

Amendment No. 426

Senate Amendment to Senate Bill No. 67

(BDR 25-880)

Proposed by: Committee on Government Affairs**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

| ASSEMBLY ACTION | Initial and Date | SENATE ACTION | Initial and Date |
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| Adopted <input type="checkbox"/> Lost <input type="checkbox"/> | _____ | Adopted <input type="checkbox"/> Lost <input type="checkbox"/> | _____ |
| Concurred In <input type="checkbox"/> Not <input type="checkbox"/> | _____ | Concurred In <input type="checkbox"/> Not <input type="checkbox"/> | _____ |
| Receded <input type="checkbox"/> Not <input type="checkbox"/> | _____ | Receded <input type="checkbox"/> Not <input type="checkbox"/> | _____ |

Amend the bill as a whole by deleting sections 1 through 4, renumbering sec. 5 as sec. 9 and adding new sections designated sections 1 through 8, following the enacting clause, to read as follows:

“Section 1. Chapter 354 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *If the governing body of a local government determines by the affirmative vote of a majority of its members that, because the local government is involved in litigation or threatened litigation, the local government is or will be in a severe financial emergency, the governing body may submit a request to the Nevada Tax Commission for an order that the Department, as soon as*

AM/MSM

Date: 4/22/2005

S.B. No. 67—Authorizes general improvement district to file petition in bankruptcy pursuant to the Federal Bankruptcy Act and clarifies status of general improvement district as municipality.



practicable, take over the management of the local government pursuant to the provisions of NRS 354.655 to 354.725, inclusive, and this section and section 3 of this act.

2. If the Nevada Tax Commission receives a request pursuant to subsection 1, the Nevada Tax Commission shall order the Department to take over the management of the local government.

Sec. 3. If the Department takes over the management of a local government because the local government is involved in litigation or threatened litigation and if a creditor of the local government is allowed by law to commence or maintain an action in the nature of an attachment, garnishment or execution in the courts of this State against the local government or its assets, the action must be stayed until the following conditions have been satisfied:

(a) The creditor must meet with the Department to formulate a program for the liquidation of the debt owed by the local government to that creditor; and

(b) The Department must adopt a program for the liquidation of the debt owed by the local government to the creditor as described in paragraph (a). The Department shall formulate the program not later than 60 days after meeting with the creditor pursuant to paragraph (a). The formulation of the program is a final decision for the purposes of judicial review.

Sec. 4. NRS 354.655 is hereby amended to read as follows:

354.655 As used in NRS 354.655 to 354.725, inclusive, *and sections 2 and 3 of this act*, unless the context requires otherwise:

1. “Committee” means the Committee on Local Government Finance.
2. “Department” means the Department of Taxation.
3. “Executive Director” means the Executive Director of the Department of Taxation.

4. “Local government” means any local government subject to the provisions of the Local Government Budget and Finance Act.

5. The words and terms defined in the Local Government Budget and Finance Act have the meanings ascribed to them in that act.

Sec. 5. NRS 354.657 is hereby amended to read as follows:

354.657 1. The purpose of NRS 354.655 to 354.725, inclusive, *and sections 2 and 3 of this act*, is to provide specific methods for the treatment of delinquent documents, technical financial assistance and severe financial emergency.

2. To accomplish the purpose set forth in subsection 1, the provisions of NRS 354.655 to 354.725, inclusive, *and sections 2 and 3 of this act*, must be broadly and liberally construed.

Sec. 6. NRS 354.695 is hereby amended to read as follows:

354.695 1. As soon as practicable after taking over the management of a local government, the Department shall, with the approval of the Committee:

- (a) Establish and implement a management policy and a financing plan for the local government;
- (b) Provide for the appointment of a financial manager for the local government who is qualified to manage the fiscal affairs of the local government;
- (c) Provide for the appointment of any other persons necessary to enable the local government to provide the basic services for which it was created in the most economical and efficient manner possible;
- (d) Establish an accounting system and separate accounts in a bank or credit union, if necessary, to receive and expend all money and assets of the local government;

(e) Impose such hiring restrictions as deemed necessary after considering the recommendations of the financial manager;

(f) Negotiate and approve all contracts entered into by or on behalf of the local government before execution and enter into such contracts on behalf of the local government as the Department deems necessary;

(g) Negotiate and approve all collective bargaining contracts to be entered into by the local government, except issues submitted to a fact finder whose findings and recommendations are final and binding pursuant to the provisions of the Local Government Employee-Management Relations Act;

