

Senate

GOVERNMENT AFFAIRS COMMITTEE

Minutes of Meeting - April 9, 1975

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

Also Present:

Jim Lien, Tax Comm.
 Father Dunphy, Franciscan Center
 John Meder, Conservation Dept.
 Gino DelCarlo, Lobbyist
 Richard Morgan, N.S.E.A.
 Wallie Warren
 Tom Young, Sierra Pacific Power Co.
 Nick Smith, Burrows Smith, & Co.
 Bob Petroni, School Board, Clark County

The twenty ninth meeting of the Government Affairs Committee was called to order at 2:50 p.m. with a quorum present by Chairman Gibson.

AB-343 Allows local governments conservation districts and irrigation districts to utilize purchasing division facilities. (BDR 27-1036)

Jim Lien, Tax Commission, explained that general improvement districts could not avail themselves to the services of the State Purchasing Division while other local governments could. The purpose of the amendments on line 16 and 17, page 1 is delineating those local governments which then may avail themselves to the services of the State Purchasing Division.

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

AB-344 Deletes reference to emergency loans and extends permissible term of temporary loans by local governments. (BDR 30-1031)

Jim Lien, Tax Commission, stated that this was simply a technical correction to five years and short term financing.

Motion of "Do Pass" by Senator Hilbrecht, seconded by Senator Walker. Motion carried unanimously.

SB-100 Makes provisions on fair employment practices applicable to school districts and district departments. (BDR 23-439)

Gene Phelps, Business Manager, Highway Department, explained the problems they have had with their system regarding involuntary

Government Affairs
Minutes of Meeting No. 29
April 9, 1975
Page 2

retirement of their employees. He felt it would be better to bring the Nevada laws regarding retirement in line with the federal laws and the recent Supreme Court decision. Their amendment would strengthen the exception in NRS 281, classified employees that permits involuntary retirement at age 65.

Chairman Gibson read the proposed amendment to SB-100 to the committee for their consideration. (See attached, Amendment No. 5900)

Bob Petroni, School Board, Clark County, stated that Nevada is the only state that doesn't have a limitation on age. Feels the legislation is needed for certified employees as well as the classified employees.

Richard Morgan, N.S.E.A., sees many abuses to the laws we are presently using and suggests a flat retirement age. This allows people to prepare for retirement and gives them some incentive for a long tenure.

Bob Gagnier indicated that many people are still very active in the working force at age 65 and should have this taken into consideration when retirement time comes. Feels that the physical examination yearly is a good means of determining whether or not the person is qualified to continue working for another year.

Mr. Phelps interjected that their department has many high risk jobs and that a set retirement age is most desirable for them.

Angus MacEachern, from Las Vegas is in support of the amendment as they have many positions that are classified as high risk jobs. Feels that making someone retire for cause and give him a plaque for the valuable service he has contributed makes a mockery of the system.

Mr. Gagnier suggested that he could get together with Mr. Petroni and Mr. Bastian and work out a solution that would please all of them. They will report back to the committee on their findings.

SB-364 Amends County Economic Development Revenue Bond Law to promote furnishing of water if available on reasonable demand to members of public and amends and adds to manner of financing all projects authorized. (BDR 20-1317)

Chairman Gibson read the letter from Russ McDonald regarding SB-364. See the attached.

Nick Smith, Burrows, Smith & Co., stated that the 12% should remain in the bill and feels that this bill would be a good and sound piece of legislation.

Senate

Government Affairs
Minutes of Meeting No. 29
April 9, 1975
Page 3

Senator Dodge moved to Amend (lines 32 and 33 on Page 1 by taking out the italicized language, also on page 6, line 3 strike out statement and put in agreement. Also leave in the 12% (page 5) and Do Pass, seconded by Senator Hilbrecht. Motion carried unanimously. Senator Dodge would be responsible for the amendments.

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

Kent Dawson, Henderson, indicated that they had another application submitted and would appreciate it being considered with the other three applications pending. (see the attached re. SB-186)

Senator Dodge suggested grandfathering the existing applications into law and phasing out the rest of the act. This was seconded by Senator Hilbrecht. Motion went as follows: Yea's Senators Dodge, Schofield, Walker, Gojack and Foote. Na's, Senator Gibson, motion carried.

