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Impact of the American's with Disabilities Act on local government (a retrospective review of 10 years of action) specific to personnel administration

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UNIVERSITY OF NEVADA AT LAS VEGAS
GREENSPUN COLLEGE OF URBAN AFFAIRS
DEPARTMENT OF PUBLIC ADMINISTRATION

PROFESSIONAL PAPER

**IMPACT OF THE AMERICAN'S WITH DISABILITIES ACT
ON LOCAL GOVERNMENT**
(A RETROSPECTIVE REVIEW OF 10 YEARS OF ACTION)
SPECIFIC TO PERSONNEL ADMINISTRATION

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ABSTRACT

President George Bush signed the Americans with Disabilities Act (ADA) into law on January 26, 1990. This Act was intended to overcome many perceived or actual acts of discrimination against persons with disabilities residing in the United States of America. To date, no author has looked back to see what the impact of this comprehensive law has been on local government. This author through study will be determining what, if any, impact this law has had on the State of Nevada counties. This study is being limited in scope to personnel administration, and personnel related remedies. Recommendations for the future in regards to these specific findings are included.

CHAPTER ONE

I. INTRODUCTION

Purpose of the Study

The American's with Disabilities Act (ADA) was enacted by Congress and signed by President George Bush in 1990. This Act was a comprehensive act intended to compel equal rights and equal access for persons in the United States challenged with disabilities. The act required compliance with the law within a two-year period ending June 14, 1992. In 1996, Ms. Della Boyd wrote a professional paper that addressed specifically Title III of this act, and the impacts this act had on the entertainment/casino industry in Las Vegas and Laughlin, Nevada. This paper intends to look at the impact the Act has had on local governmental personnel administration (Title I) and whether this has caused an *undue hardship* on local government itself.

The Federal government allowed 18 months to comply with the edicts of the Act. The paper is not interested specifically in

whether the ADA was complied with in the eighteen months following the act being signed into law, but rather:

- What has been the impact on local government over the 10 years that this law has been in force, and has this law caused an undue hardship on the individual counties surveyed?
- What have been the continuing impacts of the law for the past eight and one-half years after this law was signed, and what continues to be the challenges into the future?
- If there have been fiscal impacts, what parts of the law (ADA) have these impacts been related to,
- Has this impact been different from one county to the other? And;
- Have these fiscal impacts differed by county populations?

Significance of the Study

This study is significant in that through research, I have found no other paper, article or manual that has reviewed and tried to determine the impact of this most significant mandate on local/county governments. Several papers have been constructed over time in the Public Administration program to look at the

impacts of this comprehensive law on the private sector. (Boyd, 1996; Gregory, 1994) These papers have reflected the costs to the private sector in regard to issues such as training, employment variables, and changes in physical structures related to doing business primarily in Clark County, Nevada. Like these papers, I am looking at similar issues, but only as they pertain to local government, specifically, the counties of the State of Nevada.

In looking specifically at the counties of the State of Nevada, it is important that the reader understand the make-up of this great state. Unlike many of the other states, Nevada is populated in two large centers (high-density) at opposite ends of the state, with the remaining counties in-between being sparsely populated. To wit; many of the counties within the State of Nevada are less than 10,000 persons in population, (7 of 17, or 41%). Over half are 25,000 or less in population. (10 of 17, or 59%.) 15 of the 17 counties are less than 55,000 in population or 88%. (Nevada State Demographer's Office, June 2000) As part of this study, I was interested in the fiscal demands on these counties. The fiscal demands, or capital expense requirements on a small county in the state of Nevada can be extreme when you consider the landmass to population ratios. For example, Nye County is the third largest county in the United States, comprising some 18,064 square miles,

with a population of only 36,101. (Source, Nye County Website)
The challenge of providing governmental services to a county of this size is obvious. Therefore the challenge of implementing the mandates of the ADA is perhaps as obvious, and necessary to study.¹

¹ Carson City is identified as a county by the state demographer, however, is not identified elsewhere as such, and therefore, was not surveyed. Considered by the state demographer as a county, it is the 17th county as described in the statistics cited.)

CHAPTER TWO

II. LEGAL STRUCTURE AND REQUIREMENTS

“Employment, the key to independence for many persons with disabilities, has become the focus of many – maybe even a majority – of the disputes that arise under the Americans with Disabilities Act, (ADA).” (Parry, 1996)

Although this paper focuses specifically on Title I of the ADA Act of 1990, it is important for you, the reader, to gain a basic understanding of other preceding legislation and all the remaining components of the ADA. The ADA was not the first act of legislation to speak to the employment of the disabled. It was however, the first Act that was comprehensive and spoke to all employers (public and private). The sections that follow provide a review of previous legislation and an overview of other components of the ADA.

Federal Rehabilitation Act of 1973

Laws to protect individuals with disabilities from discrimination by employers have existed since the inception of the Federal Rehabilitation Act of 1973. This Act, the first ever to attempt to provide special employment rights to the disabled, gave these individuals specific

protection against employment discrimination.

"The (Federal) Rehabilitation Act (of 1973) prohibits discrimination on the basis of disability in programs conducted by Federal agencies, in programs receiving Federal financial assistance, in Federal employment, and in the employment practices of Federal contractors. The standards for determining employment discrimination under the Rehabilitation Act are the same as those used in Title I of the Americans with Disabilities Act." (USDOJ, 2000)

Interestingly, neither the Federal Rehabilitation Act of 1973 nor the ADA of 1990 provided protections for military personnel who, while serving, became disabled with non-employment related illnesses. Congress specifically relieved the military from compliance with either of these Acts.

The Federal Rehabilitation Act of 1973 was divided into sections, which gave this law definition and allowed the law to be effective in assisting the disabled for many years.

- Section 501 requires affirmative action and non-discrimination in employment by Federal agencies of the executive branch. (USDOJ, Enforcing the ADA)

- Section 503 requires affirmative action and prohibits

employment discrimination by Federal government contractors and subcontractors with contracts more than \$10,000. (USDOJ, Enforcing the ADA)

- Section 504 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under” any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service (USPS). (USDOJ, Enforcing the ADA)

In this regard the Federal Rehabilitation Act of 1973 was the first Act specifically designed to eliminate discrimination for disabled persons in the workplace. This Act was limited in its scope to only Federal programs and places of employment, including contract employment. Predictably, the Act proved not to be comprehensive enough. For several years, persons with disabilities lobbied Congress for more comprehensive legislation to provide "protections" that were more broad and far-reaching, and in January of 1990, the ADA was born, and signed into law.

Americans with Disabilities Act of 1990

"Signed into law on January 26, 1990, the ADA is a wide-ranging legislation intended to make American Society more accessible to people

with disabilities.” (ADA Handbook, 1992) The ADA does not just speak to employment issues and assuring those rights for the disabled. The Act also speaks to public services, public accommodations, telecommunications, and other miscellaneous issues. As delineated out in the ADA Handbook and in other sources as cited, the following is a general discussion regarding each of the Titles addressed in the ADA:

A. Employment (Title I)

Title I is applicable to businesses with more than 15 employees and governments at all levels, regardless of the number of employees. (Parry, 1996) “Title I follows other civil rights laws in prohibiting discrimination and supporting the use of a disparate impact analysis (in addition to disparate treatment) to ascertain whether discrimination exists. However, in calling for affirmative measures, Title I is quite different from the other civil rights laws, particularly in embracing the notions of “reasonable accommodation” and “undue hardship,” precluding quotas, and seemingly backing away from other traditional minority preferences.” (Parry, 1996)

Government must provide reasonable accommodations to protect the rights of their employees with disabilities in all aspects of employment. “Possible changes may include restructuring jobs, altering the layout of workstations, or modifying equipment.”

