

CHAPTER.....

AN ACT relating to public financial administration; authorizing the State Treasurer to deposit state money in out-of-state financial institutions under certain circumstances; authorizing the state and local governments to issue tax credit bonds under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Sections 4 and 5 of this bill eliminate a restriction on the authority of the State Treasurer to deposit state money in out-of-state financial institutions and allow him to use such institutions whenever the State Board of Finance gives its approval.

Sections 7-14 of this bill make various changes relating to the issuance of bonds so that the state and local governments may take advantage of certain provisions of the federal American Recovery and Reinvestment Act, Public Law 111-5, that authorize the issuance of tax credit bonds.

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

Sections 1-3. (Deleted by amendment.)

Sec. 4. NRS 356.010 is hereby amended to read as follows:

356.010 All money under the control of the State Treasurer belonging to the State must be deposited in any state or national banks, any insured credit unions or in any insured savings and loan associations in this State ~~[]~~ or , *if approved by the State Board of Finance*, in any banks, insured credit unions or insured savings and loan associations outside of this State . ~~[as provided in NRS 356.100.]~~ The depository banks, credit unions or savings and loan associations may, if authorized by a contract negotiated with the State Treasurer, receive compensation for handling, collecting and paying all checks, drafts and other exchange. The compensation may be provided through the use of a compensating balance or a fixed-rate fee, or any combination thereof.

Sec. 5. NRS 356.105 is hereby amended to read as follows:

356.105 The provisions of NRS 356.010 to ~~[356.100,]~~ *356.090*, inclusive, do not require any depository to accept state deposits.

Sec. 6. NRS 356.110 is hereby amended to read as follows:

356.110 A state officer or employee who willfully violates:

1. NRS 356.011 is guilty of a misdemeanor.
2. Any of the other provisions of NRS 356.010 to ~~[356.100,]~~ *356.090*, inclusive, is guilty of malfeasance in office which is a



category D felony and shall be punished as provided in NRS 193.130.

Sec. 7. Chapter 99 of NRS is hereby amended by adding thereto a new section to read as follows:

Notwithstanding any provision of law to the contrary, in calculating the rate of interest on any bonds or other securities that are issued by this State or any political subdivision or municipal or public corporation of this State on or before June 30, 2011, for the purposes of any limitations on the rate of interest provided by specific statute, and for the purposes of all other statutory requirements or calculations based on the rate or amount of interest on such bonds or securities, any credit expected to be paid to or for the benefit of the issuer of the bonds or other securities under 26 U.S.C. § 6431, as amended, must be treated as a reduction in the amount of interest paid, as of the date or dates on which the credit is expected to be received. Such amount must be used to pay the interest on the bonds or other securities for which it is received or to reimburse the issuer of the bonds or other securities for that payment. If a credit that is expected to be paid under 26 U.S.C. § 6431, as amended, is not paid, the issuer of the bonds or other securities may pay the interest that is expected to be paid from the sources pledged or otherwise available to pay the principal of and interest on the bonds or other securities.

Sec. 8. NRS 271.355 is hereby amended to read as follows:

271.355 1. For the purpose of paying any contractor or otherwise defraying any costs of the project as the costs become due from time to time until money is available therefor from the levy and collection of assessments and any issuance of bonds, the governing body may issue interim warrants.

2. Any interim warrants issued for any construction work may be issued only upon estimates of the engineer.

3. Any interim warrants must:

(a) Bear such date or dates;

(b) Mature in such denomination or denominations at such time or times, or at any time upon call;

(c) ~~[Bear]~~ *Except as otherwise provided in section 7 of this act, bear* interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and



(d) Be payable in such medium of payment at such place or places within and without the State, including but not limited to the county treasurer,

↳ as the governing body may determine.

4. Any interim warrants may be issued with privileges for registration for payment as to principal only, or as to both principal and interest, may be negotiable or nonnegotiable, may be general obligations for the payment of which the governing body pledges the full faith and credit of the municipality, or may be special obligations payable from designated special assessments, any bond proceeds, and any other money designated to be available for the redemption of such interim warrants, and generally must be issued in such manner, in such form, with such recitals, terms, covenants and conditions, and with such other details, as may be provided by the governing body by ordinance.

5. An ordinance for the issuance of interim warrants may be adopted or amended as if an emergency existed.

Sec. 9. NRS 271.485 is hereby amended to read as follows:

271.485 1. Any bonds issued pursuant to this chapter may be sold in such a manner as may be approved by the governing body to defray the cost of the project, including all proper incidental expenses. The governing body may issue a single issue of bonds to defray the costs of projects in two or more improvement districts if the principal amount of those bonds does not exceed the total uncollected assessments levied in each improvement district.

