

(Reprinted with amendments adopted on May 25, 2007)

FIRST REPRINT

A.B. 598

ASSEMBLY BILL NO. 598—COMMITTEE ON WAYS AND MEANS

MARCH 26, 2007

Referred to Committee on Government Affairs

SUMMARY—Authorizes the creation of theme park districts.
(BDR 22-1457)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to theme park districts; authorizing the creation of such districts in counties and certain cities; providing the powers and duties of such a district; authorizing the board of directors of such a district to impose a user fee for the privilege of conducting business activity in the district; authorizing the board to issue special obligations to finance theme park projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 8** of this bill authorizes any county or incorporated city in this State to
2 establish a theme park district, and authorizes any two or more of those entities to
3 jointly create such a theme park district pursuant to an interlocal agreement. The
4 boundaries of the district need not be contiguous, but must be within the boundaries
5 of the municipalities creating the district, and must not include any private property
6 without the consent of the property owner. **Section 8** provides that the general
7 statutory requirements regarding local governmental purchasing, public works
8 projects, municipal obligations, local financial administration and public
9 investments apply to a theme park district, and that any property acquired or
10 constructed by a theme park district is exempt from taxation.

11 **Section 9** of this bill requires the appointment of a board of directors for a
12 theme park district that consists of members of the governing bodies of the
13 municipalities that created the district, and applies the Nevada Ethics in
14 Government Law to the members of the board.

15 **Section 10** of this bill requires the board to comply with statutory requirements
16 for the maintenance of public records and sets forth the general powers and duties
17 of the board, including the authority to enter into interlocal agreements with other
18 public entities and excluding any authority to acquire property by eminent domain.

19 **Section 11** of this bill sets forth the specific authority of the board regarding the
20 financing, acquisition, construction, operation and maintenance of theme parks.



* A B 5 9 8 R 1 *

Section 11 authorizes the board to award certain contracts without competitive bidding.

Section 14 of this bill authorizes the board to impose a user fee for the privilege of conducting business activity in a theme park district at a sufficient rate and only for such a period as necessary to pay any secured obligations of the district.

Section 15 of this bill specifies the scope of authority of the board to issue revenue bonds and other special obligations to finance the capital costs to acquire, design, construct and improve the facilities of a theme park, and exempts the State and each applicable county and city from any liability or other responsibility for those obligations. **Section 18** of this bill provides that this bill will expire by limitation on December 31, 2015, if no such obligations have been issued or no interlocal agreements have been entered into pursuant to this bill on or before that date.

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

Section 1. Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 17, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Board” means the board of directors of a district.*

Sec. 4. *“District” means a theme park district created pursuant to section 8 of this act.*

Sec. 5. *“Facility” means any building, structure or other improvement to real property.*

Sec. 6. *“Municipality” means any county or incorporated city in this State.*

Sec. 7. *“Theme park project” means any combination of facilities for recreation, entertainment, professional sports, gaming, accommodations, retail sales, amusement or culture, including any support-related and parking facilities, which have central access and are designed to reflect a particular time, place, story or subject, including, without limitation, the consistent presentation of any architecture, costuming, merchandise, food, games, rides and attractions and any supporting facilities.*

Sec. 8. 1. *Except as otherwise provided in subsection 2:*

(a) The governing body of a municipality may adopt an ordinance creating a theme park district and describing the boundaries of the district. The governing body may, by ordinance, revise the boundaries of the district from time to time.

(b) The governing bodies of two or more municipalities may enter into an interlocal agreement providing for the creation of a joint theme park district. Pursuant to the interlocal agreement, each such governing body shall adopt an ordinance creating the



* A B 5 9 8 R 1 *

1 *joint district and describing the boundaries of the joint district.*
2 *The governing bodies may, by ordinance, revise the boundaries of*
3 *the joint district from time to time.*

4 2. *The area included within the district may be contiguous or*
5 *noncontiguous and include property located within any one or*
6 *more of the municipalities creating the district, except that*
7 *the district must not include any property that is not owned by*
8 *the municipality or municipalities creating the district unless the*
9 *owner of the property consents in writing to its inclusion in the*
10 *district.*

