

## Senate

## GOVERNMENT AFFAIRS COMMITTEE

Minutes of Meeting - March 12, 1975

Present: Chairman Gibson  
 Senator Dodge  
 Senator Gojack  
 Senator Foote  
 Senator Hilbrecht  
 Senator Walker  
 Senator Schofield

## Also Present:

Richard Morgan, N.S.E.A.  
 Don Perry, N.S.E.A.  
 John Crossley, L.C.B. Audit  
 Gino DelCarlo, N.B.A.  
 Ronald C. Jack, City of L.V.  
 Kent J. Dawson, City of Henderson, Public Improvement Trust  
 Frank Fahrenkopf, Washoe County  
 Jim Lien, Tax Commission  
 Bob Gagnier, Executive Director, N.S.E.A.  
 Bill Adams, City of Las Vegas  
 J. L. Conigliaro, Joint Fire & Police  
 Howard Barrett, Budget Division  
 Jim Wittenberg, Personnel

Chairman Gibson opened the eighteenth meeting of the Government Affairs Committee at 3:10 p.m. and the first bill to be discussed was SB-43. The minutes reflect that a quorum was present at that time.

SB-43 Requires local government employer to furnish projected budget to employee organization. (BDR 31-479)

J. L. Conigliaro, joint Fire and Police representative, indicated that he is in favor of the amendment to SB-43.

Bill Adams, City of Las Vegas, speaking for the Nevada League of Cities indicated that they were also in favor of the amendment to SB-43.

Motion of "Amend and Do Pass" by Senator Hilbrecht, seconded by Senator Gojack, motion carried unanimously.

SB-186 Amends various provisions relating to trusts for the furtherance of public functions. (BDR 19-582)

Kent Dawson, City of Henderson and Public Improvement Trust Act, spoke against SB-186 and cited several sections that should be changed to make the bill more workable. Mr. Dawson indicated that at the present time there were 3 perspective users that have applied to the trust for approval, paid application fees. The city would like to have the three pending applications "grandfathered" in.

## Senate

Government Affairs  
Minutes of Meeting No. 18  
March 12, 1975  
Page 2

Mr. Dawson stated that he had spent a good deal of time checking SB-186 against the provisions in the Oklahoma Law. Finds that SB-186 is very restrictive in some areas as opposed to the Oklahoma Law. Bonding counsel feels that this bill will disqualify certain projects. Questions why the state of Nevada should restrict itself so it can not engage in the scope of projects that California, Oklahoma and the other states that have this law are authorized to engage in. Feels we should leave the law the way it is or change it to be more like the Oklahoma law.

Chairman Gibson requested that Mr. Dawson indicate in more specific terms where this bill would disqualify projects.

Mr. Dawson stated that on line 6 of page 1, the providing of funds for the furtherance, where that is deleted it might tend to disqualify certain projects - the Oklahoma Law still has this provision in it. Also on line 9 and 10 of page 3, the requirements that it be sold to the public and that it have a bond rating issued by a nationally recognized bond rating organization. In checking with the Oklahoma Law Mr. Dawson didn't find any requirement of a public sale, there are exceptions to that rule which Mr. Dawson feels that if SB-186 should be adopted, that these exceptions should be included. Also noted that the general laws to the state applying to the appointment, (page 2 line 5) succession, powers, duties and compensation of the trustees or trustees of any trust created for the benefit or furtherance of any public function. Checked with the state law and was unable to find any provision for compensation. Prefers the Oklahoma Law in that it states that these provisions will be spelled out in the indenture and then if there are any areas that are not spelled out in the indenture you would refer to the general law of the state.

There was discussion on repealing this bill but it was felt that provisions should be made for the city of Henderson with regards to the three pending applications. Senator Hilbrecht indicated that there could be a provision that it would not affect the applications now pending.

Mr. Dawson indicated that Guild Gray was not in favor of repealing this bill.

Chairman Gibson requested Mr. Dawson to prepare a brief to outline the changes and faults he finds with the bill and to note pertinent parts of the Oklahoma law that he felt would be beneficial in the bill. Further discussion was set aside at this time. (See attached copy of the Oklahoma Law).

SB-255 Changes provisions relating to overtime pay for state employees. (BDR 23-880)

## Senate

Government Affairs  
Minutes of Meeting No. 18  
March 12, 1975  
page 3

414

Mr. Bob Gagnier, Executive Director, S.N.E.A., indicated that in SB-255 they have some changes they feel will make the current laws more workable. Wants to waive the 8 hour overtime rule in state government, when the employees agree to it, in order to have an opportunity to experiment with the inovative work week, i.e. four day, forty hour work week. Gave an example of employees working in an area that was 80 miles from the station where they checked in and out. The employees could have realized more working time by having the employees work 10 hours a day, four days a week instead of 8 hours a day, five days a week. The bill is worded in order to give them the opportunity to experiment with this inovative work week program.

Suggested that eliminating sub-section 3 would be acceptable to them as SB-299 takes care of the problem with overtime pay for the employees at the state prison.

Jim Wittenberg, Personnel Division for S.N.E.A., feels that in Section 4 they would like to submit new modified language which would provide for some unique situations in certain departments such as the Highway Department. It is felt that the inovative work week might be very beneficial in that department. Supports Mr. Gagnier's statements with regards to SB-255.

Mr. Howard Barrett, Budget Division, indicated that he was in favor of Mr. Gagnier's and Mr. Wittenberg's statements and supports SB-255.

Motion to "Amend (delete S.S. 3) and Do Pass" by Senator Dodge, seconded by Senator Gojack. Motion carried unanimously.

SB-291 Authorizes deferred compensation program for state officers and employees. (BDR 23-206)

Mr. Howard Barrett, Budget Division, requested that this bill be introduced as there is no legal procedure whereby state employees can take advantage of deferred compensation. This bill would give the employee the option of designating a particular amount of money that he doesn't want to receive at the present and puts it in a fund to benefit retiring employees. When he retires he then pays income tax on the money. Stated that in retirement system bill there is a plan for deferred compensation also. If that bill passes then Mr. Barrett feels that this bill should be dropped.

Chairman Gibson stated that they would not act on this bill until they can see the retirement plan bill.

SB-296 Authorizes public employees to use benefits received from Nevada industrial commission rather than sick leave benefits in certain cases. (BDR 23-992)

## Senate

Government Affairs  
Minutes of Meeting No. 18  
March 12, 1975  
Page 4

425

Bob Gagnier, N.S.E.A., stated that there was a bill drafting error and suggests an amendment. Section 1 contradicts the new section 3. The amendment suggested by Mr. Gagnier reads as follows:  
Line 12, "The public employee may decline to use any or part of the sick leave benefit normally payable to him if receiving benefits under 616 or 617 of "N.R.S." and eliminate the remainder of that extraneous language. (Will submit the amendment in writing to Chairman Gibson).

Mr. Bill Adams, City of Las Vegas, indicated his support to the proposed amendment.

Mr. Wittenberg, Personnel Division, also supported the proposed amendment.

Motion to "Amend and Do Pass" by Senator Dodge, seconded by Senator Schofield. Motion carried unanimously.

SB-290 Clarifies application of local government zoning laws to state lands. (BDR 22-647)

Mr. Bill Hancock, representing the State Public Works Board, stated that this bill is to clarify the language requiring all new state land acquired had to comply with local zoning. The word "facility" has created some problems. Wanted to change it to "any land" owned by the state prior to 1971 is exempt and this would clarify the problems that have come up.

Senator Hilbrecht felt that a state facility could change its functions and still be covered by the law. This function could be inappropriate to its location. Suggests that it state "use for the purposes that it is presently being used for".

Senator Walker suggested that the word "facility" be stricken and be replaced with "activity".

The Attorney General's office is in agreement with the change from facility to activity.

Motion to "Amend and Do Pass" by Senator Foote, seconded by Senator Schofield. Motion carried unanimously. (Amend facility to activity)

SB-297 Enables cities to participate in federal program of community development block grants (BDR 21-922)

Ronald Jack, Management Analyst from the City of Las Vegas, felt that most of the powers were granted piece meal and wanted them more narrowly defined on one area. Indicated that on page 1, line 10 it should read "Water and Sewer Facilities under section 702 (not 602)". Also on Page 3, following line 50 section 9 was omitted. "Code enforcement in deteriorated or deteriorating areas for such enforcement together with public improvements and services to be provided, may be expected to arrest the decline of the area.

Senate

416

Government Affairs  
Minutes of Meeting No. 18  
March 12, 1975  
Page 5

Mr. Jack stated that this bill does incorporate eligible activities under the federal statutes, included intact in the bill. See attached.

Motion to "Amend and Do Pass" by Senator Schofield, Seconded by Senator Gojack. Motion carried unanimously.

SB-307 Authorizes counties, cities to purchase for investment negotiable notes or short-time negotiable bonds of Nevada local governments issued for short-term financing. (BDR 31-1103)

Jim Lien, Tax Commission, stated that this bill is designed to allow boards of County Commissioners and City Counsels to invest in other local governments short-term negotiable bonds. Is subject to the limitations of 355.177; means they can not invest in their own negotiations or any short-term warrants. Also 345.440 is strictly the short-term financing section of the statute. This means that a particular county in the state may loan money to one of its own special districts, at a lower interest rate. Under the present law there is no provision for the counties to do this.

Motion of "Do Pass" by Senator Gojack, seconded by Senator Schofield. Motion carried unanimously.

SB-310 Makes various changes in Las Vegas city Charter. (BDR S-1109)

Mr. Bill Adams, Assistant City Manager for the City of Las Vegas, The Charter revisions as proposed in SB-310 deal with two items:

1. Page 1, lines 12 and 13 are put in to make a change in the Charter in the taking of office of the elected officials. Will conform to the wishes of the commission to get the newly elected official right into the office and let him begin work immediately.
2. On Page 2, line 24 where it pertains to an elected official being the winner by a large majority in the primary election there should be no need to put it through the general election.

Motion of "Do Pass" by Senator Schofield, seconded by Senator Dodge. Motion carried unanimously.

SB-270 Eliminates statutory provisions which require state officers and employees to acquire official bonds. (BDR 23-893)

SB-271 Abolishes bond trust fund. (BDR 23-669)

Mr. John Crossley, Audit Div., L.C.B. indicated that both SB-270 and 271 are companion bills. Found through checking that often times the bonds were below the \$200,000. limitation in the blanket bond coverage. The rates of the bond trust fund exceeded the private carrier charges. If the bonds were not required the state officials would be covered under present blanket bond at no increased expense. (See attached letter)

Senate

417

Government Affairs  
Minutes of Meeting No. 18  
March 12, 1975  
Page 6

Mr. Crossley indicated that in SB-271 present bonds are enforced until December 31, 1975. Upon recommendation of the Legislative Counsel Bureau they would abolish the bond trust fund and transfer the funds to the general fund as of July 30, 1975. Any claim on bonds issued prior to July 1, 1975 would be paid from the reserve of the statutory contingency fund. Mr. Crossley feels that this fund is not necessary and therefore should be abolished.

Mr. Howard Barrett, Budget Division, indicated his support of both SB-270 and 271 and Mr. Crossley's statement. He indicated that there would be a fiscal impact.

After discussion by the committee Senator Dodge made a motion of "Do Pass and Referral to Finance" seconded by Senator Schofield. Motion carried unanimously. (motion is for both SB-270 and 271)


AB-273 Requires certain records and controls of property and equipment be kept by local governments. (BDR 31-1033)

Mr. Gene Phelps, Business Manager for the Highway Department, spoke in favor of AB-273. This bill will correct an existing statute that is inoperative at the present. Calls for the Highway Department to produce a budget where they break out the cost by county. It is impossible to budget by county, they budget by district. This bill will lay out by county the new construction starts that will begin in the next fiscal year in terms of cost to complete.

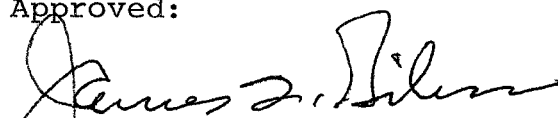
Motion of "Do Pass" by Senator Dodge, seconded by Senator Gojack. Motion carried unanimously.

As there was no further business the meeting was adjourned at 4:55 P.M.

Respectfully submitted,

  
Janice M. Peck  
Committee Secretary

Approved:

  
Chairman

AGENDA FOR COMMITTEE ON GOVERNMENT AFFAIRS  
 WEDNESDAY  
 DATE 3-12-75 TIME 3:45 P.M. ROOM 345

Bills or Resolutions to be considered	Subject	Counsel Requested*
SB-255	Changes provisions relating to overtime pay for state employees. (BDR 23-880)  Notify: Howard Barrett, Jim Wittenberg, Bob Gagnier	
SB-291	Authorizes deferred compensation program for state officers & employees. (BDR 23-206)  Notify: Same as in SB-255	
SB-296	Authorizes public employees to use benefits received from Nevada industrial commission rather than sick leave benefits in certain cases. (BDR 23-992)  Notify: Same in SB-255 & Mr. Riesner, N.I.C.	
SB-290	Clarifies application of local government zoning laws to state lands. (BDR 22-647)  Notify: Bill Hancock, Bob Broadbent, Bob Warren	
SB-297	Enables cities to participate in federal program of community development block grants. (BDR 21-922)  Bob Warren, Bill Adams, Mr. Lattimore	
SB-186 FOR COMMITTEE ACTION	Amends various provisions relating to trusts for the furtherance of public functions. (BDR 19-582)	
ADDED TO AGENDA:	Notify: Assemblyman Ford	
SB-307	Authorizes counties, cities to purchase for investment negotiable notes or short-time negotiable bonds of Nevada local governments issued for short-term financing. (BDR 31-1103)  Notify: Jim Lien, Bob Warren	
SB-310	Makes various changes in Las Vegas city Charter (BDR S-1109)  Notify: Bill Adams	

AGENDA FOR COMMITTEE ON ..... Government Affairs .....  
 Wednesday  
 DATE ... March 12, 1975 . TIME ... 3:45 P.M. .... ROOM ... 345. ....

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel Requested*</u>
--	----------------	-------------------------------

THE FOLLOWING BILLS HAVE BEEN ADDED TO WEDNESDAY'S AGENDA

- |        |  |  |
|--------|--|--|
| SB-43  | Requires local government employer to furnish projected budget to employee organization. (BDR 31-479)              |  |
| SB-270 | Eliminates statutory provisions which require state officers and employees to acquire official bonds. (BDR 23-893) |  |
| SB-271 | Abolishes bond trust fund. (BDR 23-669)  |  |
|        | Notify: John Crossley<br>Howard Barrett  |  |
| AB-273 | Requires certain records and controls of property and equipment be kept by local governments. (BDR 31-1033)        |  |
|        | Notify: Grant Bastian, Highway Dept.   |  |

\* Please do not ask for counsel unless necessary



after distribution of the estate to the trustee in administration of the trust estate the trustee should not be subject to direction, supervision or control of any probate court. *Swanson v. Bates*, 202 Okl. 128, 211 P.2d 781 (1949).

Where estate in remainder vested in remaindermen before effective date of section 175.33 which undertook to reduce interest of remaindermen by requiring apportionment be-

tween principal and income of money received as consideration for permanent severance of natural resources from land, as to such remaindermen this would amount to depriving remaindermen of property without due process of law, and therefore, under this section, section 175.33 did not apply. *Franklin v. Margay Oil Corporation*, 194 Okl. 519, 153 P.2d 480 (1944).

## TRUSTS FOR FURTHERANCE OF PUBLIC FUNCTIONS

### § 176. Trusts for benefit of state, county, municipality, etc. authorized — Approval — Expenditures — Sale of bonds—Contracts—Bids

(a) Express trusts may be created in real or personal property, or either or both, or in any estate or interest in either or both, with the state, or any county, municipality, political or governmental subdivision, or governmental agency of the state as the beneficiary thereof by the: (1) express approval of the Governor if the State of Oklahoma or any governmental agency thereof is the beneficiary; (2) express approval of two-thirds ( $\frac{2}{3}$ ) of the membership of the governing body of the beneficiary if the county or a political or governmental subdivision thereof is the beneficiary; (3) express approval of two-thirds ( $\frac{2}{3}$ ) of the membership of the governing body of the beneficiary if a municipality or a governmental subdivision thereof is the beneficiary and the purpose thereof may be the furtherance, or the providing of funds for the furtherance, of any authorized or proper function of the said beneficiary. Provided, that no funds of said beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of said trust, except by express action of the legislative authority of the beneficiary first had. The officers or any other governmental agencies or authorities having the custody, management or control of any property, real or personal or both, of the beneficiary of such trust, or of such a proposed trust, which property shall be needful for the execution of the trust purposes, hereby are authorized and empowered to lease such property for said purposes, after the acceptance of

the beneficial interest therein by the beneficiary as hereinafter provided.

