

## Amendment No. 343

Senate Amendment to Senate Bill No. 260

(BDR 21-126)

**Proposed by:** Senate Committee on Government Affairs**Amends:** Summary: No Title: Yes 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.

SRT/HAC



Date: 4/18/2011

S.B. No. 260—Provides an alternative procedure for the creation of certain local improvement districts. (BDR 21-126)



## SENATE BILL NO. 260—SENATOR HARDY

MARCH 17, 2011

JOINT SPONSOR: ASSEMBLYWOMAN WOODBURY

Referred to Committee on Government Affairs

SUMMARY—Provides an alternative procedure for the creation of certain local improvement districts. (BDR 21-126)

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 improvements; providing an alternative procedure for the creation of certain local improvement districts that include a renewable energy project ~~or~~ or an energy efficiency improvement project; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law sets forth the procedures for a governing body to acquire, improve, equip, operate and maintain local improvement districts that include various types of projects, including renewable energy projects ~~or~~ and energy efficiency improvement projects. (NRS 271.265-271.630) **Sections 2-4** of this bill provide an alternative procedure for the creation of a local improvement district that includes a renewable energy project ~~or~~ or an energy efficiency improvement project.

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

**Section 1.** Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

**Sec. 2. 1.** *A governing body may adopt an ordinance pursuant to NRS 271.325 creating an improvement district and ordering a renewable energy project ~~or~~ or an energy efficiency improvement project to be acquired or improved and may contract with a person to construct or improve a renewable energy project ~~or~~ or an energy efficiency improvement project, issue bonds or otherwise finance the cost of the renewable energy project ~~or~~ or energy efficiency improvement project and levy assessments on assessable property, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.380 and 271.385, if the governing body:*

1 (a) Issues a provisional order pursuant to NRS 271.280 to form an  
2 improvement district for a renewable energy project ~~for~~ or an energy efficiency  
3 improvement project; and

4 (b) Has entered into a written agreement with the owners of all assessable  
5 property who applied pursuant to section 4 of this act to have their property  
6 included in the improvement district which states that:

7 (1) The governing body agrees to enter into a contract for the  
8 acquisition, construction or improvement of the renewable energy project or  
9 energy efficiency improvement project in the improvement district.

10 (2) The owners of the assessable property agree in writing that the  
11 governing body may create the improvement district, levy assessments against  
12 their property and, for all other purposes relating to the improvement district,  
13 proceed pursuant to the provisions of this section.

14 2. If an ordinance is adopted and the agreement entered into pursuant to  
15 subsection 1 so states:

16 (a) ~~The governing body may amend the ordinance creating the improvement~~  
17 ~~district, change the assessment roll and redistribute the assessments required~~  
18 ~~pursuant to NRS 271.390 in the same manner in which these actions were~~  
19 ~~originally taken to add additional property to the improvement district. The~~  
20 ~~assessments may be redistributed between the assessable property originally in~~  
21 ~~the improvement district and the additional assessable property if:~~

22 ~~(1) The owners of the additional assessable property submit an~~  
23 ~~application pursuant to section 4 of this act and consent in writing to inclusion of~~  
24 ~~their property in the improvement district and to the amount of the assessment~~  
25 ~~against their property; and~~

26 ~~(2) The redistribution of the assessments is not prohibited by any~~  
27 ~~covenants made for the benefit of the owners of any bonds or interim warrants~~  
28 ~~issued for the improvement district.~~

29 ~~(b) The governing body may amend the ordinance creating the improvement~~  
30 ~~district, change the assessment roll and redistribute the assessments required by~~  
31 ~~NRS 271.390 in the same manner in which these actions were originally taken to~~  
32 ~~remove assessable property from the improvement district. The assessments may~~  
33 ~~be redistributed among the assessable property remaining in the improvement~~  
34 ~~district if:~~

35 ~~(1) The owners of the remaining assessable property consent in writing~~  
36 ~~to the amount of the revised assessment on their property; and~~

37 ~~(2) The redistribution of the assessments is not prohibited by any~~  
38 ~~covenants made for the benefit of the owners of any bonds or interim warrants~~  
39 ~~issued for the improvement district.~~

40 ~~(c)~~ The governing body may adopt any ordinance pertaining to the  
41 improvement district including the ordinance creating the improvement district  
42 required by NRS 271.325, the ordinance authorizing interim warrants required  
43 by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the  
44 ordinance authorizing bonds required by NRS 271.475 or any ordinance  
45 amending those ordinances after a single reading and without holding a hearing  
46 thereon, as if an emergency exists, upon an affirmative vote of not less than two-  
47 thirds of all voting members of the governing body, excluding from any  
48 computation any vacancy on the governing body and any members thereon who  
49 may vote to break a tie vote, and provide that the ordinances become effective at  
50 the time an emergency ordinance would have become effective. The provisions of  
51 NRS 271.308 do not apply to any such ordinance.

