

CHAPTER.....

AN ACT relating to state obligations; requiring the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations are issued or incurred; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State to borrow money or otherwise become obligated and to issue state securities or other evidence of the obligations, subject to various requirements. (NRS 349.150-349.364) This bill requires the State Treasurer to review and the State Board of Finance to approve certain state financial obligations before the obligations may be issued or incurred. The review is required of certain obligations which require future state payments in an amount of \$5,000,000 or more after the then-current budget biennium and which are not otherwise subject to review or exempt from review pursuant to statute. If the issuance or incurrence of an obligation is approved by the State Board of Finance, the State Treasurer is responsible for administering the issuance or incurrence of the obligation. This bill also allows the State Treasurer to exempt such obligations from review.

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

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

(1) The structure of the obligation;

(2) The methods by which the obligation is to be sold or marketed, if applicable;

(3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and

(4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and



(c) The State Board of Finance approves issuing or incurring the obligation.

2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:



(1) With money appropriated on or before the date the obligation is issued or incurred;

(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is:

(1) Required to be repaid from a source other than state appropriations; or

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.

(i) A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) "Future state payments" means the payment of money to be made from state taxes or fees imposed or collected by the State or an agency or department thereof, state appropriations, revenues



from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

- (1) Unconditionally required to be made;*
- (2) Required to be made only if an appropriation therefor is made; or*
- (3) Required to be made only on the occurrence or nonoccurrence of other conditions.*

(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of \$5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

Sec. 2. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 349 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, a state agency, officer or employee responsible for issuing or incurring a state financial obligation shall not issue or incur the obligation unless:

(a) The state agency, officer or employee consults with the State Treasurer concerning:

- (1) The structure of the obligation;
- (2) The methods by which the obligation is to be sold or marketed, if applicable;
- (3) The effect of the obligation on any applicable limitation on indebtedness or on the affordability of debt; and
- (4) The financial prudence of issuing or incurring the obligation in its proposed form;

(b) The State Treasurer provides a written report addressing the matters required by paragraph (a) to the state agency, officer or employee responsible for issuing or incurring the obligation and to the State Board of Finance; and

(c) The State Board of Finance approves issuing or incurring the obligation.



2. The State Treasurer shall provide the report required by subsection 1 not later than 30 days after the state agency, officer or employee requests the State Treasurer to review the proposed obligation, except that if the request concerns a state financial obligation proposed pursuant to the American Recovery and Reinvestment Act of 2009, Public Law No. 111-5, for which required regulations have not been adopted by the appropriate federal agency at the time the review is requested, the report must be provided not later than 15 days after the adoption of such regulations. If the State Treasurer does not provide the report within the required period, the state agency, officer or employee may issue or incur the obligation without the State Board of Finance approving the issuance or incurrence of the obligation or the State Treasurer administering the issuance or incurrence pursuant to subsection 3.

3. Except as otherwise provided in subsection 2, the State Treasurer:

(a) May employ all necessary legal, financial and other professional services necessary or desirable in connection with the authorization, sale, issuance or other incurrence of a state financial obligation. All services employed pursuant to this paragraph must be provided by contractors selected through a process of open competitive bidding.

(b) Is primarily responsible for arranging the issuance or incurrence of a state financial obligation after it has been approved by the State Board of Finance.

4. The costs incurred in producing a report pursuant to this section, any costs incurred pursuant to subsection 3, and any costs incurred in connection with the authorization, sale, issuance or other incurrence of a state financial obligation pursuant to this section:

(a) Must be paid as an expense of the state financial obligation if the sale, issuance or other incurrence of the obligation is approved.

(b) Must be paid by the state agency which requested that the state financial obligation be issued or incurred if the sale, issuance or other incurrence of the obligation is not approved.

5. This section does not apply to:

(a) A state financial obligation which under its terms is expected to be fully paid and retired:

(1) With money appropriated on or before the date the obligation is issued or incurred;



(2) With money set aside on or before the date the obligation is issued or incurred for the purpose of paying the obligation; or

(3) With the proceeds of a bond issue which has been authorized by the Legislature and which will be issued under the supervision of the State Treasurer with the approval of the State Board of Finance.

(b) A state financial obligation subject to the provisions of NRS 538.206 or which is issued pursuant to chapter 319 of NRS or NRS 349.400 to 349.987, inclusive.

(c) A state financial obligation of the Nevada System of Higher Education which is:

(1) Required to be repaid from a source other than state appropriations; or

(2) Incurred as a result of a lease, lease-purchase contract or installment-purchase contract that includes a provision which authorizes the termination of the lease, lease-purchase contract or installment-purchase contract before the expiration of the lease, lease-purchase contract or installment-purchase contract if the Legislature fails to appropriate money for payments due pursuant to the lease, lease-purchase contract or installment-purchase contract.

(d) A state financial obligation incurred as a result of employment, including, without limitation, the obligation to pay retirement benefits.

(e) A state financial obligation which is required by federal law.

(f) A state financial obligation to another governmental entity.

(g) A state financial obligation which by statute is issued or incurred under the supervision of the State Treasurer with the approval of the State Board of Finance.

(h) ~~[A contract to retrofit a state building for energy efficiency which has been approved pursuant to NRS 338.1906.~~

~~—(i)]~~ A state financial obligation which is exempted by a regulation adopted by the State Treasurer pursuant to this section.

6. The State Treasurer may adopt such regulations as he deems necessary to carry out the provisions of this section.

7. As used in this section:

(a) “Future state payments” means the payment of money to be made from state taxes or fees imposed or collected by



the State or an agency or department thereof, state appropriations, revenues from state property, revenues from franchises or concessions granted by the State or any agency, department or employee thereof if the payment is:

- (1) Unconditionally required to be made;
- (2) Required to be made only if an appropriation therefor is made; or
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(b) "State financial obligation" means any obligation of the State, including, without limitation, a bond, a note, a line of credit, a lease or installment purchase agreement, any funding for a public-private partnership or any other borrowing issued or incurred by or on behalf of the State or any department or agency of the State which requires future state payments in an amount of \$5,000,000 or more after the budget biennium in which the obligation is issued or incurred. For the purposes of this paragraph, a "budget biennium" is a period beginning on July 1 of an odd-numbered year and ending on June 30 of the next succeeding odd-numbered year.

- Sec. 3.** 1. This section and section 1 of this act become effective on July 1, 2009.
2. Section 2 of this act becomes effective on May 1, 2013.