“Employment aspects may include the application process, hiring, wages, benefits, and all other aspects of employment. Medical examinations are highly regulated.” (JanWeb, 1994)

B. Public Services (Title II)

“Public services, which include state and local government instrumentalities, the National Railroad Passenger Corporation, and other commuter authorities, cannot deny services to people with disabilities.” “Nor can these governmental entities deny participation in programs or activities that are available to people without disabilities. In addition, public transportation systems, such as public transit buses, must be accessible to individuals with disabilities.” (42 USC 12115)

Title II speaks specifically to state and local governments. "Public entities" include any state or local government and any of its departments, agencies, or other instrumentalities. “All activities, services and programs of public entities are covered, including activities of State legislatures and courts, town meetings, police and fire departments, motor vehicle licensing, and employment. Unlike section 504 of the Rehabilitation Act of 1973, which only covers

programs receiving Federal financial assistance, Title II extends to all the activities of State and local governments whether or not they receive Federal funds.” (ADA Handbook, 1992)

This title speaks specifically to demands put on local and state governments to make their programs and meetings accessible to all persons. Physical changes to buildings, creating alternate meeting sites to mainstream disabled persons, and breaking down barriers to access are all parts of this part of the Act. Title II does not speak only of access to programs or buildings, but also addresses access to public transportation, and the expectations for provision of that service to the disabled. The law indicates that all-public transportation vehicles must be accessible to the disabled. Although, public agencies can utilize specific "handicapped" vehicles to provide public transportation, this is not enough action under the provisions of the Act: Creating a paratransit sub-division of the public transportation system is not enough. Obviously, retrofitting and purchasing new equipment to meet this requirement was a formidable and expensive task in an 18-month period of time.

C. Public Accommodations (Title III)

Title III is specific to public accommodations. “All new construction and modifications must be accessible to individuals with

disabilities." Existing facilities are required to remove barriers to services if this is readily achievable. As an example, public accommodations would include the following facilities, in addition to others: Restaurants, hotels, grocery stores, and retail stores. Privately owned transportation systems would also be included. (JanWeb, 1994)

"While the employment provisions of the ADA apply to employers of fifteen employees or more, its public accommodations provisions apply to all sizes of business, regardless of number of employees. State and local governments are covered regardless of size." (Parry, 1996)

In the Las Vegas area, this had a significant impact on the Hotel/Casino Industry. In a professional paper written by Ms. Della Boyd, Clark County ADA Coordinator, entitled; "The Challenge of Compliance," Ms. Boyd made the following conclusions in her paper. "Although the courts did not find the ADA to be unconstitutional, it does seem somewhat unreasonable , at first glance, to consider, that Congress decided to require, under penalty of law, a business to spend up to 20% of the cost of construction to provide access to a selected population."

D. Telecommunications (Title IV)

"Telecommunications companies offering telephone service to the general public must have telephone relay service to individuals who

use telecommunication devices for the deaf (TTYs) or similar devices.”
(JanWeb, 1994)

Title IV speaks specifically to those requiring specialty telecommunication devices to conduct business. Local government is expected to provide in common general access places such as; meeting halls, courts, and public communication, systems that accommodate the hearing impaired person’s needs in regards to participating and carrying out personal or professional business. (ADA Handbook, 1992)
This title has been tested several times in regards to hearing impaired persons being limited in their participation in governmental meetings, prison parole hearings, or access to local or long distance carriers providing specific services to these individuals.

E. Miscellaneous (Title V)

Title V speaks to assisting those with disabilities and creating a "hassle-free" environment. It includes a provision prohibiting either (a) coercing or threatening or (b) retaliating against the disabled or those attempting to aid people with disabilities in asserting their rights under the ADA. The author did not find any evidence that indicated instances of harassment had occurred to persons with disabilities or those assisting these individuals in attempting to get resolution to complaints under this Act.

Definition of Terms

This paper focuses on Title I of the ADA, which prohibits discrimination on the basis of disability in all employment practices. It is necessary to understand several important ADA definitions to gain an appreciation for individuals who are protected by the law and what constitutes illegal discrimination. These are explained below.

- **Individual with a Disability** - An individual with a disability under the ADA is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. Major life activities are activities that an average person can perform with little or no difficulty such as walking, breathing, seeing, hearing, speaking, learning, and working.
- **Qualified Individual with a Disability** - A qualified employee or applicant with a disability is an individual with a disability who satisfies skill, experience, education, and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position.

➤ **Reasonable Accommodation** - According to the American Bar Association's; *Regulation, Litigation and Dispute Resolution under the American's with Disabilities Act: A Practitioner's Guide to Implementation*, "Accommodations attempt to reconcile the functional limitations of a person with a disability with the job application process, job duties, and the employment environment."

"...Accommodations to be considered are wide-ranging and may include the following types of changes:"

- Removal of physical barriers in existing facilities;
- Job restructuring (reallocating non-essential, or marginal job functions);
- Allowing part-time or modified work schedules;
- Reassignment to a vacant job position;
- Acquisition or modifications of equipment or devices;
- Appropriate adjustment or modifications of exams or training materials;
- Modification of employment policies;
- Provision of auxiliary aids and services, such as qualified readers or interpreters;
- Provision of personal assistants, such as page turners or travel attendants;
- Making non-work areas accessible; or
- Permitting the use of accrued paid leave or providing additional unpaid leave for necessary treatment. (Parry, 1996)

➤ **Undue Hardship** - An employer is required to make a reasonable accommodation to a qualified individual with a disability unless

doing so would impose an undue hardship on the operation of the employer's business. Undue hardship means an action that requires significant difficulty or expense when considered in relation to factors such as a business' size, financial resources, and the nature and structure of its operation. "The size of the employer and its budget are only two factors that determine what is reasonable.

Other factors include:

- Net cost of the accommodations to the employer,
 - Overall financial resources of the employer, the number of persons employed and the effect of providing a specific accommodation on expenses and resources;
 - Overall financial resources of the employer that administers the program or agency;
 - Employer's overall size in terms of employees, and number, type and location of its office;
 - Operational structure of the employer; and
 - Impact of accommodations on those operations. (Parry, 1996)
- **Prohibited Inquiries and Examinations** - Before making an offer of employment, an employer may not ask job applicants about the existence, nature, or severity of a disability. Applicants may be asked about their ability to perform job functions. A job offer may be conditioned on the results of a medical examination, but only if the examination is required for all entering employees in the same job category. Medical examinations of employees must be job-

related and consistent with business necessity.

- **Drug and Alcohol Use** - Employees and applicants currently engaging in the illegal use of drugs are not protected by the ADA, when an employer acts on the basis of such use. Tests for illegal use of drugs are not considered medical examinations and, therefore, are not subject to the ADA's restrictions on medical examinations. Employers may hold individuals who are illegally using drugs and individuals with alcoholism to the same standards of performance as other employees.

(Definitions Directly taken from: EEOC/JD, 1992)

Compliance Areas Researched

There are specific compliance areas that I used for the construction of this study, and the subsequent survey tool utilized to collect data from the individual Nevada counties. These compliance areas were not areas that I identified independently. These specific compliance areas were discussed in detail in a document published by the American Bar Association, and edited by John Parry. A document entitled; "Regulation, Litigation and Dispute Resolution Under the Americans with Disabilities Act: A Practitioner's Guide to Implementation."

The ADA had specific areas that required compliance within a 18-month time frame. (The law was signed into effect on January 26, 1990.

Entities, public and private, were given 18 months in which to comply wholly with this law.) Specific guidelines regarding employment and the enforcement guidelines used for Title I were developed by the Department of Justice's EEOC division and were published on January 1, 1992.

The following are areas of compliance identified in those guidelines, and therefore utilized as the framework for the survey related to this paper.

- **Job Descriptions** - ADA required that job descriptions and posting comply with a format that identifies "essential" and "marginal" job functions. Even though an applicant may be "disabled," this does not automatically disqualify this applicant for the job. It has to be determined that the applicant can or cannot meet the minimum requirements in regards to performance of the essential functions of the job. In addition, should the applicant not be able to perform the essential job functions, it *must* be determined whether the applicant can perform these functions with *reasonable accommodation*. "'Essential Functions" mean fundamental. "Marginal" job duties are those considered to be non-essential or not fundamental to the performance of the job." (Parry, 1996) In order to evaluate whether job functions are essential versus marginal, the agency must have conducted surveys (or

applied similar tools) to establish job duties performed, determine whether these are marginal or essential, and determined the percentage of time spent accomplishing the particular task. Once these determinations have been made, the agency can post the position and prepare to receive applicants.