(h) Approve all expenditures of money from any fund or account and all transfers of money from one fund to another;

(i) Employ such technicians as are necessary for the improvement of the financial condition of the local government;

(j) Meet with the creditors of the local government and formulate a debt liquidation program;

(k) ***If the Department has taken over the management of a local government because the local government is involved in litigation or threatened litigation, carry out the duties set forth in section 3 of this act, if the provisions of that section are applicable;***

(l) Approve the issuance of bonds or other forms of indebtedness by the local government;

~~{(l)}~~ (m) Discharge any of the outstanding debts and obligations of the local government; and

~~{(m)}~~ (n) Take any other actions necessary to ensure that the local government provides the basic services for which it was created in the most economical and efficient manner possible.

2. The Department may provide for reimbursement from the local government for the expenses the Department incurs in managing the local government. If such reimbursement is not possible, the Department may request an allocation by the Interim Finance Committee from the Contingency Fund pursuant to NRS 353.266, 353.268 and 353.269.

3. The governing body of a local government which is being managed by the Department pursuant to this section may make recommendations to the Department or the financial manager concerning the management of the local government.

4. Each state agency, board, department, commission, committee or other entity of the State shall provide such technical assistance concerning the management of the local government as is requested by the Department.

5. The Department may delegate any of the powers and duties imposed by this section to the financial manager appointed pursuant to paragraph (b) of subsection 1.

6. Except as otherwise provided in NRS 354.723 and 450.760, once the Department has taken over the management of a local government pursuant to the provisions of subsection 1, that management may only be terminated pursuant to NRS 354.725.

Sec. 7. NRS 31.010 is hereby amended to read as follows:

31.010 ~~{The}~~

1. *Except as otherwise provided in subsection 2, the* plaintiff at the time of issuing the summons, or at any time thereafter, may apply to the court for an order directing the clerk to issue a writ of attachment and thereby cause the property of the defendant to be attached as security for the satisfaction of any judgment that may be recovered, unless the defendant gives security to pay such judgment as provided in this chapter.

2. If the Department of Taxation has taken over the management of a local government pursuant to the provisions of section 2 of this act, and if a plaintiff is allowed by law to apply to a court for an order directing the clerk to issue a writ of attachment, the plaintiff must comply with the applicable provisions of section 3 of this act before applying for such an order.

Sec. 8. NRS 41.075 is hereby amended to read as follows:

41.075 No cause of action may be brought against the Committee on Local Government Finance created pursuant to NRS 354.105, or any of its members, which is based upon:

1. Any act or omission in the execution of, or otherwise in conjunction with, the execution of NRS 354.655 to 354.725, inclusive, ***and sections 2 and 3 of this act***, or any policy or plan adopted pursuant thereto, whether or not such statute, policy or plan is valid, if the statute, policy or plan has not been declared invalid by a court of competent jurisdiction; or
2. The exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of the Committee on Local Government Finance or member thereof, whether or not the discretion involved is abused.”.

Amend the title of the bill to read as follows:

“AN ACT relating to local financial administration; allowing the governing body of a local government to invoke certain provisions of Nevada law relating to severe financial emergency under certain circumstances involving litigation or threatened litigation; staying certain actions by a creditor to attach, garnish or execute upon the assets of a local government whose management has been taken over by the Department of Taxation until such time as a program has been formulated to liquidate the debt owed by

the local government to the creditor; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Establishes certain mechanisms to protect assets of local government under certain circumstances if local government is involved in litigation or threatened litigation. (BDR 31-880)”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law, under certain circumstances: (1) requires the Department of Taxation to make a recommendation of severe financial emergency to the Nevada Tax Commission concerning a local government; and (2) requires the Commission to order the Department to take over the management of a local government determined to be experiencing a severe financial emergency. (NRS 354.655-354.725)

This bill allows the governing body of a local government, under certain circumstances, to request that the Nevada Tax Commission issue an order directing the Department of Taxation to take over the management of the local government if the local government is experiencing or will experience a severe financial emergency as a result of litigation or threatened litigation. This bill also provides that if the Department takes over the management of a local government because the local government is involved in litigation or threatened litigation, actions by a creditor to attach, garnish or execute upon the assets of the local government must be stayed until such time as the creditor meets with the Department and the Department formulates a program to liquidate the debt owed by the local government to the creditor.