

ASSEMBLY BILL NO. 387—ASSEMBLYMEN
WHEELER; FIORE AND NEAL

MARCH 18, 2013

JOINT SPONSORS: SENATORS GUSTAVSON; AND SEGERBLOM

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public financial administration. (BDR 30-564)

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

AN ACT relating to public financial administration; requiring that certain proposals relating to bonding by a municipality in certain smaller counties be approved by two-thirds of the electors of the municipality; requiring such a municipality to discontinue the collection of certain taxes under certain circumstances; requiring a local government in certain smaller counties to use the proceeds of certain taxes for the specific purpose for which the tax was levied; establishing a limit on the amount of revenue that may be raised or collected by such a local government in a fiscal year; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires that proposals by a municipality to issue or incur general
2 obligations be submitted to and approved by a majority of the electors of the
3 municipality. (NRS 350.020-350.070) **Section 1** of this bill requires that, in a
4 county whose population is less than 100,000 (currently counties other than Clark
5 and Washoe Counties), a proposal by a municipality to incur an obligation or debt
6 from the issuance of a bond, or to renew or continue such an obligation or debt, be
7 submitted to and approved by two-thirds of the electors of the municipality. **Section**
8 **1** also prohibits a failed proposal from being resubmitted to the electors for at least
9 5 years. **Section 1** requires such a municipality, if the municipality levies a tax for
10 the purposes of discharging a bond, to discontinue the collection of such taxes upon
11 discharging the bond.



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12 **Section 4** of this bill requires a local government in a county whose population
13 is less than 100,000, if the local government levies a tax for a specific purpose, to
14 use the proceeds of the tax in accordance with the specified purpose. **Section 4** also
15 establishes a limit on the amount of revenue that may be raised or collected by such
16 a local government in a fiscal year and authorizes any person to request from a
17 local government certain information to determine whether the local government is
18 in compliance with **section 4**.

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

1 **Section 1.** Chapter 350 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. If a municipality in a county whose population is less than*
4 *100,000 proposes to issue or incur an obligation or debt from the*
5 *issuance of a bond, or to renew or continue such an obligation or*
6 *debt, the proposal must be submitted to and approved by two-thirds*
7 *of the electors of the municipality at a special election called for*
8 *that purpose or at the next general municipal election or general*
9 *state election in the manner set forth for the submission of a*
10 *proposal to issue or incur general obligations pursuant to NRS*
11 *350.020 to 350.070, inclusive.*

12 *2. A proposal submitted pursuant to subsection 1 that fails to*
13 *be approved by two-thirds of the electors may not be resubmitted to*
14 *the electors for at least 5 years.*

15 *3. If a municipality levies a tax for the purpose of discharging*
16 *an obligation or debt from the issuance of a bond pursuant to this*
17 *section, the municipality shall discontinue the collection of the tax*
18 *upon discharging the obligation or debt.*

19 *4. As used in this section, "bond" has the meaning ascribed*
20 *to it in NRS 350.115.*

21 **Sec. 2.** NRS 350.020 is hereby amended to read as follows:

22 350.020 1. Except as otherwise provided by subsections 3
23 and 4, *and section 1 of this act*, if a municipality proposes to issue
24 or incur general obligations, the proposal must be submitted to the
25 electors of the municipality at a special election called for that
26 purpose or the next general municipal election or general state
27 election.

28 2. Such a special election may be held:

29 (a) At any time, including, without limitation, on the date of a
30 primary municipal election or a primary state election, if the
31 governing body of the municipality determines, by a unanimous
32 vote, that an emergency exists; or

33 (b) On the first Tuesday after the first Monday in June of an
34 odd-numbered year,



1 ↳ except that the governing body shall not determine that an
2 emergency exists if the special election is for the purpose of
3 submitting to the electors a proposal to refund bonds. The
4 determination made by the governing body is conclusive unless it is
5 shown that the governing body acted with fraud, a gross abuse of
6 discretion or in violation of the provisions of this subsection. An
7 action to challenge the determination made by the governing body
8 must be commenced within 15 days after the governing body's
9 determination is final. As used in this subsection, "emergency"
10 means any occurrence or combination of occurrences which requires
11 immediate action by the governing body of the municipality to
12 prevent or mitigate a substantial financial loss to the municipality or
13 to enable the governing body to provide an essential service to the
14 residents of the municipality.

