

SENATE BILL NO. 138—SENATOR HARDY

PREFILED FEBRUARY 13, 2017

Referred to Committee on Government Affairs

SUMMARY—Authorizes the creation of a local improvement district for a waterfront maintenance project. (BDR 22-678)

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; authorizing the creation of a local improvement district for a waterfront maintenance project; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of any county, city or unincorporated town to create an improvement district for the acquisition, improvement, equipping, operation and maintenance of certain projects, including a waterfront project, and to finance the cost of any such project through such methods as the issuance of certain bonds and the levy of assessments upon property in the improvement district. (NRS 271.265, 271.270, 271.325) Existing law also authorizes a county, city or unincorporated town to levy an assessment for ongoing maintenance, operations, improvements or repairs of certain projects after their installation, including a transportation project, a neighborhood improvement project, a street beautification project and other projects requiring extraordinary maintenance, repairs or improvements which are located in certain redevelopment areas. (NRS 271.369, 271.3695, 271.377, 271.378) A governing body is authorized to combine authorized projects in a single improvement district if the governing body determines such projects may be combined in an efficient and economical manner. (NRS 271.295)

Sections 2 and 5 of this bill authorize a county, city or unincorporated town to establish a local improvement district to fund a waterfront maintenance project, the purpose of which is to provide ongoing repairs or maintenance in relation to a public body of water or public property that is located along the shore of a public body of water. A waterfront maintenance project may be combined in the same district with a waterfront project. (NRS 271.295) However, **section 7** of this bill prohibits the acquisition of a waterfront maintenance project if the local government receives written objections to the project from owners of tracts in the



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proposed assessment district constituting 50 percent of the basis for the computation of assessments.

Section 3 of this bill requires the governing body of a local government which has established a local improvement district for a waterfront maintenance project to annually prepare an estimate of expenditures for the next year and a proposed assessment roll for the district. **Section 3** also requires the governing body to conduct a public hearing on the estimate of costs and assessment roll. Finally, **section 3** requires that the proceeds of the assessment be placed in a separate fund and only used for the cost of the waterfront maintenance 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 and 3 of this act.

Sec. 2. 1. “Waterfront maintenance project” means any maintenance or repair, regardless of whether performed in conjunction with a waterfront project, to:

(a) Public property that is located along the shore of a public body of water; or

(b) Areas within or under a public body of water.

2. The term includes, without limitation, maintenance and repair of restrooms, fishing sites, boardwalks, decks, boat ramps, utilities, facilities for controlling drainage, parking facilities, sidewalks, benches, bulkheads, and retaining walls and lighting equipment and dredging for boat ways, erosion protection, environmental mitigation, landscaping, pumping and excavation, and all appurtenances and incidentals thereto.

Sec. 3. 1. On or before June 30 of each year after the creation of a district for a waterfront maintenance project, the governing body shall prepare and approve an estimate of the costs required during the next fiscal year and a proposed assessment roll assessing an amount not in excess of those estimated costs against the benefited property. The basis for the computation of the assessments must be the frontage or another uniform and quantifiable basis that the governing body determines is proportional to the benefits received, which determination is conclusive, absent fraud.

2. A public hearing must be conducted on the estimate of costs for the next year and the assessment roll. Notice of the hearing must be given, and the hearing conducted, in the manner described in NRS 271.380 and 271.385. The proposed assessments must not exceed the estimated amount specified in the original assessment plat unless a new hearing, after published and mailed notice, is held in the manner described in NRS 271.305, 271.306 and 271.310.



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3. After the public hearing on the assessment roll, the governing body shall, by resolution or ordinance, confirm the assessments as specified in the roll or as modified, and levy the assessment as provided in NRS 271.390.

4. The assessments must be due over a period of 1 year after the effective date of the resolution or ordinance confirming the assessments. The assessments may be made payable at one time or in two or more installments over that period. Interest may not be charged on an assessment or installment paid when due.

5. The proceeds of the assessment must be placed in a separate fund of the municipality and expended only for the costs of the waterfront maintenance project.

6. The municipality has no obligation to pay any costs of a waterfront maintenance project except from the assessments collected pursuant to this section.

Sec. 4. NRS 271.030 is hereby amended to read as follows:

271.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.253, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 271.265 is hereby amended to read as follows:

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

- (a) A curb and gutter project;
- (b) A drainage project;
- (c) An energy efficiency improvement project;
- (d) A neighborhood improvement project;
- (e) An off-street parking project;
- (f) An overpass project;
- (g) A park project;
- (h) A public safety project;
- (i) A renewable energy project;
- (j) A sanitary sewer project;
- (k) A security wall;
- (l) A sidewalk project;
- (m) A storm sewer project;
- (n) A street project;
- (o) A street beautification project;
- (p) A transportation project;
- (q) An underpass project;
- (r) A water project;
- (s) A waterfront project ~~and~~



(t) *A waterfront maintenance project; and*

(u) Any combination of such projects.

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

(a) An electrical project;

(b) A telephone project;

(c) A combination of an electrical project and a telephone project;

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

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

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

4. In addition to the power specified in subsections 1, 2 and 3, if the governing body of a municipality in a county whose population is less than 700,000 complies with the provisions of NRS 271.650, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality:

(a) An art project; and

(b) A tourism and entertainment project.

