

SENATE BILL NO. 184—SENATOR CARE

MARCH 15, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to enterprise funds.
(BDR 31-23)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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; requiring local governments to create committees to provide recommendations on the operation of enterprise funds for certain permit fees; revising the provisions governing the use of enterprise funds; revising the provisions governing enterprise funds for building permit fees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the manner in which a local government must administer its finances. (Chapter 354 of NRS) Existing law authorizes a local government to establish by resolution an enterprise fund. (NRS 354.612) Existing law authorizes a local government to create an enterprise fund exclusively for building permit fees, barricade permit fees and encroachment permit fees. (NRS 354.59891)

This bill requires a local government that creates an enterprise fund exclusively for building, barricade and encroachment permit fees to create a committee to provide recommendations relating to the operation of the enterprise fund. This bill establishes the composition and the duties of such a committee. The committee is authorized to issue opinions and recommendations concerning the sufficiency of the balance of the fund, the adequacy of the fees charged for permits, the financial objectives and annual budget of the program for the issuance of permits and other matters related to the fund.

Under existing law, the Nevada Tax Commission is required to exempt a local government from the limitation on the increase of its building permit basis if the local government meets certain conditions in the operation of an enterprise fund exclusively for building permit fees, barricade permit fees and encroachment permit fees. These conditions include maintaining a certain balance of unreserved working capital in the enterprise fund and expending money in the fund only for expenditures related to the permit program. (NRS 354.59891)



22 This bill establishes the maximum amount of unreserved working capital that
23 may be maintained in any enterprise fund. This bill requires any amount in the fund
24 designated for special use to be identified as a restricted asset and not included as a
25 current asset in calculating working capital. If the enterprise fund maintains a
26 balance which exceeds the authorized working capital and unreserved working
27 capital for 2 consecutive fiscal years, the local government is required to reduce the
28 fees that it charges for the program or services associated with the enterprise fund,
29 unless the governing body of the local government determines that it is in the best
30 interests of the enterprise fund to maintain the excess amount.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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

3 **Sec. 2. 1.** *Each local government that creates an enterprise*
4 *fund pursuant to NRS 354.59891 shall establish an advisory*
5 *committee to review the operations of, and make recommendations*
6 *relating to, the enterprise fund.*

7 **2.** *The city manager, county manager or chief administrator*
8 *of the local government, as the case may be, shall appoint five*
9 *members to the committee. The committee shall consist of:*

10 *(a) A public officer or employee of the local government who*
11 *manages the fiscal affairs of the local government;*

12 *(b) A public officer or employee of the local government who*
13 *oversees directly the operation of the enterprise fund;*

14 *(c) A representative of the residential construction industry;*

15 *(d) A representative of the commercial development industry;*
16 *and*

17 *(e) A representative of the construction industry who is a*
18 *subcontractor.*

19 **3.** *Each member of the committee must be appointed for a*
20 *term of 2 years. The city manager, county manager or chief*
21 *administrator of the local government, as the case may be, may*
22 *renew the term of any member of the committee.*

23 **4.** *The members of the committee shall select a chairman*
24 *from among their membership.*

25 **5.** *The committee may issue opinions and recommendations*
26 *to the governing body of the local government concerning:*

27 *(a) The sufficiency of the balance of the enterprise fund,*
28 *including whether the fund should be maintained with a balance*
29 *in excess of the limitation required pursuant to section 3 of this*
30 *act;*

31 *(b) The adequacy of the fees that the local government charges*
32 *for barricade permits, encroachment permits and building*
33 *permits;*



1 (c) *The financial objectives and annual budget of the program*
2 *for the issuance of barricade permits, encroachment permits and*
3 *building permits; and*

4 (d) *Any other relevant issue related to the operation of the*
5 *enterprise fund.*

6 6. *As used in this section:*

7 (a) *“Barricade permit” has the meaning ascribed to it in*
8 *paragraph (a) of subsection 1 of NRS 354.59891.*

9 (b) *“Building permit” has the meaning ascribed to it in*
10 *paragraph (b) of subsection 1 of NRS 354.59891.*

11 (c) *“Encroachment permit” has the meaning ascribed to it in*
12 *paragraph (e) of subsection 1 of NRS 354.59891.*

13 **Sec. 3. 1. *If a local government creates an enterprise fund***
14 ***pursuant to NRS 354.612:***

15 (a) *Any interest or other income earned on the money in the*
16 *enterprise fund must be credited to the enterprise fund.*

17 (b) *The local government may maintain a balance of*
18 *unreserved working capital in the enterprise fund that does not*
19 *exceed the lesser of:*

20 (I) *An amount equal to the sum of:*

21 (I) *Nine months’ operating costs for the program or*
22 *service associated with the enterprise fund;*

