

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.

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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 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; revising the duties of a contractor or developer who enters into a subcontract for the construction, improvement, repair, demolition or reconstruction of certain projects; 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
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.

45 **Section 3.4** of this bill provides that existing duties relating to subcontracts also
46 apply to those contracts or agreements and revises the procedure for the solicitation
47 of bids for such contracts and subcontracts.



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:

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

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

14 (c) For the purposes of carrying out paragraph (b), include in an
15 ordinance adopted pursuant to paragraph (a) the pledge of a single
16 percentage specified in the ordinance, which must not exceed 75
17 percent, of:

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

23 (2) The amount of the proceeds of the taxes imposed
24 pursuant to NRS 374.110 and 374.190 with regard to tangible
25 personal property sold at retail, or stored, used or otherwise
26 consumed, in the district during a fiscal year, after the deduction of
27 0.75 percent of the amount of those proceeds; and

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

33 2. *The governing body of a municipality may not include in*
34 *an ordinance adopted to create or revise the boundaries of a*
35 *district pursuant to paragraph (a) of subsection 1 on or after*
36 *July 1, 2013, the pledge of any proceeds described in*
37 *subparagraph (2) of paragraph (c) of subsection 1. The provisions*
38 *of this subsection do not apply to the governing body of a*
39 *municipality with respect to any district created before*
40 *July 1, 2013, if the governing body obtains an opinion from*
41 *independent bond counsel stating that the applicability of this*



1 *provision would impair an existing contract for the sale of bonds*
2 *which were issued before July 1, 2013.*

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

4 (a) A city must be located entirely within the boundaries of that
5 city.

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

9 ~~4.~~ 4. If any property within the boundaries of a district is also
10 included within the boundaries of any other tourism improvement
11 district or any improvement district for which any money has been
12 pledged pursuant to NRS 271.650, the total amount of money
13 pledged pursuant to this section and NRS 271.650 with respect to
14 such property by all such districts must not exceed the amount
15 authorized pursuant to this section.

16 ~~4. The~~

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

19 (a) *On or before October 1, 2009, that includes within its*
20 *boundaries any property included within the boundaries of a*
21 *redevelopment area established pursuant to chapter 279 of NRS,*
22 *the governing body and agency may provide financing or*
23 *reimbursement related to a project or redevelopment project*
24 *pursuant to the provisions of both NRS 271A.120 and 279.610 to*
25 *279.685, inclusive.*

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

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

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

38 6. *As used in this section:*

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

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

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

44 271A.080 The governing body of a municipality shall not
45 adopt an ordinance pursuant to NRS 271A.070 unless:



- 1 1. If the ordinance:
 - 2 (a) Creates a district, the governing body has determined that no
3 retailers will have maintained or will be maintaining a fixed place of
4 business within the district on or within the 120 days immediately
5 preceding the date of the adoption of the ordinance; or
 - 6 (b) Amends the boundaries of the district to add any additional
7 area, the governing body has determined that no retailers will have
8 maintained or will be maintaining a fixed place of business within
9 that area on or within 120 days immediately preceding the date of
10 the adoption of the ordinance.
- 11 2. The governing body has made a written finding at a public
12 hearing that the project will benefit the district.
- 13 3. The governing body has made a written finding at a public
14 hearing, based upon reports from independent consultants which
15 were addressed to the governing body ~~and~~ and to the board of county
16 commissioners, if the governing body is not the board of county
17 commissioners for the county in which the tourism improvement
18 district is or will be located, ~~and to the board of trustees of the~~
19 ~~school district in which the tourism improvement district is or will~~
20 ~~be located.~~ as to whether the project and the financing thereof
21 pursuant to this chapter will have a positive fiscal effect on the
22 provision of local governmental services, after considering:
 - 23 (a) The amount of the proceeds of all taxes and other
24 governmental revenue projected to be received as a result of the
25 properties and businesses expected to be located in the district;
 - 26 (b) The use of any money proposed to be pledged pursuant to
27 NRS 271A.070;
 - 28 (c) Any increase in costs for the provision of local governmental
29 services, including, without limitation, services for education,
30 including operational and capital costs, and services for police
31 protection and fire protection, as a result of the project and the
32 development of land within the district; and
 - 33 (d) Estimates of any increases in the proceeds from sales and use
34 taxes collected by retailers located outside of the district and of any
35 displacement of the proceeds from sales and use taxes collected by
36 those retailers, as a result of the properties and businesses expected
37 to be located in the district.
- 38 ➤ The reports required from independent consultants pursuant to
39 this subsection must be obtained from independent consultants
40 selected by the governing body from a list of independent
41 consultants provided by the Commission on Tourism. For the
42 purposes of this subsection, the Commission shall, upon the request
43 of a governing body, provide the governing body with a list of at
44 least three qualified independent consultants, each of whom must be
45 located outside of this State.



