

SENATE BILL NO. 406—SENATORS SMITH, DENIS,
WOODHOUSE, PARKS; AND ATKINSON

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN KIRKPATRICK,
SPRINKLE; AND DONDERO LOOP

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing tourism improvement districts. (BDR 21-139)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to tourism improvement districts; prohibiting, with limited exceptions, the pledge of the proceeds of certain taxes to finance a project within a tourism improvement district created or revised on or after July 1, 2013; eliminating the prohibition on certain local governments creating a tourism improvement district that includes any property within the boundaries of a redevelopment area; revising provisions relating to certain reports prepared by the Department of Taxation; prohibiting, with limited exceptions, the financing or reimbursement from the proceeds of certain taxes that are collected from any retail facilities of a retailer that, on or after July 1, 2013, locate within the boundary of a tourism improvement district; making various other changes relating to tourism improvement districts; providing that prevailing wage requirements apply to certain contracts and agreements relating to tourism improvement districts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law authorizes the governing body of any city or county to create a
2 tourism improvement district (TID) and to pledge revenue from several sales and



* S B 4 0 6 R 2 *

3 use taxes imposed in that district to finance certain projects within the district. The
4 projects may be owned by the municipality, another governmental entity or any
5 person and may be financed through the issuance of bonds or the entry into
6 agreements for the reimbursement of the costs of the projects. (Chapter 271A of
7 NRS) **Section 1** of this bill prohibits, with limited exceptions, a municipality from
8 pledging the proceeds of the Local School Support Tax to finance a project within a
9 TID created or revised on or after July 1, 2013. **Sections 1.5, 2.3, 2.7 and 3.5** of
10 this bill make conforming changes.

11 **Section 1** also eliminates provisions which prohibit a city or county from
12 creating after October 1, 2009, a TID that includes within its boundaries any
13 property included within the boundaries of a redevelopment area. In the case of a
14 TID created after October 1, 2009, that includes within its boundaries any property
15 included within the boundaries of a redevelopment area, **section 1** prohibits a
16 redevelopment agency and the governing body of a county or city from providing
17 financing or reimbursement pursuant to the financing and reimbursement
18 mechanisms of both a TID and a redevelopment area.

19 Existing law requires the Department of Taxation to prepare and submit to the
20 Legislature and a municipality that creates a TID semiannual reports regarding
21 businesses within the TID. (NRS 271A.105) **Section 2** of this bill requires the
22 report to provide information separately for each TID within the municipality
23 unless the reporting of information separately for each TID would disclose or result
24 in the disclosure of information about an individual business, in which case **section**
25 **2** requires the report to provide information in the aggregate. **Section 2** also
26 provides that the Department of Taxation is not required to prepare and submit a
27 semiannual report if the report cannot be prepared and submitted in a manner which
28 would not disclose or lead to the disclosure of information about an individual
29 business.

30 **Section 3** prohibits any financing or reimbursement from the proceeds of the
31 Local School Support Tax that are collected from retail facilities that, on or after
32 July 1, 2013, locate within the boundary of the TID. **Section 3** further provides an
33 exception to this prohibition if the governing body of the municipality, with respect
34 to any district created before July 1, 2013, obtains an opinion from independent
35 bond counsel stating that the applicability of the provision would impair an existing
36 contract for the sale of bonds that were issued before July 1, 2013.

37 **Section 3** also requires an owner of a project to provide, upon request, to the
38 Department of Taxation information that identifies the retail facilities which open
39 or close within the project.

40 **Section 3.2** of this bill provides that prevailing wage requirements (chapter 338
41 of NRS) apply to the construction of, improvement of, repair to, demolition of or
42 reconstruction of an improvement to any building that will be leased to a tenant
43 who has entered into an agreement to receive financing or reimbursement through
44 the financing or reimbursement mechanisms of a TID. **Section 3.4** of this bill
45 provides that existing duties relating to subcontracts also apply to those contracts or
46 agreements.

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

1 **Section 1.** NRS 271A.070 is hereby amended to read as
2 follows:

3 271A.070 1. Except as otherwise provided in this section and
4 NRS 271A.080, the governing body of a municipality may:



* S B 4 0 6 R 2 *

1 (a) Create a tourism improvement district for the purposes of
2 carrying out this chapter and revise the boundaries of the district by
3 adopting an ordinance describing the boundaries of the district and
4 generally describing the types of projects which may be financed
5 within the district pursuant to this chapter.

6 (b) Without any election, acquire, improve, equip, operate and
7 maintain a project within a district created pursuant to paragraph (a).
8 The project may be owned by the municipality, another
9 governmental entity, any other person, or any combination thereof.