15 3. If payment of a general obligation of the municipality is
16 additionally secured by a pledge of gross or net revenue of a project
17 to be financed by its issue, and the governing body determines, by
18 an affirmative vote of two-thirds of the members elected to the
19 governing body, that the pledged revenue will at least equal the
20 amount required in each year for the payment of interest and
21 principal, without regard to any option reserved by the municipality
22 for early redemption, the municipality may, after a public hearing,
23 incur this general obligation without an election unless, within 90
24 days after publication of a resolution of intent to issue the bonds, a
25 petition is presented to the governing body signed by not less than 5
26 percent of the registered voters of the municipality. Any member
27 elected to the governing body whose authority to vote is limited by
28 charter, statute or otherwise may vote on the determination required
29 to be made by the governing body pursuant to this subsection. The
30 determination by the governing body becomes conclusive on the last
31 day for filing the petition. For the purpose of this subsection, the
32 number of registered voters must be determined as of the close of
33 registration for the last preceding general election. The resolution of
34 intent need not be published in full, but the publication must include
35 the amount of the obligation and the purpose for which it is to be
36 incurred. Notice of the public hearing must be published at least 10
37 days before the day of the hearing. The publications must be made
38 once in a newspaper of general circulation in the municipality.
39 When published, the notice of the public hearing must be at least as
40 large as 5 inches high by 4 inches wide.

41 4. The board of trustees of a school district may issue general
42 obligation bonds which are not expected to result in an increase in
43 the existing property tax levy for the payment of bonds of the school
44 district without holding an election for each issuance of the bonds if
45 the qualified electors approve a question submitted by the board of



1 trustees that authorizes issuance of bonds for a period of 10 years
2 after the date of approval by the voters. If the question is approved,
3 the board of trustees of the school district may issue the bonds for a
4 period of 10 years after the date of approval by the voters, after
5 obtaining the approval of the debt management commission in the
6 county in which the school district is located and, in a county whose
7 population is 100,000 or more, the approval of the oversight panel
8 for school facilities established pursuant to NRS 393.092 in that
9 county, if the board of trustees of the school district finds that the
10 existing tax for debt service will at least equal the amount required
11 to pay the principal and interest on the outstanding general
12 obligations of the school district and the general obligations
13 proposed to be issued. The finding made by the board of trustees is
14 conclusive in the absence of fraud or gross abuse of discretion. As
15 used in this subsection, "general obligations" does not include
16 medium-term obligations issued pursuant to NRS 350.087 to
17 350.095, inclusive.

18 5. At the time of issuance of bonds authorized pursuant to
19 subsection 4, the board of trustees shall establish a reserve account
20 in its debt service fund for payment of the outstanding bonds of the
21 school district. The reserve account must be established and
22 maintained in an amount at least equal to the lesser of:

23 (a) For a school district located in a county whose population is
24 100,000 or more, 25 percent; and

25 (b) For a school district located in a county whose population is
26 less than 100,000, 50 percent,

27 ↪ of the amount of principal and interest payments due on all of the
28 outstanding bonds of the school district in the next fiscal year or 10
29 percent of the outstanding principal amount of the outstanding
30 bonds of the school district.

31 6. If the amount in the reserve account falls below the amount
32 required by subsection 5:

33 (a) The board of trustees shall not issue additional bonds
34 pursuant to subsection 4 until the reserve account is restored to the
35 level required by subsection 5; and

36 (b) The board of trustees shall apply all of the taxes levied by
37 the school district for payment of bonds of the school district that
38 are not needed for payment of the principal and interest on bonds of
39 the school district in the current fiscal year to restore the reserve
40 account to the level required pursuant to subsection 5.

41 7. A question presented to the voters pursuant to subsection 4
42 may authorize all or a portion of the revenue generated by the debt
43 rate which is in excess of the amount required:

44 (a) For debt service in the current fiscal year;



1 (b) For other purposes related to the bonds by the instrument
2 pursuant to which the bonds were issued; and

3 (c) To maintain the reserve account required pursuant to
4 subsection 5,

5 to be transferred to the county school district's fund for capital
6 projects established pursuant to NRS 387.328 and used to pay the
7 cost of capital projects which can lawfully be paid from that fund.
8 Any such transfer must not limit the ability of the school district to
9 issue bonds during the period of voter authorization if the findings
10 and approvals required by subsection 4 are obtained.

