

Amendment No. 544

Senate Amendment to Senate Bill No. 430	(BDR 35-1110)
Proposed by: Senate Committee on Growth and Infrastructure	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

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.

EGO



Date: 5/13/2021

S.B. No. 430—Revises provisions governing the Nevada State Infrastructure Bank.
(BDR 35-1110)



SENATE BILL NO. 430—COMMITTEE ON
GROWTH AND INFRASTRUCTURE

(ON BEHALF OF THE OFFICE OF THE GOVERNOR)

APRIL 29, 2021

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions governing the Nevada State Infrastructure Bank.
(BDR 35-1110)FISCAL NOTE: Effect on Local Government: No.
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 infrastructure; revising provisions governing the establishment of the Nevada Infrastructure Bank; revising provisions governing eligibility to receive loans and other financial assistance from the Bank; expanding the types of projects for which financial assistance from the Bank is available; revising provisions governing the membership, duties and powers of the Board of Directors of the Bank; authorizing certain governmental agencies to provide technical advice, support and assistance to the Bank; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes the Nevada State Infrastructure Bank, the purpose of which is to provide loans and other financial assistance to various units of state and local government for the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of certain transportation facilities and utility infrastructure. (NRS 408.55048-408.55088) Existing law provides that the establishment of the Bank becomes effective on the date on which the Director of the Department of Transportation notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient money is available to capitalize and carry out the business of the Bank. (Section 39 of chapter 575, Statutes of Nevada 2017, at page 4142) **Section 20** of this bill makes the establishment of the Bank effective on July 1, 2021.

Section 15 of this bill adds the Director of the Office of Energy to the Board of Directors of the Bank and provides that the Bank operates under the direction of the Board of Directors.

Sections 10 and 15 of this bill expand the types of facilities for which the Bank is authorized to provide loans and other financial assistance to include water and wastewater infrastructure, renewable energy infrastructure, recycling and sustainability infrastructure, digital infrastructure, social infrastructure and other infrastructure related to economic development. **Sections 17 and 18** of this bill make conforming changes to reflect the wider range of facilities for which the Bank is authorized to provide loans and offer financial assistance.

Sections 12 and 15 of this bill authorize the Bank to provide loans and financial assistance to Indian reservations, Indian colonies and private nonprofit entities created for charitable or educational purposes. Section 17 makes a conforming change to reflect that the Bank may provide loans and financial assistance to entities other than governmental units.

Existing law creates the Nevada State Infrastructure Bank Fund and authorizes the Board of Directors to establish certain accounts within the fund. (NRS 408.55073) Section 16 of this bill authorizes the Board of Directors to establish accounts and subaccounts within the Fund and removes the requirement for the Board of Directors to establish certain specific accounts. Section 16 requires the Board of Directors to ensure that the money in the Fund is accounted for in accordance with all applicable laws and regulations governing the use of funds.

Existing law authorizes any division of the Department of Transportation to provide technical advice, support and assistance to the Bank, to the extent that money is available for that purpose. (NRS 408.55088) Section 19 of this bill authorizes other governmental units to provide such technical advice, support and assistance to the Bank, to the extent that money is available for that purpose.

Sections 2-14 of this bill define terms related to the projects for which the Bank is authorized to provide loans or financial assistance and amend definitions relating to the operation of the Bank.

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

Section 1. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *“Digital infrastructure” means any infrastructure which allows for the use of data, computerized devices, methods, systems and processes that are designed to enhance broadband connectivity or facilitate the development of new or existing technologies.*

Sec. 3. *“Other infrastructure related to economic development” means infrastructure that:*

1. *Supports a public purpose while promoting economic development for a local, regional or state purpose; and*

2. *Is not a transportation facility, utility infrastructure, water and wastewater infrastructure, renewable energy infrastructure, recycling and sustainability infrastructure, digital infrastructure or social infrastructure.*

Sec. 4. *“Recycling and sustainability infrastructure” means any infrastructure which allows for the processing, storage or transfer of recyclable materials as defined in NRS 444A.013.*

Sec. 5. *“Renewable energy infrastructure” means any infrastructure which allows for the generation, ~~transmission, sale,~~ storage or usage of renewable energy as defined in NRS 701.070.*