10 (c) For the purposes of carrying out paragraph (b), include in an
11 ordinance adopted pursuant to paragraph (a) the pledge of a single
12 percentage specified in the ordinance, which must not exceed 75
13 percent, of:

14 (1) An amount equal to the proceeds of the taxes imposed
15 pursuant to NRS 372.105 and 372.185 with regard to tangible
16 personal property sold at retail, or stored, used or otherwise
17 consumed, in the district during a fiscal year, after the deduction of
18 a sum equal to 1.75 percent of the amount of those proceeds;

19 (2) The amount of the proceeds of the taxes imposed
20 pursuant to NRS 374.110 and 374.190 with regard to tangible
21 personal property sold at retail, or stored, used or otherwise
22 consumed, in the district during a fiscal year, after the deduction of
23 0.75 percent of the amount of those proceeds; and

24 (3) The amount of the proceeds of the tax imposed pursuant
25 to NRS 377.030 with regard to tangible personal property sold at
26 retail, or stored, used or otherwise consumed, in the improvement
27 district during a fiscal year, after the deduction of 1.75 percent of
28 the amount of those proceeds.

29 2. *The governing body of a municipality may not include in
30 an ordinance adopted to create or revise the boundaries of a
31 district pursuant to paragraph (a) of subsection 1 on or after
32 July 1, 2013, the pledge of any proceeds described in
33 subparagraph (2) of paragraph (c) of subsection 1. The provisions
34 of this subsection do not apply to the governing body of a
35 municipality with respect to any district created before July 1,
36 2013, if the governing body obtains an opinion from independent
37 bond counsel stating that the applicability of this provision would
38 impair an existing contract for the sale of bonds which were
39 issued before July 1, 2013.*

40 3. A district created pursuant to this section by:

41 (a) A city must be located entirely within the boundaries of that
42 city.

43 (b) A county must be located entirely within the boundaries of
44 that county and, when the district is created, entirely outside of the
45 boundaries of any city.



~~3.~~ 4. If any property within the boundaries of a district is also included within the boundaries of any other tourism improvement district or any improvement district for which any money has been pledged pursuant to NRS 271.650, the total amount of money pledged pursuant to this section and NRS 271.650 with respect to such property by all such districts must not exceed the amount authorized pursuant to this section.

~~4. The~~ 5. *If the governing body of a municipality shall not, after October 1, 2009, create* creates a tourism improvement district :

(a) *On or before October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS, the governing body and agency may provide financing or reimbursement related to a project or redevelopment project pursuant to the provisions of both NRS 271A.120 and 279.610 to 279.685, inclusive.*

(b) *After October 1, 2009, that includes within its boundaries any property included within the boundaries of a redevelopment area established pursuant to chapter 279 of NRS H, the governing body and an agency:*

(1) *May provide financing or reimbursement related to a project or redevelopment project pursuant to the provisions of NRS 271A.120 or 279.610 to 279.685, inclusive, whichever is applicable.*

(2) *Shall not provide such financing or reimbursement related to the project or redevelopment project pursuant to the provisions of both NRS 271A.120 and 279.610 to 279.685, inclusive.*

6. *As used in this section:*

(a) *“Agency” has the meaning ascribed to it in NRS 279.386.*

(b) *“Redevelopment project” has the meaning ascribed to it in NRS 279.412.*

Sec. 1.5. NRS 271A.080 is hereby amended to read as follows:

271A.080 The governing body of a municipality shall not adopt an ordinance pursuant to NRS 271A.070 unless:

1. If the ordinance:

(a) Creates a district, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within the district on or within the 120 days immediately preceding the date of the adoption of the ordinance; or

(b) Amends the boundaries of the district to add any additional area, the governing body has determined that no retailers will have maintained or will be maintaining a fixed place of business within



1 that area on or within 120 days immediately preceding the date of
2 the adoption of the ordinance.

3 2. The governing body has made a written finding at a public
4 hearing that the project will benefit the district.

5 3. The governing body has made a written finding at a public
6 hearing, based upon reports from independent consultants which
7 were addressed to the governing body ~~H~~ and to the board of county
8 commissioners, if the governing body is not the board of county
9 commissioners for the county in which the tourism improvement
10 district is or will be located, ~~and to the board of trustees of the~~
11 ~~school district in which the tourism improvement district is or will~~
12 ~~be located,]~~ as to whether the project and the financing thereof
13 pursuant to this chapter will have a positive fiscal effect on the
14 provision of local governmental services, after considering:

15 (a) The amount of the proceeds of all taxes and other
16 governmental revenue projected to be received as a result of the
17 properties and businesses expected to be located in the district;

18 (b) The use of any money proposed to be pledged pursuant to
19 NRS 271A.070;

20 (c) Any increase in costs for the provision of local governmental
21 services, including, without limitation, services for education,
22 including operational and capital costs, and services for police
23 protection and fire protection, as a result of the project and the
24 development of land within the district; and

25 (d) Estimates of any increases in the proceeds from sales and use
26 taxes collected by retailers located outside of the district and of any
27 displacement of the proceeds from sales and use taxes collected by
28 those retailers, as a result of the properties and businesses expected
29 to be located in the district.

