Assembly Bill No. 415–Assemblymen Hardy, Beers, Marvel, Settelmeyer and Stewart

CHAPTER..........

AN ACT relating to local governmental finances; authorizing the financing of projects by a local government through the issuance of commercial paper; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the issuance of various types of municipal securities pursuant to the Local Government Securities Law. (NRS 350.500-350.720) **Section 3** of this bill amends the Local Government Securities Law to authorize, under certain conditions, the issuance of any of those municipal securities in the form of commercial paper, which is a type of short-term borrowing instrument, and the use of that commercial paper in a manner similar to a short-term revolving line of credit. **Sections 2 and 3** of this bill clarify the circumstances under which the governing body of a municipality may designate an agent to sign contracts for the purchase of municipal securities, accept binding bids for municipal securities or fix the rates of interest of municipal securities.

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

Section 1. NRS 350.014 is hereby amended to read as follows:

350.014 1. Before any proposal to incur a general obligation debt or levy a special elective tax may be submitted to the electors of a municipality, before any issuance of general obligation bonds pursuant to subsection 4 of NRS 350.020, before entering into an installment-purchase agreement with a term of more than 10 years or, before any other formal action may be taken preliminary to the incurrence of any general obligation debt, the proposed incurrence or levy must receive the favorable vote of two-thirds of the members of the commission of each county in which the municipality is situated.

2. Before the board of trustees of a district organized or reorganized pursuant to chapter 318 of NRS whose population within its boundaries is less than 5,000 incurs a medium-term obligation or otherwise borrows money or issues securities to evidence such borrowing, other than securities representing a general obligation debt or installment-purchase agreements with a term of 10 years or less, the proposed borrowing or issuing of securities must receive the favorable vote of a majority of the members of the commission of each county in which the district is situated.

3. When any municipality other than a general improvement district whose population within its boundaries is less than 5,000 issues any special obligations, it shall so notify in its annual report the commission of each county in which any of its territory is situated.

4. The commission shall not approve any proposal submitted to it pursuant to this section by a municipality:

(a) Which, if the proposal is for the financing of a capital improvement, is not included in its plan for capital improvement submitted pursuant to NRS 350.013, if such a plan is required to be submitted;

(b) If, based upon:

(1) Estimates of the amount of tax revenue from property taxes needed for the special elective tax, or to repay the general obligation debt, and the dates that revenue will be needed, as provided by the municipality;

(2) Estimates of the assessed valuation of the municipality for each of the years in which tax revenue is needed, as provided by the municipality;

(3) The amount of any other required levies of property taxes, as shown on the most recently filed final budgets of each entity authorized to levy property taxes on any property within the municipality submitting the proposal; and

(4) Any other factor the municipality discloses to the commission,

➥ the proposal would result in a combined property tax rate in any of the overlapping entities within the county which exceeds the limit provided in NRS 361.453, unless the proposal also includes an agreement which complies with NRS 361.457 and which is approved by the governing bodies of all affected municipalities within the area as to how the combined property tax rates will be brought into compliance with the statutory limitation or unless the commission adopts a plan that is approved by the Executive Director of the Department of Taxation pursuant to which the combined property tax rate will be in compliance with the statutory limitation; or

(c) If, based upon the factors listed in subparagraphs (1) to (4), inclusive, of paragraph (b), the proposal will affect the ability of an affected governmental entity to levy the maximum amount of property taxes that it may levy pursuant to NRS 354.59811, unless:

(1) The proposal includes a resolution approving the proposal pursuant to subsection 3 of NRS 350.0135 from each

affected governmental entity whose ability to levy property taxes will be affected by the commission's approval of the proposal; or

(2) The commission has resolved all conflicts between the municipality and all affected governmental entities and has approved the increase in property taxes resulting from the proposal pursuant to NRS 350.0135.

5. Except as otherwise provided in subsection 6 ~~[,]~~ ***or in paragraph (b) of subsection 3 of NRS 350.583,*** if general obligation debt is to be incurred more than 36 months after the approval of that debt by the commission, the governing body of the municipality shall obtain additional approval of the commission before incurring the general obligation debt. The commission shall only approve a proposal that is submitted pursuant to this subsection if, based on the information set forth in paragraph (b) of subsection 4 that is accurate as of the date on which the governing body submits, pursuant to this subsection, its request for approval to the commission:

(a) Incurrence of the general obligation debt will not result in a combined property tax rate in any of the overlapping entities within the county which exceeds the limit provided in NRS 361.453;

(b) The proposal includes an agreement approved by the governing bodies of all affected municipalities within the area as to how the combined tax rates will be brought into compliance with the statutory limitation; or

(c) The commission adopts a plan that is approved by the Executive Director of the Department of Taxation pursuant to which the combined property tax rate will be in compliance with the statutory limitation.

➥ The approval of the commission pursuant to this subsection is effective for 18 months. The governing body of the municipality may renew that approval for successive periods of 18 months by filing an application for renewal with the commission. Such an application must be accompanied by the information set forth in paragraph (b) of subsection 4 that is accurate as of the date the governing body files the application for renewal.

