

ASSEMBLY BILL NO. 120—ASSEMBLYMAN DALY

PREFILED FEBRUARY 9, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to school construction.  
(BDR 34-779)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 1)  
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

~

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

AN ACT relating to school construction; revising provisions governing the imposition of a residential construction tax; revising provisions relating to the purchase of certain property for school construction; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Under existing law, the board of trustees of a school district whose population  
2 is less than 55,000 (currently counties other than Clark and Washoe Counties and  
3 Carson City) are authorized to request the board of county commissioners of the  
4 county to impose a tax on certain residential construction in the school district. The  
5 amount of the tax is limited to \$1,600 per unit of certain new construction or  
6 development and the proceeds are required to be used to construct, remodel and  
7 make additions to school buildings. (NRS 387.331) **Section 1** of this bill requires  
8 the board of trustees of a school district in any county to provide to the board of  
9 county commissioners a statement of the impact on the school district of the  
10 proposed construction or development of an apartment house, five or more  
11 residential dwelling units or five or more lots for mobile homes within the school  
12 district. **Section 1** also extends the authority to request the imposition of the tax to  
13 all school districts and requires the board of county commissioners to approve such  
14 a request unless the board finds that the request was not justified. Additionally,  
15 **section 1**: (1) expands the purposes for which the proceeds of the residential  
16 construction tax may be used to include modernization of school buildings and  
17 necessary appurtenances; (2) restricts the area or areas in which proceeds are  
18 authorized to be used to only those areas specified in the request for the imposition  
19 of the tax; and (3) specifies a deadline for the collection of the tax. Finally, **section**  
20 **1** exempts the construction or development of certain low-income housing from the  
21 residential construction tax and the requirement of an impact statement.



\* A B 1 2 0 R 1 \*

With certain exceptions, a person who wishes to subdivide land is required under existing law to prepare and file a tentative map with the planning commission of the city or county, as applicable, or its designated representative or, if there is no planning commission, with the clerk of the governing body of the city or the board of county commissioners, as applicable. (NRS 278.330) Within 10 days after such filing, a copy of the tentative map must be forwarded to the board of trustees of the school district within which the proposed subdivision is located. Within 15 days after receipt of the tentative map, the board of trustees is required to notify the planning commission or the governing body of the city or the board of county commissioners, as applicable, if a site for a school is needed within the area of the proposed subdivision. If the board of trustees requests a school site, the subdivider is required under existing law to set aside a site of the size determined by the board of trustees and negotiate the price with the board of trustees. (NRS 278.346) **Section 2** of this bill requires the subdivider to consult with the planning commission or other applicable representative of the county or city with respect to the setting aside of a site. **Section 2** imposes additional qualifications for such a school site, namely that: (1) the location be within the proposed subdivision and appropriate for a school based on public safety and convenience; (2) the physical characteristics are suitable for use as a school site and for construction of a school in a manner that is economically sound and feasible; and (3) the site is compatible with the adjoining neighborhoods and applicable land use plans and regulations. **Section 2** also requires the board of trustees and the subdivider to negotiate over the share of the costs of infrastructure required for the development of a school on the site that benefit the other tracts in the subdivision, which are required to be paid by the subdivider.

In a county whose population is 100,000 or more but less than 700,000 (currently Washoe County), if the school district has not purchased land for a school site from a subdivider within 5 years after the final map that shows the school site is approved, the subdivider is no longer required under existing law to set aside the land for the school district. **Section 2** extends this period for setting aside the land to 8 years.

Under existing law, if land purchased by a school district from a subdivider has not been placed in use as a school site within 10 years after the date of purchase, the land is required to be offered for sale to the subdivider or the successor in interest of the subdivider. (NRS 278.346) **Section 2** extends this period for placing land in use as a school site to 15 years.

---

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

**Section 1.** NRS 387.331 is hereby amended to read as follows:  
387.331 1. The tax on residential construction authorized by this section is a specified amount which must be the same for each:

- (a) Lot for a mobile home;
- (b) Residential dwelling unit; and
- (c) Suite in an apartment house,

↪ imposed on the privilege of constructing apartment houses and residential dwelling units and developing lots for mobile homes.

2. ~~The~~ *Whenever an apartment house or a project involving five or more residential dwelling units or five or more lots for mobile homes is proposed to be constructed or developed, the*



\* A B 1 2 0 R 1 \*

1 *planning commission of the city or county in which the*  
2 *construction or development is proposed or its designated*  
3 *representative or, if there is no planning commission, the clerk or*  
4 *other designated representative of the city or county, as applicable,*  
5 *shall, within 10 days after the filing of an initial application for a*  
6 *permit or other authorization for the proposed construction or*  
7 *development, notify, in writing, the board of trustees of ~~any~~ the*  
8 *school district ~~whose population is less than 55,000~~ within which*  
9 *the proposed construction or development is located. The board of*  
10 *trustees shall, after receipt of the notification, submit to the board*  
11 *of county commissioners a written statement regarding the impact*  
12 *of the proposed construction or development on the school district.*

