

Amendment No. 963

Assembly Amendment to Senate Bill No. 406 Second Reprint (BDR 21-139)

Proposed by: Assembly Committee on Taxation

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.

HAC/MSN



Date: 6/3/2013

S.B. No. 406—Revises provisions governing tourism improvement districts.
(BDR 21-139)



SENATE BILL NO. 406—SENATORS SMITH, DENIS,
WOODHOUSE, PARKS; AND ATKINSON

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN KIRKPATRICK,
SPRINKLE; AND DONDERO LOOP

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing tourism improvement districts.
(BDR 21-139)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 tourism improvement districts; prohibiting, with limited exceptions, the pledge of the proceeds of certain taxes to finance a project within a tourism improvement district created or revised on or after July 1, 2013; eliminating the prohibition on certain local governments creating a tourism improvement district that includes any property within the boundaries of a redevelopment area; revising provisions relating to certain reports prepared by the Department of Taxation; prohibiting, with limited exceptions, the financing or reimbursement from the proceeds of certain taxes that are collected from any retail facilities of a retailer that, on or after July 1, 2013, locate within the boundary of a tourism improvement district; making various other changes relating to tourism improvement districts; providing that prevailing wage requirements apply to certain contracts and agreements relating to tourism improvement districts; revising the duties of a contractor or developer who enters into a subcontract for the construction, improvement, repair, demolition or reconstruction of certain projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of any city or county to create a tourism improvement district (TID) and to pledge revenue from several sales and use taxes imposed in that district to finance certain projects within the district. The projects may be owned by the municipality, another governmental entity or any person and may be financed through the issuance of bonds or the entry into agreements for the reimbursement of the costs of the projects. (Chapter 271A of NRS) **Section 1** of this bill prohibits, with limited exceptions, a

municipality from pledging the proceeds of the Local School Support Tax to finance a project within a TID created or revised on or after July 1, 2013. **Sections 1.5, 2.3, 2.7 and 3.5** of this bill make conforming changes.

Section 1 also eliminates provisions which prohibit a city or county from creating after October 1, 2009, a TID that includes within its boundaries any property included within the boundaries of a redevelopment area. In the case of a TID created after October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area, **section 1** prohibits a redevelopment agency and the governing body of a county or city from providing financing or reimbursement pursuant to the financing and reimbursement mechanisms of both a TID and a redevelopment area.

Existing law requires the Department of Taxation to prepare and submit to the Legislature and a municipality that creates a TID semiannual reports regarding businesses within the TID. (NRS 271A.105) **Section 2** of this bill requires the report to provide information separately for each TID within the municipality unless the reporting of information separately for each TID would disclose or result in the disclosure of information about an individual business, in which case **section 2** requires the report to provide information in the aggregate. **Section 2** also provides that the Department of Taxation is not required to prepare and submit a semiannual report if the report cannot be prepared and submitted in a manner which would not disclose or lead to the disclosure of information about an individual business.

Section 3 prohibits any financing or reimbursement from the proceeds of the Local School Support Tax that are collected from retail facilities that, on or after July 1, 2013, locate within the boundary of the TID. **Section 3** further provides an exception to this prohibition if the governing body of the municipality, with respect to any district created before July 1, 2013, obtains an opinion from independent bond counsel stating that the applicability of the provision would impair an existing contract for the sale of bonds that were issued before July 1, 2013.

Section 3 also requires an owner of a project to provide, upon request, to the Department of Taxation information that identifies the retail facilities which open or close within the project.

Section 3.2 of this bill provides that prevailing wage requirements (chapter 338 of NRS) apply to the construction of, improvement of, repair to, demolition of or reconstruction of an improvement to any building that will be leased to a tenant who has entered into an agreement to receive financing or reimbursement through the financing or reimbursement mechanisms of a TID.