6. The commission may not approve a proposal pursuant to subsection 5 which, based upon the factors listed in subparagraphs (1) to (4), inclusive, of paragraph (b) of subsection 4, will affect the ability of an affected governmental entity to levy the maximum amount of property taxes that it may levy pursuant to NRS 354.59811, unless:

(a) The proposal includes a resolution approving the proposal pursuant to subsection 3 of NRS 350.0135 from each affected governmental entity whose ability to levy property taxes will be affected by the commission's approval of the proposal; or

(b) The commission has resolved all conflicts between the municipality and all affected governmental entities and has approved the increase in property taxes resulting from the proposal pursuant to NRS 350.0135.

7. As used in this section, "affected governmental entity" has the meaning ascribed to it in subsection 9 of NRS 350.0135.

Sec. 2. NRS 350.165 is hereby amended to read as follows:

350.165 1. The governing body of a municipality may, before any sale of bonds, whether by competitive bid or negotiated sale, delegate to the chief administrative officer or chief financial officer of the municipality ***or, if the bonds consist of any securities to which subsection 1 of NRS 350.583 applies, a designated agent,*** the authority to sign a contract for the purchase of the bonds or to accept a binding bid for the bonds subject to the requirements specified by the governing body concerning:

(a) The rate of interest on the bonds;

(b) The dates on which and the prices at which the bonds may be called for redemption before maturity;

(c) The price at which the bonds will be sold; and

(d) The principal amount of the bonds and the amount of principal maturing in any particular year.

2. All terms of the bonds other than:

(a) The rate of interest;

(b) The dates and prices for the redemption of the bonds;

(c) The price for the sale of the bonds;

(d) The principal amount of the bonds; and

(e) The requirements for the principal maturing in particular years,

➥ must be approved by the governing body of the municipality before the bonds are delivered.

3. The final rate of interest, dates and prices of redemption, price for the sale of the bonds, principal amount and the requirements for the principal amount maturing in particular years are not required to be approved by the governing body of the municipality if each of those terms complies with the requirements specified by the governing body before the contract for the purchase of the bonds is signed or the bid for the bonds is accepted.

Sec. 3. NRS 350.583 is hereby amended to read as follows:

350.583 1. The ordinance or resolution authorizing the issuance of any municipal securities ***that bear interest at a variable rate or any securities described in subsection 3,*** or any trust indenture or other instrument appertaining thereto ***,*** may fix a rate or rates of interest or provide for the determination of the rate or rates from time to time by a designated agent according to the procedure specified in that ordinance or other instrument ~~[.]~~ ***, which procedure must include the parameters within which the rate may be fixed by that agent.*** The rate so determined must approximate the rates then being paid for other securities which contain similar provisions and have an equivalent rating. A governing body of a municipality may contract with or select any person to make that determination.

2. A governing body of a municipality may enter into an agreement with a third party for an assurance of payment of the principal of, the interest on, or premiums, if any, due in connection with any municipal securities issued by the governing body. The obligation of the governing body to reimburse that third party for any advances made pursuant to that agreement may be provided in that agreement, recited in those securities or evidenced by another instrument as designated in the ordinance or resolution authorizing the issuance of those securities or any other instrument appertaining thereto. The governing body may assign its rights under that agreement.

3. A municipality may, in accordance with the provisions of this subsection, issue any securities it is otherwise authorized to issue as commercial paper to fund the cost of any project or to refinance any commercial paper or other securities previously issued by that municipality. The term of any commercial paper issued pursuant to this subsection must not exceed 270 days. An agent may be appointed to fix the rates of interest and maturity dates for the commercial paper. Any commercial paper issued pursuant to this subsection may be refunded by any other commercial paper or other securities as may be specified in the ordinance or resolution authorizing the issuance of the commercial paper and the program under which the commercial paper is issued, without any further action by the governing body of the municipality or any other governmental entity, subject to the limitations provided in this section and any limitations provided in that ordinance or resolution. The ordinance or resolution authorizing the issuance of the commercial paper and the program under which the commercial paper is issued:

(a) Must state the maximum principal amount of commercial paper that may be outstanding at any time; and

(b) Except as otherwise provided in this paragraph, may provide that any amount of the commercial paper which is issued and subsequently retired and repaid, other than through a

refunding with commercial paper issued under the same program, may be reissued in an amount that does not exceed the amount previously issued, without any reauthorization of those obligations, if the proceeds of that reissued commercial paper are used only for the purposes specified in that ordinance or resolution. The authority granted pursuant to this paragraph may be exercised under a program for the issuance of commercial paper that comprises a general obligation of the municipality only if:

(1) The municipality indicates an intention to exercise that authority in the proposal to incur that general obligation debt which it submits to the debt management commission;

(2) The maximum principal amount of commercial paper which is authorized to be outstanding is counted against any applicable debt limit of the municipality; and

(3) The program terminates:

(I) Within 6 years, if the commercial paper comprises a general obligation of the municipality; or

(II) Within 10 years, if the commercial paper comprises a special obligation of the municipality.

Sec. 4. This act becomes effective on July 1, 2007.