

SENATE BILL NO. 530—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 22, 1999

Referred to Committee on Government Affairs

SUMMARY—Authorizes municipality to form local improvement district for commercial area vitalization project. (BDR 21-26)

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 local improvements; authorizing a municipality to form a local improvement district for a commercial area vitalization project; authorizing a municipality who forms a local improvement district for a commercial area vitalization project to enter into contracts with certain nonprofit associations for certain purposes; authorizing a municipality to dissolve a local improvement district formed for such purposes under certain circumstances; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 271 of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 through 11, inclusive, of this act.
- 3 **Sec. 2.** *“Association” means an association described in section 5 of*
- 4 *this act.*
- 5 **Sec. 3.** *“Commercial area vitalization project” includes:*
- 6 **1.** *The beautification and improvement of the public portions of any*
- 7 *area zoned primarily for business or commercial purposes, including,*
- 8 *without limitation:*
- 9 **(a)** *Public restrooms;*
- 10 **(b)** *Facilities for outdoor lighting and heating;*
- 11 **(c)** *Decorations;*
- 12 **(d)** *Fountains;*
- 13 **(e)** *Landscaping;*
- 14 **(f)** *Facilities or equipment, or both, to enhance protection of persons*
- 15 *and property within the improvement district;*

1 (g) Ramps, sidewalks and plazas; and

2 (h) Rehabilitation or removal of existing structures; and

3 2. The improvement of an area zoned primarily for business or
4 commercial purposes by providing promotional activities.

5 **Sec. 4. "Promotional activity" includes:**

6 1. Promotion of public events that benefit business or real property in
7 the improvement district.

8 2. Providing music in any public place within the improvement
9 district.

10 3. Promotion of tourism within the improvement district.

11 4. Marketing and economic development, including the recruitment
12 and retention of retail business.

13 5. Providing services related to security, sanitation, the removal of
14 graffiti, the cleaning of streets and sidewalks and providing other
15 municipal services that are supplemental to those typically provided by
16 the municipality.

17 6. Any other activity that benefits businesses and real property
18 located in the improvement district.

19 **Sec. 5. 1. A governing body that forms an improvement district for**
20 **a commercial area vitalization project may contract with a nonprofit**
21 **association to provide the improvements that are specified in the plans**
22 **for the commercial area vitalization project. If creation of the**
23 **commercial improvement district was initiated by petition, the governing**
24 **body shall contract for that purpose with the association named in the**
25 **plan for management of the improvement district.**

26 2. An association with which a governing body contracts pursuant to
27 subsection 1 must be a private nonprofit corporation and must be
28 identified in the plan for management of the improvement district. The
29 association shall maintain liability insurance covering its activities.

30 3. The contract between the governing body and the association is a
31 contract for professional services and is not subject to the limitations of
32 subsection 1 of NRS 354.626. The terms of the contract may extend:

33 (a) Beyond the terms of office of members of the governing body; and

34 (b) For the time necessary to cover the life of improvements and to
35 fulfill financial commitments for equipment, services and related
36 undertakings.

37 4. The association does not become a political subdivision, local
38 government, public body, governmental agency or entity, establishment
39 of the government, public corporation or quasi-public corporation for
40 any purpose solely on the basis of a contract entered into with a
41 governing body pursuant to subsection 1.

42 5. A contract executed pursuant to this section must ensure that the
43 type and level of services provided by the municipality at the time of the

1 *creation of the improvement district continue after the improvement*
2 *district is formed.*

3 **Sec. 6. 1.** *A contract executed pursuant to section 5 of this act*
4 *must specify the approvals required for expenditures and provide for*
5 *internal controls adequate to protect the assets of the improvement*
6 *district. The contract must provide for audits of the association by the*
7 *governing body at the discretion of the governing body.*

8 **2.** *If an audit finds a misuse of money or any fraud in the activities*
9 *of the association, the governing body may take control of any assets of*
10 *the association related to the improvement district.*

