

ASSEMBLY BILL NO. 60—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE TREASURER)

PREFILED DECEMBER 9, 2008

Referred to Committee on Government Affairs

SUMMARY—Revises provisions concerning the administration and investment of public money. (BDR 31-453)

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 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:

- 1 **Sections 4 and 5** of this bill eliminate a restriction on the authority of the State
2 Treasurer to deposit state money in out-of-state financial institutions and allow him
3 to use such institutions whenever the State Board of Finance gives its approval.
4 **Sections 7-14** of this bill make various changes relating to the issuance of
5 bonds so that the state and local governments may take advantage of certain
6 provisions of the federal American Recovery and Reinvestment Act, Public Law
7 111-5, that authorize the issuance of tax credit bonds.

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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** (Deleted by amendment.)
3 **Sec. 3.** (Deleted by amendment.)
4 **Sec. 4.** NRS 356.010 is hereby amended to read as follows:
5 356.010 All money under the control of the State Treasurer
6 belonging to the State must be deposited in any state or national



1 banks, any insured credit unions or in any insured savings and loan
2 associations in this State ~~[]~~ or , *if approved by the State Board of*
3 *Finance*, in any banks, insured credit unions or insured savings and
4 loan associations outside of this State . ~~[as provided in NRS~~
5 ~~356.100.]~~ The depository banks, credit unions or savings and loan
6 associations may, if authorized by a contract negotiated with the
7 State Treasurer, receive compensation for handling, collecting and
8 paying all checks, drafts and other exchange. The compensation
9 may be provided through the use of a compensating balance or a
10 fixed-rate fee, or any combination thereof.

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

12 356.105 The provisions of NRS 356.010 to ~~[356.100,]~~ *356.090*,
13 inclusive, do not require any depository to accept state deposits.

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

15 356.110 A state officer or employee who willfully violates:

16 1. NRS 356.011 is guilty of a misdemeanor.

17 2. Any of the other provisions of NRS 356.010 to ~~[356.100,]~~
18 *356.090*, inclusive, is guilty of malfeasance in office which is a
19 category D felony and shall be punished as provided in
20 NRS 193.130.

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

23 *Notwithstanding any provision of law to the contrary, in*
24 *calculating the rate of interest on any bonds or other securities*
25 *that are issued by this State or any political subdivision or*
26 *municipal or public corporation of this State on or before June 30,*
27 *2011, for the purposes of any limitations on the rate of interest*
28 *provided by specific statute, and for the purposes of all other*
29 *statutory requirements or calculations based on the rate or*
30 *amount of interest on such bonds or securities, any credit expected*
31 *to be paid to or for the benefit of the issuer of the bonds or other*
32 *securities under 26 U.S.C. § 6431, as amended, must be treated as*
33 *a reduction in the amount of interest paid, as of the date or dates*
34 *on which the credit is expected to be received. Such amount must*
35 *be used to pay the interest on the bonds or other securities for*
36 *which it is received or to reimburse the issuer of the bonds or*
37 *other securities for that payment. If a credit that is expected to be*
38 *paid under 26 U.S.C. § 6431, as amended, is not paid, the issuer of*
39 *the bonds or other securities may pay the interest that is expected*
40 *to be paid from the sources pledged or otherwise available to pay*
41 *the principal of and interest on the bonds or other securities.*

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

43 271.355 1. For the purpose of paying any contractor or
44 otherwise defraying any costs of the project as the costs become due
45 from time to time until money is available therefor from the levy



1 and collection of assessments and any issuance of bonds, the
2 governing body may issue interim warrants.

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

5 3. Any interim warrants must:

6 (a) Bear such date or dates;

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

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

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

17 ↪ as the governing body may determine.

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

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

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

32 271.485 1. Any bonds issued pursuant to this chapter may be
33 sold in such a manner as may be approved by the governing body to
34 defray the cost of the project, including all proper incidental
35 expenses. The governing body may issue a single issue of bonds to
36 defray the costs of projects in two or more improvement districts if
37 the principal amount of those bonds does not exceed the total
38 uncollected assessments levied in each improvement district.

