REQUIRES TWO-THIRDS MAJORITY VOTE (§§ 5, 8, 13)

(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **A.B. 597**

ASSEMBLY BILL NO. 597–COMMITTEE ON WAYS AND MEANS

MARCH 17, 1999

Referred to Committee on Ways and Means

SUMMARY—Revises provisions regarding school facilities. (BDR 34-1574)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to governmental administration; providing in skeleton form for the revision of provisions governing the construction and financing of school facilities; creating the fund to stabilize the state distributive school account; creating a fund to assist school districts in financing capital improvements; revising provisions governing the review of plans for school facilities; increasing the tax on transient lodging and the real property transfer tax for the support of capital projects of school districts; revising provisions governing the issuance of bonds by the board of trustees of a school district without an election; and providing other matters properly relating thereto.

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

Section 1. Chapter 387 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.5, 2 and 3 of this act.

Sec. 1.5. ***1. The fund to stabilize the state distributive school account is hereby created as a special revenue fund, to be administered by the superintendent of public instruction.***

2. All money in the state distributive school account that would otherwise revert to the state general fund at the end of a fiscal biennium must be deposited by the state treasurer in the fund to stabilize the state distributive school account. Except as otherwise provided in subsection 4, the money in the fund may only be used to cover a shortfall in the state distributive school account.

3. The money in the fund to stabilize the state distributive school account must be invested as the money in other state funds is invested. The superintendent of public instruction may accept gifts and grants from any source for deposit in the fund.

4. All interest and income earned on the money in the fund to stabilize the state distributive school account must be deposited in the fund to assist school districts in financing capital improvements created pursuant to section 2 of this act.

5. Claims against the fund to stabilize the state distributive school account must be paid as other claims against the state are paid.

Sec. 2. ***1. The fund to assist school districts in financing capital improvements is hereby created in the state treasury, to be administered by the superintendent of public instruction. All money received and held by the state treasurer for the purpose of the fund must be deposited in the fund.***

2. The superintendent of public instruction may accept gifts and grants from any source for deposit in the fund.

3. The money in the fund must be invested as the money in other state funds is invested. All interest and income earned on the money in the fund must be credited to the fund.

4. Claims against the fund must be paid as other claims against the state are paid.

Sec. 3. ***1. The board of trustees of a school district may apply to the department for a grant of money from the fund created pursuant to section 2 of this act on a form provided by the department. The application must be accompanied by proof that the school district has committed matching money for the capital improvement project.***

2. The department shall approve an application if the school district has committed matching money for the project in an amount that the department determines is sufficient pursuant to the criteria adopted by the department pursuant to subsection 3. The department shall make allocations from the fund based upon the need of each school district whose application is approved.

3. The department shall adopt regulations that prescribe the:

(a) Annual deadline for submission of an application to the department by a school district that desires to receive a grant of money from the fund; and

(b) Criteria for determining the amount of matching money that must be committed by a school district to be eligible for a grant of money from the fund.

Sec. 4. NRS 393.110 is hereby amended to read as follows:

393.110 1. Except as otherwise provided in subsection 2:

(a) Unless standard plans, designs and specifications are to be used as provided in NRS 385.125, before letting any contract or contracts for the erection of any new school building, the board of trustees of a school district shall submit plans, designs and specifications therefor to and obtain the written approval of the plans, designs and specifications by the state public works board. The state public works board is authorized to charge and collect, and the board of trustees is authorized to pay, a reasonable fee for the payment of any costs incurred by the state public works board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph. ***The state public works board shall review the plans, designs and specifications not later than 60 days after receipt from the school district.***