11 **Sec. 7.** *An association with which a governing body contracts*
12 *pursuant to section 5 of this act may, at any time, request that the*
13 *governing body modify a plan or plat with regard to the commercial area*
14 *vitalization project. Upon the written request of the association, the*
15 *governing body may modify the plan or plat by ordinance after holding a*
16 *hearing on the proposed modification pursuant to section 10 of this act.*
17 *If the proposed modification of a plat expands the territory for*
18 *assessment, a person who owns or resides within a tract which is located*
19 *within the territory proposed to be added to the improvement district and*
20 *which is used exclusively for residential purposes may file a protest*
21 *pursuant to section 9 of this act at any time before the governing body*
22 *modifies the plat by ordinance. A petition is not required for a*
23 *modification made pursuant to this section.*

24 **Sec. 8. 1.** *The association with which a governing body contracts*
25 *pursuant to section 5 of this act shall cause to be prepared a report for*
26 *each fiscal year in which assessments are to be levied and collected.*

27 **2.** *The report prepared pursuant to subsection 1 must be filed with*
28 *the city clerk on or before February 1 of the fiscal year immediately*
29 *preceding the fiscal year to which the report applies and must include:*

- 30 (a) *The name of the improvement district;*
31 (b) *The fiscal year to which the report applies;*
32 (c) *Any proposed changes to the boundaries of the improvement*
33 *district for that fiscal year;*
34 (d) *The improvements to be provided for that fiscal year;*
35 (e) *An estimate of the cost of providing the improvements set forth*
36 *pursuant to paragraph (d);*
37 (f) *The method and basis of levying each assessment to be levied for*
38 *that fiscal year in sufficient detail to allow each property owner to*
39 *calculate the amount of the assessment to be levied against his property*
40 *for that fiscal year;*
41 (g) *The amount of any surplus or deficit revenues to be carried over*
42 *from a preceding fiscal year; and*

1 (h) *The amount of any money received by the district from sources*
2 *other than assessments levied pursuant to this chapter.*

3 **Sec. 9. 1.** *Before a proposed assessment plat for a commercial*
4 *area vitalization project is adopted by ordinance, a person who owns or*
5 *resides within a tract which:*

6 (a) *Is located within the proposed improvement district; and*

7 (b) *Is used exclusively for residential purposes,*
8 *may file with the clerk a written protest to the inclusion of the tract in the*
9 *assessment plat. The protest must be accompanied by a legal description*
10 *of the tract.*

11 2. *Upon receipt of a protest pursuant to subsection 1, the clerk shall*
12 *provide a copy of the protest and legal description of the property to the*
13 *governing body.*

14 3. *Before adopting a resolution or ordinance pursuant to NRS*
15 *271.325 and before adopting an ordinance that modifies an assessment*
16 *plat for a commercial area vitalization project to include additional tracts*
17 *of land, the governing body shall modify the assessment plat for a*
18 *commercial area vitalization project to exclude any tract for which it*
19 *received a protest pursuant to this section and which it determines will*
20 *not benefit from the activities or improvements that are proposed to be*
21 *provided by the commercial area vitalization project.*

22 **Sec. 10. 1.** *On or before June 30 of each year after the governing*
23 *body acquires or improves a commercial area vitalization project, the*
24 *governing body shall prepare or cause to be prepared an estimate of the*
25 *expenditures required in the ensuing fiscal year and a proposed*
26 *assessment roll assessing an amount not greater than the estimated cost*
27 *against the benefited property. The assessment must be computed*
28 *according to frontage or another uniform and quantifiable basis.*

29 2. *The governing body shall hold a public hearing upon the estimate*
30 *of expenditures and the proposed assessment roll. Notice must be given*
31 *and the hearing conducted in the manner provided in NRS 271.380 and*
32 *271.385. The assessment may not exceed the amount stated in the*
33 *proposed assessment roll unless a new hearing is held after notice is*
34 *mailed and published in the manner provided in NRS 271.305 and*
35 *271.310.*

36 3. *After the public hearing, the governing body shall confirm the*
37 *assessments, as specified in the proposed assessment roll or as modified,*
38 *and levy the assessment as provided in NRS 271.390.*

39 4. *An improvement district created for a commercial area vitalization*
40 *project is not entitled to any distribution from the local government tax*
41 *distribution account.*

42 **Sec. 11. 1.** *The governing body may, by resolution, dissolve an*
43 *improvement district that is created for the purposes of a commercial*

1 *area vitalization project if property owners whose property is assessed for*
2 *a combined total of more than 50 percent of the total amount of the*
3 *assessments of all the property in the improvement district submit a*
4 *written petition to the governing body that requests the dissolution of the*
5 *district within the period prescribed in subsection 2.*