Senator Dodge suggested that they get with Mr. Frank Daykin regarding the wording on SB-186.

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

Chairman Gibson informed the committee that SB-291 was on the agenda for the committee's disposition of the bill. It is not needed as the provisions for deferred compensation have been written into the retirement act.

Motion to "Hold" this bill by Senator Foote, seconded by Senator Schofield. Motion carried.

SB-421 Validates securities, voted and nonvoted, securities issued in anticipation of the issuance of such securities and proceedings pertaining to such securities. (BDR S-1447)

Motion of "Do Pass" by Senator Hilbrecht, seconded by Senator Walker. Motion carried unanimously.

Senator Foote reported to the committee on AB-84. She indicated that they had an amendment on Page 2 relating to the time that you would begin recording expenses. The new language would state that the time begins when the candidate files for office or announces his candidacy. Senator Foote also indicated that they would also have a definite amount set for each election

Senator Foote also reported on SB-335 and stated that after checking with Senator Close they have not come to a decision at this time. They felt that in the Governor's race it could be 80¢ per vote or \$200,000, whichever is the greater. They also considered that in some of the smaller races set the amount at \$2,500. or 25¢ per vote.

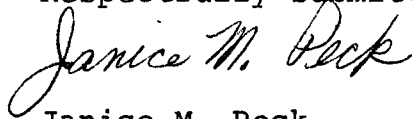
Senate

Government Affairs
Minutes of Meeting No. 29
April 9, 1975
Page 4

Senator Foote stated that she was having trouble getting in touch with Mr. Sala regarding SB-355.

As there was no further business the meeting was adjourned at 5:00 p.m.

Respectfully submitted



Janice M. Peck
Committee Secretary

Approved:


Chairman

S E N A T E

AGENDA FOR COMMITTEE ON .GOVERNMENT AFFAIRS.....

WEDNESDAY

DATE April 9, 1975. TIME... 2:45. P.M.... ROOM... 345.....

<u>Bills or Resolutions to be considered</u>	<u>Subject</u>	<u>Counsel Requested*</u>
AB-343	Allows local governments conservation districts and irrigation districts to utilize purchasing division facilities. (BDR 27-1036) Notify: Chairman Joe Dini, Tax Comm. League of Cities, County Association	
AB-344	Deletes reference to emergency loans and extends permissible term of temporary loans by local governments. (BDR 30-1031) Notify: Same As Above	
SB-100 FOR COMMITTEE ACTION	Makes provisions on fair employment practices applicable to school districts and district departments. (BDR 23-439) Notify: Sen. Hilbrecht. Grant Bastian School Board Association, Dick Morgan Bob Gagnier, Jim Wittenberg.	
SB-364 FOR COMMITTEE ACTION	Amends County Economic Development Revenue Bond Law to promote furnishing of water if available on reasonable demand to members of public and amends and adds to manner of financing all projects authorized. (BDR 20-1317) Notify: Wally Warren, Bob Warren, Bob Broadbent	
SB-186 FOR COMMITTEE ACTION	Amends various provisions relating to trusts for the furtherance of public functions. (BDR 19-582)	
SB-291 FOR COMMITTEE ACTION	Authorizes deferred compensation program for state officers and employees. (BDR 23-206)	
SB-421	Validates securities, voted and nonvoted, securities issued in anticipation of the issuance of such securities and proceedings pertaining to such securities. (BDR S-1447) Notify: Perry Burnett, L.C.B., Bob Warren Bob Broadbent	

Report from Senator Foote on the Campaign Expense bills.

* Please do not ask for counsel unless necessary

Adopted
Lost
Date:
Initial:
Concurred in
Not concurred in
Date:
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Adopted
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Date:
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Amendment to Assembly / Senate (805)
Bill / Joint Resolution No. 100 (BDR 23-439)
Proposed by ~~Committee on Government Affairs~~

Amendment No 5900

Amend section 1, page 1, after line 14 by inserting:

"3. The provisions of subsection 2 relating to discrimination against a person because of age do not make it unlawful for an employer:

(a) To refuse to hire or to discharge a person where the person failed to meet bona fide requirements for the job or position sought or held;

(b) To require physical and medical examinations of applicants and employees to determine fitness for the job or position sought or held; or

AS Form 1a (AMENDMENT BLANK)

3044A

Drafted 3-22-75 By JH (more)

To Engrossment (4) CFH

Amendment No. 5900 to Senate Bill No. 100 (BDR 23-439) Page 2

(c) To observe the terms of a bona fide employee benefit plan such as a retirement, pension or insurance plan, which is not a subterfuge to evade the provisions of this section, but no such employee benefit plan shall excuse the failure to hire any person.