30 ➤ The reports required from independent consultants pursuant to
31 this subsection must be obtained from independent consultants
32 selected by the governing body from a list of independent
33 consultants provided by the Commission on Tourism. For the
34 purposes of this subsection, the Commission shall, upon the request
35 of a governing body, provide the governing body with a list of at
36 least three qualified independent consultants, each of whom must be
37 located outside of this State.

38 4. ~~[The governing body has, at least 45 days before making the~~
39 ~~written finding required by subsection 3, provided to the board of~~
40 ~~trustees of the school district in which the tourism improvement~~
41 ~~district is or will be located:~~

42 ~~—(a) Written notice of the time and place of the meeting at which~~
43 ~~the governing body will consider making that written finding; and~~

44 ~~—(b) Each analysis prepared by or for or presented to the~~
45 ~~governing body regarding the fiscal effect of the project and the use~~



1 ~~of any money proposed to be pledged pursuant to NRS 271A.070 on~~
2 ~~the provision of local governmental services, including education.~~

3 ~~↳ After the receipt of the notice required by this subsection and~~
4 ~~before the date of the meeting at which the governing body will~~
5 ~~consider making the written finding required by subsection 3, the~~
6 ~~board of trustees shall conduct a hearing regarding the fiscal effect~~
7 ~~on the school district, if any, of the project and the use of any money~~
8 ~~proposed to be pledged pursuant to NRS 271A.070, and may submit~~
9 ~~to the governing body of the municipality any comments regarding~~
10 ~~that fiscal effect. The governing body shall consider those~~
11 ~~comments when making any written finding pursuant to subsection~~
12 ~~3 and shall consider those comments when considering the terms of~~
13 ~~any agreement pursuant to NRS 271A.110.~~

14 ~~—5.†~~ If the governing body is not the board of county
15 commissioners for the county in which the tourism improvement
16 district is or will be located, the governing body has, at least 45 days
17 before making the written finding required by subsection 3,
18 provided to the board of county commissioners in the county in
19 which the tourism improvement district is or will be located:

20 (a) Written notice of the time and place of the meeting at which
21 the governing body will consider making that written finding; and

22 (b) Each analysis prepared by or for or presented to the
23 governing body regarding the fiscal effect of the project and the use
24 of any money proposed to be pledged pursuant to NRS 271A.070 on
25 the provision of local governmental services.

26 ~~↳ After the receipt of the notice required by this subsection and~~
27 ~~before the date of the meeting at which the governing body will~~
28 ~~consider making the written finding required by subsection 3, the~~
29 ~~board of county commissioners may conduct a hearing regarding the~~
30 ~~fiscal effect on local governmental services, if any, of the project~~
31 ~~and the use of any money proposed to be pledged pursuant to NRS~~
32 ~~271A.070, and may submit to the governing body of the~~
33 ~~municipality any comments regarding that fiscal effect. The~~
34 ~~governing body may consider those comments when making any~~
35 ~~written finding pursuant to subsection 3 and shall consider those~~
36 ~~comments when considering the terms of any agreement pursuant to~~
37 ~~NRS 271A.110.~~

38 ~~†6-†~~ 5. The governing body has determined, at a public hearing
39 conducted at least 15 days after providing notice of the hearing by
40 publication, that:

41 (a) As a result of the project:

42 (1) Retailers will locate their businesses as such in the
43 district; and

44 (2) There will be a substantial increase in the proceeds from
45 sales and use taxes remitted by retailers with regard to tangible



1 personal property sold at retail, or stored, used or otherwise
2 consumed, in the district; and

3 (b) A preponderance of that increase in the proceeds from sales
4 and use taxes will be attributable to transactions with tourists who
5 are not residents of this State.

6 ~~7-1~~ 6. The Commission on Tourism has determined, at a
7 public hearing conducted at least 15 days after providing notice of
8 the hearing by publication, that a preponderance of the increase in
9 the proceeds from sales and use taxes identified pursuant to
10 subsection ~~6~~ 5 will be attributable to transactions with tourists who
11 are not residents of this State.