6 *2. The dissolution of an improvement district pursuant to this section*
7 *may be requested within 30 days after:*

8 *(a) The first anniversary of the date the improvement district was*
9 *created; and*

10 *(b) Each subsequent anniversary thereafter.*

11 *3. As soon as practicable after the receipt of the written petition of*
12 *the property owners submitted pursuant to subsection 1, the governing*
13 *body shall pass a resolution of intention to dissolve the improvement*
14 *district. The governing body shall give notice of a hearing on the*
15 *dissolution. The notice must be provided and the hearing must be held*
16 *pursuant to the requirements set forth in section 10 of this act. If the*
17 *governing body determines that dissolution of the improvement district is*
18 *appropriate, it shall dissolve the improvement district by resolution,*
19 *effective not earlier than the 30th day after the hearing.*

20 *4. If there is indebtedness, outstanding and unpaid, incurred to*
21 *accomplish any of the purposes of the improvement district, the portion*
22 *of the assessment necessary to pay the indebtedness remains effective and*
23 *must be continued in the following years until the debt is paid.*

24 **Sec. 12.** NRS 271.030 is hereby amended to read as follows:

25 271.030 As used in this chapter, unless the context otherwise requires,
26 the words and terms defined in NRS 271.035 to 271.250, inclusive,
27 *sections 2, 3 and 4 of this act* and section 2 of ~~this act,~~ *Assembly Bill No.*
28 *95 of this session,* have the meanings ascribed to them in those sections.

29 **Sec. 13.** NRS 271.125 is hereby amended to read as follows:

30 271.125 "Improvement" or "improve" means the extension, widening,
31 lengthening, betterment, alteration, reconstruction, repair or other
32 improvement (or any combination thereof) of facilities, other property, any
33 project, or an interest therein, herein authorized ~~+~~, *including, without*
34 *limitation, conducting promotional activities within an improvement*
35 *district created for a commercial area vitalization project.*

36 **Sec. 14.** NRS 271.265 is hereby amended to read as follows:

37 271.265 1. The governing body of a county, city or town, upon
38 behalf of the municipality and in its name, without any election, may from
39 time to time acquire, improve, equip, operate and maintain, within or
40 without the municipality, or both, within and without the municipality:

41 *(a) A commercial area vitalization project;*

42 *(b) A curb and gutter project;*

43 ~~(b)~~

(c) A

drainage

project;

- 1 ~~[(e)]~~ (d) An offstreet parking project;
- 2 ~~[(d)]~~ (e) An overpass project;
- 3 ~~[(e)]~~ (f) A park project;
- 4 ~~[(f)]~~ (g) A sanitary sewer project;
- 5 ~~[(g)]~~ (h) A security wall;
- 6 ~~[(h)]~~ (i) A sidewalk project;
- 7 ~~[(i)]~~ (j) A storm sewer project;
- 8 ~~[(j)]~~ (k) A street project;
- 9 ~~[(k)]~~ (l) A street beautification project;
- 10 ~~[(l)]~~ (m) A transportation project;
- 11 ~~[(m)]~~ (n) An underpass project;
- 12 ~~[(n)]~~ (o) A water project; and
- 13 ~~[(o)]~~ (p) Any combination of such projects.
- 14 2. In addition to the power specified in subsection 1, the governing
- 15 body of a city having a commission form of government as defined in NRS
- 16 267.010, upon behalf of the municipality and in its name, without any
- 17 election, may from time to time acquire, improve, equip, operate and
- 18 maintain, within or without the municipality, or both, within and without
- 19 the municipality:
- 20 (a) An electrical project;
- 21 (b) A telephone project;
- 22 (c) A combination of an electrical project and a telephone project;
- 23 (d) A combination of an electrical project or a telephone project with
- 24 any of the projects, or any combination thereof, specified in subsection 1;
- 25 and
- 26 (e) A combination of an electrical project and a telephone project with
- 27 any of the projects, or any combination thereof, specified in subsection 1.
- 28 3. In addition to the power specified in subsections 1 and 2, the
- 29 governing body of a municipality, on behalf of the municipality and in its
- 30 name, without an election, may finance an underground conversion project
- 31 with the approval of each service provider that owns the overhead service
- 32 facilities to be converted.
- 33 **Sec. 15.** NRS 271.280 is hereby amended to read as follows:
- 34 271.280 1. Whenever the governing body is of the opinion that the
- 35 interest of the municipality requires any project, the governing body, by
- 36 resolution, shall direct the engineer to prepare, or may, after he has
- 37 prepared, ratify:
- 38 (a) Preliminary plans showing:
- 39 (1) A typical section of the contemplated improvement.
- 40 (2) The type or types of material, approximate thickness and
- 41 wideness.
- 42 (3) A preliminary estimate of the cost of the project, including
- 43 incidental costs.

