

ASSEMBLY BILL NO. 67—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE TREASURER)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Government Affairs

SUMMARY—Establishes a program to provide emergency loans to certain persons in this State. (BDR 31-408)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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

AN ACT relating to public financial administration; establishing a program to provide access to emergency loans to certain persons in this State; authorizing the State Treasurer to invest money from the State Permanent School Fund to provide funding for the program; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the State is prohibited from donating or loaning state
2 money or credit, or subscribing to or being interested in the stock of any company,
3 association or corporation, except a corporation that is formed for educational or
4 charitable purposes. (Nev. Const. Art. 8, § 9) Existing law also requires the State
5 Treasurer to negotiate for the investment of money in the State Permanent School
6 Fund. However, the State Treasurer is prohibited from making certain investments
7 unless he or she obtains a judicial determination that such an investment will
8 not violate the provisions of Section 9 of Article 8 of the Nevada Constitution.
9 (NRS 355.060)

10 **Section 4** of this bill requires the State Treasurer to form a corporation for
11 public benefit, the purpose of which is to act as a limited partner of limited
12 partnerships or a shareholder or member of limited-liability companies that provide
13 emergency loans to certain persons in this State, including persons employed in the
14 field of education or in military service. **Section 4** further provides for the
15 composition and duties of the board of directors of the corporation. If the State
16 Treasurer obtains a judicial determination as described above with respect to the
17 investment, **sections 6 and 9** of this bill authorize the State Treasurer to invest not
18 more than \$10,000,000 of the money in the State Permanent School Fund to
19 provide funding for the lending program. **Section 7** of this bill prescribes the



20 powers and duties of the State Treasurer with respect to the adoption of regulations
21 and the implementation of the provisions of this bill.

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

1 **Section 1.** Chapter 355 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2.** *The Legislature hereby declares that the purpose of*
5 *sections 2 to 8, inclusive, of this act is to increase the availability*
6 *of emergency loans to persons in this State who tend to have a*
7 *greater need for emergency loans while ensuring that such loans*
8 *are made under terms that protect borrowers from predatory*
9 *lending practices and are consistent with sound lending practices.*

10 **Sec. 3.** *As used in sections 2 to 8, inclusive, of this act,*
11 *“corporation for public benefit” or “corporation” means a*
12 *corporation created pursuant to section 4 of this act that is*
13 *recognized as exempt pursuant to section 501(c)(3) of the Internal*
14 *Revenue Code of 1986, 26 U.S.C. § 501(c)(3).*

15 **Sec. 4. 1.** *The State Treasurer shall cause to be formed in*
16 *this State an independent corporation for public benefit, the*
17 *general purpose of which is to act as a limited partner of limited*
18 *partnerships or a shareholder or member of limited-liability*
19 *companies that provide emergency loans to persons who are:*

- 20 (a) *Located in this State or seeking to locate in this State; and*
21 (b) *Employed primarily in any of the following occupations:*

22 (1) *Education.*
23 (2) *Military service, including, without limitation, persons*
24 *who are veterans and immediate family members of persons on*
25 *active duty in the military service of the United States.*

26 (3) *Any other occupation that the board of directors of the*
27 *corporation determines has a need for access to emergency*
28 *lending that is not being met by other lenders.*

29 **2.** *The corporation must have a board of directors consisting*
30 *of:*

31 (a) *Four members from the private sector who have at least 10*
32 *years of experience in the field of lending, investment, finance or*
33 *banking and who are appointed for a term of 4 years as follows:*

- 34 (1) *Two members appointed by the Governor; and*
35 (2) *Two members appointed by the State Treasurer; and*

36 (b) *The State Treasurer.*

37 **3.** *Any vacancy in an appointed position on the board of*
38 *directors must be filled by the appointing authority for the*



1 unexpired term. Members may be reappointed to subsequent
2 terms.

3 4. The State Treasurer or his or her designee shall serve as
4 chair of the board of directors.

5 5. The members of the board of directors serve without
6 compensation but are entitled to be reimbursed for the actual and
7 necessary expenses incurred in the performance of their duties,
8 including, without limitation, travel expenses and per diem.

9 6. A member of the board of directors must not:

10 (a) Have an equity interest in any firm specializing in
11 emergency lending that is used by or assists the corporation
12 pursuant to section 5 of this act; or

13 (b) Receive or be related by blood, adoption, marriage or
14 domestic partnership within the first degree of consanguinity or
15 affinity to any person who receives an emergency loan pursuant to
16 sections 2 to 8, inclusive, of this act.