(b) No trust in which a county or municipality, or a political or governmental subdivision of the state, is the beneficiary shall hereafter create an indebtedness or obligation to be paid in whole or in part from the income of any property, real, personal or otherwise, owned by such beneficiary and leased or licensed to said trust until such indebtedness or obligation has been approved by a two-thirds ( $\frac{2}{3}$ ) vote of the governing body of said leasing or licensing beneficiary, if the indebtedness or obligation is in excess of five percent (5%) of the then existing total indebtedness of said trust; provided, the foregoing shall not apply to any trust created for industrial or cultural purposes.

(c) All bonds described in (b) of this section, after the effective date of this act, except bonds sold to the Federal Government or any agency thereof or to any agency of the State of Oklahoma, shall be awarded to the lowest and best bidder based upon open competitive public offering, advertised at least once a week for two (2) successive weeks in a newspaper of general circulation in the county where the principal office of the trust is located prior to the date on which bids are received and opened, except, on approval of two-thirds ( $\frac{2}{3}$ ) of the trustees, competitive bidding may be waived. No bonds shall be sold for less than par value, except upon approval of three-fourths ( $\frac{3}{4}$ ) of the trustees; provided, that the provisions of the subsection shall not apply to bonds issued for industrial and cultural purposes.

(d) Contracts for construction, labor, equipment, material or repairs in excess of Two Thousand Dollars (\$2,000.00) shall be awarded by public trusts to the lowest and best competitive bidder, pursuant to public invitation to bid, which shall be published in the manner provided in the preceding section hereof; such advertisements shall appear in the county where the work, or the major part of it, is to be done, or the equipment or materials are to be delivered, or the services are to be rendered. Provided, however, should the trustee or the trustees find that an immediate emergency exists, which findings shall be entered in the journal of the trust proceedings, by reason of which an immediate outlay of trust funds in an amount exceeding Two Thousand Dollars (\$2,000.00) is necessary in order to avoid loss of life, substantial damage to property, or damage to the public peace or safety, then such contracts may be made and entered into with-

out public notice or competitive bids; provided that the provisions of this subsection shall not apply to contracts of industrial and cultural trusts.

(e) Provisions of this act shall not apply to entities created under Title 82 of the Oklahoma Statutes, §§ 1301 through 1323, inclusive.

Laws 1951, p. 166, § 1. Amended by Laws 1953, p. 277, § 1. Laws 1970, c. 319, § 1.

#### Historical Note

Section 5 of Laws 1970, c. 319 was a severability provision.

Prior to the 1970 Amendment, this section provided as follows: "Express trusts may be created in real or personal property, or either or both, or in any estate or interest in either or both, with the State, or any county, municipality, political or governmental subdivision, or governmental agency of the State as the beneficiary thereof, and the purpose thereof may be the furtherance, or the providing of funds for the furtherance, of any authorized or proper function of the said beneficiary. Provided, that no funds of said beneficiary derived from sources other than the trust property, or the operation thereof, shall be charged with or expended for the execution of said trust, except by express action of the legislative authority of the beneficiary first had. The officers or any other governmental agencies or authorities having the custody, management or control of any property, real

or personal or both, of the beneficiary of such trust, or of such a proposed trust, which property shall be needful for the execution of the trust purposes, hereby are authorized and empowered to lease such property for said purposes, after the acceptance of the beneficial interest therein by the beneficiary as hereinafter provided, or conditioned upon such acceptance."

The provision above relating to lease of property was added in 1953.

The 1970 amendment rewrote the section in its present form.

#### Title of Act:

An Act relating to trusts for the benefit and furtherance of public functions; providing for their creation, administration and termination; defining the powers, duties and capacity of trustees; limiting liability of trustees and beneficiaries; and declaring an emergency. Laws 1951, p. 166.

#### Cross References

Electronic data processing services for counties, see Title 19, Counties and County Officers, § 378.

Local industrial development act, see Title 62, Public Finance, § 651 et seq. Prohibition on construction or financing of turnpikes or state highways under public trusts, see Title 69, Roads, Bridges and Ferries, § 1733.

#### Law Review Commentaries

Charitable trusts as method of financing public utilities, 9 Okl.Law Rev. 222 (May 1956).  
The charitable trust. 13 Okl.Law Rev. 354 (Aug. 1960).

#### Library References

Counties ⇨ 104.  
Municipal Corporations ⇨ 224.  
States ⇨ 85.  
C.J.S. Counties § 166.

C.J.S. Municipal Corporations § 057.  
C.J.S. States §§ 104, 106.  
C.J.S. Wills § 107.

#### Notes of Decisions

Appeals 12  
Bonds 10  
Construction and application 1  
Election 7  
Exclusive franchises 3  
Immunity 9  
Intent 8  
Parking facilities 11  
Particular trusts 5  
Repeals 2  
Trustees 6  
Validity of trusts 4

any relief under initiative and referendum provisions of the Oklahoma Constitution, city council was authorized to execute lease with charitable public trust for lease of sewer facilities, etc., without first having submitted the question to a vote of the people, irrespective of whether city council was acting in legislative or administrative capacity. Id.

A trust created under statutes relating to trusts for furtherance of public functions, for purpose of constructing and operating a gas utility whose initial beneficiary was to be a state college and under which trust municipal corporations located within area might become beneficiaries, was a legal entity separate and apart from the state and political subdivisions of the state and as such, assuming that it qualified as a public trust, an "agency of the state and the regularly constituted authority \* \* \* for the performance of the functions for which the trust shall have been created" within statute, and hence an agency of the towns and cities which had or which might become beneficiaries of the trust and of the college. State ex rel. Williamson v. Garrison, Okl., 348 P.2d 859 (1960).

A trust, under sections 176-180 of this title, relating to trusts for furtherance of public functions, creating a gas utility of which a college and municipal corporations would be beneficiaries was void on ground that governing bodies of municipalities undertook to grant a franchise for a longer term than 25 years to the trust without approval of majority of qualified electors in violation of constitutional provision that no franchise shall be granted, extended or

#### 1. Construction and application

Where parties to lease of sewer and garbage disposal system from city to trustees of charitable public trust stipulated that rates and charges to be fixed by trustees and approved by city should be sufficient to cover all expenses, that it would be unlawful to fix rates which would destroy use of leased properties or impair ability to meet financial obligations, that all income should constitute trust funds, that when "surplus revenues" were transferred to city to use for any corporate purposes such revenues would continue to be trust funds and that parties did not intend that city would ever be required to spend any of its general fund revenues to supplement the "surplus revenues" in operation of the leased facilities but that city might appropriate any available general fund money for such purposes, bonds issued under such agreement would be legal. Meder v. City of Oklahoma City, Okl., 350 P.2d 916 (1960).

Since charter of Oklahoma City gives the city power to lease its property and also gives city council all legislative power, and there being no contention that taxpayers sought

renewed for a longer term than 25 years. *Id.*

Under provisions of the public trust act, a municipality could lease its airports to trustees of charitable public trust for purpose of promoting and enlarging air navigation facilities of city, a public function, and so that certain facilities could be leased to Civil Aeronautics Authority, and trustees could issue and sell bonds to cover cost of improvements provided that bonds would not become obligation of city or state, but would be payable solely from income to trustees. *Morris v. City of Oklahoma City, Okl., 299 P.2d 131 (1956).*

A valid trust in property, with governmental entity as beneficiary, may be created for furtherance, or the providing of funds for furtherance, of any public function which governmental entity might be authorized by law to perform. *Id.*

Fact that trust instrument which named county as beneficiary, permitted additional beneficiaries to be added or beneficial interest to be taken from county and vested in other governmental entities having jurisdiction of the same territory, or a portion thereof, did not impair validity of trust. - *Board of County Com'rs of Oklahoma County v. Warram, Okl., 285 P.2d 1034 (1955).*

Trusts for benefit of governmental entities are charitable trusts and common law recognizes that purposes for which such trusts may be established include a broad field of objectives for benefit of a large class of public or for lessening the burdens of government. *Id.*

A valid trust in property, with a governmental entity as beneficiary, may be created for a furtherance of any public function which the entity might be authorized by law to perform and fact that such function had not been authorized to beneficiary at time of creation of trust does not impair its validity. *Id.*

Under section 34.5 of Title 80 any trust created pursuant to this sec-

tion, or any public trust created by law, of which the state or its subdivisions is the beneficiary, may submit to the state surplus property agent its estimates of needs and is eligible to receive by donation or sale property acquired by the surplus property agency. *Op. Atty. Gen. No. 69-225 (April 16, 1970).*

## 2. Repeals

It was not intention of Legislature to supersede or repeal Public Trust Act, sections 176 to 180 of this title by enacting Local Industrial Development Act, sections 651 to 664 of Title 62, Public Finance. *Fort v. Oklahoma Industries, Inc., Okl., 385 P.2d 470 (1963).*

## 3. Exclusive franchises

Under provision of Const. art. 18, § 7, "nor shall the power to regulate the charges for public services be surrendered; and no exclusive franchise shall ever be granted" purpose was to prohibit the surrender of power to regulate charges for public services, irrespective of whether power is surrendered by granting a privilege that is generally referred to as a franchise or by accepting provisions of a trust indenture granting such privilege to a trust created under sections 176-180 of this title, relating to trusts for furtherance of public functions, and the word "franchise" embraces the exercise of privileges that do not belong generally to citizens and hence embraces the privilege of doing a utility business irrespective of whether the net income from the business is distributed to stockholders or to political subdivisions of the state. *State ex rel. Williamson v. Garrison, Okl., 348 P.2d 859 (1960).*

The fact that net profit from operation of trust created under sections 176-180 of this title, relating to trusts for furtherance of public functions will be passed to an agency of the State or a political subdivision does not tend to establish that a city or town which accepts beneficial in-

terests in the trust is not by such action granting a franchise to trust in violation of constitutional provision that "no exclusive franchise shall ever be granted." *Id.*

In view of facts that trust, under sections 176-180 of this title, relating to trusts for furtherance of public functions, creating a public utility of which a college and municipal corporations would be beneficiaries, might operate in perpetuity, and that beneficiaries were attempting to surrender their power to regulate the charges made by the trust for its services, the beneficiaries were in fact attempting to grant an exclusive franchise in violation of constitutional provision that "no exclusive franchise shall ever be granted". *Id.*

## 4. Validity of trusts

Where mayor and councilmen of city, as governing body of city, executed trust indenture creating public trust to furnish electric utility service to inhabitants of city and immediate vicinity and executed 50-year lease of city's electric power and distributing system to trust at rental of \$100 a year after voters of city at special election authorized trust and lease, underwriting contract providing for sale of revenue bonds of trust to corporation with terms and conditions of transaction as negotiated by trustees was a valid contract. *Woodward v. City of Anadarko, Okl., 351 P.2d 292 (1960).*

Where mayor and councilmen of city, as governing body of city, executed trust indenture creating public trust to furnish public utility service to inhabitants of city and immediate vicinity and executed 50-year lease of city's electric power and distributing system to trust at rental of \$100 a year after voters of city at special election authorized trust and lease, and trust issued revenue bonds in principal amount of \$650,000 for purpose of enlarging and improving generating plant, and bonds were payable solely out of net revenues from operation of leased property after

payment by trust of all costs of operation and maintenance, there was no creation of an indebtedness of a nature prohibited by the constitution. *Id.*

Where mayor and councilmen of city, as governing body of city, executed trust indenture creating public trust to furnish electric utility service to inhabitants of city and immediate vicinity and executed 50-year lease of city's electric power and distributing system to trust at rental of \$100 a year after voters of city at special election authorized trust and lease, the trust was legally created and was a valid trust under the law with the city as beneficiary. *Id.*

## 5. Particular trusts

Oklahoma City Municipal Improvement Authority, a public charitable trust, was legally created and constituted a valid trust under Oklahoma law, with Oklahoma City as beneficiary. *Harrison v. Barton, Okl., 358 P.2d 211 (1961).*

## 6. Trustees

Where mayor and councilmen of city, as governing body of city, executed trust indenture creating public trust to furnish electric utility service to inhabitants of city and immediate vicinity and executed 50-year lease of city's electric power and distributing system to trust at rental of \$100 a year after voters of city at special election authorized trust and lease, fact that trustees of trust were the mayor and councilmen did not effect a merger of the estates of the trust or create any conflict of interest or duties. *Woodward v. City of Anadarko, Okl., 351 P.2d 292 (1960).*

## 7. Election

Proposition submitted to voters of city at special election whether mayor and councilmen of city, as governing body of city, should accept beneficial interest of public trust with mayor and councilmen of city as trustees for purposes of furnishing electricity in city and immediate vi-

481 clinity, with city to lease its electric power and distributing system to trust in order that trust could issue revenue bonds to defray cost of making replacements and improvements to system, was not a submission of multiple propositions under a single question. *Woodward v. City of Anadarko, Okl.*, 351 P.2d 292 (1960).

#### 8. Intent

Lease agreement whereby improved real property belonging to county was leased to private charitable corporation for operation of county fair was not express public trust, as there was absolute lack of intent to create such trust. *Tulsa Exposition & Fair Corp. v. Board of County Com'rs of Tulsa County, Okl.*, 468 P.2d 501 (1970).

#### 9. Immunity

Any fire department trust or authority created within a county as beneficiary under provisions of section 176 et seq. of this title, relating to trusts for furtherance of public functions, would not possess governmental immunity from suit or liability. *Op. Atty. Gen.*, No. 68-174 (July 11, 1968).

#### 10. Bonds

Bonds which were to be issued by trust established by association formed pursuant to Interlocal Cooperation Act and which were to be secured by first mortgage on parking facility to be constructed by use of proceeds from sale of bonds were valid obligations of trust. Application of *Southern Oklahoma Development Trust, Okl.*, 470 P.2d 572 (1970).

Public trust may lawfully issue its bonds to be repaid from income or revenue. *Id.*

Except where municipality or county employs a public trust, created pursuant to provisions of Public Trust Act in manner contemplated by provisions of Local Industrial Development Act, trustees of such trust, unless restrained by provisions of

trust instrument, may issue revenue bonds without complying with provisions of Local Industrial Development Act. *Morrison v. Ardmore Indus. Development Corp., Okl.*, 414 P.2d 816 (1968).

Lease agreement between trustees of public trust and private corporation was not invalid on grounds of insufficient consideration for use of leased property where lessee was obligated to pay, prior to each interest payment date during primary term of lease, not only rental equal to principal of and interest on all bonds coming due on that interest payment date, but also all costs and expenses in connection with original issuance of bonds. *Id.*

Proposed bond indenture to finance acquisition of lands and construction of improvements thereon pursuant to provisions of Public Trust Act was not invalid for failure to specify exact amount of coupon bonds and register bonds, where under proposed trust indenture, bonds could be coupon bonds or fully registered bonds, or any combination thereof, as specified as successful bidder, and, at any time, prior to maturity, bonds of either class could be exchanged for bonds of other class and therefore exact amount of each class of bonds could not be specified. *Id.*

Proposed bond indenture to finance acquisition of land and construction of improvements thereon pursuant to provisions of Public Trust Act was not invalid for failure to specify name of trustee for holders of bonds or rate or rates of interest to be paid on such bonds where statement on proposed indenture that indenture was subject to correction and change and that instant draft was for information purposes only, contemplated that, prior to execution of instrument, all blank spaces would be filled in with proper information. *Id.*

Public trust may lawfully issue its bonds to be repaid solely from income or revenue. *Fort v. Oklahoma Industries, Inc., Okl.*, 385 P.2d 470 (1963).

Except where municipality or county employs public charitable trust in manner contemplated by Local Industrial Development Act, trustees of trust, unless restrained by trust instrument, may issue revenue bonds without complying with Local Industrial Development Act. *Id.*

#### 11. Parking facilities

Parking facility to be constructed, owned and operated by trust formed by association established pursuant to Interlocal Cooperation Act was for "public purposes" and trust had power to construct and operate such facility. Application of *Southern Oklahoma Development Trust, Okl.*, 470 P.2d 572 (1970).

Association formed by several counties and cities pursuant to Interlocal Cooperation Act was authorized

to form trust to construct, own and operate parking facility in city. *Id.*

#### 12. Appeals

Where issues involving validity of proposed bond indenture and proposed lease agreement between city and private corporation were of a public nature and of importance to municipalities of the state, Supreme Court's holding would be both advisory and directory. *Morrison v. Ardmore Indus. Development Corp., Okl.*, 444 P.2d 816 (1968).