(b) An assessment plat showing:

(1) The area to be assessed.

(2) Except as otherwise provided in section 3 of ~~this act,~~ **Assembly Bill No. 95 of this session**, the amount of maximum benefits estimated to be assessed against each tract in the assessment area.

The governing body is not required to employ the services of an appraiser to estimate or to assist the engineer in estimating the benefits to be derived from the project.

2. The resolution or ratification may provide for one or more types of construction, and the engineer shall separately estimate the cost of each type of construction. The estimate may be made in a lump sum or by unit prices, as the engineer determines is most desirable for the improvement complete in place.

3. The resolution or document ratified must describe the project in general terms.

4. The resolution or document ratified must state:

(a) What part or portion of the expense of the project is of special benefit and therefore is to be paid by assessments.

(b) What part, if any, has been or is proposed to be defrayed with money derived from other than the levy of assessments.

(c) The basis by which the cost will be apportioned and assessments levied.

5. If the assessment is not to be made according to front feet, the resolution or document ratified must:

(a) By apt description designate the improvement district, including the tracts to be assessed.

(b) Describe definitely the location of the project.

(c) State that the assessment is to be made upon all the tracts benefited by the project proportionately to the benefits received.

6. If the assessment is to be upon the abutting property upon a frontage basis, it is sufficient for the resolution or document ratified so to state and to define the location of the project to be made.

7. It is not necessary in any case to describe minutely in the resolution or document ratified each particular tract to be assessed, but simply to designate the property, improvement district or the location, so that the various parts to be assessed can be ascertained and determined to be within or without the proposed improvement district.

8. ***If the preliminary plans include a commercial area vitalization project, then in addition to the other requirements in this section, before the plans are ratified by the governing body, the plans must include a plan for the management of the proposed improvement district which must include, without limitation:***

1 (a) *The improvements proposed for each year of the first 5 fiscal years*
2 *of the proposed improvement district;*

3 (b) *An estimate of the total amount to be expended on improvements*
4 *in the first year of operation;*

5 (c) *A list of any other special assessments that are currently being*
6 *levied within the proposed improvement district;*

7 (d) *The name of any proposed association; and*

8 (e) *Any other matter that the governing body requires to be set forth in*
9 *the plan.*

10 9. The engineer shall forthwith prepare and file with the clerk:

11 (a) The preliminary plans; and

12 (b) The assessment plat.

13 ~~9.1~~ 10. Upon the filing of the plans and plat, they must be examined by
14 the governing body. If the plans and plat are found to be satisfactory, the
15 governing body shall make a provisional order by resolution to the effect
16 that the project will be acquired or improved, or both acquired and
17 improved.

18 **Sec. 16.** NRS 271.285 is hereby amended to read as follows:

19 271.285 ~~{Whenever}~~

20 1. *Except as otherwise provided in subsection 2, whenever* the owner
21 or owners of lands to be assessed for not less than 90 percent of the entire
22 cost of any project, including all incidental expenses, constituting at least
23 66 2/3 percent in frontage, in area or other property basis used for the
24 computation of assessments as therein provided, as the case may be, by
25 written petition, initiates the acquisition of any project which the governing
26 body is authorized to initiate, subject to the following limitations:

27 ~~{1.—The}~~ (a) *Except as otherwise provided in subsection 7 of NRS*
28 *271.325, the* governing body may incorporate such project in any
29 improvement district or districts.

30 ~~{2.}~~ (b) The governing body need not proceed with the acquisition of
31 any such project or any part thereof after holding a hearing thereon,
32 pursuant to NRS 271.310, and all provisions thereof thereunto enabling, if
33 the governing body shall determine that it is not for the public interest that
34 the proposed project, or a part thereof, be then ordered to be made.