17 7. The board of directors shall:

18 (a) Comply with the provisions of chapter 281A of NRS.

19 (b) Meet at least quarterly and conduct any meetings of the
20 board in accordance with chapter 241 of NRS.

21 (c) Review the performance of any firm specializing in
22 emergency lending that is used by or assists the corporation
23 pursuant to section 5 of this act.

24 (d) On or before February 1 of each year, provide an annual
25 report to the Governor and the Director of the Legislative Counsel
26 Bureau for transmission to the Legislature, if the report is
27 submitted in an odd-numbered year, or to the Legislative
28 Commission if the report is submitted in an even-numbered year.
29 The report must include, for the immediately preceding calendar
30 year:

31 (1) An accounting of all money received and expended by
32 the corporation, including, without limitation, any money from
33 grants, gifts or donations;

34 (2) The number of persons to whom emergency loans were
35 provided pursuant to sections 2 to 8, inclusive, of this act; and

36 (3) The total amount of emergency loans provided.

37 **Sec. 5.** The corporation for public benefit may provide
38 emergency loans directly or through the use or assistance of one
39 or more firms specializing in emergency lending. Any such loans
40 must be provided under terms that are fair and offer reasonable
41 protection to borrowers and consistent with sound lending
42 practices.

43 **Sec. 6.** If the State Treasurer obtains the judicial
44 determination required by subsection 3 of NRS 355.060, the State
45 Treasurer may transfer an amount not to exceed \$10,000,000 from



1 *the State Permanent School Fund to the corporation for public*
2 *benefit. Such a transfer must be made pursuant to an agreement*
3 *that requires the corporation to:*

4 *1. Provide, through the limited partnerships, limited-liability*
5 *companies or firms described in sections 4 and 5 of this act*
6 *emergency loans in compliance with sections 2 to 8, inclusive, of*
7 *this act; and*

8 *2. Ensure that the emergency loans provided by or through*
9 *the corporation for public benefit are provided to persons*
10 *described in subsection 1 of section 4 of this act.*

11 **Sec. 7. *The State Treasurer:***

12 *1. May adopt such regulations as he or she deems necessary*
13 *to carry out the provisions of sections 2 to 8, inclusive, of this act.*

14 *2. Shall adopt regulations:*

15 *(a) Requiring the performance of audits and the submission of*
16 *reports to ensure compliance with the provisions of sections 2 to 8,*
17 *inclusive, of this act and the regulations adopted pursuant to this*
18 *section;*

19 *(b) Providing for appropriate leveraging to ensure that*
20 *emergency loans are made from money transferred from the State*
21 *Permanent School Fund pursuant to section 6 of this act and*
22 *money from private sources;*

23 *(c) Establishing limitations on fees for emergency loans made*
24 *pursuant to sections 2 to 8, inclusive, of this act; and*

25 *(d) Defining the term "emergency" as used in sections 2 to 8,*
26 *inclusive, of this act.*

27 *3. May adopt regulations which include, without limitation,*
28 *criteria for eligibility for and the use of emergency loans made*
29 *pursuant to sections 2 to 8, inclusive, of this act, but sole authority*
30 *for the approval of applications for and the management of such*
31 *loans must be vested in the corporation for public benefit or any*
32 *firm that is used by or assists the corporation pursuant to section 5*
33 *of this act.*

34 *4. May, by regulation, establish an Emergency Lending*
35 *Leadership Council. The members of the Emergency Lending*
36 *Leadership Council serve without compensation and are subject to*
37 *the provisions of chapter 281A of NRS.*

38 *5. Shall provide the corporation for public benefit with such*
39 *assistance as is necessary to carry out the provisions of sections 2*
40 *to 8, inclusive, of this act and comply with the regulations adopted*
41 *pursuant to this section.*

42 **Sec. 8. *Nothing in sections 2 to 8, inclusive, of this act shall***
43 ***be construed to amend, modify or supersede any provision of***
44 ***chapter 604A of NRS as it applies to an emergency loan made***
45 ***pursuant to sections 2 to 8, inclusive, of this act.***



1 **Sec. 9.** NRS 355.060 is hereby amended to read as follows:

2 355.060 1. The State Controller shall notify the State
3 Treasurer monthly of the amount of uninvested money in the State
4 Permanent School Fund.

5 2. Whenever there is a sufficient amount of money for
6 investment in the State Permanent School Fund, the State Treasurer
7 shall proceed to negotiate for the investment of the money in:

8 (a) United States bonds.