11 3. *Upon the creation of a district, the district shall be deemed:*

12 (a) *To constitute:*

13 (1) *A public body, corporate and politic; and*

14 (2) *A local government, municipality and public body for*
15 *the purposes of chapters 332, 338, 350, 354 and 355 of NRS.*

16 (b) *To be performing a governmental function in carrying out*
17 *the provisions of this chapter. All property acquired or constructed*
18 *by the district, all revenues of the district and all the activities of*
19 *the district in carrying out the provisions of this chapter are*
20 *exempt from all state and local taxation.*

21 **Sec. 9.** 1. *A district must be governed by a board of*
22 *directors.*

23 2. *The board must be composed of three members of each*
24 *governing body which created the district, appointed by the*
25 *respective governing bodies.*

26 3. *A member of the board:*

27 (a) *Serves at the pleasure of the governing body that appointed*
28 *him, except that no person may serve on the board if he ceases to*
29 *be a member of the governing body that appointed him;*

30 (b) *Serves without compensation; and*

31 (c) *Shall be deemed to be a public officer for the purposes of*
32 *the Nevada Ethics in Government Law, NRS 281.411 to 281.581,*
33 *inclusive.*

34 4. *A majority of the members of the board constitutes a*
35 *quorum for the transaction of business.*

36 5. *A member of the board shall not have any direct or indirect*
37 *financial interest in any:*

38 (a) *Property which is owned, purchased or constructed by the*
39 *district;*

40 (b) *Contract entered into by the district; or*

41 (c) *Business entity which enters into a contract with the*
42 *district.*

43 **Sec. 10.** 1. *A board shall be deemed to constitute:*

44 (a) *A governmental entity for the purposes of chapter 239 of*
45 *NRS; and*



(b) A political subdivision of this State, a public agency and a local government for the purposes of chapter 277 of NRS.

2. A board shall:

(a) Appoint from among its members a chairman, secretary and such other officers as it determines necessary to conduct its business;

(b) Designate a fiscal agent to deposit, hold, invest and disburse the money of the district;

(c) Provide for the acquisition, construction, use and maintenance of any property or interest in property owned or controlled by the district; and

(d) Keep and maintain a complete and accurate record of all its proceedings.

3. A board may:

(a) Adopt and use a corporate seal;

(b) Sue and be sued;

(c) Enter into such contracts and interlocal agreements as it determines necessary to carry out the provisions of this chapter or otherwise to be in the best interest of the district;

(d) Adopt such regulations as it determines to be necessary to administer and operate the district and the property of the district;

(e) Acquire by any lawful means, except through the exercise of the power of eminent domain, and operate, maintain, encumber and dispose of real and personal property;

(f) Contract for the provision of such consulting, legal, accounting and other professional services as it determines to be necessary to carry out the provisions of this chapter, including, without limitation, professional services for the management of any facility of the district; and

(g) If a joint district, enters into interlocal agreements with the governing bodies of the municipalities that created the district for the provision of such administrative support, staff and meeting accommodations as are necessary to carry out the provisions of this chapter.

Sec. 11. *1. A board may, on behalf of the district, provide for the financing, acquisition, construction, improvement, equipping, operation and maintenance of one or more theme park projects within any area of the district.*

2. A board may, on behalf of the district, enter into an agreement with a private entity to provide professional services in negotiating and implementing an operating agreement for a theme park project, if the professional services will be provided by:

(a) At least one person who has resided in this State for not less than 10 years and maintains a professional license or portfolio in the development of real estate; and



(b) *At least one person who has provided similar professional services for a district created pursuant to this chapter or a similar district in another jurisdiction which was authorized to issue at least \$1 billion of bonds pursuant to a statute that specifically required proportional private financing.*

3. *Notwithstanding any provision of chapter 332 or 338 of NRS to the contrary, a board may, to expedite the design and construction of any facility of a theme park project or any facility of a local government which is leased to or used by the district pursuant to an interlocal agreement, establish alternate procedures, conditions and requirements for the awarding without competitive bidding of any contract:*