4. The provisions of this section relating to discrimination against a person because of age apply only to persons who are at least 40 years of age but less than 65 years of age."

Amend the title of the bill, line 2, by deleting "departments." and inserting:

"departments; clarifying applicability of such provisions as they relate to age; and providing other matters properly relating thereto."

WOODBURN, WEDGE, BLAKEY, FOLSOM AND HUG

806

WILLIAM K. WOODBURN
RICHARD W. BLAKEY
VIRGIL H. WEDGE
GEORGE K. FOLSOM
PROCTER HUG, JR.
ROGER W. JEPSON
RICHARD O. KWAPIL, JR.
CASEY W. VLAUTIN
C. ROBERT COX
GORDON H. DEPAOLI
EDWARD G. STEVENSON
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April 7, 1975

The Honorable James Gibson
Senate Chambers
Nevada State Legislature
Carson City, Nevada 89701

Re: Senate Bill 364

Dear Senator Gibson:

I discussed the above bill with Russell McDonald last week. He intended to call you and indicate his agreement that the added language found at lines 32 and 33 at page two of the bill as now printed may very properly be eliminated. Apparently Russ became engaged in some other matters and has been unable to call you.

It is my opinion that the words "commercial" and "or for residential, real or personal property" add nothing to the intended purpose of the amendment and, as suggested by you and Senator Dodge, may very well produce an undesirable result.

Thank you for your courtesy and consideration of this matter.

Sincerely,

Richard W. Blakey

RWB:kr

DR. SAMUEL M. FORD, LTD.
910 EAST SAHARA
LAS VEGAS, NEVADA 89105
TELEPHONE 735-9317

2-26-75

Dear Senator Gibson,

Thank you for the opportunity to speak to SB 186 at the hearing Monday. Dr. Gray's testimony and the committee member comments suggest that is some enthusiasm for simply repealing 242B (Public Trust Law).

I was disappointed that Mr. Adams representing the League of Cities had not recieved a response from the City of Henderson, apparently alone among the cities queried. With no projects presently under active consideration I hope this does not prove a stumbling block, as I personally feel the City Bond Law, 268.647 allows as much flexibility in terms of the projects that have been considered as is needed. Of course, Morry Zenoff may not see it that way!

Prompt committee action would be appreciated,

Sincerely yours,


Samuel M. Ford, MD

cc.
Sen. Dodge
Sen. Hilbrecht
Sen. Gojack
Sen. Schofield



CITY OF HENDERSON

878

CITY HALL

243 WATER STREET

702/565-8921

HENDERSON, NEVADA 89015

Gateway to Lake Mead Resorts

TO: COMMITTEE ON GOVERNMENT AFFAIRS

RE: S.B. 186

Attn: Chairman Gibson and Committee members

During the discussion of S.B. 186 at your March 12 meeting, it was requested that the committee be provided the following information:

1. A written summary of our position concerning the amendments to Nevada Revised Statutes chapter 242 B as proposed in Senate Bill 186.

2. Reference to pertinent provisions of Oklahoma law which we feel could be used to supplement or clarify said statute and S.B. 186.

3. The nature and status of applications pending before the City of Henderson, Nevada, Public Improvement Trust.

The material which follows is submitted in accordance with that request. Due to meetings of the Civil Service Board and the City Council, I will not be in attendance at your March 24th meeting, however, Attorney Urban Schriener, our bond counsel, will be present representing the City Council

and the Trustees of the Public Improvement Trust of the City
of Henderson, Nevada.

Your consideration in this matter is very much
appreciated.

A handwritten signature in cursive script, reading "Kent Dawson", is written over a solid horizontal line.

