

ASSEMBLY BILL NO. 462—ASSEMBLYMAN COLLINS

MARCH 19, 2001

Referred to Committee on Government Affairs

SUMMARY—Authorizes certain local governments to impose tax on nonresidential construction or require dedication of certain land for neighborhood parks. (BDR 22-72)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 governments; authorizing the governing body of a city or county to impose a tax on nonresidential construction or require the dedication of certain land for neighborhood parks; 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 278 of NRS is hereby amended by adding thereto a
2 new section to read as follows:
3 ***“Nonresidential construction” means construction other than the***
4 ***construction of residential dwelling units or an apartment house, the***
5 ***development of mobile home lots or construction by a governmental***
6 ***agency.***
7 **Sec. 2.** NRS 278.497 is hereby amended to read as follows:
8 278.497 As used in NRS 278.497 to 278.4987, inclusive, ***and section 1***
9 ***of this act,*** the words and terms defined in NRS 278.4971 to 278.4977,
10 inclusive, ***and section 1 of this act,*** have the meanings ascribed to them in
11 those sections, unless the context otherwise requires.
12 **Sec. 3.** NRS 278.4979 is hereby amended to read as follows:
13 278.4979 The governing body of a city or county may, by ordinance,
14 require that a subdivider of land or a developer of land for mobile home
15 lots ~~for~~, an apartment house ***or nonresidential construction*** dedicate such
16 land areas, sites and locations for park and playground purposes as are
17 reasonably necessary to serve the proposed subdivision or development
18 and the future ~~residents~~ ***occupants*** of the subdivision or development.
19 **Sec. 4.** NRS 278.4981 is hereby amended to read as follows:
20 278.4981 1. The ordinance adopted pursuant to NRS 278.4979 must
21 set forth the standards to be applied in determining the amount of land that



1 is required to be dedicated. The ordinance must contain standards
2 determining the amount, quality and location of land that is required to be
3 dedicated which are based upon the number and type of dwelling units or
4 structures, apartment houses or mobile home lots, *nonresidential*
5 *construction* or any combination thereof, included in each subdivision or
6 development and give due consideration to the relative desirability and
7 market value of the land that may be included within the area of any
8 particular proposed subdivision or development.

9 2. The ordinance must, without limiting the general powers conferred
10 in this chapter, include the following:

11 (a) Provisions for the creation, in accordance with the applicable master
12 plan, of park districts or service areas which would serve neighborhoods or
13 communities of interest within the city or county.

14 (b) A delegation of authority to designated departments or agencies of
15 the city or county to select the location of the land areas to be dedicated for
16 park and playground purposes. The land to be dedicated for park and
17 playground purposes must be within the park district or service area
18 created pursuant to paragraph (a) in which the subdivision, *nonresidential*
19 *construction*, apartment house or mobile home lots are located.

20 (c) A provision limiting the amount of land required to be dedicated to
21 an amount of land having a fair market value, determined by independent
22 appraisal, which does not exceed the amount of any ~~residential~~
23 construction tax which would otherwise have been collected ~~under~~
24 *pursuant to* NRS 278.4983.

25 (d) A provision for the transfer of title to the dedicated land upon the
26 issuance of building permits and the construction of the first unit of the
27 subdivision or development from which the land was
28 dedicated.

29 The ordinance may also contain a provision allowing an increase in the
30 number of dwelling units or structures, apartment houses, *nonresidential*
31 *construction* or mobile home lots, or any combination of them, in the
32 subdivision equal to the number which would otherwise have been allowed
33 on the land dedicated for parks and playgrounds.

34 **Sec. 5.** NRS 278.4983 is hereby amended to read as follows:

35 278.4983 1. The city council of any city or the board of county
36 commissioners of any county which has adopted a master plan and
37 recreation plan, as provided in this chapter, which includes, as a part of the
38 plan, future or present sites for neighborhood parks may, by ordinance,
39 impose a ~~residential~~ construction tax pursuant to this section.

40 2. If imposed, the ~~residential~~ construction tax must be imposed on
41 the privilege of constructing apartment houses, ~~and~~ residential dwelling
42 units and *nonresidential construction and* developing mobile home lots in
43 the respective cities and counties. The rate of the tax must not exceed:

44 (a) With respect to the construction of apartment houses and residential
45 dwelling units, 1 percent of the valuation of each building permit issued or
46 ~~\$1,000~~ *\$2,000* per residential dwelling unit, whichever is less. For the
47 purpose of *calculating* the ~~residential~~ construction tax ~~;~~ *pursuant to this*
48 *paragraph*, the city council of the city or the board of county
49 commissioners of the county shall adopt an ordinance basing the valuation



1 of building permits on the actual costs of residential construction in the
2 area.