52 ~~(d)~~ (b) The governing body may provide for a reserve fund, letter of credit,  
53 surety bond or other collateral for payment of any interim warrants or bonds

1 issued for the improvement district and include all or any portion of the costs  
2 thereof in the amounts assessed against the property in the improvement district  
3 and in the amount of bonds issued for the improvement district. The governing  
4 body may provide for the disposition of interest earned on the reserve fund and  
5 other bond proceeds, for the disposition of unexpended bond proceeds after  
6 completion of the renewable energy project or energy efficiency improvement  
7 project and for the disposition of the unexpended balance in the reserve fund  
8 after payment in full of the bonds for the improvement district.

9 3. If the governing body of a municipality forms an improvement district  
10 pursuant to the provisions of this section, the governing body:

11 (a) Is not required to adopt the resolutions required pursuant to the  
12 provisions of NRS 271.310, 271.360 and 271.390.

13 (b) Shall be deemed to have adopted the resolution required pursuant to the  
14 provisions of NRS 271.325 if the plans and specifications are sufficiently specific  
15 to allow a competent contractor with the assistance of a competent engineer to  
16 estimate the cost of constructing the renewable energy project or energy  
17 efficiency improvement project and to construct the renewable energy project ~~or~~  
18 or energy efficiency improvement project.

19 Sec. 3. 1. Any agreement entered into pursuant to section 2 of this act  
20 must:

21 (a) Include a description of the property in the improvement district.

22 (b) Be signed by the chair of the governing body and the owners of all  
23 assessable property within the improvement district. If a tract of assessable  
24 property within the improvement district is owned by more than one person, each  
25 person who owns the tract must sign the agreement.

26 (c) Be accompanied by an acknowledgment of each signature.

27 (d) Be recorded in the office of the county recorder.

28 2. Upon recording pursuant to paragraph (d) of subsection 1, the  
29 agreement:

30 (a) Is binding on all subsequent owners of assessable property in the  
31 improvement district;

32 (b) Is not extinguished by the sale of any property on account of nonpayment  
33 of general taxes or any other sale of the property; and

34 (c) Is prior and superior to all liens, claims, encumbrances and titles other  
35 than the liens of assessment and general taxes.

36 Sec. 4. 1. An owner of a tract that is included in a provisional order to  
37 form an improvement district for a renewable energy project or an energy  
38 efficiency improvement project who wants to have the tract included in the  
39 assessable property of an improvement district for a renewable energy project or  
40 an energy efficiency improvement project must submit an application to the  
41 governing body on a form prescribed by the governing body.

42 2. If more than one person owns a tract that is included in a provisional  
43 order to form an improvement district for a renewable energy project ~~or~~ or an  
44 energy efficiency improvement project, each owner of the tract must submit an  
45 application to the governing body in order to have the tract included in the  
46 assessable property of a renewable energy project ~~or~~ or an energy efficiency  
47 improvement project.

48 3. The governing body may not include a tract in the assessable property of  
49 an improvement district for a renewable energy project or an energy efficiency  
50 improvement project unless the owner or owners of the tract apply pursuant to  
51 this section to have the tracts included.

1       **Sec. 5.** NRS 271.270 is hereby amended to read as follows:

2       271.270 The governing body of any municipality, upon behalf of the  
3 municipality and in its name, for the purpose of defraying all the cost of acquiring  
4 or improving, or acquiring and improving, any project herein authorized, or any  
5 portion of the cost thereof not to be defrayed with moneys available therefor from  
6 the general fund, any special fund, or otherwise, shall have power hereunder:

7       1. To levy assessments against assessable property within the municipality  
8 and to cause the assessments so levied to be collected.

9       2. ~~[(b)]~~ *Except as otherwise provided in NRS 271.495, to* levy from time to  
10 time and cause to be collected taxes against all taxable property within the  
11 municipality, without limitation as to rate or amount, except for the limitation in  
12 Section 2 of Article 10 of the Constitution of the State of Nevada, to pay the  
13 principal of and interest on bonds to the extent assessments are insufficient therefor.

14       3. To pledge the proceeds of any assessments and taxes levied hereunder to  
15 the payment of special assessment bonds and to create liens on such proceeds to  
16 secure such payments.

17       4. To issue special assessment bonds as herein provided.

