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SENATE BILL NO. 341—SENATOR SETTELMEYER

MARCH 18, 2019

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JOINT SPONSOR: ASSEMBLYWOMAN TITUS

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Referred to Committee on Government Affairs

**SUMMARY**—Revises provisions relating to enterprise funds created by local governments for the purpose of providing telecommunication services. (BDR 31-1009)

**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.

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AN ACT relating to local government financial administration; exempting certain enterprise funds from certain limitations on the authority of a governing body to loan or transfer money from the enterprise fund to the general fund of the local government and increase fees imposed for the purpose of the enterprise fund; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 The Local Government Budget and Finance Act authorizes the governing body  
2 of a local government to establish an enterprise fund to account for operations  
3 which are financed and conducted in a manner similar to the operations of a private  
4 business, where the intent of the governing body is to have the expenses of  
5 providing goods or services to the general public financed through charges imposed  
6 on users. (NRS 354.470-354.626) Under existing law, the governing body of a local  
7 government is authorized to: (1) loan or transfer money from an enterprise fund  
8 only if the loan or transfer is made under certain circumstances; and (2) increase  
9 any fees imposed for the purpose an enterprise fund was created, only if the  
10 governing body makes certain determinations, including that the increase is  
11 necessary and the fees in the enterprise fund are used solely for the purpose the fees  
12 are collected. (NRS 354.613) This bill exempts an enterprise fund created by a local  
13 government for the purpose of providing telecommunication services from such  
14 limitations.



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

**Section 1.** NRS 354.613 is hereby amended to read as follows:

354.613 1. Except as otherwise provided in this section, the governing body of a local government may, on or after July 1, 2011, loan or transfer money from an enterprise fund, money collected from fees imposed for the purpose for which an enterprise fund was created or any income or interest earned on money in an enterprise fund only if the loan or transfer is made:

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of chapter 350 of NRS, the loan or transfer is proposed to be made and the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

(1) The money is repaid in full to the enterprise fund within 5 years; or

(2) If the recipient will be unable to repay the money in full to the enterprise fund within 5 years, the recipient notifies the Committee on Local Government Finance of:

(I) The total amount of the loan or transfer;

(II) The purpose of the loan or transfer;

(III) The date of the loan or transfer; and

(IV) The estimated date that the money will be repaid in full to the enterprise fund;

(b) To pay the expenses related to the purpose for which the enterprise fund was created;

(c) For a cost allocation for employees, equipment or other resources related to the purpose of the enterprise fund which is approved by the governing body under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body; or

(d) Upon the dissolution of the enterprise fund.

2. Except as otherwise provided in this section, the governing body of a local government may increase the amount of any fee imposed for the purpose for which an enterprise fund was created only if the governing body approves the increase under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and the governing body determines that:

(a) The increase is not prohibited by law;

(b) The increase is necessary for the continuation or expansion of the purpose for which the enterprise fund was created; and



(c) All fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected.

3. Upon the adoption of an increase in any fee pursuant to subsection 2, the governing body shall, except as otherwise provided in this subsection, provide to the Department of Taxation an executed copy of the action increasing the fee. This requirement does not apply to the governing body of a federally regulated airport.

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility in compliance with the provisions of NRS 354.59881 to 354.59889, inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in NRS 354.598817.

5. This section must not be construed to:

(a) Prohibit a local government from increasing a fee or using money in an enterprise fund to repay a loan lawfully made to the enterprise fund from another fund of the local government; or

(b) Prohibit or impose any substantive or procedural limitations on any increase of a fee that is necessary to meet the requirements of an instrument that authorizes any bonds or other debt obligations which are secured by or payable from, in whole or in part, money in the enterprise fund or the revenues of the enterprise for which the enterprise fund was created.