3 (b) With respect to the development of mobile home lots, for each
4 mobile home lot authorized by a lot development permit, 80 percent of the
5 average ~~residential~~ construction tax paid *pursuant to paragraph(a)* per
6 residential dwelling unit in the respective city or county during the
7 calendar year next preceding the fiscal year in which the lot development
8 permit is issued.

9 *(c) With respect to nonresidential construction, a percentage of the*
10 *valuation of each building permit issued which does not exceed the*
11 *percentage of the valuation of each building permit issued per residential*
12 *dwelling unit pursuant to paragraph (a). For the purpose of calculating*
13 *the construction tax pursuant to this paragraph, the city council of the*
14 *city or the board of county commissioners shall adopt an ordinance*
15 *basing the valuation of building permits on the actual costs of*
16 *nonresidential construction in the area.*

17 3. The purpose of the tax *imposed pursuant to this section* is to raise
18 revenue to enable the cities and counties to provide neighborhood parks
19 and facilities for parks which are required by the ~~residents~~ *occupants*
20 of those apartment houses, mobile homes and residences ~~[-]~~ *and that*
21 *nonresidential construction.*

22 4. An ordinance enacted pursuant to subsection 1 must establish the
23 procedures for collecting the tax, set its rate, and determine the purposes
24 for which the tax is to be used, subject to the restrictions and standards
25 provided in this chapter. The ordinance must, without limiting the general
26 powers conferred in this chapter, also include:

27 (a) Provisions for the creation, in accordance with the applicable master
28 plan, of park districts which would serve neighborhoods within the city or
29 county.

30 (b) A provision for collecting the tax at the time of issuance of a
31 building permit for the *nonresidential construction or* construction of any
32 apartment houses or residential dwelling units, or *issuance of* a lot
33 development permit for the development of mobile home lots.

34 5. All ~~residential~~ construction taxes collected pursuant to the
35 provisions of this section and any ordinance enacted by a city council or
36 board of county commissioners, and all interest accrued on the money,
37 must be placed with the city treasurer or county treasurer in a special fund.
38 Except as otherwise provided in subsection 6, the money in the fund may
39 only be used for the acquisition, improvement and expansion of
40 neighborhood parks or the installation of facilities in existing or
41 neighborhood parks in the city or county. Money in the fund must be
42 expended for the benefit of the neighborhood from which it was collected.

43 6. If a neighborhood park has not been developed or facilities have not
44 been installed in an existing park in the park district created to serve the
45 neighborhood in which the subdivision or development is located within 3
46 years after the date on which 75 percent of the residential dwelling units
47 authorized within that subdivision or development first became occupied,
48 all money paid by the subdivider or developer, ~~together~~ with interest at
49 the rate at which the city or county has invested the money in the fund,



1 must be refunded to the owners of the lots in the subdivision or
2 development at the time of the reversion on a pro rata basis.

3 7. The limitation of time established pursuant to subsection 6 is
4 suspended for any period, not to exceed 1 year, during which this state or
5 the Federal Government takes any action to protect the environment or an
6 endangered species which prohibits, stops or delays the development of a
7 park or installation of facilities.

8 8. For the purposes of this section:

9 (a) "Facilities" means turf, trees, irrigation, playground apparatus,
10 playing fields, areas to be used for organized amateur sports, play areas,
11 picnic areas, horseshoe pits and other recreational equipment or
12 appurtenances designed to serve the natural persons, families and small
13 groups ~~from~~ *in* the neighborhood from which the tax was collected.

