

SENATE BILL NO. 172—SENATOR HARDY

FEBRUARY 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the Consolidated Local Improvements Law. (BDR 22-30)

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

CONTAINS UNFUNDED MANDATE (§§ 2, 4)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; requiring a municipality to prepare an annual accounting for each of its improvement districts; requiring a municipality to prepare a final accounting for each special account created for an improvement district; revising provisions for the refund of surplus assessment funds; providing for the distribution of certain penalties, collection costs and interest on delinquent assessments; providing for the expiration of a certificate of sale for a property sold due to delinquent assessment charges; 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, operation and maintenance of certain projects and to finance the cost of any project through the issuance of bonds and the levy of assessments upon property in the improvement district. (NRS 271.265, 271.270, 271.325) Existing law requires all assessments to be placed in a special fund created for each improvement district and requires that at the completion of the project any remaining surplus be distributed to the property owners within the district. (NRS 271.429, 271.490). Under existing law, penalties, collection costs and interest on delinquent assessments remaining after the bonds and interest on the bonds have been paid may be deposited into any fund or account of the municipality.

Section 2 of this bill requires a municipality to prepare an annual accounting for each improvement district created by the municipality and submit the accounting to the Director of the Legislative Counsel Bureau.



Section 3 of this bill requires a municipality to prepare a final accounting for each special fund created for an improvement district upon a determination by the treasurer of the municipality that certain events have occurred. **Section 4** of this bill revises the provisions regarding the refund of surplus assessment funds. **Section 5** of this bill requires that penalties, collection costs and interest imposed on assessments in excess of \$100,000 remaining after the bonds and interest on the bonds have been paid be deposited into certain accounts for public capital improvements.

Existing law provides the holder of a certificate of sale for any property sold as the result of delinquent assessments charges may demand the deed to the property after the redemption period has ended and the original owner has been notified. (NRS 271.595) **Section 7** of this bill provides if the holder of a certificate of sale for a property sold because of delinquent assessment charges does not demand the deed within 3 years after the redemption period ends, the certificate is null and void and no deed may be executed to the holder of the certificate. **Section 6** of this bill makes a conforming change.

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. *The municipality shall on or before September 1 of each year:*

(a) Prepare an accounting for each improvement district created by the municipality that has not been dissolved; and

(b) Submit the accounting to the Director of the Legislative Counsel Bureau.

2. *Each annual accounting prepared pursuant to subsection 1 must:*

(a) Be prepared in such detail as the chief financial officer of the municipality may require;

(b) Indicate the amount of actual expenditures for each project located in the improvement district for the immediately preceding fiscal year;

(c) Indicate the estimate of future expenditures for each project located in the improvement district for future fiscal years; and

(d) Indicate the amount of surplus, if any, in the special fund for the improvement district created pursuant to NRS 271.490 as of June 30 of the immediately preceding fiscal year.

Sec. 3. 1. *The municipality shall prepare a final accounting for each special fund created for an improvement district pursuant to NRS 271.490 upon a determination by the treasurer that all of the following have occurred:*



(a) All outstanding bonds, including, without limitation, principal, interest and prior redemption premiums, if any, of the district have been paid;

(b) All installments of assessments and interest thereon have been paid;

(c) There are no remaining liens on tracts in the district for unpaid installments of assessments, including, without limitation, liens for penalties and interest;

(d) The project has been completed; and

(e) All costs of the project have been paid, as determined by the chief financial officer of the municipality.

2. Each final accounting prepared pursuant to subsection 1 must:

(a) Be prepared in such detail as the chief financial officer of the municipality may require;

(b) Indicate the amount of surplus, if any, remaining in the special fund for the improvement district created pursuant to NRS 271.490; and

(c) Except as otherwise provided in subsection 3, be completed not more than 18 months after the date the treasurer makes his or her determination that all of the events set forth in paragraphs (a) to (e), inclusive, of subsection 1 have occurred.