2. Bonds must be sold in the manner prescribed in NRS 350.105 to 350.195, inclusive:

(a) For not less than the principal amount thereof and accrued interest thereon; or

(b) At the option of the governing body, below par at a discount not exceeding 9 percent of the principal amount and except as otherwise provided in NRS 271.487 and 271.730, *and section 7 of this act*, at a price which will not result in an effective interest rate which exceeds by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted if the maximum or any lesser amount of discount permitted by the governing body has been capitalized as a cost of the project.

3. Except as otherwise provided in subsection 4 and NRS 271.487 and 271.730, the rate of interest of the bonds must not at any time exceed the rate of interest, or lower or lowest rate if more than one, borne by the special assessments, but any rate of interest of the bonds may be the same as or less than any rate of interest of



the assessment, subject to the limitation provided in subsection 2, as the governing body may determine.

4. Except as otherwise provided in NRS 271.730, if a governing body creates a district pursuant to the provisions of NRS 271.710, the governing body or chief financial officer of the municipality shall, in consultation with a financial advisor or the underwriter of the bonds, fix the rate of interest of the bonds at a rate of interest such that the principal and interest due on the bonds in each year, net of any interest capitalized from the proceeds of the bonds, will not exceed the amount of principal and interest to be collected on the special assessments during that year.

5. The governing body may employ legal, fiscal, engineering and other expert services in connection with any project authorized by this chapter and the authorization, issuance and sale of bonds.

6. Any accrued interest must be applied to the payment of the interest on or the principal of the bonds, or both interest and principal.

7. Any unexpended balance of the proceeds of the bond remaining after the completion of the project for which the bonds were issued must be paid immediately into the fund created for the payment of the principal of the bonds and must be used therefor, subject to the provisions as to the times and methods for their payment as stated in the bonds and the proceedings authorizing their issuance.

8. The validity of the bonds must not be dependent on nor affected by the validity or regularity of any proceedings relating to the acquisition or improvement of the project for which the bonds are issued.

9. A purchaser of the bonds is not responsible for the application of the proceeds of the bonds by the municipality or any of its officers, agents and employees.

10. The governing body may enter into a contract to sell special assessment bonds at any time but, if the governing body so contracts before it awards a construction contract or otherwise contracts for acquiring or improving the project, the governing body may terminate the contract to sell the bonds, if:

(a) Before awarding the construction contract or otherwise contracting for the acquisition or improvement of the project, it determines not to acquire or improve the project; and

(b) It has not elected to proceed pursuant to subsection 2 or 3 of NRS 271.330, but has elected to proceed pursuant to subsection 1 of that section.



11. If the governing body ceases to have jurisdiction to proceed, because the requisite proportion of owners of the frontage to be assessed, or of the area, zone or other basis of assessment, file written complaints, protests and objections to the project, as provided in NRS 271.306, or for any other reason, any contract to sell special assessment bonds is terminated and becomes inoperative.

Sec. 10. NRS 349.076 is hereby amended to read as follows:

349.076 Except as otherwise provided by a specific statute, *including, without limitation, section 7 of this act*, the rate or rates of interest on securities issued by the State must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and

2. For special obligations, the Index of Revenue Bonds,

➔ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 11. NRS 350.2011 is hereby amended to read as follows:

350.2011 Except *as otherwise provided in section 7 of this act, and except* where the provisions, whenever enacted, of a general or special law or of a special charter otherwise require, the rate or rates of interest on securities issued by a political subdivision of this state must not exceed by more than 3 percent:

1. For general obligations, the Index of Twenty Bonds; and

2. For special obligations, the Index of Revenue Bonds,

➔ which was most recently published before the bids are received or a negotiated offer is accepted.

Sec. 12. NRS 350A.140 is hereby amended to read as follows:

350A.140 1. The State Treasurer is the Administrator of the Municipal Bond Bank.

2. In his capacity as Administrator, the State Treasurer may:

(a) Sue and be sued to establish or enforce any right arising out of a lending project or of any state securities issued pursuant to this chapter;

(b) Acquire and hold municipal securities and revenue securities, and exercise all of the rights of holders of those securities;

(c) Sell or otherwise dispose of municipal securities and revenue securities and assets acquired in connection with those securities, unless limited by any agreement which relates to those securities;

(d) Make contracts and execute all necessary or convenient instruments;

(e) Accept grants of money from the Federal Government, the State, any agency or political subdivision, or any other person;



(f) Adopt regulations relating to lending projects and the administration of lending projects;

(g) Employ for himself or for any municipality, any necessary legal, fiscal, engineering and other expert services in connection with lending projects and with the authorization, sale and issuance of state securities, municipal securities and revenue securities;