Section 3.4 of this bill provides that existing duties relating to subcontracts also apply to those contracts or agreements. **It adds and revises the procedure for the solicitation of bids for such contracts and subcontracts.**

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

Section 1. NRS 271A.070 is hereby amended to read as follows:
271A.070 1. Except as otherwise provided in this section and NRS 271A.080, the governing body of a municipality may:

(a) Create a tourism improvement district for the purposes of carrying out this chapter and revise the boundaries of the district by adopting an ordinance describing the boundaries of the district and generally describing the types of projects which may be financed within the district pursuant to this chapter.

(b) Without any election, acquire, improve, equip, operate and maintain a project within a district created pursuant to paragraph (a). The project may be owned by the municipality, another governmental entity, any other person, or any combination thereof.

(c) For the purposes of carrying out paragraph (b), include in an ordinance adopted pursuant to paragraph (a) the pledge of a single percentage specified in the ordinance, which must not exceed 75 percent, of:

(1) An amount equal to the proceeds of the taxes imposed pursuant to NRS 372.105 and 372.185 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of a sum equal to 1.75 percent of the amount of those proceeds;

(2) The amount of the proceeds of the taxes imposed pursuant to NRS 374.110 and 374.190 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year, after the deduction of 0.75 percent of the amount of those proceeds; and

(3) The amount of the proceeds of the tax imposed pursuant to NRS 377.030 with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the improvement district during a fiscal year, after the deduction of 1.75 percent of the amount of those proceeds.

2. *The governing body of a municipality may not include in an ordinance adopted to create or revise the boundaries of a district pursuant to paragraph (a) of subsection 1 on or after July 1, 2013, the pledge of any proceeds described in subparagraph (2) of paragraph (c) of subsection 1. The provisions of this subsection do not apply to the governing body of a municipality with respect to any district created before July 1, 2013, if the governing body obtains an opinion from independent bond counsel stating that the applicability of this provision would impair an existing contract for the sale of bonds which were issued before July 1, 2013.*

3. A district created pursuant to this section by:

(a) A city must be located entirely within the boundaries of that city.

(b) A county must be located entirely within the boundaries of that county and, when the district is created, entirely outside of the boundaries of any city.

~~3-4~~ 4. If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

~~4. The~~

5. ~~If the governing body of a municipality shall not, after October 1, 2009, create~~ creates a tourism improvement district:

(a) *On or before October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS, the governing body and agency may provide financing or reimbursement related to a project or redevelopment project pursuant to the provisions of both NRS 271A.120 and 279.610 to 279.685, inclusive.*

(b) *After October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS ~~4~~, the governing body and an agency:*

(1) *May provide financing or reimbursement related to a project or redevelopment project pursuant to the provisions of NRS 271A.120 or 279.610 to 279.685, inclusive, whichever is applicable.*

(2) *Shall not provide such financing or reimbursement related to the project or redevelopment project pursuant to the provisions of both NRS 271A.120 and 279.610 to 279.685, inclusive.*

6. As used in this section:

(a) "Agency" has the meaning ascribed to it in NRS 279.386.

(b) "Redevelopment project" has the meaning ascribed to it in NRS 279.412.

1 **Sec. 1.5.** NRS 271A.080 is hereby amended to read as follows:

2 271A.080 The governing body of a municipality shall not adopt an ordinance
3 pursuant to NRS 271A.070 unless:

4 1. If the ordinance:

5 (a) Creates a district, the governing body has determined that no retailers will
6 have maintained or will be maintaining a fixed place of business within the district
7 on or within the 120 days immediately preceding the date of the adoption of the
8 ordinance; or

9 (b) Amends the boundaries of the district to add any additional area, the
10 governing body has determined that no retailers will have maintained or will be
11 maintaining a fixed place of business within that area on or within 120 days
12 immediately preceding the date of the adoption of the ordinance.

13 2. The governing body has made a written finding at a public hearing that the
14 project will benefit the district.