(a) *To a person selected on the basis of qualifications and experience in the design or construction of any facility which is similar to those the district is authorized to construct, lease or use; or*

(b) *Pursuant to which a person agrees to both design and build any facility specified in the contract.*

Sec. 12. *A board may establish the percentage of business conducted in any facility of a theme park project that may consist of retail sales.*

Sec. 13. *A board may, subject to state and local regulatory authority, determine whether to allow the sale, use and consumption of alcoholic beverages on any property acquired, owned or leased by the district.*

Sec. 14. 1. *A board may impose a user fee for the privilege of conducting business activity in the district at such a rate as the board determines to be necessary to pay any obligations issued by the district pursuant to section 15 of this act.*

2. *If a board imposes a user fee pursuant to subsection 1, the board shall:*

(a) *Prescribe the times and methods of payment of the fee and collect the fee when due, and may impose a penalty for the late payment of the fee; and*

(b) *Cease to impose the fee when it determines that all obligations issued by the district pursuant to section 15 of this act have been paid in full. Any amount of the fee received after those obligations have been paid in full must be used to pay the capital costs of acquiring, designing, constructing, reconstructing, equipping and improving the facilities of the theme park project and directly related improvements and of any on-site or off-site public infrastructure for the benefit of the district.*

Sec. 15. 1. *Except as otherwise provided in this section, a board may issue bonds, notes and other securities as special obligations pursuant to chapter 350 of NRS to finance or*



* A B 5 9 8 R 1 *

1 *refinance the capital costs of acquiring, designing, developing,*
2 *constructing, reconstructing, operating, equipping and improving*
3 *the facilities of a theme park project and any directly related*
4 *improvements and of any on-site or off-site public infrastructure*
5 *for the benefit of the district. Any such bonds, notes or other*
6 *securities may be secured by a pledge of, and payment from, the*
7 *proceeds of any fee imposed pursuant to section 14 of this act and*
8 *received by the district, any financial contributions or other*
9 *revenue received by the district, or any combination thereof.*

10 2. *The aggregate principal amount of any such outstanding*
11 *bonds, notes and other securities issued by the board pursuant to*
12 *this section must not exceed \$8 billion.*

13 3. *A board shall not issue any bonds, notes or other securities*
14 *pursuant to this section unless the board determines, which*
15 *determination shall be deemed to be conclusive, that the board has*
16 *received legally enforceable financial commitments for the benefit*
17 *of the district from nongovernmental entities operating the theme*
18 *park project, in an amount that is not less than 10 percent of the*
19 *aggregate principal amount of the bonds, notes or other securities*
20 *to be issued by the board pursuant to this section.*

21 4. *The fiscal agent of the district shall cancel all bonds, notes*
22 *and other securities issued pursuant to this section when paid.*

23 5. *No bond, note or other security issued pursuant to this*
24 *section:*

25 (a) *May be secured by or payable from any source other than*
26 *the proceeds of any user fee imposed pursuant to section 14 of this*
27 *act and received by the district, any financial contributions or*
28 *other revenue received by the district, or any combination thereof,*
29 *or ever become a general obligation of the district.*

30 (b) *Constitutes for any purpose a debt of the State, any*
31 *municipality, any member of the board or any person who*
32 *executes the bond, note or security.*

33 **Sec. 16.** *The provisions of NRS 338.010 to 338.090,*
34 *inclusive, apply to any construction work performed on any*
35 *facility built for ownership by the district.*

36 **Sec. 17.** 1. *A district shall not hold any gaming license.*

37 2. *Subsection 1 does not prohibit a district from entering into*
38 *a contract with an entity that holds a Nevada gaming license*
39 *which provides for interrelated marketing or a joint venture.*

40 **Sec. 18.** 1. *This act becomes effective on January 1, 2008.*

41 2. *This act expires by limitation on December 31, 2015, if no*
42 *bonds, notes or other securities or interlocal agreements have been*
43 *issued or entered into pursuant to this act on or before that date.*