Customers of water company had right under constitution to appeal to Supreme Court from order of Corporation Commission approving sale of water system of company to trust created by citizens of county. *Hixon v. Snug Harbor Water & Gas Co., Okl.*, 381 P.2d 313 (1963).

### § 177. Mode of creation—Acceptance—Contractual character—Duration

Such trusts may be created by written instruments, or by will. In the case of written instruments, the same shall be subscribed by the grantor or grantors and duly acknowledged as conveyances of real estate are acknowledged, and before the same shall become effective the beneficial interest therein shall be accepted by the Governor, if the state or any governmental agency thereof be the beneficiary, or by the governing body of any other beneficiary named therein, which power and authority of acceptance hereby is conferred upon the Governor and upon the governing bodies of the counties, municipalities, political and governmental subdivisions, and governmental agencies of the state. And thereupon the said instrument or will, together with the written acceptance of the beneficial interest endorsed thereon, shall be recorded in the office of the county clerk of each county wherein is situated any real estate, or any interest therein, belonging to said trust, as well as in the county wherein is located the trust property or wherein is conducted its principal operations. In the case of any trust of which the State of Oklahoma or a governmental agency thereof shall be the beneficiary, a certified copy of such instrument or will and the instrument of acceptance shall be filed with the Secretary of State. Upon the acceptance of the

beneficial interest by the beneficiary as hereinabove authorized and provided, the same shall be and constitute a binding contract between the State of Oklahoma and the grantor or grantors, or the executor of the estate of the testator, for the acceptance of the beneficial interest in the trust property by the designated beneficiary and the application of the proceeds of the trust property and its operation for the purposes, and in accordance with the stipulations of the trust instrument or will. Such trusts shall have duration for the term of duration of the beneficiary, or such shorter length of time as shall be specified in the instrument or will creating said trust.

Laws 1951, p. 167, § 2. Amended by Laws 1953, p. 278, § 2; Laws 1970, c. 319, § 2.

#### Historical Note

Laws 1953, p. 278, § 2 inserted the words "before the same shall become effective: \* \* \* beneficial interest endorsed thereon, shall"; the same act substituted "Upon the acceptance of the beneficial interest by the beneficiary as hereinabove authorized and provided, \* \* \*" for the words "In the case of a will, the same shall be executed as required by the laws of the State, and shall become effective upon the death of

the testator and as provided therein. Upon the filing of such instrument, or upon the death of the testator, as the case may be, \* \* \*"

The 1970 amendment added the provision for filing certified copies with the Secretary of State in certain instances and also substituted stipulations "of the trust instrument or will" for stipulations "specified by the trustor or trustors".

#### Library References

Counties ⇨104.  
Municipal Corporations ⇨224.  
States ⇨85.  
C.J.S. Counties § 166.  
C.J.S. Municipal Corporations § 957.  
C.J.S. States §§ 104, 106.  
C.J.S. Wills § 107.  
Forms,  
Business trusts, declaration of trust, see Vernon's Oklahoma

Forms, §§ 742-744.  
General powers of trustees, see Vernon's Oklahoma Forms, § 2662.  
Voluntary trust agreement, see Vernon's Oklahoma Forms, § 2661.  
Will with trust provisions, see Vernon's Oklahoma Forms, §§ 2771, 2773.

#### Notes of Decisions

Construction and application 1  
Purpose 2

#### 1. Construction and application

Provision of public trust indenture specifying that indenture should be

irrevocable from time signed and delivered to trustees and should stand without power to amend, revise, modify, revoke, or terminate, was applicable only to unilateral action by trustor and did not preclude action taken jointly by trustor, trustees and beneficiary of trust, with consent of

all other interested parties. *Morrison v. Ardmore Indus. Development Corp.*, Okl., 444 P.2d 816 (1968).

Except where municipality or county employs a public trust, created pursuant to provisions of Public Trust Act in manner contemplated by provisions of Local Industrial Development Act, trustees of such trust, unless restrained by provisions of trust instrument, may issue revenue bonds without complying with provisions of Local Industrial Development Act. *Id.*

#### 2. Purpose

A valid trust in property, with a governmental entity as beneficiary, may be created for a furtherance of

any public function which the entity might be authorized by law to perform and fact that such function had not been authorized to beneficiary at time of creation of trust does not impair its validity. *Board of County Com'rs of Oklahoma County v. Warram*, Okl., 285 P.2d 1034 (1955).

Under this section, trustees are bound by the purposes expressed in the declaration of trust so that where the development and administration of low-rent housing and slum clearance were not express purposes of the Southern Oklahoma Development Trust, nor reasonably inferable to be such, the trust could not act or qualify as a housing authority. *Op. Atty.Gen. No. 69-211* (June 24, 1969).

### § 177.1 Limitation upon engaging in activity other than expressly authorized

That no public trust shall engage in any activity or transaction that is not expressly authorized in the instruments or articles prescribing its creation except by express consent of the governmental agency or governmental entity that created said public trust.

Laws 1970, c. 71, § 1, emerg. eff. March 17, 1970.

#### Historical Note

Section 2 of Laws 1970, c. 71 directed codification.

#### Title of Act:

An Act pertaining to public trust; providing limitation upon engaging

and functioning other than that which is organized; directing codification; and declaring an emergency. Laws 1970, c. 71.

### § 178. Trustees—Appointment, succession, powers, duties, term, removal and compensation

(a) The instrument or will creating such trust may provide for the appointment, succession, powers, duties, term, manner of removal and compensation of the trustee or trustees subject to the provisions of (c) hereof, and in all such respects the terms of said instrument or will shall be controlling. Trustees, who are public officers, shall serve without compensation, but may be reimbursed for actual expenses incurred in the performance of

their duties as trustees. If the said instrument or will makes no provision in regard to any of the foregoing, then the general laws of the state shall control as to such omission or omissions. Every person hereafter becoming a trustee of a public trust first shall take the oath of office required of an elected public officer and every officer and employee who handles funds of a public trust shall furnish a good and sufficient fidelity bond in an amount and with surety as may be specified and approved by the persons constituting a majority of the governing body of the beneficiary of the trust, such bond to be in a surety company authorized to transact surety business in the State of Oklahoma but in no event shall any bond be required of a trustee. The cost of said bond shall be paid from funds of the trust authority. The oaths of office shall be administered by any person authorized to administer oaths in the State of Oklahoma, and shall be filed with the Secretary of State in trusts wherein the State of Oklahoma or a governmental agency of the state is the beneficiary; in the office of the county clerk in a trust wherein any county or political or governmental subdivision thereof is beneficiary; and in the office of the clerk of the municipality in a trust wherein any municipality or political or governmental subdivision thereof is the beneficiary.

(b) After the effective date of this act, meetings of trustees of any public trust shall be open to the public to the same extent as is required by law of other public boards and commissions. All records of said trusts shall be public records and shall be kept in a place, the location of which shall be recorded in the office of the county clerk of each county, wherein the trust instrument shall be recorded.

(c) Trustees of any public trust may be removed from office for cause, including incompetency, neglect of duty, or malfeasance in office, by a district court having jurisdiction. In the event of removal of a trustee under this section, a successor trustee shall be appointed as provided in the trust instrument. Provided, however, in the event a trustee is so removed who is also a member of the governing board of a municipal beneficiary, the successor trustee shall be appointed by the judge of the court wherein the removal occurred; said successor trustee shall serve only until the removed trustee ceases to serve as a member of the governing board of the municipal beneficiary and his successor on said board has qualified.

Laws 1951, p. 167, § 3. Amended by Laws 1970, c. 319, § 3.

## Historical Note

Prior to the 1970 amendment, this section contained a single paragraph as follows: "The instrument or will creating such trust may provide for the appointment, succession, powers, duties, term and compensation of the trustee, or trustees; and in all such

respects the terms of said instrument or will shall be controlling. If the said instrument or will make no provision in regard to any of the foregoing, then the general laws of the State shall control as to such omission or omissions."

## Library References

Counties  $\Leftrightarrow$ 104.  
Municipal Corporations  $\Leftrightarrow$ 224.  
States  $\Leftrightarrow$ 85.  
C.J.S. Counties § 166.  
C.J.S. Municipal Corporations § 957.  
C.J.S. States §§ 104, 106.  
C.J.S. Wills § 107.  
Forms,  
Business trusts, declaration of trust, see Vernon's Oklahoma Forms, §§ 742-744.

General powers of trustees, see Vernon's Oklahoma Forms, § 2662.  
Voluntary trust agreement, see Vernon's Oklahoma Forms, § 2661.  
Will with trust provisions, see Vernon's Oklahoma Forms, §§ 2771, 2773.

## Notes of Decisions

## 1. Construction and application

Provision of public trust indenture specifying that indenture should be irrevocable from time signed and delivered to trustees and should stand without power to amend, revise, modify, revoke, or terminate, was applicable only to unilateral action by trustor and did not preclude action taken jointly by trustor, trustees and beneficiary of trust, with consent of all other interested parties. *Morrison v. Ardmore Indus. Development Corp.*, Okl., 444 P.2d 816 (1968).

Except where municipality or county employs a public trust, created pursuant to provisions of Public Trust Act in manner contemplated by provisions of Local Industrial Development Act, trustees of such trust, unless restrained by provisions of trust instrument, may issue revenue bonds without complying with provisions of Local Industrial Development Act. *Id.*

Duties of trustee of a charitable trust are similar to those of trustee of a private trust. *Harrison v. Barton*, Okl., 358 P.2d 211 (1961).

## § 179. Status of trustee—Liability for acts

The trustee, or trustees, under such an instrument or will shall be an agency of the State and the regularly constituted authority of the beneficiary for the performance of the functions for which the trust shall have been created. No trustee or beneficiary shall be charged personally with any liability whatsoever by reason of any act or omission committed or suffered in the performance of such trust or in the operation of the trust property;

but any act, liability for any omission or obligation of a trustee or trustees, in the execution of such trust, or in the operation of the trust property, shall extend to the whole of the trust estate, or so much thereof as may be necessary to discharge such liability or obligation, and not otherwise.

Laws 1951, p. 167, § 4.

Library References

- Counties 104.
- Municipal Corporations 224.
- States 85.
- C.J.S. Counties § 166.
- C.J.S. Municipal Corporations § 957.
- C.J.S. States §§ 104, 106.
- C.J.S. Wills § 107.

Notes of Decisions

I. Construction and application

Provision of public trust indenture specifying that indenture should be irrevocable from time signed and delivered to trustees and should stand without power to amend, revise, modify, revoke, or terminate, was applicable only to unilateral action by trustor and did not preclude action taken jointly by trustor, trustees and beneficiary of trust, with consent of all other interested parties. Morrison v. Ardmore Indus. Development

son v. Ardmore Indus. Development Corp., Okl., 444 P.2d 816 (1968).

Except where municipality or county employs a public trust, created pursuant to provisions of Public Trust Act in manner contemplated by provisions of Local Industrial Development Act, trustees of such trust, unless restrained by provisions of trust instrument, may issue revenue bonds without complying with provisions of Local Industrial Development Act. Id.

§ 180. Termination of trust—Contracts not impaired

(a) Any such trust may be terminated by agreement of the trustee, or, if there be more than one, then all of the trustees, and the governing body of the beneficiary, with the approval of the Governor of the State of Oklahoma; provided, that such trust shall not be terminated while there exists outstanding any contractual obligations chargeable against the trust property, which, by reason of such termination, might become an obligation of the beneficiary of such trust.

(b) Nothing in this act shall operate to impair existing obligations of contracts or existing trust indentures of any trust created prior to the effective date of this amendment; but to the extent that such existing obligations of contracts are not impaired by the provisions hereof, all of said provisions shall be applicable; provided further, that nothing in this act shall operate to impair or alter the Trust Indenture of the Oklahoma Ord-

nance Works Authority or contracts executed prior to the effective date of this act.

Laws 1951, p. 167, § 5. Amended by Laws 1970, c. 319, § 4.

Historical Note

Subsection (b) was added in 1970.

Library References

- Counties 104.
- Municipal Corporations 224.
- States 85.
- C.J.S. Counties § 166.
- C.J.S. Municipal Corporations § 957.
- C.J.S. States §§ 104, 106.
- C.J.S. Wills § 107.
- Forms, Agreement of beneficiaries to terminate a trust, see Vernon's Oklahoma Forms, § 2669.
- Revocable trusts, see Vernon's Oklahoma Forms, §§ 2663, 2674, 2682.
- Revocation of trust, see Vernon's Oklahoma Forms, §§ 2670, 2671, 2678, 2686.

Notes of Decisions

I. Construction and application

Except where municipality or county employs a public trust, created pursuant to provisions of Public Trust Act in manner contemplated by provisions of Local Industrial Development Act, trustees of such trust, unless restrained by provisions of trust instrument, may issue revenue bonds without complying with provisions of Local Industrial Development Act. Morrison v. Ardmore Indus. Development Corp., Okl., 444 P.2d 816 (1968).

Provision of public trust indenture specifying that indenture should be irrevocable from time signed and delivered to trustees and should stand without power to amend, revise, modify, revoke, or terminate, was applicable only to unilateral action by trustor and did not preclude action taken jointly by trustor, trustees and beneficiary of trust, with consent of all other interested parties. Id.

§ 180.1 Annual audits

The trustees of every trust created for the benefit and furtherance of any public function with the State of Oklahoma or any county, city, town, municipality, or any political or governmental subdivision as the beneficiary or beneficiaries thereof must cause an audit to be made of the funds, accounts, and fiscal affairs of such trust, such audit to be ordered within thirty (30) days of the close of each fiscal year of the said trust.

Laws 1963, c. 76, § 1, eff. May 21, 1963.

## Historical Note

## Title of Act:

405 An Act relating to trusts created for benefit and furtherance of public functions; requiring annual audit of funds, accounts, and fiscal affairs of such trusts and authorizing compen-

sation therefor; fixing qualifications of persons performing audits and prescribing standards for same; requiring filing of copies thereof; and declaring an emergency. Laws 1963, c. 76.

## Library References

Trusts ⇐289.

C.J.S. Trusts §§ 377, 378.

### § 180.2 Certification—Filing of copies of audit—Failure to file

(a) The audits herein required shall be certified with the unqualified opinion of a Certified Public Accountant, a Certified Municipal Accountant or a licensed public accountant notwithstanding any lesser requirement by any instrument under which the trust may have covenanted for an audit to be made or furnished. The required audit shall adhere to standards set by the State Examiner and Inspector. One copy of the annual audit shall be filed with the State Examiner and Inspector and one copy with each beneficiary of the trust not later than ninety (90) days following the close of each fiscal year of the trust.

(b) Within thirty (30) days after the effective date hereof, each trust mentioned in Section 180.1 of this Title shall certify to the State Examiner and Inspector the date of the close of its fiscal year.

(c) In the event that copy of such audit as herein required shall not be filed with the State Examiner and Inspector within the time herein provided, the State Examiner and Inspector hereby is authorized to employ, at the cost and expense of the trust, a Certified Public Accountant, Certified Municipal Accountant or licensed public accountant to make the audit herein required.

Laws 1963, c. 76, § 1, eff. May 21, 1963. Amended by Laws 1970, c. 240, § 1, emerg. eff. April 22, 1970.

## Historical Note

The 1970 amendment included li- to standards set by the State Exam-  
censed public accountants and added iner and Inspector.  
the requirement that audits adhere

## Library References

Trusts ⇐289.

C.J.S. Trusts §§ 377, 378.

### § 180.3 Expense of audits

The necessary expense of said audits, including the cost of typing, printing, and binding, shall be paid from funds of the trust.

Laws 1963, c. 76, § 3.

## Library References

Trusts ⇐289.

C.J.S. Trusts §§ 377, 378.



eastern Oklahoma Industries Authority, Okl., 498 P.2d 1395 (1972).

State is invested with authority to promote and encourage development of industry and commerce, and to further industrial, manufacturing, cultural, medical and/or educational activities within state and doing so are "authorized" functions as such term is used in this section relating to establishing trust with state or political subdivision as beneficiary. Id.

State possesses authority to provide facilities and services to aid in control or reduction of pollution of air, land and/or waters, and to provide facilities and services for transmission and disposal of sewage, waste and other deleterious substances and doing so are "authorized" functions as that term is used in this section relating to estab-

lishing trust with state or political subdivision as beneficiary. Id.

