

CHAPTER.....

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 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 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. (NRS 354.59891) These conditions include maintaining a balance in the fund that does not exceed a certain amount of unreserved working capital and expending money in the fund only for expenditures related to the permit program. If the enterprise fund maintains a balance which exceeds the authorized working capital and unreserved working capital for 2 consecutive fiscal years, the local government is required to reduce the fees that it charges for the program or services associated with the enterprise fund.

This bill revises the maximum amount of unreserved working capital that may be maintained in an enterprise fund exclusively for building permit fees, barricade permit fees and encroachment permit fees. If the enterprise fund maintains a balance which exceeds the unreserved working capital for 2 consecutive fiscal years, the local government is required to reduce the fees that it charges for the program or services associated with the enterprise fund.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT 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. *Each local government that creates an enterprise fund pursuant to NRS 354.59891 shall establish an advisory committee to review the operations of, and make recommendations relating to, the enterprise fund.*

2. *The governing body of the local government or its designee shall appoint at least five members to the committee which:*

(a) Must include:

(1) A representative of the residential construction industry;

(2) A representative of the commercial development industry; and

(3) A representative of the construction industry; and

(b) May include:

(1) A public officer or employee of the local government who manages the fiscal affairs of the local government; and

(2) A public officer or employee of the local government who oversees directly the operation of the enterprise fund.

3. *Each member of the committee must be appointed for a term of at least 2 years but not to exceed 4 years. The governing body or its designee may renew the term of any member of the committee.*

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

5. *The committee may issue opinions and recommendations to the governing body of the local government concerning, without limitation:*

(a) The adequacy of the fees that the local government charges for barricade permits, encroachment permits and building permits;

(b) The financial objectives and annual budget of the program for the issuance of barricade permits, encroachment permits and building permits; and

(c) Any other relevant issue related to the operation of the enterprise fund.

6. *As used in this section:*

(a) "Barricade permit" has the meaning ascribed to it in paragraph (a) of subsection 1 of NRS 354.59891.

(b) "Building permit" has the meaning ascribed to it in paragraph (b) of subsection 1 of NRS 354.59891.

(c) "Encroachment permit" has the meaning ascribed to it in paragraph (e) of subsection 1 of NRS 354.59891.

Sec. 3. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, *and section 2 of this act* may be cited as the Local Government Budget and Finance Act.

Sec. 4. NRS 354.472 is hereby amended to read as follows:

354.472 1. The purposes of NRS 354.470 to 354.626, inclusive, *and section 2 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 section 2 of this act* must be broadly and liberally construed.

Sec. 5. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3 the provisions of NRS 354.470 to 354.626, inclusive, *and section 2 of this act* apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive ~~§1~~, *and section 2 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 section 2 of this act*, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, *and section 2 of this act*, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the

requirements of NRS 354.470 to 354.626, inclusive, *and section 2 of this act* for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Electrification Administration of the United States Department of Agriculture.

Sec. 6. NRS 354.476 is hereby amended to read as follows:

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

Sec. 7. NRS 354.59891 is hereby amended to read as follows:

354.59891 1. As used in this section:

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

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

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

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

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

(f) "Current liability" means any debt incurred by a local government to provide the services associated with issuing building 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) "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.

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) *The purpose of the enterprise fund is to recover the costs of operating the activity for which the fund was created, including overhead;*

(c) 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]~~

(d) *The* local government maintains a balance of unreserved working capital in the enterprise fund that does not exceed ~~[an amount equal to 9 months']~~ *50 percent of the annual* operating costs *and capital expenditures* for the program for the issuance of barricade permits, encroachment permits and building permits of the local government ~~[- and~~

~~—(d)] , as determined by the annual audit of the local government conducted pursuant to NRS 354.624; and~~

(e) 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.]~~ 6. If a balance in excess of the amount authorized pursuant to ~~[subsections 4 and 5]~~ *paragraph (d) of subsection 4* 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.]~~ *paragraph (d) of subsection 4.*

Sec. 8. 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. 9. 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 section 2 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 been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

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

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

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

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

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

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

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

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

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

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

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

Sec. 10. This act becomes effective on July 1, 2005.