- **Recruitment Procedures** – Recruitment procedures as established by the ADA mean to include new types of advertisement, i.e. radio, Internet, television, or telephone recordings. Likewise, employment advertisements cannot discriminate against disabled applicants. Advertisement sources must include those reaching persons with disabilities. Thus, advertisements cannot be limited to a single source. For instance, an agency using only newspaper advertisements would "screen out" visually impaired applicants. Similarly an agency using or only television or radio would "screen out" those who are hearing impaired. Title I also prohibits discriminating against those who are recruited through employment agencies. "It prohibits using such agencies to "weed out" potential employees with disabilities." (Gregory, 1994)

- **Job Interviews** – Interviews are a key component of hiring practices, and as such, this compliance area requires providing specific training

for conducting interviews for open positions. Title I of the ADA "imposes non-discrimination in employment requirements." (EEOC Technical Assistance Manual) This covers all aspects of employment including pre-employment considerations such as accessibility, application forms and interview questions. According to the EEOC's ADA Enforcement Guidelines, "an employer may ask disability related questions and require medical examinations of an applicant only after the applicant has been given a conditional job offer. "A covered entity may make pre-employment inquiries into the ability of an applicant to perform job related functions, and/or ask an applicant to describe or to demonstrate how, with or without reasonable accommodation, the applicant will be able to perform the related job functions." (Parry, 1996) In essence, these guidelines require employers to provide specific training to those interviewing job applicants to ensure compliance.

- **Testing Applicants** – Changes were expected to be made in oral or written exams and mental or physical exams. In regards to pre-employment tests, EEOC regulations strictly prohibit an employer from "selecting or administering any employment test or other criterion that screens out or tends to screen out (intentionally or unintentionally) disabled people or any class of disabled people, unless

it can be shown to be job-related to the position in question and consistent with business necessity." (Regulation 1630.10, ADA Handbook, pg. I-66)

- **Pre-Offer Medical Exams or Inquiries** – Typically, employers today are conducting medical exams post offer. However, the ADA does allow pre-employment medical exams or inquiries as long as these exams comply with the intentions of the law. "Employers may mandate medical exams or medical inquiries once an offer of employment is made, and may condition employment on the results of that exam or inquiry as "long as all entering employees in the same job category are subjected to such an examination regardless of disability."(Parry, 1996) Interestingly, "Physical agility exams are not medical examinations and so may be given at any point in the application or employment process. Such tests must be given to all similarly situated applicants regardless of disability. If such tests screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, the employer would have to demonstrate that the test is job-related and consistent with business necessity and that performance cannot be achieved with reasonable accommodation." (ADA Handbook, pg. I-72)

- **Selecting or Rejecting Applicants** - Changes in the criteria or policies regarding selecting or rejecting applicants pursuant to the ADA.

"In deciding whether an individual is qualified for a particular job, an employer may review the applicant's education, work experience, training, skills, licenses, certificates, and other job-related characteristics. Applicants are qualified if they can perform a job's essential function with or without reasonable accommodation. Generally, employers remain free to set standards which allow them to hire persons with the qualifications the employer values most, and to establish and maintain a workforce of people who can perform their jobs safely and effectively. However, employers may not exclude individuals with disabilities from jobs they can actually perform." (Parry, 1996)

In addition to the compliance areas discussed above, employers are expected to make reasonable accommodations for disabled employees requiring such accommodation. What follows are areas in which an employer may choose to make efforts in regarding these specific accommodations. As previously indicated, these are areas that were identified by the Parry text, and the author did not independently establish these criteria or list of possible accommodations. (The author has hypothesized regarding the use of these types of accommodations and

their use in local government, specific to Nevada, in the Results section of this paper)

➤ **Accommodations Generally** – This section references accommodations that may be necessary to accommodate a disabled employee in the workplace. These include: removing physical barriers in the work environment, providing any (new) equipment to assist the disabled employee in completing their work assignments, changes to existing policy or procedures, and the addition of flexible work schedules and/or changes in breaks or scheduled activities. Government typically works in a service to the public in a predictable manner, with predictable service hours. Changes in employee schedules, and changes in scheduled activities may be cumbersome, and difficult. Changes in physical barriers, and new equipment, although appearing to be easily done, may be difficult due to size of the governmental entity and other fiscal demands with equal priority.

➤ **Job Reassignment** - Reassignment is a possible reasonable accommodation for employees, but not for job applicants. As an example, "an applicant who cannot perform the essential job functions of a town manager (with or without reasonable accommodation) cannot request reassignment to the position of

budget director. Reassignment for employees should be considered only if no other reasonable accommodations is possible." (Parry, 1996)

- **Flexible Scheduling** - An important way to accommodate employees with disabilities and make the work place operate more efficiently is to provide flexible scheduling. "In general, flexible schedules and leave can be provided at little cost with minimal work place disruptions." (Parry, 1996)

- **Job Restructuring** - Job restructuring, including changing the times at which an employee performs a particular task, is another important way to address disabilities on-the-job. The reassignment of problematic marginal tasks is another example of job restructuring. Creating part-time work situations is another way of restructuring work to accommodate person with disabilities. The goal in restructuring is accomplishing tasks required of each position with minimal changes incurred by those affected.

- **Job Training** - "Some people with disabilities, particularly those who have been out of the job market for a significant period of time, may need additional time to get back into the swing of the

work place.” The accommodation referred to here gives the employee the opportunity to return to work in a "learning" environment which capitalizes on skills they already perform well, while allowing for time and more specialized training to bring this employee up to the performance expectations of the position. (Parry, 1996

- **Developing Work Plans** - Some disabilities and the medications used to treat them can interfere with the employee's ability to concentrate. Setting hourly or daily goals may compensate for this difficulty. (Parry, 1996) Often, as managers we are asked to provide work plans for our employees to assist them with career development. This accommodation is not typical career development; rather this is more on the line of giving detailed direction and follow-up. Actually, this accommodation used as an accommodation or not with your employees can improve their performance along with enhancing employer/employee communications.

- **Providing Critical Feedback** - Creating guidelines for creating critical feedback is important for all employees, and may be an important reasonable accommodation for an individual with a

disability. Each employee needs to have their self-esteem enhanced during their work experience. This aspect of employee nurturing is even more important for those individuals with disabilities. Providing structured feedback sessions with a trained and competent supervisor can be essential to nurturing a quality employee for your program/agency. Many entities have undertaken "interaction management" workshops for their managers to help and build on the last two provided accommodations. Each is tied uniquely to communicating with the employee and focusing on self-esteem. Another key principal to interaction management is providing feedback without removing responsibility. Too many times, managers take on the task of "just doing it themselves," instead of properly communicating with their employees and enhancing their employee's productivity.

CHAPTER THREE

III. LITERATURE REVIEW

Americans with Disabilities Act of 1990

Since the paper to this point has been rather illustrative of the design and purpose of the ADA, this section will focus on what literature was found, and remarks made on the progress of the ADA in the past 10 years. Articles are presented in a chronological fashion. This section displays, perhaps, through the use of the articles cited the change in the attitude regarding the ADA in the past 10 years. These articles also demonstrate whether the ADA has been successful in achieving benefits for those who are disabled by the definition of the Act.

Two study questions posed for this paper are responded to in kind in this section. These two questions are; "What have been the continuing impacts of the law for the past eight and one-half years after this law was signed, and what continues to be the challenges into the future?" And, the

second question; "If there have been fiscal impacts, what parts of the law (ADA) have these impacts been related to?"

In reviewing the available literature related to the ADA, and subsequent studies and findings of the past ten years, the author was unable to find any literature which directly related to impacts of the ADA in relation to personnel administration and local governments. Subsequent to this finding, this section focuses on what current literature exists to provide the reader with an appetite for past and current findings as they relate directly to the ADA.

Early Advice to Governments Regarding Implementation

In 1993, Bishop and Jones provided through an article found in the *Public Administration Review*, a guide to local governments in implementing the edicts of the ADA. In addition, this article provided to the reader "five variables to assess the probability of successful implementation of the ADA."

The author's stated; "The underlying assumption of this project is that the ADA will likely succeed in its intent if: (1) beneficiaries participate in the process and maintain pressure on implementing agents, (2) the policy's goals are clearly communicated, (3) the compliance standards are expressly delineated, (4) enforcement agents are unambiguously designated, and (5) detailed enforcement

procedures are instituted."