15 3. The governing body has made a written finding at a public hearing, based
16 upon reports from independent consultants which were addressed to the governing
17 body ~~and~~ and to the board of county commissioners, if the governing body is not the
18 board of county commissioners for the county in which the tourism improvement
19 district is or will be located, ~~and to the board of trustees of the school district in~~
20 ~~which the tourism improvement district is or will be located;~~ as to whether the
21 project and the financing thereof pursuant to this chapter will have a positive fiscal
22 effect on the provision of local governmental services, after considering:

23 (a) The amount of the proceeds of all taxes and other governmental revenue
24 projected to be received as a result of the properties and businesses expected to be
25 located in the district;

26 (b) The use of any money proposed to be pledged pursuant to NRS 271A.070;

27 (c) Any increase in costs for the provision of local governmental services,
28 including, without limitation, services for education, including operational and
29 capital costs, and services for police protection and fire protection, as a result of the
30 project and the development of land within the district; and

31 (d) Estimates of any increases in the proceeds from sales and use taxes
32 collected by retailers located outside of the district and of any displacement of the
33 proceeds from sales and use taxes collected by those retailers, as a result of the
34 properties and businesses expected to be located in the district.

35 ➤ The reports required from independent consultants pursuant to this subsection
36 must be obtained from independent consultants selected by the governing body
37 from a list of independent consultants provided by the Commission on Tourism.
38 For the purposes of this subsection, the Commission shall, upon the request of a
39 governing body, provide the governing body with a list of at least three qualified
40 independent consultants, each of whom must be located outside of this State.

41 4. ~~{The governing body has, at least 45 days before making the written~~
42 ~~finding required by subsection 3, provided to the board of trustees of the school~~
43 ~~district in which the tourism improvement district is or will be located:~~

44 —(a) ~~Written notice of the time and place of the meeting at which the governing~~
45 ~~body will consider making that written finding; and~~

46 —(b) ~~Each analysis prepared by or for or presented to the governing body~~
47 ~~regarding the fiscal effect of the project and the use of any money proposed to be~~
48 ~~pledged pursuant to NRS 271A.070 on the provision of local governmental~~
49 ~~services, including education.~~

50 ➤ ~~After the receipt of the notice required by this subsection and before the date of~~
51 ~~the meeting at which the governing body will consider making the written finding~~
52 ~~required by subsection 3, the board of trustees shall conduct a hearing regarding the~~
53 ~~fiscal effect on the school district, if any, of the project and the use of any money~~

~~proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body shall consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.~~

~~5-1~~ If the governing body is not the board of county commissioners for the county in which the tourism improvement district is or will be located, the governing body has, at least 45 days before making the written finding required by subsection 3, provided to the board of county commissioners in the county in which the tourism improvement district is or will be located:

(a) Written notice of the time and place of the meeting at which the governing body will consider making that written finding; and

(b) Each analysis prepared by or for or presented to the governing body regarding the fiscal effect of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 on the provision of local governmental services.

After the receipt of the notice required by this subsection and before the date of the meeting at which the governing body will consider making the written finding required by subsection 3, the board of county commissioners may conduct a hearing regarding the fiscal effect on local governmental services, if any, of the project and the use of any money proposed to be pledged pursuant to NRS 271A.070, and may submit to the governing body of the municipality any comments regarding that fiscal effect. The governing body may consider those comments when making any written finding pursuant to subsection 3 and shall consider those comments when considering the terms of any agreement pursuant to NRS 271A.110.

~~6-1~~ 5. The governing body has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that:

(a) As a result of the project:

(1) Retailers will locate their businesses as such in the district; and

(2) There will be a substantial increase in the proceeds from sales and use taxes remitted by retailers with regard to tangible personal property sold at retail, or stored, used or otherwise consumed, in the district; and

(b) A preponderance of that increase in the proceeds from sales and use taxes will be attributable to transactions with tourists who are not residents of this State.

