood storage volume ratios based on sound science.

OPPOSES:

- Construction industry “only” related funding requirements.
- Use of additional, redundant review process.
- Requiring only new residents to pay for existing flood management deficiencies.
- Use of the regulatory authority of the agency to delay, compromise or stop projects that are found to be important to the economic development of the region.



REGIONAL PLANNING

The Truckee Meadows Regional Planning Agency (TMRPA) is responsible for the preparation and implementation of the Truckee Meadows Regional Plan which highly impacts the home building industry. The Regional Plan addresses land use planning, natural resource management, and infrastructure and service provisions within Washoe County. The agency implements the Regional Plan by ensuring that master plans of local governments and affected entities conform to the Regional Plan. The TMRPA is comprised of the Regional Planning Governing Board (RPGB), the Regional Planning Commission (RPC), the Director of Regional Planning, and staff.

TMRPA's website states: "*The Truckee Meadows Regional Plan... provides the framework for growth in our region for the next 20 years.*" The Regional Plan was updated in 2019 and directs where growth will occur, identifies development constrained areas that are not suitable for future development, sets priorities for infrastructure development and addresses natural resource management. The Plan also coordinates provision of services and capital improvements from the local governments and affected entities in the region."

SUPPORTS:

- Working with the Truckee Meadows Regional Planning Agency and community stakeholders for sound growth management policies for the future of Northern Nevada.
- Reasonable facility planning and implementation standards for good planning across the region. Allow flexibility for all jurisdictions to meet needs of community growth for all different uses, including residential and industrial development.
- Consolidation of infrastructure and services where a greater efficiency in the expenditure of tax or impact fee dollars can be attained, including water resources, flood control, sewer, roads, parks, fire, police, and schools.
- Elimination of services where redundant and/or inappropriate.
- Eliminate constraints which deter sensible land use decisions affecting issues such as setting minimum residential densities and commercial Floor Area Ratios (FAR's). Support an emphasis on planning and coordination of regional infrastructure including maximizing the efficient use of available infrastructure resources through elimination of redundancy in management and facilities.
- TMRPA developing and maintaining studies and reports that analyze regionally significant issues such as the Industrial Land Study, that can be used to craft regional economic development and land use policies and strategies to improve the quality of life for all residents of the region as a whole.



REGIONAL PLANNING (continued)

- Work to amend the Regional Planning Statutes to establish the new primary role for TMRPA as a body for local governments to coordinate long-range plans and to identify common ground for the three jurisdictions to plan future land use, economic development and infrastructure of the Northern Nevada Region.
- Eliminating master plan conformance findings by the RPGB that constitute an effective veto of project-specific decisions legally made by a city council or county commission in compliance with the procedures of NRS 278 (the current appeal process within TMRPA is redundant, time consuming and very expensive for the applicant...often with no resolution).
- Amendments to NRS 278.026 to 278.029 that would relieve local governments of the onerous regional plan conformance requirements for plans and projects that are approved by a local governing board (i.e. county commission or city council) under the provisions of NRS 278.
- Amendments to the Regional Planning Statutes for counties under 700,000 population that would resemble NRS 278.02507 to 278.02598 for counties over 700,000 (Southern Nevada Regional Planning Coalition).
- Proactive approach for the general expectations of future growth without political denouements, including allowing all uses in all jurisdictions (i.e., industrial uses in Washoe County unincorporated areas).
- Housing plan which is neutral of politics and provides a clear direction and is needs-based grounded on true market patterns.

OPPOSES:

- Concurrency in its most stringent interpretation.
- Regional Planning Commission acting as additional layer of bureaucracy.
- Regional Planning for a forum to continue or elevate disputes from the various entities.
- Regional Plan goals/policies that establish numeric thresholds that is not realistic or achievable in our region.



TAXES and IMPACT FEES

BANN OPPOSES the imposition of industry specific taxes, especially when the revenues generated benefit the citizens at large.

