

ASSEMBLY BILL NO. 371—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ASSOCIATION OF COUNTY
TREASURERS OF NEVADA)

MARCH 23, 2005

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning public financial
administration. (BDR 31-605)

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 public financial administration; authorizing the dissemination of certain reports of audits of state agencies and local governments without the consent of the auditor; providing criteria for the approval of investment advisers to make certain investments for local governments; authorizing certain banks and trusts to hold certain securities on behalf of local governments under certain circumstances; establishing requirements for agreements to locate, deliver, recover or assist in the recovery of certain property held in trust by a county treasurer; providing that a deed made to the county treasurer as trustee for the State and county is, except as against actual fraud, conclusive evidence of certain matters; increasing the payment to the county general fund from the proceeds of the sale of properties for delinquent taxes; 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.** NRS 353.325 is hereby amended to read as follows:
- 2 353.325 *1.* Each state agency, within 10 days after receiving
- 3 an audit report pertaining to that agency, including a management



1 letter and the agency's reply, shall submit one copy of the audit
2 report to:

3 ~~1.1~~ (a) The Chief of the Budget Division of the Department of
4 Administration ~~1.2~~;

5 ~~2.1~~;

6 (b) The State Controller ~~1.3~~;

7 ~~3.1~~; and

8 (c) The Legislative Auditor.

9 2. *The audit report, including, without limitation, the opinion
10 and findings of the auditor contained in the audit report, may be
11 disseminated by or on behalf of the state agency for which the
12 report was prepared by inclusion, without limitation, in or on:*

13 (a) *An official statement or other document prepared in
14 connection with the offering of bonds or other securities;*

15 (b) *A filing made pursuant to the laws or regulations of this
16 State;*

17 (c) *A filing made pursuant to a rule or regulation of the
18 Securities and Exchange Commission of the United States; or*

19 (d) *A website maintained by a state agency on the Internet or
20 its successor,*

21 *↪ without the consent of the auditor who prepared the audit
22 report. A provision of a contract entered into between an auditor
23 and a state agency that is contrary to the provisions of this
24 subsection is against the public policy of this State and is void and
25 unenforceable.*

26 **Sec. 2.** NRS 354.624 is hereby amended to read as follows:

27 354.624 1. Each local government shall provide for an annual
28 audit of all of its financial statements. A local government may
29 provide for more frequent audits as it deems necessary. Except as
30 otherwise provided in subsection 2, each annual audit must be
31 concluded and the report of the audit submitted to the governing
32 body as provided in subsection 6 not later than 5 months after the
33 close of the fiscal year for which the audit is conducted. An
34 extension of this time may be granted by the Department of
35 Taxation to any local government that submits an application for an
36 extension to the Department. If the local government fails to provide
37 for an audit in accordance with the provisions of this section, the
38 Department of Taxation shall cause the audit to be made at the
39 expense of the local government. All audits must be conducted by a
40 certified public accountant or by a partnership or professional
41 corporation that is registered pursuant to chapter 628 of NRS.

42 2. The annual audit of a school district must:

43 (a) Be concluded and the report submitted to the board of
44 trustees as provided in subsection 6 not later than 4 months after the
45 close of the fiscal year for which the audit is conducted.



(b) If the school district has more than 150,000 pupils enrolled, include an audit of the expenditure by the school district of public money used:

(1) To design, construct or purchase new buildings for schools or related facilities;

(2) To enlarge, remodel or renovate existing buildings for schools or related facilities; and

(3) To acquire sites for building schools or related facilities, or other real property for purposes related to schools.

3. The governing body may, without requiring competitive bids, designate the auditor or firm annually. The auditor or firm must be designated, and notification of the auditor or firm designated must be sent to the Department of Taxation not later than 3 months before the close of the fiscal year for which the audit is to be made.

4. Each annual audit must cover the business of the local government during the full fiscal year. It must be a financial audit conducted in accordance with generally accepted auditing standards in the United States, including findings on compliance with statutes and regulations and an expression of opinion on the financial statements. The Department of Taxation shall prescribe the form of the financial statements, and the chart of accounts must be as nearly as possible the same as the chart that is used in the preparation and publication of the annual budget. The report of the audit must include:

(a) A schedule of all fees imposed by the local government which were subject to the provisions of NRS 354.5989;

(b) A comparison of the operations of the local government with the approved budget, including a statement from the auditor that indicates whether the governing body has taken action on the audit report for the prior year; and

(c) If the local government is subject to the provisions of NRS 244.186, a report showing that the local government is in compliance with the provisions of paragraphs (a) and (b) of subsection 1 of NRS 244.186.

