

ASSEMBLY BILL NO. 471—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 28, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to enterprise funds.
(BDR 31-915)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
Effect on the State: No.

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

AN ACT relating to local government financial administration;
prohibiting the governing body of a local government
from loaning or transferring money from an enterprise
fund under certain circumstances; providing a penalty;
and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 The Local Government Budget and Finance Act authorizes the governing body
2 of a local government to establish certain funds, including an enterprise fund to
3 account for operations which are financed and conducted in a manner similar to the
4 operations of a private business, where the intent of the governing body is to have
5 the expenses of providing goods or services to the general public financed through
6 charges imposed on users. (NRS 354.470-354.626) **Section 1** of this bill prohibits a
7 governing body of a local government from loaning or transferring any money from
8 an enterprise fund, any money collected from fees imposed for the purpose for
9 which an enterprise fund was created or any income or interest earned on money in
10 an enterprise fund to: (1) any fund that is unrelated to the purpose for which the
11 enterprise fund was created; or (2) the general fund of a local government. **Section**
12 **9** of this bill provides that any officer or employee of a local government who
13 violates **section 1** is guilty of a misdemeanor and upon conviction ceases to hold
14 his or her office or employment.



* A B 4 7 1 *

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

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

Except as otherwise provided in subsection 5 of NRS 354.612, the governing body of a local government shall not loan or transfer any money from an enterprise fund, any money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund to:

1. Any fund that is unrelated to the purpose for which the enterprise fund was created; or

2. The general fund of the local government which created the enterprise fund or of any other local government.

Sec. 2. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, *and section 1 of this act* may be cited as the Local Government Budget and Finance Act.

Sec. 3. NRS 354.472 is hereby amended to read as follows:

354.472 1. The purposes of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* are:

(a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.

(b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.

(c) To provide for estimation and determination of revenues, expenditures and tax levies.

(d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.

(e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.

2. For the accomplishment of these purposes, the provisions of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* must be broadly and liberally construed.

Sec. 4. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive ~~H~~, *and section 1 of this act*:



(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" does not include the Nevada Rural Housing Authority.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, **and section 1 of this act**, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

Sec. 5. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, **and section 1 of this act**, unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 354.524 is hereby amended to read as follows:

354.524 "Final budget" means the budget which has been adopted by a local governing body or adopted by default as defined by NRS 354.470 to 354.626, inclusive, **and section 1 of this act** and which has been determined by the Department of Taxation to be in compliance with applicable statutes and regulations.

Sec. 7. NRS 354.594 is hereby amended to read as follows:

354.594 The Committee on Local Government Finance shall determine and advise local government officers of regulations,



1 procedures and report forms for compliance with NRS 354.470 to
2 354.626, inclusive **H**, *and section 1 of this act*.

3 **Sec. 8.** NRS 354.6241 is hereby amended to read as follows:

4 354.6241 1. The statement required by paragraph (a) of
5 subsection 5 of NRS 354.624 must indicate for each fund set forth
6 in that paragraph:

7 (a) Whether the fund is being used in accordance with the
8 provisions of this chapter.

9 (b) Whether the fund is being administered in accordance with
10 generally accepted accounting procedures.

11 (c) Whether the reserve in the fund is limited to an amount that
12 is reasonable and necessary to carry out the purposes of the fund.

13 (d) The sources of revenues available for the fund during the
14 fiscal year, including transfers from any other funds.

15 (e) The statutory and regulatory requirements applicable to the
16 fund.

17 (f) The balance and retained earnings of the fund.

18 2. Except as otherwise provided in NRS 354.59891 **H** *and*
19 *section 1 of this act*, to the extent that the reserve in any fund set
20 forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the
21 amount that is reasonable and necessary to carry out the purposes
22 for which the fund was created, the reserve may be expended by the
23 local government pursuant to the provisions of chapter 288 of NRS.

24 **Sec. 9.** NRS 354.626 is hereby amended to read as follows:

25 354.626 1. No governing body or member thereof, officer,
26 office, department or agency may, during any fiscal year, expend or
27 contract to expend any money or incur any liability, or enter into
28 any contract which by its terms involves the expenditure of money,
29 in excess of the amounts appropriated for that function, other than
30 bond repayments, medium-term obligation repayments and any
31 other long-term contract expressly authorized by law. Any officer or
32 employee of a local government who willfully violates NRS
33 354.470 to 354.626, inclusive, *and section 1 of this act* is guilty of a
34 misdemeanor and upon conviction thereof ceases to hold his or her
35 office or employment. Prosecution for any violation of this section
36 may be conducted by the Attorney General or, in the case of
37 incorporated cities, school districts or special districts, by the district
38 attorney.