Where public trust was created to further industrial, manufacturing, cultural, medical and educational activities by instituting, furnishing, providing and supplying physical facilities, improvements and services for the furtherance of general convenience, welfare, public health, public safety, and economic development of certain counties and its inhabitants, basic purpose of trust would be served by establishment of pollution control equipment and trust was authorized to issue bonds to finance pollution program without state's express consent. Id.

Fact that trustees of public trust were all employees of corporation that would be single largest user of trust's pollution control facilities did not render trust void. Id.

### § 177. Mode of creation—Acceptance—Approval—Contractual character—Duration

Such trusts may be created by written instruments, or by will. In the case of written instruments, the same shall be subscribed by the grantor or grantors and duly acknowledged as conveyances of real estate are acknowledged, and before the same shall become effective the beneficial interest therein shall be accepted by the Governor, if the state or any governmental agency thereof be the beneficiary, or by the governing body of any other beneficiary named therein, which power and authority of acceptance hereby is conferred upon the Governor and upon the governing bodies of the counties, municipalities, political and governmental subdivisions, and governmental agencies of the state. Provided, every trust made hereunder, if the state or any governmental agency thereof be the beneficiary, shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the trust is in proper form and compatible with the laws of this state. The Attorney General shall approve any trusts submitted to him which he determines to be in proper form and compatible with the laws of this state. Failure to approve or disapprove in writing an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof. And thereupon the said instrument or will, together with the written acceptance of the beneficial interest and approval of the Attorney General, if required, endorsed thereon, shall be recorded in the office of the county clerk of each county wherein is situated any real estate, or any interest therein, belonging to said trust, as well as in the county wherein is located the trust property or wherein are conducted its principal operations. In the case of any trust of which the State of Oklahoma or a governmental agency thereof shall be the beneficiary, a certified copy of such instrument or will and the instrument of acceptance shall be filed with the Secretary of State. Upon the acceptance of the beneficial interest by the beneficiary and approval by the Attorney General as hereinabove authorized and provided, the same shall be and constitute a binding contract between the State of Oklahoma and the grantor or grantors, or the executor of the estate of the testator, for the acceptance of the beneficial interest in the trust property by the designated beneficiary and the application of the proceeds of the trust property and its operation for the purposes, and in accordance with the stipulations of the trust instrument or will. Such trusts shall have duration for the term of duration of the beneficiary, or such shorter length of time as shall be specified in the instrument or will creating said trust.

Amended by Laws 1973, c. 201, § 1.

#### § 177.1 Limitation upon engaging in activity other than expressly authorized

1. In general  
Legislature in enacting this section did not intend to require that each and

every activity and transaction contemplated by trust be mentioned specifically and precisely identified in

Instrument creating trust. Shipp v. Southeastern Oklahoma Industries Authority, Okl., 498 P.2d 1395 (1972).

If engaging in general kind of activity or transaction in question may reasonably be said to be included in authority expressly conferred on public trust or trustees in instruments creating trust, such activity or transaction is expressly authorized within contemplation of this section. Id.

Where public trust was created to further industrial, manufacturing, cul-

tural, medical and educational activities by instituting, furnishing, providing and supplying physical facilities, improvements and services for the furtherance of general convenience, welfare, public health, public safety, and economic development of certain counties and its inhabitants, basic purpose of trust would be served by establishment of pollution control equipment and trust was authorized to issue bonds to finance pollution program without state's express consent. Id.

### § 180.4 Regulation of certain public trusts operating a water supply system

A. The Corporation Commission shall have general supervision over trusts created for the benefit and furtherance of a public function pursuant to Title 60 of the Oklahoma Statutes, Sections 176 et seq., where:

1. The trust has multiple beneficiaries; and
2. A water supply system is operated by the trust or a person or entity to which such function has been delegated; and
3. The water supply system is operated in a county having a population in excess of five hundred thousand (500,000) persons according to the most recent Federal Decennial Census; and
4. The beneficiaries do not regulate the rates, charges and practices of the water supply system.

B. The Corporation Commission shall also have general supervision over any person or entity to whom the function of operating a water supply system has been delegated by such a trust.

C. The Corporation Commission shall have the power to fix and establish rates and to prescribe rules, requirements and regulations affecting their services, operation, and the management and conduct of the business of persons and entities subject to this section and shall inquire into the management of the business thereof, and the method in which same is conducted. It shall have full visitatorial and inquisitorial power to examine such operations, and keep informed as to their general conditions, their capitalization, rates, plants, equipment, apparatus, and other property owned, leased, controlled or operated, the value of same, the management, conduct, operation, practices and services, not only with respect to the adequacy, security and accommodation afforded by their service, but also with respect to their compliance with the Constitution and laws of this state, and with the orders of the Commission.

Laws 1972, c. 63, § 1, emerg. eff. March 27, 1972.

#### Title of Act:

An Act relating to public trusts; providing for regulation by the Corporation Commission of certain trusts and operators of water supply systems; and declaring an emergency. Laws 1972, c. 63.

#### Library references

Waters and Water Courses § 202, 203(6).  
C.J.S. Waters § 280, 286 et seq.

#### 1. In general

Since legislature determined that Corporation Commission should have general supervision over certain public trusts which operate water supply systems, there is no rational or logical reason why such general supervision should be

restricted to a public trust operating in a county having a population in excess of 500,000 and statute which so provided was an unconstitutional special law where only one county in the state had population in excess of 500,000. Oklahoma County Utility Services Authority v. Corporation Commission, Okl., 519 P.2d 919 (1974).

This section which extends jurisdiction of Corporation Commission to trusts created for operation of water supply system and which, inter alia, were not regulated by the beneficiaries does not violate constitutional exclusion of municipal corporations and public institutions owned or controlled by the state from the jurisdiction of the Corporation Commission. Id.

### TRUSTS FOR WATER POLLUTION CONTROL PROJECTS [NEW]

#### § 180.51 State grants for water pollution control projects—Eligibility for federal assistance

In order that water pollution control projects shall be eligible for increased federal grants under the provisions of the Federal Water Pollution Control Act, Title 33, §§ 466 et seq., United States Code Annotated, or any amendments thereto,<sup>1</sup> the State of Oklahoma is hereby authorized to make grants to any incorporated Oklahoma

## SENATE BILL 297 - COMMITTEE ON GOVERNMENT AFFAIRS

"Enables cities to participate in federal program of community development block grants."

Page 1 - line 10

3. Water and sewer facilities, under section [602] 702 of the Housing and Urban Development Act of 1965, P.L. 89-117, August 10, 1965, as amended;

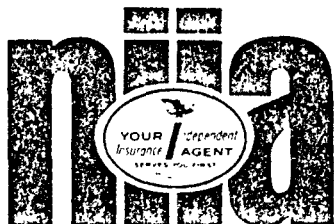
Page 3 - following line 50

9. Code Enforcement in deteriorated or deteriorating areas where such enforcement, together with public improvements and services to be provided, may be expected to arrest the decline of the area.

RCJ:lod

# NEVADA INDEPENDENT INSURANCE AGENTS

A STATEWIDE ASSOCIATION OF INDEPENDENT INSURANCE AGENTS



OLIVER G BOLTON  
Executive Manager

May 21, 1974

Mr. Michael Medema, Deputy Legislative Auditor  
State of Nevada  
Legislative Counsel Bureau  
Carson City, Nevada 89701

Dear Mike:

I have received a letter from the bond manager of Fireman's Fund, the carrier of the Employee Blanket Bond for the State, which provides a statement regarding their position if present statute requirements for bonds are changed.

He notes that his company "would be agreeable to including individuals now having a statutory bond requirement...if legislation was passed eliminating the statutory requirement."

His letter continues, "The blanket bond is quite specific as regards who must be excluded and written on an individual basis. If there was no statutory requirement requiring the posting of an individual bond preliminary to accepting an officers responsibility, then it would not be necessary to exclude these positions under the blanket bond."

I believe this is what we were looking for in our discussion of last week and I hope it will aid you in your study.

I will forward the alternate quotes which you requested when received from the company.

Sincerely,

Larry Kees  
Placement Administrator

LK/blp

RE SB 270+271

S. B. 255

---



---

SENATE BILL NO. 255—COMMITTEE ON GOVERNMENT  
AFFAIRS

FEBRUARY 25, 1975

---

Referred to Committee on Government Affairs

SUMMARY—Changes provisions relating to overtime pay for  
state employees. Fiscal Note: No. (BDR 23-880)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is  
material to be omitted.

---



---

AN ACT relating to pay for state officers and employees; providing for payment of overtime in cash unless employee elects to take compensatory time off; allowing an agency to experiment with innovative work weeks; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- 1 SECTION 1. NRS 284.180 is hereby amended to read as follows:  
2 284.180 1. The legislature declares that since uniform salary and  
3 wage rates and classifications are necessary for an effective and efficient  
4 personnel system, the pay plan shall set the official rates applicable to all  
5 positions in the classified service, but the establishment of the pay plan  
6 shall in no way limit the authority of the legislature relative to budgeted  
7 appropriations for salary and wage expenditures.  
8 2. Credit for overtime work directed or approved by an agency  
9 head or his representative shall be earned at the rate of time and one-half,  
10 except for those employees determined by the division to be executive,  
11 administrative, professional or supervisory. Executive, administrative,  
12 professional and supervisory employees shall earn credit for overtime at  
13 their regular straight time rate. Overtime shall be considered time worked  
14 in excess of an 8-hour day or a 40-week.  
15 3. *Payment for overtime work shall be paid in cash unless the*  
16 *employee elects to receive compensatory time off for the overtime*  
17 *worked.*  
18 4. *To allow an agency to experiment with innovative work weeks,*  
19 *the provisions of subsections 2 and 3 may be waived at the request of*  
20 *the head of the agency and after majority consent of the affected*  
21 *employees.*  
22 5. This chapter shall not be construed to supersede or conflict with  
23 existing or future contracts of employment dealing with wages, hours  
24 and working conditions.

S. B. 291

---



---

SENATE BILL NO. 291—COMMITTEE ON  
GOVERNMENT AFFAIRS

MARCH 3, 1975

---

Referred to Committee on Government Affairs

**SUMMARY**—Authorizes deferred compensation program for state officers and employees. Fiscal Note: No. (BDR 23-206)



**EXPLANATION**—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

---



---

AN ACT relating to public officers and employees; authorizing a state deferred compensation program; setting requirements; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

1 SECTION 1. Title 23 of NRS is hereby amended by adding thereto a  
2 new chapter to consist of the provisions set forth as sections 2 to 7, inclu-  
3 sive, of this act.

4 SEC. 2. As used in this chapter:

5 1. "Chief" means the chief of the personnel division of the depart-  
6 ment of administration.

7 2. "Department" means the department of administration.

8 3. "Employee" means any supreme court justice, district judge, state  
9 officer, commissioner, representative of the state, or other state employee  
10 of any office, department, board, commission, bureau, agency or institu-  
11 tion operating by authority of law, and supported in whole or in part by  
12 any public funds, whether such funds are received from the Federal Gov-  
13 ernment or from private or any other sources.

14 SEC. 3. 1. The director of the department of administration may,  
15 with the approval of the state board of examiners, establish a voluntary  
16 deferred compensation plan whereby the state may contract with any  
17 eligible employee to withhold a specified portion of his compensation for  
18 investment and later payment to him. The conditions of eligibility shall  
19 be fixed by the plan.

20 2. The department of administration may create a trust, qualified  
21 under section 401(a) of the United States Internal Revenue Code as  
22 amended, for the purpose of investing contributions made pursuant to  
23 such a voluntary deferred compensation plan. The chief of the personnel  
24 division of the department shall serve as ex officio trustee of the trust.

— 2 —

1     3. The plan shall be in such form and contain such terms as will  
2 qualify the contributions for tax deferral under the United States Inter-  
3 nal Revenue Code.

4     SEC. 4. The chief, as trustee, shall:

5         1. Make such administrative appointments as are necessary to imple-  
6 ment the deferred compensation plan.

7         2. Maintain an individual account on behalf of each participating  
8 employee.

9     SEC. 5. The amount of any deferral made pursuant to the plan shall  
10 be considered a part of the employee's compensation for all purposes  
11 other than federal income taxation.

12     SEC. 6. The rights of the employee created by the deferred compen-  
13 sation plan shall be that of a general creditor of the state only and then  
14 solely to the extent of the net fair market value of the assets credited to  
15 his deferred account as reflected by the records of the administrators and  
16 trustee of the plan.

17     SEC. 7. The deferred compensation plan shall operate in addition to  
18 other retirement, pension or benefit systems established by the state and  
19 no deferral of income under the deferred compensation plan shall effect  
20 a reduction of any retirement, pension or other benefit provided by law.

**S. B. 296****SENATE BILL NO. 296—SENATORS SHEERIN,  
RAGGIO, HILBRECHT AND LAMB****MARCH 4, 1975**

Referred to Committee on Government Affairs

**SUMMARY**—Authorizes public employees to use benefits received from Nevada industrial commission rather than sick leave benefits in certain cases. Fiscal Note: No. (BDR 23-992)

**EXPLANATION**—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

**AN ACT** relating to public employees; authorizing them to use benefits received from the Nevada industrial commission rather than sick leave benefits in certain cases; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- 1     **SECTION 1.** NRS 281.390 is hereby amended to read as follows:  
2     281.390 When any public employee is eligible at the same time for  
3 benefits under chapter 616 or 617 of NRS and for any sick leave benefit:  
4     1. The amount of sick leave benefit paid to him for any pay period  
5 shall not exceed the difference between his normal salary and the amount  
6 of any benefit received, exclusive of reimbursement or payment of medical  
7 or hospital expenses under chapter 616 or 617 of NRS for that pay period.  
8     2. If the amount of his sick leave benefit is reduced pursuant to sub-  
9 section 1 below the amount normally payable, the amount of sick leave  
10 time charged against him as taken during that pay period shall be reduced  
11 in the same proportion.  
12     3. *The public employee may decline to use any or part of the sick*  
13 *leave benefit normally payable to him to the extent that benefits received*  
14 *under chapter 616 or 617 of NRS and the amount of other benefits*  
15 *received equal or exceed his normal salary.*

**S. B. 290****SENATE BILL NO. 290—COMMITTEE ON  
GOVERNMENT AFFAIRS****MARCH 3, 1975**

Referred to Committee on Government Affairs

**SUMMARY**—Clarifies application of local government zoning laws to state lands. Fiscal Note: No. (BDR 22-647)**EXPLANATION**—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to planning and zoning; clarifying an exemption from the application of local government zoning laws to certain state lands.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 278.580 is hereby amended to read as follows:  
2 278.580 1. The governing body of any city or county may adopt a  
3 building code, specifying the design, soundness and materials of struc-  
4 tures and rules, ordinances and regulations for the enforcement of the  
5 building code.  
6 2. The governing body may also fix a reasonable schedule of fees for  
7 the issuance of building permits. Schedules of fees so fixed shall not apply  
8 to the State of Nevada and its political subdivisions.  
9 3. A city building code which has rules, regulations and specifications  
10 more stringent than the building code of the county within which such city  
11 is located shall supersede, with respect to the area within a 3-mile limit of  
12 the boundaries of such city, any provisions of such building code not  
13 consistent therewith.  
14 4. None of the provisions of subsection 3 shall be applicable to farm  
15 or ranch buildings in existence on March 30, 1959.  
16 5. Notwithstanding any other provision of law, the state and its politi-  
17 cal subdivisions must comply with all zoning regulations adopted pursuant  
18 to this chapter, except [for the expansion of any facility existing on  
19 April 23, 1971.] *with respect to any land owned and used wholly or in*  
20 *part by the state for its institutional or governmental activities on or prior*  
21 *to April 23, 1971.*



S. B. 297

---



---

SENATE BILL NO. 297—COMMITTEE ON  
GOVERNMENT AFFAIRS

MARCH 4, 1975

---

Referred to Committee on Government Affairs

SUMMARY—Enables cities to participate in federal program of community development block grants. Fiscal Note: No. (BDR 21-922)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

---



---

AN ACT relating to the powers and duties of cities; enabling cities to participate in the federal program of community development block grants and similar programs; and providing other matters properly relating thereto.

