

## Amendment No. 255

Senate Amendment to Senate Bill No. 100

(BDR 21-392)

**Proposed by:** Senate Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

SJA/HAC



Date: 4/23/2011

S.B. No. 100—Makes changes to provisions governing local improvement districts.  
(BDR 21-392)



## SENATE BILL NO. 100—SENATOR HARDY

PREFILED JANUARY 26, 2011

Referred to Committee on Government Affairs

SUMMARY—Makes changes to provisions governing local improvement districts.  
(BDR 21-392)

FISCAL NOTE: Effect on Local Government: No.  
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 improvement districts; authorizing certain modifications after a local improvement project has begun and assessments have been levied; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes counties, cities and towns to initiate, levy assessments and issue bonds for local improvement projects under certain conditions. (NRS 271.265, 271.270) After a governing body passes an ordinance ordering such a project, modifications may be made to the project by amending the ordinance provided that no construction contracts have yet been entered. (NRS 271.325) ~~[This]~~ Section 4 of this bill allows certain modifications to be made after the project has begun and assessments have been levied . [provided that such modifications do not increase assessments or, if assessments are increased, the affected property owners have requested such modifications and increased assessments in writing.] Sections 6 and 7 of this bill provide procedures for a governing body to modify such a project without holding a hearing if, after receiving a report on the proposed modification from the municipal engineer or a competent engineer or an engineering firm hired by the governing body, the governing body determines that the magnitude of the changes to the original project do not exceed certain thresholds. Sections 8-13 of this bill provide procedures, including notice, hearing and judicial review, for a governing body to modify such an agreement if those thresholds are exceeded. Sections 14 and 15 of this bill provide further requirements for a governing body that modifies a local improvement project, and section 16 of this bill authorizes a governing body that begins procedures to modify a local improvement project at the request of a person to require that person to pay any expenses incurred by the governing body in connection with the modification. Sections 3 and 18 of this bill authorize the payment, repayment or defeasance of certain obligations as a type of local improvement project.

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

1       **Section 1.** ~~[Chapter 271 of NRS is hereby amended by adding thereto a new~~  
2 ~~section to read as follows:~~

3       ~~1. After a project ordered pursuant to NRS 271.325 has begun and any~~  
4 ~~special assessment thereon has been levied and divided into installments, the~~  
5 ~~governing body may by ordinance modify the project if the modification:~~

6       ~~(a) Reduces the total amount of the assessment;~~

7       ~~(b) Makes no change in the total amount of the assessment and causes no~~  
8 ~~increase or decrease in the amount of money assessed on each tract and parcel of~~  
9 ~~land included in the assessment;~~

10       ~~(c) Eliminates a portion of the project or provides a substitution therein~~  
11 ~~without increasing the cost of any assessment or substantially affecting the~~  
12 ~~distribution of benefits from the work;~~

13       ~~(d) Eliminates a portion of the assessment district without increasing the~~  
14 ~~amount of any assessment or substantially affecting the distribution of benefits~~  
15 ~~from the work; or~~

16       ~~(e) Excludes from the project and the assessment property which will not be~~  
17 ~~benefited by the project without increasing the amount of any assessment.~~

18       ~~2. A modification made pursuant to subsection 1 which provides for the~~  
19 ~~elimination, addition or substitution of some part of the project and which may~~  
20 ~~result in an increase in some assessments may be approved by the governing body~~  
21 ~~by ordinance if the owners of the assessable property affected by the increased~~  
22 ~~assessments request in writing the modification and the increased assessments.~~

23       ~~3. Any modification made pursuant to this section must not release or~~  
24 ~~discharge the sureties upon any bond issued pursuant to this chapter.] (Deleted~~  
25 ~~by amendment.)~~

26       **Sec. 2.** Chapter 271 of NRS is hereby amended by adding thereto the  
27 provisions set forth as sections 3 to 16, inclusive, of this act.

28       **Sec. 3.** "Defeasance district project" means the financing of amounts  
29 necessary to:

30       1. Eliminate any assessment levied pursuant to this chapter; or

31       2. Pay, repay or defease any obligation to pay any indebtedness secured by  
32 any assessment levied pursuant to this chapter within the area of an improvement  
33 district or to pay debt service on such indebtedness.