5. Each local government shall provide to its auditor:

(a) A statement indicating whether each of the following funds established by the local government is being used expressly for the purposes for which it was created, in the form required by NRS 354.6241:

(1) An enterprise fund.

(2) An internal service fund.

(3) A fiduciary fund.

(4) A self-insurance fund.

(5) A fund whose balance is required by law to be:



(I) Used only for a specific purpose other than the payment of compensation to a bargaining unit, as defined in NRS 288.028; or

(II) Carried forward to the succeeding fiscal year in any designated amount.

(b) A list and description of any property conveyed to a nonprofit organization pursuant to NRS 244.287 or 268.058.

(c) If the local government is subject to the provisions of NRS 244.186, a declaration indicating that the local government is in compliance with the provisions of paragraph (c) of subsection 1 of NRS 244.186.

6. The opinion and findings of the auditor contained in the report of the audit must be presented at a meeting of the governing body held not more than 30 days after the report is submitted to it. Immediately thereafter, the entire report, together with the management letter required by generally accepted auditing standards in the United States or by regulations adopted pursuant to NRS 354.594, must be filed as a public record with:

(a) The clerk or secretary of the governing body;

(b) The county clerk;

(c) The Department of Taxation; and

(d) In the case of a school district, the Department of Education.

7. *The report of the audit, including, without limitation, the opinion and findings of the auditor contained in the report of the audit, may be disseminated by or on behalf of the local government for which the report was prepared by inclusion, without limitation, in or on:*

(a) An official statement or other document prepared in connection with the offering of bonds or other securities;

(b) A filing made pursuant to the laws or regulations of this State;

(c) A filing made pursuant to a rule or regulation of the Securities and Exchange Commission of the United States; or

(d) A website maintained by a local government on the Internet or its successor,

↪ without the consent of the auditor who prepared the report of the audit. A provision of a contract entered into between an auditor and a local government that is contrary to the provisions of this subsection is against the public policy of this State and is void and unenforceable.

8. If an auditor finds evidence of fraud or dishonesty in the financial statements of a local government, the auditor shall report such evidence to the appropriate level of management in the local government.



~~8.1~~ 9. The governing body shall act upon the recommendations of the report of the audit within 3 months after receipt of the report, unless prompter action is required concerning violations of law or regulation, by setting forth in its minutes its intention to adopt the recommendations, to adopt them with modifications or to reject them for reasons shown in the minutes.

Sec. 3. NRS 355.171 is hereby amended to read as follows:

355.171 1. Except as otherwise provided in this section, a board of county commissioners, a board of trustees of a county school district or the governing body of an incorporated city may purchase for investment:

(a) Notes, bonds and other unconditional obligations for the payment of money issued by corporations organized and operating in the United States that:

(1) Are purchased from a registered broker-dealer;

(2) At the time of purchase have a remaining term to maturity of no more than 5 years; and

(3) Are rated by a nationally recognized rating service as "A" or its equivalent, or better.

(b) Collateralized mortgage obligations that are rated by a nationally recognized rating service as "AAA" or its equivalent.

(c) Asset-backed securities that are rated by a nationally recognized rating service as "AAA" or its equivalent.

2. With respect to investments purchased pursuant to paragraph (a) of subsection 1:

(a) Such investments must not, in aggregate value, exceed 20 percent of the total portfolio as determined on the date of purchase;

(b) Not more than 25 percent of such investments may be in notes, bonds and other unconditional obligations issued by any one corporation; and

(c) If the rating of an obligation is reduced to a level that does not meet the requirements of that paragraph, the obligation must be sold as soon as possible.

3. Subsections 1 and 2 do not:

(a) Apply to a:

(1) Board of county commissioners of a county whose population is less than 100,000;

(2) Board of trustees of a county school district in a county whose population is less than 100,000; or

(3) Governing body of an incorporated city whose population is less than 100,000,

↪ unless the purchase is effected by the State Treasurer pursuant to his investment of a pool of money from local governments or by an investment adviser who is registered with the Securities and Exchange Commission ~~and~~ , *has been* approved by the State



1 Board of Finance ~~[]~~ pursuant to subsection 4 and has entered into
2 a contract with the State Treasurer relating to the purchase and
3 investment of securities.

4 (b) Authorize the investment of money administered pursuant to
5 a contract, debenture agreement or grant in a manner not authorized
6 by the terms of the contract, agreement or grant.