For almost 400 years, local, state and national governments have assumed full responsibility for funding public infrastructure improvements. Traditionally citizens have understood and accepted the fact that public infrastructure improvements benefit everyone, so everyone should pay a fair share of the costs of providing and maintaining them.

In recent years, a combination of no growth attitudes, opposition to taxes (new and increased) and reduced funding transfers to local governments from the state and national government has led to a fundamental shift in public expectations of who should pay for public infrastructure. The prevailing attitude is “anyone but me.”

Based on this new political reality, local governments are allocating higher proportions of the costs of public infrastructure improvements to the residential construction industry.

While BANN supports local government’s need and ability to reasonably manage growth, it OPPOSES unreasonable land use restrictions and policies or business specific taxes that unfairly punish the development and construction industry for responding to market demands. Successful economic development endeavors are integrally related to a healthy, affordable housing market, and its ability to respond to the resulting market demand for new housing.

SUPPORTS:

- Broad based tax solutions to community wide problems.
- A legislative effort to eliminate the current practice of 1.5% annual depreciation on real property up to a 75% reduction of a structure’s market value for tax purposes. (Create a more “fair market value” based approach for tax appraisal.)
- Resetting property market values for tax purposes at the point of sale.
- Regional Transportation Commission (RTC) regional road impact fee indexing.
- Local governments and agencies following the impact fee law requiring the development community to pay for only the impact of future development and not subsidizing existing deficiencies.
- A full analysis and understanding of current deficiencies in service, and that existing taxpayers pay their fair share, by creating, adopting and maintaining a Capital Facilities Improvement Plan (CIP) for all public facilities, as established by NRS 278B.



TAXES and IMPACT FEES (continued)

- Local government utilizing accurate population forecasts, reasonable capital improvement plans (CIP), and responsible modeling of future development.
- If an impact fee is necessary, then it must be developed in a public process with the full participation of all stakeholders in accordance with the NRS 278B process.
- Local governments recognizing the full economic impact to a community of future development such as construction jobs, jobs construction industry workers support directly or indirectly, ongoing increased property taxes and continued sales taxes.
- Eradication of expiration dates applied to credits issued for good faith road infrastructure built by developers over the past 20 years.

OPPOSES:

- Industry specific taxes, including increasing the real property transfer tax.
- Implementation of new or additional exactions or fees not in conformance with NRS 278B for infrastructure or services such as flood control, schools, fire, police and parks.
- Imposition of an impact fee when funding for care and maintenance of facility has not been determined.



TRANSPORTATION

Northern Nevada has a substantial transportation infrastructure need due to increased commercial, industrial and residential growth that requires a regional solution. BANN supports the establishment of a consistent, dedicated source of funds that fully funds transportation infrastructure.

SUPPORTS:

- Regional approach to transportation needs.
- Immediate construction of all roadways paid for by the Regional Road Impact Fee (RRIF) System.
- Indexing of impact fees with an inflationary adjustment for future transportation, as the building industry's "fair share" of funding for transportation.
- A dedicated reliable source of state funds for transportation.
- Consideration of highway needs and northern Nevada connectivity in a more wholistic approach – a more coordinated effort between counties about impacts generated by their decisions.
- All vehicles paying for roadways.
- The Impact Fee Districts established in the 2019 GAM, 6th Amendment, as required by NRS 278B.
- Indexing of the fuel tax to keep up with fuel efficient automobiles and inflation.
- Recent revisions to the RTC General Administrative Manual that:
 1. Maintain the value and usability of existing RTC "Credits" for current credit holders, such as extending the life of these existing credits for the foreseeable future.
 2. Eliminate any future surplus of RRIF credits with RTC directly paying for desired overcapacity. The developer should only be required to pay their Regional Roadway Impact based on number of homes or constructing equivalent regional infrastructure.
 3. Not require any development to construct any additional Regional Roadway improvements beyond those necessary to mitigate project impact unless and until reimbursement in cash is provided for within a reasonable time frame after construction.
- Changes to the GAM and NRS that would allow a majority of the governing bodies to approve amendments to the GAM and not require unanimous approval of amendments by all governing bodies.