35 ~~{3.}~~ (c) Any particular kind of project, or any material therefor, or any
36 part thereof, need not be acquired or located, as provided in the petition, if
37 the governing body shall determine that such is not for the public interest.

38 ~~{4.}~~ (d) The governing body need not take any proceedings or action
39 upon receiving any such petition, if the governing body shall thereupon
40 determine by resolution that the acquisition of the designated project
41 probably is not feasible for a reason or reasons stated in such resolution,
42 and if the resolution requires a cash deposit or a pledge of property in at
43 least an amount or value therein designated and found therein by the

governing body probably to be sufficient to defray the expenses and costs incurred by the municipality taken preliminary to and in the attempted acquisition of the project designated in the petition, and if such deposit or pledge is not made with the treasurer within 20 days after one publication in a newspaper of general circulation in the municipality of a notice of the resolution's adoption and of its content in summary form. An additional deposit or pledge may from time to time be similarly so required as a condition precedent to the continuation of action by the municipality. Whenever such deposit or pledge is so made and thereafter the governing body shall determine that such acquisition is not feasible within a reasonable period of time, the governing body may require that all or any portion of the costs theretofore incurred in connection therewith by the municipality after its receipt of the petition shall be defrayed from such deposit or the proceeds of such pledged property in the absence of such defrayment of costs by petitioners or other interested persons within 20 days after the determination by resolution of the amount so to be defrayed and after such published notice thereof.

2. A petition signed by owners of tracts constituting at least one-half of the basis used for computation of assessments is sufficient to initiate procedures for acquiring or improving a commercial area vitalization project. A petition for acquiring or improving a commercial area vitalization project must be accompanied by a plan describing proposed improvements and a proposed assessment plat when submitted to the governing body.

Sec. 17. NRS 271.290 is hereby amended to read as follows:

271.290 ~~{Upon}~~

1. Except as otherwise expressly provided or necessarily implied in this section or in NRS 271.285, upon the filing of such a petition, the governing body shall proceed in the same manner as is provided for hereby where proceedings are initiated by the governing body . ~~{except as otherwise expressly provided or necessarily implied in NRS 271.285.}~~

2. Upon the filing of a petition for the acquisition or improvement of a commercial area vitalization project, the governing body shall hold a public hearing on the petition. At least 20 days before the public hearing, the governing body shall:

(a) Mail notice of the hearing to each owner of real property within the proposed improvement district and to each tenant who resides or owns a business located within the proposed improvement district; and

(b) Publish notice of the hearing in a newspaper of general circulation in the municipality, describing the purpose and general location of the proposed improvement district, and the date, time and place of the proposed public hearing.

(b) The finding required by subsection 4 cannot reasonably be made with respect to any part of the proposed improvement district.

Sec. 18. NRS 271.305 is hereby amended to read as follows:

2. Notice must be given:

(c) By posting.

4. Proof of mailing and proof of posting must be by affidavit of the engineer, clerk, or any deputy mailing the notice and posting the notice, respectively.

6. The notice may be prepared by the engineer and ratified by the governing body, and, except as otherwise provided in subsection 7, must state:

(a) The kind of project proposed.

1 (b) The estimated cost of the project, and the portion, if any, to be paid
2 from sources other than assessments.

3 (c) The basis for apportioning the assessments, which assessments must
4 be in proportion to the special benefits derived to each of the several tracts
5 comprising the assessable property and on a front foot, area, zone or other
6 equitable basis.

7 (d) The number of installments and time in which the assessments will
8 be payable.

9 (e) The maximum rate of interest on unpaid installments of assessments.

10 (f) The extent of the improvement district to be assessed, by boundaries
11 or other brief description.

12 (g) The time and place of the hearing where the governing body will
13 consider all objections to the project.

14 (h) That all written objections to the project must be filed with the clerk
15 of the municipality at least 3 days before the time set for the hearing.