23 (II) *An amount sufficient to pay the debt service for 1*
24 *year on any debt incurred by the local government to provide the*
25 *program or service associated with the enterprise fund;*

26 (III) *An amount that does not exceed the total amount*
27 *of expenditures for the program or service associated with the*
28 *enterprise fund set forth in the capital improvement plan of*
29 *the local government prepared pursuant to NRS 354.5945 for the*
30 *current fiscal year; and*

31 (IV) *An amount that does not exceed 4 percent of the*
32 *annual operating costs of the program or service associated with*
33 *the enterprise fund which must be used to pay for unanticipated*
34 *capital replacement; or*

35 (2) *An amount equal to 50 percent of the operating costs*
36 *and capital expenditures set forth in the budget for the next fiscal*
37 *year for the program or service associated with the enterprise*
38 *fund.*

39 2. *Any amount in an enterprise fund created pursuant to*
40 *NRS 354.612 that is designated for special use, including, without*
41 *limitation, prepaid fees and any other amount subject to a*
42 *contractual agreement, must be identified as a restricted asset and*
43 *must not be included as a current asset in the calculation of*
44 *working capital.*



1 3. *Except as otherwise provided in subsection 4, if a balance*
2 *in excess of the amount authorized pursuant to subsection 1 is*
3 *maintained in an enterprise fund at the close of 2 consecutive*
4 *fiscal years, the local government shall reduce the fees that it*
5 *charges for the program or service associated with the enterprise*
6 *fund by an amount that is sufficient to ensure that the balance in*
7 *the enterprise fund at the close of the fiscal year next following*
8 *those 2 consecutive fiscal years does not exceed the amount*
9 *authorized pursuant to subsection 1.*

10 4. *If the governing body of the local government that created*
11 *the enterprise fund makes a finding that maintaining a balance in*
12 *the enterprise fund in excess of the amount authorized pursuant to*
13 *subsection 1 is in the best interests of the enterprise fund, the local*
14 *government may maintain a balance in the enterprise fund in*
15 *excess of the amount authorized pursuant to subsection 1.*

16 5. *The provisions of this section do not apply to:*

17 (a) *An enterprise fund established by a local government to*
18 *operate a utility; or*

19 (b) *A local government that was created by a special act,*
20 *unless the local government is a city.*

21 6. *As used in this section:*

22 (a) *“Current asset” means any cash maintained in an*
23 *enterprise fund and any interest or other income earned on the*
24 *money in the enterprise fund that, at the end of the current fiscal*
25 *year, is anticipated by a local government to be consumed or*
26 *converted into cash during the next ensuing fiscal year.*

27 (b) *“Current liability” means any debt incurred by a local*
28 *government to provide the program or service associated with the*
29 *enterprise fund that, at the end of the current fiscal year, is*
30 *determined by the local government to require payment within the*
31 *next ensuing fiscal year.*

32 (c) *“Operating cost” means the amount paid by a local*
33 *government for supplies, services, salaries, wages and employee*
34 *benefits to provide the program or service associated with the*
35 *enterprise fund.*

36 (d) *“Utility” means a system for supplying telegraph,*
37 *telephone, electric power and light, gas, water, sewer and similar*
38 *services to the public or a segment of the public.*

39 (e) *“Working capital” means the excess of current assets over*
40 *current liabilities, as determined by the local government at the*
41 *end of the current fiscal year.*

42 **Sec. 4.** NRS 354.470 is hereby amended to read as follows:

43 354.470 NRS 354.470 to 354.626, inclusive, *and sections 2*
44 *and 3 of this act* may be cited as the Local Government Budget and
45 Finance Act.



Sec. 5. NRS 354.472 is hereby amended to read as follows:

354.472 1. The purposes of NRS 354.470 to 354.626, inclusive, *and sections 2 and 3 of this act* are:

(a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.

(b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.

(c) To provide for estimation and determination of revenues, expenditures and tax levies.

(d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.

(e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.

2. For the accomplishment of these purposes, the provisions of NRS 354.470 to 354.626, inclusive, *and sections 2 and 3 of this act* must be broadly and liberally construed.

Sec. 6. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3 *of this section and subsection 5 of section 3 of this act*, the provisions of NRS 354.470 to 354.626, inclusive, *and sections 2 and 3 of this act* apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive *of this section and subsection 5 of section 3 of this act*:

(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" does not include the Nevada Rural Housing Authority.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, *and sections 2 and 3 of this act*, but any such



1 irrigation district which levies an ad valorem tax shall comply with
2 the filing and publication requirements of NRS 354.470 to 354.626,
3 inclusive, *and sections 2 and 3 of this act*, in addition to the
4 requirements of chapter 539 of NRS.