- 1 WHEREAS, Title I of the Housing and Community Development Act of  
2 1974, P.L. 93-383, August 22, 1974, establishing a program of commu-  
3 nity development block grants, consolidates the following federal pro-  
4 grams:
- 5 1. Urban renewal, under Title I of the Housing Act of 1949, P.L.  
6 81-171, July 15, 1949, as amended;
  - 7 2. Model cities, under Title I of the Demonstration Cities and Metro-  
8 politan Development Act of 1966, P.L. 89-754, November 3, 1966, as  
9 amended;
  - 10 3. Water and sewer facilities, under section 602 of the Housing and  
11 Urban Development Act of 1965, P.L. 89-117, August 10, 1965, as  
12 amended;
  - 13 4. Neighborhood facilities, under section 703 of the Housing and  
14 Urban Development Act of 1965, P.L. 89-117, August 10, 1965, as  
15 amended;
  - 16 5. Public facilities, under Title II of the Housing Amendments of  
17 1955, P.L. 84-345, August 11, 1955, as amended;
  - 18 6. Open spaces land, under Title VII of the Housing Act of 1961,  
19 P.L. 87-70, June 30, 1961, as amended; and
  - 20 7. Rehabilitation loans, under section 312 of the Housing Act of  
21 1964, P.L. 88-560, September 2, 1964, as amended; and
- 22 WHEREAS, The cities of Nevada require an adequate authorization of  
23 powers to participate in the federal program of community development  
24 block grants; and
- 25 WHEREAS, There is a need for the cities to establish continuing com-  
26 munity development programs which will further the development of  
27 viable urban communities, with decent housing, suitable environment and

1 expanding economic opportunities, principally for persons of low and  
2 moderate incomes; now, therefore,  
3

4 *The People of the State of Nevada, represented in Senate and Assembly,*  
5 *do enact as follows:*  
6

7 SECTION 1. Chapter 268 of NRS is hereby amended by adding  
8 thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

9 SEC. 2. *Sections 2 to 10, inclusive, of this act, may be cited as the*  
10 *Nevada Community Development Program Law.*

11 SEC. 3. *It is the purpose of sections 2 to 10, inclusive, of this act to*  
12 *provide for municipal participation in the federal program of community*  
13 *development block grants, under the Housing and Community Develop-*  
14 *ment Act of 1974 (P.L. 93-383, 88 Stat. 633) as amended, and to vest in*  
15 *Nevada cities all powers necessary or appropriate to enable the cities to*  
16 *participate fully in such federal program and similar programs and to*  
17 *authorize the cities to perform services, activities, planning and other*  
18 *functions related to community development programs.*

19 SEC. 4. *As used in sections 2 to 10, inclusive, of this act:*

20 1. *"Community development program" means a municipal program*  
21 *which:*

22 (a) *Includes the activities to be undertaken to meet the community*  
23 *development needs and objectives of the city and the estimated costs and*  
24 *general locations of the activities;*

25 (b) *Identifies the resources, other than those from federal community*  
26 *development block grants, which are expected to be made available to*  
27 *meet the needs and objectives; and*

28 (c) *Takes into account appropriate environmental factors.*

29 2. *"City" means any incorporated city or any incorporated town,*  
30 *including without limitation any such city or any such town organized*  
31 *under the provisions of a special legislative act or other special charter as*  
32 *permitted by sections 1 and 8 of article 8 of the constitution of the State*  
33 *of Nevada, or otherwise.*

34 SEC. 5. 1. *In addition to any authority or powers conferred upon a*  
35 *city by charter, special act or general laws of the State of Nevada, there is*  
36 *hereby granted to each city the powers set forth in sections 6 to 10, inclu-*  
37 *sive, of this act, to enable the city to participate in the federal program of*  
38 *community development block grants and any other similar programs as*  
39 *hereafter may be enacted.*

40 2. *In undertaking a community development program, a city is*  
41 *authorized to use general funds, bequests, devises, grants, gifts, donations,*  
42 *other state, local or private sources of revenue and other federal funds to*  
43 *supplement or augment funds available under the federal program of com-*  
44 *munity development block grants.*

45 3. *The provisions of sections 2 to 10, inclusive, of this act do not*  
46 *preclude the cities from:*

47 (a) *Developing and executing community development programs exclu-*  
48 *sive of federally approved programs or funds; or*

49 (b) *Formulating and executing community development programs*  
50 *where federal programs are not involved.*

1     SEC. 6. To initiate and undertake a community development pro-  
2 gram, a city may:

- 3     1. Formulate a comprehensive community development plan.
- 4     2. Develop a policy-planning-management capacity to:
  - 5     (a) Determine the city's needs;
  - 6     (b) Set its long-term goals and short-term objectives;
  - 7     (c) Devise programs and activities to meet its goals and objectives;
  - 8     (d) Evaluate the progress of its programs in accomplishing the goals  
9 and objectives; and
  - 10    (e) Carry out the management, coordination and monitoring of activ-  
11 ities necessary for effective planning implementation.

12     SEC. 7. To carry out a community development program, a city may  
13 acquire real property, including air or water rights or other interests in  
14 the real property, by purchase, lease, donation or otherwise, where the  
15 real property is:

- 16     1. Blighted, deteriorated, deteriorating, undeveloped or inappropri-  
17 ately developed, from the standpoint of sound community development  
18 and growth, as determined by state and local laws;
- 19     2. Appropriate for:
  - 20     (a) Rehabilitation or conservation activities;
  - 21     (b) Preservation or restoration of historic sites;
  - 22     (c) Beautification of urban land;
  - 23     (d) Conservation of open spaces, natural resources, scenic spaces or  
24 areas;
  - 25     (e) Creation of recreational opportunities; or
  - 26     (f) Guidance of urban development; and
- 27     3. To be used for public works, facilities, improvements or other pub-  
28 lic purposes, including the conversion of land to other uses if necessary or  
29 appropriate under the community development program.

30     SEC. 8. To carry out a community development program, a city may  
31 provide for:

- 32     1. Acquisition, construction, reconstruction or installation of public  
33 works, facilities, sites or other improvements.
- 34     2. Disposition by sale, lease, donation or otherwise of any real prop-  
35 erty acquired for public purposes in accordance with the community devel-  
36 opment program.
- 37     3. Public improvements, services and code enforcement to arrest the  
38 decline of deteriorated or deteriorating areas.
- 39     4. Elimination of conditions which are detrimental to health, safety  
40 and public welfare, including dust, odor, noise, air pollution and water  
41 pollution, by code enforcement, demolition or rehabilitation assistance.
- 42     5. Clearance, demolition, removal or rehabilitation of buildings and  
43 improvements where immediate public action is needed, including interim  
44 assistance to alleviate the harmful conditions.
- 45     6. Financing the rehabilitation of privately owned properties through  
46 the use of grants, direct loans, loan guarantees or other means.
- 47     7. Demolition and reconstruction or modernization of publicly owned  
48 low-rent housing.
- 49     8. Special projects directed toward the removal of barriers which  
50 restrict the mobility of elderly and handicapped persons.

1     SEC. 9. To carry out a community development program, a city may  
2 provide payments for:

3     1. Loss of rental income by housing owners where the loss results  
4 from temporarily holding real property used to relocate individuals and  
5 families displaced by the community development program.

6     2. The nonfederal share required in connection with a federal grant-  
7 in-aid program undertaken as part of the community development pro-  
8 gram.

9     3. Completion and financial settlement of a project funded under the  
10 federal Housing Act of 1949 (P.L. 81-171, July 15, 1949).

11     4. Relocation of and assistance to individuals, families, businesses,  
12 organizations and farm operations displaced as the result of activities  
13 conducted under the community development program, including benefits  
14 at least equal to the minimum levels established under chapter 342 of  
15 NRS.

16     SEC. 10. To carry out a community development program, a city  
17 may:

18     1. Expand and improve the quantity and quality of public commu-  
19 nity services in areas where such activity is determined to be necessary  
20 or appropriate for the support of other community development program  
21 activities.

22     2. Improve the community's public services and facilities concerned  
23 with employment, economic development, crime prevention, child care,  
24 health, drug abuse, education, welfare and recreation and other programs  
25 of social service, in connection with the community development program.

26     3. Coordinate public and private development programs.

27     SEC. 11. This act shall become effective upon passage and approval.


**S. B. 186****SENATE BILL NO. 186—SENATOR DODGE**

FEBRUARY 12, 1975

Referred to Committee on Government Affairs

**SUMMARY**—Amends various provisions relating to trusts for the furtherance of public functions. Fiscal Note: No. (BDR 19-582)

—○—



**EXPLANATION**—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to trusts for the furtherance of public functions; providing for fidelity bonding; term of office, succession and removal of trustees; amending eligibility requirements of trustees to include any corporation authorized to function as a trustee; requiring open meetings of trustees, recording of trust documents, bond rating and public sale of trust bonds; making certain purchasing acts applicable; deleting exemption for certificate of public convenience to operate a public utility; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 242B.010 is hereby amended to read as follows:  
 2 242B.010 1. Express trusts may be created in real or personal prop-  
 3 erty, or either or both, or in any estate or interest in either or both, with  
 4 the state, or any county, municipality, political or governmental subdivi-  
 5 sion, or governmental agency of the state as the beneficiary thereof, and  
 6 the purpose thereof may be the furtherance [ , or the providing of funds  
 7 for the furtherance, ] of any authorized or proper function of the benefi-  
 8 ciary; but no funds of the beneficiary derived from sources other than the  
 9 trust property, or the operation thereof, shall be charged with or expended  
 10 for the execution of the trust, except by express action of the legislative  
 11 authority of the beneficiary first had.  
 12 2. The officers of any other governmental agencies or authorities hav-  
 13 ing the custody, management or control of any property, real or personal  
 14 or both, of the beneficiary of such trust, or of such a proposed trust, which  
 15 property is necessary for the execution of the trust purposes, are hereby  
 16 authorized and empowered to lease such property for such purposes, after  
 17 the acceptance of the beneficial interest therein by the beneficiary as pro-  
 18 vided in this chapter, or conditioned upon such acceptance.  
 19 SEC. 2. NRS 242B.030 is hereby amended to read as follows:  
 20 242B.030 [The instrument or will creating such trust may provide  
 21 for the appointment, succession, powers, duties, term and compensation

1 of the trustee or trustees; and in all such respects the terms of the instru-  
 2 ment or will shall be controlling. If the instrument or will makes no pro-  
 3 vision in regard to any of the foregoing, then the general laws of the state  
 4 shall control as to such omission or omissions.】

5 1. *The general laws of the state apply to the appointment, succession,*  
 6 *powers, duties and compensation of the trustee or trustees of any trust*  
 7 *created for the benefit and furtherance of any public function.*

8 2. *Of the trustees first appointed, a majority shall serve 4-year terms,*  
 9 *and the remaining trustees shall serve 2-year terms. Thereafter, all trustees*  
 10 *appointed or reappointed shall serve 4-year terms.*

11 3. *Every trustee of a trust created for the benefit and furtherance of*  
 12 *any public function shall furnish a good and sufficient surety bond with a*  
 13 *surety authorized to do business within the State of Nevada and in such*  
 14 *amount as may be prescribed by the authority which accepts the beneficial*  
 15 *interest in the trust. The cost of the surety bond shall be paid from the*  
 16 *funds of the trust.*

17 4. *All meetings of the trustees shall be open to the public to the same*  
 18 *extent as required by chapter 241 of NRS for state and local agencies.*

19 5. *All records of the trust are public records and shall be kept in a*  
 20 *place which is identified by documents recorded in the office of the county*  
 21 *recorder of each county in which the trust instrument is recorded.*

22 6. *Trustees may be removed from office for cause, including incom-*  
 23 *petency, neglect of duty or malfeasance in office, by a district court. If a*  
 24 *trustee is removed pursuant to this subsection, his successor shall be*  
 25 *appointed as provided in the trust instrument. If a trustee so removed is*  
 26 *also a member of the governing body of a municipal beneficiary, the suc-*  
 27 *cessor trustee shall be appointed by the district court wherein the removal*  
 28 *occurs. The successor trustee shall serve only until the removed trustee*  
 29 *ceases to serve as a member of the governing body of the municipal benefi-*  
 30 *ciary and his successor on the body is qualified.*

31 SEC. 3. NRS 242B.040 is hereby amended to read as follows:

32 242B.040 1. The trustee or trustees under such an instrument or will  
 33 may be an individual, individuals [ , partnership, corporation, national  
 34 banking association or state banking association, ] or any corporation  
 35 authorized by law to function as a trustee, and such trustee or trustees  
 36 shall be an agency of the state and the regularly constituted authority of  
 37 the beneficiary for the performance of the functions for which the trust  
 38 has been created.

39 2. The provisions of NRS 164.050 relating to the standard of care for  
 40 a trustee in investing and managing trust property apply to the trustee or  
 41 trustees of a trust created by a written instrument or will pursuant to this  
 42 chapter.

43 3. No trustee or beneficiary shall be charged personally with any lia-  
 44 bility whatsoever by reason of any act or omission committed or suffered  
 45 in the performance of such trust or in the operation of the trust property;  
 46 but any act, liability for any omission or obligation of a trustee or trustees,  
 47 in the execution of such trust, or in the operation of the trust property,  
 48 shall extend to the whole of the trust estate, or so much thereof as may be  
 49 necessary to discharge such liability or obligation, and not otherwise.

1 SEC. 4. NRS 242B.080 is hereby amended to read as follows:

2 242B.080 1. The provisions of the State Securities Law, the Local  
3 Government Securities Law, the University Securities Law, or of any  
4 other general, special or local statute relating to the issuance of public  
5 securities or other debt obligations do not apply to a trust created for  
6 the benefit and furtherance of any public function.

7 2. *All bonds issued by any trust created for the benefit and further-*  
8 *ance of any public function shall:*

9 (a) *Be sold at a public sale; and*

10 (b) *Have a bond rating issued by a nationally recognized bond rating*  
11 *organization.*

12 SEC. 5. NRS 242B.090 is hereby amended to read as follows:

13 242B.090 [No statute, general, special or local, requiring competitive  
14 bidding applies to a trust created for the benefit and furtherance of a  
15 public function.]

16 1. *In letting contracts the trustee or trustees of a trust created for*  
17 *the benefit and furtherance of any public function are bound by any*  
18 *purchasing acts that apply to the beneficiary of the trust.*

19 2. *If the state and a political subdivision are joint beneficiaries, the*  
20 *State Purchasing Act applies to the trust.*

21 SEC. 6. NRS 704.340 is hereby amended to read as follows:

22 704.340 1. A municipality constructing, leasing, operating or main-  
23 taining any public utility [Or a trust created for the benefit and further-  
24 ance of any public function pursuant to the provisions of chapter 242B  
25 of NRS, shall not be required to obtain a certificate of public conven-  
26 ience; however, any person as defined in chapter 706 of NRS, contem-  
27 plating transportation by use of a motor vehicle as a common or contract  
28 carrier, or contemplating the operation of a public utility as defined in  
29 NRS 704.020, as a trust created pursuant to chapter 242B of NRS, shall  
30 first submit a certified copy of the trust documents or prepared trust docu-  
31 ments to the commission together with a detailed explanation of the pur-  
32 poses, scope, area to be affected and such other pertinent information  
33 necessary to assist the commission in making a determination as to  
34 whether the service presently being offered by any existing transportation  
35 company or public utility would be unreasonably impaired by the approval  
36 of such trust documents.

37 2. The commission shall, after investigation and hearing on any  
38 contemplated trust coming within the provisions of subsection 1, submit  
39 a report of its findings and reasons therefor to the state and each political  
40 subdivision within which such trust contemplates operation. Such trust  
41 shall not become effective unless and until written approval has been  
42 given by the commission.] *is not required to obtain a certificate of public*  
43 *convenience.*

44 SEC. 7. NRS 332.210 is hereby repealed.

## S. B. 307

SENATE BILL NO. 307—COMMITTEE ON  
GOVERNMENT AFFAIRS

MARCH 6, 1975

Referred to Committee on Government Affairs

SUMMARY—Authorizes counties, cities to purchase for investment negotiable notes or short-time negotiable bonds of Nevada local governments issued for short-term financing. Fiscal Note: No. (EDR 31-1103)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT to amend NRS 355.170, relating to investments by local governments, by authorizing counties and incorporated cities to purchase for investment negotiable notes or short-time negotiable bonds of Nevada local governments issued for short-term financing; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 355.170 is hereby amended to read as follows:  
 2 355.170 1. A board of county commissioners or the governing body  
 3 of an incorporated city may purchase for investment the following secu-  
 4 rities and no others:  
 5 (a) Bonds and debentures of the United States, the maturity dates of  
 6 which shall not extend more than 10 years from the date of purchase;  
 7 (b) Farm loan bonds, consolidated farm loan bonds, debentures, con-  
 8 solidated debentures and other obligations issued by federal land banks  
 9 and federal intermediate credit banks under the authority of the Federal  
 10 Farm Loan Act, 12 U.S.C. §§ 636 to 1012, inclusive, and §§ 1021 to  
 11 1129, inclusive, as now or hereafter amended, and the Farm Credit Act  
 12 of 1971, 12 U.S.C. §§ 2001 to 2259, inclusive, as now or hereafter  
 13 amended, and bonds, debentures, consolidated debentures and other obli-  
 14 gations issued by banks for cooperatives under the authority of the Farm  
 15 Credit Act of 1933, 12 U.S.C. §§ 1131 to 1138e, inclusive, as now  
 16 or hereafter amended, and the Farm Credit Act of 1971, 12 U.S.C. §§  
 17 2001 to 2259, inclusive, as now or hereafter amended;  
 18 (c) Bills and notes of the United States Treasury, the maturity date  
 19 of which is not more than 10 years from date of purchase,  
 20 when, in the opinion of the board of county commissioners or the gov-  
 21 erning body of the city, there are sufficient moneys in any fund or funds  
 22 in such county or city, the use of which for the purpose of purchasing



1 the type of bonds herein referred to will not result in the impairment of  
2 such fund or funds for the purposes for which the same were created.