39 2. Bonds must be sold in the manner prescribed in NRS
40 350.105 to 350.195, inclusive:

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

43 (b) At the option of the governing body, below par at a discount
44 not exceeding 9 percent of the principal amount and except as
45 otherwise provided in NRS 271.487 and 271.730, *and section 7 of*



1 *this act*, at a price which will not result in an effective interest rate
2 which exceeds by more than 3 percent the Index of Twenty Bonds
3 which was most recently published before the bids are received or a
4 negotiated offer is accepted if the maximum or any lesser amount of
5 discount permitted by the governing body has been capitalized as a
6 cost of the project.

7 3. Except as otherwise provided in subsection 4 and NRS
8 271.487 and 271.730, the rate of interest of the bonds must not at
9 any time exceed the rate of interest, or lower or lowest rate if more
10 than one, borne by the special assessments, but any rate of interest
11 of the bonds may be the same as or less than any rate of interest of
12 the assessment, subject to the limitation provided in subsection 2, as
13 the governing body may determine.

14 4. Except as otherwise provided in NRS 271.730, if a
15 governing body creates a district pursuant to the provisions of NRS
16 271.710, the governing body or chief financial officer of the
17 municipality shall, in consultation with a financial advisor or the
18 underwriter of the bonds, fix the rate of interest of the bonds at a
19 rate of interest such that the principal and interest due on the bonds
20 in each year, net of any interest capitalized from the proceeds of the
21 bonds, will not exceed the amount of principal and interest to be
22 collected on the special assessments during that year.

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

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

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

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

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

43 10. The governing body may enter into a contract to sell
44 special assessment bonds at any time but, if the governing body so
45 contracts before it awards a construction contract or otherwise



* A B 6 0 R 2 *

1 contracts for acquiring or improving the project, the governing body
2 may terminate the contract to sell the bonds, if:

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

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

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

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

17 349.076 Except as otherwise provided by a specific statute,
18 *including, without limitation, section 7 of this act*, the rate or rates
19 of interest on securities issued by the State must not exceed by more
20 than 3 percent:

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

22 2. For special obligations, the Index of Revenue Bonds,
23 ➤ which was most recently published before the bids are received
24 or a negotiated offer is accepted.

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

26 350.2011 Except *as otherwise provided in section 7 of this act*,
27 *and except* where the provisions, whenever enacted, of a general or
28 special law or of a special charter otherwise require, the rate or rates
29 of interest on securities issued by a political subdivision of this state
30 must not exceed by more than 3 percent:

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

32 2. For special obligations, the Index of Revenue Bonds,
33 ➤ which was most recently published before the bids are received
34 or a negotiated offer is accepted.

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

36 350A.140 1. The State Treasurer is the Administrator of the
37 Municipal Bond Bank.

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

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

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



* A B 6 0 R 2 *

(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



1 any allocable local revenues to which the municipality is otherwise
2 entitled an amount necessary and legally available to pay the
3 principal and interest due on the revenue securities if the
4 municipality fails to pay timely such principal and interest. The
5 governing body of the municipality shall provide to the State
6 Treasurer:

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

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

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

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

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

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

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

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

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

41 (a) *Apply to municipal bonds issued on or before June 30,*
42 *2011, where the bondholder or issuer may claim or receive a tax*
43 *credit pursuant to the provisions of the Internal Revenue Code.*

44 (b) *Authorize state taxes to be pledged to pay special*
45 *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.

TEXT OF REPEALED SECTION

356.100 Deposit of state money in bank, credit union or savings and loan association outside State. If deposits in depositories within this State are at or near the limit of deposits allowable under the value of bonds or securities pledged by such banks, insured credit unions or insured savings and loan associations, or as otherwise limited by NRS 356.010 to 356.110,



inclusive, and an excess of money has accumulated in the State Treasury, the State Treasurer may:

1. Subject to the provisions of NRS 356.010 to 356.110, inclusive, with the written consent and approval of the State Board of Finance, deposit such amounts of money as may be advisable in banks, insured credit unions or insured savings and loan associations situated outside of this State; and

2. By check or order signed by the State Treasurer and countersigned by at least two members of the State Board of Finance, withdraw the deposits as needed.