Even though this article was written early in the history of the ADA, the word, "likely" leaves me with the impression that the authors may have even doubted that this policy/law could be successful, or successfully implemented.

Bishop and Jones went on to explain; (That) "This study finds that groups representing the disabled learned from previous experience with the Rehabilitation Act that if they did not apply continual pressure on administrative agencies to fashion timely and effective regulations, the agencies would move slowly to issue regulations." The Federal Rehabilitation Act essentially was in effect for almost twenty years prior to the enactment of the ADA (and still is in effect today). Disabled persons lobbied for ADA legislation due to the fact that the Federal Rehabilitation Act was not broad enough, and did not afford persons with disabilities access to all environments. Proponents of the ADA were hopeful that the Act would open the doors and provide access. Although public accommodations, and access to these venues has improved, other articles cited in this section leave the impression that in regards to Title I, the ADA has not been as successful as hoped.

Title I Study (Private Industry)

In a professional paper written by Jerilyn Gregory in the Spring of 1994, Ms. Gregory makes the following conclusions in her paper which despite the relatively small sample taken for her paper, are rather accurate.

"When the ADA was first implemented, everyone in Human Resources prepared themselves for the radical changes that were certain to come. They expected disabled people to begin applying in throngs. Yet, very little has actually changed. Yes, there is a greater awareness and acceptance of disabled people. And, yes, employers are prepared to make reasonable accommodations for qualified candidates. However, few people with visible disabilities are applying at the employment office.....Furthermore, the Human Resources Department is unable to report with any accuracy the actual number of people with positions who apply for positions in their company. They are prohibited by the ADA from asking any questions that do not pertain to the essential functions of the job in question. Because of this, I have found it is impossible to determine any sort of statistical impact the implementation of Title I of the ADA may have had."

...."Without more information, I am left with the conclusion that the implementation of Title I of the ADA had no significant impact in increasing the number of disabled people being employed today."

Interestingly, a paper subsequently written two years later and published by the National Bureau of Economic Research had similar conclusions. Arguably, the conclusions reached by Ms. Gregory, albeit from a much smaller sample and perhaps less empirical, are much the same. Both "papers," however, pertain to private industry and are not

focused on local government impacts.

From the Abstract;

"The ADA requires employers to accommodate disabled workers and outlaws discrimination against the disabled in hiring, firing, and pay. Although the ADA was meant to increase employment of the disabled, it also increases costs for employers. The net theoretical impact turns on which provisions of the ADA are most important and how responsive firm entry and exit is to profits. Empirical results using the CPS suggest the ADA had a negative effect on the employment of disabled men of all working ages and disabled women under age 40. The effects appear to be larger in medium size firms, possibly because small firms were exempt from the ADA. The effects are also larger in states where there have been more ADA related discrimination charges. Estimates of effects on hiring and firing suggest the ADA reduced hiring of the disabled, but did not affect separations. This weighs against a pure firing-costs interpretation of the ADA. Finally, there is little evidence of an impact on the non-disabled, suggesting that the adverse employment consequences of the ADA have been limited to the protected group."

This study actually confirms the assumptions made above in that the ADA has perhaps caused a reverse effect on employment and hiring. Also, it reflects mildly that civil recourse has been the primary action, rather than active employment.

Program Effectiveness

The National Council on Disability released a report in 1996 discussing program effectiveness, impacts of these programs and issues with measuring success.

"The ADA is the most comprehensive policy statement ever made in American Law.....Yet little progress has been made in ensuring that the various federal programs for people with disabilities are grounded in the principles of the ADA."

"While the Federal Government spends about \$175 billion per year on people with disabilities, most of this amount continues to support dependence rather than independence."

"Lack of detailed and current data about people with disabilities remains an obstacle to effective policy development and analysis. Major national surveys do not routinely collect or report data about people with disabilities the way they collect and report data about other protected groups, such as women, the elderly, and racial and ethnic minorities."

This particular study or report involves services provided for the disabled and access for the disabled for these programs. In as much as "programs" are under Title II of the Act, this report is important to Title I as well. If data is non-existent to measure successes, how does local government measure their success against any type of benchmark. I am concerned that the progress made in local

government in regards to the ADA is dependent on the "level of effort" of local administrators in pursuing progress. Initial surveys received back tend to show that the "level of effort," at least expended here in Nevada, is commendable, both public and private.

DOJ/EEOC Complaints

In December, 1998, Les Picker wrote in the National Bureau of Economic Research Digest regarding consequences of the ADA. The Department of Justice/EEO Office is the branch within the Federal Government charged with the legal oversight of this Act, and played a key role in broadly defining all aspects of the ADA, including employment issues. Again, the figures quoted are for the Act as a whole, and not specific to local governmental agencies, and complaints limited only to this group.

“The Equal Opportunity Employment Commission (EEOC), the agency charged with enforcement of the ADA, received more than 90,000 discrimination complaints between 1992 and 1997. Approximately 29 percent of these charges were for failure to provide adequate accommodations. 10 percent for hiring violations, and nearly 63 percent for wrongful termination. Since July 1992, employers have paid more than \$174 million in EEOC settlements over ADA complaints, not counting administrative costs and legal fees.”

In this paper, I have included my anecdotal experiences with the

ADA and private industry. I was unable to find substantiating evidence to demonstrate this point conclusively. However, this article review suggests that despite whatever efforts government or private industry alike makes, the fear of reprisal and use of the court system for relief can be overwhelming.

Impact of the Act on Employment

Francis and Silvers wrote in their book, "Americans with Disabilities, Exploring Implications of the Law for Individuals and Institutions," about the impacts of the ADA on the disabled in regards to employment. In the book, the authors indicate that there has been a three (3) percent change overall in employing the disabled. On the other hand, their comparison of disabled versus able-bodied workers who were currently not unemployed in the workforce was staggering. Even more disappointing was their comparison of levels of income for these same two groups.

"In 1996, the US Census Bureau released data showing that the employment-to-population ratio for person with severe disabilities increased from roughly 23 percent in 1991 to 26 percent in 1994, reflecting an increase of approximately 800,000 additional people with severe disabilities in the workforce."

"A 1998 survey by the National Organization on Disability (NOD) and the Harris Organization found significant participation gaps between people

with and without disabilities in employment and other aspects of life. Of the persons with severe disabilities surveyed, more than two-thirds were unemployed and out of the workforce, compared to less than 10% of all Americans. Forty percent of the individuals with disabilities surveyed, lived below the poverty line, versus 18 percent of all Americans."

"One hundred years ago, and today, at the tenth anniversary of the ADA, disabled people were and are portrayed as shirkers, malingerers, freeloaders and undeserving. One hundred years ago and today, some claimed and claim that disabled people seeking protection under the law pose a moral challenge to the notions of fairness in American law and policy."

CHAPTER FOUR

IV. RESEARCH QUESTIONS

According to the EEOC:

“The ADA seeks to ensure access to equal employment opportunities based on merit. It does not guarantee equal results, establish quotas or require preferences favoring individuals with disabilities over those without disabilities. When an individual’s disability creates a barrier to employment opportunities, the ADA requires employers to consider whether reasonable accommodation could remove the barrier”. (Parry, 1996) (29 C.F.R. pt. 1630, App)

This paper addresses three primary research questions, all descriptive.

They are:

1. To what extent have Nevada counties implemented the changes in personnel procedures required by the ADA?

In authoring this specific research, I was interested in knowing how much of an impact previous Acts or laws may have had on those counties surveyed. The Federal Rehabilitation Act required many actions on the part of employers who received Federal funding prior to the implementation of the ADA. However, this survey tool was used to assess the impact of the ADA itself on these individual counties. Further, I was interested in knowing if there may have been any agencies that were embracing ADA type of hiring criteria prior to the enactment of the law.

2. To what extent have Nevada Counties implemented "reasonable accommodations" under the ADA?

A second component of the survey that was utilized to study the question of implementation and costs was related to the criteria set out by the federal government of "providing reasonable accommodation." In the private sector where I have spent the preponderance of my professional career time, this aspect is more alarming and concerning than any other clauses in the ADA document. From the professionals I have been associated with, the fear of reasonable accommodation has been that this term is nebulous and difficult to define, and therefore, difficult to

determine what true compliance with this mandate may be. In the survey sent out, I requested information about "frequency" and "costs associated" with reasonable accommodations that the surveyed counties may have encountered.