3 (d) Obligations of the United States Postal Service or the Federal  
4 National Mortgage Association, the maturity date of which is not more  
5 than 10 years from the date of purchase.

6 (e) Securities which have been expressly authorized as investments for  
7 local governments or agencies, as defined in NRS 354.474, by any pro-  
8 vision of Nevada Revised Statutes or by any special law.

9 (f) *Subject to the limitations contained in NRS 355.177, negotiable*  
10 *notes or short-time negotiable bonds issued by local governments of the*  
11 *State of Nevada pursuant to NRS 354.440.*

12 2. When the board of county commissioners or governing body of  
13 the city has determined that there are available moneys in any fund or  
14 funds for the purchase of bonds as set out in subsection 1, such pur-  
15 chases may be made and the bonds paid for out of any one or more of  
16 the funds, but the bonds shall be credited to the funds in the amounts  
17 purchased, and the moneys received from the redemption of such bonds,  
18 as and when redeemed, shall go back into the fund or funds from which  
19 the purchase money was taken originally.

20 3. Any interest earned on funds invested pursuant to subsection 2  
21 of this section, may, at the discretion of the board of county commis-  
22 sioners or governing body of the city, be credited either to the fund from  
23 which the principal was taken or to the general fund of the county or  
24 incorporated city.

25 4. The board of county commissioners or governing body of an incor-  
26 porated city may invest any moneys apportioned into funds and not  
27 invested pursuant to subsection 2 of this section and any moneys not  
28 apportioned into funds in bills and notes of the United States Treasury,  
29 the maturity date of which shall not be more than 1 year from the date  
30 of investment. Such investments shall be considered as cash for account-  
31 ing purposes, and all the interest earned thereon shall be credited to the  
32 general fund of the county or incorporated city.

33 5. This section does not authorize the investment of moneys admin-  
34 istered pursuant to a contract, debenture agreement or grant in a manner  
35 not authorized by the terms of such contract, agreement or grant.

36 SEC. 2. This act shall become effective upon passage and approval.

## S. B. 310

## SENATE BILL NO. 310—SENATOR SCHOFIELD (by request)

MARCH 6, 1975

Referred to Committee on Government Affairs

SUMMARY—Makes various changes in Las Vegas city charter.  
Fiscal Note: No. (BDR S-1199)EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT to amend an act entitled "An Act incorporating the City of Las Vegas, in Clark County, Nevada, and defining the boundaries thereof, under a new charter; and providing other matters properly relating thereto," approved April 24, 1971, as amended; repealing section 21 of chapter 808, Statutes of Nevada 1973, relating to the Las Vegas city charter; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. Section 1.070 of Article I of the above-entitled act, being  
2 chapter 515, Statutes of Nevada 1971, at page 1064, is hereby amended  
3 to read as follows:  
4 Section 1.070 Elective offices: Vacancies.  
5 1. A vacancy in the board of commissioners or in the office of mayor,  
6 city attorney or municipal judge shall be filled by a majority vote of the  
7 members of the board of commissioners, or the remaining members in  
8 the case of a vacancy in the board of commissioners, within 30 days after  
9 the occurrence of such vacancy. The appointee shall have the same quali-  
10 fications as are required of the elective official.  
11 2. No such appointment shall extend beyond the [1st Monday in July  
12 after the next municipal election,] *next regularly scheduled meeting of the*  
13 *board of commissioners following the next municipal general election,* at  
14 which election the office shall be filled for the remaining unexpired term.  
15 SEC. 2. Section 5.010 of Article V of the above-entitled act, being  
16 chapter 515, Statutes of Nevada 1971, as last amended by chapter 752,  
17 Statutes of Nevada 1973, at page 1574, is hereby amended to read as  
18 follows:  
19 Section 5.010 Primary municipal elections.  
20 1. On the Tuesday after the 1st Monday in May 1975, and at each  
21 successive interval of 4 years, there shall be held a primary municipal  
22 election, at which time there shall be nominated candidates for mayor  
23 and two offices of commissioner.

1     2. On the Tuesday after the 1st Monday in May 1977, and at each  
2 successive interval of 4 years, there shall be held a primary municipal  
3 election, at which time there shall be nominated candidates for city attor-  
4 ney, two offices of commissioner and municipal judge, department 2. On  
5 the same date, there shall be nominated candidates for municipal judge,  
6 department 1, who shall be elected for two years.

7     3. On the Tuesday after the 1st Monday in May 1979, and at each  
8 successive interval of 4 years, there shall be held a primary municipal  
9 election, at which time there shall be nominated candidates for mayor,  
10 two offices of commissioner and municipal judge, department 1.

11     4. The candidates for commissioner to be nominated as provided in  
12 subsections 1 and 2 shall be voted for and nominated separately. The  
13 candidates from wards 1 and 3 shall be nominated as provided in sub-  
14 section 1 and candidates from wards 2 and 4 nominated as provided in  
15 subsection 2.

16     5. All candidates for municipal offices as provided in subsections 1,  
17 2, 3 and 4 shall file an affidavit of candidacy with the city clerk not less  
18 than 30 days nor more than 40 days before the primary election. If the  
19 last day limited for filing an affidavit of candidacy shall fall on a Satur-  
20 day, Sunday, legal holiday or any holiday proclaimed by the governor,  
21 or the President of the United States, then the period so limited shall  
22 expire on the preceding business day at 5 p.m. The filing fee for each  
23 office shall be as established by ordinance by the board of commissioners.

24     6. *If in the primary election no candidate receives a majority of votes  
25 cast in that election for the office for which he is candidate, the names  
26 of the two candidates receiving the highest number of votes shall be  
27 placed on the ballot for the general election. If in the primary election,  
28 regardless of the number of candidates for an office, one candidate  
29 receives a majority of votes cast in that election for the office for which  
30 he is a candidate, he shall be declared elected and no general election  
31 need be held for that office.*

32     SEC. 3. Section 5.100 of Article V of the above-entitled act, being  
33 chapter 515, Statutes of Nevada 1971, as amended by chapter 752,  
34 Statutes of Nevada 1973, at page 1575, is hereby amended to read as  
35 follows:

36     Section 5.100 Election returns; canvass; certificates of election; entry  
37 of officers upon duties; tie vote procedure.

38     1. The election returns from any special, primary or general munic-  
39 ipal election shall be filed with the city clerk, who shall immediately  
40 place such returns in a safe or vault, and no person shall be permitted  
41 to handle, inspect or in any manner interfere with such returns until  
42 canvassed by the board of commissioners.

43     2. The board of commissioners shall meet within 10 days after any  
44 election and canvass the returns and declare the result. The election  
45 returns shall then be sealed and kept by the city clerk for 6 months, and  
46 no person shall have access thereto except on order of a court of com-  
47 petent jurisdiction or by order of the board of commissioners.

48     3. The city clerk, under his hand and official seal, shall issue to each  
49 person declared to be elected a certificate of election. The officers so  
50 elected shall qualify and enter upon the discharge of their respective

— 3 —

1 duties on the [1st Monday in July next following their election.] day  
2 of the next regularly scheduled meeting of the board of commissioners  
3 following the municipal general election.

4 4. If any election should result in a tie, the board of commissioners  
5 shall summon the candidates who received the tie vote and determine the  
6 tie by lot. The clerk shall then issue to the winner a certificate of election.

7 SEC. 4. Section 21 of chapter 808, Statutes of Nevada 1973, at page  
8 1854, is hereby repealed.

9 SEC. 5. 1. Sections 1, 3 and 4 of this act shall become effective upon  
10 passage and approval.

11 2. Section 2 of this act shall become effective 1 minute after section  
12 4 of this act becomes effective.

## S. B. 43

SENATE BILL NO. 43—COMMITTEE ON  
GOVERNMENT AFFAIRS

JANUARY 28, 1975

Referred to Committee on Government Affairs

SUMMARY—Requires local government employer to furnish projected budget to  
employee organization. Fiscal Note: No. (BDR 31-479)EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is  
material to be omitted.

AN ACT relating to local government budgets; requiring each local government employer to make quarterly budget projections and to furnish them to an appropriate employee organization; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 354.602 is hereby amended to read as follows:  
2 354.602 1. Within 45 days after September 30, December 31, March  
3 31 and within 90 days after June 30 of each year, the governing board  
4 of each local government shall cause to be published a report in the form  
5 prescribed by the Nevada tax commission showing, for each item of  
6 detailed estimate required by NRS 354.600, the amount estimated and  
7 the amount actually received or expended. Any approved budget aug-  
8 mentation or short-term financing received shall be included and briefly  
9 explained in a footnote. A copy of such report shall be filed immediately:  
10 [1.] (a) With the Nevada tax commission;  
11 [2.] (b) In the case of school districts, with the state department of  
12 education; and  
13 [3.] (c) In the office of the clerk or secretary of the governing body,  
14 as a public record available for inspection by any interested person.  
15 2. *In addition to the report required by subsection 1, the local gov-*  
16 *erning board of each local government employer shall also cause to be*  
17 *made a report showing an accurate, detailed estimate for each item of*  
18 *resource and expenditure for the 12 calendar months following the quar-*  
19 *ter for which actual receipts and expenditures are reported. A copy of the*  
20 *report shall be given to any employee organization representing its*  
21 *employees upon the written request of the employee organization. The*  
22 *estimates contained in this report shall be superseded as to the period cov-*  
23 *ered by any final budget or amendment thereof.*

S. B. 270

---



---

SENATE BILL NO. 270—COMMITTEE ON  
GOVERNMENT AFFAIRS

FEBRUARY 27, 1975

---

Referred to Committee on Government Affairs

SUMMARY—Eliminates statutory provisions which require state officers and employees to acquire official bonds. Fiscal Note: No. (BDR 23-893)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

---



---

AN ACT relating to official bonds; eliminating statutory provisions which require certain state officers and employees to acquire official bonds; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 218.690 is hereby amended to read as follows:  
 2 218.690 The legislative counsel shall:  
 3 1. Be an attorney licensed to practice law in the State of Nevada and  
 4 shall be versed in some or all of the following: Political science, parlia-  
 5 mentary practice, legislative procedure, and the methods of research,  
 6 statute revision and bill drafting.  
 7 2. Perform the duties required by this chapter and chapter 220 of  
 8 NRS.  
 9 [3. Execute a surety bond, payable to the state, in a sum determined  
 10 by the legislative commission, conditioned for the faithful performance  
 11 of all duties which may be required of him by law.]  
 12 SEC. 2. NRS 226.050 is hereby amended to read as follows:  
 13 226.050 The state treasurer shall be commissioned by the governor,  
 14 but before such commission shall issue and before entering upon the  
 15 duties of his office, he shall:  
 16 1. Take the oath of office prescribed by law, to be endorsed upon  
 17 his commission; and  
 18 2. Execute and deliver to the governor a bond, payable to the state,  
 19 in [the sum of \$200,000,] *a sum to be determined by the state board of*  
 20 *examiners*, conditioned for the faithful performance of all duties which  
 21 may be required of him by law and for the delivery by him to his suc-  
 22 cessor of all books, papers, records, moneys, vouchers, sureties, funds and  
 23 securities, evidences of debt, and effects belonging to his office or to the

— 2 —

1 State of Nevada. The official bond shall be executed by a surety com-  
2 pany or companies authorized to do business in the State of Nevada.  
3 ~~and shall be approved by the state board of examiners.~~

4 SEC. 3. NRS 282.080 is hereby amended to read as follows:

5 282.080 The official bonds of officers shall be approved and filed as  
6 follows:

7 1. ~~The official bond of the secretary of state shall be approved by~~  
8 the governor, recorded in the office of the secretary of state, and then  
9 deposited with the state controller.

10 2. ~~The official bonds of all the state treasurer and any other state~~  
11 officers ~~which may be subsequently required by law to give bond,~~ shall  
12 be approved by the governor ~~and filed and recorded in the office of~~  
13 the secretary of state.

14 ~~3.~~ 2. The official bonds of all county and township officers shall be  
15 approved by the board of county commissioners, and filed and recorded  
16 in the office of the county clerk of their respective counties; provided:

17 (a) That the bond of the county clerk shall be filed and recorded in  
18 the office of the county recorder of the proper county; and

19 (b) That where the county clerk is ex officio county recorder his bond  
20 shall be filed, recorded and deposited for safekeeping in the manner pro-  
21 vided in NRS 246.020.

22 SEC. 4. NRS 282.100 is hereby amended to read as follows:

23 282.100 ~~Whenever the official bond of any state officer shall~~  
24 ~~become] If a state officer is required to execute an official bond, and~~  
25 ~~such bond is subsequently determined to be insufficient from any cause~~  
26 whatever, like proceedings as provided in NRS 282.090 may be had with  
27 reference thereto before the district court of the district in which the  
28 state officer holds his office. Proceedings shall be commenced by a written  
29 motion supported by affidavit.

30 SEC. 5. NRS 282.110 is hereby amended to read as follows:

31 282.110 Every ~~such] additional bond executed pursuant to the~~  
32 ~~provisions of NRS 282.090 and 282.100 shall be of like force and obliga-~~  
33 ~~tion upon the principal and sureties thereon, and shall subject the officer~~  
34 ~~and his sureties to the same liabilities as are prescribed respecting the~~  
35 ~~original bonds of such officers.~~

36 SEC. 6. NRS 282.160 is hereby amended to read as follows:

37 282.160 1. ~~When] Whenever~~ the official bond *required* of any  
38 state, county or township officer becomes insufficient by reason of the  
39 insolvency of any of the sureties thereon, or from any cause whatever, so  
40 that the same shall not contain at least two good and sufficient sureties  
41 for the whole penal sum named in the bond, and any liability occurs or  
42 becomes fixed by reason of the defalcation, omission, neglect, misconduct  
43 or by any act of the officer who is the principal in the bond, then any  
44 surety or sureties, upon the payment of his or their ratable proportion of  
45 the liability on such bond, shall be released from all further liability  
46 thereon, so far as any loss to the state or county wherein such officer held  
47 office is concerned.

48 2. Such ratable proportion shall be ascertained by considering all and  
49 each of the sureties on the bond as solvent, liable and able to contribute

1 his or their proportions of the whole amount of liability incurred on the  
2 bond.

3 3. The state board of examiners, in the case of state officers, or the  
4 boards of county commissioners of the several counties, in the case of  
5 county officers, are authorized and required, in such cases, to make settle-  
6 ment with any or all such sureties who propose to pay and do pay their  
7 ratable proportions of the liability incurred on the bond.

8 4. Any surety or sureties neglecting or refusing to pay such ratable  
9 proportions, or defending an action for the recovery of any liability on  
10 any official bond, shall be subject to such prosecution, judgments and  
11 penalties as are now provided for by law; but no judgment shall be ren-  
12 dered against such surety or sureties for an amount above his or their pro-  
13 rata liability on such bond, and costs of suit.

14 SEC. 7. NRS 284.100 is hereby amended to read as follows:

15 284.100 [1.] The chief shall appoint, under the provisions of this  
16 chapter, such employees of the personnel division and such expert and  
17 special assistants as may be necessary to carry out effectively the provi-  
18 sions of this chapter.

19 [2. Surety bonds may be executed by personnel division employees  
20 in amounts designated by the chief. Premiums for bonds shall be paid  
21 from the personnel administration fund. All sums recovered on official  
22 bonds for losses sustained by the personnel administration fund shall be  
23 deposited in the personnel administration fund.]