16 (i) ~~That~~ **If the project is not a commercial area vitalization project,**
17 **that** pursuant to NRS 271.306, if a majority of the property owners to be
18 assessed for a project proposed by a governing body object in writing
19 within the time stated in paragraph (h), the project must not be acquired or
20 improved unless:

21 (1) The municipality pays one-half or more of the total cost of the
22 project, other than a park project, with money derived from other than the
23 levy or assessments; or

24 (2) The project constitutes not more than 2,640 feet, including
25 intersections, remaining unimproved in any street, including an alley,
26 between improvements already made to either side of the same street or
27 between improvements already made to intersecting streets.

28 (j) That the description of the tracts to be assessed, the maximum
29 amount of benefits estimated to be conferred on each such tract and all
30 proceedings in the premises are on file and can be examined at the office of
31 the clerk.

32 (k) Unless there will be no substantial change, that a substantial change
33 in certain existing street elevations or grades will result from the project,
34 without necessarily including any statement in detail of the extent or
35 location of any such change.

36 (l) That a person should object to the formation of the district using the
37 procedure outlined in the notice if his support for the district is based upon
38 a statement or representation concerning the project that is not contained in
39 the language of the notice.

40 (m) That if a person objects to the amount of maximum benefits
41 estimated to be assessed or to the legality of the proposed assessments in
42 any respect:

43 (1) He is entitled to be represented by counsel at the hearing;

1 (2) Any evidence he desires to present on these issues must be
2 presented at the hearing; and

3 (3) Evidence on these issues that is not presented at the hearing may
4 not thereafter be presented in an action brought pursuant to NRS 271.315.

5 *(n) If the project is a commercial area vitalization project, that:*

6 *(1) A person who owns or resides within a tract in the proposed*
7 *improvement district and which is used exclusively for residential*
8 *purposes may file a protest to inclusion in the assessment plat pursuant*
9 *to section 9 of this act; and*

10 *(2) Pursuant to NRS 271.306, if written remonstrances by the*
11 *owners of tracts constituting one-third or more of the basis for the*
12 *computation of assessments for the commercial area vitalization project*
13 *are presented to the governing body, the governing body shall not*
14 *proceed with the commercial area vitalization project.*

15 7. The notice need not state either or both of the exceptions stated in
16 subsection 2 of NRS 271.306 unless either or both of the exceptions are
17 determined by the governing body or the engineer to be relevant to the
18 proposed improvement district to which the notice appertains.

19 8. All proceedings may be modified or rescinded wholly or in part by
20 resolution adopted by the governing body, or by a document prepared by
21 the engineer and ratified by the governing body, at any time before the
22 passage of the ordinance adopted pursuant to NRS 271.325, creating the
23 improvement district, and authorizing the project.

24 9. No substantial change in the improvement district, details,
25 preliminary plans or specifications or estimates may be made after the first
26 publication, posting or mailing of notice to property owners, whichever
27 occurs first, except for the deletion of a portion of a project and property
28 from the proposed program and improvement district or any assessment
29 unit.

30 10. The engineer may make minor changes in time, plans and materials
31 entering into the work at any time before its completion.

32 *11. If the ordinance is for a commercial area vitalization project,*
33 *notice sent pursuant to this section must be sent by mail to each person*
34 *who owns real property which is located within the proposed*
35 *improvement district and to each tenant who resides or owns a business*
36 *located within the proposed improvement district.*

37 **Sec. 19.** NRS 271.306 is hereby amended to read as follows:

38 271.306 1. Regardless of the basis used for apportioning
39 assessments, the amount apportioned to a wedge or V or any other
40 irregularly shaped tract must be in proportion to the special benefits thereby
41 derived.

42 2. Except as otherwise provided in ~~subsection 3,~~ **subsections 3 and**

43 **4,** if, within the time specified in the notice, complaints, protests and

1 objections in writing, that is, all written remonstrances, against acquiring or
2 improving the project proposed by initiation of the governing body are filed
3 with the clerk, signed by the owners of tracts constituting a majority of the
4 frontage, of the area, of the zone, or of the other basis for the computation
5 of assessments, as the case may be, of the tracts to be assessed in the
6 improvement district or in the assessment unit if the improvement district is
7 divided into assessment units, the project therein must not be acquired or
8 improved unless:

9 (a) The municipality pays one-half or more of the total cost of the
10 project, other than a park project, with money derived from other than the
11 levy of assessments; or

12 (b) The project constitutes not more than 2,640 feet, including
13 intersections, remaining unimproved in any street, including an alley,
14 between improvements already made to either side of the same street or
15 between improvements already made to intersecting streets. In this case the
16 governing body may on its own motion cause the intervening and
17 unimproved part of the street to be improved. Such improvements will not
18 be stayed or defeated or prevented by written complaints, protests and
19 objections thereto, unless the governing body in its sole discretion, deems
20 such written complaints, protests and objections proper to cause the
21 improvement to be stayed or prevented.