~~7-1~~ 6. The Commission on Tourism has determined, at a public hearing conducted at least 15 days after providing notice of the hearing by publication, that a preponderance of the increase in the proceeds from sales and use taxes identified pursuant to subsection ~~6-1~~ 5 will be attributable to transactions with tourists who are not residents of this State.

~~8.— The Governor has determined that the project and the use of any money proposed to be pledged pursuant to NRS 271A.070 will contribute significantly to economic development and tourism in this State. Before making that determination, the Governor:~~

~~—(a) Must consider the fiscal effects of the pledge of money on educational funding, including any fiscal effects described in comments provided pursuant to subsection 4 by the school district in which the tourism improvement district is or will be located, and for that purpose may require the Department of Education or the Department of Taxation, or both, to provide an appropriate fiscal report; and~~

~~—(b) If the Governor determines that the pledge of money will have a substantial adverse fiscal effect on educational funding, may require a commitment from the municipality for the provision of specified payments to the school district in which the tourism improvement district is or will be located during the term of the use of~~

~~any money pledged pursuant to NRS 271A.070. The payments may be provided pursuant to agreements with owners of property within the district authorized by NRS 271A.110 or from sources other than the owners of property within the district. Such a commitment by a municipality is not subject to the limitations of subsection 1 of NRS 354.626 and, notwithstanding any other law to the contrary, is binding on the municipality for the term of the use of any money pledged pursuant to NRS 271A.070.~~

~~9.1~~ 7. If any property within the boundaries of the district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, all of the governing bodies which created those districts have entered into an interlocal agreement providing for:

(a) The apportionment of any money pledged pursuant to NRS 271.650 and 271A.070 with respect to such property; and

(b) The priority of the application of that money between:

(1) Bonds issued pursuant to chapter 271 of NRS; and

(2) Bonds and notes issued, and agreements entered into, pursuant to NRS 271A.120.

Any such agreement for the priority of the application of that money may be made irrevocable during the term of any bonds issued pursuant to chapter 271 of NRS to which all or any portion of that money is pledged, or during the term of any bonds or notes issued or any agreements entered into pursuant to NRS 271A.120 to which all or any portion of that money is pledged.

Sec. 2. NRS 271A.105 is hereby amended to read as follows:

271A.105 1. On or before September 1 of each year, the governing body of a municipality that creates a district before, on or after July 1, 2011, shall prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, an annual report containing:

(a) A statement of the status of each project located or expected to be located in the district, and of any changes in that status since the last annual report.

(b) An assessment of the financial impact of the district on the provision of local governmental services, including, without limitation, services for police protection and fire protection.

2. If the governing body of a municipality creates a district before, on or after July 1, 2011, the Department of Taxation shall:

(a) On or before April 1 and October 1 of each year, *except as otherwise provided in subsection 3*, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, and to the governing body of the municipality a semiannual report which states:

(1) The amount of revenue from the taxable sales made each month by ~~each business~~ *the businesses* within the district;

(2) To the extent that the pertinent information is available, the portion of that revenue which is attributable to persons who are not residents of this State;

(3) The amount of the wages paid each month by ~~each business~~ *the businesses* within the district; and

(4) The number of full-time and part-time employees employed each month by ~~each business~~ *the businesses* within the district.

The report must provide the information separately for each district in the municipality unless reporting the information separately would disclose or result in the disclosure of information about an individual business, in which case the report must provide the information in the aggregate.

(b) Require each business within the district to report to the Department of Taxation, at such times as the Department may specify on a form provided by the Department, such information as the Department determines to be necessary to carry out the provisions of paragraph (a).