TRANSPORTATION (continued)

OPPOSES:

- Concurrency in its most stringent interpretation.
- Impact fees paying for existing deficiencies.
- Exactions over and above impact fees.
- A comingling of road funds with non-road accounts; or transfer of any road funds to any other program.



WATER RESOURCE PLANNING

BANN supports a regional planning approach for water and flood control. Two decades of work on the Negotiated Settlement Agreement (NSA) is the single most critical future water supply solution for the Truckee Meadows. The NSA led to the Truckee River Operating Agreement (TROA) which is fully implemented and successfully addresses the long-term water supply needs of the local entities, endangered species, water quality, and storage issues related to the Truckee River.

SUPPORTS:

- Continued compliance with the Truckee River Operating Agreement.
- Continue to manage and acquire water rights as well as optimize fiscal and operational efficiencies and practices resulting in a consistent seamless and equitable management of the region's potable water supplies.
- Regional conservation plans designed to use our resources efficiently.
- Utilization of wastewater to the fullest extent practicable including for parks, greenways, and outdoor residential use where reasonable. Analyze effluent price structures for cost efficiencies.
- Legislation to fix the state engineer water rights and allocation issues. Also issues such as Proof of Beneficial Use, permitting and certification issues need to be addressed.
- Capital Improvement Planning for newly merged geographic areas to increase efficiency, eliminate redundancy and maximize the use of ground and surface water rights, seeking out and acquiring new sources of water for a fifty-year time horizon.

OPPOSES:

- Policies that allow for duplication of managing services including not maximizing water resource management, and efficiency deficiencies.
- Price structuring and CIPs that make the use of reclaimed water less affordable than potable water for landscaping.
- Any attempts to modify the industry acceptance standards and procedures currently established to determine future availability of water resources to support future growth in the region.



AFFORDABLE HOUSING

The federal government should provide incentives to local and state governments to remove regulations and procedures that arbitrarily increase the costs of housing, which decreases the affordability of housing. Housing demand continues to rise, but supply is constricted, sometimes by governmental action. All levels of government, including federal, state and local governments, should address affordable housing needs by implementing a broad and comprehensive strategy including responsible alternative and innovative funding programs, increased housing production and diversity, streamlined regulatory processes, and reduced market interventions on the part of government, and not through the adoption of mandatory inclusionary zoning without proper incentives.

Unless our local citizens desire to reduce the desirability (demand) of our community, then we must increase housing supply!

SUPPORTS:

- Addressing housing affordability through the use of a competitive market operating in a climate that encourages and accommodates housing options for all income levels.
- Government action to increase housing supply, such as reducing regulatory costs, production timeline and making more developable land available.
- Implementation of legislation to encourage local and state governments to remove barriers to housing production. Government regulation creates increased cost and restricts supply, thus negatively affecting affordability.

The production of a broad spectrum of housing by the home building industry that meets market demand.

OPPOSES:

- Adoption of mandatory inclusionary zoning programs or policies.
- Unnecessary and/or costly regulation (ultimately paid by the homeowner) that is not justified.
- Elected officials who continually talk about housing affordability but who then support new and costly regulation.



INCLUSIONARY ZONING

Government intrusion into housing needs should be implemented with broad and comprehensive strategies including responsible alternative and innovative funding programs, increased housing production and diversity, streamlined regulatory processes, and reduced market interventions on the part of government, and not through the adoption of mandatory inclusionary zoning without proper incentives.

Inclusionary zoning misguidedly lives in any municipal or county ordinance that requires a property owner, builder, or developer to restrict the sale or resale price or rent of a specified percentage of residential units in a development as a condition of receiving permission to construct that development. Study after study demonstrates that Inclusionary Zoning has the opposite of the intended outcome; it artificially increases the cost of housing.