(b) Before letting any contract or contracts for any addition to or alteration of an existing school building which involves structural systems, or exiting, sanitary or fire protection facilities, the board of trustees of a school district shall submit plans, designs and specifications therefor to and obtain the written approval of the plans, designs and specifications by the state public works board. The state public works board is authorized to charge and collect, and the board of trustees is authorized to pay, a reasonable fee for the payment of any costs incurred by the state public works board in securing the approval of qualified architects or engineers of the plans, designs and specifications submitted by the board of trustees in compliance with the provisions of this paragraph. ***The state public works board shall review the plans, designs and specifications not later than 60 days after receipt from the school district.***

The state public works board shall ensure that all plans, designs and specifications that it reviews pursuant to this section comply with all applicable requirements of the Americans with Disabilities Act of 1990 ***,*** ~~[(]~~ 42 U.S.C. §§ 12101 to 12213, inclusive ***.*** ~~[).]~~

2. Upon the request of a board of trustees of a school district, or its designated representative, the state public works board may waive the requirements specified in subsection 1 and delegate its powers and duties thereunder to the district.

3. If the state public works board waives the requirements of subsection 1 and delegates its powers and duties thereunder to a school district, the school district shall submit a copy of its final plans, designs and specifications for any project to which that section applies to the building and planning department of the appropriate city or county before completion of the project. ***The building and planning department shall review the plans, designs and specifications not later than 60 days after receipt from the school district.***

4. No contract for any of the purposes specified in subsection 1 made by a board of trustees of a school district contrary to the provisions of this section is valid, nor ~~[shall]~~ ***may*** any public money be paid for erecting, adding to or altering any school building in contravention of this section.

Sec. 5. NRS 244.3352 is hereby amended to read as follows:

244.3352 1. The board of county commissioners ~~[:~~
~~(a) In a county whose population is 400,000 or more,]~~ ***in each county*** shall impose a tax at a rate of 2 percent ~~[; and~~
~~(b) In a county whose population is less than 400,000, shall impose a tax at the rate of 1 percent,]~~ of the gross receipts from the rental of transient lodging in that county upon all persons in the business of providing lodging. This tax must be imposed by the board of county commissioners in each county, regardless of the existence or nonexistence of any other license fee or tax imposed on the revenues from the rental of transient lodging. The ordinance imposing the tax must include a schedule for the payment of the tax and the provisions of subsection 4.

2. The tax imposed pursuant to subsection 1 must be collected and administered pursuant to NRS 244.335.

3. The tax imposed pursuant to subsection 1 may be collected from the paying guests and may be shown as an addition to the charge for the rental of transient lodging. The person providing the transient lodging is liable to the county for the tax whether or not it is actually collected from the paying guest.

4. If the tax imposed pursuant to subsection 1 is not paid within the time set forth in the schedule for payment, the county shall charge and collect in addition to the tax:

(a) A penalty of not more than 10 percent of the amount due, exclusive of interest, or an administrative fee established by the board of county commissioners, whichever is greater; and

(b) Interest on the amount due at the rate of not more than 1.5 percent per month or fraction thereof from the date on which the tax became due until the date of payment.

5. As used in this section, "gross receipts from the rental of transient lodging" does not include the tax imposed and collected from paying guests pursuant to this section or NRS 268.096.

Sec. 6. NRS 244.3354 is hereby amended to read as follows:

244.3354 The proceeds of the tax imposed pursuant to NRS 244.3352 and any applicable penalty or interest must be distributed as follows:

1. ~~[In a county whose population is 400,000 or more:~~
~~(a)]~~ Three-eighths of the first 1 percent of the proceeds must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.

~~[(b)]~~ ***2.*** The remaining proceeds must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

~~[2. In a county whose population is less than 400,000:~~

~~(a) Three-eighths must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.~~

~~(b) Five-eighths must be deposited with the county fair and recreation board created pursuant to NRS 244A.599 or, if no such board is created, with the board of county commissioners, to be used to advertise the resources of that county related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.~~**]**

Sec. 7. NRS 244.3359 is hereby amended to read as follows:

244.3359 1. A county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991, except pursuant to NRS 244.3351 and 244.3352.