22 3. Written remonstrances by the owners of tracts constituting 50
23 percent of the basis for the computation of assessments suffice to preclude
24 the acquisition or improvement of a street beautification project.

25 *4. Written remonstrances by the owners of tracts constituting at least*
26 *one-third of the basis for the computation of assessments suffice to*
27 *preclude the acquisition or improvement of a commercial area*
28 *vitalization project. For the purposes of this subsection, the property of a*
29 *single owner may not be counted as constituting more than 10 percent of*
30 *the basis.*

31 **Sec. 20.** NRS 271.320 is hereby amended to read as follows:

32 271.320 1. After the hearing ~~it~~ *and* after the governing body has
33 ~~disposed~~ :

34 (a) *Disposed* of all complaints, protests and objections, oral and in
35 writing ~~it, and after the governing body has determined that either~~ ;

36 (b) *Determined that it is not prevented from proceeding pursuant to*
37 *subsection 3 or 4 of NRS 271.306; and*

38 (c) *Determined that:*

39 (1) *Either* or both exceptions stated in subsection 2 of NRS 271.306
40 apply ~~it, or that there~~ ; or

41 (2) *There* were not filed with the clerk complaints, protests and
42 objections in writing and signed by the owners of tracts constituting a
43 majority of the frontage, of the area, of the zone, or of the other basis for

1 the computation of assessments stated in the notice, of the tracts to be
2 assessed in the improvement district or in the assessment unit, if any,
3 and the governing body has jurisdiction to proceed, the governing body
4 shall determine whether to proceed with the improvement district, and with
5 each assessment unit, if any, except as otherwise provided in this chapter.

6 2. If the governing body desires to proceed and desires any
7 modification, by motion or resolution it shall direct the engineer to prepare
8 and present to the governing body:

9 (a) A revised and detailed estimate of the total cost, including, without
10 limiting the generality of the foregoing, the cost of acquiring or improving
11 each proposed project and of each of the incidental costs. The revised
12 estimate does not constitute a limitation for any purpose.

13 (b) Full and detailed plans and specifications for each proposed project
14 designed to permit and encourage competition among the bidders, if any
15 project is to be acquired by construction contract.

16 (c) A revised map and assessment plat showing respectively the location
17 of each project and the tracts to be assessed therefor, not including any area
18 or project not before the governing body at a provisional order hearing.

19 3. That resolution, a separate resolution, or the ordinance creating the
20 improvement district may combine or divide the proposed project or
21 projects into suitable construction units for the purpose of letting separate
22 and independent contracts, regardless of the extent of any project
23 constituting an assessment unit and regardless of whether a portion or none
24 of the cost of any project is to be defrayed other than by the levy of special
25 assessments. Costs of unrelated projects must be segregated for assessment
26 purposes as provided in this chapter.

27 **Sec. 21.** NRS 271.325 is hereby amended to read as follows:

28 271.325 1. When an accurate estimate of cost, full and detailed plans
29 and specifications and map are prepared, are presented and are satisfactory
30 to the governing body, it shall, by resolution, make a determination that:

31 (a) Public convenience and necessity require the creation of the district;
32 and

33 (b) The creation of the district is economically sound and feasible.

34 This determination may be made part of the ordinance creating the district
35 adopted pursuant to subsection 2 and is conclusive in the absence of fraud
36 or gross abuse of discretion.

37 2. The governing body may, by ordinance, create the district and order
38 the proposed project to be acquired or improved. This ordinance may be
39 adopted and amended as if an emergency existed.

40 3. The ordinance must prescribe:

41 (a) The extent of the improvement district to be assessed, by boundaries
42 or other brief description, and similarly of each assessment unit therein, if
43 any.

1 (b) The kind and location of each project proposed, without mentioning
2 minor details.

3 (c) The amount or proportion of the total cost to be defrayed by
4 assessments, the method of levying assessments, the number of installments
5 and the times in which the costs assessed will be payable.