3. What have been the fiscal impacts of complying with this Act?

Federal Mandates are generally unfunded mandates. In the case of the ADA, the Federal government enacted a law that had a far-reaching fiscal impact not only on local government, but also on the Federal agencies required to enforce this law. For the purposes of this particular paper, the author was desirous in knowing what the fiscal impacts of this law had been on local government (counties). The expectation in this research area was that local government (counties) had significant financial consequences secondary to enactment of this Act.

I addressed these issues in terms of the compliance areas identified previously: job descriptions, recruitment procedures, job interviews, testing, selecting, and pre-employment medical exams. In regards to accommodations and fiscal impacts, these issues were studied as the areas identified previously as: accommodations generally, job reassignment, flexible scheduling, job restructuring, job training, developing work plans, and providing critical

feedback.

Operationalization of the Variables

The variables described previously were operationalized through the use of a general survey tool. The survey/questionnaire tool was divided into several sections to be able to measure the results accurately. The first section measured the extent to which each county had complied with the ADA in each of the primary “personnel” related areas. The second section requested compliance with any of the “accommodation” areas, and the individual experiences each county had related to any/all of the variables defined in the study tool. A third area of the survey requested information in regards to training that each county had undertaken as a result of the ADA, and costs that were associated with this issue. Lastly, the survey asked two simple questions to measure impact of the ADA. Whether the county(s) had hired a person with a disability as a result (consequence) of the ADA, and whether the county(s) had hired a person (coordinator) to oversee compliance and continuing issues with the ADA in general. **(See QUESTIONNAIRE in Appendix)**

The responses to this survey were captured using the following numerical and categorical descriptions. Each recipient of the survey tool was asked to respond to the compliance areas/categories with one of the following 5 responses, by circling the corresponding number.

1. No changes were necessary, compliance already at legal requirement.
2. Minimal changes were necessary, compliance essentially at legal requirement
3. Moderate changes were necessary, changes were necessary to comply with the legal requirements
4. Major changes were necessary, compliance would not have been met without these serious changes
5. Complete overhaul was necessary to comply with the new ADA requirements, the ADA introduced such broad changes that a complete re-think was necessary to comply.

I was generally interested in knowing through these responses specifically the position that the counties were in when this Act was signed into law. Also, I wanted to determine what hurdles existed for these counties in meeting the eighteen-month deadline for compliance.

V. RESEARCH METHODS

Data Collection

The sample for this survey consisted of the 17 counties that comprise the State of Nevada.² Specific information related to demographics and landmass are discussed in detail in Chapter 5.

The first step in determining the participants was to identify

² Carson City (County) was not surveyed.

counties within the State of Nevada (17). After this, the author attempted to identify within each of these counties the Human Resources/Equal Employment Opportunity Officer Department, and the individual responsible for that single department. Several of the smaller counties, (i.e. 15,000 population or less) did not have a personnel officer, human resources department manager, or an EEO Officer, so the Chair of the County Commission was selected to receive the survey. (One-half of the surveys sent out, went to the Chair of the County Commission). Each participant received the survey in the same format, though through different delivery mediums, such as; direct mail, e-mail through the county's web page, or facsimile. The participant received a personal letter from the author and the three-page survey, and was to return the device by any of the three means in which the questionnaires were delivered. Mail participants received postage-paid return envelopes, e-mail participants received a specific return e-mail address and fax recipients could fax the survey directly back to the author. Participants were asked to identify themselves for the purpose of communication, but were allowed/encouraged to remain anonymous should they choose to. The data utilized for this study came from a survey instrument already described. County administrators were asked to complete the survey within a specified time frame, and return it to the author. Follow-up calls were made with county officials to retrieve data when missing or

incomplete.

Fortunate for the purposes of the study, all 17 counties belong to the Nevada Association of Counties (NACO), and the Nevada Public Agency Pool and Public Agency Compensation Trust (PACT)³.

In addition to the counties surveyed, the author also gathered data from NACO and PACT. NACO provides personnel related resources, in regards to personnel policies, hiring, discharging of employees and other related personnel issues previously discussed in this paper and covered by this study. NACO also provides to the counties labor experts and management training seminars to assist elected officials with administration of their county personnel resources. PACT provides to these same counties a risk management/insurance component and acts as a resource for member counties in these areas. PACT was responsible for creation of a county coalition that drove down county rates for risk related insurance for member counties. PACT provides to the counties as part of their membership fees risk management consultants to address other problems or issues that may arise at the county level. In addition, PACT provides personnel policy analysis and policy construction assistance. In regards to the ADA, PACT provides to the counties educational resources for all managers and supervisors within the county management structure. NACO and PACT essentially exist to make it possible for

³ With the exception of Clark and Washoe Counties, which only belong to NACO.

counties of 1,500 to have the administrative strength of counties significantly larger. NACO and PACT both provide services beyond the scope of this paper and survey, and a relative amount of their efforts are spent on ADA related issues.

Information/data recovered from the survey tool was supplemented by separate interviews conducted with the Executive Directors of both PACT and NACO.

In conducting the survey as a whole, the author did not change questions from one participant to the other, to allow for consistency in responses.

CHAPTER FIVE

VI.RESULTS

Demographic information was provided by the State Demographer's office, and is used for comparison. Nevada is divided into 17 counties, and fifteen of these counties are relatively small when compared with the two largest counties in the state. (Counties less than 55,000 in population = 15. Counties greater than 300,000 in population = 2). Nevada is a rather large state in landmass (109,805.5 square miles) with a population of approximately 2,059,433. Of those 2,059,433, greater than 50% (68%) or 1,418,719 live in Clark County, Nevada, or the Las Vegas Metropolitan Area. Due to the specific size of one county over another, analysis was completed for all counties together, absent the two largest counties. These two counties, being the largest concentrations of population were analyzed separately to compare like data to like data for similar population groups. Typical statistical comparisons were made of the data in regards to mean, median, and mode, of all counties.

Table 1.0 (n=3)							
Compliance Area	Responses		Low Density Counties			Mean	Median
	1	2	3	4	5		
Job Description	0%	0%	33.3%	33.3%	33.3%	4	4
Recruiting	33.3%	0%	0%	33.3%	33.3%	3.33	4
Pre-Emp Testing	50%	0%	0%	50%	0%	2.5	2.5
Pre-Emp Med Test	0%	0%	50%	50%	0%	3.5	3.5
Selecting/Rejecting	0%	33.3%	33.3%	0%	33.3%	3.33	3
			Frequency				
Accom. General	33.3%	33.3%	0%	33.3%	0%	2.33	2
Job Reassignment	50%	50%	0%	0%	0%	1.5	1.5
Flex Scheduling	0%	0%	0%	0%	0%	0	0
Job Restructuring	0%	0%	0%	0%	0%	0	0
Job Training	0%	0%	0%	0%	0%	0	0
Work Plans	0%	0%	0%	0%	0%	0	0
Critical Feedback	0%	0%	0%	33%	0%	4	4
ADA Consequence		YES – 0%				NO – 100%	
ADA Coordinator		YES – 100%				NO – 0%	

Data Received from Low Density Counties

Table 1.0 presents results for the low-density counties for which information was received. Three low-density counties returned information in response to this survey. These three counties accounted for a population base of 21,740 and a total land mass coverage of 17,413 square miles. (.01% of the population and 6.3% of land mass of the state of Nevada.) All three of these counties were less than 19,000 in population, with the smallest center being 1,533. As evidenced by the data gathered in Table 1.0, participant counties reported high median scores in four out of the five compliance areas: Job descriptions, recruiting practices, selecting/rejecting applicants and pre-employment medical exams. The

only outlier that was reported in the data with a score below the “moderate” level was pre-employment testing. All three counties reported requiring significant efforts to come into compliance with the ADA in relation to job descriptions and two out of the three reported significant efforts to come into compliance in the areas of pre-employment medical testing and recruiting. However, it would appear from the data gathered and analyzed, that the smaller density counties had difficulty in all areas of compliance with the exception of pre-employment testing, and in that case, one of the counties reported a significant effort needed to become compliant. (See also, Table 1.3, Mean Compliance Comparisons)

In regards to the accommodations (See Table 1.4, Comparison of Accommodations) offered to employees, two counties reported making very few accommodations. One county, however, reported making four (4) accommodations in each of two areas: general accommodations and critical feedback. It is the author’s belief that in both the area of general accommodations and critical feedback, the question was either misunderstood or is an unexplainable outlier. Accommodations in general relate directly to accommodations made for *employees*. However, the county who reported the highest costs related to accommodations reported this cost in 2000, and in direct relation to upgrading the county courthouse for public access. This accommodation is more closely related to Title II of the ADA, and is outside of the scope of this paper and survey.