13 3. *The board of trustees may request, in writing, that the*  
14 *board of county commissioners of the county in which the school*  
15 *district is located impose a tax on residential construction in the*  
16 *school district to construct, remodel, modernize and make additions*  
17 *to school buildings ~~and for any appurtenance deemed necessary~~*  
18 *by the board of trustees for school buildings. ~~Whenever the board~~*  
19 *~~of trustees takes that action, it shall notify the board of county~~*  
20 *~~commissioners and shall~~ Such a request must specify the area or*  
21 *areas of the county to be served by the buildings to be erected,*  
22 *remodeled, modernized or enlarged ~~and~~*  
23 *~~—3—~~ and include, without limitation, a map showing the area or*  
24 *areas of the county to be served and a list of any existing schools*  
25 *that may be affected. The board of county commissioners shall*  
26 *approve a request made by the board of trustees pursuant to this*  
27 *subsection unless the board of county commissioners makes a*  
28 *finding that the request is not justified.*

29 4. If the board of county commissioners decides that the tax  
30 should be imposed, it shall notify the Nevada Tax Commission. If  
31 the Commission approves, the board of county commissioners may  
32 then impose the tax, whose specified amount must not exceed  
33 \$1,600.

34 ~~4.~~ 5. *~~The~~ Before the time at which a certificate of*  
35 *occupancy or other final authorization for the construction or*  
36 *development is issued or at such other time as is specified in the*  
37 *ordinance imposing the tax, the board of county commissioners*  
38 *shall collect the tax so imposed, in the areas of the county to which*  
39 *it applies, and may require that administrative costs, not to exceed 1*  
40 *percent, be paid from the amount collected.*

41 ~~5.~~ 6. *The money collected pursuant to subsection 5 must be*  
42 *~~deposited with~~ submitted to the county treasurer ~~in the school~~*  
43 *~~district's fund for capital projects to be held and expended in the~~*  
44 *~~same manner as other money deposited in that fund.~~ for transfer to*  
45 *the county school district. Any money received by the county*



1 *school district pursuant to this section must be accounted for*  
2 *separately by the county school district. The money may only be*  
3 *used to construct, remodel, modernize and make additions to*  
4 *school buildings and for any appurtenance deemed necessary by*  
5 *the board of trustees for school buildings within the area or areas*  
6 *of the county specified in the request submitted by the board of*  
7 *trustees to the board of county commissioners pursuant to*  
8 *subsection 3.*

9 7. *Nothing in this section shall be construed to prevent the*  
10 *planning commission of the city or county in which the*  
11 *construction or development is proposed or its designated*  
12 *representative or, if there is no planning commission, the clerk or*  
13 *other designated representative of the city or county, as applicable,*  
14 *from issuing permits or other authorization for the construction or*  
15 *development during the period in which the determination of*  
16 *whether to impose the tax and, if so, the amount of the tax to be*  
17 *made.*

18 8. *The provisions of this section do not apply to the*  
19 *construction or development of residential housing that is*  
20 *affordable to persons of low income on property which is subject*  
21 *to a covenant, condition or restriction contained in a deed,*  
22 *contract or other legal instrument which:*

23 (a) *Restricts the property to use for low-income housing for*  
24 *not less than 20 years;*

25 (b) *Restricts the amount of rent that may be charged to a*  
26 *tenant who occupies a unit of the residential housing; and*

27 (c) *Prohibits the sale, transfer or other conveyance of the*  
28 *property during the term of the covenant, condition or restriction*  
29 *unless the covenant, condition or restriction is binding upon the*  
30 *person to whom the property is conveyed.*

31 **Sec. 2.** NRS 278.346 is hereby amended to read as follows:

32 278.346 1. The planning commission or its designated  
33 representative or, if there is no planning commission, the clerk or  
34 other designated representative of the governing body shall, not  
35 more than 10 days after the tentative map is filed pursuant to the  
36 provisions of subsection 2 of NRS 278.330, forward a copy of the  
37 tentative map to the board of trustees of the school district within  
38 which the proposed subdivision is located. Within 15 days after  
39 receipt of the copy, the board of trustees or its designee shall, if a  
40 school site is needed within the area, notify the commission or  
41 governing body that a site is requested.

42 2. If the board of trustees requests a site:

43 (a) The subdivider , *in consultation with the planning*  
44 *commission of the city or county in which the proposed*  
45 *subdivision is located or its designated representative or, if there is*



\* A B 1 2 0 R 1 \*

1 *no planning commission, the clerk or other designated*  
2 *representative of the city or county, as applicable, shall, except as*  
3 *otherwise provided in subsection 8, set aside a site ~~to~~ within the*  
4 *proposed subdivision:*

5 *(1) Of the size which is determined by the board ~~H~~ of*  
6 *trustees;*

7 *(2) Which is an appropriate location for a school based on*  
8 *considerations of public safety and convenience;*

9 *(3) The physical characteristics of which are suitable for*  
10 *use as a school site and for construction of a school in a manner*  
11 *that is economically sound and feasible; and*

12 *(4) Which is compatible with the adjoining neighborhoods*  
13 *and land use plans and regulations applicable to the area.*