2. **[**~~A~~**]** ***Except as otherwise provided in subsection 3, a*** county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991.

3. The legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended except to allow the imposition of an increase in such a tax for **[**~~the~~**]** ***:***

(a) The promotion of tourism **[**~~or for the~~**]** ***;***

(b) The support of a school district's fund for capital projects established pursuant to NRS 387.328; or

(c) The construction or operation of tourism facilities by a convention and visitors authority.

Sec. 8. NRS 268.096 is hereby amended to read as follows:

268.096 1. The city council or other governing body of each incorporated city **[**~~:~~

~~(a) In a county whose population is 400,000 or more,~~**]** shall impose a tax at a rate of 2 percent **[**~~; and~~

~~(b) In a county whose population is less than 400,000, shall impose a tax at the rate of 1 percent,~~**]** of the gross receipts from the rental of transient lodging in that city upon all persons in the business of providing lodging. This tax must be imposed by the city council or other governing body of each incorporated city, regardless of the existence or nonexistence of any other license fee or tax imposed on the revenues from the rental of transient lodging. The ordinance imposing the tax must include a schedule for the payment of the tax and the provisions of subsection 4.

2. The tax imposed pursuant to subsection 1 must be collected and administered pursuant to NRS 268.095.

3. The tax imposed pursuant to subsection 1 may be collected from the paying guests and may be shown as an addition to the charge for the rental

of transient lodging. The person providing the transient lodging is liable to the city for the tax whether or not it is actually collected from the paying guest.

4. If the tax imposed pursuant to subsection 1 is not paid within the time set forth in the schedule for payment, the city shall charge and collect in addition to the tax:

(a) A penalty of not more than 10 percent of the amount due, exclusive of interest, or an administrative fee established by the governing body, whichever is greater; and

(b) Interest on the amount due at the rate of not more than 1.5 percent per month or fraction thereof from the date on which the tax became due until the date of payment.

5. As used in this section, "gross receipts from the rental of transient lodging" does not include the tax imposed or collected from paying guests pursuant to this section or NRS 244.3352.

Sec. 9. NRS 268.0962 is hereby amended to read as follows:

268.0962 The proceeds of the tax imposed pursuant to NRS 268.096 and any applicable penalty or interest must be distributed as follows:

1. ~~[In a county whose population is 400,000 or more:~~

~~(a)]~~ Three-eighths of the first 1 percent of the proceeds must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.

~~[(b)]~~ **2.** The remaining proceeds must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

~~[2. In a county whose population is less than 400,000:~~

~~(a) Three-eighths must be paid to the department of taxation for deposit with the state treasurer for credit to the fund for the promotion of tourism.~~

~~(b) Five-eighths must be deposited with the county fair and recreation board created pursuant to NRS 244A.599 or, if no such board is created, with the city council or other governing body of the incorporated city, to be used to advertise the resources of that county or incorporated city related to tourism, including available accommodations, transportation, entertainment, natural resources and climate, and to promote special events related thereto.]~~

Sec. 10. NRS 268.0968 is hereby amended to read as follows:

268.0968 1. Except as otherwise provided in NRS 268.096 and 268.801 to 268.808, inclusive, a city located in a county whose population is 400,000 or more shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991.

2. Except as otherwise provided in ***subsection 3 and*** NRS ***268.096 and*** 268.7845, a city located in a county whose population is 100,000 or more but less than 400,000 shall not impose a new tax on the rental of transient lodging or increase the rate of an existing tax on the rental of transient lodging after March 25, 1991.

3. The legislature hereby declares that the limitation imposed by subsection 2 will not be repealed or amended except to allow the imposition of an increase in such a tax for:

(a) The promotion of tourism;

(b) ***The support of a school district's fund for capital projects established pursuant to NRS 387.328;***

(c) The construction or operation of tourism facilities by a convention and visitors authority; or

~~[(c)]~~ ***(d)*** The acquisition, establishment, construction or expansion of one or more railroad grade separation projects.