14 (b) "Neighborhood park" means a site not exceeding 25 acres, designed
15 to serve the recreational and outdoor needs of *the* natural persons, families
16 and small groups ~~in~~ *in the neighborhood from which the tax was*
17 *collected.*

18 **Sec. 6.** NRS 278.4985 is hereby amended to read as follows:

19 278.4985 1. The city council of any city or the board of county
20 commissioners of any county which has adopted a master plan as provided
21 in this chapter which includes future or present sites for parks and
22 playgrounds may require that:

23 (a) The developers of a planned unit development dedicate land as
24 provided by NRS 278.4979 to 278.4981, inclusive; or

25 (b) A ~~residential~~ construction tax be imposed on the privilege of
26 constructing planned unit developments in the manner provided by
27 NRS 278.4983,

28 if the ordinance defining and regulating planned unit developments in the
29 particular city or county imposes open space requirements less than those
30 required by the ordinance adopted pursuant to NRS 278.4981.

31 2. If a requirement to dedicate land or pay a ~~residential~~ construction
32 tax is imposed on the construction of a planned unit development, the
33 planned unit development is eligible to receive a credit against the amount
34 of land to be dedicated or the amount of the ~~residential~~ construction tax
35 imposed, for the amount and value of the developed open space within the
36 planned unit development.

37 **Sec. 7.** NRS 278.4987 is hereby amended to read as follows:

38 278.4987 1. The requirement for dedication of land ~~under~~ *pursuant*
39 *to* NRS 278.4979 to 278.4981, inclusive, and the imposition of the
40 ~~residential~~ construction tax ~~under~~ *pursuant to* NRS 278.4983, are
41 mutually exclusive as to any particular subdivision, apartment house,
42 mobile home lot , ~~or~~ residential dwelling unit *or nonresidential*
43 *construction* which may be benefited or affected by any such requirement
44 or imposition.

45 2. Any city council or board of county commissioners determining to
46 provide park or playground facilities ~~under the provisions of~~ *pursuant to*
47 NRS 278.497 to 278.4987, inclusive, shall elect, for any one period, to
48 follow only one of the procedures provided in these sections.



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1 **Sec. 8.** NRS 354.59891 is hereby amended to read as follows:

2 354.59891 1. As used in this section:

3 (a) "Building permit basis" means the combination of the rate and the
4 valuation method used to calculate the total building permit fee.

5 (b) "Building permit" means the official document or certificate issued
6 by the building officer of a local government which authorizes the
7 construction of a structure.

8 (c) "Building permit fee" means the total fees that must be paid before
9 the issuance of a building permit, including without limitation, all permit
10 fees and inspection fees. The term does not include, without limitation, fees
11 relating to water, sewer or other utilities, ~~residential~~ construction tax ~~+~~
12 *imposed pursuant to NRS 278.4983, residential construction tax imposed*
13 *pursuant to NRS 387.331*, tax for the improvement of transportation
14 imposed pursuant to NRS 278.710, any fee imposed pursuant to NRS
15 244.386 or any amount expended to change the zoning of the property.

16 2. Except as otherwise provided in subsections 3 and 4, a local
17 government shall not increase its building permit basis by more than an
18 amount equal to the building permit basis on June 30, 1989, multiplied by a
19 percentage equal to the percentage increase in the consumer price index
20 from January 1, 1988, to the January 1 next preceding the fiscal year for
21 which the calculation is made.

22 3. A local government may submit an application to increase its
23 building permit basis by an amount greater than otherwise allowable
24 pursuant to subsection 2 to the Nevada tax commission. The Nevada tax
25 commission may allow the increase only if it finds that:

26 (a) Emergency conditions exist which impair the ability of the local
27 government to perform the basic functions for which it was created; or

28 (b) The building permit basis of the local government is substantially
29 below that of other local governments in the state and the cost of providing
30 the services associated with the issuance of building permits in the
31 previous fiscal year exceeded the total revenue received from building
32 permit fees, excluding any amount of residential construction tax collected,
33 for that fiscal year.

34 4. Upon application by a local government, the Nevada tax
35 commission shall exempt the local government from the limitation on the
36 increase of its building permit basis if:

37 (a) The local government creates an enterprise fund exclusively for fees
38 for building permits;

39 (b) Any interest or other income earned on the money in the enterprise
40 fund is credited to the fund; and

41 (c) The local government does not use any of the money in the
42 enterprise fund for any purpose other than the actual direct and indirect
43 costs of the program for the issuance of building permits, including without
44 limitation, the cost of checking plans, issuing permits, inspecting buildings
45 and administering the program. The executive director of the department of
46 taxation shall adopt regulations governing the permissible expenditures
47 from an enterprise fund pursuant to this paragraph.

48 **Sec. 9.** This act becomes effective on July 1, 2001.