6. The Department of Taxation shall provide to the Committee on Local Government Finance a copy of each report submitted to the Department on or after July 1, 2011, by a county or city pursuant to NRS 354.6015. The Committee shall:

(a) Review each report to determine whether the governing body of the local government is in compliance with the provisions of this section; and

(b) On or before January 15 of each odd-numbered year, submit a report of its findings to the Director of the Legislative Counsel Bureau for transmittal to the Legislature.

7. A fee increase imposed in violation of this section must not be invalidated on the basis of that violation. The sole remedy for a violation of this section is the penalty provided in NRS 354.626. Any person who pays a fee for the enterprise for which the enterprise fund is created may file a complaint with the district attorney or Attorney General alleging a violation of this section for prosecution pursuant to NRS 354.626.

8. For the purposes of paragraph (c) of subsection 1, the Committee on Local Government Finance shall adopt regulations setting forth the extent to which general, overhead, administrative



1 and similar expenses of a local government of a type described in  
2 paragraph (c) of subsection 1 may be allocated to an enterprise fund.

3 The regulations must require that:

4 (a) Each cost allocation makes an equitable distribution of all  
5 general, overhead, administrative and similar expenses of the local  
6 government among all activities of the local government, including  
7 the activities funded by the enterprise fund; and

8 (b) Only the enterprise fund's equitable share of those expenses  
9 may be treated as expenses of the enterprise fund and allocated to it  
10 pursuant to paragraph (c) of subsection 1.

11 9. Except as otherwise provided in subsections 10 and 11, if a  
12 local government has subsidized its general fund with money from  
13 an enterprise fund for the 5 fiscal years immediately preceding the  
14 fiscal year beginning on July 1, 2011, the provisions of subsection 1  
15 do not apply to transfers from the enterprise fund to the general fund  
16 of the local government for the purpose of subsidizing the general  
17 fund if the local government:

18 (a) Does not increase the amount of the transfers to subsidize the  
19 general fund in any fiscal year beginning on or after July 1, 2011,  
20 above the amount transferred in the fiscal year ending on June 30,  
21 2011, except for loans and transfers that comply with the provisions  
22 of subsection 1; and

23 (b) Does not, on or after July 1, 2011, increase any fees for any  
24 enterprise fund used to subsidize the general fund except for  
25 increases described in paragraph (b) of subsection 5.

26 10. On and after July 1, 2021, the provisions of subsection 1  
27 apply to transfers from an enterprise fund described in subsection 9  
28 to the general fund of a local government for the purpose of  
29 subsidizing the general fund unless:

30 (a) On or before July 1, 2018, the Committee on Local  
31 Government Finance has approved a plan adopted by the governing  
32 body of the local government to eliminate transfers from an  
33 enterprise fund to subsidize the general fund of the local  
34 government that are not made in compliance with subsection 1,  
35 which must include, without limitation, a plan to reduce, by at least  
36 3.3 percent each fiscal year during the term of the plan, the amount  
37 of the transfers from the enterprise fund to the general fund of the  
38 local government for the purpose of subsidizing the general fund;  
39 and

40 (b) In accordance with the plan approved by the Committee on  
41 Local Government Finance pursuant to paragraph (a), for each fiscal  
42 year during the term of the plan, the local government reduces by at  
43 least 3.3 percent the amount of the transfers from the enterprise fund  
44 to the general fund of the local government for the purpose of  
45 subsidizing the general fund.



1 11. Each plan approved by the Committee on Local  
2 Government Finance pursuant to subsection 10 is subject to annual  
3 review by the Committee.

4 12. After the expiration of the term of a plan approved by the  
5 Committee on Local Government Finance pursuant to subsection  
6 10, the provisions of subsection 1 apply to the local government that  
7 adopted the plan.

8 *13. The provisions of this section do not apply to an*  
9 *enterprise fund created by the governing body of a local*  
10 *government for the purpose of providing telecommunication*  
11 *services pursuant to the provisions of NRS 710.010 to 710.159,*  
12 *inclusive.*

13 **Sec. 2.** This act becomes effective upon passage and approval.