Sec. 11. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

A governing body shall not require a school district to make an improvement or pay the costs associated with an improvement if the improvement is located more than 100 feet from the edge of the property owned by the school district.

Sec. 12. NRS 350.020 is hereby amended to read as follows:

350.020 1. Except as otherwise provided by subsections 3 and 4, if a municipality proposes to issue or incur general obligations, the proposal must be submitted to the electors of the municipality at a special election called for that purpose or the next general municipal election or general state election.

2. Such a special election may be held:

(a) At any time if the governing body of the municipality determines, by a unanimous vote, that an emergency exists; or

(b) On the first Tuesday after the first Monday in June of an odd-numbered year.

The determination made by the governing body is conclusive unless it is shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any occurrence or combination of occurrences which requires immediate action by the governing body of the municipality to prevent or mitigate a substantial financial loss to the municipality or to enable the governing body to provide an essential service to the residents of the municipality.

3. If payment of a general obligation of the municipality is additionally secured by a pledge of gross or net revenue of a project to be financed by

its issue, and the governing body determines, by an affirmative vote of two-thirds of the members elected to the governing body, that the pledged revenue will at least equal the amount required in each year for the payment of interest and principal, without regard to any option reserved by the municipality for early redemption, the municipality may, after a public hearing, incur this general obligation without an election unless, within 60 days after publication of a resolution of intent to issue the bonds, a petition is presented to the governing body signed by not less than 5 percent of the registered voters of the municipality who together with any corporate petitioners own not less than 2 percent in assessed value of the taxable property of the municipality. Any member elected to the governing body whose authority to vote is limited by charter, statute or otherwise may vote on the determination required to be made by the governing body pursuant to this subsection. The determination by the governing body becomes conclusive on the last day for filing the petition. For the purpose of this subsection, the number of registered voters must be determined as of the close of registration for the last preceding general election and assessed values must be determined from the next preceding final assessment roll. An authorized corporate officer may sign such a petition whether or not he is a registered voter. The resolution of intent need not be published in full, but the publication must include the amount of the obligation and the purpose for which it is to be incurred. Notice of the public hearing must be published at least 10 days before the day of the hearing. The publications must be made once in a newspaper of general circulation in the municipality. When published, the notice of the public hearing must be at least as large as 5 inches high by 4 inches wide.

4. **[**~~Until June 30, 2008, the~~**]** ***The*** board of trustees of a school district may issue general obligation bonds which are not expected to result in an increase in the existing property tax levy for the payment of bonds of the school district without holding an election for each issuance of the bonds if the qualified electors approve a question submitted by the board of trustees that authorizes issuance of bonds **[**~~in such a manner.~~**]** ***for a period of 10 years after the date of approval by the voters.*** If the question is approved, the board of trustees of the school district may issue the bonds **[**~~,~~**]** ***for a period of 10 years after the date of approval by the voters,*** after obtaining the approval of the debt management commission in the county in which the school district is located and, in a county whose population is 100,000 or more, the approval of the oversight panel for school facilities established pursuant to NRS 393.092 in that county, if the board of trustees of the school district finds that the existing tax for debt service will at least equal the amount required to pay the principal and interest on the outstanding general obligations of the school district and the general obligations proposed to be issued. The finding made by the board of trustees is

conclusive in the absence of fraud or gross abuse of discretion. As used in this subsection, “general obligations” does not include medium-term obligations issued pursuant to NRS 350.085 to 350.095, inclusive.