18       5. To make all contracts, execute all instruments and do all things necessary  
19 or convenient in the exercise of the powers granted herein, or in the performance of  
20 the municipality's covenants or duties or in order to secure the payment of its  
21 bonds, provided no encumbrance, mortgage or other pledge of property (excluding  
22 any money) of the municipality is created thereby, and provided no property  
23 (excluding money) of the municipality is liable to be forfeited or taken in payment  
24 of such bonds.

25       **Sec. 6.** NRS 271.308 is hereby amended to read as follows:

26       271.308 Except as otherwise provided in NRS 271.475 ~~[(b)]~~ *and paragraph*  
27 ~~[(c)]~~ *(a) of subsection 2 of section 2 of this act:*

28       1. When expressly authorized by a provision of this chapter and the  
29 conditions of paragraph (a) or (b), or both, of subsection 2 of NRS 271.306 are  
30 satisfied, an ordinance required by this chapter may be adopted or amended as if an  
31 emergency existed.

32       2. The governing body's declaration, if any, in any ordinance that it is such an  
33 ordinance is conclusive in the absence of fraud or gross abuse of discretion.

34       3. Such an ordinance may become effective at any time when an emergency  
35 ordinance of the municipality may go into effect.

36       4. Such an ordinance may be adopted by an affirmative vote of not less than  
37 two-thirds of all the voting members of the governing body, excluding from any  
38 such computation any vacancy on the governing body and any member thereon  
39 who may vote only to break a tie vote.

40       **Sec. 7.** NRS 271.310 is hereby amended to read as follows:

41       271.310 1. On the date and at the place fixed for the hearing any and all  
42 property owners interested in the project may present their views in respect to the  
43 proposed projects to the governing body. The governing body may adjourn the  
44 hearing from time to time.

45       2. After the hearing has been concluded, after all written complaints, protests  
46 and objections have been read and considered, and after all persons desiring to be  
47 heard in person have been heard, the governing body shall consider the arguments,  
48 if any, and any other relevant material put forth, and shall , *except as otherwise*  
49 *provided in paragraph (a) of subsection 3 of section 2 of this act,* by resolution or  
50 ordinance, as the board determines, pass upon the merits of each such complaint,  
51 protest or objection.

52       3. If the governing body determines that it is not for the public interest that  
53 the proposed project, or a part of the project, be made, the governing body shall ,

1 *except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this*  
2 *act*, make an order by resolution to that effect, and thereupon the proceedings for  
3 the project, or the part of the project determined against by the order, must stop and  
4 must not be begun again until the adoption of a new resolution.

5 4. Any complaint, protest or objection to:

6 (a) The propriety of acquiring or improving or acquiring and improving the  
7 project;

8 (b) The estimated cost of the project;

9 (c) The determination concerning the portion of the cost of the project to be  
10 paid by assessments;

11 (d) The method used to estimate the special benefits to be derived from the  
12 project generally or by any tract in the assessment area;

13 (e) The basis established for apportionment of the assessments; or

14 (f) The regularity, validity and correctness of any other proceedings or  
15 instruments taken, adopted or made before the date of the hearing,

16 ➡ shall be deemed waived unless presented in writing at the time and in the manner  
17 provided by NRS 271.305.

18 **Sec. 8.** NRS 271.360 is hereby amended to read as follows:

19 271.360 1. ~~After~~ *Except as otherwise provided in paragraph (a) of*  
20 *subsection 3 of section 2 of this act*, after the making of any construction contract,  
21 or after the determination of the net cost to the municipality, but not necessarily  
22 after the completion of the project, the governing body, by resolution or by a  
23 document prepared by the engineer and ratified by the governing body, shall:

24 (a) Determine the cost of the project to be paid by the assessable property in  
25 the improvement district.

26 (b) Order the engineer to make out an assessment roll, or ratify his or her roll  
27 already made, containing, among other things:

28 (1) The name of each last known owner of each tract to be assessed, or if  
29 not known, that the name is "unknown."

30 (2) A description of each tract to be assessed, and the amount of the  
31 proposed assessment thereon, apportioned upon the basis for assessments stated in  
32 the provisional order for the hearing on the project.

33 (c) Cause a copy of the resolution or ratified document to be furnished by the  
34 clerk to the engineer.

35 2. In fixing the amount or sum of money that may be required to pay the costs  
36 of the project, the governing body need not necessarily be governed by the  
37 estimates of the costs of such project provided for herein, but the governing body  
38 may fix such other sum, within the limits prescribed, as it may deem necessary to  
39 cover the cost of such project.