KENT J. DAWSON
CITY ATTORNEY

See Summary

Proposed Amendment to SB186 - Trusts for the furtherance
of public functions

N.R.S. §242B.030 now provides that the instrument or will creating such a trust may provide for the appointment, term, compensation, and powers of the trustees. If the instrument does not so provide, then the general law of the state shall control.

SB186 deletes this provision and sets out the method of appointment and the terms and other requirements for trustees.

The amendment would prevent trustors and testators from creating trusts for the benefit of state agencies such as the University, childrens' home, museum, etc. The following amendment would probably cure the objection.

The paragraph deleted from 242B.030 shall be retained but it shall be modified to read as follows:

"242B.030 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 term of the instrument or will shall be controlling. In the event the instrument or will makes no provision in regard to the foregoing, or in the event the trustor or testator specifically so provides, then the general laws of the state shall control as to the administration of the trust or trusts and specifically the following provisions of this act shall apply:"

(Then proceed with the bill as amended)

This language should mean then that a trustor of an inter vivos trust or a testator can control the terms of his trust whether it be a split interest trust, a trust with multiple beneficiaries, or even a trust with contingent

interests. If the maker of the trust does not wish to control the powers, duties, etc., of his trustees, he can omit such language and merely leave his property for the benefit of named beneficiaries in which case the amendments would apply, or he can specifically state that his trust shall be administered pursuant to the terms of this Act.

Respectfully submitted,

F. R. Breen

ITEMS 1 and 2.

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Section 1 of S.B. 186 deletes certain language from N.R.S. 242B.010. The purpose of this amendment according to a letter written over the signature of Samuel Ford M.D., who initially proposed the Bill, was to narrow the scope of projects which could utilize the law as a method of financing.

However, the proposed amendment does nothing to affect the determination of what constitutes an "authorized or proper function of the beneficiary", yet that determination is the only one made under state law which would limit the variety of projects which could be financed.

The only apparent effect of the deletion in question would be to raise the question of whether the law could be used at all for the purpose of providing funds for authorized projects or functions.

As mentioned at your last meeting wherein this bill was discussed, the present Oklahoma Statute contains the language which Section 1 of S.B. 186 proposes to omit (60 Oklahoma Statutes §176(a)).

Section 2 of S.B.186 sets forth a series of 6 amendments relating to proceedings of the trustees. Amendments 3,4,5 and 6 of said section 2 have very apparently been copied from Section 178 of Title 60 of the Oklahoma Statutes and together with amendment 2 are unobjectionable.

Amendment 1 refers to the general laws of the state concerning appointment, succession, powers, duties and compen-

1 sation of trustees. Such a provision would be extremely
2 burdensome in that ascertainment of the rights and duties
3 of the trustees could be made only after considerable research
4 of the statutes of the state, most of which have questionable
5 application to the public trust situation.
6

7 With the above matters provided for in the instrument
8 creating the trust even a person not having a background in
9 law could easily determine whether the trustees were acting
10 within the scope of their authority. To give you an idea of
11 how well this can be handled in the instrument creating the
12 trust, I am forwarding a copy of the Declaration of Trust
13 adopted by the City of Henderson.
14

15 Based upon the foregoing, we feel that it would be
16 preferable to retain the existing language of N.R.S. 242B
17 which looks to the general laws of the state only in the event
18 the trust instrument is insufficient.
19

20 Section 4, part 2, of S.B. 186 provides that "all bonds
21 issued by any trust created for the benefit and furtherance
22 of any public function shall:

23 (a) Be sold at a public sale; and

24 (b) Have a bond rating issued by a nationally
25 recognized bond rating organization."
26

27 Part (a) requiring public sale of all bonds fails to
28 consider the fact that public sale is not in all cases the
29 most advantageous method of disposal. Due to that factor,
30 the trustees should be allowed the opportunity to exercise
31 some discretion in that regard. (60 Oklahoma Statutes §176(c)
32

1 provides an example of what can be done to give the trustees
2 limited discretion in that regard). 814

3 Part (b) requires that any bonds issued have a bond
4 rating issued by a nationally recognized bond rating organ-
5 ization. Said requirement is of questionable value in that
6 any bond issue can receive a rating provided the interested
7 parties are willing to assume the cost entailed in obtaining
8 it.
9

10 Section 5 of S.B. 186 amends N.R.S. 242 B to require
11 competitive bidding on trust contracts. The Oklahoma law
12 contains similar provisions. (Title 60, §176 (d)).
13