7 **4. The State Board of Finance shall not approve an**
8 **investment adviser unless the adviser has:**

9 (a) **At least 10 years of experience advising governmental**
10 **entities concerning the investment of public money, at least 5**
11 **years of which have been within the immediately preceding 10**
12 **years;**

13 (b) **Managed, on behalf of governmental entities, investment**
14 **portfolios with a combined value of \$100,000,000 or more; and**

15 (c) **Demonstrated knowledge of the laws of this State**
16 **concerning investment of public money.**

17 **Sec. 4.** NRS 355.172 is hereby amended to read as follows:

18 355.172 1. Except as otherwise provided in NRS 355.178,
19 any securities purchased as an investment of money by or on behalf
20 of a local government, as defined in NRS 354.474, must remain in
21 the possession of the county treasurer, the appropriate officer of that
22 local government or a **qualified** bank ~~[, as provided in subsection 2,]~~
23 **or trust**, throughout the period of the investment, except that any
24 securities subject to repurchase by the seller may be evidenced by a
25 fully perfected, first-priority security interest, as provided in
26 subsection 3.

27 2. The county treasurer or the appropriate officer of a local
28 government may physically possess those securities, which must be
29 ~~[in bearer form or]~~ registered in the name of the local government,
30 or may make an agreement, in writing, with ~~[the trust department of]~~
31 any **qualified** bank ~~[insured by the Federal Deposit Insurance~~
32 ~~Corporation]~~ **or trust** to hold those securities ~~[in trust]~~ for , **and in**
33 **the name of**, that local government. If such an agreement is made,
34 the ~~[trust department]~~ **bank or trust** shall furnish the county
35 treasurer or the appropriate officer of the local government with a
36 written statement acknowledging that it is so holding the securities.

37 3. If the securities purchased are subject to an arrangement for
38 the repurchase of those securities by the seller thereof, the county
39 treasurer, the appropriate officer of the local government or a ~~[trust~~
40 ~~department of a bank, as provided in subsection 2,]~~ **qualified bank**
41 **or trust** may, in lieu of the requirement of possession, obtain the
42 sole, fully perfected, first-priority security interest in those
43 securities. If the ~~[trust department of a]~~ bank **or trust** obtains such a
44 security interest, it shall furnish the county treasurer or the
45 appropriate officer of the local government with a written statement



1 acknowledging that fact. Any securities so purchased must, at the
2 time of purchase by or for a local government, have a fair market
3 value equal to or greater than the repurchase price of the securities.

4 *4. For the purposes of this section, a bank or trust is qualified*
5 *to hold securities for a local government if the bank or trust is*
6 *rated by a nationally recognized rating service as "AA" or its*
7 *equivalent, or better.*

8 **Sec. 5.** NRS 361.585 is hereby amended to read as follows:

9 361.585 1. When the time allowed by law for the redemption
10 of a property described in a certificate has expired, and no
11 redemption has been made, the tax receiver who issued the
12 certificate, or his successor in office, shall execute and deliver to the
13 county treasurer a deed of the property in trust for the use and
14 benefit of the State and county and any officers having fees due
15 them.

16 2. The county treasurer and his successors in office, upon
17 obtaining a deed of any property in trust under the provisions of this
18 chapter, shall hold that property in trust until it is sold or otherwise
19 disposed of pursuant to the provisions of this chapter.

20 3. Notwithstanding the provisions of NRS 361.595 or 361.603,
21 at any time during the 90-day period specified in NRS 361.603, or
22 before the public notice of sale by a county treasurer, pursuant to
23 NRS 361.595, of any property held in trust by him by virtue of any
24 deed made pursuant to the provisions of this chapter, any person
25 specified in subsection 4 is entitled to have the property reconveyed
26 upon payment to the county treasurer of an amount equal to the
27 taxes accrued, together with any costs, penalties and interest legally
28 chargeable against the property. A reconveyance may not be made
29 after expiration of the 90-day period specified in NRS 361.603 or
30 after commencement of posting or publication of public notice
31 pursuant to NRS 361.595.

32 4. Property may be reconveyed pursuant to subsection 3 to one
33 or more of the persons specified in the following categories, or to
34 one or more persons within a particular category, as their interests
35 may appear of record:

36 (a) The owner.

37 (b) The beneficiary under a deed of trust.

38 (c) The mortgagee under a mortgage.

39 (d) The person to whom the property was assessed.

40 (e) The person holding a contract to purchase the property
41 before its conveyance to the county treasurer.

42 (f) The successor in interest of any person specified in this
43 subsection.



