

Amendment No. 257

Assembly Amendment to Assembly Bill No. 90	(BDR 22-883)
<b>Proposed by:</b> Assembly Committee on Revenue	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will REMOVE the unfunded mandate from A.B. 90.

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

NAS/HAC



Date: 4/17/2021

A.B. No. 90—Requires counties to pay impact fees to certain local governments for projects of intercounty significance. (BDR 22-883)





## ASSEMBLY BILL NO. 90—ASSEMBLYWOMAN BENITEZ-THOMPSON

FEBRUARY 4, 2021

Referred to Committee on Government Affairs

SUMMARY—~~[Requires counties to pay impact fees to certain local governments for projects of intercounty significance.]~~ **Directs the Legislative Commission to appoint a committee to conduct an interim study concerning the impacts of projects of intercounty significance.** (BDR ~~[22-883]~~ **S-883**)

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

~~[CONTAINS UNFUNDED MANDATE (§§ 9-42)  
(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 governments; ~~[requiring counties to determine whether projects are projects of intercounty significance; requiring counties to pay impact fees to certain local governments for certain costs incurred as a result of projects of intercounty significance;]~~ **directing the Legislative Commission to appoint a committee to conduct an interim study concerning the impacts of projects of intercounty significance;** and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~[— Existing law authorizes, under certain circumstances, certain local governments to impose an impact fee on new development to finance the costs of capital improvement or facility expansion necessitated by and attributable to the new development. (Chapter 278B of NRS) This bill sets forth a process for a county to pay an impact fee to certain local governments that are impacted by a project of intercounty significance.~~

~~— Section 9 of this bill requires a county to determine if a project is a project of intercounty significance before the county takes any final action to approve the development, construction or expansion of a project. Section 9 also sets forth a process for a local government to dispute a county's finding that a project is not a project of intercounty significance.~~

~~— Section 10 of this bill provides that before a county may take any final action to approve the development, construction or expansion of a project of intercounty significance, the county must: (1) notify and request an impact statement from every affected local government; and (2) allow every affected local government a reasonable amount of time to submit an impact statement. An impact statement must include, without limitation, supporting documentation and set forth the costs that the affected local government reasonably expects to incur for the development, creation, construction, expansion or improvement of the following as a result of the project: (1) housing units; (2) transportation infrastructure and facilities; (3) educational facilities for kindergarten through grade 12; (4) facilities for water or sewer~~

services; (5) facilities for flood control; (6) facilities and services related to public safety, health and criminal justice; and (7) social services.

Section 11 of this bill sets forth: (1) the methods by which a county must compensate an affected local government for the impacts caused by a project of intercounty significance; and (2) if the county and affected local government disagree on the amount of impact costs, the process for determining such costs.

Section 12 of this bill authorizes an affected local government to submit an impact statement to and request compensation from a county for not more than one project of intercounty significance that is already developed, constructed or in operation on July 1, 2021.]

This bill directs the Legislative Commission to appoint a committee to conduct an interim study concerning state, regional and local impacts from projects of intercounty significance initiated in response to state-approved economic development incentives. This bill requires the committee to: (1) examine the impacts of such projects on local governments, the State and sources of state and local revenue; and (2) submit a report of its findings and any recommendations to the Legislature.

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

Section 1. ~~{Title 22 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 12, inclusive, of this act.}~~ (Deleted by amendment.)

Sec. 2. ~~{As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.}~~ (Deleted by amendment.)

Sec. 3. ~~{“Affected local government” means:~~  
~~1. A county that is adjacent to the county where a project of intercounty significance is located or proposed to be located;~~  
~~2. A city located in a county that is adjacent to the county where a project of intercounty significance is located or proposed to be located; and~~  
~~3. A school district located in a county that is adjacent to the county where a project of intercounty significance is located or proposed to be located.}~~  
(Deleted by amendment.)

Sec. 4. ~~{“Mining operation” means the activities and facilities involved in the extraction of metallic ores from the earth.}~~ (Deleted by amendment.)