5 3. An electric light and power district created pursuant to
6 chapter 318 of NRS shall be deemed to have fulfilled the
7 requirements of NRS 354.470 to 354.626, inclusive, *and sections 2*
8 *and 3 of this act* for a year in which the district does not issue bonds
9 or levy an assessment if the district files with the Department of
10 Taxation a copy of all documents relating to its budget for that year
11 which the district submitted to the Rural Electrification
12 Administration of the United States Department of Agriculture.

13 **Sec. 7.** NRS 354.476 is hereby amended to read as follows:

14 354.476 As used in NRS 354.470 to 354.626, inclusive, *and*
15 *sections 2 and 3 of this act*, unless the context otherwise requires,
16 the words and terms defined in NRS 354.479 to 354.578, inclusive,
17 have the meanings ascribed to them in those sections.

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

19 354.59891 1. As used in this section:

20 (a) "Barricade permit" means the official document issued by
21 the building officer of a local government which authorizes the
22 placement of barricade appurtenances or structures within a public
23 right-of-way.

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

27 (c) "Building permit basis" means the combination of the rate
28 and the valuation method used to calculate the total building permit
29 fee.

30 (d) "Building permit fee" means the total fees that must be paid
31 before the issuance of a building permit, including , without
32 limitation, all permit fees and inspection fees. The term does not
33 include, without limitation, fees relating to water, sewer or other
34 utilities, residential construction tax, tax for the improvement of
35 transportation imposed pursuant to NRS 278.710, any fee imposed
36 pursuant to NRS 244.386 or any amount expended to change the
37 zoning of the property.

38 ~~(e) "Current asset" means any cash maintained in an enterprise~~
39 ~~fund and any interest or other income earned on the money in the~~
40 ~~enterprise fund that, at the end of the current fiscal year, is~~
41 ~~anticipated by a local government to be consumed or converted into~~
42 ~~cash during the next ensuing fiscal year.~~

43 ~~—(f) "Current liability" means any debt incurred by a local~~
44 ~~government to provide the services associated with issuing building~~
45 ~~permits that, at the end of the current fiscal year, is determined by~~



~~the local government to require payment within the next ensuing fiscal year.~~

~~—(g) “Encroachment permit” means the official document issued by the building officer of a local government which authorizes construction activity within a public right-of-way.~~

~~[(h) “Operating cost” means the amount paid by a local government for supplies, services, salaries, wages and employee benefits to provide the services associated with issuing building permits.~~

~~—(i) (f) “Working capital” [means the excess of current assets over current liabilities, as determined by the local government at the end of the current fiscal year.]~~ *has the meaning ascribed to it in section 3 of this act.*

2. Except as otherwise provided in subsections 3 and 4, a local government shall not increase its building permit basis by more than an amount equal to the building permit basis on June 30, 1989, multiplied by a percentage equal to the percentage increase in the Western Urban Nonseasonally Adjusted Consumer Price Index, as published by the United States Department of Labor, from January 1, 1988, to the January 1 next preceding the fiscal year for which the calculation is made.

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

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

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

4. Upon application by a local government, the Nevada Tax Commission shall exempt the local government from the limitation on the increase of its building permit basis if:

(a) The local government creates an enterprise fund *pursuant to NRS 354.612* exclusively for building permit fees, fees imposed for the issuance of barricade permits and fees imposed for encroachment permits;

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



(c) ~~[Except as otherwise provided in subsection 5, the]~~ *The* local government maintains a balance of unreserved working capital in the enterprise fund that does not exceed ~~[an amount equal to 9 months' operating costs for the program for the issuance of barricade permits, encroachment permits and building permits of the local government;]~~ *the amount authorized pursuant to section 3 of this act;* and

(d) The local government does not use any of the money in the enterprise fund for any purpose other than the actual direct and indirect costs of the program for the issuance of barricade permits, encroachment permits and building permits, including, without limitation, the cost of checking plans, issuing permits, inspecting buildings and administering the program. The Committee on Local Government Finance shall adopt regulations governing the permissible expenditures from an enterprise fund pursuant to this paragraph.