Government intervention in the housing market is a highly complicated undertaking and the common failing is to omit, fail to address, or vaguely define critical environments. Governmental intervention in housing, historically, often has only added to the overall cost of housing and exacerbated difficult situations.

Inclusionary zoning requires the production and sale or rental of housing at below-market prices, thereby imposing a cost on builders. Builders and landowners generally pass on the cost of inclusionary zoning to market rate purchasers or tenants. As a result, inclusionary zoning does not reduce the cost of constructing housing, but it increases the price of housing overall to the community. In most instances, inclusionary zoning has proven to work against proponents stated goals.

SUPPORTS:

- Addressing housing affordability through the use of a competitive market operating in a climate that encourages and accommodates housing options for all income levels and that provides broad funding supplements where market forces cannot supply housing without added incentives or subsidy.
- Voluntary (rather than mandated) programs (incentives), such as density bonuses, that do not specifically involve or impose sale price or rent restrictions. Any incentives must provide economic value that covers and exceeds the cost of compliance with price controls. Examples may include density bonuses, infrastructure assistance, fast-track permitting, zero lot lines, increased floor area ratios, reduced setbacks & parking requirements and greater max. building height. Some financial incentive may be fee reductions, fee deferrals, fee waivers, planning grants or subsidies, construction grants, subsidies, low interest loans, building permit fee reduction, property or sales tax reduction on abatement, land donation, and transferable development rights.



INCLUSIONARY ZONING (continued)

- Use of geographic applicability – creating definable "neighborhoods", zoning districts, central downtown district, mixed use districts, and rehabilitation of existing blight areas – to allow targeted development through incentives.
- Partnerships between public agencies and nonprofit organizations are critical components to achieving lasting affordability.

OPPOSES:

- Adoption of mandatory inclusionary zoning programs or policies.



LANDLORD – TENANT LAW

Multi-Family (APARTMENTS)

BANN supports all forms of housing, including multi-family (apartment) housing. As in any commercial relationship, there are both good and bad landlords and good and bad tenants.

Recent changes to NRS (SB 251) continue to tilt the relationship toward the tenant. Continued erosion of a fair and even landlord/tenant relationship will reduce developer incentive to create housing and ultimately increase the overall cost of housing.

SB 251 increased the length of time to evict bad tenants place and created additional and unnecessary steps in the legal process. SB 251 created additional and unneeded burden on the landlord and ultimately increased the cost of housing. SB 251 is having negative unintended consequences.

SUPPORTS:

- Fair treatment of tenants and fair treatment of landlords.
- Current landlord-tenant relationship found in Nevada Revised Statutes (NRS).

OPPOSES:

- Additional costs or delays in the eviction process.
- Any additional changes to the NRS landlord-tenant relationship.
- Additional costs or delays in the eviction process.
- Rent-control.



JOB CREATION

In 2018, Nevada was the fastest growing state in the country next to Idaho (2.1%) and was the second-fastest in 2016 (1.95%). The greater Reno-Sparks area alone saw 30 new companies move or expand in the region in 2018, which are projected to add close to 2,000 jobs, according to the Economic Development Authority of Western Nevada.

In 2018, the state has added 51,900 jobs, the largest annual increase in over 12 years, with total employment hitting a record high of 1.4 million in November. Unemployment was also down to 3.9 percent prior to COVID-19, but is currently in the double digits.

Consistently, States that have enacted reforms in three critical areas are rated as the best in the Nation for business. These reforms are:

- 1) Low Taxes
- 2) A reasonable and transparent regulatory environment
- 3) Tort Reform

Nevada is transitioning from an economy dependent upon a few industries like mining and gaming to a more sustainable, multi-faceted marketplace. Emerging industries like data storage and electric vehicles are supported as well as more traditional businesses such as transportation, warehousing and manufacturing. Homebuilding will continue to reflect the growth of these industries and support the workers and families they bring to Northern Nevada.