9 (b) Obligations or certificates of the Federal National Mortgage
10 Association, the Federal Home Loan Banks, the Federal Home Loan
11 Mortgage Corporation, the Federal Farm Credit Banks Funding
12 Corporation or the Student Loan Marketing Association, whether or
13 not guaranteed by the United States.

14 (c) Bonds of this state or of other states.

15 (d) Bonds of any county of the State of Nevada.

16 (e) United States treasury notes.

17 (f) Farm mortgage loans fully insured and guaranteed by the
18 Farm Service Agency of the United States Department of
19 Agriculture.

20 (g) Loans at a rate of interest of not less than 6 percent per
21 annum, secured by mortgage on agricultural lands in this state of not
22 less than three times the value of the amount loaned, exclusive of
23 perishable improvements, of unexceptional title and free from all
24 encumbrances.

25 (h) Money market mutual funds that:

26 (1) Are registered with the Securities and Exchange
27 Commission;

28 (2) Are rated by a nationally recognized rating service as
29 "AAA" or its equivalent; and

30 (3) Invest only in securities issued or guaranteed as to
31 payment of principal and interest by the Federal Government, or its
32 agencies or instrumentalities, or in repurchase agreements that are
33 fully collateralized by such securities.

34 (i) Common or preferred stock of a corporation created by or
35 existing under the laws of the United States or of a state, district or
36 territory of the United States, if:

37 (1) The stock of the corporation is:

38 (I) Listed on a national stock exchange; or

39 (II) Traded in the over-the-counter market, if the price
40 quotations for the over-the-counter stock are quoted by the National
41 Association of Securities Dealers Automated Quotations System
42 (NASDAQ);

43 (2) The outstanding shares of the corporation have a total
44 market value of not less than \$50,000,000;



1 (3) The maximum investment in stock is not greater than 50
2 percent of the book value of the total investments of the State
3 Permanent School Fund;

4 (4) Except for investments made pursuant to paragraph (k),
5 the amount of an investment in a single corporation is not greater
6 than 3 percent of the book value of the assets of the State Permanent
7 School Fund; and

8 (5) Except for investments made pursuant to paragraph (k),
9 the total amount of shares owned by the State Permanent School
10 Fund is not greater than 5 percent of the outstanding stock of a
11 single corporation.

12 (j) A pooled or commingled real estate fund or a real estate
13 security that is managed by a corporate trustee or by an investment
14 advisory firm that is registered with the Securities and Exchange
15 Commission, either of which may be retained by the State Treasurer
16 as an investment manager. The shares and the pooled or
17 commingled fund must be held in trust. The total book value of an
18 investment made under this paragraph must not at any time be
19 greater than 5 percent of the total book value of all investments of
20 the State Permanent School Fund.

21 (k) Mutual funds or common trust funds that consist of any
22 combination of the investments listed in paragraphs (a) to (j),
23 inclusive.

24 (l) The limited partnerships or limited-liability companies
25 described in NRS 355.280 ~~+~~ *or section 4 of this act.*

26 3. The State Treasurer shall not invest any money in the State
27 Permanent School Fund pursuant to paragraph (i), (j) , ~~+~~ (k) *or (l)*
28 of subsection 2 unless the State Treasurer obtains a judicial
29 determination that the proposed investment or category of
30 investments will not violate the provisions of Section 9 of Article 8
31 of the Constitution of the State of Nevada. The State Treasurer shall
32 contract for the services of independent contractors to manage any
33 investments of the State Treasurer made pursuant to paragraph (i),
34 (j) or (k) of subsection 2. The State Treasurer shall establish such
35 criteria for the qualifications of such an independent contractor as
36 are appropriate to ensure that each independent contractor has
37 expertise in the management of such investments.

38 4. In addition to the investments authorized by subsection 2,
39 the State Treasurer may make loans of money from the State
40 Permanent School Fund to school districts pursuant to
41 NRS 387.526.

42 5. No part of the State Permanent School Fund may be invested
43 pursuant to a reverse-repurchase agreement.



1 **Sec. 10.** The provisions of subsection 1 of NRS 218D.380 do
2 not apply to any provision of this act which adds or revises a
3 requirement to submit a report to the Legislature.

4 **Sec. 11.** This act becomes effective on:

5 1. July 1, 2017, for the purpose of adopting regulations and
6 performing any other preparatory administrative tasks that are
7 necessary to carry out the provisions of this act; and

8 2. January 1, 2018, for all other purposes.