40 3. Before ordering the engineer to make out an assessment roll or ratifying his  
41 or her roll already made, the governing body shall consider all applications for  
42 hardship determinations and the recommendations made by the social services  
43 agency and make a final decision on each application. The governing body shall  
44 direct the engineer to postpone the assessments on property for which a hardship  
45 determination has been finally approved. A property owner whose hardship  
46 determination is approved shall pay interest on the unpaid balance of previous and  
47 current assessments at the same rate and terms as are established for other  
48 assessments in the manner provided by the governing body. The assessment must  
49 remain postponed until the earlier of the following occurrences:

50 (a) The property is sold or transferred to a person other than one to whom a  
51 hardship determination has been granted;

52 (b) The term of the bonds expires;

(c) The property owner's application for renewal of the hardship determination is disapproved;

(d) The property owner fails to pay the interest on the unpaid balance of assessments in a timely manner; or

(e) The property owner pays all previous and current assessments.

4. A property owner may pay all previous and current assessments at any time before they become due without penalty.

5. The governing body shall not sell bonds on the basis of the assessments for which hardship determinations have been approved. A special fund for the payment of the costs of the project assessed against property for which hardship determinations have been made must be created. The fund must be reimbursed when the balance of unpaid assessments are paid, including all interest paid during the period of postponement. The surplus and deficiency fund established pursuant to NRS 271.428 may be used as the special fund.

6. If by mistake or otherwise any person is improperly designated in the assessment roll as the owner of any tract, or if the same is assessed without the name of the owner, or in the name of a person other than the owner, such assessment shall not for that reason be vitiated but shall, in all respects, be as valid upon and against such tract as though assessed in the name of the owner thereof; and when the assessment roll has been confirmed, such assessment shall become a lien on such tract and be collected as provided by law.

**Sec. 9.** NRS 271.390 is hereby amended to read as follows:

271.390 1. ~~After~~ *Except as otherwise provided in paragraph (a) of subsection 3 of section 2 of this act, after* the assessment roll is in final form and is so confirmed by resolution, the municipality by ordinance shall, by reference to the assessment roll, as modified if modified, and as confirmed by the resolution, levy the assessments in the roll. This ordinance may be adopted or amended as if an emergency existed.

2. Written notice of the levy of assessment must be given by mail to the owners of all the property upon which the assessment was levied.

3. The decision, resolution and ordinance are a final determination of the regularity, validity and correctness of the proceedings, of the assessment roll, of each assessment contained therein, and of the amount thereof levied on each tract and parcel of land.

4. The determination by the governing body is conclusive upon the owners of the property assessed.

5. The roll, when endorsed by the clerk as the roll designated in the assessment ordinance, is prima facie evidence in all courts and tribunals of the regularity of all proceedings preliminary to the making thereof and the validity of the assessments and the assessment roll.

**Sec. 10.** NRS 271.430 is hereby amended to read as follows:

271.430 ~~Should~~

1. *Except as otherwise provided in subsection 2, should* any assessment prove insufficient to pay for the project or work for which it is levied and the expense incident thereto, the amount of the deficiency must be paid from the general fund of the municipality to the extent that money is not available for its payment from the surplus and deficiency fund.

2. *A municipality may not use any assets in its general fund to pay a deficiency described in subsection 1 that is related to a renewable energy project or an energy efficiency improvement project acquired or improved pursuant to section 2 of this act.*

1       **Sec. 11.** NRS 271.495 is hereby amended to read as follows:

2       271.495 1. *Except as otherwise provided in subsection 2:*

3       (a) If the special fund created by the proceeds of the assessments is insufficient  
4       to pay such bonds and interest thereon as they become due and the amounts in the  
5       surplus and deficiency fund are not sufficient for that purpose, the deficiency must  
6       be paid out of any assets in the general fund of the municipality, regardless of  
7       source, which are otherwise legally available therefor.

8       ~~1-2~~ (b) If the general fund is insufficient to pay any such deficiency promptly,  
9       the governing body shall levy general (ad valorem) taxes upon all property in the  
10      municipality which is by law taxable for state, county and municipal purposes,  
11      without regard to any statutory or charter tax limitation existing on or after May 14,  
12      1965, and without limitation as to rate or amount, fully sufficient, after making due  
13      allowance for probable delinquencies, to provide for the prompt payment of such  
14      bonds as they become due, both principal and interest, but subject to the limitations  
15      set forth in NRS 361.453 and Section 2 of Article 10 of the Nevada Constitution.

16      2. *A municipality may not use any assets in its general fund to pay a*  
17      *deficiency of a special fund created by the proceeds of the assessments for a*  
18      *renewable energy project or an energy efficiency improvement project acquired*  
19      *or improved pursuant to section 2 of this act.*

20      **Sec. 12.** This act becomes effective on July 1, 2011.