14 For your convenience we have attached copies of the
15 above referenced portions of the Oklahoma Statutes.
16

17
18 Oklahoma and other states have been able to obtain
19 considerable development through financings accomplished
20 pursuant to provisions of statutes similar to N.R.S. 242B.
21 Said chapter fills a need not covered by our Economic
22 Development Revenue Bond Law or by Local Improvement District
23 provision.
24

25 Provided proper safeguards, there is no valid reason
26 why the State of Nevada should be at a disadvantage in
27 competing with nearby states for development. Repeal of
28 N.R.S. 242 B would place us in this position.

29 The possibility of default of any bond issue is of
30 prime concern for every responsible governmental entity.
31 Unfortunately, a default situation can arise regardless of
32

1 the particular statute under which the bonds were issued,
2 and it might be added that defaults are not peculiar to
3 Public Trust type issues. Certainly, the possibility of one
4 default is not a valid reason for repealer of the entire
5 statute whether it be a local improvement district issue,
6 public trust issue or otherwise.
7

8 Also attached hereto is a letter from a prominent
9 Illinois attorney to whom reference was made at our last
10 meeting, which letter emphasises the importance of N.R.S.
11 Chapter 242B to the State of Nevada.
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1 3. The following applications are pending before the
2 City of Henderson, Nevada, Public Improvement Trust.

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4 A. Applicant: American Nevada Corporation

5 Project: Construction and acquisition of water,
6 sanitary sewer and appurtenances, roads, drainage
7 and utility services for Green Valley Subdivision.

8 Proposed Issue: \$3.5 million

9 Application Fee Paid: \$4,000.00

10 Status: Approved by trustees and city council subject
11 to approval of underwriting commitment, indenture
12 and other contractings. Awaiting favorable interest
13 market prior to issuance of bonds.
14

15
16 B. Applicant: Las Vegas Downs, Inc.

17 Project: Construction of Horse and Dog racing facility

18 Proposed Issue: \$5 to 7.5 million.

19 Application Fee Paid: \$5,000.00

20 Status: Approved by trustees and city council subject
21

Over

22 to approval of underwriting committment, indenture
23 and other contractings. Currently negotiating for
24 financing committment and awaiting action on bill in
25 Nevada State Legislature.

26
27 C. Applicant: Lake Adair Corporation

28 Project: Roadways and water supply system for residential,
29 recreational and resort development adjacent to Lake Mead.

30 Proposed Issue: \$2.2 million

31 Application Fee Paid: \$3,000.00

32 Status: Completely approved subject to cash collateral

1 requirements imposed by trustees and approval of
2 final form of documents.

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4 (None of the above projects have yet been reviewed
5 by the State Board of Finance)

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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 486 (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 (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 (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 (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 (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 (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 1950).

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 § 957.

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., 343 P.2d 850 (1960).

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

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

fully, with city to lease the 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., 444 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., 331 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 ⇨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, § 2602.
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;

March 26, 1971

Mr. Arthur Olsen
Assemblyman
Nevada State Capitol
Carson City, Nevada

Dear Mr. Olsen:

You have asked me to summarize the advantages of the pending bill in the Nevada Legislature which would authorize public trusts acting through a Board of Trustees to perform state and municipal functions by financing and constructing public buildings or facilities on behalf of the state, a city or county without liability on the state or the county or city with the total cost of the financing of the improvement to be paid out of revenues derived from the operation of the facility.

Such a vehicle for financing the needed state, county or city buildings, improvements and other self-liquidating facilities would without question be a great benefit to the entire state because such improvements, buildings and facilities could be financed and constructed by a Board of Trustees approved by the state or other political subdivision involved without obligating the taxpayers or otherwise incurring liability by the beneficiary of the trust. Title to the facilities or improvements would vest in the beneficiary of the trust, the state, county or city, as the case may be, when the bonds issued to finance the project have been retired. The beneficiary of each public trust, whether it be the state, county or city or other municipal corporation, would have to approve the terms of the trust, the appointment of the trustees and the project or facility to be financed and constructed by the trustees. Especially would such public trusts be beneficial and perform needed public functions in a state such as Nevada with its present tax limit. (Article X, Section 2)