14 *↪ If the board of trustees objects to the site set aside by the*  
15 *subdivider, the planning commission or its designated*  
16 *representative or, if there is no planning commission, the clerk or*  
17 *other designated representative of the governing body shall cause*  
18 *an independent third party with expertise in school facilities to*  
19 *make a determination of the suitability of the site for a school.*  
20 *Such a determination is binding on the board of trustees and*  
21 *subdivider. The cost of the independent third party must be paid by*  
22 *the board of trustees.*

23 (b) The subdivider and the board of trustees shall, except as  
24 otherwise provided in subsections 7 and 8, negotiate for ~~the~~ :

25 *(1) The price of the site ~~H~~ to be paid by the board of*  
26 *trustees, which must not exceed the fair market value of the land as*  
27 *determined by an independent appraisal paid for by the board ~~H~~ of*  
28 *trustees.*

29 *(2) The share of the costs to be paid by the subdivider of*  
30 *any infrastructure required for the development of a school on the*  
31 *site, which must be proportional to the benefits from the*  
32 *infrastructure derived by the other tracts in the subdivision. If*  
33 *the board of trustees and the subdivider cannot reach an*  
34 *agreement on such costs, the planning commission or its*  
35 *designated representative or, if there is no planning commission,*  
36 *the clerk or other designated representative of the governing body*  
37 *shall cause an independent third party with expertise in the*  
38 *business of construction to make a determination of the share of*  
39 *costs. Such a determination is binding on the board of trustees and*  
40 *subdivider. The cost of the independent third party must be paid*  
41 *equally by the board of trustees and the subdivider.*

42 3. If any land purchased by the school district pursuant to the  
43 provisions of subsection 2 has not been placed in use as a school site  
44 at the end of ~~H~~ 15 years from the date of purchase, the land must  
45 be offered to the subdivider or the successor in interest of the



1 subdivider at a sale price equal to the fair market value of the land at  
2 the time of the offer, as determined by an independent appraisal paid  
3 for by the board ~~H~~ of trustees.

4 4. If the subdivider or the successor in interest of the  
5 subdivider does not accept an offer made pursuant to the provisions  
6 of subsection 3 or 9, then the board of trustees may:

7 (a) Sell or lease such property in the manner provided in NRS  
8 277.050 or 393.220 to 393.320, inclusive;

9 (b) Exchange such property in the manner provided in NRS  
10 277.050 or 393.326 to 393.3293, inclusive; or

11 (c) Retain such property, if such retention is determined to be in  
12 the best interests of the school district.

13 5. Except as otherwise provided in subsection 6, when any land  
14 dedicated to the use of the public school system or any land  
15 purchased and used as a school site becomes unsuitable, undesirable  
16 or impractical for any school uses or purposes, the board of trustees  
17 of the county school district in which the land is located shall  
18 dispose of the land as provided in subsection 4.

19 6. Land dedicated under the provisions of former NRS  
20 116.020, as it read before April 6, 1961, which the board of trustees  
21 determines is unsuitable, undesirable or impractical for school  
22 purposes may be reconveyed without cost to the dedicator or the  
23 successor or successors in interest of the dedicator.

24 7. Except as otherwise provided in subsection 8, in a county  
25 whose population is 100,000 or more but less than 700,000, the  
26 school district may purchase the site for a price negotiated between  
27 the subdivider and the board of trustees, which price must not  
28 exceed the lesser of:

29 (a) The fair market value of the land at the time the tentative  
30 map was approved, as determined by an independent appraisal paid  
31 for by the board ~~H~~ of trustees, plus any costs paid by the subdivider  
32 with respect to that land between the date the tentative map was  
33 approved and the date of purchase; or

34 (b) The fair market value of the land on the date of purchase, as  
35 determined by an independent appraisal paid for by the board ~~H~~ of  
36 trustees.

37 8. If, ~~H~~ 8 years after the date on which the final map that  
38 contains the school site was approved, a school district has not  
39 purchased the site pursuant to the provisions of subsection 7, the  
40 subdivider need not continue to set aside the site pursuant to the  
41 provisions of subsection 2.

42 9. If, ~~H~~ 15 years after the date on which the final map that  
43 contains the school site was approved, construction of a school at  
44 the school site has not yet begun, the land purchased by the school  
45 district pursuant to subsection 7 must be offered to the subdivider or



\* A B 1 2 0 R 1 \*

1 the successor in interest of the subdivider at a sale price equal to the  
2 fair market value of the land at the time of the offer, as determined  
3 by an independent appraisal paid for by the board ~~H~~ of trustees.

4 *10. Nothing in this section shall be construed to prevent the*  
5 *planning commission of the city or county in which the proposed*  
6 *subdivision is located or its designated representative or, if there is*  
7 *no planning commission, the clerk or other designated*  
8 *representative of the city or county, as applicable, from issuing*  
9 *permits or other authorization for the proposed subdivision during*  
10 *the period in which determination of a school site within the*  
11 *proposed subdivision is being made.*

12 **Sec. 3.** The provisions of NRS 354.599 do not apply to any  
13 additional expenses of a local government that are related to the  
14 provisions of this act.

15 **Sec. 4.** This act becomes effective on July 1, 2017.