Sec. 5. ~~{1. “Project of intercounty significance,” with respect to a project of any person other than a public utility, means a project which~~

~~(a) Required or will require a change in zoning, a special use permit, an amendment to a master plan, a tentative map or other approval for the use of land and had or will have an effect of increasing in the region:~~

~~(1) Employment by at least 938 employees;~~  
~~(2) Housing by at least 625 units;~~  
~~(3) Hotel accommodations by at least 625 rooms;~~  
~~(4) Sewage by at least 187,500 gallons a day;~~  
~~(5) Water usage, except for the use of treated effluent for irrigation, by at least 625 acre feet per year;~~  
~~(6) Traffic by an average of at least 6,250 trips daily; or~~  
~~(7) The student population for kindergarten through grade 12 by at least 325 students; or~~

~~(b) Required or will require a change in zoning, a special use permit, an amendment to a master plan, a tentative map or other approval for the use of land and which resulted in or will result in:~~

~~(1) The creation of a geothermal field and a facility for the production of geothermal energy;~~

~~(2) The creation of a mining operation;~~

~~(3) The alteration of a stream channel or watercourse of any portion of a river of this State or any tributary of a river of this State;~~

~~(4) The alteration of a wetland in a manner requiring a permit pursuant to the provisions of section 404 of the Clean Water Act, 33 U.S.C. § 1344;~~

~~(5) A new or significantly expanded landfill or other similar facility;~~

~~(6) A new or significantly expanded facility for the management of hazardous waste; or~~

~~(7) The loss or significant degradation of a paleontological site, if the paleontological site has been identified in a master plan.~~

~~2. "Project of intercounty significance," with respect to a project of a public utility, means:~~

~~(a) An electric substation;~~

~~(b) A transmission line that carries 60 kilovolts or more;~~

~~(c) A facility that generates electricity greater than 5 megawatts;~~

~~(d) Natural gas storage and peak shaving facilities; or~~

~~(e) Gas regulator stations and mains that operate over 100 pounds per square inch.~~ (Deleted by amendment.)

~~Sec. 6. [1. "Public utility" means a public utility as defined in NRS 704.020.~~

~~2. The term does not include the persons excluded by NRS 704.021.]~~ (Deleted by amendment.)

~~Sec. 7. ["Region" means:~~

~~1. The county where a project of intercounty significance is located or proposed to be located; and~~

~~2. Every affected local government.]~~ (Deleted by amendment.)

~~Sec. 8. [The Legislature hereby finds and declares that:~~

~~1. The provisions of this chapter are intended to ensure that the county in which a project of intercounty significance is located or proposed to be located coordinates with affected local governments in order to mitigate the impact that the project of intercounty significance may have on education, conservation, land use, transportation, public safety, public facilities and public services in the region.~~

~~2. The provisions of this chapter are intended to ensure the long term safety, health and welfare of residents of the county in which a project of intercounty significance is located and affected local governments.~~

~~3. The provisions of this chapter are not intended to limit development or the expansion of development.]~~ (Deleted by amendment.)

~~Sec. 9. [1. Before a county takes any final action to approve the development, construction or expansion of a project, the county must determine if the project is a project of intercounty significance. If the county determines that a project is not a project of intercounty significance, any local government may dispute that determination if the local government:~~

~~(a) Reasonably believes that the project is a project of intercounty significance; and~~

~~(b) Would be an affected local government if the project is a project of intercounty significance.~~

~~2. If a local government disputes the finding of the county that a project is not a project of intercounty significance:~~

~~(a) The local government must submit documentation to the county explaining why the project is a project of intercounty significance; and~~

~~(b) The county must consider the documentation submitted pursuant to paragraph (a) and determine if the documentation supports a finding that the project is a project of intercounty significance.~~

~~3. If the county determines pursuant to paragraph (b) of subsection 2 that the documentation submitted by the local government supports a finding that the project is a project of intercounty significance, the county must comply with the provisions of sections 10 and 11 of this act before the county takes any final action to approve the development, construction or expansion of the project.~~

~~4. If the county determines pursuant to paragraph (b) of subsection 2 that the documentation submitted by the local government does not support a finding that the project is a project of intercounty significance, the local government may file an action in a court of competent jurisdiction requesting the court to determine if the project is a project of intercounty significance. If the court finds that the project is a project of intercounty significance, the county must comply with the provisions of sections 10 and 11 of this act before the county takes any final action to approve the development, construction or expansion of the project.~~ (Deleted by amendment.)

