REQUIRES TWO-THIRDS MAJORITY VOTE (§ 6) EXEMPT

(REPRINTED WITH ADOPTED AMENDMENTS)

THIRD 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.

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

AN ACT relating to governmental administration; providing for the revision of provisions governing the construction and financing of school facilities; creating a fund to assist school districts in financing capital improvements in certain circumstances; revising the provisions relating to the period in which the board of trustees of a school district may issue bonds without an election; imposing an additional sales tax to pay the cost of extraordinary maintenance, extraordinary repair and extraordinary improvement of school facilities in certain circumstances; extending the duration and changing the duties of the state planning commission for the new construction, design, maintenance and repair of school facilities; authorizing the issuance of general obligation bonds to assist school districts in financing certain capital improvements; 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 2 and 3 of this act.

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 director of the department of administration. All money received and held by the state treasurer for the purpose of the fund must be deposited in the fund.***

2. The director of the department of administration 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 director of the department of administration for a grant of money from the fund created pursuant to section 2 of this act on a form provided by the director of the department of administration. The application must be accompanied by proof that the following emergency conditions exist within the school district:***

(a) The assessed valuation of the taxable property in the county in which the school district is located is declining and all other resources available to the school district for financing capital improvements are diminishing;

(b) The combined ad valorem tax rate of the county is at the limit imposed by NRS 361.453; and

(c) At least:

(1) One building that is located on the grounds of a school within the school district has been condemned;

(2) One of the facilities that is located on the grounds of a school within the school district is unsuitable for use as a result of:

(I) Structural defects;

(II) Barriers to accessibility; or

(III) Hazards to life, health or safety, including, without limitation, environmental hazards and the operation of the facility in an unsafe manner; or

(3) One of the facilities that is located on the grounds of a school within the school district is in such a condition that the cost of renovating the facility would exceed 40 percent of the cost of constructing a new facility.

2. Upon receipt of an application submitted pursuant to subsection 1, the director of the department of administration shall forward the application to the:

(a) Department of taxation to determine whether or not:

(1) The application satisfies the showing of proof required pursuant to paragraphs (a) and (b) of subsection 1; and

(2) The board of county commissioners in the county in which the school district is located has imposed a tax of more than one-eighth of 1 percent pursuant to NRS 377B.100; and

(b) State public works board to determine whether the application satisfies the showing of proof required pursuant to paragraph (c) of subsection 1; and

(c) Department of education for informational purposes.

3. The department of taxation and the state public works board shall submit written statements of their determinations pursuant to

subsection 2 regarding an application to the director of the department of administration. Upon receipt of such statements, the director shall submit the application accompanied by the written statements from the department of taxation and state public works board to the state board of examiners for approval.

4. The director of the department of administration shall make grants from the fund created pursuant to section 2 of this act based upon the need of each school district whose application is approved by the state board of examiners.

5. The director of the department of administration shall adopt regulations that prescribe the annual deadline for submission of an application to the director of the department of administration by a school district that desires to receive a grant of money from the fund.

Sec. 4. 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. A municipality may issue special or medium-term obligations without an election.

Sec. 5. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 6 and 7 of this act.

Sec. 6. ***1. A tax is hereby imposed on all retailers within a county in which:***

(a) The board of county commissioners of the county has not imposed the maximum rate of tax that it is authorized to impose pursuant to NRS 377B.100;

(b) The board of trustees of a county school district has applied for a grant from the fund to assist school districts in financing capital improvements pursuant to section 3 of this act; and

(c) The state board of examiners has approved the application by the board of trustees.

2. The rate of the tax imposed by subsection 1 is the difference between:

(a) The rate of tax that the board of county commissioners of the county has imposed pursuant to NRS 377B.100; and

(b) The maximum rate of tax that the board of county commissioners of the county is authorized to impose pursuant to NRS 377B.100, but in no event may the rate imposed by subsection 1 exceed one-eighth of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county.

Sec. 7. ***1. The collection of the tax imposed by section 6 of this act must be commenced on the first day of the first calendar quarter that begins at least 30 days after the last condition in subsection 1 of section 6 of this act is met.***

2. The tax must be administered, collected and distributed in the manner set forth in chapter 374 of NRS.

3. The board of trustees of the school district shall transfer the proceeds of the tax imposed by section 6 of this act from the county school district fund to the fund described in NRS 354.611 which has been established by the board of trustees. The money deposited in the fund described in NRS 354.611 pursuant to this subsection must be accounted for separately in that fund and must only be expended by the board of trustees for the cost of the extraordinary maintenance, extraordinary repair and extraordinary improvement of school facilities within the county.