34       **Sec. 4.** After the acquisition or improvement of a project ordered pursuant  
35 to NRS 271.325 has begun and any special assessment thereon has been levied  
36 and divided into installments, the governing body may modify the project subject  
37 to the provisions of sections 4 to 16, inclusive, of this act by:

38       1. Eliminating a portion of the project;

39       2. Making changes or additions to the project;

40       3. Modifying the assessments to reflect the changes or additions to the  
41 project; and

42       4. Modifying the assessment installments and the due dates of the  
43 assessment installments.

44       **Sec. 5.** Whenever the governing body determines that a modification  
45 authorized pursuant to section 4 of this act is warranted, the engineer shall  
46 prepare and file with the clerk a report showing:

47       1. The proposed modification of the project;

2. If the modified portion of the project is, as modified, functionally equivalent to that portion of the project before modification, a statement to that effect;

3. The estimated cost of the project, as modified;

4. The amount of maximum special benefits estimated to be derived from the project, as modified, by each tract in the improvement district;

5. The modification, if any, of the assessment on each tract in the improvement district resulting from the modification of the project;

6. The modification, if any, of the assessment installments and the due dates of the assessment installments;

7. A revised map showing the location of the project, as modified;

8. If the assessments on each tract in the improvement district are proposed to be modified, an assessment plat with the modified assessments, apportioned based on the project, as modified; and

9. Whether, upon modification of the project the assessment on each tract in the improvement district will exceed the estimated maximum special benefits to be derived by each such tract from the project.

Sec. 6. 1. After receipt of the report required pursuant to section 5 of this act, the governing body may, by ordinance and without a protest hearing, modify the project, the assessments on each tract in the improvement district, the assessment installments and the due dates of the assessment installments as provided in the report pursuant to the provisions of this section if the governing body determines that:

(a) The public convenience and necessity require the modification;

(b) The modified portion of the project, as modified, will be functionally equivalent to that portion of the project before modification;

(c) The cost of the modified portion of the project, as modified, will be no greater than the cost of that portion of the project before modification;

(d) No assessment on any tract in the project will be increased as a result of the modification of the project; and

(e) Upon the modification of the project and, if applicable, the assessments, the amount assessed against each tract in the improvement district will not exceed the maximum special benefits to be derived by each such tract from the project.

2. A determination that is made pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 7. 1. After receipt of the report required pursuant to section 5 of this act, the governing body may, by ordinance and without a protest hearing, modify the project, the assessments on each tract in the improvement project, the assessment installments and the due dates of the assessment installments as provided in the report pursuant to the provisions of this section if:

(a) The governing body determines that the public convenience and necessity require the modification;

(b) The owner of each tract in the improvement district which is proposed to have its assessment modified or which derives benefits from the portion of the project proposed to be eliminated or modified or from the additions proposed to be made to the project has filed written consent to the modification with the clerk;

(c) There has been filed with the clerk:

(1) Evidence that the modification has been consented to by the owners of the bonds for the improvement district which are payable from the assessments in the manner as provided in the ordinance or in the indenture, fiscal agent

agreement, resolution or other instrument pursuant to which the bonds are issued; or

(2) An opinion from independent bond counsel stating that the modification does not materially or adversely affect the interests of the owners of the bonds; and

(d) The governing body determines that, upon modification of the project and, if applicable, the assessments, the amount assessed against each tract in the improvement district does not exceed the maximum special benefits to be derived by each such tract from the project.

2. A determination that is made pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 8. 1. After receipt of the report required pursuant to section 5 of this act, if the governing body does not proceed pursuant to section 6 or 7 of this act, the governing body may make a provisional order by resolution to the effect that the project will be modified.

2. In a provisional order made pursuant to subsection 1, the governing body shall set a time, at least 20 days thereafter, and a place at which the owner of each tract in the improvement district, or any other interested person, may appear before the governing body and be heard as to the propriety and advisability of modifying the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments. If a mobile home park is located on a tract in the improvement district, the notice must be given to the owner of the tract and each tenant of the mobile home park.

3. Notice must be given:

(a) By publication.

(b) By mail.

(c) By posting.

4. Proof of publication must be by affidavit of the publisher.

5. Proof of mailing and proof of posting must be by affidavit of the engineer, clerk, or any deputy mailing the notice and posting the notice, respectively.

