

ASSEMBLY BILL NO. 263—ASSEMBLYMEN KRAMER
AND BENITEZ-THOMPSON

MARCH 14, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing private activity bonds.
(BDR 30-91)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 public obligations; creating the Special Committee on Private Activity Bonds; prescribing the membership, powers and duties of the Committee; requiring the Director of the Department of Business and Industry and certain local governments to annually file certain reports concerning private activity bonds; requiring the Director to prescribe the form and contents of such reports; requiring the Department to annually file certain consolidated reports; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the Internal Revenue Code, states and local governments are allowed to finance certain projects that primarily benefit or are used by a private entity, but have some public benefit, through the issuance of bonds known as private activity bonds. If the bonds are issued for certain private activities specified in federal law, known as qualified private activities, the bondholders are not required to pay federal income taxes on the interest that the bondholders earn on the bonds. (26 U.S.C. §§ 103, 141) Examples of qualified private activities include multifamily rental projects, airports and student loans. (26 U.S.C. §§ 142-145, 1394) For some of those qualified private activities, federal law places an annual limit on the total dollar amount of tax-exempt private activity bonds that can be issued in each state, which is known as the "state ceiling." In 2018, for example, Nevada's state ceiling was roughly \$315 million. Each state is authorized to allocate its state ceiling among state and local governmental agencies and other authorized issuers. An allocation of the state ceiling to an issuer is known as the issuer's "volume cap." (26 U.S.C. § 146) Under existing law, the volume cap for State Government is 50 percent of the state ceiling for each calendar year, while the remaining 50 percent of the state ceiling is allocated to local governments in proportion to the percentage



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that the population of the local government bears to the entire population of Nevada. Existing law also provides that an entity's volume cap for any calendar year may be augmented or diminished in accordance with regulations adopted by the Director of the Department of Business and Industry. (NRS 348A.020)

Under existing law, the Director of the Department of Business and Industry is responsible for regulating private activity bonds in this State. (NRS 348A.040) Existing regulations establish a committee to serve in an advisory capacity to the Director with respect to private activity bonds. (NAC 348A.280) **Section 2** of this bill creates in statute the Special Committee on Private Activity Bonds and prescribes its membership. **Section 3** of this bill requires the Committee to approve or deny: (1) any proposal by the Director to issue or authorize the issuance of private activity bonds from the volume cap established for the Director; and (2) any action that has the effect of augmenting or diminishing any volume cap established for the Director or any local government. **Section 3** also requires the Committee to consider any matter concerning private activity bonds referred to it by the Director and authorizes the Committee to advise the Governor, the State Board of Finance or the Director on any matter concerning private activity bonds, if requested. **Section 6** of this bill requires the Committee to establish the volume caps for the Director and any local government for each calendar year. **Section 7** of this bill transfers from the Director to the Committee the authority to make regulations concerning private activity bonds. **Section 4** of this bill requires the Director and each local government that has issued or authorized the issuance of private activity bonds during the immediately preceding calendar year to file a report concerning the bonds with the Department. **Section 4** also requires the Department to submit a consolidated report concerning private activity bonds annually to the Governor and the Legislature or, if the Legislature is not in session, to the Legislative Commission.

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

Section 1. Chapter 348A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *The Special Committee on Private Activity Bonds is hereby created.*

2. *The Committee consists of:*

(a) *Seven voting members:*

(1) *The Director, or his or her designee, who shall serve as Chair of the Committee;*

(2) *The Executive Director of the Office of Economic Development, or his or her designee;*

(3) *One member of the general public appointed by the Governor;*

(4) *One member, who is not a Legislator, appointed by the Majority Leader of the Senate;*

(5) *One member, who is not a Legislator, appointed by the Speaker of the Assembly;*



(6) One member, who is not a Legislator, appointed by the Minority Leader of the Senate; and

(7) One member, who is not a Legislator, appointed by the Minority Leader of the Assembly; and

(b) Two nonvoting members:

(1) One member appointed by the Nevada League of Cities; and

(2) One member appointed by the Nevada Association of Counties.

3. An appointed member of the Committee serves a term of 2 years and until his or her successor is appointed. An appointed member may be reappointed.

4. A vacancy in the appointed membership of the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.

5. Each member of the Committee:

(a) Serves without compensation; and

(b) While engaged in the business of the Committee, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Committee and perform any work necessary to carry out the duties of the Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Committee to:

(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Committee; or

(b) Take annual leave or compensatory time for the absence.

7. The Committee shall meet at the call of the Chair as frequently as required to perform its duties, but not less than twice each year.