Sec. 6. *“Social infrastructure” means any infrastructure which:*

1. *Is used or useful for the construction, development and maintenance of facilities and systems that support social services, including, without limitation, those services related to health care, education, affordable housing, homelessness and food security; and*

2. *Augments existing services, including, without limitation, the services provided pursuant to chapters 319 and 387 of NRS.*

Sec. 7. *“Water and wastewater infrastructure” means any infrastructure which:*

1. *Relates to water, including, without limitation, clean water, drinking water, wastewater, energy efficiency projects at drinking water and wastewater*

1 *facilities, brackish or seawater desalination, aquifer recharge, alternative water*
2 *supply, water recycling and drought mitigation projects; and*

3 *2. Augments the existing programs created pursuant to chapter 445A of*
4 *NRS.*

5 **Sec. 8.** NRS 408.55048 is hereby amended to read as follows:

6 408.55048 As used in NRS 408.55048 to 408.55088, inclusive, *and sections*
7 *2 to 7, inclusive, of this act*, unless the context otherwise requires, the words and
8 terms defined in NRS 408.55049 to 408.55068, inclusive, *and sections 2 to 7,*
9 *inclusive, of this act* have the meanings ascribed to them in those sections.

10 **Sec. 9.** NRS 408.55052 is hereby amended to read as follows:

11 408.55052 “Eligible costs” means, as applied to a qualified project to be
12 financed from ~~the~~:

13 ~~—1. The federal highway account established by NRS 408.55073, the costs that~~
14 ~~are allowed under applicable federal laws, requirements, procedures and guidelines~~
15 ~~in regard to establishing, operating and providing assistance from the Bank.~~

16 ~~—2. The state and local highway account established by NRS 408.55073, costs~~
17 ~~including, without limitation, any account established pursuant to NRS~~
18 ~~408.55073, the cost of [preliminary] :~~

19 *1. Applying for and obtaining financial assistance from the Bank.*

20 *2. Preliminary* engineering, traffic and revenue studies, environmental
21 studies, right-of-way acquisition, legal and financial services associated with the
22 development of the qualified project, construction, construction management,
23 facilities, sustainability certification and other costs necessary for the qualified
24 project ~~the~~.

25 ~~—3. The federal utility infrastructure account established by NRS 408.55073,~~
26 ~~costs including, without limitation, the cost of preliminary engineering,~~
27 ~~environmental studies, property right acquisition, legal and financial services~~
28 ~~associated with the development of the qualified project, construction, construction~~
29 ~~management, equipment, facilities and other nonoperating costs necessary for the~~
30 ~~qualified project.~~

31 ~~—4. A federal or state and local nonhighway account established by NRS~~
32 ~~408.55073, costs including, without limitation, the cost of preliminary engineering,~~
33 ~~traffic and revenue studies, environmental studies, right of way acquisition, legal~~
34 ~~and financial services associated with the development of the qualified project,~~
35 ~~construction, construction management, equipment, facilities and other~~
36 ~~nonoperating costs necessary for the qualified project.~~

37 ~~—5. The state and local utility infrastructure account established by NRS~~
38 ~~408.55073, costs including, without limitation, the cost of preliminary engineering,~~
39 ~~environmental studies, property right acquisition, legal and financial services~~
40 ~~associated with the development of the qualified project, construction, construction~~
41 ~~management, equipment, facilities, sustainability certification and other~~
42 ~~nonoperating costs necessary for the qualified project.] to the extent such costs are~~
43 *an authorized use of the money obtained to capitalize the Bank.*

44 **Sec. 10.** NRS 408.55053 is hereby amended to read as follows:

45 408.55053 “Eligible project” means the development, construction, repair,
46 improvement, operation, maintenance, decommissioning or ownership of a
47 transportation facility , ~~for~~ utility infrastructure ~~the~~ , *water and wastewater*
48 *infrastructure, renewable energy infrastructure, recycling and sustainability*
49 *infrastructure, digital infrastructure, social infrastructure and other*
50 *infrastructure related to economic development.*

51 **Sec. 11.** NRS 408.55055 is hereby amended to read as follows:

52 408.55055 “Federal accounts” means ~~[the federal highway account, federal~~
53 ~~nonhighway account and federal utility infrastructure account established pursuant~~

1 ~~to NRS 408.55073.] any accounts established pursuant to NRS 408.55073 which~~
2 ~~are necessary to hold money from federal sources.~~

3 **Sec. 12.** NRS 408.55063 is hereby amended to read as follows:

4 408.55063 “Qualified borrower” means a governmental unit, *an Indian*
5 *reservation or Indian colony* or ~~[an entity established by an agreement between a~~
6 ~~governmental unit and]~~ a private *nonprofit* entity ~~[, that is authorized to develop,~~
7 ~~construct, repair, improve, maintain, decommission, operate or own a qualified~~
8 ~~project.] created for charitable or educational purposes.~~

9 **Sec. 13.** NRS 408.55065 is hereby amended to read as follows:

10 408.55065 “State and local accounts” means ~~[the state and local highway~~
11 ~~account, state and local nonhighway account and state and local utility~~
12 ~~infrastructure account established by the Bank pursuant to NRS 408.55073.] any~~
13 ~~accounts established pursuant to NRS 408.55073 which are necessary to hold~~
14 ~~money from state and local governments or contributions made from any other~~
15 ~~source, except for federal sources.~~

16 **Sec. 14.** NRS 408.55068 is hereby amended to read as follows:

17 408.55068 “Utility infrastructure” means any infrastructure ~~[which allows for~~
18 ~~the connection of the transmission or distribution system of a utility to a~~
19 ~~distribution facility installed by a master planned industrial or business park in~~
20 ~~conformance with the tariffs of the utility and includes, without limitation, the~~
21 ~~engineering and construction of the infrastructure.] of a utility that is installed in~~
22 ~~any city or county that improves or expands the system of the utility.~~

23 **Sec. 15.** NRS 408.55069 is hereby amended to read as follows:

24 408.55069 1. The Nevada State Infrastructure Bank is hereby created within
25 the Department.

26 2. The purpose of the Bank is to provide loans and other financial assistance
27 to ~~[various governmental units]~~ *qualified borrowers* for the development,
28 construction, repair, improvement, operation, maintenance, decommissioning and
29 ownership of transportation facilities, ~~[and]~~ utility infrastructure, *water and*
30 *wastewater infrastructure, renewable energy infrastructure, recycling and*
31 *sustainability infrastructure, digital infrastructure, social infrastructure and*
32 *other infrastructure related to economic development* as necessary for public
33 purposes. ~~[, including, without limitation, economic development.]~~

34 3. The Bank is administered by *and operates under the direction of* a Board
35 of Directors consisting of:

36 (a) The Director of the Department of Transportation or his or her designee;

37 (b) The State Treasurer or his or her designee;

38 (c) The Director of the Department of Business and Industry or his or her
39 designee;

40 (d) The Executive Director of the Office of Economic Development or his or
41 her designee; ~~[and]~~

42 (e) *The Director of the Office of Energy or his or her designee; and*

43 (f) Two representatives of the general public, at least one of whom must reside
44 in a county whose population is 700,000 or more, appointed by the Governor.

45 4. Each member of the Board of Directors who is appointed pursuant to
46 subsection 3 serves at the pleasure of the appointing authority.

47 5. A vacancy on the Board of Directors in an appointed position must be
48 filled by the appointing authority in the same manner as the original appointment.

49 6. The Board of Directors shall elect annually from among its members a
50 Chair and a Vice Chair.

51 7. Four members of the Board of Directors constitute a quorum for the
52 transaction of business, and the affirmative vote of at least four members of the
53 Board of Directors is required to take action.

8. The members of the Board of Directors are public officers and are subject to all applicable provisions of law, including, without limitation, the provisions of chapter 281A of NRS.