~~[5. In addition to the balance of unreserved working capital authorized pursuant to subsection 4, the local government may maintain in an enterprise fund created pursuant to this section an amount of working capital for the following purposes:~~

~~—(a) An amount sufficient to pay the debt service for 1 year on any debt incurred by the local government to provide the services associated with issuing barricade permits, encroachment permits and building permits;~~

~~—(b) An amount that does not exceed the total amount of expenditures for the program for the issuance of barricade permits, encroachment permits and building permits of the local government set forth in the capital improvement plan of the local government prepared pursuant to NRS 354.5945 for the current fiscal year; and~~

~~—(c) An amount that does not exceed 4 percent of the annual operating costs of the program for the issuance of barricade permits, encroachment permits and building permits of the local government which must be used to pay for unanticipated capital replacement.~~

~~—6. Any amount in an enterprise fund created pursuant to this section that is designated for special use, including, without limitation, prepaid fees and any other amount subject to a contractual agreement, must be identified as a restricted asset and must not be included as a current asset in the calculation of working capital.~~

~~—7. If a balance in excess of the amount authorized pursuant to subsections 4 and 5 is maintained in an enterprise fund created pursuant to this section at the close of 2 consecutive fiscal years, the local government shall reduce the fees for barricade permits, encroachment permits and building permits it charges by an amount that is sufficient to ensure that the balance in the enterprise fund at~~



~~the close of the fiscal year next following those 2 consecutive fiscal years does not exceed the amount authorized pursuant to subsections 4 and 5.]~~

Sec. 9. NRS 354.612 is hereby amended to read as follows:

354.612 1. A local government shall establish by resolution one or more funds. The resolution establishing the fund must set forth in detail:

(a) The object or purpose of the fund;

(b) The resources to be used to establish the fund;

(c) The source or sources from which the fund will be replenished;

(d) The method for controlling expenses and establishing revenues of the fund; and

(e) The method by which a determination will be made as to whether the balance, reserve or retained earnings of the fund are reasonable and necessary to carry out the purpose of the fund.

2. Financial statements and other schedules required for funds must be prepared in accordance with generally accepted accounting principles.

3. Upon adoption of a resolution establishing a fund, a local government shall provide an executed copy of the resolution to the Department of Taxation.

4. In establishing a proprietary fund, a local government shall, besides furnishing working capital for the fund, provide that one of its financial objectives is to recover the complete costs of operation of the activity being financed, including overhead, without producing any significant amount of profit in the long run.

5. Each enterprise fund established must account for all charges properly related to the purpose of the *enterprise* fund, including, without limitation, debt service, capital outlay and operating expenses. ~~[No]~~ *Upon dissolution of the enterprise fund,* *no* transfer of equity that may be made available to other funds or functions may be declared ~~[in an enterprise fund]~~ until after all proper obligations have been charged against the *enterprise* fund.

Sec. 10. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.



(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in ~~NRS 354.59891~~, *section 3 of this act*, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

Sec. 11. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, *and sections 2 and 3 of this act* is guilty of a misdemeanor, and upon conviction thereof ceases to hold his office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has



1 been or will be provided by the proceeds of a sale of bonds,
2 medium-term obligations or an installment-purchase agreement and
3 that are entered into by the local government after:

4 (1) Any election required for the approval of the bonds or
5 installment-purchase agreement has been held;

6 (2) Any approvals by any other governmental entity required
7 to be obtained before the bonds, medium-term obligations or
8 installment-purchase agreement can be issued have been obtained;
9 and

10 (3) The ordinance or resolution that specifies each of the
11 terms of the bonds, medium-term obligations or installment-
12 purchase agreement, except those terms that are set forth in
13 subsection 2 of NRS 350.165, has been adopted.

14 ➤ Neither the fund balance of a governmental fund nor the equity
15 balance in any proprietary fund may be used unless appropriated in
16 a manner provided by law.

17 (g) Contracts which are entered into by a local government and
18 delivered to any person solely for the purpose of acquiring supplies,
19 services and equipment necessarily ordered in the current fiscal year
20 for use in an ensuing fiscal year and which, under the method of
21 accounting adopted by the local government, will be charged against
22 an appropriation of a subsequent fiscal year. Purchase orders
23 evidencing such contracts are public records available for inspection
24 by any person on demand.

25 (h) Long-term contracts for the furnishing of television or FM
26 radio broadcast translator signals as authorized by NRS 269.127.

27 (i) The receipt and proper expenditure of money received
28 pursuant to a grant awarded by an agency of the Federal
29 Government.

30 (j) The incurrence of obligations beyond the current fiscal year
31 under a lease or contract for installment purchase which contains a
32 provision that the obligation incurred thereby is extinguished by the
33 failure of the governing body to appropriate money for the ensuing
34 fiscal year for the payment of the amounts then due.

35 (k) The receipt by a local government of increased revenue that:

36 (1) Was not anticipated in the preparation of the final budget
37 of the local government; and

38 (2) Is required by statute to be remitted to another
39 governmental entity.

40 **Sec. 12.** The provisions of section 3 of this act do not apply to
41 any contracts made on or before July 1, 2005.

42 **Sec. 13.** This act becomes effective on July 1, 2005.