8. A majority of the voting members of the Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Committee.

9. The Director shall provide the Committee with administrative support.

Sec. 3. The Committee shall:

1. Approve or deny:

(a) Any proposal by the Director to issue or authorize the issuance of private activity bonds attributable to the volume cap



1 *for any calendar year established for the Director pursuant to*
2 *paragraph (a) of subsection 1 of NRS 348A.020; and*

3 *(b) Any action that has the effect of augmenting or*
4 *diminishing any volume cap for any calendar year established for*
5 *the Director or any local government pursuant to NRS 348A.020.*

6 *2. Consider any matter concerning private activity bonds*
7 *referred to it by the Director and may, if requested, advise the*
8 *Governor, the State Board of Finance or the Director on any*
9 *matter concerning private activity bonds.*

10 **Sec. 4. 1. On or before February 1 of each year, the**
11 **Director and each local government that has issued or authorized**
12 **the issuance of private activity bonds during the immediately**
13 **preceding calendar year shall file a report with the Department.**

14 **2. The Committee shall prescribe, by regulation, the form and**
15 **contents of the report, which must include, without limitation:**

16 **(a) A description of each project for which private activity**
17 **bonds were issued or authorized to be issued; and**

18 **(b) The total dollar amount of private activity bonds that were**
19 **issued or authorized to be issued for each project.**

20 **3. The Department shall, not later than March 1 of each**
21 **year, prepare a report that consolidates the information in the**
22 **reports filed pursuant to subsection 1 during the immediately**
23 **preceding calendar year and submit the report to the Governor**
24 **and to the Director of the Legislative Counsel Bureau for**
25 **transmittal to the Legislature or, if the Legislature is not in**
26 **session, to the Legislative Commission.**

27 **Sec. 5. NRS 348A.010 is hereby amended to read as follows:**
28 **348A.010 As used in ~~NRS 348A.010 to 348A.040, inclusive:~~**
29 **this chapter, unless the context otherwise requires:**

30 **1. "Committee" means the Special Committee on Private**
31 **Activity Bonds created by section 2 of this act.**

32 **2. "Director" means the Director of the Department of**
33 **Business and Industry.**

34 ~~[2.]~~ **3. "Private activity bond" has the meaning ascribed to it in**
35 **26 U.S.C. § 141.**

36 ~~[3.]~~ **4. "State ceiling" has the meaning ascribed to it in 26**
37 **U.S.C. § 146(d).**

38 ~~[4.]~~ **5. "Volume cap" has the meaning ascribed to it in 26**
39 **U.S.C. § 146(b) and (c).**

40 **Sec. 6. NRS 348A.020 is hereby amended to read as follows:**
41 **348A.020 1. For the purpose of determining, within the**
42 **limitations established by 26 U.S.C. § 146, the aggregate face**
43 **amount of private activity bonds which may be issued during any**
44 **calendar year ~~[.]~~, the Committee shall establish:**



~~1. (a) The volume cap for the Director [is, for any calendar year, 50 percent of the state ceiling] for that year, subject to augmentation or diminution in accordance with any regulation adopted pursuant to NRS 348A.040 [~~

~~2.] ; and~~

~~(b) The volume cap for any local government in this state [is, for any calendar year, an amount which bears the same ratio to 50 percent of the state ceiling] for that year, [as the population of that local government bears to the population of the entire state,] subject to augmentation or diminution in accordance with any regulation adopted pursuant to NRS 348A.040.~~

2. The Committee shall, by regulation, develop standards for use by the Committee in establishing the volume caps pursuant to this section.

Sec. 7. NRS 348A.040 is hereby amended to read as follows:
348A.040 The ~~Director~~ *Committee* may adopt such regulations as are necessary to carry out the provisions of this chapter, including:

1. Procedures by which volume caps may be augmented or diminished within the state ceiling for any calendar year;

2. Requirements for the timely use or reversion of the volume cap for any local government; and

3. Provisions by which the Director, any local government or any agency of this or any other state may share or use any available volume cap.

Sec. 8. As soon as practicable on or after July 1, 2019, the Governor, Majority Leader of the Senate, Speaker of the Assembly, Minority Leader of the Senate, Minority Leader of the Assembly, Nevada League of Cities and Nevada Association of Counties shall make the appointments to the Special Committee on Private Activity Bonds required by subsection 2 of section 2 of this act.

Sec. 9. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act that adds or revises a requirement to submit a report to the Legislature.

Sec. 10. Any regulation adopted by the Director of the Department of Business and Industry before the effective date of this section, the responsibility for which has been transferred to the Special Committee on Private Activity Bonds pursuant to section 2 of this act:

1. Remains in effect until repealed or replaced by the Committee; and

2. May be enforced by the Department of Business and Industry.



1 **Sec. 11.** This act becomes effective:

2 1. Upon passage and approval for the purpose of adopting any
3 regulations and performing any other preparatory administrative
4 tasks that are necessary to carry out the provisions of this act; and

5 2. On July 1, 2019, for all other purposes.