9. A meeting of the Board of Directors must be conducted in accordance with the provisions of chapter 241 of NRS.

10. ~~[To the extent that money is available from public or private sources for administrative costs:~~

~~—(a)]~~ Each member of the Board of Directors who is not otherwise an officer or employee of this State is entitled ~~to~~ :

(a) To receive \$100 for each full day of attending a meeting of the Board of Directors ~~to~~; and

(b) ~~[Each member of the Board of Directors is entitled, while]~~ While engaged in the business of the Board of Directors, to receive the per diem allowance and travel expenses provided for state officers and employees generally. The per diem allowance and travel expenses provided to a member of the Board of Directors who is an officer or employee of this State or a political subdivision of this State must be paid by the state agency or political subdivision that employs him or her.

11. A member of the Board of Directors 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 so that he or she may prepare for and attend meetings of the Board of Directors and perform any work necessary to carry out the duties of the Board of Directors 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 Board of Directors to:

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

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

Sec. 16. NRS 408.55073 is hereby amended to read as follows:

408.55073 1. The Nevada State Infrastructure Bank Fund is hereby created as an enterprise fund. The Fund is a continuing fund without reversion.

2. The Fund is administered by the Board of Directors.

3. The Board of Directors may establish accounts and subaccounts within the Fund ~~[, but]~~ and ~~[establish, without limitation:~~

~~—(a) A federal highway account;~~

~~—(b) A federal nonhighway account;~~

~~—(c) A state and local highway account;~~

~~—(d) A state and local nonhighway account;~~

~~—(e) A state and local utility infrastructure account; and~~

~~—(f) A federal utility infrastructure account.] ensure that accounting for the Fund is performed in accordance with all applicable laws and regulations governing the use of funds.~~

4. Except as otherwise provided in subsection 7, all money received by the Bank pursuant to NRS 408.55048 to 408.55088, inclusive, *and sections 2 to 7, inclusive, of this act* must be deposited in the Fund.

5. The Bank may accept for deposit into the Fund:

(a) Any money appropriated by the Legislature or authorized for allocation by the Interim Finance Committee;

(b) Federal funds made available to the State;

(c) Gifts, grants, donations and contributions from a governmental unit, private entity or any other source;

(d) Any money paid or credited to the Bank, by contract or otherwise, including, without limitation:

(1) Payment of principal and interest on a loan or other financial assistance provided to a qualified borrower by the Bank; and

(2) Interest earned from the investment or reinvestment of the Bank's money pursuant to NRS 408.55076;

(e) Proceeds from the issuance of bonds or other securities pursuant to NRS 408.55071; and

(f) Any other lawful source of money that is made available to the Bank and is not already dedicated for another purpose.

6. The Bank shall comply with all applicable federal laws governing the use of federal funds, including, without limitation, statutes and regulations governing:

(a) Any conditions or limitations on expenditures;

(b) Reporting; and

(c) The commingling of federal funds.

7. Earnings on balances in ~~the~~ *any* federal accounts must be credited and invested in accordance with federal law. Earnings on *any* state and local accounts must be deposited in the Fund to the credit of the ~~[state and local highway account, state and local nonhighway account or state and local utility infrastructure]~~ account that generates the earnings.

8. Money in the Fund may be used only:

(a) For the capitalization of the Bank; and

(b) To carry out the statutory purposes and powers of the Bank.

9. A local government may use money from any source that is made available to the local government for the purposes of developing, constructing, repairing, improving, operating, maintaining, decommissioning or owning a transportation facility, ~~for~~ *utility infrastructure, water and wastewater infrastructure, renewable energy infrastructure, recycling and sustainability infrastructure, digital infrastructure, social infrastructure or other infrastructure related to economic development* or for any other purpose set forth in NRS 408.55048 to 408.55088, inclusive, *and sections 2 to 7, inclusive, of this act* to make a gift, grant, donation or contribution to the Bank or to satisfy any obligation owed by the local government to the Bank, including, without limitation, payments of principal and interest.

Sec. 17. NRS 408.55074 is hereby amended to read as follows:

408.55074 1. A ~~[governmental unit, or an entity established by agreement between a governmental unit and a private entity,]~~ *qualified borrower* that wishes to obtain a loan or other financial assistance from the Bank to develop, construct, repair, improve, operate, maintain, decommission or own an eligible project must apply to the Bank in the manner prescribed by the Bank.