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

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

7 ~~—(b) Each analysis prepared by or for or presented to the~~
8 ~~governing body regarding the fiscal effect of the project and the use~~
9 ~~of any money proposed to be pledged pursuant to NRS 271A.070 on~~
10 ~~the provision of local governmental services, including education.~~

11 ~~➔ After the receipt of the notice required by this subsection and~~
12 ~~before the date of the meeting at which the governing body will~~
13 ~~consider making the written finding required by subsection 3, the~~
14 ~~board of trustees shall conduct a hearing regarding the fiscal effect~~
15 ~~on the school district, if any, of the project and the use of any money~~
16 ~~proposed to be pledged pursuant to NRS 271A.070, and may submit~~
17 ~~to the governing body of the municipality any comments regarding~~
18 ~~that fiscal effect. The governing body shall consider those~~
19 ~~comments when making any written finding pursuant to subsection~~
20 ~~3 and shall consider those comments when considering the terms of~~
21 ~~any agreement pursuant to NRS 271A.110.~~

22 ~~—5.† If the governing body is not the board of county~~
23 ~~commissioners for the county in which the tourism improvement~~
24 ~~district is or will be located, the governing body has, at least 45 days~~
25 ~~before making the written finding required by subsection 3,~~
26 ~~provided to the board of county commissioners in the county in~~
27 ~~which the tourism improvement district is or will be located:~~

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

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

34 ➔ After the receipt of the notice required by this subsection and
35 before the date of the meeting at which the governing body will
36 consider making the written finding required by subsection 3, the
37 board of county commissioners may conduct a hearing regarding the
38 fiscal effect on local governmental services, if any, of the project
39 and the use of any money proposed to be pledged pursuant to NRS
40 271A.070, and may submit to the governing body of the
41 municipality any comments regarding that fiscal effect. The
42 governing body may consider those comments when making any
43 written finding pursuant to subsection 3 and shall consider those
44 comments when considering the terms of any agreement pursuant to
45 NRS 271A.110.



1 ~~16.1~~ 5. The governing body has determined, at a public hearing
2 conducted at least 15 days after providing notice of the hearing by
3 publication, that:

4 (a) As a result of the project:

5 (1) Retailers will locate their businesses as such in the
6 district; and

7 (2) There will be a substantial increase in the proceeds from
8 sales and use taxes remitted by retailers with regard to tangible
9 personal property sold at retail, or stored, used or otherwise
10 consumed, in the district; and

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

14 ~~17.1~~ 6. The Commission on Tourism has determined, at a
15 public hearing conducted at least 15 days after providing notice of
16 the hearing by publication, that a preponderance of the increase in
17 the proceeds from sales and use taxes identified pursuant to
18 subsection ~~16.1~~ 5 will be attributable to transactions with tourists who
19 are not residents of this State.

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

24 ~~—(a) Must consider the fiscal effects of the pledge of money on~~
25 ~~educational funding, including any fiscal effects described in~~
26 ~~comments provided pursuant to subsection 4 by the school district in~~
27 ~~which the tourism improvement district is or will be located, and for~~
28 ~~that purpose may require the Department of Education or the~~
29 ~~Department of Taxation, or both, to provide an appropriate fiscal~~
30 ~~report; and~~

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

44 ~~—9.1~~ 7. If any property within the boundaries of the district is
45 also included within the boundaries of any other tourism



1 improvement district or any improvement district for which any
2 money has been pledged pursuant to NRS 271.650, all of the
3 governing bodies which created those districts have entered into an
4 interlocal agreement providing for:

5 (a) The apportionment of any money pledged pursuant to NRS
6 271.650 and 271A.070 with respect to such property; and

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

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

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

11 ↪ Any such agreement for the priority of the application of that
12 money may be made irrevocable during the term of any bonds
13 issued pursuant to chapter 271 of NRS to which all or any portion of
14 that money is pledged, or during the term of any bonds or notes
15 issued or any agreements entered into pursuant to NRS 271A.120 to
16 which all or any portion of that money is pledged.