Critical feedback is an area that could have been easily mistaken for training. A score of a frequency of 4 in this area seems unlikely when compared to the other counties reporting. However, this score is not unlikely should this county have had to continue to train more than one supervisor in managing a single disabled employee who may change departments.

Costs reported for these counties for meeting compliance was a cumulative total of \$44,000 or a mean of \$14,666.66 per county. When this number is compared with the larger counties, it is apparent that these costs are less. However, if one were to compare these totals in a per person population comparison, the small density counties paid more. (See Table 1.5, Costs per Capita per County) Costs reported for accommodations made were listed at \$207,000. This included the cost reflected on the above of making structural improvements to a court house in one of the reporting counties, and this cost was at least shared in part in complying with Title II.

In the small density counties, none reported that they had hired any new employees as a consequence of the ADA. All reported, however, that a person had been hired by their county whose task it was specifically to assure compliance with the ADA.

Education or classes held in the low density counties were reported at approximately 1 to 3 classes held per year. The smaller density counties

were interesting, in that in those counties, county commissioners were responsible for the ADA related training offered their employees. Much of the needs for providing the baseline training is provided by both NACO and PACT, as they provide a Management Training Academy for county supervisors and managers for this purpose. Also, all classes held through this consortium are open to all member counties, ADA related or not.

In relation to the findings regarding the small density counties, I believe that these counties benefited greatly from their coalition memberships in the NACO and PACT groups. This relationship from my perspective allowed the transition to ADA compliance to be a smoother one. And to be a significantly less adjustment necessary than had the counties not had this relationship.

Moderate Density Counties

Unfortunately, there were no counties in the moderate density range that returned their surveys or requests for assistance. These were counties with populations greater than 25,000, but less than 100,000. This accounts for 6 out of the 17 counties. It was unfortunate that these counties did not participate more fully to allow analysis of the resulting data.

High Density Counties

There were two high-density counties reporting data for this study. Both counties were accommodating in providing the information sought. However, one county was unable to share data related to this section of inquiry (reasonable accommodations) due to time constraints. Despite this issue, cross comparisons of high and small density counties were able to be drawn and analyzed.

These two counties account for a combined population of 1,748,724 and a combined landmass of 14,252.5 square miles. These two counties take up less landmass than all three of the lower density counties reporting combined. However, these two counties account for more than eighty-percent of the total population of the entire state of Nevada.

Table 1.1									
Compliance Area	Responses		High Density Counties					Mean	Median
	1	2	3	4	5				
Job Description	50%	0%	50%	0%	0%	2	2		
Recruiting	100%	0%	0%	0%	0%	1	1		
Pre-Emp Testing	50%	50%	0%	0%	0%	1.5	1.5		
Pre-Emp Med Test	50%	50%	0%	0%	0%	1.5	1.5		
Selecting/Rejecting	50%	0%	0%	50%	0%	2.5	2.5		
			Frequency						
Accom. General	0%	0%	0%	50%	0%	4	4		
Job Reassignment	0%	50%	0%	0%	0%	2	2		
Flex Scheduling	0%	50%	0%	0%	0%	2	2		
Job Restructuring	0%	50%	0%	0%	0%	2	2		
Job Training	0%	50%	0%	0%	0%	2	2		
Work Plans	0%	50%	0%	0%	0%	2	2		
Critical Feedback	0%	50%	0%	0%	0%	2	2		
ADA Consequence			YES – 50%			NO – 50%			
ADA Coordinator			YES – 100%			NO – 0%			

In reviewing the data from Table 1.1, High Density Counties, it is apparent that the higher density counties had relatively minor changes that were required in the compliance areas listed. The only two areas that showed only a slight difference were the median scores related to job descriptions and to selecting/rejecting applicants. Both of these counties were more than likely accomplishing projects with federal funding more often than the smaller density counties. If this was the case, then these counties were already subject to the Rehabilitation Act of 1973. This may be responsible for the finding that changes in any of the compliance areas were minor and required a fairly low level of effort. When comparing these median figures with those of the smaller counties (Table 1.3), it is apparent that the higher density counties had a much simpler time complying with these aspects of the ADA.

In comparison, in the area of accommodations, high-density counties reported a much higher frequency of accommodation for *employees* within their counties. Whereas smaller density counties reported frequency of accommodation in only three of the seven accommodation areas, higher density counties reported accommodations in all the areas of compliance. (Table 1.4, Accommodations) It was expected that the higher density counties would have a higher frequency of providing accommodations due simply to their comparative population. In addition, the higher density county reporting, reported

that all of the accommodations reported are on going, with a frequency of greater than 2 occurrences in all areas per annum.

In relative costs associated with compliance, the higher density counties reported costs in the area of \$40,000 in the area of job description compliance, and other employment compliance related areas. In costs associated to accommodations, this county reported \$2.5 million dollars had been spent relative to accommodating employees. Several million dollars more have been expended on county structural changes, however, as with the smaller counties, is outside of the scope of this paper, and more directly related to Title II.

One of the higher density counties was the only county of all those reporting to report that they had hired an employee who was disabled as a result (consequence) of the ADA. Both high-density counties reported that they had at least one person assigned to assuring their counties compliance with the ADA.

Education courses were held in the higher density counties with equal frequency as those in smaller density counties. (or as much as can be determined) Education classes were held in the reporting counties at a rate of 1 to greater than 12 per year. Costs associated with these courses were reported as being part of an HR analysts salary, and reported at $\frac{1}{4}$ time use. (Approx. \$15,000/yr) Each county had a different frequency of number of courses offered, but, each had aggressive training schedules

with which they complied. In comparison of number of employees to trainings offered, there was essentially no difference between high and low density counties, especially when you account for the various educational offerings by NACO and PACT.

Overall Comparison/Analysis of All Counties

	High Density	Low Density
Job Descriptions	2	4
Recruiting Practices	1	3.33
Pre-Employment Testing	1.5	2.5
Pre-Employment Medical Exam	1.5	3.5
Selecting/Rejecting Candidates	2.5	3.33

Referring to Table 1.3, it is rather apparent that the low-density counties had a significant challenge in complying with the ADA in comparison with the higher density counties. All higher density counties had a median score below the moderate response level, and all lower density counties had responses higher than the moderate level in all areas of compliance (with the exception of pre-employment testing, and one of the two had a reported compliance rating of 4). The area reported by one of the larger counties in which significant changes were necessary was in the Selecting/Rejecting candidates compliance area. This county related that of all areas, this one area required the most work. The smaller

density counties on the other hand reported compliance difficulties, but they reported that this was initially and not on-going. Continued costs of compliance were negligible in comparison to beginning costs.

Table 1.4		
Number of Counties Reporting (n=4) Making One or More Accommodations		
	High Density (n=1)	Low Density (n=3)
Accommodations in General	1 (100%)	3 (100%)
Job Reassignment	1 (100%)	2 (67%)
Flexible Scheduling	1 (100%)	0
Job Restructuring	1 (100%)	0
Job Training	1 (100%)	0
Work Plans	1 (100%)	0
Critical Feedback	1 (100%)	1 (33%)

As previously discussed, Table 1.4 discusses accommodations made by all respondents. As is evident by this table, the lower density counties were required to make less accommodations than the higher density counties. I expect that this is due to the fact that generally, disabled persons seeking work, live in higher density centers. This fact could also be deceiving in that potentially persons disabled in small communities may be assisted by that community in their school, work and life activities and therefore not counted as an accommodation.