6. Proof of publication, proof of mailing and proof of posting must be maintained in the records of the municipality until all the assessments appertaining to the project have been paid in full, including principal, interest, penalties and any collection costs.

7. The notice must be prepared by the engineer, ratified by the governing body and state:

(a) In general terms, the proposed modification of the project.

(b) The estimated cost of the project, as modified, and the amount by which that cost is greater or less than the original cost of the project, as reflected in the ordinance creating the improvement district and ordering the project to be acquired or improved.

(c) The time and place of the hearing where the governing body will consider all objections to the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments.

(d) That all written objections to the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments must be filed with the clerk at least 3 days before the time set for the hearing.

(e) That if the owners of tracts in the improvement district which:

(1) Are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project; and

(2) Upon the modification of the project and, if applicable, the assessments, will in the aggregate have assessments greater than 50 percent of the aggregate amount of the assessments on the tracts in the improvement district which are proposed to have assessments modified or which derive benefits from the portion of the project proposed to be eliminated or changed or from the additions proposed to be made to the project.

☞ object in writing, within the time stated in paragraph (d), such modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the installments will not be made.

(f) That if the assessment on any tract is increased as a result of the modification of the project, the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments will not be made unless the owner of each such tract has consented in writing to the increase.

(g) That the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments will not be made unless there has been filed with the clerk:

(1) Evidence that the modification is consented to:

(I) By the owners of the bonds for the improvement district which are payable from the assessments; and

(II) In the same manner as amendments to the ordinance creating the improvement district and ordering the project to be acquired or improved, as provided in the ordinance or in the indenture, fiscal agent agreement, resolution or other instrument pursuant to which the bonds are issued; or

(2) An opinion from an independent bond counsel stating that the modification does not materially adversely affect the interests of the owners of the bonds.

(h) That all proceedings regarding and records of the following are available for inspection at the office of the clerk:

(1) The amount of maximum special benefits estimated to be derived from the project, as modified, by each tract in the improvement district;

(2) If applicable, the modified assessment on each tract in the improvement district resulting from the modification of the project; and

(3) If applicable, the modified assessment installments and the due dates of the assessment installments.

(i) That a person may object to the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments using the procedure outlined in the notice.

(j) That if a person objects to the amount of maximum special benefits estimated to be derived from the project, as modified, or to the legality of the proposed modification in any respect:

(1) The person is entitled to be represented by counsel at the hearing;

(2) Any evidence the person wants to present must be presented at the hearing; and

(3) Evidence that is not presented at the hearing may not be presented in an action brought pursuant to section 11 of this act.

8. No substantial change in the proposed modification of the project or, if applicable, the assessments, the assessment installments or the due dates of the assessment installments may be made after the first publication, posting or mailing of notice to property owners, whichever occurs first.

1        Sec. 9. A modification may not be made pursuant to the provisions of  
2 section 7 of this act if, within the time specified in the notice pursuant to  
3 paragraph (d) of subsection 7 of section 8 of this act, the owners of tracts in the  
4 improvement district which:

5        1. Are proposed to have assessments modified or which derive benefits from  
6 the portion of the project proposed to be eliminated or changed or from the  
7 additions proposed to be made to the project; and

8        2. Upon the modification of the project and, if applicable, the assessments,  
9 will in the aggregate have assessments greater than 50 percent of the aggregate  
10 amount of the assessments on the tracts in the improvement district which are  
11 proposed to have assessments modified or which derive benefits from the portion  
12 of the project proposed to be eliminated or changed or from the additions  
13 proposed to be made to the project,

14        ☞ file a written objection to the modification with the clerk.

15        Sec. 10. 1. On the date and at the place fixed for the hearing, any and all  
16 property owners and other interested persons may present their views to the  
17 governing body with respect to the proposed modification. The governing body  
18 may adjourn the hearing from time to time.

19        2. After the hearing has been concluded, all written complaints, protests  
20 and objections have been read and considered, and all persons desiring to be  
21 heard in person have been heard, the governing body shall consider the  
22 arguments, if any, and any other relevant material put forth, and shall by  
23 resolution or ordinance, as the governing body determines, pass upon the merits  
24 of each such complaint, protest or objection.

