

ASSEMBLY BILL NO. 654—COMMITTEE ON TAXATION

(ON BEHALF OF CITY OF LAS VEGAS)

MARCH 26, 2001

Referred to Committee on Taxation

SUMMARY—Authorizes governing body of city or county to impose tax on nonresidential structures or require dedication of certain land for regional parks. (BDR 22-477)

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 structures or require the dedication of certain land for regional 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 structure” means a building or structure other than a*
4 *residential dwelling unit or an apartment house, or a building or*
5 *structure constructed by a governmental agency.*
6 **Sec. 2.** NRS 278.497 is hereby amended to read as follows:
7 278.497 As used in NRS 278.497 to 278.4987, inclusive, *and section 1*
8 *of this act*, the words and terms defined in NRS 278.4971 to 278.4977,
9 inclusive, *and section 1 of this act* have the meanings ascribed to them in
10 those sections, unless the context otherwise requires.
11 **Sec. 3.** NRS 278.4979 is hereby amended to read as follows:
12 278.4979 The governing body of a city or county may, by ordinance,
13 require that a subdivider of land or a developer of land for mobile home
14 lots, ~~for~~ an apartment house *or a nonresidential structure* dedicate such
15 land areas, sites and locations for park and playground purposes as are
16 reasonably necessary to serve the proposed subdivision or development
17 and the future ~~residents~~ *occupants* of the subdivision or development.



1 **Sec. 4.** NRS 278.4981 is hereby amended to read as follows:
2 278.4981 1. The ordinance adopted pursuant to NRS 278.4979 must
3 set forth the standards to be applied in determining the amount of land that
4 is required to be dedicated. The ordinance must contain standards
5 determining the amount, quality and location of land that is required to be
6 dedicated which are based upon the number and type of dwelling units or
7 structures, apartment houses , *nonresidential structures* or mobile home
8 lots, or any combination thereof, included in each subdivision or
9 development and give due consideration to the relative desirability and
10 market value of the land that may be included within the area of any
11 particular proposed subdivision or development.

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

14 (a) Provisions for the creation, in accordance with the applicable master
15 plan, of park districts or service areas which would serve neighborhoods ,
16 *regions* or communities of interest within the city or county.

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

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

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

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

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

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

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

46 (a) With respect to the construction of apartment houses and residential
47 dwelling units, 1 percent of the valuation of each building permit issued or
48 ~~\$1,000~~ *\$2,000* per residential dwelling unit, whichever is less. For the
49 purpose of *calculating* the ~~residential~~ construction tax ~~+~~ *pursuant to*



1 *this paragraph*, the city council of the city or the board of county
2 commissioners of the county shall adopt an ordinance basing the valuation
3 of building permits on the actual costs of residential construction in the
4 area.

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

11 *(c) With respect to the construction of nonresidential structures, 1*
12 *percent of the valuation of each building permit issued or \$20,000 per*
13 *nonresidential structure, whichever is less. For the purpose of*
14 *calculating the construction tax pursuant to this paragraph, the city*
15 *council of the city or the board of county commissioners of the county*
16 *shall adopt an ordinance basing the valuation of building permits on the*
17 *actual costs of nonresidential construction in the area.*

18 3. The purpose of the tax *imposed pursuant to this section* is to raise
19 revenue to enable the cities and counties to provide neighborhood parks ,
20 *regional parks* and facilities for parks which are required by ~~the residents~~
21 ~~of those apartment houses, mobile homes and residences.~~ *or for the*
22 *benefit of persons who live or work in the communities and regions*
23 *comprising those cities and counties.*

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

29 (a) Provisions for the creation, in accordance with the applicable master
30 plan, of park districts which would serve neighborhoods , *regions or*
31 *communities of interest* within the city or county.

32 (b) A provision for collecting the tax at the time of issuance of ~~a~~ :

33 (1) *A* building permit for the construction of ~~any~~ apartment houses ,
34 ~~for~~ residential dwelling units ~~or a~~ *or nonresidential structures; or*

35 (2) *A* lot development permit for the development of mobile home
36 lots.

37 5. All ~~residential~~ construction taxes collected pursuant to the
38 provisions of this section and any ordinance enacted by a city council or
39 board of county commissioners, and all interest accrued on the money,
40 must be placed with the city treasurer or county treasurer in a special fund.
41 *The money in the fund that is collected pursuant to paragraphs (a) and*
42 *(b) of subsection 2 must be accounted for separately from the money in*
43 *the fund collected pursuant to paragraph (c) of subsection 2.*

44 6. Except as otherwise provided in subsection ~~6~~ 7, the money in the
45 fund *which is collected pursuant to paragraphs (a) and (b) of subsection*
46 *2* may only be ~~used~~ :

47 (a) *Used* for the acquisition, improvement and expansion of
48 neighborhood parks or the installation of facilities in existing or



1 neighborhood parks in the city or county ~~[- Money in the fund must be~~
2 ~~expended] ; and~~

3 *(b) Expended* for the benefit of the neighborhood from which it was
4 collected.