(h) Enter into agreements and arrangements consistent with the provisions of this chapter with respect to the issuance of state securities and the purchase of municipal and revenue securities;

(i) Make findings concerning the sufficiency of revenues and taxes pledged for the payment of revenue securities to repay state securities which were issued to acquire those revenue securities; ~~{and}~~

(j) At the request of a municipality, on or before June 30, 2011, apply for and accept a volume cap allocation for tax credit bonds that authorizes the issuance of bonds which can be sold with a federal income tax credit;

(k) On or before June 30, 2011, enter into any agreement with the Federal Government that the State Treasurer determines is necessary or advisable:

(1) To issue bonds which can be sold with a federal income tax credit pursuant to the provisions of the Internal Revenue Code, as amended; and

(2) To receive a volume cap allocation for tax credit bonds described in paragraph (j); and

(l) Undertake other matters which he determines to be necessary or desirable in accomplishing the purposes of this chapter.

Sec. 13. NRS 350A.153 is hereby amended to read as follows:

350A.153 1. This chapter does not confer upon a municipality authority to pledge revenues for the payment of revenue securities. Any such authority must be derived from other law.

2. No state securities may be issued pursuant to this chapter for the purpose of acquiring revenue securities unless the governing body of the municipality issuing the revenue securities includes within the ordinance, resolution or other instrument authorizing the issuance of the revenue securities a statement authorizing the State Treasurer and any other appropriate state officer to withhold from any allocable local revenues to which the municipality is otherwise entitled an amount necessary and legally available to pay the principal and interest due on the revenue securities if the municipality fails to pay timely such principal and interest. The



governing body of the municipality shall provide to the State Treasurer:

(a) A copy of the ordinance, resolution or other instrument authorizing the issuance of the revenue securities;

(b) A schedule of payments for the revenue securities; and

(c) The name and address of the person from whom payments of principal and interest on the revenue securities will be received by the State Treasurer.

3. Payments of principal and interest on revenue securities must be due not later than 1 working day before the payments of principal and interest are due on the state securities issued to acquire the revenue securities. If a payment of the principal or interest on revenue securities is not received by the State Treasurer by the date on which the payment is due, the State Treasurer shall immediately notify the municipality to determine if the payment will be immediately forthcoming. If the payment will not be immediately forthcoming, the State Treasurer shall:

(a) Forward the amount necessary to make the payment from any legally available money in the reserve fund created for that purpose in the bond bank fund; and

(b) Withhold that amount from the next payment to the municipality of allocable local revenues legally available therefor. If the amount so withheld is insufficient to pay the amount due, the State Treasurer may continue to withhold any amounts necessary from subsequent payments to the municipality until the amount due is paid.

4. If, after being notified pursuant to this section, a municipality fails to make a payment of principal or interest on any revenue securities issued by it, the State Treasurer shall notify the Department of Taxation and request that action be taken pursuant to the provisions of NRS 354.685.

5. The State Controller and the Director of the Department of Administration shall approve requisitions or transfers required pursuant to this section and take such other action as is necessary to carry out the provisions of this section.

6. The provisions of subsections 2 to 5, inclusive, do not:

(a) Apply to municipal bonds issued on or before June 30, 2011, where the bondholder or issuer may claim or receive a tax credit pursuant to the provisions of the Internal Revenue Code.

(b) Authorize state taxes to be pledged to pay special obligations of the State.



Sec. 14. NRS 396.852 is hereby amended to read as follows:

396.852 1. ~~[(As)]~~ *Except as otherwise provided in this section and section 7 of this act, as* the Board may determine, any bonds and other securities issued hereunder ~~[(except as herein otherwise provided)]~~ must:

- (a) Be of a convenient denomination or denominations;
- (b) Be fully negotiable within the meaning of and for all the purposes of the Uniform Commercial Code—Investment Securities;
- (c) Mature at such time or serially at such times in regular numerical order at annual or other designated intervals in amounts designated and fixed by the Board, but not exceeding 50 years from their date;
- (d) Bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the bids are received or a negotiated offer is accepted, the interest on each bond to be payable annually, semiannually, or at other designated intervals, but the first interest payment date may be for interest accruing for any other period;
- (e) Be made payable in lawful money of the United States, at the office of the Treasurer of the University or any commercial bank or commercial banks within or without or both within and without the State as may be provided by the Board; and
- (f) Be printed at such place within or without this state, as the Board may determine.

2. Any bonds issued hereunder must have one or two sets of interest coupons, bearing the number of the bond to which they are respectively attached, numbered consecutively in regular numerical order, and attached in such a manner that they can be removed upon the payment of the installments of interest without injury to the bonds, except as herein otherwise provided.

Sec. 15. NRS 356.100 is hereby repealed.

Sec. 16. This act becomes effective upon passage and approval.