24 SEC. 8. NRS 360.040 is hereby amended to read as follows:

25 360.040 Before entering upon his duties, each of the commissioners  
26 shall [:

27 1. Enter into a bond payable to the State of Nevada, to be approved  
28 by the state board of examiners, in the sum of \$10,000, conditioned for  
29 the faithful performance of his duties.

30 2. Subscribe] *subscribe* to the official oath.

31 SEC. 9. NRS 408.180 is hereby amended to read as follows:

32 408.180 The engineer, assistant engineers, highway business manager  
33 and the accountant of the department shall each [:

34 1. Take] *take* the official oath.

35 [2. File a bond with the secretary of state in the sum of \$250,000,  
36 conditioned upon the faithful performance of their respective duties and  
37 by all persons employed by them, and upon the proper expenditure of  
38 the moneys constituting the state highway revolving fund hereinafter  
39 authorized, drawn upon checks or vouchers, signed by them or any one  
40 of them, in accordance with law, and the rendering of a true account  
41 to the board of any and all moneys so expended. The bonds shall be  
42 approved by the governor, and the premiums on such bonds, if surety  
43 company bonds are furnished, shall be paid from the state highway fund.]

44 SEC. 10. NRS 412.046 is hereby amended to read as follows:

45 412.046 1. The adjutant general shall receive an annual salary in an  
46 amount determined pursuant to the provisions of NRS 284.182.

47 2. [Before entering upon the duties of his office, the adjutant gen-  
48 eral shall give a bond to the people of the State of Nevada, with a corpo-  
49 rate surety which is authorized to do business in this state, in the sum of  
50 \$10,000, conditioned that he shall perform faithfully all the duties



— 4 —

1 enjoined upon him by law. The premium for such bond shall be paid by  
2 the department.

3 3.] The adjutant general shall be reimbursed for his actual and nec-  
4 cessary traveling expenses as provided by NRS 281.160.

5 [4.] 3. The adjutant general shall not hold any city, county, state or  
6 federal office of profit while serving as adjutant general.

7 SEC. 11. NRS 417.110 is hereby amended to read as follows:

8 417.110 1. Subject to the provisions of subsection 2, the commis-  
9 sioner may act as guardian of the estate of:

10 (a) Any minor child of any deceased veteran.

11 (b) Any insane or incompetent veteran.

12 (c) Any person who is certified by the Veterans' Administration as  
13 having money due from the Veterans' Administration, the payment of  
14 which is dependent upon the appointment of a guardian for such person.

15 2. The commissioner may act as guardian as provided in subsection 1  
16 only if at the time of appointment the estate, exclusive of moneys paid or  
17 to be paid by the Federal Government, does not exceed \$2,500 in per-  
18 sonal property or \$3,500 in real property, or \$2,500 in personal prop-  
19 erty and \$3,500 in real property.

20 3. No fee may be allowed or paid to the commissioner for acting as  
21 guardian.

22 [4. To insure his faithful discharge of responsibilities as guardian of  
23 the estates of those veterans and dependents for whom he acts, the com-  
24 missioner shall execute and deliver his official bond in the penal sum of  
25 \$500,000 with a corporate surety licensed to do business in this state. A  
26 separate bond for each each estate is not required.]

27 SEC. 12. NRS 423.235 is hereby amended to read as follows:

28 423.235 1. Except as provided in NRS 423.230, all moneys received  
29 by a child in the northern Nevada children's home or the southern Nevada  
30 children's home, including but not limited to Social Security benefits, ben-  
31 efits paid to heirs of United States employees and payments payable by  
32 the United States through the Veterans' Administration, shall be held by  
33 the superintendent in trust for such child, to be paid over to such child  
34 or his parent or legal guardian upon release from the school. No such  
35 moneys shall be paid over to a foster parent.

36 2. The superintendent as trustee shall accumulate such moneys dur-  
37 ing the period the child is a ward of the state under the provisions of  
38 chapter 423 of NRS, and shall invest such moneys subject to the provi-  
39 sions of NRS 164.050 to 164.065, inclusive.

40 3. The superintendent may be removed as trustee of such moneys  
41 only upon application to the district court for the county in which the  
42 children's home is located. Such district court may, for good cause shown  
43 and upon notice to the beneficiary, relieve the superintendent from his  
44 duties as trustee.

45 [4. The superintendent shall execute a surety bond pursuant to the  
46 provisions of NRS 282.230 to 282.350, inclusive, in the sum of \$25,000,  
47 conditioned on the faithful performance of his duties as trustee.]

48 SEC. 13. NRS 472.045 is hereby amended to read as follows:

49 472.045 1. Upon written request from the state forester firewarden,  
50 the state controller is authorized and directed to draw his warrant in

1 favor of the state forester firewarden in the sum of \$2,500, and upon  
 2 presentation of the same to the state treasurer, the state treasurer is  
 3 authorized and directed to pay the same from the general fund in the  
 4 state treasury.

5 2. The sum of \$5,000 shall be known as the state forester firewarden  
 6 revolving fund and may be used by the state forester firewarden for the  
 7 purpose of paying temporary labor hired for firefighting purposes and  
 8 other obligations requiring prompt payment in connection with firefight-  
 9 ing operations, but for no other purposes.

10 3. All claims or demands paid by the state forester firewarden shall,  
 11 after payment thereof, be passed upon by the state board of examiners  
 12 in the same manner as other claims against the state. When approved by  
 13 the state board of examiners, the state controller shall draw his warrant  
 14 for the amount of such claim or claims in favor of the state forester fire-  
 15 warden revolving fund to be paid to the order of the state forester  
 16 firewarden, and the state treasurer shall pay the same.

17 4. The state forester firewarden is directed to deposit the state forester  
 18 firewarden revolving fund in one or more banks of reputable standing,  
 19 and to secure the deposit by a depositary bond satisfactory to the state  
 20 board of examiners.

21 [5. The state forester firewarden shall execute a bond, with good  
 22 and sufficient sureties, in the amount of at least \$5,000, for the faithful  
 23 performance of his duties under this section.]

24 SEC. 14. NRS 532.040 is hereby amended to read as follows:

25 532.040 Before entering upon the duties of his office, the state  
 26 engineer shall [:

27 1. Take] take and subscribe to an official oath, such as is provided  
 28 by law for state officers, before some officer authorized by the law of this  
 29 state to administer oaths. [; and

30 2. File with the secretary of state such oath and his official bond in the  
 31 penal sum of \$5,000, with not less than two sureties, to be approved by  
 32 the governor, conditioned for the faithful performance of his duties and  
 33 for the delivery to his successor, or other person to be appointed by the  
 34 director of the state department of conservation and natural resources to  
 35 receive the same, of all maps, papers, books, instruments and other prop-  
 36 erty belonging to the state then in his hands and under his control, or  
 37 with which he may be chargeable.]

38 SEC. 15. NRS 607.170 is hereby amended to read as follows:

39 607.170 1. When the labor commissioner deems it necessary, he shall  
 40 have the power and authority to take assignments of wage and commission  
 41 claims and to prosecute actions for collection of wages, commissions and  
 42 other demands of persons who are financially unable to employ counsel  
 43 in cases in which, in the judgment of the labor commissioner, the claims  
 44 for wages or commissions are valid and enforceable in the courts.

45 2. In all wage or commission matters and before the taking of such  
 46 assignments, the labor commissioner, in his discretion, may summon to  
 47 appear before him, at a suitable place in the county of the wage or com-  
 48 mission claimant or claimants, his or their employer or employers and  
 49 all other necessary persons for the purpose of adjusting and settling claims  
 50 for wages or commissions before bringing suit therefor, and the labor

1 commissioner shall have the power to effect reasonable compromises of  
2 and concerning such wage or commission claims.

3 3. The labor commissioner or his deputy may maintain a commercial  
4 account with any bank within the state for the deposit of funds collected  
5 for wage or commission claims. Such funds shall be promptly paid to the  
6 persons entitled thereto. At the end of each calendar year, any unclaimed  
7 moneys in the commercial account which shall have been a part of such  
8 account for a period of 7 years or more shall be paid into the general  
9 fund in the state treasury for the use of the state.

10 [4. Before availing himself of the authority provided by subsection  
11 3, the labor commissioner or his deputy shall give a good and sufficient  
12 bond in the penal sum of \$5,000 running to the State of Nevada, con-  
13 ditioned that he shall faithfully discharge the duties provided by subsec-  
14 tion 3. The bond shall be given by the state pursuant to the provisions  
15 of NRS 282.230 to 282.350, inclusive, or by two or more individuals as  
16 surety or sureties. The bond shall be subject to approval by the governor  
17 and shall then be filed with the secretary of state. If the bond is given by  
18 the state, the premium therefor shall be paid out of the moneys appro-  
19 priated for the support of the labor commissioner in the manner provided  
20 by NRS 282.300.]

21 Sec. 16. NRS 612.230 is hereby amended to read as follows:

22 612.230 1. For the purpose of insuring the impartial selection of  
23 personnel on the basis of merit, the executive director shall fill all posi-  
24 tions in the employment security department, except the post of executive  
25 director, from registers prepared by the personnel division of the depart-  
26 ment of administration, in conformity with such rules, regulations and  
27 classification and compensation plans relating to the selection of person-  
28 nel as may from time to time be adopted or prescribed by the executive  
29 director for the employment security department.

30 2. Subject to the provisions of chapter 284 of NRS, the executive  
31 director shall select all personnel either from the first five candidates on  
32 the eligible lists as provided in this chapter, or from the highest rating can-  
33 didate within a radius of 60 miles of the place in which the duties of the  
34 position will be performed. The executive director is authorized to fix the  
35 compensation and prescribe the duties and powers of such personnel,  
36 including such officers, accountants, attorneys, experts, and other persons  
37 as may be necessary in the performance of the duties under this chapter,  
38 and may delegate to any such person such power and authority as he  
39 deems reasonable and proper for its effective administration.

40 3. [The executive director may, in his discretion, bond any person  
41 handling moneys or signing checks.

42 4.] The executive director shall classify positions under this chapter  
43 and shall establish salary schedules and minimum personnel standards for  
44 the positions so classified. He shall devise and establish fair and reason-  
45 able regulations governing promotions, demotions and terminations for  
46 cause in accordance with such established personnel practices as will tend  
47 to promote the morale and welfare of the organization.

— 7 —

1     **[5.]** 4. Notwithstanding the provisions of NRS 284.343, the execu-  
2 tive director may grant educational leave stipends to officers and employ-  
3 ees of the employment security department if all of the cost of such  
4 educational leave stipends may be paid from federal funds.

5     SEC. 17. NRS 612.590 is hereby amended to read as follows:

6     612.590 1. The state treasurer shall:

7         (a) Be the treasurer and custodian of the fund.

8         (b) Administer such fund in accordance with the directions of the  
9 executive director.

10         (c) Issue his warrants upon it in accordance with such regulations as  
11 the executive director shall prescribe.

12     2. The state treasurer shall maintain within the fund three separate  
13 accounts:

14         (a) A clearing account.

15         (b) An unemployment trust fund account.

16         (c) A benefit account.

17     3. All moneys payable to the fund, upon receipt thereof by the execu-  
18 tive director, shall be forwarded to the state treasurer, who shall immedi-  
19 ately deposit them in the clearing account.

20     4. Refunds payable pursuant to NRS 612.655 may be paid from the  
21 clearing account or from the benefit account upon warrants issued by the  
22 state treasurer under the direction of the executive director.

23     5. After clearance thereof, all other moneys in the clearing account  
24 shall be immediately deposited with the Secretary of the Treasury to the  
25 credit of the account of this state in the unemployment trust fund estab-  
26 lished and maintained pursuant to Section 904 of the Social Security Act,  
27 as amended, (42 U.S.C. § 1104), any provisions of law in this state  
28 relating to the deposit, administration, release or disbursement of moneys  
29 in the possession or custody of this state to the contrary notwithstanding.

30     6. The benefit account shall consist of all moneys requisitioned from  
31 this state's account in the unemployment trust fund.

32     7. Except as herein otherwise provided, moneys in the clearing and  
33 benefit accounts may be deposited by the state treasurer, under the direc-  
34 tion of the executive director, in any bank or public depository in which  
35 general funds of the state may be deposited, but no public deposit insur-  
36 ance charge or premium shall be paid out of the fund.

37     8. **[**The state treasurer shall give a separate bond conditioned upon  
38 the faithful performance of his duties as custodian of the fund in an  
39 amount fixed by the executive director and in a form prescribed by law  
40 or approved by the attorney general. Premiums for the bond shall be  
41 paid from the unemployment compensation administration fund. All sums  
42 recovered on the official bond for losses sustained by the unemployment  
43 compensation fund shall be deposited in the unemployment compensation  
44 fund.

45     **9.]** Moneys in the clearing and benefit accounts shall not be com-  
46 mingled with other state funds, but shall be maintained in a separate  
47 account on the books of the depository. Such moneys shall be secured by  
48 the bank or public depository to the same extent and in the same manner  
49 as required by the general depository laws of the State of Nevada, and  
50 collateral pledged shall be maintained in a separate custody account.

1     SEC. 18. NRS 616.145 is hereby amended to read as follows:  
 2     616.145 [1.] Before entering upon the duties of his office, each com-  
 3     missioner shall [1.]:

4     (a) Take] *take* the oath prescribed by the constitution. [1.]; and  
 5     (b) Give a good and sufficient bond in the penal sum of \$10,000  
 6     running to the State of Nevada, conditioned that he shall fully and faith-  
 7     fully discharge the duties of his office.

8     2. The bond shall be given by the state pursuant to the provisions of  
 9     NRS 282.230 to 282.350, inclusive, or by two or more individuals as  
 10     surety or sureties. The bond shall be subject to approval by the governor  
 11     and shall then be filed with the secretary of state. If the bond shall be  
 12     given by the state, the premium therefor shall be paid out of the state  
 13     insurance fund as other expenses of the commission are paid.]

14     SEC. 19. NRS 629.050 is hereby amended to read as follows:

15     629.050 1. The board shall have authority:

16     (a) To elect officers.

17     (b) To adopt a seal.

18     (c) To employ, pursuant to the provisions of chapter 284 of NRS, such  
 19     personnel as it finds necessary.

20     (d) To make such rules as it deems expedient to carry this chapter into  
 21     effect.

22     (e) To employ attorneys, investigators and other professional consult-  
 23     ants and clerical personnel necessary to the discharge of its duties.

24     (f) To deposit in banks or savings and loan associations in the State of  
 25     Nevada all moneys received by it.

26     (g) To maintain offices in as many localities in the state as it finds nec-  
 27     essary to carry out the provisions of this chapter.

28     2. The board shall keep a record of its proceedings, which shall be  
 29     prima facie evidence of all matters contained therein.

30     3. The secretary shall receive a salary in an amount set by the board.

31     4. [The treasurer shall give such bond, running in favor of the state,  
 32     as the state treasurer may determine.

33     5.] The offices of secretary and treasurer may be combined at the dis-  
 34     cretion of the board.

35     [6.] 5. Every member shall receive:

36     (a) A salary of not more than \$25 per day, as fixed by the board, while  
 37     engaged in the business of the board.

38     (b) Actual expenses for subsistence and lodging, not to exceed \$25 per  
 39     day, and actual expenses for transportation, while traveling on business of  
 40     the board.

41     [7.] 6. The treasurer of the board shall pay out of moneys received  
 42     by the board as fees all expenses incurred by the board on vouchers  
 43     signed by the president and the secretary of the board.

44     [8.] 7. The compensation of the members and other expenses of the  
 45     board shall be paid out of the fees received from applicants, but this shall  
 46     not be construed as preventing appropriations to cover deficits.

47     SEC. 20. NRS 644.060 is hereby amended to read as follows:

48     644.060 1. The members of the board shall annually elect a presi-  
 49     dent, a treasurer and a secretary from among their number. The members

— 9 —

1 may assign the duties of the treasurer and the secretary to one person who  
2 shall be treasurer and secretary.

3 2. The compensation of the secretary, in either event, shall be fixed  
4 by the board, and shall be paid out of the funds received by it, and no  
5 part of such compensation shall be paid by the state.

6 [3. The treasurer, before entering upon the discharge of his duties,  
7 shall file with the secretary of state a good and sufficient bond in the penal  
8 sum of \$2,000, payable to the State of Nevada, to insure the faithful  
9 performance of his duties. The premium for the bond shall be paid out  
10 of the funds received by the board.]