**Sec. 10.** ~~[1. Before a county takes any final action to approve the development, construction or expansion of a project of intercounty significance, the county must~~

~~(a) Notify and request an impact statement from every affected local government; and~~

~~(b) Allow every affected local government a reasonable amount of time to submit to the county an impact statement.~~

~~2. An impact statement submitted pursuant to subsection 1 must include, without limitation, supporting documentation and set forth the costs that the affected local government reasonably expects to incur for the development, creation, construction, expansion or improvement of the following as a direct result of the project of intercounty significance:~~

~~(a) Housing units.~~

~~(b) Transportation infrastructure and facilities.~~

~~(c) Educational facilities for kindergarten through grade 12.~~

~~(d) Facilities for water and sewer services.~~

~~(e) Facilities for flood control.~~

~~(f) Facilities and services related to public safety, health and criminal justice.~~

~~(g) Social services.~~

~~3. An affected local government may submit an impact statement to a county pursuant to this section even if the county does not request an impact statement from the affected local government.~~ (Deleted by amendment.)

**Sec. 11.** ~~[1. If the county finds that the project of intercounty significance will impact the affected local government to the extent set forth in the impact statement, the county must compensate the affected local government for such impacts using one or more of the following methods:~~

~~(a) The county may pay the affected local government from any unrestricted funds available to the county.~~

~~(b) The county and the affected local government may enter into an agreement for the county to provide to the affected local government a portion of any revenue that the county will receive from the project of intercounty significance.~~

~~(c) The county and the affected local government may enter into an interlocal agreement for the county to mitigate the impact of the project of intercounty significance on the affected local government.~~

~~1. (d) The county may assess an impact fee on the project of intercounty significance for the purpose of using the impact fees collected to compensate the affected local government.~~

~~2. If the county does not find that the project of intercounty significance will impact the affected local government to the extent set forth in the impact statement, the county must notify the affected local government that the county wishes to enter immediately into negotiations to determine the amount, if any, that the county must pay to the affected local government for the impacts caused by the project of intercounty significance. If the county and the affected local government do not reach an agreement after 60 days of negotiations:~~

~~(a) The county and the affected local government may by mutual agreement continue negotiations for any number of 60-day periods;~~

~~(b) The county and the affected local government may mutually agree to engage in a method of alternative dispute resolution, which may be binding if agreed to by both parties; or~~

~~(c) The county or the affected local government may file an action in a court of competent jurisdiction requesting the court to determine the amount, if any, that the county must pay to the affected local government for the impacts caused by the project of intercounty significance. Such an action takes precedence over other civil proceedings.~~

~~3. If the amount that the county must pay to the affected local government for the impacts that will be caused by the project of intercounty significance is determined pursuant to subsection 2, the county shall provide such compensation using one or more of the methods set forth in subsection 1.~~ (Deleted by amendment.)

**Sec. 12.** ~~[1. An affected local government may request compensation from the county where a project of intercounty significance is located by submitting an impact statement requesting payment for the impacts caused by not more than one project of intercounty significance that is developed, constructed or in operation in the county on July 1, 2021.~~

~~2. The impact statement must include, without limitation, supporting documentation and set forth the costs that the affected local government incurred for the development, creation, construction, expansion or improvement of the following as a direct result of the project of intercounty significance:~~

~~(a) Housing units.~~

~~(b) Transportation infrastructure and facilities.~~

~~(c) Educational facilities for kindergarten through grade 12.~~

~~(d) Facilities for water and sewer services.~~

~~(e) Facilities for flood control.~~

~~(f) Facilities and services related to public safety, health and criminal justice.~~

~~(g) Social services.~~

~~3. If the county finds that the project of intercounty significance impacted the affected local government to the extent set forth in the impact statement, the county shall compensate the affected local government for such impacts using one or more of the following methods:~~

~~(a) The county may pay the affected local government from any unrestricted funds available to the county.~~

~~(b) The county and the affected local government may enter into an agreement for the county to provide a portion of any revenue that the county receives as a result of the project of intercounty significance.~~

~~(c) The county and the affected local government may enter into an interlocal agreement for the county to mitigate the impact of the project of intercounty significance on the affected local government.~~