~~3. Except as otherwise provided in subsection 2 or another specific statute, the Department of Taxation shall not disclose any information reported to the Department pursuant to subsection 2.~~ *3. is not required to prepare and submit a report pursuant to paragraph (a) of subsection 2 if the report cannot be prepared in a manner which would not disclose or result in the disclosure of information about an individual business.*

4. As used in this section, "taxable sales" means any sales that are taxable pursuant to chapter 372 of NRS.

Sec. 2.3. NRS 271A.110 is hereby amended to read as follows:

271A.110 1. The governing body of a municipality may, except as otherwise provided in subsection 2, enter into an agreement with one or more of the owners of any interest in property within a district, pursuant to which that owner would agree to make payments to the municipality or to another local government that provides services in the district, or to both, to defray, in whole or in part, the cost of local governmental services during the term of the use of any money pledged pursuant to NRS 271A.070. Such an agreement must specify the amount to be paid by the owner of the property interest, which may be stated as a specified amount per year or as an amount based upon any formula upon which the municipality and owner agree.

2. The governing body of a municipality shall not enter into an agreement pursuant to subsection 1 unless:

~~(a) The governing body has made a written finding pursuant to subsection 3 of NRS 271A.080 that the project and the use of any money pledged pursuant to NRS 271A.070 will not have a positive fiscal effect on the provision of local governmental services.~~

~~(b) The Governor requires a commitment from the municipality for the provision of specified payments to the school district in which the district is located during the term of the use of any money pledged pursuant to NRS 271A.070.~~

Sec. 2.7. NRS 271A.120 is hereby amended to read as follows:

271A.120 1. Except as otherwise provided in this section, if the governing body of a municipality adopts an ordinance pursuant to NRS 271A.070, the municipality may:

(a) Issue, at one time or from time to time, bonds or notes as special obligations under the Local Government Securities Law to finance or refinance projects for the benefit of the district. Any such bonds or notes may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof.

(b) Enter into an agreement with one or more governmental entities or other persons to reimburse that entity or person for the cost of acquiring, improving or equipping, or any combination thereof, any project, which may contain such terms as are determined to be desirable by the governing body of the municipality, including the payment of reasonable interest and other financing costs incurred by such entity or other person. Any such reimbursements may be secured by a pledge of, and be payable from, any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. Such an agreement is not subject to the limitations of

subsection 1 of NRS 354.626 and may, at the option of the governing body, be binding on the municipality beyond the fiscal year in which it was made, only if the agreement pertains solely to one or more projects that are owned by the municipality or another governmental entity.

2. The governing body of a municipality shall not, with respect to any district created before, on or after July 1, 2011, provide any financing or reimbursement pursuant to this section:

(a) Except as otherwise provided in this paragraph, to any governmental entity for any project within the district if any nongovernmental entity is or was entitled to receive any financing or reimbursement from the municipality pursuant to this section under the original financing agreements for the initial projects within the district. This paragraph does not prohibit the provision of such financing or reimbursement to ~~+~~

~~(1) A school district; or~~

~~(2) A~~ ^a governmental entity that is or was entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

(b) To any person or other entity for any project within the district, other than a person or other entity that is or was entitled to receive such financing or reimbursement from the municipality under the original financing agreements for the initial projects within the district, without the consent of all the persons and other entities that were entitled to receive such financing or reimbursement under the original financing agreements for the initial projects within the district.

3. Before the issuance of any bonds or notes pursuant to this section, the municipality must obtain the results of a feasibility study, commissioned by the municipality, which shows that a sufficient amount will be generated from money pledged pursuant to NRS 271A.070 to make timely payment on the bonds or notes, taking into account the revenue from any other revenue-producing projects also pledged for the payment of the bonds or notes, if any. A failure to make payments of any amounts due:

(a) With respect to any bonds or notes issued pursuant to subsection 1; or

(b) Under any agreements entered into pursuant to subsection 1,
➤ because of any insufficiency in the amount of money pledged pursuant to NRS 271A.070 to make those payments shall be deemed not to constitute a default on those bonds, notes or agreements.

