SENATE BILL NO. 135–SENATORS ATKINSON, SPEARMAN AND FORD

FEBRUARY 18, 2013

JOINT SPONSORS: ASSEMBLYMEN FRIERSON, NEAL, FLORES, HORNE AND KIRKPATRICK

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing redevelopment agencies. (BDR 22-876)

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 redevelopment of communities; revising requirements for the submission of an employment plan; requiring a redevelopment agency to withhold a portion of any incentive provided to a developer unless the developer satisfies certain conditions; requiring the reporting of certain information relating to the redevelopment project by certain developers; extending the duration of certain redevelopment plans; requiring an employment plan to include information relating to preferences for hiring persons from the redevelopment area; authorizing a redevelopment agency to loan money to finance certain improvements under certain circumstances; requiring certain redevelopment agencies to set aside certain revenue from property taxes for additional purposes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, if a redevelopment agency provides property for development for less than the fair market value of the property or provides financial incentives of more than $100,000 to a developer, the developer must comply with certain laws relating to the payment of a prevailing wage. (NRS 279.500)

Additionally, a proposal for a redevelopment project must include an employment plan, if appropriate. (NRS 279.482)

Sections 2-10 of this bill only apply to a developer for a redevelopment project if part of the redevelopment area is within an enterprise community. **Section 7** requires public agencies who use redevelopment funds for a public work to submit an employment plan and exempts private developers who do not construct a redevelopment project for a known owner from that requirement. **Section 8** requires an agency that proposes to provide an incentive to a developer to withhold payment of 10 percent of the incentive unless: (1) at least 15 percent of the employees of contractors, subcontractors, vendors and suppliers of the developer are residents of the redevelopment area; (2) at least 15 percent of the jobs created by employers as a result of the redevelopment project are filled by residents of the redevelopment area; (3) the developer or build-to-suit owner or lessee complies with the requirements in the employment plan; and (4) the developer satisfies the reporting required by **section 9**. **Section 10** allows a developer to appeal a refusal to pay the amount provided for in **section 8** to the legislative body of the community.

Section 9 requires a developer that receives an incentive of more than $100,000 to report to the redevelopment agency certain information relating to the redevelopment project. **Section 9** also requires a developer that receives $100,000 or less in incentives to use its best efforts to report such information. Finally, **section 9** allows the redevelopment agency to refuse to pay all or a portion of the incentive or to require repayment of any incentive already paid if a developer fails to comply.

Section 13 of this bill requires the employment plan to include information about the preference for hiring persons living within the redevelopment area used by the developer and each employer who will be relocating a business into the area as a result of the redevelopment.

Existing law provides that a redevelopment plan adopted by a redevelopment agency before July 1, 1991, terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 45 years after the date on which the original redevelopment plan was adopted, whichever is later. (NRS 279.438) **Section 12** of this bill provides that in a county whose population is 700,000 or more (currently Clark County), such a redevelopment plan terminates at the end of the fiscal year in which the principal and interest of the last maturing securities issued before that date concerning the redevelopment area are fully paid, or 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

Section 14 of this bill authorizes a redevelopment agency to loan money to finance certain improvements with the consent of the legislative body of the community in which the redevelopment agency is located.

Section 15 of this bill requires the redevelopment agency of a city whose population is 500,000 or more (currently the City of Las Vegas) that receives certain revenue from taxes, to set aside a portion of those revenues received on or after July 1, 2013, to be used for specific purposes, including renewable energy projects, economic development, improvement of public educational facilities and the development of affordable housing within enterprise communities.

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

Section 1. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. ***"Build-to-suit developer" means a private developer who constructs a redevelopment project in accordance with the customized specifications of a known owner or lessee to whom the developer will convey or lease the property upon completion of the project.***

Sec. 3. ***"Build-to-suit owner or lessee" means the owner or lessee of a redevelopment project that has been constructed by a build-to-suit developer to the customized specifications of the owner or lessee.***

Sec. 4. ***"Developer" means a person or entity that proposes to construct a redevelopment project which will receive financial assistance from an agency.***

Sec. 5. ***"Southern Nevada Enterprise Community" means the area designated as the Southern Nevada Enterprise Community in section 5 of chapter 407, Statutes of Nevada 2007.***

Sec. 6. ***The provisions of sections 2 to 10, inclusive, of this act do not apply to a developer for a redevelopment project unless a portion of the redevelopment area of the redevelopment project is within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including, without limitation, the Southern Nevada Enterprise Community.***

Sec. 7. ***1. A public agency that uses redevelopment funds for the design or construction of a redevelopment project being built as a public work pursuant to chapter 338 of NRS is required to submit an employment plan pursuant to NRS 279.482.***

2. A developer who constructs a redevelopment project for the purpose of conveying or leasing the property to an unknown owner or lessee is not required to submit an employment plan pursuant to NRS 279.482 but may submit an employment plan voluntarily.

