

ASSEMBLY BILL NO. 352—ASSEMBLYWOMAN KIRKPATRICK

MARCH 22, 2005

Referred to Committee on Government Affairs

SUMMARY—Allows portion of impact fee collected for park project to be used to pay for police and fire protection under certain circumstances. (BDR 22-768)

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 impact fees; allowing a portion of an impact fee collected for a park project to be expended to pay for services of police and fire protection 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:

**Section 1.** Chapter 278B of NRS is hereby amended by adding thereto a new section to read as follows:

*1. Except as otherwise required by federal law or regulation, if the governing body of a local government:*

*(a) Imposes an impact fee for a park project; and*

*(b) Subsequently receives or has a commitment to receive additional money that may be used for the park project from federal grants or appropriations, private gifts, donations or bequests, or from any other source,*

*↪ the governing body may amend the ordinance imposing the impact fee or adopt a separate ordinance to allow the expenditure of not more than 50 percent of the proceeds of the impact fee for the park project to pay for and support services of police and fire protection within the jurisdiction of the local government.*



2. *Upon the amendment of the ordinance imposing the impact fee or the adoption of a separate ordinance pursuant to subsection 1, no further action by the governing body is necessary to authorize the expenditure of a portion of the proceeds of the impact fee in the manner and for the purposes set forth in that subsection.*

**Sec. 2.** NRS 278B.160 is hereby amended to read as follows:

278B.160 1. A local government may by ordinance impose an impact fee in a service area to pay the cost of constructing a capital improvement or facility expansion necessitated by and attributable to new development. Except as otherwise provided in NRS 278B.220, the cost may include only:

- (a) The estimated cost of actual construction;
- (b) Estimated fees for professional services;
- (c) The estimated cost to acquire the land; and
- (d) The fees paid for professional services required for the preparation or revision of a capital improvements plan in anticipation of the imposition of an impact fee.

2. All property owned by a school district is exempt from the requirement of paying impact fees imposed pursuant to this chapter.

*3. The provisions of this section do not prohibit the expenditure of a portion of the proceeds of an impact fee imposed for a park project in the manner and for the purposes authorized by section 1 of this act.*

**Sec. 3.** NRS 278B.250 is hereby amended to read as follows:

278B.250 An impact fee must not be collected unless:

1. Collection is made to pay for ~~la~~:

(a) A capital improvement or facility expansion which has been identified in the capital improvements plan; *or*

(b) *An expenditure authorized pursuant to section 1 of this act;*

2. The local government agrees to reserve capacity to serve future development and the owner and the local government enter into a written agreement to do so; or

3. The local government agrees that the owner of a new development may construct or finance the capital improvements or facility expansions and:

(a) The costs incurred or money advanced will be credited against the impact fees otherwise due from the new development; or

(b) It will reimburse the owner for those costs from the impact fees paid from other developments which will use those capital improvements or facility expansions.

**Sec. 4.** NRS 278B.260 is hereby amended to read as follows:

278B.260 1. The local government shall, upon the request of an owner of real property for which an impact fee has been



collected, refund the impact fee and any interest and income earned on the impact fee by the local government, if:

(a) After collecting the fee the local government did not begin construction of the capital improvement or facility expansion for which the fee was collected within 5 years after collecting the fee; or

(b) The fee, or any portion thereof, was not spent for the purpose for which it was collected *or expended in the manner authorized by section 1 of this act* within 10 years after the date on which it was collected.

2. The local government shall, upon the completion of the capital improvement or facility expansion identified in the capital improvements plan or upon expenditure of fees collected from a development, recalculate the impact fee for that development by using the actual costs of the capital improvement or facility expansion or the actual costs of those capital improvements or facility expansions completed and engineering estimates of those capital improvements or facility expansions to be completed within the service area. *If the governing body of a local government has, pursuant to section 1 of this act, exercised its authority to allow a portion of the proceeds of an impact fee for a park project to be used to pay for and support services of police and fire protection within the jurisdiction of the local government, any recalculation of the impact fee pursuant to this subsection must take into account:*

*(a) The receipt of money for the park project from other sources; and*

*(b) The use of a portion of the proceeds of the fee to pay for and support services of police and fire protection.*

3. If the impact fee based on the cost or recalculated cost is less than the impact fee paid, the local government shall refund:

(a) The difference if the actual costs are known; or

(b) The difference if it exceeds the impact fee paid by more than 10 percent, if estimates are used,

➔ and any interest and income earned by the local government on the amount of money refunded.

4. The local government shall refund any impact fee or part thereof, and any interest and income earned by the local government on the amount of money refunded, if it is not spent within 10 years after the date of payment.

5. Each refund must be paid to the owner of the property on record at the time the refund is paid. If a local government paid the impact fee, the refund must be paid to that local government.

6. Any limitation of time established by this section is suspended for any period, not to exceed 1 year, during which this



1 State or the Federal Government takes any action to protect the  
2 environment or an endangered species which prohibits, stops or  
3 delays the construction of the capital improvement or facility  
4 expansion for which an impact fee was collected.

5 **Sec. 5.** NRS 278B.280 is hereby amended to read as follows:

6 278B.280 ~~Impact~~ *Except as otherwise provided in section 1*  
7 *of this act, impact* fees must not be used for:

8 1. The construction, acquisition or expansion of public  
9 facilities or assets other than capital improvements or facility  
10 expansions which are included in the capital improvements plan.

11 2. The repair, operation or maintenance of existing or new  
12 capital improvements or facility expansions.

13 3. The upgrading, expansion or replacement of existing capital  
14 improvements or facilities to serve existing development to meet  
15 more stringent safety, environmental or regulatory standards.

16 4. The upgrading, expansion or replacement of existing capital  
17 improvements or facilities to provide better service to existing  
18 development.

19 5. The administrative and operating costs of the local  
20 government.

21 6. Except as otherwise provided in NRS 278B.220, the  
22 payments of principal and interest or other finance charges on bonds  
23 or other indebtedness.

24 **Sec. 6.** The amendatory provisions of this act do not apply to  
25 an agreement into which a local government entered pursuant to  
26 NRS 278B.240 or 278B.250 before July 1, 2005, unless the parties  
27 agree otherwise.

28 **Sec. 7.** This act becomes effective on July 1, 2005.