4. No bond, note or other agreement issued or entered into pursuant to this section may be secured by or payable from the general fund of the municipality, the power of the municipality to levy ad valorem property taxes, or any source other than any money pledged pursuant to NRS 271A.070 and received by the municipality with respect to the district, any revenue received by the municipality from any revenue-producing projects in the district, or any combination thereof. No bond, note or other agreement issued or entered into pursuant to this section may ever become a general obligation of the municipality or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of the municipality for purposes of any limitation on indebtedness.

5. Any bond or note issued pursuant to this section, including any bond or note issued to refund any such bond or note, must mature on or before, and any agreement entered pursuant to this section must automatically terminate on or before, the end of the fiscal year in which the 20th anniversary of the adoption of the ordinance creating the district occurs.

Sec. 3. NRS 271A.125 is hereby amended to read as follows:

271A.125 ~~He~~

1. The governing body of a municipality:

~~++~~ (a) Shall require the review of each claim submitted pursuant to any contract or other agreement made with the governing body to provide any financing or reimbursement pursuant to NRS 271A.120, by an independent auditor.

~~++~~ (b) Shall not ~~++with~~ :

(I) ~~With~~ respect to any district created on or after July 1, 2011, provide any financing or reimbursement pursuant to NRS 271A.120 for:

~~++~~ (I) Any legal fees, accounting fees, costs of insurance, fees for legal notices or costs to amend any ordinances.

~~++~~ (II) Any project that includes the relocation on or after July 1, 2011, to the district of any retail facilities of a retailer from another location outside of and within 3 miles of the boundary of the district. Each pledge of money pursuant to NRS 271A.070 shall be deemed to exclude any amounts attributable to any tangible personal property sold at retail, or stored, used or otherwise consumed, in the district during a fiscal year by a retailer who, on or after July 1, 2011, relocates any of its retail facilities to the district from another location outside of and within 3 miles of the boundary of the district.

(2) *Provide any financing or reimbursement pursuant to NRS 271A.120 from the proceeds of the taxes described in subparagraph (2) of paragraph (c) of subsection 1 of NRS 271A.070 that are collected from any retail facilities of a retailer which, on or after July 1, 2013, locates within the boundary of a district.*

2. *The provisions of subparagraph (2) of paragraph (b) of subsection 1 do not apply to the governing body of a municipality with respect to any district created before July 1, 2013, if the governing body obtains an opinion from independent bond counsel stating that the applicability of those provisions would impair an existing contract for the sale of bonds that were issued before July 1, 2013.*

3. *The owner of a project shall, upon request, provide to the Department of Taxation information that identifies the retail facilities that open or close within the project.*

Sec. 3.2. NRS 271A.130 is hereby amended to read as follows:

271A.130 1. Except as otherwise provided in this section and NRS 271A.140 and notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.

2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

3. Except as otherwise provided in subsection 4, a person who enters into any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:

(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or

(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

shall include in the contract or other agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The governing body of the

1 municipality, the contractor who is awarded the contract or enters into the
2 agreement to perform the construction, improvement, repair, demolition or
3 reconstruction, and any subcontractor who performs any portion of the contract or
4 agreement shall comply with the provisions of NRS 338.013 to 338.090, inclusive,
5 in the same manner as if the governing body of the municipality had undertaken the
6 project or had awarded the contract.

7 4. The provisions of subsection 3 do not apply to a contract or other
8 agreement for the construction, improvement, repair, demolition or reconstruction
9 of any improvement to a building leased to a tenant that is paid for, in whole or in
10 part, or which benefits from the proceeds of bonds or notes issued pursuant to
11 paragraph (a) of subsection 1 of NRS 271A.120 or pursuant to an agreement for
12 reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS
13 271A.120 and which is entered into after completion of the original construction:

14 (a) For any subsequent improvement to the building by the original tenant or a
15 subsequent tenant.

16 (b) For any improvement to the building by the original tenant which is
17 undertaken more than 60 months after the building is first made available for lease.