Builders Association of Northern Nevada supports programs like STEM education, which focuses on the integrated teaching of science, technology, engineering, mathematics, and other disciplines through inquiry and real-world problem-solving. STEM education in Nevada supports the alignment of education and workforce development to strategic economic opportunities by ensuring that our students and workforce possess the skills and innovation to succeed in a diversified society.

The Builder's Association strongly encourages local school districts to work with trade schools such as ACE to promote and encourage attendance to said schools. Additionally, BANN encourages Guidance Counselors to connect and engage with BANN and its affiliates on effective messaging and media to help students and families to explore the trades. College isn't always the only or the best answer, and our youth can benefit greatly from a cooperative partnership between industry and education.



COMMON-INTEREST COMMUNITIES (NRS CHAPTER 116)

BANN supports the concept of common interest communities which requires a person, by virtue of the person's ownership of a unit, to pay for a share of real estate taxes, insurance premiums, maintenance, improvement, services or other expenses related to common elements, other units or other real estate described in a declaration. These laws allow developers to build master-planned communities in phases and eventually transfer common area and other real estate to homeowner associations resulting in the self-governance of a community.

SUPPORTS:

- In larger communities (1,000+ doors), period of declarant control may extend past point in time when declarant conveys 90% of units. Under 1,000, period of declarant control may extend past point in time when declarant conveys 75% of units (2015).
- Transparency with respect to any policies established by an association for the collection of any fees, fines, assessments or costs imposed against a homeowner.
- Association compliance with Open Meeting and Conflict of Interest laws.
- Exemptions to smaller communities from onerous provisions of Chapter 116. Already in NRS 116 law for associations that are 12 doors or less. 6 doors and under are not subject to NRS 116 unless they are written in to their CC&R's (NRS 116.1203)
- Allowing associations to enter onto foreclosed and/or vacant properties to maintain the exterior of the property.
- Provisions that grant homeowner associations reasonable governing powers while still giving the developer flexibility with respect to the build-out of the community.

OPPOSES:

- Ability for homeowners associations to bring construction defect lawsuits (including class action) against developers and builders.
- Unreasonable conflict of interest provisions for designated declarant board members.
- Keeping contracts between homeowner associations and lawyers confidential.



CONSTRUCTION DEFECT (TORT REFORM)– CHAPTER 40

NRS Chapter 40 Reform - AB 125 (2015)

In 2015, after many years of trying, BANN and homebuilder allies were able to pass legislation to positively reform construction defect litigation. The impacts of the legislation were positive, and homebuilders saw the average cost per home to settle a construction defect case go from \$5000 to \$1150. The trial bar unsuccessfully attempted to undo the reforms in the 2017 legislative session. As political winds changed in the 2018 elections, the trial bar found a friendly environment for their efforts in the 2019 legislative session and some of the 2015 reforms were reversed. BANN and homebuilder allies opposed any repeal efforts and were able to maintain the core reforms from 2015 including:

- Construction defects are defined to require either physical damage or an unreasonable risk of injury or physical damage to persons or property.
- Attorneys fees are not treated as damages and are therefore not considered as an entitlement to plaintiff’s counsel.
- A HOA has standing to bring a construction defect case only for common elements, portions of the community owned by the HOA, or portions of the community not owned by the HOA but where the HOA has an obligation to repair, replace, maintain or ensure as stated in the HOA’s governing documents.

Some of the 2015 reforms that were repealed or modified in 2019 include the following:

- The period of repose was changed from 6 to 10 years. A builder’s warranty, which cannot be limited in scope, is now mandatory for a period of one year from completion of the written punch list.
- Construction defect notices went from a requirement to show “specific” detail and an exact location of a claimed defect to a requirement to show “reasonable” detail and no requirement to show an exact location of a claimed defect.
- The requirement that a claimant be present during an inspection to identify an “exact” location of a claimed defect was changed to require identification of a “proximate location” of a defect.
- The requirement to exhaust any warranties was changed to require a claimant to diligently pursue any warranties.