3. If initiation of the improvement district was by a provisional order as described in NRS 271.280 and the alternative procedure set forth in NRS 271.700 to 271.730, inclusive, does not apply to the district, the final accounting for a project must be completed:

(a) If the improvement district is comprised of 50 tracts or less, not later than 6 months after the date the treasurer makes a determination that the events described in paragraphs (a) to (e), inclusive, of subsection 1 have occurred.

(b) If the improvement district is comprised of more than 50 tracts but less than 250 tracts, not later than 12 months after the date the treasurer makes a determination that the events described in paragraphs (a) to (e), inclusive, of subsection 1 have occurred.

Sec. 4. NRS 271.429 is hereby amended to read as follows:

271.429 1. Except as otherwise provided in subsection 2, ~~[when all outstanding bonds, principal, interest and prior redemption premiums, if any, of a district have been paid,]~~ surplus amounts remaining in the special fund created for that district pursuant to NRS 271.490 *after the final accounting described in section 3 of this act is completed* must be refunded as follows:

(a) If amounts have been advanced from the general fund of the municipality as required by NRS 271.495 for the payment of any



bonds or interest thereon of such district, those amounts must first be returned to the general fund of the municipality.

(b) If a surplus and deficiency fund has been established pursuant to NRS 271.428, and amounts have been advanced from the surplus and deficiency fund for the payment of bonds or interest thereon of such district, those amounts must be returned to the surplus and deficiency fund.

(c) The treasurer shall thereupon determine the amount remaining in the fund created for the district pursuant to NRS 271.490 and deduct therefrom the amount of administrative costs of returning that surplus and any other administrative costs incurred by the municipality related to the improvement district or the project which have not been otherwise reimbursed. An amount equal to the actual administrative costs must be returned to the fund from which the administrative costs were paid.

(d) If the remaining surplus is \$50,000 or less, that amount must be deposited to the surplus and deficiency fund.

(e) If the remaining surplus is more than \$50,000, the treasurer shall:

(1) Deposit \$50,000 in the surplus and deficiency fund;

(2) Apportion the amount of the surplus in excess of \$50,000 *derived from:*

(I) The proceeds of the bonds, payments of assessments during the 30-day period for payment described in NRS 271.405 and any other money initially designated to be used to pay the costs of the project among all the tracts of land assessed in the district; and

(II) All other sources other than penalties, collection costs and interest on a delinquency imposed pursuant to subsection 4 of NRS 271.415 or 271.585 in connection with the collection of an assessment or an installment payment that is not paid when it comes due, among the tracts of land assessed in the district whose assessments were not paid in full during the 30-day period for payment described in NRS 271.405; and

(3) Report ~~[this apportionment]~~ all apportionments to the governing body ~~[]~~ *for approval by the governing body.*

(f) Upon the approval of ~~[this]~~ *each* apportionment by the governing body ~~[]~~ *and not later than 30 days after the final accounting described in section 3 of this act is completed,* the treasurer shall thereupon give notice by mail and by publication of the availability of the surplus for refund.

(g) The notice must also state that the owner or owners of record on the date specified by the notice of each tract of land which was assessed may request the refund of the surplus apportioned to that tract by filing a claim therefor with the treasurer ~~[within 60]~~ *not*



1 *later than 120* days after the date of the mailing of the notice.
2 Thereafter claims for such refunds are perpetually barred.

3 (h) *Not less than 60 days and not more than 90 days after the*
4 *date of the mailing of the first notice required pursuant to*
5 *paragraph (g), the treasurer shall mail a second notice to each*
6 *owner of record that has not filed a claim for refund. The second*
7 *notice may be printed on a postcard and may refer to the first*
8 *notice for any information that the treasurer omits from the*
9 *second notice.*

10 (i) *All valid claims for a refund must be paid:*

11 (1) *If the treasurer determines that there are 250 or more*
12 *tracts for which an owner of record has requested a refund, not*
13 *later than 90 days after the deadline for an owner of record to file*
14 *a claim for a refund as described in paragraph (g).*

15 (2) *If the treasurer determines that there are less than 250*
16 *tracts for which an owner of record has requested a refund, not*
17 *later than 30 days after the deadline for an owner of record to file*
18 *a claim for a refund as described in paragraph (g).*

19 (j) Surplus amounts, if any, remaining after the payment of all
20 valid claims filed with the treasurer ~~[within the 60-day period]~~ must
21 be transferred to the surplus and deficiency fund.