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

18 271A.105 1. On or before September 1 of each year, the
19 governing body of a municipality that creates a district before, on or
20 after July 1, 2011, shall prepare and submit to the Director of the
21 Legislative Counsel Bureau for submission to the Legislature, or to
22 the Legislative Commission when the Legislature is not in regular
23 session, an annual report containing:

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

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

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

32 (a) On or before April 1 and October 1 of each year, *except as*
33 *otherwise provided in subsection 3*, prepare and submit to the
34 Director of the Legislative Counsel Bureau for submission to the
35 Legislature, or to the Legislative Commission when the Legislature
36 is not in regular session, and to the governing body of the
37 municipality a semiannual report which states:

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

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

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



1 (4) The number of full-time and part-time employees
2 employed each month by ~~each business~~ *the businesses* within the
3 district.

4 *↳ The report must provide the information separately for each*
5 *district in the municipality unless reporting the information*
6 *separately would disclose or result in the disclosure of information*
7 *about an individual business, in which case the report must*
8 *provide the information in the aggregate.*

9 (b) Require each business within the district to report to the
10 Department of Taxation, at such times as the Department may
11 specify on a form provided by the Department, such information as
12 the Department determines to be necessary to carry out the
13 provisions of paragraph (a).

14 3. ~~Except as otherwise provided in subsection 2 or another~~
15 ~~specific statute, the~~ *The* Department of Taxation ~~shall not disclose~~
16 ~~any information reported to the Department pursuant to subsection~~
17 ~~2.1~~ *is not required to prepare and submit a report pursuant to*
18 *paragraph (a) of subsection 2 if the report cannot be prepared in a*
19 *manner which would not disclose or result in the disclosure of*
20 *information about an individual business.*

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

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

25 271A.110 1. The governing body of a municipality may,
26 except as otherwise provided in subsection 2, enter into an
27 agreement with one or more of the owners of any interest in
28 property within a district, pursuant to which that owner would agree
29 to make payments to the municipality or to another local
30 government that provides services in the district, or to both, to
31 defray, in whole or in part, the cost of local governmental services
32 during the term of the use of any money pledged pursuant to NRS
33 271A.070. Such an agreement must specify the amount to be paid
34 by the owner of the property interest, which may be stated as a
35 specified amount per year or as an amount based upon any formula
36 upon which the municipality and owner agree.

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

39 ~~(a) The~~ *the* governing body has made a written finding pursuant
40 to subsection 3 of NRS 271A.080 that the project and the use of any
41 money pledged pursuant to NRS 271A.070 will not have a positive
42 fiscal effect on the provision of local governmental services. ~~† or~~

43 ~~(b) The Governor requires a commitment from the municipality~~
44 ~~for the provision of specified payments to the school district in~~



1 ~~which the district is located during the term of the use of any money~~
2 ~~pledged pursuant to NRS 271A.070.~~

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

5 271A.120 1. Except as otherwise provided in this section, if
6 the governing body of a municipality adopts an ordinance pursuant
7 to NRS 271A.070, the municipality may:

8 (a) Issue, at one time or from time to time, bonds or notes as
9 special obligations under the Local Government Securities Law to
10 finance or refinance projects for the benefit of the district. Any such
11 bonds or notes may be secured by a pledge of, and be payable from,
12 any money pledged pursuant to NRS 271A.070 and received by the
13 municipality with respect to the district, any revenue received by the
14 municipality from any revenue-producing projects in the district, or
15 any combination thereof.