BANN opposes any further erosion of the 2015 construction defect reforms.

The homebuilding industry can help preserve CD law by fixing legitimate issues with homes and also relaying actual data to the legislators who must review the laws each session.



IMMIGRATION REFORM / LABOR / WORK FORCE DEVELOPMENT

It is estimated that more than 20 percent of the building industry's entire workforce is foreign-born, making the immigrant population essential to meeting housing demand and sustaining economic growth in this country. While NAHB and BANN believe that border security reforms are important, it is also vital that immigration legislation must include a system by which immigrants can legally enter the country. BANN also strongly believes this is an issue that should be handled by the federal government.

SUPPORTS:

- Protecting our borders.
- Place the responsibility of verifying a worker's immigration status with the employer who hires and pays them.
- Create an enforcement system that is fair, efficient and workable for all U.S. employers.
- Education for the building trades (ACE CHARTER HIGH SCHOOL)

OPPOSES:

- Illegal immigration
- Legal liability on builders who base hiring on E Verify information which has been shown to be inaccurate 8% of the time.

Note:

Many employers mistakenly believe that if they participate in E-Verify they will be immune from scrutiny by the government regarding their pre-employment practices. This misconception can prove to be quite costly with fine from \$5000 to \$20,000.

The overall accuracy of E-Verify for employment-authorized workers, as measured by the FNC accuracy rate, is approximately 92 percent.



NEVADA OSHA REGULATIONS and OSHA 10 & 30 SAFETY TRAINING REQUIREMENTS OF EMPLOYEES

The 2009 Legislature adopted legislation requiring all “construction workers” complete an OSHA 10 safety and training course within 15 days of employment. The legislation also requires all “Supervisory Employees” complete an OSHA 30 safety and training course within 15 days of employment. BANN supports.

SUPPORTS:

- Workplace safety, training and education of its members.
- Life-time certification as implemented by OSHA.

OPPOSES:

- Safety and training requirements which are not relevant to the industry.
- Unnecessary and burdensome training requirements which is not supported by OSHA or any other states.
- Ongoing costs to construction employers and employees on non-relevant industry requirements.
- The Nevada Occupational Safety and Health Administration requiring its investigators to find violations on at least half of their inspections. This decree amounts to a quota that encourages inspectors to write citations if they want to keep their job.



ENGINEER OF RECORD/QUALITY ASSURANCE PROGRAM (QAP)

BANN recognizes and supports the housing and related infrastructure needs of our community. It OPPOSES unreasonable requirements or regulations that restrict the development and construction industry. Successful oversight of residential related infrastructure construction is necessary. We understand the health and public safety components and desire of Washoe County, City of Sparks and City of Reno to have a mechanism that allows for the review and verification of improvements as part of their acceptance protocol.

SUPPORTS:

- Responsible inspection, testing and verification of public improvements in accordance with approved improvement plans of record, Standard Specifications for Public Works Construction and the City of Reno Washoe County, City of Sparks design standards.
- Use of qualified Engineer of Record (EOR) testing and inspection firms and qualified laboratories as established through the City of Reno EOR and the City of Sparks Professional on call qualification programs.
- Use of NAQTC and ICC Certified technicians and inspectors during public improvement construction.
- Reinstitution of the City of Reno QAI Program.

OPPOSES:

- The removal of the right of the owner/developer to choose the EOR Testing and Inspection firm.
- Subjective restrictions by the Municipality for reasonably qualifying EOR Testing Firms.
- Testing and Inspection fees dictated by the Municipality rather than allowing for the establishment of fair market value.