25        3. If the governing body determines that it is not in the public interest that  
26 the proposed modification of the project and, if applicable, the assessments, the  
27 assessment installments and the due dates of the assessment installments be  
28 made, the governing body shall make an order by resolution to that effect, and  
29 thereupon the proceedings for the modification of the project and, if applicable,  
30 the assessments, the assessment installments and the due dates of the assessment  
31 installments determined against by the order must stop and must not be begun  
32 again until the adoption of a new resolution.

33        4. Any complaint, protest or objection to:

34        (a) The modification of the project or, if applicable, the assessments, the  
35 assessment installments or the due dates of the assessment installments;

36        (b) The estimated cost of the project, as modified;

37        (c) The method used to estimate the special benefits to be derived from the  
38 project, as modified, generally or by any tract in the improvement district;

39        (d) The basis established for the apportionment of the assessments based on  
40 the project, as modified; or

41        (e) The regularity, validity and correctness of any other proceedings or  
42 instruments taken, adopted or made before the date of the hearing,

43        ☞ shall be deemed waived unless presented at the hearing described in section 10  
44 of this act or in writing at the time and in the manner provided by section 9 of this  
45 act.

46        Sec. 11. 1. Any person filing a written complaint, protest or objection as  
47 provided in section 9 of this act, within 30 days after the governing body has  
48 finally passed on the complaint, protest or objection by resolution or ordinance as  
49 provided in subsection 2 of section 10 of this act, may commence an action or suit  
50 in any court of competent jurisdiction to correct or set aside the determination,  
51 but thereafter all actions or suits attacking the validity of the proceedings and the  
52 amount of special benefits are perpetually barred.



2. Any person who brings an action pursuant to this section must plead with particularity and prove the facts upon which he or she relies to establish:

(a) That the estimate of the cost of the project, as modified, the special benefits to be derived from the project, as modified, or the method used to apportion the cost of the project, as modified, is fraudulent, arbitrary or unsupported by substantial evidence; or

(b) That a provision of sections 4 to 16, inclusive, of this act has been violated.

3. Conclusory allegations of fact or law are insufficient to comply with the requirements of subsections 1 and 2.

4. In any action brought pursuant to this section, judicial review of the proceedings is confined to the record before the governing body. Evidence that has not been presented to the governing body must not be considered by the court.

Sec. 12. 1. After the hearing and the governing body has:

(a) Disposed of all verbal and written complaints, protests and objections;

(b) Determined that no assessment on a tract in the improvement district is increased as a result of the modification or, if any such assessment is increased, that the written consent described in paragraph (f) of subsection 7 of section 8 of this act has been filed with the clerk;

(c) Determined that the written consent described in paragraph (g) of subsection 7 of section 8 of this act has been filed with the clerk; and

(d) Determined that no written objections to the modification were filed pursuant to section 9 of this act,

and the governing body has jurisdiction to proceed, the governing body shall determine whether to proceed with the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments.

2. Any determination made pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

Sec. 13. 1. If the governing body determines pursuant to section 12 of this act to proceed with the modification of the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments, the governing body may, by ordinance, modify the project and, if applicable, the assessments, the assessment installments and the due dates of the assessment installments as provided in the report of the engineer filed pursuant to section 5 of this act if:

(a) The governing body determines that the public convenience and necessity require the modification; and

(b) The governing body finds and determines that, upon the modification, the amount assessed against each tract in the improvement district does not exceed the maximum special benefits to be derived by such tract from the project, as modified.

2. Any determination or finding made by the governing body pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 14. 1. If assessments are modified pursuant to an ordinance adopted pursuant to section 6, 7 or 13 of this act, upon adoption of the ordinance, the governing body shall cause to be recorded in the office of the county recorder a certified copy of a list of the tracts in the improvement district, the amount of the assessment on each such tract and the amount of maximum special benefits to be derived from the project, as modified, by each tract in the improvement district, as



shown on the assessment plat provided by the engineer pursuant to section 5 of this act.

2. Neither the failure to record the list as provided in this subsection nor any defect or omission in the list regarding any parcel or parcels within the district affects the validity of any assessment, the lien for the payment thereof or the priority of that lien.