12 ~~18.—The Governor has determined that the project and the use of~~
13 ~~any money proposed to be pledged pursuant to NRS 271A.070 will~~
14 ~~contribute significantly to economic development and tourism in~~
15 ~~this State. Before making that determination, the Governor:~~

16 ~~—(a) Must consider the fiscal effects of the pledge of money on~~
17 ~~educational funding, including any fiscal effects described in~~
18 ~~comments provided pursuant to subsection 4 by the school district in~~
19 ~~which the tourism improvement district is or will be located, and for~~
20 ~~that purpose may require the Department of Education or the~~
21 ~~Department of Taxation, or both, to provide an appropriate fiscal~~
22 ~~report; and~~

23 ~~—(b) If the Governor determines that the pledge of money will~~
24 ~~have a substantial adverse fiscal effect on educational funding, may~~
25 ~~require a commitment from the municipality for the provision of~~
26 ~~specified payments to the school district in which the tourism~~
27 ~~improvement district is or will be located during the term of the use~~
28 ~~of any money pledged pursuant to NRS 271A.070. The payments~~
29 ~~may be provided pursuant to agreements with owners of property~~
30 ~~within the district authorized by NRS 271A.110 or from sources~~
31 ~~other than the owners of property within the district. Such a~~
32 ~~commitment by a municipality is not subject to the limitations of~~
33 ~~subsection 1 of NRS 354.626 and, notwithstanding any other law to~~
34 ~~the contrary, is binding on the municipality for the term of the use of~~
35 ~~any money pledged pursuant to NRS 271A.070.~~

36 ~~9-1~~ 7. If any property within the boundaries of the district is
37 also included within the boundaries of any other tourism
38 improvement district or any improvement district for which any
39 money has been pledged pursuant to NRS 271.650, all of the
40 governing bodies which created those districts have entered into an
41 interlocal agreement providing for:

42 (a) The apportionment of any money pledged pursuant to NRS
43 271.650 and 271A.070 with respect to such property; and

44 (b) The priority of the application of that money between:

45 (1) Bonds issued pursuant to chapter 271 of NRS; and



1 (2) Bonds and notes issued, and agreements entered into,
2 pursuant to NRS 271A.120.

3 ↪ Any such agreement for the priority of the application of that
4 money may be made irrevocable during the term of any bonds
5 issued pursuant to chapter 271 of NRS to which all or any portion of
6 that money is pledged, or during the term of any bonds or notes
7 issued or any agreements entered into pursuant to NRS 271A.120 to
8 which all or any portion of that money is pledged.

9 **Sec. 2.** NRS 271A.105 is hereby amended to read as follows:

10 271A.105 1. On or before September 1 of each year, the
11 governing body of a municipality that creates a district before, on or
12 after July 1, 2011, shall prepare and submit to the Director of the
13 Legislative Counsel Bureau for submission to the Legislature, or to
14 the Legislative Commission when the Legislature is not in regular
15 session, an annual report containing:

16 (a) A statement of the status of each project located or expected
17 to be located in the district, and of any changes in that status since
18 the last annual report.

19 (b) An assessment of the financial impact of the district on the
20 provision of local governmental services, including, without
21 limitation, services for police protection and fire protection.

22 2. If the governing body of a municipality creates a district
23 before, on or after July 1, 2011, the Department of Taxation shall:

24 (a) On or before April 1 and October 1 of each year, *except as*
25 *otherwise provided in subsection 3*, prepare and submit to the
26 Director of the Legislative Counsel Bureau for submission to the
27 Legislature, or to the Legislative Commission when the Legislature
28 is not in regular session, and to the governing body of the
29 municipality a semiannual report which states:

30 (1) The amount of revenue from the taxable sales made each
31 month by ~~feach business~~ *the businesses* within the district;

32 (2) To the extent that the pertinent information is available,
33 the portion of that revenue which is attributable to persons who are
34 not residents of this State;

35 (3) The amount of the wages paid each month by ~~feach~~
36 ~~business~~ *the businesses* within the district; and

37 (4) The number of full-time and part-time employees
38 employed each month by ~~feach business~~ *the businesses* within the
39 district.

40 ↪ *The report must provide the information separately for each*
41 *district in the municipality unless reporting the information*
42 *separately would disclose or result in the disclosure of information*
43 *about an individual business, in which case the report must*
44 *provide the information in the aggregate.*



1 (b) Require each business within the district to report to the
2 Department of Taxation, at such times as the Department may
3 specify on a form provided by the Department, such information as
4 the Department determines to be necessary to carry out the
5 provisions of paragraph (a).

6 ~~3. Except as otherwise provided in subsection 2 or another~~
7 ~~specific statute, the~~ *The* Department of Taxation ~~shall not disclose~~
8 ~~any information reported to the Department pursuant to subsection~~
9 ~~2.} is not required to prepare and submit a report pursuant to~~
10 ~~paragraph (a) of subsection 2 if the report cannot be prepared in a~~
11 ~~manner which would not disclose or result in the disclosure of~~
12 ~~information about an individual business.~~

13 4. As used in this section, “taxable sales” means any sales that
14 are taxable pursuant to chapter 372 of NRS.