18 5. *The provisions of NRS 338.013 to 338.090, inclusive, apply to a contract*
19 *or other agreement for the construction of, improvement of, repair to, demolition*
20 *of or reconstruction of an improvement to any building that will be leased to a*
21 *tenant who has entered into an agreement to receive financing or reimbursement*
22 *pursuant to NRS 271A.120. The owner of the building or proposed building and*
23 *the contractor who is awarded the contract or enters into the agreement to*
24 *perform the construction, improvement, repair, demolition or reconstruction*
25 *shall include in the contract or other agreement the contractual provisions and*
26 *stipulations that are required to be included in a contract for a public work*
27 *pursuant to the provisions of NRS 338.013 to 338.090, inclusive. The owner of*
28 *the building or proposed building and the contractor who is awarded the contract*
29 *or enters into the agreement to perform the construction, improvement, repair,*
30 *demolition or reconstruction, and any subcontractor who performs any portion of*
31 *the contract or agreement, shall comply with the provisions of NRS 338.013 to*
32 *338.090, inclusive, in the same manner as if the governing body of a municipality*
33 *had undertaken the construction, improvement, repair, demolition or*
34 *reconstruction or had awarded the contract. The tenant shall ensure that the*
35 *owner and each contractor and developer to whom the provisions of NRS*
36 *271A.140 apply complies with those provisions.*

37 6. *Except as otherwise provided in subsection 5, the* governing body of the
38 municipality shall ensure that each contractor and developer to whom the
39 provisions of NRS 271A.140 apply complies with those provisions.

40 ~~16+~~ 7. As used in this section:

41 (a) "Original construction" means any contract or other agreement for the
42 construction, improvement, repair, demolition or reconstruction of a project paid
43 for, in whole or in part, or which benefits:

44 (1) From the proceeds of bonds or notes issued pursuant to paragraph (a) of
45 subsection 1 of NRS 271A.120; or

46 (2) Pursuant to an agreement for reimbursement entered into pursuant to
47 paragraph (b) of subsection 1 of NRS 271A.120.

48 (b) "Original tenant" means the first tenant of any leased property after the
49 property is first made available for lease.

50 **Sec. 3.4.** NRS 271A.140 is hereby amended to read as follows:

51 271A.140 1. Except as otherwise provided in subsection ~~12+~~ 4, a contractor
52 or developer who enters into a contract to which the provisions of subsection 3 *or* 5
53 of NRS 271A.130 apply shall:

(a) Advertise for at least 7 calendar days for bids on each subcontract for the performance of any portion of the contract;

(b) At least 2 business days before the first day of that advertisement, provide notice of that advertisement to the governing body of the municipality;

(c) Make available to all prospective bidders on the subcontract a written set of plans and specifications for the pertinent work;

(d) Provide public notice of the name and address of each person who submits a bid on the subcontract; and

(e) ~~After~~ Except as otherwise provided in subsection 2, after closing the period for the solicitation of bids and receiving at least three timely and responsive bids, select any subcontractor from those timely and responsive bids that the contractor or developer, in his or her sole discretion, determines to be appropriate. ~~except that the~~

2. If the contractor or developer does not receive at least three timely and responsive bids during the period for the solicitation of bids, the contractor or developer shall repeat the process set forth in paragraphs (a) to (d), inclusive, of subsection 1. After closing the second period for the solicitation of bids prescribed by this subsection, the contractor or developer shall select any subcontractor from the timely and responsive bids received pursuant to this subsection or subsection 1 that the contractor or developer, in his or her sole discretion, determines to be appropriate, regardless of whether the contractor or developer received at least three timely and responsive bids.

3. The contractor or developer shall ensure that each subcontractor who will perform any portion of the contract is appropriately licensed pursuant to chapter 624 of NRS.

~~2.4~~ 4. The provisions of ~~subsection~~ subsections 1, 2 and 3 do not apply to:

(a) Any contract which is awarded by a municipality; or

(b) Any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.