6 (d) The character and extent of any construction units.

7 4. The engineer may further revise the cost, plans and specifications
8 and map from time to time for all or any part of any project, and the
9 ordinance may be appropriately amended before letting any construction
10 contract therefor and before any work being done other than by
11 independent contract let by the municipality.

12 5. The ordinance, as amended if amended, must order the work to be
13 done as provided in this chapter.

14 6. Upon adoption or amendment of the ordinance, the governing body
15 shall cause to be filed in the office of the county recorder a certified copy
16 of a list of the tracts to be assessed and the amount of maximum benefits
17 estimated to be assessed against each tract in the assessment area, as shown
18 on the assessment plat as revised and approved by the governing body
19 pursuant to NRS 271.320. Neither the failure to record the list as provided
20 in this subsection nor any defect or omission in the list regarding any parcel
21 or parcels to be included within the district affects the validity of any
22 assessment, the lien for the payment thereof or the priority of that lien.

23 ***7. The governing body may not adopt an ordinance creating or***
24 ***modifying the boundaries of an improvement district for a commercial***
25 ***area vitalization project if the boundaries of the improvement district***
26 ***overlap an existing improvement district created for a commercial area***
27 ***vitalization project.***

28 **Sec. 22.** NRS 271.335 is hereby amended to read as follows:

29 271.335 1. No contract for doing construction work for acquiring or
30 improving the project contemplated may be made or awarded, nor may the
31 governing body incur any expense or liability in relation thereto, except for
32 maps, plats, diagrams, estimates, plans, specifications and notices, until
33 after the hearing upon the provisional order and notice thereof provided for
34 in NRS 271.305 have been given and had.

35 2. This section does not prevent the governing body from advertising
36 by publication for proposals for doing the work whenever the governing
37 body sees fit, but the contract may not be made or awarded before the time
38 stated in subsection 1.

39 3. Except as otherwise provided ***in subsection 12 and*** in NRS 271.800,
40 in the case of construction work done by independent contract for any
41 project, or portion thereof, in any improvement district, the municipality
42 shall request competitive bids, and proceed thereon, pursuant to the
43 provisions of chapter 338 of NRS.

1 4. The municipality may waive any irregularity in the form of any bid.

2 5. Any contract may be let on a lump sum or on a unit basis.

3 6. No contract may be entered into for such work unless the contractor
4 gives an undertaking with a sufficient surety or sureties approved by the
5 governing body and in an amount fixed by it for the faithful performance of
6 the contract and for payment of the contract.

7 7. Upon default in the performance of any contract, any designated
8 official, as directed by motion of the governing body, may advertise and
9 relet the remainder of the work without further ordinance or resolution and
10 deduct the cost from the original contract price and recover any excess cost
11 by suit on the original bond, or otherwise.

12 8. All contracts must provide among other things that the person
13 entering into the contract with the municipality will pay for all materials
14 furnished and labor and services rendered for the performance of the
15 contract, and that any person furnishing the materials or rendering the
16 services may maintain an action to recover for them against the obligor in
17 the undertaking as though the person was named therein.

18 9. A contract or agreement made in violation of the provisions of this
19 section is voidable, and no action may be maintained thereon by any party
20 thereto against the municipality.

21 10. To the extent the municipality makes any payment thereunder, such
22 a contract or agreement is valid, and any such payment may be included in
23 any cost defrayed by the levy of assessments, unless theretofore the
24 municipality elects to void the contract or agreement in its entirety and to
25 recover any such payment from the party to whom made.

26 11. The governing body, except as expressly limited in this section,
27 may, in the letting of contracts, impose such conditions upon bidders with
28 regard to bonds and securities, and such guaranties of good and faithful
29 performance and completion of any work and the keeping of the work in
30 repair, and providing for any further matter or thing in connection
31 therewith, as may be considered by the governing body to be advantageous
32 to the municipality and to all interested.

33 ***12. The provisions of subsections 3 through 11, inclusive, do not***
34 ***apply to work performed by an association pursuant to a contract entered***
35 ***into pursuant to section 5 of this act.***

36 **Sec. 23.** Sections 12, 14, 15 and 19 of this act become effective at
37 12:01 a.m. on October 1, 1999.