Sec. 8. Sections 23, 24, 25, 29 and 31 of chapter 516, Statutes of Nevada 1997, at pages 2467, 2468, 2469 and 2470, respectively, are hereby amended to read as follows:

> **Sec. 23.** 1. There is hereby created the state planning commission for the new construction, design, maintenance and repair of school facilities. The membership of the commission consists of ***10*** members selected as follows:
>
> (a) ***Two members*** of the ***legislature*** appointed by the majority leader of the senate***, one of whom must represent a rural area of this state;***
>
> ***(b) Two members*** of the ***legislature*** appointed by the speaker of the assembly ***, one of whom must represent a rural area of this state;***
>
> ***(c) The superintendent of public instruction;***
>
> (d) One member ***who is employed by a city and has substantial experience in financial matters with respect to cities, appointed by the Nevada League of Cities;***
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> ***(e) One member who is employed by a county and has substantial experience in financial matters with respect to counties, appointed by the Nevada Association of Counties;***
>
> ***(f) One member who is employed by a school district and has substantial experience in financial matters with respect to school districts, appointed by the Nevada Association of School Boards;***
>
> ***(g) The director of the department of administration in his capacity as chairman of the state public works board or his designee; and***
>
> ***(h) The executive director of the department of taxation or his designee.***
>
> 2. The members of the commission shall elect a chairman from among their members.
>
> 3. Except during a regular or special session of the legislature, for each day or portion of a day during which a member of the commission who is a legislator attends a meeting of the commission

or is otherwise engaged in the work of the commission, he is entitled to receive the:

(a) Compensation provided for a majority of the members of the legislature during the first 60 days of the preceding regular session;

(b) Per diem allowance provided for state officers and employees generally; and

(c) Travel expenses pursuant to NRS 218.2207.

The compensation, per diem allowances and travel expenses of the members of the commission who are legislators must be paid from the legislative fund.

4. For each day or portion of a day during which a member of the commission who is not a legislator attends a meeting of the commission or is otherwise engaged in the work of the commission, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, if the legislature has made an appropriation or otherwise made available money for this purpose.

Sec. 24. 1. The commission shall hold at least four meetings annually and may hold additional meetings at the call of the chairman.

2. The commission ***shall:***

(a) Develop a plan pursuant to which each school district in this state may adequately finance the costs of designing and constructing new school facilities and maintaining and repairing existing school facilities in the school district. The plan must provide for the efficient use of resources in the design, construction, maintenance and repair of school facilities.

(b) Review the number of hours required to transport pupils by bus to and from school and the costs associated with that transportation, and compare those costs to the costs that would be incurred to build new school facilities or change the boundaries of the zones within which pupils are transported to certain schools.

3. The board of trustees of each school district shall:

(a) Comply with all requests by the commission for information, including, without limitation, the projections for the enrollment of pupils in a school district for the succeeding 10 years; and

(b) Otherwise cooperate with the commission in carrying out its duties pursuant to this section.

Sec. 25. 1. ***The department of education shall provide administrative support to the commission.***

2. In carrying out its duties pursuant to subsection 1, the department of education shall ensure that notice of the meetings

of the commission is provided to the director of the legislative counsel bureau for publication with the agendas of scheduled meetings of the legislative committees that are published by the legislative counsel bureau.

Sec. 29. 1. There is hereby appropriated from the state general fund to the state planning commission for the new construction, design, maintenance and repair of school facilities created pursuant to section 23 of this act the sum of ***$75,000*** for use by the state planning commission for:

(a) The ***carrying out of the duties set forth in*** section 24 of this act; and

(b) Expenses relating to the operation of the state planning commission.

2. Any remaining balance of the appropriation made by subsection 1 must not be committed for expenditure after June 30, ***2001,*** and reverts to the state general fund as soon as all payments of money committed have been made.

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, ***2001.***

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.

Sec. 9. Section 2 of Senate Bill No. 501 of this session is hereby amended to read as follows:

Sec. 2. 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, ***including, without limitation, on the date of a primary municipal election or a primary state election,*** 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. 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 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. A municipality may issue special or medium-term obligations without an election.

Sec. 10. Section 26 of chapter 516, Statutes of Nevada 1997, at page 2469, and sections 3 and 15 of Senate Bill No. 501 of this session are hereby repealed.

Sec. 11. At the request of the director of the department of administration, the state board of finance shall issue general obligation bonds of the State of Nevada in a face amount not exceeding $16,000,000 pursuant to the State Securities Law. The proceeds of the bonds remaining after the payment of the costs of issuance of the bonds must be deposited in the fund to assist school districts in financing capital improvements, created pursuant to section 2 of this act, and used by the director of the department of administration pursuant to section 3 of this act to make grants to school districts for capital improvements.

Sec. 12. 1. The state controller may advance temporarily from the state general fund, upon the approval of the chief of the budget division of the department of administration, to the fund to assist school districts in financing capital improvements created pursuant to section 2 of this act, until the date on which bonds authorized by section 11 of this act are sold, amounts necessary to facilitate the making of grants to school districts pursuant to section 3 of this act. The state controller shall not advance more than the face amount of the bonds authorized to be issued. The advanced amounts must be repaid immediately to the state general fund upon the sale of the bonds.

2. The chief of the budget division of the department of administration shall notify the state controller and the fiscal analysis division of the legislative counsel bureau of the approval of an advance from the state general fund to the fund to assist school districts in financing capital improvements pursuant to subsection 1.

Sec. 13. This act becomes effective on July 1, 1999.

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