22 ~~[(k)]~~ (k) Valid claims for refund filed in excess of the surplus
23 available for each separate tract may be apportioned ratably among
24 the claimants by the treasurer.

25 2. Subsection 1 does not apply to change or alter the
26 distribution of any surplus pursuant to a written agreement that was
27 entered into by a district on or before June 18, 1993.

28 3. *All determinations of the chief financial officer or*
29 *treasurer under this section and the apportionment of the surplus*
30 *approved by the governing body as provided in this section shall be*
31 *conclusive, absent fraud.*

32 **Sec. 5.** NRS 271.490 is hereby amended to read as follows:

33 271.490 1. Except as otherwise provided in subsection ~~[3.]~~ 4,
34 the assessments, when levied, shall be and remain a lien on the
35 respective tracts of land assessed until paid, as provided herein, and,
36 when collected, shall be placed in a special fund and as such shall at
37 all times constitute a sinking fund for and be deemed specially
38 appropriated to the payment of the assessment bonds and interest
39 thereon, and shall not be used for any other purpose until the bonds
40 and interest thereon are fully paid, except for the assessments paid
41 during the 30-day payment period provided in NRS 271.405 and
42 applied directly to the costs of the project.

43 2. ~~[Penalties.]~~ *If the penalties*, collection costs and interest on
44 a delinquency imposed pursuant to subsection 4 of NRS 271.415 or



271.585 in connection with the collection of an assessment or an installment payment that is not paid when it comes due :

(a) *Total \$100,000 or less, the treasurer* may ~~be deposited~~ *deposit the money* in any fund or account of the municipality designated by the governing body or designated by the chief financial officer of the municipality if the governing body has authorized the chief financial officer to make such a designation.

(b) *Total more than \$100,000, the treasurer:*

(1) *Shall deposit \$100,000 in any fund or account of the municipality designated by the governing body or designated by the chief financial officer of the municipality if the governing body has authorized the chief financial officer to make such a designation; and*

(2) *Shall deposit money in excess of \$100,000 into a fund or account to be used for public capital improvements which are located in:*

(I) *The municipality that created the district in the case of a district created by a municipality other than a county; or*

(II) *A township, as described in NRS 257.010, in which all or any part of the district is located in the case of a district created by a county.*

3. *Except as otherwise provided in this subsection, all money deposited into a fund or account to be used for public capital improvements pursuant to subparagraph (2) of paragraph (b) of subsection 2 must be expended or budgeted to be expended for a public capital improvement not later than 5 years after the date of deposit. If the governing body or chief financial officer makes a determination that there is not an appropriate public capital improvement on which the money may be expended, such money must be transferred to any fund or account of the municipality or township designated by the governing body or the chief financial officer. The governing body or chief financial officer shall not make a determination that there is not an appropriate public capital improvement on which the money may be expended earlier than 120 days before the 5-year period ends.*

4. If permitted by the ordinance authorizing the issuance of a bond, the assessments and any penalties, collection costs or interest not needed in any year to pay the principal and interest on the bonds may be used to pay the administrative costs of the municipality incurred in connection with the district and the collection of the assessments.