15 **Sec. 2.3.** NRS 271A.110 is hereby amended to read as
16 follows:

17 271A.110 1. The governing body of a municipality may,
18 except as otherwise provided in subsection 2, enter into an
19 agreement with one or more of the owners of any interest in
20 property within a district, pursuant to which that owner would agree
21 to make payments to the municipality or to another local
22 government that provides services in the district, or to both, to
23 defray, in whole or in part, the cost of local governmental services
24 during the term of the use of any money pledged pursuant to NRS
25 271A.070. Such an agreement must specify the amount to be paid
26 by the owner of the property interest, which may be stated as a
27 specified amount per year or as an amount based upon any formula
28 upon which the municipality and owner agree.

29 2. The governing body of a municipality shall not enter into an
30 agreement pursuant to subsection 1 unless ~~†~~

31 ~~—(a) The} the~~ governing body has made a written finding pursuant
32 to subsection 3 of NRS 271A.080 that the project and the use of any
33 money pledged pursuant to NRS 271A.070 will not have a positive
34 fiscal effect on the provision of local governmental services. ~~† or~~

35 ~~—(b) The Governor requires a commitment from the municipality~~
36 ~~for the provision of specified payments to the school district in~~
37 ~~which the district is located during the term of the use of any money~~
38 ~~pledged pursuant to NRS 271A.070.}†~~

39 **Sec. 2.7.** NRS 271A.120 is hereby amended to read as
40 follows:

41 271A.120 1. Except as otherwise provided in this section, if
42 the governing body of a municipality adopts an ordinance pursuant
43 to NRS 271A.070, the municipality may:

44 (a) Issue, at one time or from time to time, bonds or notes as
45 special obligations under the Local Government Securities Law to



1 finance or refinance projects for the benefit of the district. Any such
2 bonds or notes may be secured by a pledge of, and be payable from,
3 any money pledged pursuant to NRS 271A.070 and received by the
4 municipality with respect to the district, any revenue received by the
5 municipality from any revenue-producing projects in the district, or
6 any combination thereof.

7 (b) Enter into an agreement with one or more governmental
8 entities or other persons to reimburse that entity or person for the
9 cost of acquiring, improving or equipping, or any combination
10 thereof, any project, which may contain such terms as are
11 determined to be desirable by the governing body of the
12 municipality, including the payment of reasonable interest and other
13 financing costs incurred by such entity or other person. Any such
14 reimbursements may be secured by a pledge of, and be payable
15 from, any money pledged pursuant to NRS 271A.070 and received
16 by the municipality with respect to the district, any revenue received
17 by the municipality from any revenue-producing projects in the
18 district, or any combination thereof. Such an agreement is not
19 subject to the limitations of subsection 1 of NRS 354.626 and may,
20 at the option of the governing body, be binding on the municipality
21 beyond the fiscal year in which it was made, only if the agreement
22 pertains solely to one or more projects that are owned by the
23 municipality or another governmental entity.

24 2. The governing body of a municipality shall not, with respect
25 to any district created before, on or after July 1, 2011, provide any
26 financing or reimbursement pursuant to this section:

27 (a) Except as otherwise provided in this paragraph, to any
28 governmental entity for any project within the district if any
29 nongovernmental entity is or was entitled to receive any financing
30 or reimbursement from the municipality pursuant to this section
31 under the original financing agreements for the initial projects
32 within the district. This paragraph does not prohibit the provision of
33 such financing or reimbursement to ~~f~~:

34 ~~— (1) A school district; or~~

35 ~~— (2) A~~ a governmental entity that is or was entitled to receive
36 such financing or reimbursement under the original financing
37 agreements for the initial projects within the district.

38 (b) To any person or other entity for any project within the
39 district, other than a person or other entity that is or was entitled to
40 receive such financing or reimbursement from the municipality
41 under the original financing agreements for the initial projects
42 within the district, without the consent of all the persons and other
43 entities that were entitled to receive such financing or
44 reimbursement under the original financing agreements for the
45 initial projects within the district.



1 3. Before the issuance of any bonds or notes pursuant to this
2 section, the municipality must obtain the results of a feasibility
3 study, commissioned by the municipality, which shows that a
4 sufficient amount will be generated from money pledged pursuant to
5 NRS 271A.070 to make timely payment on the bonds or notes,
6 taking into account the revenue from any other revenue-producing
7 projects also pledged for the payment of the bonds or notes, if any.
8 A failure to make payments of any amounts due:

9 (a) With respect to any bonds or notes issued pursuant to
10 subsection 1; or

11 (b) Under any agreements entered into pursuant to subsection 1,
12 because of any insufficiency in the amount of money pledged
13 pursuant to NRS 271A.070 to make those payments shall be deemed
14 not to constitute a default on those bonds, notes or agreements.