DILLON’S RULE VS HOME RULE FOR GOVERNMENT

The so-called Dillon’s Rule (as OPPOSED to Home Rule) was addressed by the 2015 legislature. The governor signed into law “functional home rule” – allowing local cities and counties to implement programs and rules which do not require a direct fee or tax increase for service. (“Fiscal Home Rule” would allow local governments to impose whatever fees and taxes not otherwise addressed by the state.)

BANN remains concerned about both the possibility of granting Fiscal Home Rule and the implementation of the Functional Home Rule enacted in 2015. To date, it appears to have generated inconsistent rules and regulations across jurisdictions, which is troublesome.

BANN continues to support Dillon’s Rule for a number of reasons:

- Many have suggested that Dillon’s Rule was borne out of the necessity to remove political corruption from municipalities.
- Some scholars have suggested that an added layer of governmental review provides greater protection from inherently corrupt political organizations.
- State-level control ensures greater uniformity, which facilitates economic growth by assuring companies that requirements such as business licenses and methods of taxation will be consistent throughout the state, thus resulting in more efficient and fair governance.
- Dillon’s Rule also allows a legislature to award new powers to only a few local governments at first, so as to “test” the new powers. If the grant of power proves successful, then the legislature may grant the power to all local governments.
- Some believe Dillon’s Rule benefits local government officials by allowing them to use the rule as a political shield. For instance, the citizens may not want increased taxes, but the taxes are necessary for the continued provision of critical services (schools, roads, services, and so on). Under Dillon’s Rule, it would be up to the state legislature to impose such tax policy.
- Some suggest that state governments possess more technical expertise and often operate at a more appropriate level for policymaking than local governments.
- Local actions often result in regional or statewide impacts. State oversight may prevent exclusionary and provincial actions by local governments.
- Dillon’s Rule provides certainty to local governments. If power is denied, whenever doubtful, litigation will be kept at a minimum in legislative affairs.



DRUG-FREE and SAFE WORKPLACE

Voters approved Nevada's Initiative to Regulate and Tax Marijuana (more commonly known as Question 2) by a margin of 54 percent to 46 percent. This act became effective on January 1, 2017, and Nevada's Department of Taxation regulations necessary to execute the act's provisions. Revenue has proven to be substantial.

The act does not prohibit a "public or private employer from maintaining, enacting, and enforcing a workplace policy prohibiting or restricting actions or conduct otherwise permitted under this act." Further, under federal law, marijuana remains a Schedule 1 substance under the Controlled Substances Act.

The act preserves Nevada employers' rights to maintain a drug-free workplace. There remains some question about "impairment" - including how "impairment" is measured - and what it means in the workplace. BANN urges legislators to create systems to ensure employers can maintain a drug-free, impairment-free workplace.

Nevada is a non-statutory State regarding employers' drug-free workplace policies, however, all employers should consider the following:

- Impairment on a job site is a deadly serious issue.
- Update / Implement policy to include recreational marijuana
- Publish / Educate employees on the organization's drug-free workplace policy
- Nevada employers are allowed to conduct workplace drug testing under limited circumstances, such as: 1) upon a contingent offer of employment; 2) after an on-duty motor vehicle accident; 3) upon return to duty from a substance abuse treatment program; 4) if there is reasonable suspicion of impairment; or 5) if there is any applicable federal law that requires testing.



BUILDERS ASSOCIATION OF NORTHERN NEVADA OPERATING PROCEDURE

For issues not clearly defined by an approved existing policy, the following procedure will prevail. The system is completely dependent on the time available in descending order:

The Builders Council, Legislative, Infrastructure & Planning, and Codes committees make recommendations to the BANN Board of Directors which ratifies, modifies or rejects:

The Builders Council, Legislative, Infrastructure & Planning, or Codes committees make recommendations to the Executive Committee which ratifies, modifies or rejects:

Unless covered by the above state policies, staff will take no independent action to represent the Builders Association of Northern Nevada without first consulting the BANN President and the BANN Executive Director.