~~4. If the county does not find that the project of intercounty significance impacted the affected local government to the extent set forth in the impact statement, the county must notify the affected local government that the county wishes to enter immediately into negotiations to determine the amount, if any, that the county must pay to the affected local government for the impacts caused by the project of intercounty significance. If the county and the affected local government do not reach an agreement after 60 days of negotiations;~~

~~(a) The county and the affected local government may by mutual agreement continue negotiations for any number of successive 60-day periods;~~

~~(b) The county and the affected local government may mutually agree to engage in a method of alternative dispute resolution, which may be binding if agreed to by both parties; or~~

~~(c) The county or the affected local government may file an action in a court of competent jurisdiction requesting the court to determine the amount, if any, that the county must pay to the affected local government for the impacts caused by the project of intercounty significance. Such an action takes precedence over other civil proceedings;~~

~~5. If the amount that the county must pay the affected local government for the impacts caused by the project of intercounty significance is determined pursuant to subsection 4, the county must provide such compensation using one or more of the methods set forth in subsection 3;~~

~~6. Nothing in this section requires or authorizes a county to violate any written agreement that it has entered into before July 1, 2021, relating to a project of intercounty significance.] (Deleted by amendment.)~~

**Sec. 13.** ~~[1. Except as otherwise provided in subsection 2, if on July 1, 2021, a county has not taken any final action to approve the development, construction or expansion of a proposed project of intercounty significance, the county must comply with the provisions of sections 10 and 11 of this act before taking such final action;~~

~~2. Nothing in this section requires or authorizes a county to violate any written agreement that it has entered into before July 1, 2021, relating to a project of intercounty significance;~~

~~3. As used in this section, "project of intercounty significance" has the meaning ascribed to it in section 5 of this act.] (Deleted by amendment.)~~

**Sec. 14.** ~~[The provisions of NRS 354.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.] (Deleted by amendment.)~~

**Sec. 14.5. 1. The Legislative Commission shall appoint a committee to conduct an interim study concerning the state, regional and local impacts of projects of intercounty significance initiated in response to state-approved economic development incentives.**

**2. The committee must be composed of six Legislators as follows;**

**(a) One member appointed by the Chair of the Senate Committee on Revenue and Economic Development during the preceding regular session;**

**(b) One member appointed by the Majority Leader of the Senate;**

**(c) One member appointed by the Speaker of the Assembly;**

**(d) One member appointed by the Chair of the Assembly Committee on Revenue during the preceding regular session;**

**(e) One member appointed by the Minority Leader of the Senate; and**

**(f) One member appointed by the Minority Leader of the Assembly.**

**3. The Legislative Commission shall appoint a Chair and a Vice Chair from among the members of the interim committee.**



1 4. In conducting the study, the committee shall examine, without  
2 limitation:

3 (a) Existing projects of intercounty significance that were developed in  
4 response to state-approved economic development incentives;

5 (b) The impact of existing projects of intercounty significance on the State,  
6 as a whole, and local governments, including, without limitation:

7 (1) The impact on population growth and housing in the counties and  
8 cities in which projects of intercounty significance are located and in the  
9 immediately adjacent counties and cities;

10 (2) The cost to the State for employees and dependents of employees  
11 who received Medicaid benefits while employed by any employer that received  
12 state-approved economic development incentives;

13 (c) The impact to state and local sources of revenue caused by tax  
14 abatements and other state-approved economic incentives awarded to projects  
15 of intercounty significance by the Office of Economic Development, including,  
16 without limitation, an analysis of the amounts of state and local sources of  
17 revenue that will be generated after any tax abatements end; and

18 (d) Any data or information relevant to analyzing the impacts of projects  
19 of intercounty significance, including, without limitation:

20 (1) State and local tax reports and assessments;

21 (2) Demographic information; and

22 (3) County and regional master plans.

23 5. The committee shall submit a report of its findings, including, without  
24 limitation, any recommendations for legislation to the Director of the  
25 Legislative Counsel Bureau for transmittal to:

26 (a) The 82nd Session of the Legislature;

27 (b) The Chair of the Senate Committee on Revenue and Economic  
28 Development during the 82nd Session of the Legislature; and

29 (c) The Chair of the Assembly Committee on Revenue during the 82nd  
30 Session of the Legislature.

31 **Sec. 15.** This act becomes effective on July 1, 2021.