15 4. No bond, note or other agreement issued or entered into
16 pursuant to this section may be secured by or payable from the
17 general fund of the municipality, the power of the municipality to
18 levy ad valorem property taxes, or any source other than any money
19 pledged pursuant to NRS 271A.070 and received by the
20 municipality with respect to the district, any revenue received by the
21 municipality from any revenue-producing projects in the district, or
22 any combination thereof. No bond, note or other agreement issued
23 or entered into pursuant to this section may ever become a general
24 obligation of the municipality or a charge against its general credit
25 or taxing powers, nor may any such bond, note or other agreement
26 become a debt of the municipality for purposes of any limitation on
27 indebtedness.

28 5. Any bond or note issued pursuant to this section, including
29 any bond or note issued to refund any such bond or note, must
30 mature on or before, and any agreement entered pursuant to this
31 section must automatically terminate on or before, the end of the
32 fiscal year in which the 20th anniversary of the adoption of the
33 ordinance creating the district occurs.

34 **Sec. 3.** NRS 271A.125 is hereby amended to read as follows:

35 271A.125 ~~The~~

36 **1.** *The* governing body of a municipality:

37 ~~1-~~ **(a)** Shall require the review of each claim submitted
38 pursuant to any contract or other agreement made with the
39 governing body to provide any financing or reimbursement pursuant
40 to NRS 271A.120, by an independent auditor.

41 ~~2-~~ **(b)** Shall not ~~with~~ :

42 **(1)** *With* respect to any district created on or after July 1,
43 2011, provide any financing or reimbursement pursuant to NRS
44 271A.120 for:



1 ~~(a)~~ (I) Any legal fees, accounting fees, costs of insurance, fees
2 for legal notices or costs to amend any ordinances.

3 ~~(b)~~ (II) Any project that includes the relocation on or after
4 July 1, 2011, to the district of any retail facilities of a retailer from
5 another location outside of and within 3 miles of the boundary of the
6 district. Each pledge of money pursuant to NRS 271A.070 shall be
7 deemed to exclude any amounts attributable to any tangible personal
8 property sold at retail, or stored, used or otherwise consumed, in the
9 district during a fiscal year by a retailer who, on or after July 1,
10 2011, relocates any of its retail facilities to the district from another
11 location outside of and within 3 miles of the boundary of the district.

12 *(2) Provide any financing or reimbursement pursuant to*
13 *NRS 271A.120 from the proceeds of the taxes described in*
14 *subparagraph (2) of paragraph (c) of subsection 1 of NRS*
15 *271A.070 that are collected from any retail facilities of a retailer*
16 *which, on or after July 1, 2013, locates within the boundary of a*
17 *district.*

18 *2. The provisions of subparagraph (2) of paragraph (b) of*
19 *subsection 1 do not apply to the governing body of a municipality*
20 *with respect to any district created before July 1, 2013, if the*
21 *governing body obtains an opinion from independent bond*
22 *counsel stating that the applicability of those provisions would*
23 *impair an existing contract for the sale of bonds that were issued*
24 *before July 1, 2013.*

25 *3. The owner of a project shall, upon request, provide to the*
26 *Department of Taxation information that identifies the retail*
27 *facilities that open or close within the project.*

28 **Sec. 3.2.** NRS 271A.130 is hereby amended to read as
29 follows:

30 271A.130 1. Except as otherwise provided in this section and
31 NRS 271A.140 and notwithstanding any other law to the contrary,
32 any contract or other agreement relating to or providing for the
33 construction, improvement, repair, demolition, reconstruction, other
34 acquisition, equipment, operation or maintenance of any project
35 financed in whole or in part pursuant to this chapter is exempt from
36 any law requiring competitive bidding or otherwise specifying
37 procedures for the award of contracts for construction or other
38 contracts, or specifying procedures for the procurement of goods or
39 services. The governing body of the municipality shall require a
40 quarterly report on the demography of the workers employed by any
41 contractor or subcontractor for each such project.

42 2. The provisions of subsection 1 do not apply to any project
43 which is constructed or maintained by a governmental entity on any
44 property while the governmental entity owns that property.