11 SEC. 21. NRS 645.120 is hereby amended to read as follows:

12 645.120 The administrator shall:

13 1. Possess a broad knowledge of generally accepted real estate prac-  
14 tice and be reasonably well informed on laws governing real estate agency  
15 contracts.

16 2. [Furnish a surety bond in the amount of \$25,000.

17 3.] Not be interested in any real estate or brokerage firm, nor shall  
18 he act as a broker or salesman or agent therefor.

19 SEC. 22. NRS 658.035 is hereby amended to read as follows:

20 658.035 [1.] After appointment and before entering upon the dis-  
21 charge of the duties of his office, the superintendent shall [:

22 (a) Take] take and subscribe to an official oath.

23 [(b) Execute to the State of Nevada a good and sufficient bond for the  
24 faithful performance of his duties, in an amount not less than \$50,000,  
25 which bond shall be approved in writing annually as to adequacy by the  
26 state board of examiners, and approved as to form by the attorney gen-  
27 eral. The bond shall be filed with the director of the department of com-  
28 merce.]

29 2. In every case where the superintendent is called upon to take  
30 charge of the affairs or assets of a bank or banks, in accordance with the  
31 provisions of this Title, the state board of finance shall require him to give  
32 an additional bond in such sum as may be fixed by the state board of  
33 finance. Such bonds shall be approved in like manner as his official bond  
34 provided for in subsection 1 and filed with the director of the department  
35 of commerce.]

36 SEC. 23. NRS 679B.090 is hereby amended to read as follows:

37 679B.090 1. The commissioner may employ such other technical,  
38 actuarial, rating, clerical and other assistants and examiners as the com-  
39 missioner may reasonably require for execution of his duties, each of  
40 whom shall be in the classified service of the state. They shall receive sal-  
41 aries, per diem expense allowances and travel expenses as fixed by law.

42 2. The commissioner may contract for and procure services of exam-  
43 iners and other or additional specialized technical or professional assist-  
44 ance, on an independent contractor or fee basis, as the commissioner may  
45 reasonably require, and none of the individuals providing such services or  
46 assistance on such a contract or fee basis shall be in the classified service  
47 of the state.

48 [3. Employees of the division shall be covered by surety bonds in  
49 such amounts as the commissioner may prescribe. The cost of any such  
50 bond shall be borne by the state.]

— 10 —

1 SEC. 24. NRS 209.100, 225.040, 227.050, 228.050, 284.085, 321.-  
2 020, 333.080, 344.025, 378.040, 433.110, 433.1221, 481.075, 501.183,  
3 512.050, 538.091 and 679B.040 are hereby repealed.

Ⓢ

## S. B. 271

SENATE BILL NO. 271—COMMITTEE ON  
GOVERNMENT AFFAIRS

FEBRUARY 27, 1975

Referred to Committee on Government Affairs

SUMMARY—Abolishes bond trust fund. Fiscal Note: No. (BDR 23-669)

EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to official bonds; abolishing the bond trust fund; transferring funds accumulated under the bond trust fund to the general fund in the state treasury; declaring the State of Nevada surety on all official bonds issued pursuant to the bond trust fund provisions; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

- 1 SECTION 1. NRS 282.290 is hereby amended to read as follows:  
 2 282.290 The faith of the state is pledged to the provisions of all  
 3 surety bonds which [may be] *have been* issued or undertaken under  
 4 [NRS 282.230 to 282.350, inclusive;] *the provisions of chapter 193,*  
 5 *Statutes of Nevada 1937, prior to July 1, 1975;* and the state consents to  
 6 suit against it on such bonds. In cases of loss to the state, a county, *town-*  
 7 *ship officer,* incorporated city or irrigation district, under circumstances  
 8 upon which its surety bonds are conditioned, the state is charged with the  
 9 responsibility of making restitution to any funds suffering loss up to the  
 10 full amount specified in the surety bond.
- 11 SEC. 2. NRS 282.315 is hereby amended to read as follows:  
 12 282.315 [Notwithstanding the provisions of NRS 282.310, the]  
 13 *The* state treasurer is hereby authorized to pay from the [bond trust  
 14 fund,] *reserve for statutory contingency fund,* on warrants issued by the  
 15 state controller, a total sum not to exceed \$2,500 in any 1 year in pay-  
 16 ment of approved claims for costs of investigations incurred by the state  
 17 board of examiners in carrying out the provisions of NRS [282.230 to  
 18 282.350, inclusive.] *282.330.*
- 19 SEC. 3. NRS 282.330 is hereby amended to read as follows:  
 20 282.330 1. Losses to counties which might occur from defalcation,  
 21 misappropriation or negligent loss of public funds or from failure faith-  
 22 fully to perform the duties of his office on the part of a county or township  
 23 officer or employee shall be reported by the district attorney of that  
 24 county to the state board of examiners.



— 2 —

1 2. Losses to cities which might occur from defalcation, misappropriation or negligent loss of public funds or from failure faithfully to perform  
2 the duties of his office on the part of a city officer or employee shall be  
3 reported by the city attorney of that city to the state board of examiners.  
4

5 3. In the case of the state, any losses shall be reported to the state  
6 board of examiners by the attorney general.

7 4. In the case of an irrigation district, any losses shall be reported to  
8 the state board of examiners by the board of directors of the irrigation  
9 district.

10 5. In each case the state board of examiners shall make, or cause to  
11 be made, a full investigation. If, from the investigation, the state board of  
12 examiners determines that the loss comes under the conditions of [the  
13 surety bond,] *a surety bond issued prior to July 1, 1975, pursuant to the*  
14 *provisions of chapter 193, Statutes of Nevada, 1937, known as the bond*  
15 *trust fund*, the state board of examiners shall [order that restitution be  
16 made in the following manner:

17 (a) If there be a sufficient amount in the bond trust fund to cover the  
18 loss, the state controller shall be authorized and directed] *authorize and*  
19 *direct the state controller* to draw a warrant on the [bond trust fund]  
20 *reserve for statutory contingency fund* for the full amount of the loss as  
21 covered by the surety bond, in the manner in which claims against the  
22 state are usually paid, and the state treasurer shall pay the warrant.

23 [(b) If there are insufficient funds in the bond trust fund to cover the  
24 loss, then the state controller shall draw a warrant for the full amount in  
25 the bond trust fund for the purpose of making restitution in part, and he  
26 shall report the condition of the bond trust fund to the governor. The  
27 governor shall take the necessary steps to have the balance due included  
28 in the budget, and report to the next succeeding legislature. When the  
29 balance is thus secured, the restitution shall be completed.]

30 SEC. 4. NRS 282.340 is hereby amended to read as follows:

31 282.340 1. If any public officer or employee shall default, misappropri-  
32 ate or otherwise be responsible for loss of funds committed to his care,  
33 he shall be civilly liable for the amount thereof in an action to be prosecuted by:  
34

35 (a) The district attorney in cases of county and township officers and  
36 employees.

37 (b) The city attorney in cases of city officers and employees.

38 (c) The attorney general in cases of state officers and irrigation district  
39 officers and employees.

40 2. The state, county, city or irrigation district, as the case may be,  
41 shall have a lien on all real or personal property, not exempt from execution,  
42 of any such officer or employee against whom such an action shall  
43 be brought for default, misappropriation, or other violation of the conditions  
44 of his surety bond given under the provisions of [NRS 282.230 to  
45 282.350, inclusive,] *chapter 193, Statutes of Nevada 1937, prior to July*  
46 *1, 1975*, and such lien shall become effective upon the execution of such  
47 surety bonds by state, county, township, city and irrigation district officers  
48 and employees, and shall take precedence over any other unrecorded lien  
49 or encumbrance.

1       3. Upon judgment being entered in favor of the state, county, incor-  
 2       porated city or irrigation district, all property owned, either legally or  
 3       equitably, by the state, county, township, city or irrigation district officer  
 4       or employee violating any condition of such bond, not exempt from  
 5       execution, or so much thereof as may be necessary to cover the amount  
 6       of the judgment entered, may be sold, as in cases of execution, and the  
 7       proceeds applied to payment of the judgment rendered to cover the short-  
 8       age. If there be an insufficiency of such property, or the judgment or any  
 9       part of it remains unsatisfied, then a deficiency judgment may be entered  
 10      by the court.

11      SEC. 5. NRS 353.264 is hereby amended to read as follows:

12      353.264 1. There is hereby created in the state treasury the reserve  
 13      for statutory contingency fund.

14      2. The reserve for statutory contingency fund shall be administered  
 15      by the state board of examiners, and the moneys in such fund shall be  
 16      expended only for:

17      (a) The payment of claims which are obligations of the state under  
 18      NRS 41.037, 176.485, 179.310, 212.040, 212.050, 212.070, 214.040,  
 19      282.290, 282.315, 353.120 and 353.262; and

20      (b) The payment of claims which are obligations of the state under  
 21      NRS 7.260, 176.215, 177.345, 179.225 and 213.153, but the use of  
 22      moneys from the reserve for statutory contingency fund shall be approved  
 23      for the respective purposes listed in this paragraph only when the moneys  
 24      otherwise appropriated for such purposes have been exhausted.

25      SEC. 6. NRS 423.235 is hereby amended to read as follows:

26      423.235 1. Except as provided in NRS 423.230, all moneys received  
 27      by a child in the northern Nevada children's home or the southern  
 28      Nevada children's home, including but not limited to Social Security  
 29      benefits, benefits paid to heirs of United States employees and payments  
 30      payable by the United States through the Veterans' Administration, shall  
 31      be held by the superintendent in trust for such child, to be paid over to  
 32      such child or his parent or legal guardian upon release from the school.  
 33      No such moneys shall be paid over to a foster parent.

34      2. The superintendent as trustee shall accumulate such moneys during  
 35      the period the child is a ward of the state under the provisions of chapter  
 36      423 of NRS, and shall invest such moneys subject to the provisions of  
 37      NRS 164.050 to 164.065, inclusive.

38      3. The superintendent may be removed as trustee of such moneys  
 39      only upon application to the district court for the county in which the  
 40      children's home is located. Such district court may, for good cause shown  
 41      and upon notice to the beneficiary, relieve the superintendent from his  
 42      duties as trustee.

43      4. The superintendent shall execute a surety bond pursuant to the  
 44      provisions of NRS [282.230 to 282.350,] 282.040 to 282.220, inclusive,  
 45      in the sum of \$25,000, conditioned on the faithful performance of his  
 46      duties as trustee.

47      SEC. 7. NRS 501.183 is hereby amended to read as follows:

48      501.183 The commission may require any officer or employee of the  
 49      department to furnish a surety bond at the expense of the department in  
 50      the amount and form approved by the commission in accordance with

— 4 —

1 the provisions of chapter 282 of NRS. Any bond required under this  
2 section shall be issued by a surety company. [and shall not be issued  
3 under the provisions of NRS 282.230 to 282.350, inclusive.]

4 SEC. 8. NRS 607.170 is hereby amended to read as follows:

5 607.170 1. When the labor commissioner deems it necessary, he  
6 shall have the power and authority to take assignments of wage and  
7 commission claims and to prosecute actions for collection of wages,  
8 commissions and other demands of persons who are financially unable  
9 to employ counsel in cases in which, in the judgment of the labor com-  
10 missioner, the claims for wages or commissions are valid and enforceable  
11 in the courts.

12 2. In all wage or commission matters and before the taking of such  
13 assignments, the labor commissioner, in his discretion, may summon to  
14 appear before him, at a suitable place in the county of the wage or com-  
15 mission claimant or claimants, his or their employer or employers and  
16 all other necessary persons for the purpose of adjusting and settling  
17 claims for wages or commissions before bringing suit therefor, and the  
18 labor commissioner shall have the power to effect reasonable compromises  
19 of and concerning such wage or commission claims.

20 3. The labor commissioner or his deputy may maintain a commercial  
21 account with any bank within the state for the deposit of funds collected  
22 for wage or commission claims. Such funds shall be promptly paid to the  
23 persons entitled thereto. At the end of each calendar year, any unclaimed  
24 moneys in the commercial account which shall have been a part of such  
25 account for a period of 7 years or more shall be paid into the general  
26 fund in the state treasury for the use of the state.

27 4. Before availing himself of the authority provided by subsection 3,  
28 the labor commissioner or his deputy shall give a good and sufficient  
29 bond in the penal sum of \$5,000 running to the State of Nevada, con-  
30 ditioned that he shall faithfully discharge the duties provided by sub-  
31 section 3. The bond shall be [given by the state pursuant to the provisions  
32 of NRS 282.230 to 282.350, inclusive, or by two or more individuals as  
33 surety or sureties. The bond shall be subject to approval by the governor  
34 and shall then be filed with the secretary of state. If the bond is given  
35 by the state, the premium therefor shall be paid out of the moneys  
36 appropriated for the support of the labor commissioner in the manner  
37 provided by NRS 282.300.] *acquired, approved and filed pursuant to*  
38 *the provisions of NRS 282.040 to 282.220, inclusive.*

39 SEC. 9. NRS 616.145 is hereby amended to read as follows:

40 616.145 1. Before entering upon the duties of his office, each com-  
41 missioner shall:

42 (a) Take the oath prescribed by the constitution; and

43 (b) Give a good and sufficient bond in the penal sum of \$10,000  
44 running to the State of Nevada, conditioned that he shall fully and faith-  
45 fully discharge the duties of his office.

46 2. [The bond shall be given by the state pursuant to the provisions  
47 of NRS 282.230 to 282.350, inclusive, or by two or more individuals as  
48 surety or sureties. The bond shall be subject to approval by the governor  
49 and shall then be filed with the secretary of state. If the bond shall be  
50 given by the state,] *The bond shall be acquired pursuant to the provisions*

— 5 —

1 of NRS 282.040 to 282.220, inclusive, and the premium therefor shall be  
2 paid out of the state insurance fund as other expenses of the commission  
3 are paid.

4 SEC. 10. NRS 282.230, 282.240, 282.250, 282.260, 282.270, 282.  
5 280, 282.300, 282.310, 282.320 and 282.350 are hereby repealed.

6 SEC. 11. 1. All funds that have been accumulated under the pro-  
7 visions of that certain act of the legislature of the State of Nevada entitled  
8 "An Act to provide against losses to the state and its respective counties,  
9 townships, incorporated cities and irrigation districts through defalcation,  
10 misappropriation of funds or other wrongful acts on the part of officials;  
11 to provide for the issuance of surety bonds for state, county, township,  
12 city and irrigation district officials, establishing a fund therefor, and other  
13 matters relating thereto; and to repeal all acts and parts of acts in con-  
14 flict therewith," approved March 26, 1937, shall be transferred to the  
15 general fund of the State of Nevada.

16 2. After July 1, 1975, every state, county and township officer and  
17 his deputy, and officers of incorporated cities and irrigation districts and  
18 their deputies required by law in his or their official capacity to furnish  
19 a surety bond or bonds, and any employee of any county, township,  
20 incorporated city or irrigation district required by order of the board of  
21 county commissioners of any county or governing board of any incor-  
22 porated city or irrigation district to furnish a surety bond or bonds, shall  
23 acquire such bonds in accordance with NRS 282.040 to 282.220, inclu-  
24 sive, unless otherwise required by law.

---



---

**A. B. 273**

ASSEMBLY BILL NO. 273—COMMITTEE  
ON TRANSPORTATION

FEBRUARY 14, 1975

---

Referred to Committee on Government Affairs

SUMMARY—Requires board of directors of department of highways to prepare and submit to governor a proposed work program for ensuing fiscal year. Fiscal Note: No. (BDR 35-926)



EXPLANATION—Matter in *italics* is new; matter in brackets [ ] is material to be omitted.

---



---

AN ACT relating to highways and roads law; requiring the board of directors of the department of highways to prepare and submit to the governor a proposed work program for the ensuing fiscal year; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly,  
do enact as follows:*

- 1 SECTION 1. NRS 408.280 is hereby amended to read as follows:  
2 408.280 1. On or before July 15 of each year the board shall have  
3 prepared and presented to the governor a detailed [budget], *proposed*  
4 *work program, the form and content to be determined by the board*, for  
5 the fiscal year ending the following June 30, stating therein the amount,  
6 character, and nature of the construction, reconstruction [.] *and*  
7 *improvements [, studies and maintenance work]* to be [performed]  
8 *initiated* on the highways within the respective counties of the state  
9 during the ensuing fiscal year, together with an estimate of the cost [of]  
10 *to complete* such work.  
11 2. The board shall cause a copy of [such budget] *the proposed work*  
12 *program* to be printed and a copy mailed to the chairman of the board  
13 of county commissioners of the several counties of the state, and a copy  
14 shall be furnished to all news media in the state.