11 8. ~~1A~~ *Except as otherwise provided in section 1 of this act, a*
12 municipality may issue special or medium-term obligations without
13 an election.

14 **Sec. 3.** NRS 350.070 is hereby amended to read as follows:

15 350.070 *Except as otherwise provided in section 1 of this act:*

16 1. If a majority of the electors voting on the question is in favor
17 of the proposal submitted, the proposal is carried, and the proper
18 officers of the municipality shall proceed to issue or incur the
19 obligations proposed.

20 2. If the majority of the electors voting on the question is
21 against the proposal submitted, the proposal fails, and the proper
22 officers of the municipality shall proceed no further except to certify
23 the result of the election to the proper officers of the governing
24 body.

25 3. Except as otherwise specifically provided in NRS 350.030,
26 any informality, omission or defect in the giving of any notice or the
27 conduct of the election does not affect the result of the election if it
28 can be ascertained with reasonable certainty whether the proposal
29 was approved or rejected by a majority of the registered voters
30 voting on the question.

31 **Sec. 4.** Chapter 354 of NRS is hereby amended by adding
32 thereto a new section to read as follows:

33 *In a county whose population is less than 100,000:*

34 1. *If, at the time a tax is levied by a local government, the*
35 *proceeds of the tax are designated for a particular purpose, the*
36 *local government that levied the tax shall not use the proceeds for*
37 *any other purpose except as otherwise provided in NRS 354.6117,*
38 *354.6118 and 354.612.*

39 2. *A local government shall not raise or collect through the*
40 *levy of taxes an amount greater than 110 percent of that amount*
41 *which is reasonably projected to meet the financial obligations of*
42 *the local government in a fiscal year, together with reasonable*
43 *reserves and in accordance with generally accepted accounting*
44 *principles. Any amount raised or collected in excess of the amount*
45 *specified in this subsection must be credited or rebated, with*



1 *interest at the legal rate thereon, proportionally to the taxpayers of*
2 *the local government.*

3 *3. Any person may, not earlier than 45 days after the close of*
4 *a fiscal year, request from a local government a copy of any*
5 *document, record or file for the purpose of determining*
6 *compliance with this section. A local government shall provide to*
7 *the person a copy of the document, record or file not later than 10*
8 *days after receiving the request.*

9 **Sec. 5.** NRS 354.474 is hereby amended to read as follows:

10 354.474 1. Except as otherwise provided in subsections 2 and
11 3, the provisions of NRS 354.470 to 354.626, inclusive, *and section*
12 *4 of this act* apply to all local governments. For the purpose of NRS
13 354.470 to 354.626, inclusive ~~H~~, *and section 4 of this act:*

14 (a) "Local government" means every political subdivision or
15 other entity which has the right to levy or receive money from ad
16 valorem or other taxes or any mandatory assessments, and includes,
17 without limitation, counties, cities, towns, boards, school districts
18 and other districts organized pursuant to chapters 244A, 309, 318
19 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters
20 474, 541, 543 and 555 of NRS, and any agency or department of a
21 county or city which prepares a budget separate from that of the
22 parent political subdivision.

23 (b) "Local government" includes the Nevada Rural Housing
24 Authority for the purpose of loans of money from a local
25 government in a county whose population is less than 100,000 to the
26 Nevada Rural Housing Authority in accordance with NRS
27 354.6118. The term does not include the Nevada Rural Housing
28 Authority for any other purpose.

29 2. An irrigation district organized pursuant to chapter 539 of
30 NRS shall fix rates and levy assessments as provided in NRS
31 539.667 to 539.683, inclusive. The levy of such assessments and the
32 posting and publication of claims and annual financial statements as
33 required by chapter 539 of NRS shall be deemed compliance with
34 the budgeting, filing and publication requirements of NRS 354.470
35 to 354.626, inclusive, *and section 4 of this act*, but any such
36 irrigation district which levies an ad valorem tax shall comply with
37 the filing and publication requirements of NRS 354.470 to 354.626,
38 inclusive, *and section 4 of this act* in addition to the requirements of
39 chapter 539 of NRS.