5 ~~[6-]~~ 7. *Except as otherwise provided in subsection 9, the money in*
6 *the fund which is collected pursuant to paragraph (c) of subsection 2*
7 *may only be used for the acquisition, improvement and expansion of*
8 *regional parks which are located in or serve the city or county from*
9 *which it was collected.*

10 8. If a neighborhood park has not been developed or facilities have not
11 been installed in an existing park in the park district created to serve the
12 neighborhood in which the subdivision or development is located within 3
13 years after the date on which 75 percent of the residential dwelling units
14 authorized within that subdivision or development first became occupied,
15 all money paid by the subdivider or developer ~~[-]~~ *pursuant to paragraph*
16 *(a) or (b) of subsection 2,* together with interest at the rate at which the city
17 or county has invested the money in the fund, must be refunded to the
18 owners of the lots in the subdivision or development at the time of the
19 reversion on a pro rata basis.

20 ~~[7-]~~ 9. *If a regional park has not been developed or facilities have*
21 *not been installed in an existing regional park within 10 years after the*
22 *date on which 75 percent of the nonresidential structures first became*
23 *occupied, all money paid by the developer pursuant to paragraph (c) of*
24 *subsection 2, together with interest at the rate at which the city or county*
25 *has invested the money in the fund, must be refunded to the owners of*
26 *the property at the time of the reversion on a pro rata basis.*

27 10. The limitation of time established pursuant to ~~[subsection 6]~~
28 *subsections 8 and 9* is suspended for any period, not to exceed 1 year,
29 during which this state or the Federal Government takes any action to
30 protect the environment or an endangered species which prohibits, stops or
31 delays the development of a park or installation of facilities.

32 ~~[8. - For the purposes of]~~

33 11. *As used in* this section:

34 (a) "Facilities" means turf, trees, irrigation, playground apparatus,
35 playing fields, areas to be used for organized amateur sports, play areas,
36 picnic areas, horseshoe pits and other recreational equipment or
37 appurtenances designed to serve the ~~[natural persons, families and small~~
38 ~~groups from the neighborhood from which the tax was collected.]~~ *persons*
39 *who use the park in which the facilities are located.*

40 (b) "Neighborhood park" means a site not exceeding 25 acres, designed
41 to serve the recreational and outdoor needs of *the* natural persons, families
42 and small groups ~~[-]~~ *in the neighborhood from which the tax was*
43 *collected.*

44 (c) "Regional park" means a site exceeding 25 acres, designed to
45 *serve the outdoor needs of the region in which it is located.*



1 **Sec. 6.** NRS 278.4985 is hereby amended to read as follows:
2 278.4985 1. The city council of any city or the board of county
3 commissioners of any county which has adopted a master plan as provided
4 in this chapter which includes future or present sites for parks and
5 playgrounds may require that:

6 (a) The developers of a planned unit development dedicate land as
7 provided by NRS 278.4979 ~~to 278.4981, inclusive,~~ , 278.498 and
8 278.4981; or

9 (b) A residential construction tax be imposed on the privilege of
10 constructing planned unit developments in the manner provided by NRS
11 278.4983,
12 if the ordinance defining and regulating planned unit developments in the
13 particular city or county imposes open space requirements less than those
14 required by the ordinance adopted pursuant to NRS 278.4981.

15 2. If a requirement to dedicate land or pay a ~~residential~~ construction
16 tax is imposed on the construction of a planned unit development, the
17 planned unit development is eligible to receive a credit against the amount
18 of land to be dedicated or the amount of the ~~residential~~ construction tax
19 imposed, for the amount and value of the developed open space within the
20 planned unit development.

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

22 278.4987 1. The requirement for dedication of land ~~under~~ pursuant
23 to NRS 278.4979 ~~to 278.4981, inclusive,~~ , 278.498 and 278.4981 and the
24 imposition of ~~the residential~~ a construction tax ~~under~~ pursuant to NRS
25 278.4983 ~~+~~ are mutually exclusive as to any particular subdivision,
26 apartment house, mobile home lot , *nonresidential structure* or residential
27 dwelling unit which may be benefited or affected by any such requirement
28 or imposition.

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

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

34 354.59891 1. As used in this section:

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

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

40 (c) "Building permit fee" means the total fees that must be paid before
41 the issuance of a building permit, including , without limitation, all permit
42 fees and inspection fees. The term does not include, without limitation, fees
43 relating to water, sewer or other utilities, ~~residential~~ construction tax ~~+~~
44 imposed pursuant to NRS 278.4983, *residential construction tax imposed*
45 pursuant to NRS 387.331, tax for the improvement of transportation
46 imposed pursuant to NRS 278.710, any fee imposed pursuant to NRS
47 244.386 or any amount expended to change the zoning of the property.

48 2. Except as otherwise provided in subsections 3 and 4, a local
49 government shall not increase its building permit basis by more than an



1 amount equal to the building permit basis on June 30, 1989, multiplied by a
2 percentage equal to the percentage increase in the consumer price index
3 from January 1, 1988, to the January 1 next preceding the fiscal year for
4 which the calculation is made.

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

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

11 (b) The building permit basis of the local government is substantially
12 below that of other local governments in the state and the cost of providing
13 the services associated with the issuance of building permits in the
14 previous fiscal year exceeded the total revenue received from building
15 permit fees, excluding any amount of residential construction tax collected,
16 for that fiscal year.

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

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

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

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

