

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; 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
- 4 letter and the agency's reply, shall submit one copy of the audit
- 5 report to:



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

~~2.1~~;

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

~~3.1~~; and

(c) The Legislative Auditor.

2. *The audit report, including, without limitation, the opinion and findings of the auditor contained in the audit report, may be disseminated by or on behalf of the state agency 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 state agency on the Internet or its successor,*

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

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

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

2. The annual audit of a school district must:

(a) Be concluded and the report submitted to the board of trustees as provided in subsection 6 not later than 4 months after the 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. *After the report of the audit is filed by the local government, 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-]~~ 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 355.172 is hereby amended to read as follows:

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

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

3. If the securities purchased are subject to an arrangement for the repurchase of those securities by the seller thereof, the county treasurer, the appropriate officer of the local government or a ~~[trust department of a bank, as provided in subsection 2,]~~ *qualified bank or trust* may, in lieu of the requirement of possession, obtain the sole, fully perfected, first-priority security interest in those securities. If the ~~[trust department of a]~~ bank *or trust* obtains such a security interest, it shall furnish the county treasurer or the appropriate officer of the local government with a written statement acknowledging that fact. Any securities so purchased must, at the time of purchase by or for a local government, have a fair market value equal to or greater than the repurchase price of the securities.

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

Sec. 4. NRS 361.585 is hereby amended to read as follows:

361.585 1. When the time allowed by law for the redemption of a property described in a certificate has expired, and no



1 redemption has been made, the tax receiver who issued the
2 certificate, or his successor in office, shall execute and deliver to the
3 county treasurer a deed of the property in trust for the use and
4 benefit of the State and county and any officers having fees due
5 them.

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

10 3. Notwithstanding the provisions of NRS 361.595 or 361.603,
11 at any time during the 90-day period specified in NRS 361.603, or
12 before the public notice of sale by a county treasurer, pursuant to
13 NRS 361.595, of any property held in trust by him by virtue of any
14 deed made pursuant to the provisions of this chapter, any person
15 specified in subsection 4 is entitled to have the property reconveyed
16 upon payment to the county treasurer of an amount equal to the
17 taxes accrued, together with any costs, penalties and interest legally
18 chargeable against the property. A reconveyance may not be made
19 after expiration of the 90-day period specified in NRS 361.603 or
20 after commencement of posting or publication of public notice
21 pursuant to NRS 361.595.

22 4. Property may be reconveyed pursuant to subsection 3 to one
23 or more of the persons specified in the following categories, or to
24 one or more persons within a particular category, as their interests
25 may appear of record:

26 (a) The owner.

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

28 (c) The mortgagee under a mortgage.

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

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

32 (f) The successor in interest of any person specified in this
33 subsection.

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

37 (a) *Must:*

38 (1) *Be in writing.*

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

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

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

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



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

3 **Sec. 5.** NRS 361.590 is hereby amended to read as follows:

4 361.590 1. If a property described in a certificate is not
5 redeemed within the time allowed by law for its redemption, the tax
6 receiver or his successor in office shall make to the county treasurer
7 as trustee for the State and county a deed of the property, reciting in
8 the deed substantially the matters contained in the certificate of sale
9 or, in the case of a conveyance under NRS 361.604, the order of the
10 board of county commissioners, and that no person has redeemed
11 the property during the time allowed for its redemption.

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

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

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

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

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

20 (d) The taxes were not paid.

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

23 (f) The property was not redeemed.

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

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

28 5. The deed conveys to the county treasurer as trustee for the
29 State and county the property described therein, free of all
30 encumbrances, except any easements of record for public utility
31 purposes, any lien for taxes or assessments by any irrigation or other
32 district for irrigation or other district purposes, and any interest and
33 penalties on the property, except when the land is owned by the
34 United States or this State, in which case it is prima facie evidence
35 of the right of possession accrued as of the date of the deed to the
36 purchaser, but without prejudice to the lien for other taxes or
37 assessments or the claim of any such district for interest or penalties.

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

40 (a) Any irregularity in any assessment;

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

43 (c) Any other irregularity, informality, omission, mistake or
44 want of any matter of form or substance in any proceedings which
45 the Legislature might have dispensed with in the first place if it had



1 seen fit so to do, and that does not affect the substantial property
2 rights of persons whose property is taxed.

3 ➡ All such proceedings in assessing and levying taxes, and in the
4 sale and conveyance therefor, must be presumed by all the courts of
5 this State to be legal until the contrary is shown affirmatively.

6 **Sec. 6.** NRS 361.610 is hereby amended to read as follows:

7 361.610 1. Out of the sale price or rents of any property of
8 which he is trustee, the county treasurer shall pay the costs due any
9 officer for the enforcement of the tax upon the parcel of property
10 and all taxes owing thereon, ~~and~~ and upon the redemption of any
11 property from him as trustee, he shall pay the redemption money
12 over to any officers having fees due them from the parcels of
13 property and pay the tax for which it was sold and pay the
14 redemption percentage according to the proportion those fees
15 respectively bear to the tax.

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

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

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

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

27 4. The amount remaining after the county treasurer has paid the
28 amount required by subsection 3 must be deposited in an interest-
29 bearing account maintained for the purpose of holding excess
30 proceeds separate from other money of the county. If no claim is
31 made for the money within 2 years after the deed given by the
32 county treasurer is recorded, the county treasurer shall pay the
33 money into the general fund of the county, and it must not thereafter
34 be refunded to the former property owner or his successors in
35 interest. All interest paid on money deposited in the account
36 required by this subsection is the property of the county.

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

42 **Sec. 7.** This act becomes effective upon passage and approval.