1 3. Except as otherwise provided in subsection 4, a person who
2 enters into any contract or other agreement for the construction,
3 improvement, repair, demolition or reconstruction of any project
4 that is paid for in whole or in part:

5 (a) From the proceeds of bonds or notes issued pursuant to
6 paragraph (a) of subsection 1 of NRS 271A.120; or

7 (b) Pursuant to an agreement for reimbursement entered into
8 pursuant to paragraph (b) of subsection 1 of NRS 271A.120,

9 ↪ shall include in the contract or other agreement the contractual
10 provisions and stipulations that are required to be included in a
11 contract for a public work pursuant to the provisions of NRS
12 338.013 to 338.090, inclusive. The governing body of the
13 municipality, the contractor who is awarded the contract or enters
14 into the agreement to perform the construction, improvement, repair,
15 demolition or reconstruction, and any subcontractor who performs
16 any portion of the contract or agreement shall comply with the
17 provisions of NRS 338.013 to 338.090, inclusive, in the same
18 manner as if the governing body of the municipality had undertaken
19 the project or had awarded the contract.

20 4. The provisions of subsection 3 do not apply to a contract or
21 other agreement for the construction, improvement, repair,
22 demolition or reconstruction of any improvement to a building
23 leased to a tenant that is paid for, in whole or in part, or which
24 benefits from the proceeds of bonds or notes issued pursuant to
25 paragraph (a) of subsection 1 of NRS 271A.120 or pursuant to an
26 agreement for reimbursement entered into pursuant to paragraph (b)
27 of subsection 1 of NRS 271A.120 and which is entered into after
28 completion of the original construction:

29 (a) For any subsequent improvement to the building by the
30 original tenant or a subsequent tenant.

31 (b) For any improvement to the building by the original tenant
32 which is undertaken more than 60 months after the building is first
33 made available for lease.

34 5. *The provisions of NRS 338.013 to 338.090, inclusive, apply*
35 *to a contract or other agreement for the construction of,*
36 *improvement of, repair to, demolition of or reconstruction of an*
37 *improvement to any building that will be leased to a tenant who*
38 *has entered into an agreement to receive financing or*
39 *reimbursement pursuant to NRS 271A.120. The owner of the*
40 *building or proposed building and the contractor who is awarded*
41 *the contract or enters into the agreement to perform the*
42 *construction, improvement, repair, demolition or reconstruction*
43 *shall include in the contract or other agreement the contractual*
44 *provisions and stipulations that are required to be included in a*
45 *contract for a public work pursuant to the provisions of NRS*



1 *338.013 to 338.090, inclusive. The owner of the building or*
2 *proposed building and the contractor who is awarded the contract*
3 *or enters into the agreement to perform the construction,*
4 *improvement, repair, demolition or reconstruction, and any*
5 *subcontractor who performs any portion of the contract or*
6 *agreement, shall comply with the provisions of NRS 338.013 to*
7 *338.090, inclusive, in the same manner as if the governing body of*
8 *a municipality had undertaken the construction, improvement,*
9 *repair, demolition or reconstruction or had awarded the contract.*
10 *The tenant shall ensure that the owner and each contractor and*
11 *developer to whom the provisions of NRS 271A.140 apply complies*
12 *with those provisions.*

13 **6. Except as otherwise provided in subsection 5, the**
14 governing body of the municipality shall ensure that each contractor
15 and developer to whom the provisions of NRS 271A.140 apply
16 complies with those provisions.

17 ~~6.1~~ **7.** As used in this section:

18 (a) "Original construction" means any contract or other
19 agreement for the construction, improvement, repair, demolition or
20 reconstruction of a project paid for, in whole or in part, or which
21 benefits:

22 (1) From the proceeds of bonds or notes issued pursuant to
23 paragraph (a) of subsection 1 of NRS 271A.120; or

24 (2) Pursuant to an agreement for reimbursement entered into
25 pursuant to paragraph (b) of subsection 1 of NRS 271A.120.

26 (b) "Original tenant" means the first tenant of any leased
27 property after the property is first made available for lease.

28 **Sec. 3.4.** NRS 271A.140 is hereby amended to read as
29 follows:

30 271A.140 1. Except as otherwise provided in subsection 2, a
31 contractor or developer who enters into a contract to which the
32 provisions of subsection 3 *or 5* of NRS 271A.130 apply shall:

33 (a) Advertise for at least 7 calendar days for bids on each
34 subcontract for the performance of any portion of the contract;

35 (b) At least 2 business days before the first day of that
36 advertisement, provide notice of that advertisement to the governing
37 body of the municipality;

38 (c) Make available to all prospective bidders on the subcontract
39 a written set of plans and specifications for the pertinent work;

40 (d) Provide public notice of the name and address of each person
41 who submits a bid on the subcontract; and

42 (e) After closing the period for the solicitation of bids and
43 receiving at least three timely and responsive bids, select any
44 subcontractor from those timely and responsive bids that the
45 contractor or developer, in his or her sole discretion, determines to



1 be appropriate, except that the contractor or developer shall ensure
2 that each subcontractor who will perform any portion of the contract
3 is appropriately licensed pursuant to chapter 624 of NRS.