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

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

36 (a) Except as otherwise provided in this paragraph, to any
37 governmental entity for any project within the district if any
38 nongovernmental entity is or was entitled to receive any financing
39 or reimbursement from the municipality pursuant to this section
40 under the original financing agreements for the initial projects
41 within the district. This paragraph does not prohibit the provision of
42 such financing or reimbursement to †

43 ~~(1) A school district; or~~



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

4 (b) To any person or other entity for any project within the
5 district, other than a person or other entity that is or was entitled to
6 receive such financing or reimbursement from the municipality
7 under the original financing agreements for the initial projects
8 within the district, without the consent of all the persons and other
9 entities that were entitled to receive such financing or
10 reimbursement under the original financing agreements for the
11 initial projects within the district.

12 3. Before the issuance of any bonds or notes pursuant to this
13 section, the municipality must obtain the results of a feasibility
14 study, commissioned by the municipality, which shows that a
15 sufficient amount will be generated from money pledged pursuant to
16 NRS 271A.070 to make timely payment on the bonds or notes,
17 taking into account the revenue from any other revenue-producing
18 projects also pledged for the payment of the bonds or notes, if any.
19 A failure to make payments of any amounts due:

20 (a) With respect to any bonds or notes issued pursuant to
21 subsection 1; or

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

26 4. No bond, note or other agreement issued or entered into
27 pursuant to this section may be secured by or payable from the
28 general fund of the municipality, the power of the municipality to
29 levy ad valorem property taxes, or any source other than any money
30 pledged pursuant to NRS 271A.070 and received by the
31 municipality with respect to the district, any revenue received by the
32 municipality from any revenue-producing projects in the district, or
33 any combination thereof. No bond, note or other agreement issued
34 or entered into pursuant to this section may ever become a general
35 obligation of the municipality or a charge against its general credit
36 or taxing powers, nor may any such bond, note or other agreement
37 become a debt of the municipality for purposes of any limitation on
38 indebtedness.

39 5. Any bond or note issued pursuant to this section, including
40 any bond or note issued to refund any such bond or note, must
41 mature on or before, and any agreement entered pursuant to this
42 section must automatically terminate on or before, the end of the
43 fiscal year in which the 20th anniversary of the adoption of the
44 ordinance creating the district occurs.



1 **Sec. 3.** NRS 271A.125 is hereby amended to read as follows:
2 271A.125 ~~The~~

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

4 ~~(a)~~ **(a)** Shall require the review of each claim submitted
5 pursuant to any contract or other agreement made with the
6 governing body to provide any financing or reimbursement pursuant
7 to NRS 271A.120, by an independent auditor.

8 ~~(b)~~ **(b)** Shall not ~~with~~:

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

12 ~~(I)~~ **(I)** Any legal fees, accounting fees, costs of insurance, fees
13 for legal notices or costs to amend any ordinances.

14 ~~(II)~~ **(II)** Any project that includes the relocation on or after
15 July 1, 2011, to the district of any retail facilities of a retailer from
16 another location outside of and within 3 miles of the boundary of the
17 district. Each pledge of money pursuant to NRS 271A.070 shall be
18 deemed to exclude any amounts attributable to any tangible personal
19 property sold at retail, or stored, used or otherwise consumed, in the
20 district during a fiscal year by a retailer who, on or after
21 July 1, 2011, relocates any of its retail facilities to the district from
22 another location outside of and within 3 miles of the boundary of the
23 district.

24 **(2) Provide any financing or reimbursement pursuant to**
25 **NRS 271A.120 from the proceeds of the taxes described in**
26 **subparagraph (2) of paragraph (c) of subsection 1 of NRS**
27 **271A.070 that are collected from any retail facilities of a retailer**
28 **which, on or after July 1, 2013, locates within the boundary of a**
29 **district.**

30 **2. The provisions of subparagraph (2) of paragraph (b) of**
31 **subsection 1 do not apply to the governing body of a municipality**
32 **with respect to any district created before July 1, 2013, if the**
33 **governing body obtains an opinion from independent bond**
34 **counsel stating that the applicability of those provisions would**
35 **impair an existing contract for the sale of bonds that were issued**
36 **before July 1, 2013.**

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

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

42 271A.130 1. Except as otherwise provided in this section and
43 NRS 271A.140 and notwithstanding any other law to the contrary,
44 any contract or other agreement relating to or providing for the
45 construction, improvement, repair, demolition, reconstruction, other



1 acquisition, equipment, operation or maintenance of any project
2 financed in whole or in part pursuant to this chapter is exempt from
3 any law requiring competitive bidding or otherwise specifying
4 procedures for the award of contracts for construction or other
5 contracts, or specifying procedures for the procurement of goods or
6 services. The governing body of the municipality shall require a
7 quarterly report on the demography of the workers employed by any
8 contractor or subcontractor for each such project.