Sec. 8. ***1. Except as otherwise provided in subsection 2, if an agency proposes to provide an incentive to a developer for a redevelopment project, 10 percent of the amount of the proposed incentive must be withheld by the agency and must not be paid to the developer unless:***

(a) At least 15 percent of all employees of contractors, subcontractors, vendors and suppliers of the developer are bona fide residents of the redevelopment area and, among such persons,

preference in hiring and contracting is given to residents of the Southern Nevada Enterprise Community;

(b) At least 15 percent of all jobs created by employers who relocate to the redevelopment area are filled by bona fide residents of the redevelopment area and, among such persons, preference in hiring is given to residents of the Southern Nevada Enterprise Community;

(c) The developer or build-to-suit owner or build-to-suit lessee complies with any requirements imposed by the agency relating to the employment plan in the agreement for the redevelopment project; and

(d) The developer satisfies all reporting requirements as described in section 9 of this act.

2. If an agency provides nonmonetary incentives to a developer for a redevelopment project, the developer shall deposit an amount of money with the agency equal to 10 percent of the value of the nonmonetary incentives as agreed upon between the agency and the developer. If the developer satisfies the requirements of paragraphs (a) to (d), inclusive, of subsection 1, the agency shall return the deposit required by this subsection to the developer.

Sec. 9. *1. Except as otherwise provided in subsection 2, a developer that receives incentives from an agency for a redevelopment project shall, upon completion of the project and upon request of the agency, report, in a form prescribed by the agency, information relating to:*

(a) Outreach efforts that the developer has utilized, including, without limitation, information relating to job fairs, advertisements in publications that reach residents of the redevelopment area and utilization of employment referral agencies;

(b) Training conducted for persons hired by the developer and contractors, subcontractors, vendors and suppliers of the developer and the employers within the development project; and

(c) The execution of the redevelopment, including, without limitation, plans and the scope of services.

2. If a developer receives incentives from an agency for a redevelopment project with a value of $100,000 or less, the developer shall use its best efforts to satisfy the reporting requirements described in subsection 1.

3. If the developer fails to comply with the requirements of this section:

(a) The agency may refuse to pay all or any portion of an incentive; and

(b) The agency may require the developer to repay any incentive already paid to the developer.

Sec. 10. ***1. A developer may appeal the refusal by an agency to pay the amount provided for in section 8 of this act to the legislative body of the community.***

2. In an appeal, the developer has the burden of demonstrating that:

(a) Specific actions were taken to substantially fulfill the requirements of section 8 of this act;

(b) An insufficient number of significant opportunities for appropriate contractors, subcontractors, vendors or suppliers to perform a commercially useful function in the project existed; and

(c) Use of appropriate contractors, subcontractors, vendors or suppliers as required by section 8 of this act would have significantly and adversely affected the overall cost of the project.

3. If the legislative body finds that the developer's appeal has satisfied the requirements of subsection 2, the agency shall pay the developer the amount provided for in section 8 of this act.

Sec. 11. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and sections 2 to 10, inclusive, of this act,*** unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, ***and sections 2 to 5, inclusive, of this act*** have the meanings ascribed to them in those sections.

Sec. 12. NRS 279.438 is hereby amended to read as follows:

279.438 A redevelopment plan adopted before January 1, 1991, and any amendments to the plan must terminate at the end of the fiscal year in which the principal and interest of the last maturing of the securities issued before that date concerning the redevelopment area are fully paid or ***:***

1. In a county whose population is 700,000 or more, 60 years after the date on which the original redevelopment plan was adopted, whichever is later.

2. In a county whose population is less than 700,000, 45 years after the date on which the original redevelopment plan was adopted, whichever is later.

Sec. 13. NRS 279.482 is hereby amended to read as follows:

279.482 1. An agency may obligate lessees or purchasers of property acquired in a redevelopment project to:

(a) Use the property for the purpose designated in the redevelopment plans.

(b) Begin the redevelopment of the area within a period of time which the agency fixes as reasonable.

(c) Comply with other conditions which the agency deems necessary to carry out the purposes of NRS 279.382 to 279.685, inclusive, ***and sections 2 to 10, inclusive, of this act,*** including, without limitation, the provisions of an employment plan or a contract approved for a redevelopment project.

2. ~~[As]~~ ***Except as otherwise provided in section 7 of this act, as*** appropriate for the particular project, each proposal for a redevelopment project must also include an employment plan. The employment plan must include:

(a) A description of the existing opportunities for employment within the area;

(b) A projection of the effect that the redevelopment project will have on opportunities for employment within the area; ~~[and]~~

(c) A description of the manner in which an employer relocating a business into the area plans to employ persons living within the area of operation who:

(1) Are economically disadvantaged;

(2) Have a physical disability;

(3) Are members of racial minorities;

(4) Are veterans; or

(5) Are women ~~[.]~~ ***; and***

(d) A description of the manner in which:

(1) The developer will give a preference in hiring for construction jobs for the project to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community; and

(2) Each employer relocating a business into the area plans to give a preference in hiring to persons living within the redevelopment area and, among such persons, to persons living within the Southern Nevada Enterprise Community.