Sec. 15. 1. If assessments are reduced pursuant to an ordinance adopted pursuant to section 6, 7 or 13 of this act, the governing body shall adopt an ordinance establishing a fair procedure for providing payment or credit to any person who has paid assessments that would have been reduced pursuant to the ordinance which reduces assessments.

2. A determination regarding the fairness of the procedure established by an ordinance adopted pursuant to this section is conclusive in the absence of fraud or gross abuse of discretion.

3. An ordinance adopted pursuant to this section may be adopted as if an emergency existed.

Sec. 16. If a governing body begins proceedings to modify a project pursuant to the provisions of sections 4 to 16, inclusive, of this act at the request of a person, before beginning those proceedings, the governing body may require the person requesting the modification to pay any expenses incurred by the governing body in connection with the proceedings.

Sec. 17. NRS 271.030 is hereby amended to read as follows:

271.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.250, inclusive, and section 3 of this act have the meanings ascribed to them in those sections.

Sec. 18. NRS 271.265 is hereby amended to read as follows:

271.265 1. The governing body of a county, city or town, upon behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate, ~~and~~ maintain ~~it~~ and finance, within or without the municipality, or both within and without the municipality:

- (a) A commercial area vitalization project;
- (b) A curb and gutter project;
- (c) A drainage project;
- (d) An energy efficiency improvement project;
- (e) An off-street parking project;
- (f) An overpass project;
- (g) A park project;
- (h) A public safety project;
- (i) A renewable energy project;
- (j) A sanitary sewer project;
- (k) A security wall;
- (l) A sidewalk project;
- (m) A storm sewer project;
- (n) A street project;
- (o) A street beautification project;
- (p) A transportation project;
- (q) An underpass project;
- (r) A water project; ~~and~~
- (s) A defeasance district project; and
- (t) Any combination of such projects.

2. In addition to the power specified in subsection 1, the governing body of a city having a commission form of government as defined in NRS 267.010, upon behalf of the municipality and in its name, without any election, may from time to

time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

- (a) An electrical project;
- (b) A telephone project;
- (c) A combination of an electrical project and a telephone project;
- (d) A combination of an electrical project or a telephone project with any of the projects, or any combination thereof, specified in subsection 1; and
- (e) A combination of an electrical project and a telephone project with any of the projects, or any combination thereof, specified in subsection 1.

3. In addition to the power specified in subsections 1 and 2, the governing body of a municipality, on behalf of the municipality and in its name, without an election, may finance an underground conversion project with the approval of each service provider that owns the overhead service facilities to be converted.

4. In addition to the power specified in subsections 1, 2 and 3, if the governing body of a municipality in a county whose population is less than 400,000 complies with the provisions of NRS 271.650, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

- (a) An art project; and
- (b) A tourism and entertainment project.

~~Sec. 2.~~ **Sec. 19.** NRS 271.305 is hereby amended to read as follows:

271.305 1. In the provisional order the governing body shall set a time, at least 20 days thereafter, and a place at which the owners of the tracts to be assessed, or any other interested persons, may appear before the governing body and be heard as to the propriety and advisability of acquiring or improving, or acquiring and improving, the project or projects provisionally ordered. If a mobile home park is located on one or more of the tracts to be assessed, the notice must be given to the owner of the tract and each tenant of that mobile home park.

2. Notice must be given:

- (a) By publication.
- (b) By mail.
- (c) By posting.

3. Proof of publication must be by affidavit of the publisher.

4. Proof of mailing and proof of posting must be by affidavit of the engineer, clerk, or any deputy mailing the notice and posting the notice, respectively.

5. Proof of publication, proof of mailing and proof of posting must be maintained in the records of the municipality until all the assessments appertaining to the project have been paid in full, including principal, interest, any penalties, and any collection costs.

6. The notice may be prepared by the engineer and ratified by the governing body, and, except as otherwise provided in subsection 7, must state:

- (a) The kind of project proposed.
- (b) The estimated cost of the project, and the portion, if any, to be paid from sources other than assessments.
- (c) The basis for apportioning the assessments, which assessments must be in proportion to the special benefits derived to each of the several tracts comprising the assessable property and on a front foot, area, zone or other equitable basis.
- (d) The number of installments and time in which the assessments will be payable.
- (e) The maximum rate of interest on unpaid installments of assessments.
- (f) The extent of the improvement district to be assessed, by boundaries or other brief description.