Table 1.5

Financial Comparisons Based on Population (Per Capita)		
	High Density	Low Density
Job Descriptions	\$38,000/1,748,724 (\$0.02)	\$37,000/21,740 (\$1.70)
Recruiting	\$0/1,748,724 (\$0.00)	\$2,000/21,740 (\$0.09)
Pre-Employment Testing	\$0/1,748,724 (\$0.00)	\$0/21,740 (\$0.00)
Pre-Employment Medical Exam	\$0/1,748,724 (\$0.00)	\$0/21,740 (\$0.00)
Selecting/Rejecting	\$0/1,748,724 (\$0.00)	\$0/21,740 (\$0.00)
General Accommodation	\$2.5 M/1,418,719 (\$1.76)	\$206,000/21,740 (\$9.47)
Job Reassignment	\$70,000/1,418,719 (\$0.05)	\$0/21,740 (\$0.00)
Flexible Scheduling	\$70,000/1,418,719 (\$0.05)	\$0/21,740 (\$0.00)
Job Restructuring	\$70,000/1,418,719 (\$0.05)	\$0/21,740 (\$0.00)
Job Training	\$70,000/1,418,719 (\$0.05)	\$0/21,740 (\$0.00)
Work Plans	\$70,000/1,418,719 (\$0.05)	\$0/21,740 (\$0.00)
Critical Feedback	\$70,000/1,418,719 (\$0.05)	\$1,000/21,740 (\$0.05)

In reviewing Table 1.5, it is difficult to discern real dollars spent for a comparison as I am comparing per capita costs, not employee ratio costs. However, with that caveat said, it is interesting that when comparing per capita costs, the comparison is almost equal in all categories with the exception of general accommodations and job descriptions. In these two categories, the costs per capita for smaller density counties is proportionally higher. Given that these counties are typically staffed with less than or equal to 10 person staffs, this number seems even more disproportionate.

Final Comparisons/Combined Results

To give a general impression of the results for the reader, I have also placed in the appendix a simple distribution table with the means, medians and modes defined. Mode was not an efficient means of analyzing the data as with such small numbers, modes were often not identifiable. The author received back 31% of the surveys sent out, (survey sent, receiver contacted by phone, interviews conducted with NACO and PACT), the total population for those counties surveyed equaled 86% or 1,770,458/2,059,433.

- **Question One, Job Descriptions** – The mean, median, and mode for this category was a three. A three indicates that for those surveyed, moderate changes were necessary, and that this was the most frequent response to this question of the survey. Associated costs with this item were reported at approximately \$50,000 cumulatively. This category was the highest monetary reported category absent the accommodations offered.

- **Recruitment Procedures** – The recruitment procedure category had a mean of 2.4, a median of one, and a mode of 1. Simply speaking, the smaller counties had the highest difficulty in complying with this requirement. Two reported that major or complete re-write work was necessary to comply with this standard. Fiscal resources expended by

all respondents were only \$2,000.00. The larger counties reported they were already compliant with this standard.

- **Testing** – Testing applicants resulted in a mean response of 2, a median response of 1.5, and a mode response of 1. In this category, the mix for difficulty complying was mixed between the smaller and larger counties.
- **Pre-Employment Medical Exams** – Pre-Employment exams was an area that almost all the counties reported needing some appropriate changes to meet the ADA requirements. The mean score was 2.5, with the median scored at 2.5 also. There was no mode identified for this category. This represents that minimal to moderate changes were necessary for compliance.
- **Selecting/Rejecting Applicants** – In this category, again, almost all counties reported changes necessary for compliance. The mean and median for this category was a 3. Again, no mode was detected. This meant that almost all counties, regardless of size encountered moderate changes that were necessary for compliance with the ADA.
- **Accommodations in General** – The majority of counties either were unable to find pertinent data to this request, or had few to no experiences of accommodation. The highest frequencies occurred in

the accommodations in general and the Job Reassignment categories, with modes reported at 4 and 2 respectively. Even the largest county reported only a frequency of 4 in accommodations in general, when I expected this number to be significantly higher. In other categories listed, the largest county reported frequencies of occurrence, whereas the smaller counties reported no occurrences. The only other exception to this conclusion is in Feedback and Training of Supervisors. County two reported a frequency of 4, in relation to the other reported frequency at 2. Training in the smaller counties as reported was generally dealt with by county supervisors/commissioners, and so this number was unusual and unexpected.

- **Consequence/Hired** – All the counties have hired at least one person whose job it is to assure compliance with the ADA. However, only one county had hired a person as a consequence of the ADA. This was the largest county. As discussed briefly before, this was logical, but I would have expected a higher number to be hired over all. Sadly, this validates one of the conclusions that still today, some 10 years after signing of the ADA into law, that disabled persons are not entering the workplace.

CHAPTER SIX

VII.CONCLUSION

Five questions were asked and answered by this paper. Herein is a summary of those findings.

- A. What has been the impact on local government over the 10 years that this law has been in force, and whether this law has caused an undue hardship on the individual counties surveyed?

Through the surveys conducted, it is apparent that the majority of the fiscal impacts felt by the local governments were in the early implementation phases of this law. Fiscal impacts at the level described then do not continue today. Perhaps the largest impact has been to stay abreast of changes, and make implementations as changes in the law occur. When I began this study, it was my expectation that all the counties would have had a serious impact from this law, initially and in the long-term. This expectation was not fulfilled in that

the counties of the State of Nevada were much more adept at complying with this law due to the memberships they maintain in the coalitions described previously. Both NACO and PACT have had significant positive impacts on the initial compliance and long-term issues these counties face in regards to the ADA.

Another point that I found of interest was that the small density counties rely primarily on their elected officials for orientation and education of county employees assigned to a particular commissioner. For example, if a commissioner is responsible for oversight of the Public Works Division, he/she is also responsible for educating those employees in regards to employment issues as they pertain to this topic. A question that arises concerns whether these individuals work well for this purpose of educating the workforce. Considering the longevity of the typical elected official in the counties described, it would be my expectation that these elected officials are more than adequate to deal with this issue, and perhaps allows for greater consistency in educating the workforce involved. Remembering that these elected officials are all educated through the single source of the PACT organization more than supports this conclusion.

In regards to undue hardship, I have not found evidence which would support that any of the counties surveyed has endured any undue hardship in regards to the ADA. Again, likely due to the

memberships in the county coalitions do I believe this is possible. These relationships provide significant infra-structure to the member counties in regards to ADA compliance. It is my estimation that as much as 25% of each member counties membership fees fund these necessary personnel, risk, and education services. This is considerably less than what the fiscal demand would be should these services be provided by each county individually.

- B. What have been the continuing impacts of the law for the past eight and one-half years after this law was signed, and what continues to be the challenges into the future?

Only one county reported that there compliance with the ADA is an on-going process, and is constantly being evaluated and re-worked. The smaller density counties appear to me to be addressing this problem in a fashion consistent with their abilities. Through the coalitions, these counties act a single unit, and this economy of scale has benefited them now and into the future. I expect that changes as they are forthcoming will be met with action, and not be seen as detriments to the counties operations. I would conclude that the counties have a unique support network for rationally approaching comprehensive laws of this nature.

C. If there have been fiscal impacts, what parts of the law (ADA) have these impacts been related to,

As seen by the studies, personnel related practices, (hiring, advertising, recruiting, and selecting) seem to have been the largest areas where changes were necessary. However, overall, this did not amount to a tremendous amount of fiscal burden, as reported in the surveys received. Perhaps the largest area where fiscal burden was apparent, was in changes to physical structures, and that was an inadvertent discovery due to the way the general accommodation question was answered. This research project through the literature review component caused the other titles of this act to be peripherally examined. It is the author's opinion that these other titles, (Title II: "Public Entities" and Title III: "Public Accommodation and Commercial Facilities") had a much greater impact on local government and private businesses than Title I, which was the sole scope of this paper. This is supported by the evidence gained through the surveys received and through the other articles examined which discussed public access and accommodation.