4 2. The provisions of subsection 1 do not apply to:

5 (a) Any contract which is awarded by a municipality; or

6 (b) Any project which is constructed or maintained by a
7 governmental entity on any property while the governmental entity
8 owns that property.

9 3. A governing body of a municipality that receives a notice of
10 an advertisement for bids pursuant to paragraph (b) of subsection 1:

11 (a) Shall, upon such receipt, post notice of the advertisement on
12 an Internet website maintained by the municipality; and

13 (b) May otherwise provide notice of the advertisement to local
14 trade organizations and the general public.

15 **Sec. 3.5.** NRS 360.855 is hereby amended to read as follows:

16 360.855 1. The State Controller, acting upon the collection
17 data furnished by the Department, shall remit to the governing body
18 of a municipality that adopts an ordinance pursuant to NRS
19 271A.070, in the manner provided pursuant to an agreement made
20 pursuant to NRS 271A.100:

21 (a) From the State General Fund the amount of money pledged
22 pursuant to the ordinance in accordance with subparagraph (1) of
23 paragraph (c) of subsection 1 of NRS 271A.070, which amount is
24 hereby appropriated for that purpose; and

25 (b) From the Sales and Use Tax Account in the State General
26 Fund the amount of the proceeds pledged pursuant to the ordinance
27 in accordance with subparagraphs (2) and (3) of paragraph (c) of
28 subsection 1 of NRS 271A.070.

29 2. Except as otherwise provided in subsection 3, the governing
30 body of a municipality that adopts an ordinance pursuant to NRS
31 271A.070 shall at the end of each fiscal year remit to the State
32 Controller any amount received pursuant to this section in excess of
33 the amount required to make payments due during that fiscal year of
34 the principal of, interest on, and other payments or security-related
35 costs with respect to, any bonds or notes issued pursuant to NRS
36 271A.120 and payments due during that fiscal year under any
37 agreements made pursuant to NRS 271A.120. The State Controller
38 shall deposit any money received from a governing body of a
39 municipality pursuant to this subsection in the appropriate account
40 in the State General Fund for distribution and use as if the money
41 had not been pledged by an ordinance adopted pursuant to NRS
42 271A.070, in the following order of priority:

43 (a) First, to the credit of the county school district fund for the
44 county in which the improvement district is located to the extent that
45 the money would have been transferred to that fund, if not for the



* S B 4 0 6 R 2 *

1 pledge of the money pursuant to that ordinance, pursuant to
2 paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in
3 which the State Controller receives the money;

4 (b) Second, to the State General Fund to the extent that the
5 money would not have been appropriated, if not for the pledge of
6 the money pursuant to that ordinance, pursuant to paragraph (a) of
7 subsection 1 for the fiscal year in which the State Controller
8 receives the money; and

9 (c) Third, to the credit of any other funds and accounts to which
10 the money would have been distributed, if not for the pledge of the
11 money pursuant to that ordinance, for the fiscal year in which the
12 State Controller receives the money.

13 3. The provisions of subsection 2 do not require a governing
14 body to remit to the State Controller any money received pursuant to
15 this section and expended for the purpose of prepaying, defeasing or
16 otherwise retiring all or a portion of any bonds or notes issued
17 pursuant to NRS 271A.120 or of prepaying amounts due under any
18 agreements entered into pursuant to NRS 271A.120, or any
19 combination thereof, with respect to a tourism improvement district
20 if that use of the money has been:

21 (a) Authorized by the governing body in the ordinance creating
22 the district pursuant to NRS 271A.070, or in an amendment thereto;
23 and

24 (b) Approved by the governing body ~~{}~~ and the Commission on
25 Tourism ~~{and Governor}~~ in the manner required to satisfy the
26 requirements of subsections ~~5 and 6~~ ~~{, 7 and 8}~~ of NRS 271A.080,
27 and after the provision of notice to and an opportunity to make
28 comments ~~{by the board of trustees of the school district in which~~
29 ~~the tourism improvement district is located in accordance with~~
30 ~~subsection 4 of NRS 271A.080 and, if applicable,}~~ by the board of
31 county commissioners of the county in which the tourism
32 improvement district is located in accordance with subsection ~~{}~~ ~~4~~
33 of NRS 271A.080.

34 4. The Nevada Tax Commission may adopt such regulations
35 as it deems appropriate to ensure the proper collection and
36 distribution of any money pledged by an ordinance adopted pursuant
37 to NRS 271A.070.

38 **Sec. 4.** This act becomes effective on July 1, 2013.