Sec. 14. NRS 279.486 is hereby amended to read as follows:

279.486 1. An agency may, with the consent of the legislative body, pay all or part of the value of ***, or loan money to finance,*** the land for and the cost of the construction of any building, facility, structure or other improvement and the installation of any improvement which is publicly or privately owned and located within or without the redevelopment area. Before the legislative body may give its consent, it must determine that:

(a) The buildings, facilities, structures or other improvements are of benefit to the redevelopment area or the immediate neighborhood in which the redevelopment area is located; and

(b) No other reasonable means of financing those buildings, facilities, structures or other improvements are available.

➥ Those determinations by the agency and the legislative body are final and conclusive.

2. In reaching its determination that the buildings, facilities, structures or other improvements are of benefit to the redevelopment

area or the immediate neighborhood in which the redevelopment area is located, the legislative body shall consider:

(a) Whether the buildings, facilities, structures or other improvements are likely to:

(1) Encourage the creation of new business or other appropriate development;

(2) Create jobs or other business opportunities for nearby residents;

(3) Increase local revenues from desirable sources;

(4) Increase levels of human activity in the redevelopment area or the immediate neighborhood in which the redevelopment area is located;

(5) Possess attributes that are unique, either as to type of use or level of quality and design;

(6) Require for their construction, installation or operation the use of qualified and trained labor; and

(7) Demonstrate greater social or financial benefits to the community than would a similar set of buildings, facilities, structures or other improvements not paid for by the agency.

(b) The opinions of persons who reside in the redevelopment area or the immediate neighborhood in which the redevelopment area is located.

(c) Comparisons between the level of spending proposed by the agency and projections, made on a pro forma basis by the agency, of future revenues attributable to the buildings, facilities, structures or other improvements.

3. If the value of that land or the cost of the construction of that building, facility, structure or other improvement, or the installation of any improvement has been, or will be, paid or provided for initially by the community or other governmental entity, the agency may enter into a contract with that community or governmental entity under which it agrees to reimburse the community or governmental entity for all or part of the value of that land or of the cost of the building, facility, structure or other improvement, or both, by periodic payments over a period of years. The obligation of the agency under that contract constitutes an indebtedness of the agency which may be payable out of taxes levied and allocated to the agency under paragraph (b) of subsection 1 of NRS 279.676, or out of any other available money.

Sec. 15. NRS 279.685 is hereby amended to read as follows:

279.685 1. Except as otherwise provided in this section, an agency of a city whose population is 500,000 or more that receives revenue from taxes pursuant to paragraph (b) of subsection 1 of NRS 279.676 shall ***:*** ~~[set aside not less than:]~~

(a) ~~[Fifteen]~~ ***Set aside not less than 15*** percent of that revenue received on or before October 1, 1999, and 18 percent of that revenue received after October 1, 1999, but before October 1, 2011, to increase, improve and preserve the number of dwelling units in the community for low-income households; ~~[and]~~

(b) ~~[Eighteen]~~ ***Set aside not less than 18*** percent of that revenue received on or after October 1, 2011, ***but before July 1, 2013,*** to increase, improve and preserve the number of:

(1) Dwelling units in the community for low-income households; and

(2) Educational facilities within the redevelopment area ~~[.]~~ ***; and***

(c) Use not less than 18 percent of that revenue received on or after July 1, 2013, as follows:

(1) One half of such amount for economic development, renewable energy projects, the improvement of public educational facilities and the development of affordable housing within an enterprise community which is currently or was previously established pursuant to 24 C.F.R. Part 597, including, without limitation, the Southern Nevada Enterprise Community.

(2) One half of such amount for the improvement of public educational facilities within the community and to increase, improve and preserve the number of dwelling units in the community for low-income households.

2. The obligation of an agency to set aside not less than 15 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before July 1, 1993, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the purposes of this subsection, obligations incurred by an agency after July 1, 1993, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

3. The obligation of an agency to set aside an additional 3 percent of the revenue from taxes allocated to and received by the agency pursuant to paragraph (b) of subsection 1 of NRS 279.676 is subordinate to any existing obligations of the agency. As used in this subsection, “existing obligations” means the principal and interest, when due, on any bonds, notes or other indebtedness whether funded, refunded, assumed or otherwise incurred by the agency before October 1, 1999, to finance or refinance in whole or in part, the redevelopment of a redevelopment area. For the

purposes of this subsection, obligations incurred by an agency after October 1, 1999, shall be deemed existing obligations if the net proceeds are used to refinance existing obligations of the agency.

4. ~~[From the revenue set aside by an agency pursuant to paragraph (b) of subsection 1, not more than 50 percent of that amount may be used to:~~

~~(a) Increase, improve and preserve the number of dwelling units in the community for low-income households; or~~

~~(b) Increase, improve and preserve the number of educational facilities within the redevelopment area,~~

~~➥ unless the agency establishes that such an amount is insufficient to pay the cost of a project identified in the redevelopment plan for the redevelopment area.~~

~~5.]~~ Except as otherwise provided in paragraph (b) ***or (c)*** of subsection 1 ***,*** ~~[and subsection 4,]~~ the agency may expend or otherwise commit money for the purposes of subsection 1 outside the boundaries of the redevelopment area.

Sec. 16. This act becomes effective on July 1, 2013.