5. In addition to the power specified in this section, if a qualified project is located within the jurisdiction of the municipality, the governing body of the municipality, on behalf of the municipality and in its name, without any election, may from time to time acquire, improve, equip, operate and maintain, within or without the municipality, or both within and without the municipality, an electrical project for the qualified project or a fire protection project for the qualified project.

6. As used in this section, "qualified project" has the meaning ascribed to it in NRS 360.888 or 360.940.



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Sec. 6. NRS 271.280 is hereby amended to read as follows:

271.280 1. Whenever the governing body of a municipality determines to form an improvement district to conduct any project, the engineer shall prepare and file with the clerk:

(a) Preliminary plans showing:

(1) A typical section of the contemplated improvement.

(2) The type or types of material, approximate thickness and wideness.

(3) A preliminary estimate of the cost of the project, including incidental costs.

(b) An assessment plat showing:

(1) The area to be assessed.

(2) Except as otherwise provided in NRS 271.378 ~~H~~ and *section 3 of this act*, the amount of maximum benefits estimated to be assessed against each tract in the assessment area.

(c) If a resolution of the governing body does not otherwise provide, the information required pursuant to the provisions of subsections 2 to 7, inclusive.

➔ The governing body is not required to employ the services of an appraiser to estimate or to assist the engineer in estimating the benefits to be derived from the project.

2. The preliminary plans may provide for one or more types of construction, and the engineer shall separately estimate the cost of each type of construction. The estimate may be made in a lump sum or by unit prices, as the engineer determines is most desirable for the improvement complete in place.

3. A resolution or document prepared by the engineer pursuant to subsection 1 must describe the project in general terms.

4. The resolution or document must state:

(a) What part or portion of the expense of the project is of special benefit and therefore is to be paid by assessments.

(b) What part, if any, has been or is proposed to be defrayed with money derived from other than the levy of assessments.

(c) The basis by which the cost will be apportioned and assessments levied.

5. If the assessment is not to be made according to front feet, the resolution or document must:

(a) By apt description designate the improvement district, including the tracts to be assessed.

(b) Describe definitely the location of the project.

(c) State that the assessment is to be made upon all the tracts benefited by the project proportionately to the benefits received.

6. If the assessment is to be upon the abutting property upon a frontage basis, it is sufficient for the resolution or document so to state and to define the location of the project to be made.



7. It is not necessary in any case to describe minutely in the resolution or document each particular tract to be assessed, but simply to designate the property, improvement district or the location, so that the various parts to be assessed can be ascertained and determined to be within or without the proposed improvement district.

8. If the preliminary plans include a neighborhood improvement project, then in addition to the other requirements in this section, before the plans are ratified by the governing body, the plans must include a plan for the management of the proposed improvement district which must include, without limitation:

(a) The improvements proposed for each year of the first 5 fiscal years of the proposed improvement district;

(b) An estimate of the total amount to be expended on improvements in the first year of operation;

(c) A list of any other special assessments that are currently being levied within the proposed improvement district;

(d) The name of any proposed association; and

(e) Any other matter that the governing body requires to be set forth in the plan.

9. Upon the filing of the plans, plat and, if the engineer prepares a document pursuant to paragraph (c) of subsection 1, the document prepared by the engineer pursuant to paragraph (c) of subsection 1, they must be examined by the governing body. If the plans, plat and document, if any, are found to be satisfactory, the governing body shall make a provisional order by resolution to the effect that the project will be acquired or improved, or both acquired and improved.

Sec. 7. NRS 271.306 is hereby amended to read as follows:

271.306 1. Regardless of the basis used for apportioning assessments, the amount apportioned to a wedge or V or any other irregularly shaped tract must be in proportion to the special benefits thereby derived.

2. Except as otherwise provided in subsections 3 and 4, if, within the time specified in the notice, complaints, protests and objections in writing, that is, all written remonstrances, against acquiring or improving the project proposed by initiation of the governing body are filed with the clerk, signed by the owners of tracts constituting a majority of the frontage, of the area, of the zone, or of the other basis for the computation of assessments, as the case may be, of the tracts to be assessed in the improvement district or in the assessment unit if the improvement district is divided into assessment units, the project therein must not be acquired or improved unless:



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

(b) The project constitutes not more than 2,640 feet, including intersections, remaining unimproved in any street, including an alley, between improvements already made to either side of the same street or between improvements already made to intersecting streets. In this case the governing body may on its own motion cause the intervening and unimproved part of the street to be improved. Such improvements will not be stayed or defeated or prevented by written complaints, protests and objections thereto, unless the governing body in its sole discretion, deems such written complaints, protests and objections proper to cause the improvement to be stayed or prevented.

3. Written remonstrances by the owners of tracts constituting 50 percent of the basis for the computation of assessments suffice to preclude the acquisition or improvement of a street beautification project ~~H~~ *or waterfront maintenance project.*

4. Written remonstrances by the owners of tracts constituting at least one-third of the basis for the computation of assessments suffice to preclude the acquisition or improvement of a neighborhood improvement project. For the purposes of this subsection, the property of a single owner may not be counted as constituting more than 10 percent of the basis.

Sec. 8. NRS 271A.020 is hereby amended to read as follows:

271A.020 As used in this chapter, except as otherwise provided in NRS 271A.030 to 271A.060, inclusive, and unless the context otherwise requires, the words and terms defined in NRS 271.035 to 271.253, inclusive, *and section 2 of this act* and 271A.030 to 271A.060, inclusive, have the meanings ascribed to them in those sections.

Sec. 9. This act becomes effective on July 1, 2017.