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

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

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

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

20 ↪ shall include in the contract or other agreement the contractual
21 provisions and stipulations that are required to be included in a
22 contract for a public work pursuant to the provisions of NRS
23 338.013 to 338.090, inclusive. The governing body of the
24 municipality, the contractor who is awarded the contract or enters
25 into the agreement to perform the construction, improvement, repair,
26 demolition or reconstruction, and any subcontractor who performs
27 any portion of the contract or agreement shall comply with the
28 provisions of NRS 338.013 to 338.090, inclusive, in the same
29 manner as if the governing body of the municipality had undertaken
30 the project or had awarded the contract.

31 4. The provisions of subsection 3 do not apply to a contract or
32 other agreement for the construction, improvement, repair,
33 demolition or reconstruction of any improvement to a building
34 leased to a tenant that is paid for, in whole or in part, or which
35 benefits from the proceeds of bonds or notes issued pursuant to
36 paragraph (a) of subsection 1 of NRS 271A.120 or pursuant to an
37 agreement for reimbursement entered into pursuant to paragraph (b)
38 of subsection 1 of NRS 271A.120 and which is entered into after
39 completion of the original construction:

40 (a) For any subsequent improvement to the building by the
41 original tenant or a subsequent tenant.

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



1 5. The *provisions of NRS 338.013 to 338.090, inclusive, apply*
2 *to a contract or other agreement for the construction of,*
3 *improvement of, repair to, demolition of or reconstruction of an*
4 *improvement to any building that will be leased to a tenant who*
5 *has entered into an agreement to receive financing or*
6 *reimbursement pursuant to NRS 271A.120. The owner of the*
7 *building or proposed building and the contractor who is awarded*
8 *the contract or enters into the agreement to perform the*
9 *construction, improvement, repair, demolition or reconstruction*
10 *shall include in the contract or other agreement the contractual*
11 *provisions and stipulations that are required to be included in a*
12 *contract for a public work pursuant to the provisions of NRS*
13 *338.013 to 338.090, inclusive. The owner of the building or*
14 *proposed building and the contractor who is awarded the contract*
15 *or enters into the agreement to perform the construction,*
16 *improvement, repair, demolition or reconstruction, and any*
17 *subcontractor who performs any portion of the contract or*
18 *agreement, shall comply with the provisions of NRS 338.013 to*
19 *338.090, inclusive, in the same manner as if the governing body of*
20 *a municipality had undertaken the construction, improvement,*
21 *repair, demolition or reconstruction or had awarded the contract.*
22 *The tenant shall ensure that the owner and each contractor and*
23 *developer to whom the provisions of NRS 271A.140 apply complies*
24 *with those provisions.*

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

29 ~~6.1~~ 7. As used in this section:

30 (a) "Original construction" means any contract or other
31 agreement for the construction, improvement, repair, demolition or
32 reconstruction of a project paid for, in whole or in part, or which
33 benefits:

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

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

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

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

42 271A.140 1. Except as otherwise provided in subsection ~~4.1~~
43 4, a contractor or developer who enters into a contract to which the
44 provisions of subsection 3 *or 5* of NRS 271A.130 apply shall:



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

3 (b) At least 2 business days before the first day of that
4 advertisement, provide notice of that advertisement to the governing
5 body of the municipality;

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

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

10 (e) ~~After~~ *Except as otherwise provided in subsection 2, after*
11 *closing the period for the solicitation of bids and receiving at least*
12 *three timely and responsive bids, select any subcontractor from*
13 *those timely and responsive bids that the contractor or developer, in*
14 *his or her sole discretion, determines to be appropriate . ~~except~~*
15 *that the*