(g) The time and place of the hearing where the governing body will consider all objections to the project.

(h) That all written objections to the project must be filed with the clerk of the municipality at least 3 days before the time set for the hearing.

(i) If the project is not a commercial area vitalization project, that pursuant to NRS 271.306, if a majority of the property owners to be assessed for a project proposed by a governing body object in writing within the time stated in paragraph (h), the project must not be acquired or improved unless:

(1) The municipality pays one-half or more of the total cost of the project, other than a park project, with money derived from other than the levy or assessments; or

(2) The project constitutes not more than 2,640 feet, including intersections, remaining unimproved in any street, including an alley, between improvements already made to either side of the same street or between improvements already made to intersecting streets.

(j) That the description of the tracts to be assessed, the maximum amount of benefits estimated to be conferred on each such tract and all proceedings in the premises are on file and can be examined at the office of the clerk.

(k) Unless there will be no substantial change, that a substantial change in certain existing street elevations or grades will result from the project, without necessarily including any statement in detail of the extent or location of any such change.

(l) That a person should object to the formation of the district using the procedure outlined in the notice if the person's support for the district is based upon a statement or representation concerning the project that is not contained in the language of the notice.

(m) That if a person objects to the amount of maximum benefits estimated to be assessed or to the legality of the proposed assessments in any respect:

(1) The person is entitled to be represented by counsel at the hearing;

(2) Any evidence the person desires to present on these issues must be presented at the hearing; and

(3) Evidence on these issues that is not presented at the hearing may not thereafter be presented in an action brought pursuant to NRS 271.315.

(n) If the project is a commercial area vitalization project, that:

(1) A person who owns or resides within a tract in the proposed improvement district and which is used exclusively for residential purposes may file a protest to inclusion in the assessment plat pursuant to NRS 271.392; and

(2) Pursuant to NRS 271.306, if written remonstrances by the owners of tracts constituting one-third or more of the basis for the computation of assessments for the commercial area vitalization project are presented to the governing body, the governing body shall not proceed with the commercial area vitalization project.

7. The notice need not state either or both of the exceptions stated in subsection 2 of NRS 271.306 unless either or both of the exceptions are determined by the governing body or the engineer to be relevant to the proposed improvement district to which the notice appertains.

8. All proceedings may be modified or rescinded wholly or in part by resolution adopted by the governing body, or by a document prepared by the engineer and ratified by the governing body, at any time before the passage of the ordinance adopted pursuant to NRS 271.325, creating the improvement district, and authorizing the project.

9. No substantial change in the improvement district, details, preliminary plans or specifications or estimates may be made after the first publication, posting or mailing of notice to property owners, whichever occurs first, except ~~for~~:

(a) *As otherwise provided in ~~section 4~~ sections 4 to 16, inclusive, of this act;*

or (b) For the deletion of a portion of a project and property from the proposed program and improvement district or any assessment unit.

10. The engineer may make minor changes in time, plans and materials entering into the work at any time before its completion.

11. If the ordinance is for a commercial area vitalization project, notice sent pursuant to this section must be sent by mail to each person who owns real property which is located within the proposed improvement district and to each tenant who resides or owns a business located within the proposed improvement district.

~~Sec. 20~~ Sec. 20. NRS 271.320 is hereby amended to read as follows:

271.320 1. After the hearing and after the governing body has:

(a) Disposed of all complaints, protests and objections, oral and in writing;

(b) Determined that it is not prevented from proceeding pursuant to subsection 3 or 4 of NRS 271.306; and

(c) Determined that:

(1) Either or both exceptions stated in subsection 2 of NRS 271.306 apply;

or (2) There were not filed with the clerk complaints, protests and objections in writing and signed by the owners of tracts constituting a majority of the frontage, of the area, of the zone, or of the other basis for the computation of assessments stated in the notice, of the tracts to be assessed in the improvement district or in the assessment unit, if any,

and the governing body has jurisdiction to proceed, the governing body shall determine whether to proceed with the improvement district, and with each assessment unit, if any, except as otherwise provided in this chapter.