40 3. An electric light and power district created pursuant to
41 chapter 318 of NRS shall be deemed to have fulfilled the
42 requirements of NRS 354.470 to 354.626, inclusive, *and section 4*
43 *of this act* for a year in which the district does not issue bonds or
44 levy an assessment if the district files with the Department of
45 Taxation a copy of all documents relating to its budget for that year



1 which the district submitted to the Rural Utilities Service of the
2 United States Department of Agriculture.

3 **Sec. 6.** NRS 354.476 is hereby amended to read as follows:

4 354.476 As used in NRS 354.470 to 354.626, inclusive, *and*
5 *section 4 of this act*, unless the context otherwise requires, the
6 words and terms defined in NRS 354.479 to 354.578, inclusive,
7 have the meanings ascribed to them in those sections.

8 **Sec. 7.** NRS 354.626 is hereby amended to read as follows:

9 354.626 1. No governing body or member thereof, officer,
10 office, department or agency may, during any fiscal year, expend or
11 contract to expend any money or incur any liability, or enter into
12 any contract which by its terms involves the expenditure of money,
13 in excess of the amounts appropriated for that function, other than
14 bond repayments, medium-term obligation repayments and any
15 other long-term contract expressly authorized by law. Any officer or
16 employee of a local government who willfully violates NRS
17 354.470 to 354.626, inclusive, *and section 4 of this act* is guilty of a
18 misdemeanor and upon conviction thereof ceases to hold his or her
19 office or employment. Prosecution for any violation of this section
20 may be conducted by the Attorney General or, in the case of
21 incorporated cities, school districts or special districts, by the district
22 attorney.

23 2. Without limiting the generality of the exceptions contained
24 in subsection 1, the provisions of this section specifically do not
25 apply to:

26 (a) Purchase of coverage and professional services directly
27 related to a program of insurance which require an audit at the end
28 of the term thereof.

29 (b) Long-term cooperative agreements as authorized by chapter
30 277 of NRS.

31 (c) Long-term contracts in connection with planning and zoning
32 as authorized by NRS 278.010 to 278.630, inclusive.

33 (d) Long-term contracts for the purchase of utility service such
34 as, but not limited to, heat, light, sewerage, power, water and
35 telephone service.

36 (e) Contracts between a local government and an employee
37 covering professional services to be performed within 24 months
38 following the date of such contract or contracts entered into between
39 local government employers and employee organizations.

40 (f) Contracts between a local government and any person for the
41 construction or completion of public works, money for which has
42 been or will be provided by the proceeds of a sale of bonds,
43 medium-term obligations or an installment-purchase agreement and
44 that are entered into by the local government after:



1 (1) Any election required for the approval of the bonds or
2 installment-purchase agreement has been held;

3 (2) Any approvals by any other governmental entity required
4 to be obtained before the bonds, medium-term obligations or
5 installment-purchase agreement can be issued have been obtained;
6 and

7 (3) The ordinance or resolution that specifies each of the
8 terms of the bonds, medium-term obligations or installment-
9 purchase agreement, except those terms that are set forth in
10 subsection 2 of NRS 350.165, has been adopted.

11 ➤ Neither the fund balance of a governmental fund nor the equity
12 balance in any proprietary fund may be used unless appropriated in
13 a manner provided by law.

14 (g) Contracts which are entered into by a local government and
15 delivered to any person solely for the purpose of acquiring supplies,
16 services and equipment necessarily ordered in the current fiscal year
17 for use in an ensuing fiscal year and which, under the method of
18 accounting adopted by the local government, will be charged against
19 an appropriation of a subsequent fiscal year. Purchase orders
20 evidencing such contracts are public records available for inspection
21 by any person on demand.

22 (h) Long-term contracts for the furnishing of television or FM
23 radio broadcast translator signals as authorized by NRS 269.127.

24 (i) The receipt and proper expenditure of money received
25 pursuant to a grant awarded by an agency of the Federal
26 Government.

27 (j) The incurrence of obligations beyond the current fiscal year
28 under a lease or contract for installment purchase which contains a
29 provision that the obligation incurred thereby is extinguished by the
30 failure of the governing body to appropriate money for the ensuing
31 fiscal year for the payment of the amounts then due.

32 (k) The receipt by a local government of increased revenue that:

33 (1) Was not anticipated in the preparation of the final budget
34 of the local government; and

35 (2) Is required by statute to be remitted to another
36 governmental entity.

37 (l) An agreement authorized pursuant to NRS 277A.370.

38 **Sec. 8.** This act becomes effective on July 1, 2013.