Nevada's present Economic Development Revenue Bond Laws for cities and counties do not answer the need for public improvements and buildings because those revenue bond laws authorize cities and counties to acquire and make available lands and buildings only for "manufacturing, industrial or research and development enterprises" (Section 268.522, Nevada Statutes for cities and Section 244.9196 for counties). These city and county Economic Development Revenue Bond Laws were passed in 1967 with the stated purpose of encouraging industry to move into the state. While they may be helpful to the state from the standpoint of inviting industry, they do not answer the need of the state, counties, cities and other political subdivisions for local public improvements, such as sewer and water facilities and other utilities, public buildings such as hospitals, courthouses, schoolhouses, city halls and the like.

As you know, the pending bill in the Nevada Legislature to authorize public trusts was modeled after the Oklahoma Public Trust Law. That law was passed by the Oklahoma Legislature to fill the need for local municipal improvements

that could not be financed by revenue bonds issued by a city or county. Since its passage in 1951 many cities and counties of the state have been able to obtain badly needed public improvements without obligating the taxpayers or the state, county or city involved. Oklahoma City, for example in 1960, financed a large addition to its water system by the creation of a public trust which financed a pipeline from a water supply some 90 miles away to connect with the city water system. The city leased its existing water system to the trust and the trust entered into a separate agreement with the city whereby the city would operate the water system, including the new pipeline for needed additional water supply. The total cost of this additional pipeline to increase the city's water supply required about \$73,000,000 principal amount of bonds. The project is going well. All expenses of operation are paid out of revenues of the water system, and the bonds to finance the cost of this addition to the city's water system are being paid, both principal and interest, as they mature.

One of the first public trust functions in Oklahoma was the Oklahoma City Airport which was financed through the Oklahoma City Airport Trust in 1956. Since then many additions and extensions and improvements have been made to the Oklahoma City Airport through trust financing. Neither the taxpayers nor any city funds are liable on these bonds.

The pending trust bill in your legislature should not pose any problems as to constitutionality. The Oklahoma Supreme Court upheld the Oklahoma Public Trust Law on several occasions when different questions were raised attacking constitutionality. The Oklahoma Constitution is very strict on incurring debt by the state, cities or other political subdivisions, and only a self-liquidating project can be financed by a public trust for a city or county or the state.

The pending bill also contains a provision that the public trust is authorized to pay amounts in lieu of taxes as may be agreed upon by the trustees and the beneficiary of the trust at the time the beneficiary (the state, county or city) approves the trust. This procedure would correct any loss in taxes by reason of not having property owned by the trust on the tax rolls. Also, it should be borne in mind that no wild scheme could be financed by the trustees of a public trust because the bond market, before accepting the bonds to be issued to finance the project, would require very good factual evidence as to revenues to be derived in amounts sufficient to pay the principal and interest on the bonds, operate and maintain the facility and to provide for renewals and replacements.

I should also point out that a number of public buildings have been financed and constructed in different parts of the country on a self-liquidating basis by public instrumentalities such as a public trust or non-profit corporation, and were constructed with space considerably in excess of the then present needs of the public entity, and the excess space was rented to private tenants pending the time when the public entity would need such additional space. This same approach could be used in Nevada by a public trust.

Bonds issued by a public trust to finance a public facility or improvement would enjoy exemption from Federal income taxes the same as a state, city or county general obligation bond payable from taxes and issued for the same

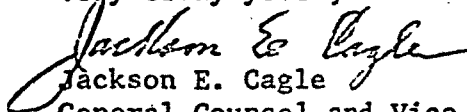
purpose. I should mention, of course, that in 1968 Congress amended the income tax exemption section of the Internal Revenue Code by adding Section 103(c) to provide for a tax on purely industrial development bonds to aid private corporations, with certain specified exceptions. Thus, municipal bonds issued for the benefit of industry are not by reason of having been issued by a state, county or city ipso facto tax exempt. But bonds issued by a public trust would be tax exempt if state, city or county bonds issued for the same purpose would be tax exempt.