D. Has this impact been different from one county to the other?

In reflecting upon the study conducted as a whole, it is reasonable

to conclude that the smaller density counties had a relatively harder time coming into compliance with the ADA in the personnel related areas. However, in the area of accommodations, the larger density counties seemed to be the ones encountering greater difficulties. The larger density counties have a much higher number of accommodations in relation to the smaller density counties. As pointed out previously, these counties may simply just be “doing more” as a result of their size and perhaps higher disabled employee population concentrations.

E. Have these fiscal impacts differed by county populations?

It would be fair to say that population plays a dominant role in the associated costs with compliance with a large comprehensive law. However, had the smaller density counties not been so organized and efficient through their associations, the costs in relation to associated population could have been considerably more.

The ADA and its impact on local government have not been as significant as I first expected. I expected to see that local government would have had similar struggles to ones that I had witnessed while working in private industry during the early years of ADA compliance. Perhaps the sample for this study and survey being limited to Nevada, and those related results, are

tempered by the establishment of the county coalitions discussed. It is apparent to me that even when viewing just the Risk Management portion of this coalition, the membership and the advantages are unachievable by other alternate routes. These coalitions have significantly benefited the counties of Nevada in cost, strength of services provided, and strength from the benefit of acting synonymously as one voice and group. Absent these coalitions, I would expect to see that the impact on local government would have been much greater, and much more time intensive.

*****Disclaimer*****

This paper is the solely the work of Mark A. Dascalos, Graduate Student, with exceptions for data, statements, and written material retrieved from the sources cited. This paper and the conclusions herein found are the sole opinion of the author, and should not be construed to be policy or the opinions of any other than the author himself.

APPENDICES

LETTER TO PARTICIPANTS

MARK A. DASCALOS ♦ 3716 ALLIANCE STREET ♦ LAS VEGAS, NV 89129

Commission Chair
County Commissioners
EEO Officer
Humboldt County Nevada

October 5, 2000

By E-Mail: Humboldt@Humboldt-county-nv.net

Attn: EEO Officer

Subject: Survey/Study Instrument

Dear County Commissioners:

My name is Mark Dascalos, and I am currently completing my Master's Degree in Public Administration at the University of Nevada at Las Vegas. As part of the degree requirements, I am responsible for completing a Professional Paper on a topic of my choosing and interest.

I have chosen to complete a paper entitled; "Impact of the American's with Disabilities Act on Local Government. Retrospective Review of 10 Years of Action, Specific to Personnel Administration" The purpose of this paper is to demonstrate the impact of the ADA Act of 1990 on governmental entities, and importantly whether the impact of this 1990 Act is still felt by government today, some ten years later.

Please assist me with completion of this project by taking a few moments to read the enclosed survey instrument, and taking the few extra moments to fill this survey out and return as soon as practical, in the self-enclosed envelope. (if you received this document by e-mail, could you please return by e-mail at your earliest convenience. Goosemar@aol.com) Your response is so important as there are only 16 counties in the State of Nevada, and each of your responses is obviously very valuable and necessary for timely completion of this project. I apologize in advance for the very time sensitive response I am requesting in advance.

If you should have questions or concerns, please do not hesitate to contact me at your convenience, at 702-396-9730 (home) or 702-279-0770 (cell). Thank you again for your assistance with this most important project.

Sincerely,

Mark A. Dascalos
Graduate Student

SURVEY TO ALL PARTICIPANTS

University of Nevada at Las Vegas

**Greenspan College of Urban Affairs
Department of Public Administration**

***You are being asked to complete the following survey to provide data for a professional paper being completed by Mr. Mark A. Dascalos, a Graduate Candidate for the degree of Master's in Public Administration. The paper is entitled; *"Impact of the American's with Disabilities Act on Local Government, Retrospective Review of 10 Years of Action, Specific to Personnel Administration."* Please take the time to complete the survey and return it as soon as practical. If you should have questions or concerns about this survey, please contact the author at (702) 396-9730 or (702) 279-0770.

Thank you.

1. County from which information is being given: WASHOE
2. Population of your county: _____
3. Your position: _____

Please answer the following questions using the provided criteria. Please estimate the impact of the ADA and the Act's requirements on local governmental units. Please estimate the extent to which you have made changes in response to each of the following ADA requirements since June 14, 1992.

- 1 - No changes were necessary, compliance already at legal requirement
- 2 - Minimal changes were necessary, compliance essentially at legal requirement
- 3 - Moderate changes were necessary, changes were necessary to comply with the legal requirements
- 4 - Major changes were necessary, compliance would not have been met without these serious changes
- 5 - Complete overhaul was necessary to comply with the new ADA requirements, the ADA introduced such broad changes that a complete re-think was necessary to comply.

In addition to your responses to these questions, could you please indicate in round approximation the cost (total) associated with this required action?

QUESTION	RESPONSE	ASSOCIATED COST
1. Job Descriptions for new and current positions within the county, <i>to include Essential and Marginal Job Function designations</i>	1 2 3 4 5	\$ _____
2. Recruitment Procedures, <i>to include new types of advertisement, i.e. Radio, internet, television, or telephone recordings</i>	1 2 3 4 5	\$ _____
3. Testing Applicants, <i>Changes made in oral or written exams, mental or physical exams.</i>	1 2 3 4 5	\$ _____
4. Pre-Offer Medical Exams or Inquiries, <i>Did your county make changes to more aptly comply with the ADA requirements</i>	1 2 3 4 5	\$ _____
5. Selecting or Rejecting Applicants, <i>Did your county change it's criteria or policies regarding selecting or rejecting applicants pursuant to the ADA</i>	1 2 3 4 5	\$ _____

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The following questions are in reference to "providing reasonable accommodations." These questions are requesting

information about frequency and cost associated with required actions by the ADA. When possible, please provide information that is inclusive of the time period from June 14, 1992 to present. If you are not able to provide information back to this date, please indicate the period of time the data you are providing for this study was derived from. In regards to financial information given, please complete as total costs incurred for accommodations made.

Did your county accommodate any employee with any of the following?

ACCOMMODATIONS	FREQUENCY	ASSOCIATED COST
1. Accommodations Generally, <i>related to physical barriers, new equipment needed, changes in policy or procedures, flexible work schedules and/or changes in breaks or scheduled activities</i>	Date from which data is available: _____ Frequency: _____	\$ _____
2. Job Reassignment, <i>Job reassignment is a possible reasonable accommodation for employees, but not for job applicants</i>	Date from which data is available: _____ Frequency: _____	\$ _____
3. Flexible Scheduling, <i>An important way to accommodate employees with disabilities and make the work place operate more efficiently is to provide flexible scheduling</i>	Date from which data is available: _____ Frequency: _____	\$ _____
4. Job Restructuring, <i>including changing the times at which an employee performs a particular task</i>	Date from which data is available: _____ Frequency: _____	\$ _____
5. Job Training, <i>including allowing extra time to learn new tasks, providing closer supervision, assistance and feedback during the learning period</i>	Date from which data is available: _____ Frequency: _____	\$ _____
6. Developing Work Plans, <i>for example, setting hourly or daily goals, or regular meetings with a lead or supervisor to establish goals and remain focused on tasks assigned</i>	Date from which data is available: _____ Frequency: _____	\$ _____
7. Providing Critical Feedback, <i>to include, training supervisors to temper criticism with positive feedback, and written descriptions of assignments and instructions provided to the employee (Due specifically to ADA requirements)</i>	Date from which data is available: _____ Frequency: _____	\$ _____

Many times, employers, private and public alike have held required training to meet the expectations of the ADA. Can you please estimate the number of classes held in your county, within your Human Resources Department to educate

your workers, supervisors and managers in specifics regarding the ADA? And, if possible, please provide an estimate of the costs associated with this required training. (Since June 1992, or date from which data is available)

YEAR	# CLASSES HELD	ESTIMATED COST
1992		
1993		
1994		
1995		
1996		
1997		
1998		
1999		
2000		

Has your county hired any employee as a consequence or result of ADA?

YES NO

Do you have any comments regarding the ADA, and it's effects on your county?

Is there someone in your office whose specific responsibility is handling issues and compliance with the ADA?

YES NO

Thank you for taking the time to complete this survey. If you are interested in the results of this survey, please indicate this, and I will mail the results to you. Your assistance with this project is most appreciated, and obviously it could not be completed without your assistance.

THANK YOU!!!!

SPREADSHEET OF RESULTS

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