2. ~~HH~~ *Except as otherwise provided in ~~section 4~~ sections 4 to 16, inclusive, of this act,* if the governing body desires to proceed and desires any modification, by motion or resolution it shall direct the engineer to prepare and present to the governing body:

(a) A revised and detailed estimate of the total cost, including, without limiting the generality of the foregoing, the cost of acquiring or improving each proposed project and of each of the incidental costs. The revised estimate does not constitute a limitation for any purpose.

(b) Full and detailed plans and specifications for each proposed project designed to permit and encourage competition among the bidders, if any project is to be acquired by construction contract.

(c) A revised map and assessment plat showing respectively the location of each project and the tracts to be assessed therefor, not including any area or project not before the governing body at a provisional order hearing.

3. That resolution, a separate resolution, or the ordinance creating the improvement district may combine or divide the proposed project or projects into suitable construction units for the purpose of letting separate and independent contracts, regardless of the extent of any project constituting an assessment unit and regardless of whether a portion or none of the cost of any project is to be defrayed other than by the levy of special assessments. Costs of unrelated projects must be segregated for assessment purposes as provided in this chapter.

~~Sec. 21~~ Sec. 21. NRS 271.325 is hereby amended to read as follows:

271.325 1. When an accurate estimate of cost, full and detailed plans and specifications and map are prepared, are presented and are satisfactory to the governing body, it shall, by resolution, make a determination that:

(a) Public convenience and necessity require the creation of the district; and

(b) The creation of the district is economically sound and feasible.

1     ✎ This determination may be made part of the ordinance creating the district  
2     adopted pursuant to subsection 2 and is conclusive in the absence of fraud or gross  
3     abuse of discretion.

4     2. The governing body may, by ordinance, create the district and order the  
5     proposed project to be acquired or improved. This ordinance may be adopted and  
6     amended as if an emergency existed.

7     3. The ordinance must prescribe:

8     (a) The extent of the improvement district to be assessed, by boundaries or  
9     other brief description, and similarly of each assessment unit therein, if any.

10    (b) The kind and location of each project proposed, without mentioning minor  
11    details.

12    (c) The amount or proportion of the total cost to be defrayed by assessments,  
13    the method of levying assessments, the number of installments and the times in  
14    which the costs assessed will be payable.

15    (d) The character and extent of any construction units.

16    4. The engineer may further revise the cost, plans and specifications and map  
17    from time to time for all or any part of any project, and the ordinance may be  
18    appropriately amended. ~~Before~~ Except as otherwise provided in ~~section 11~~  
19    sections 4 to 16, inclusive, of this act, such amendment must take place before  
20    letting any construction contract therefor and before any work being done other  
21    than by independent contract let by the municipality.

22    5. The ordinance, if amended, must order the work to be done as provided in  
23    this chapter.

24    6. Upon adoption or amendment of the ordinance, the governing body shall  
25    cause to be recorded in the office of the county recorder a certified copy of a list of  
26    the tracts to be assessed and the amount of maximum benefits estimated to be  
27    assessed against each tract in the assessment area, as shown on the assessment plat  
28    as revised and approved by the governing body pursuant to NRS 271.320. Neither  
29    the failure to record the list as provided in this subsection nor any defect or  
30    omission in the list regarding any parcel or parcels to be included within the district  
31    affects the validity of any assessment, the lien for the payment thereof or the  
32    priority of that lien.

33    7. The governing body may not adopt an ordinance creating or modifying the  
34    boundaries of an improvement district for a commercial area vitalization project if  
35    the boundaries of the improvement district overlap an existing improvement district  
36    created for a commercial area vitalization project.

37    ~~Sec. 5.~~ Sec. 22. NRS 271.367 is hereby amended to read as follows:

38    271.367 Because the protection afforded by a security wall benefits each tract  
39    in the subdivision, in addition to any other basis for apportioning the assessments  
40    authorized in NRS 271.010 to 271.360, inclusive, and ~~section 11~~ sections 4 to 16,  
41    inclusive, of this act, the governing body may apportion the assessments for a  
42    security wall on the basis that all tracts in the subdivision share equally in the cost  
43    and maintenance of the project.

44    ~~Sec. 6.~~ Sec. 23. This act becomes effective on July 1, 2011.