Your city and county Economic Development Revenue Bond Laws also have an interest rate limitation of 7% (Section 268.534, Nevada Statutes for cities and Section 244.9202 for counties). A public trust would not be subject to this interest rate limitation and in an unfavorable bond market such as has prevailed in 1968 and 1969 and most of 1970 could nevertheless issue bonds, which would be tax exempt to finance certain needed facilities for industry, such as industrial parks, housing for residential purposes and for other purposes specified as tax exempt in Section 103(c) of the Internal Revenue Code. Nevada felt the effect of this 7% interest rate limitation recently when the financing of additions to the Las Vegas Airport was delayed because the bond market would not take the bonds at 7%. We purchased this issue of \$23,000,000 in January of this year. The interest rate was 7%.

My comments on the advantages of the public trust law are not theoretical but are based upon quite a bit of experience. John Nuveen & Co. has handled public trust bonds in Oklahoma for the last 15 years beginning with the first Oklahoma City Airport Trust Bonds in 1956. The largest issue was the Oklahoma City Municipal Improvement Authority Water Revenue Bonds of 1960. The last issue was in January of this year when we worked out the details, necessary contracts, leases and agreements for the \$6,000,000 financing by the Oklahoma University Development Authority to finance a heating and cooling plant for the benefit of the Oklahoma City Medical Center.

I realize there are many details relating to the operation of a public trust and its financings of needed local public improvements which cannot be readily covered in a letter. I have tried to touch on the most important matters and, of course, stand ready to answer any questions you may have.

Very truly yours,


Jackson E. Cagle

General Counsel and Vice President

JEC:jj


A. B. 343

ASSEMBLY BILL NO. 343—COMMITTEE ON
GOVERNMENT AFFAIRS

MARCH 4, 1975

Referred to Committee on Government Affairs

SUMMARY—Allows local governments, conservation districts and irrigation districts to utilize purchasing division facilities. Fiscal Note: No. (BDR 27-1036)



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

AN ACT relating to the State Purchasing Act; allowing local governments, conservation districts and irrigation districts to utilize the purchasing division facilities of the department of general services; 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 333.020 is hereby amended to read as follows:
2 333.020 The following words shall have the following meaning
3 within the purview of this chapter, and shall be so construed:
4 1. "Chief" means the chief of the purchasing division.
5 2. "Director" means the director of the department of general serv-
6 ices.
7 3. "Purchasing division" means the purchasing division of the depart-
8 ment of general services.
9 4. "Using agencies" means any and all officers, departments, institu-
10 tions, boards, commissions and other agencies in the executive department
11 of the state government which derive their support from public funds in
12 whole or in part, whether the same may be funds provided by the State
13 of Nevada, funds received from the Federal government or any branch,
14 bureau or agency thereof, or funds derived from private or other sources,
15 excepting [counties, municipalities, irrigation districts and school dis-
16 tricts.] *local governments as defined in NRS 354.474, conservation dis-*
17 *tricts and irrigation districts.* The University of Nevada System and the
18 desert research institute of the University of Nevada System are not "using
19 agencies" except as provided in NRS 333.461.
20 5. "Volunteer fire department" means a volunteer fire department
21 which pays industrial insurance premiums pursuant to the provisions of
22 chapter 616 of NRS.
-

1 SEC. 2. NRS 333.310 is hereby amended to read as follows:

2 333.310 1. The advertisements shall contain general descriptions of
3 the classes of commodities for which bids are wanted and shall state:

4 (a) The names and locations of the departments, *agencies, local gov-*
5 *ernments, districts* or institutions for which the purchases are to be made.

6 (b) Where and how specifications and quotation forms may be
7 obtained.

8 (c) The date and time not later than which bids must be filed.

9 (d) The date and time when bids will be opened.

10 The chief or his designated agent shall pass upon the copy for the adver-
11 tisement.

12 2. Each such advertisement shall be published in one or more news-
13 papers of general circulation in the state. The selection of the newspapers
14 to carry such advertising shall be made in the manner provided by this
15 chapter for other purchases, on the basis of the lowest price to be secured
16 in relation to the paid circulation; except that whenever such advertising
17 relates to any supplies, materials or equipment to be obtained at the
18 request of any [county, municipality, irrigation district, school district,]
19 *local government as defined in NRS 354.474, conservation district, irriga-*
20 *tion district, the University of Nevada System or the desert research insti-*
21 *tute of the University of Nevada System, such advertising shall be*
22 *published in the manner provided in NRS 333.470.*

23 SEC. 3. NRS 333.470 is hereby amended to read as follows:

24 333.470 1. The University of Nevada System, the desert research
25 institute of the University of Nevada System, and [counties, municipal-
26 ities, irrigation districts and school districts] *local governments as defined*
27 *in NRS 354.474, conservation districts and irrigation districts* in the
28 State of Nevada may obtain supplies, materials and equipment on a vol-
29 untary basis through the facilities of the purchasing division.