16 *2. If the contractor or developer does not receive at least three*
17 *timely and responsive bids during the period for the solicitation of*
18 *bids, the contractor or developer shall repeat the process set forth*
19 *in paragraphs (a) to (d), inclusive, of subsection 1. After closing*
20 *the second period for the solicitation of bids prescribed by this*
21 *subsection, the contractor or developer shall select any*
22 *subcontractor from the timely and responsive bids received*
23 *pursuant to this subsection or subsection 1 that the contractor or*
24 *developer, in his or her sole discretion, determines to be*
25 *appropriate, regardless of whether the contractor or developer*
26 *received at least three timely and responsive bids.*

27 *3. The contractor or developer shall ensure that each*
28 *subcontractor who will perform any portion of the contract is*
29 *appropriately licensed pursuant to chapter 624 of NRS.*

30 ~~2-~~ *4. The provisions of ~~subsection~~ subsections 1 , 2 and 3*
31 *do not apply to:*

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

33 (b) Any project which is constructed or maintained by a
34 governmental entity on any property while the governmental entity
35 owns that property.

36 ~~3-~~ *5. A governing body of a municipality that receives a*
37 *notice of an advertisement for bids pursuant to paragraph (b) of*
38 *subsection 1 ~~H~~ or subsection 2:*

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

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

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

44 360.855 1. The State Controller, acting upon the collection
45 data furnished by the Department, shall remit to the governing body



1 of a municipality that adopts an ordinance pursuant to NRS
2 271A.070, in the manner provided pursuant to an agreement made
3 pursuant to NRS 271A.100:

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

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

12 2. Except as otherwise provided in subsection 3, the governing
13 body of a municipality that adopts an ordinance pursuant to NRS
14 271A.070 shall at the end of each fiscal year remit to the State
15 Controller any amount received pursuant to this section in excess of
16 the amount required to make payments due during that fiscal year of
17 the principal of, interest on, and other payments or security-related
18 costs with respect to, any bonds or notes issued pursuant to NRS
19 271A.120 and payments due during that fiscal year under any
20 agreements made pursuant to NRS 271A.120. The State Controller
21 shall deposit any money received from a governing body of a
22 municipality pursuant to this subsection in the appropriate account
23 in the State General Fund for distribution and use as if the money
24 had not been pledged by an ordinance adopted pursuant to NRS
25 271A.070, in the following order of priority:

26 (a) First, to the credit of the county school district fund for the
27 county in which the improvement district is located to the extent that
28 the money would have been transferred to that fund, if not for the
29 pledge of the money pursuant to that ordinance, pursuant to
30 paragraph (e) of subsection 3 of NRS 374.785 for the fiscal year in
31 which the State Controller receives the money;

32 (b) Second, to the State General Fund to the extent that the
33 money would not have been appropriated, if not for the pledge of
34 the money pursuant to that ordinance, pursuant to paragraph (a) of
35 subsection 1 for the fiscal year in which the State Controller
36 receives the money; and

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

41 3. The provisions of subsection 2 do not require a governing
42 body to remit to the State Controller any money received pursuant to
43 this section and expended for the purpose of prepaying, defeasing or
44 otherwise retiring all or a portion of any bonds or notes issued
45 pursuant to NRS 271A.120 or of prepaying amounts due under any



1 agreements entered into pursuant to NRS 271A.120, or any
2 combination thereof, with respect to a tourism improvement district
3 if that use of the money has been:

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

7 (b) Approved by the governing body ~~{}~~ and the Commission on
8 Tourism ~~{and Governor}~~ in the manner required to satisfy the
9 requirements of subsections **5 and 6** ~~{, 7 and 8}~~ of NRS 271A.080,

10 and after the provision of notice to and an opportunity to make
11 comments ~~{by the board of trustees of the school district in which
12 the tourism improvement district is located in accordance with
13 subsection 4 of NRS 271A.080 and, if applicable,}~~ by the board of
14 county commissioners of the county in which the tourism
15 improvement district is located in accordance with subsection ~~{S}~~ **4**
16 of NRS 271A.080.

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

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