2. The Executive Director shall:

(a) Review each application and determine whether the ~~[transportation facility or utility infrastructure described in the]~~ application is *for* an eligible project; and

(b) At the request of the Board of Directors, submit information to the Board of Directors concerning any eligible project.

3. The Board of Directors shall, from time to time, designate qualified projects from among the eligible projects. The Board of Directors may give preference to an eligible project that has demonstrated local financial support.

4. The Bank may provide a loan and other financial assistance to a qualified borrower to pay for all or part of the eligible costs of a qualified project. The term of the loan or other financial assistance may not exceed the anticipated useful life of the qualified project. A loan or other financial assistance may be provided in anticipation of reimbursement for or direct payment of all or part of the eligible costs of a qualified project.

5. The Bank shall determine the form and content of a loan application, financing agreement or loan obligation, including, without limitation:

(a) The period for repayment and the rate or rates of interest on a loan; and
(b) Any nonfinancial provisions included in a financing statement or loan obligation, including, without limitation, terms and conditions relating to the regulation and supervision of a qualified project.

Such form and content must substantially conform with the documents typically used for such transactions.

6. The terms and conditions set forth in a financing agreement or loan obligation for a loan or other financial assistance provided by the Bank using money from a federal account must comply with all applicable federal requirements.

Sec. 18. NRS 408.55086 is hereby amended to read as follows:

408.55086 1. To the extent possible, the provisions of NRS 408.55048 to 408.55088, inclusive, *and sections 2 to 7, inclusive, of this act* are intended to supplement other statutory provisions governing the development, construction, repair, improvement, maintenance, decommissioning, operation and ownership of transportation facilities , ~~land~~ utility infrastructure , *water and wastewater infrastructure, renewable energy infrastructure, recycling and sustainability infrastructure, digital infrastructure, social infrastructure or other infrastructure related to economic development* and the issuance of bonds and other securities by this State or a political subdivision thereof, and such other provisions must be given effect to the extent that those provisions do not conflict with the provisions of NRS 408.55048 to 408.55088, inclusive ~~and sections 2 to 7, inclusive, of this act~~. If there is a conflict between such other provisions and the provisions of NRS 408.55048 to 408.55088, inclusive, *and sections 2 to 7, inclusive, of this act*, the provisions of NRS 408.55048 to 408.55088, inclusive, *and sections 2 to 7, inclusive, of this act* control.

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to any contract for construction work on a qualified project if all or part of the costs of the qualified project are paid for using a loan or other financial assistance from the Bank. The Bank, the qualified borrower, any contractor who is awarded a contract or enters into an agreement to perform construction work on the qualified project, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the qualified project or had awarded the contract.

Sec. 19. NRS 408.55088 is hereby amended to read as follows:

408.55088 Any division of the Department *of Transportation, the Department of Business and Industry, the Office of Economic Development, the State Department of Conservation and Natural Resources, the Office of the State Treasurer, the Office of Energy or any other governmental unit* may, to the extent that money is available for that purpose, provide technical advice, support and assistance to the Bank.

Sec. 20. Section 39 of chapter 575, Statutes of Nevada 2017, at page 4142, is hereby amended to read as follows:

Sec. 39. 1. This section and sections 37.8 and 37.9 of this act become effective upon passage and approval.

2. Sections 1 to 37.7, inclusive, and 38 of this act become effective ~~and~~
~~—(a) Upon passage and approval for the purposes of establishing the Nevada State Infrastructure Bank and appointing the Board of Directors.~~

~~—(b) For all other purposes, on the date on which the Director of the Department of Transportation notifies the Governor and the Director of the Legislative Counsel Bureau that sufficient money is available to capitalize~~

~~and carry out the business of the Nevada State Infrastructure Bank created by section 20 of this act.]~~ *on July 1, 2021.*

Sec. 21. Notwithstanding the provisions of NRS 218D.430 and 218D.435, a committee, other than the Assembly Standing Committee on Ways and Means and the Senate Standing Committee on Finance, may vote on this act before the expiration of the period prescribed for the return of a fiscal note in NRS 218D.475. This section applies retroactively from and after March 22, 2021.

Sec. 22. This act becomes effective on July 1, 2021.