5. At the time of issuance of bonds authorized pursuant to subsection 4, the board of trustees shall establish a reserve account in its debt service fund for payment of the outstanding bonds of the school district. The reserve account must be established and maintained in an amount at least equal to the lesser of the amount of principal and interest payments due on all of the outstanding bonds of the school district in the next fiscal year or 10 percent of the outstanding principal amount of the outstanding bonds of the school district. If the amount in the reserve account falls below the amount required by this subsection:

(a) The board of trustees shall not issue additional bonds pursuant to subsection 4 until the reserve account is restored to the level required by this subsection; and

(b) The board of trustees shall apply all of the taxes levied by the school district for payment of bonds of the school district that are not needed for payment of the principal and interest on bonds of the school district in the current fiscal year to restore the reserve account to the level required pursuant to this subsection.

6. ***Any revenue from property taxes in addition to the amount required to be deposited in the reserve account pursuant to subsection 5 may be deposited in the county school district’s fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.***

7. A municipality may issue special or medium-term obligations without an election.

Sec. 13. NRS 375.020 is hereby amended to read as follows:

375.020 1. A tax, at the rate of ~~[:~~

~~(a) In a county whose population is 400,000 or more, $1.25; and~~

~~(b) In a county whose population is less than 400,000, 65 cents,]~~ ***$1.25*** for each $500 of value or fraction thereof, is hereby imposed on each deed by which any lands, tenements or other realty is granted, assigned, transferred or otherwise conveyed to, or vested in, another person, if the consideration or value of the interest or property conveyed, exclusive of the value of any lien or encumbrance remaining on the interest or property at the time of sale, exceeds $100.

2. The amount of tax must be computed on the basis of the value of the transferred real property as declared pursuant to NRS 375.060.

Sec. 14. NRS 375.070 is hereby amended to read as follows:

375.070 1. The county recorder shall transmit the proceeds of the real property transfer tax at the end of each quarter in the following manner:

(a) An amount equal to that portion of the proceeds which is equivalent to 10 cents for each $500 of value or fraction thereof must be transmitted to the state treasurer who shall deposit that amount in the account for low-income housing created pursuant to NRS 319.500.

(b) ~~[In a county whose population is more than 400,000, an]~~ ***An*** amount equal to that portion of the proceeds which is equivalent to 60 cents for each $500 of value or fraction thereof must be transmitted to the county treasurer for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

(c) The remaining proceeds must be transmitted to the state treasurer for deposit in the local government tax distribution account created by NRS 360.660 for credit to the respective accounts of Carson City and each county.

2. In addition to any other authorized use of the proceeds it receives pursuant to subsection 1, a county or city may use the proceeds to pay expenses related to or incurred for the development of affordable housing for families whose income does not exceed 80 percent of the median income for families residing in the same county, as that percentage is defined by the United States Department of Housing and Urban Development. A county or city that uses the proceeds in that manner must give priority to the development of affordable housing for persons who are disabled or elderly.

3. The expenses authorized by subsection 2 include, but are not limited to:

(a) The costs to acquire land and developmental rights;

(b) Related predevelopment expenses;

(c) The costs to develop the land, including the payment of related rebates;

(d) Contributions toward down payments made for the purchase of affordable housing; and

(e) The creation of related trust funds.

Sec. 15. Section 31 of chapter 516, Statutes of Nevada 1997, at page 2470, is hereby amended to read as follows:

> Sec. 31. 1. This section and sections 1 to 7, inclusive, 9, 10, 22 to 25, inclusive, and 27 to 30, inclusive, of this act, become effective upon passage and approval. Sections 22 to 25, inclusive, of this act, expire by limitation on June 30, 1999.
>
> 2. Sections 11, 11.5, 13, 14, 14.5, 16, 20 and 21 of this act become effective on August 1, 1997.
>
> 3. Sections 8, 12 and 15 of this act become effective on July 1, 1999.

4. Sections 17, 18 and 19 of this act become effective on October 1, 1997. ~~[The amendatory provisions of sections 17, 18 and 19 of this act expire by limitation on June 30, 2008.]~~

5. Section 26 of this act becomes effective on July 1, 2008.

Sec. 16. This act becomes effective on July 1, 1999.

~