Sec. 6. NRS 271.570 is hereby amended to read as follows:

271.570 After receiving the amount of the assessment, or installment thereof, interest, penalty and costs, the treasurer shall make out a certificate, dated on the date of the sale, stating (when



known) the name of the owner as given on the assessment roll, a description of the tract sold, the amount paid therefor, the name of the purchaser, that it was sold for an installment or the whole amount of the assessment, as the case may be, giving the name of the district or other brief designation of the improvement for which the assessment was levied, and specifying that the purchaser is entitled to a deed upon the expiration of the applicable period of redemption as determined pursuant to subsection 1 of NRS 271.595, unless redemption is made ~~H~~ *or until the certificate of sale expires pursuant to subsection 6 of NRS 271.595*. The certificate of sale must be signed by the municipal treasurer and delivered to the purchaser.

Sec. 7. NRS 271.595 is hereby amended to read as follows:

271.595 1. Any property sold for an assessment, or any installment thereof, is subject to redemption by the former owner, or grantee, mortgagee, heir or other representative of the former owner:

(a) If there was a permanent residential dwelling unit or any other significant permanent improvement on the property at the time the sale was held pursuant to NRS 271.555, as determined by the governing body, at any time within 2 years; or

(b) In all other cases, at any time within 120 days,
➤ after the date of the certificate of sale, upon payment to the municipal treasurer of the amount for which the property was sold, with interest thereon at a rate of not exceeding 1 percent per month, together with all taxes and special assessments, or installments thereof, interest, penalties, costs and other charges, thereon paid by the purchaser since the sale, with like interest thereon. Unless written notice of taxes and assessments subsequently paid, and the amount thereof, is deposited with the treasurer, redemption may be made without their inclusion.

2. On any redemption being made, the treasurer shall give to the redemptioner a certificate of redemption, and pay over the amount received to the purchaser of the certificate of sale or the purchaser's assigns.

3. If no redemption is made within the period of redemption as determined pursuant to subsection 1, the treasurer shall, on demand of the purchaser or the purchaser's assigns, and the surrender to the treasurer of the certificate of sale, execute to the purchaser or the purchaser's assigns a deed to the property. No deed may be executed *or demanded* until the holder of the certificate of sale has notified the owners of the property that he or she holds the certificate, and will demand a deed therefor. The notice must be given by personal service upon the owner. However, if an owner is not a resident of the State or cannot be found within the State after diligent search, the notice may be given by publication. The notice



1 and return thereof, with the affidavit of the person, or in the case of
2 the municipality, of the clerk, claiming a deed, showing that service
3 was made, must be filed with the treasurer.

4 4. If redemption is not made within 60 days after the date of
5 service, or the date of the first publication of the notice, as the case
6 may be, *except as otherwise provided in subsection 6*, the holder of
7 the certificate of sale is entitled to a deed. The deed must be
8 executed only for the property described in the certificate, and after
9 payment of all delinquent taxes and special assessments, or
10 installments thereof, whether levied or assessed before or after the
11 issuance of the certificate of sale. A deed may be issued to any
12 municipality for the face amount of the certificate of sale, plus
13 accrued interest from the date of sale to the date of the execution of
14 the deed at a rate of not exceeding 1 percent per month.

15 5. Any payment related to a redemption pursuant to this section
16 sent to a municipality by mail shall be deemed to have been made
17 on the date on which the municipality received the payment.

18 *6. A certificate of sale expires and is null and void 3 years*
19 *after the date on which the redemption period ends pursuant to*
20 *subsection 1. If the holder of a certificate of sale does not submit*
21 *to the treasurer a demand for deed before the certificate of sale*
22 *expires, no deed may be executed to the holder of the certificate.*

23 **Sec. 8.** 1. The provisions of sections 3 to 7, inclusive, of this
24 act do not apply to any improvement district created before July 1,
25 2019.

26 2. As used in this section: “improvement district” has the
27 meaning ascribed to it in NRS 271.130.

28 **Sec. 9.** The provisions of NRS 354.599 do not apply to any
29 additional expenses of a local government that are related to the
30 provisions of this act.

31 **Sec. 10.** This act becomes effective on July 1, 2019.