39 2. Without limiting the generality of the exceptions contained
40 in subsection 1, the provisions of this section specifically do not
41 apply to:

42 (a) Purchase of coverage and professional services directly
43 related to a program of insurance which require an audit at the end
44 of the term thereof.



1 (b) Long-term cooperative agreements as authorized by chapter
2 277 of NRS.

3 (c) Long-term contracts in connection with planning and zoning
4 as authorized by NRS 278.010 to 278.630, inclusive.

5 (d) Long-term contracts for the purchase of utility service such
6 as, but not limited to, heat, light, sewerage, power, water and
7 telephone service.

8 (e) Contracts between a local government and an employee
9 covering professional services to be performed within 24 months
10 following the date of such contract or contracts entered into between
11 local government employers and employee organizations.

12 (f) Contracts between a local government and any person for the
13 construction or completion of public works, money for which has
14 been or will be provided by the proceeds of a sale of bonds,
15 medium-term obligations or an installment-purchase agreement and
16 that are entered into by the local government after:

17 (1) Any election required for the approval of the bonds or
18 installment-purchase agreement has been held;

19 (2) Any approvals by any other governmental entity required
20 to be obtained before the bonds, medium-term obligations or
21 installment-purchase agreement can be issued have been obtained;
22 and

23 (3) The ordinance or resolution that specifies each of the
24 terms of the bonds, medium-term obligations or installment-
25 purchase agreement, except those terms that are set forth in
26 subsection 2 of NRS 350.165, has been adopted.

27 ➡ Neither the fund balance of a governmental fund nor the equity
28 balance in any proprietary fund may be used unless appropriated in
29 a manner provided by law.

30 (g) Contracts which are entered into by a local government and
31 delivered to any person solely for the purpose of acquiring supplies,
32 services and equipment necessarily ordered in the current fiscal year
33 for use in an ensuing fiscal year and which, under the method of
34 accounting adopted by the local government, will be charged against
35 an appropriation of a subsequent fiscal year. Purchase orders
36 evidencing such contracts are public records available for inspection
37 by any person on demand.

38 (h) Long-term contracts for the furnishing of television or FM
39 radio broadcast translator signals as authorized by NRS 269.127.

40 (i) The receipt and proper expenditure of money received
41 pursuant to a grant awarded by an agency of the Federal
42 Government.

43 (j) The incurrence of obligations beyond the current fiscal year
44 under a lease or contract for installment purchase which contains a
45 provision that the obligation incurred thereby is extinguished by the



1 failure of the governing body to appropriate money for the ensuing
2 fiscal year for the payment of the amounts then due.

3 (k) The receipt by a local government of increased revenue that:

4 (1) Was not anticipated in the preparation of the final budget
5 of the local government; and

6 (2) Is required by statute to be remitted to another
7 governmental entity.

8 (l) An agreement authorized pursuant to NRS 277A.370.

9 **Sec. 10.** Section 3.130 of the Charter of the City of Las Vegas,
10 being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby
11 amended to read as follows:

12 Sec. 3.130 Department of Financial Management:
13 Director; qualifications; duties.

14 1. The City Council shall establish a Department of
15 Financial Management, the head of which is the Director of
16 Financial Management. The Department of Financial
17 Management may also include such other qualified personnel
18 as the City Manager determines are necessary properly to
19 handle the financial matters of the City.

20 2. The Director of Financial Management:

21 (a) Must have knowledge of municipal accounting and
22 taxation.

23 (b) Must have experience in budgeting and financial
24 control.

25 (c) Has charge of the administration of the financial
26 affairs of the City.

27 (d) Must provide a surety bond in the amount which is
28 fixed by the City Council.

29 (e) Shall perform or cause to be performed on behalf of
30 the City all of the duties and responsibilities which are
31 imposed upon the City by NRS 354.470 to 354.626, inclusive
32 **H, and section 1 of this act.**

33 3. The City Council may establish by ordinance such
34 regulations as it deems are necessary for the proper conduct
35 of the Department of Financial Management and its officers
36 and employees.

37 **Sec. 11.** This act becomes effective on July 1, 2011.