5. *Any agreement to locate, deliver, recover or assist in the recovery of any property held in trust by a county treasurer by virtue of any deed made pursuant to the provisions of this chapter:*

(a) *Must:*

(1) *Be in writing.*

(2) *Be signed by one or more of the persons identified in subsection 4.*

(3) *Include a description of the property.*

(4) *Include the value of the property.*

(b) *Must not impose a fee that is more than 10 percent of the total value of the property.*

6. The provisions of this section apply to land held in trust by a county treasurer on or after April 17, 1971.

Sec. 6. NRS 361.590 is hereby amended to read as follows:

361.590 1. If a property described in a certificate is not redeemed within the time allowed by law for its redemption, the tax receiver or his successor in office shall make to the county treasurer as trustee for the State and county a deed of the property, reciting in the deed substantially the matters contained in the certificate of sale or, in the case of a conveyance under NRS 361.604, the order of the board of county commissioners, and that no person has redeemed the property during the time allowed for its redemption.

2. The deed must be recorded in the office of the county recorder within 30 days after the date of expiration of the period of redemption.

3. All such deeds are ~~primary~~ , *except as against actual fraud, conclusive* evidence that:

(a) The property was assessed as required by law.

(b) The property was equalized as required by law.

(c) The taxes were levied in accordance with law.

(d) The taxes were not paid.

(e) At a proper time and place a certificate of delinquency was filed as prescribed by law, and by the proper officer.

(f) The property was not redeemed.

(g) The person who executed the deed was the proper officer.

4. Such deeds are, except as against actual fraud, conclusive evidence of the regularity of all other proceedings, from the assessment by the county assessor to the execution of the deed.

5. The deed conveys to the county treasurer as trustee for the State and county the property described therein, free of all encumbrances, except any easements of record for public utility purposes, any lien for taxes or assessments by any irrigation or other district for irrigation or other district purposes, and any interest and penalties on the property, except when the land is owned by the United States or this State, in which case it is prima facie evidence



1 of the right of possession accrued as of the date of the deed to the
2 purchaser, but without prejudice to the lien for other taxes or
3 assessments or the claim of any such district for interest or penalties.

4 6. No tax assessed upon any property, or sale therefor, may be
5 held invalid by any court of this State on account of:

6 (a) Any irregularity in any assessment;

7 (b) Any assessment or tax roll not having been made or
8 proceeding had within the time required by law; or

9 (c) Any other irregularity, informality, omission, mistake or
10 want of any matter of form or substance in any proceedings which
11 the Legislature might have dispensed with in the first place if it had
12 seen fit so to do, and that does not affect the substantial property
13 rights of persons whose property is taxed.

14 ➔ All such proceedings in assessing and levying taxes, and in the
15 sale and conveyance therefor, must be presumed by all the courts of
16 this State to be legal until the contrary is shown affirmatively.

17 **Sec. 7.** NRS 361.610 is hereby amended to read as follows:

18 361.610 1. Out of the sale price or rents of any property of
19 which he is trustee, the county treasurer shall pay the costs due any
20 officer for the enforcement of the tax upon the parcel of property
21 and all taxes owing thereon, ~~and~~ and upon the redemption of any
22 property from him as trustee, he shall pay the redemption money
23 over to any officers having fees due them from the parcels of
24 property and pay the tax for which it was sold and pay the
25 redemption percentage according to the proportion those fees
26 respectively bear to the tax.

27 2. In no case may any service rendered by any officer under
28 this chapter become or be allowed as a charge against the county,
29 nor may the sale price or rent or redemption money of any one
30 parcel of property be appropriated to pay any cost or tax upon any
31 other parcel of property than that so sold, rented or redeemed.

32 3. After paying all the tax and costs upon any one parcel of
33 property, the county treasurer shall pay into the general fund of the
34 county, from the excess proceeds of the sale:

35 (a) The first \$300 of the excess proceeds; and

36 (b) Ten percent of the next ~~[\$2,000]~~ **\$10,000** of the excess
37 proceeds.

38 4. The amount remaining after the county treasurer has paid the
39 amount required by subsection 3 must be deposited in an interest-
40 bearing account maintained for the purpose of holding excess
41 proceeds separate from other money of the county. If no claim is
42 made for the money within 2 years after the deed given by the
43 county treasurer is recorded, the county treasurer shall pay the
44 money into the general fund of the county, and it must not thereafter
45 be refunded to the former property owner or his successors in



1 interest. All interest paid on money deposited in the account
2 required by this subsection is the property of the county.

3 5. If a person who would have been entitled to receive
4 reconveyance of the property pursuant to NRS 361.585 makes a
5 claim in writing for the balance within 2 years after the deed is
6 recorded, the county treasurer shall pay it or his proper portion over
7 to him if he is satisfied that the person is entitled to it.

8 **Sec. 8.** 1. This section and sections 1 and 2 of this act
9 become effective upon passage and approval.

10 2. Sections 3 to 7, inclusive, of this act become effective on
11 July 1, 2005.