~~3.4~~ 5. A governing body of a municipality that receives a notice of an advertisement for bids pursuant to paragraph (b) of subsection 1 ~~or subsection 2:~~

(a) Shall, upon such receipt, post notice of the advertisement on an Internet website maintained by the municipality; and

(b) May otherwise provide notice of the advertisement to local trade organizations and the general public.

Sec. 3.5. NRS 360.855 is hereby amended to read as follows:

360.855 1. The State Controller, acting upon the collection data furnished by the Department, shall remit to the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070, in the manner provided pursuant to an agreement made pursuant to NRS 271A.100:

(a) From the State General Fund the amount of money pledged pursuant to the ordinance in accordance with subparagraph (1) of paragraph (c) of subsection 1 of NRS 271A.070, which amount is hereby appropriated for that purpose; and

(b) From the Sales and Use Tax Account in the State General Fund the amount of the proceeds pledged pursuant to the ordinance in accordance with subparagraphs (2) and (3) of paragraph (c) of subsection 1 of NRS 271A.070.

2. Except as otherwise provided in subsection 3, the governing body of a municipality that adopts an ordinance pursuant to NRS 271A.070 shall at the end of each fiscal year remit to the State Controller any amount received pursuant to this section in excess of the amount required to make payments due during that fiscal year of the principal of, interest on, and other payments or security-related costs with respect to, any bonds or notes issued pursuant to NRS 271A.120 and payments due during that fiscal year under any agreements made pursuant to NRS 271A.120.

1 The State Controller shall deposit any money received from a governing body of a
2 municipality pursuant to this subsection in the appropriate account in the State
3 General Fund for distribution and use as if the money had not been pledged by an
4 ordinance adopted pursuant to NRS 271A.070, in the following order of priority:

5 (a) First, to the credit of the county school district fund for the county in which
6 the improvement district is located to the extent that the money would have been
7 transferred to that fund, if not for the pledge of the money pursuant to that
8 ordinance, pursuant to paragraph (e) of subsection 3 of NRS 374.785 for the fiscal
9 year in which the State Controller receives the money;

10 (b) Second, to the State General Fund to the extent that the money would not
11 have been appropriated, if not for the pledge of the money pursuant to that
12 ordinance, pursuant to paragraph (a) of subsection 1 for the fiscal year in which the
13 State Controller receives the money; and

14 (c) Third, to the credit of any other funds and accounts to which the money
15 would have been distributed, if not for the pledge of the money pursuant to that
16 ordinance, for the fiscal year in which the State Controller receives the money.

17 3. The provisions of subsection 2 do not require a governing body to remit to
18 the State Controller any money received pursuant to this section and expended for
19 the purpose of prepaying, defeasing or otherwise retiring all or a portion of any
20 bonds or notes issued pursuant to NRS 271A.120 or of prepaying amounts due
21 under any agreements entered into pursuant to NRS 271A.120, or any combination
22 thereof, with respect to a tourism improvement district if that use of the money has
23 been:

24 (a) Authorized by the governing body in the ordinance creating the district
25 pursuant to NRS 271A.070, or in an amendment thereto; and

26 (b) Approved by the governing body ~~and~~ and the Commission on Tourism ~~and~~
27 ~~Governor~~ in the manner required to satisfy the requirements of subsections ~~5 and 6~~
28 ~~1, 7 and 8~~ of NRS 271A.080,

29 ~~and after the provision of notice to and an opportunity to make comments by the~~
30 ~~board of trustees of the school district in which the tourism improvement district is~~
31 ~~located in accordance with subsection 4 of NRS 271A.080 and, if applicable,~~
32 by the board of county commissioners of the county in which the tourism improvement
33 district is located in accordance with subsection ~~1~~ 4 of NRS 271A.080.

34 4. The Nevada Tax Commission may adopt such regulations as it deems
35 appropriate to ensure the proper collection and distribution of any money pledged
36 by an ordinance adopted pursuant to NRS 271A.070.

37 **Sec. 4.** This act becomes effective on July 1, 2013.