30 2. The chief shall issue bulletins from time to time to all state [,
31 county and municipal agencies, to all school districts in the State of
32 Nevada,] *and local government agencies, to all irrigation districts and*
33 *conservation districts, to the University of Nevada System and to the*
34 *desert research institute of the University of Nevada System, indicating*
35 *the supplies, materials and equipment available and the prices thereof.*

36 3. The specifications for all bids for supplies, materials or equipment
37 to be furnished [any political subdivision] pursuant to the provisions of
38 subsection 1 shall be so written that all suppliers of the market in the
39 industry or business concerned are given an opportunity to bid pursuant
40 to notice as provided for in this chapter.

41 4. Prior to receiving any bid or awarding any contract or order pur-
42 suant to the provisions of this section, the purchasing division shall pub-
43 lish a call for bids in a newspaper of general circulation in the political
44 subdivision or district proposing to obtain such supplies, materials or
45 equipment not less than 15 days prior to the date fixed for submission
46 of bids.

47 SEC. 4. NRS 333.480 is hereby amended to read as follows:

48 333.480 1. Except as provided in subsection 2, the chief is author-
49 ized and directed to purchase or acquire on behalf of the State of Nevada,
50 and all officers, departments, institutions, boards, commissions, schools

1 and other agencies in the executive department of the state government,
2 volunteer fire departments [or political subdivisions], *local governments*
3 *as defined in NRS 354.474, conservation districts or irrigation districts* of
4 the State of Nevada, all supplies, materials and equipment of any kind
5 and nature required or deemed advisable for such state officers, depart-
6 ments, institutions, boards, commissions, schools, volunteer fire depart-
7 ments and other agencies or [political subdivisions] *local governments as*
8 *defined in NRS 354.474, conservation districts or irrigation districts* that
9 may be available from the General Services Administration or any other
10 governmental agency dealing in war surplus material or donable war sur-
11 plus material.

12 2. The provisions of subsection 1 [shall] *do not* apply to the school
13 lunch program as administered by the state board of education.

14 SEC. 5. NRS 333.495 is hereby amended to read as follows:

15 333.495 1. Any provision of law to the contrary notwithstanding, the
16 governing board or, if there be none, the executive head of any state
17 department or agency or any [political subdivision of the state] *local gov-*
18 *ernment as defined in NRS 354.474, conservation district or irrigation dis-*
19 *trict* may, by order or resolution, confer upon any officer or employee
20 thereof authority to secure the transfer to it of federal donable surplus
21 property under this chapter and agree on behalf of the state or [political
22 subdivision] *local government as defined in NRS 354.474, conservation*
23 *district or irrigation district* to comply with the terms and conditions of
24 such transfers.

25 2. The authority conferred upon any such officer or employee by any
26 such order or resolution shall remain in effect unless and until the order or
27 resolution is revoked and written notice of such revocation has been
28 received by the chief.

29 SEC. 6. This act shall become effective upon passage and approval.

A. B. 344

**ASSEMBLY BILL NO. 344—COMMITTEE ON
GOVERNMENT AFFAIRS**

MARCH 4, 1975

Referred to Committee on Government Affairs
SUMMARY—Deletes reference to emergency loans and extends permissible term of temporary loans by local governments. Fiscal Note: No. (BDR 30-1031)

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

AN ACT to amend NRS 350.572, relating to types of securities which may be issued by local governments, by deleting a reference to emergency loans and inserting a reference to short-term financing; extending the permissible terms of temporary loans.

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

- 1 **SECTION 1.** NRS 350.572 is hereby amended to read as follows:
2 350.572 The municipality may issue, in one series or more, without
3 the municipal securities being authorized at any election in the absence of
4 an expressed provision to the contrary in the act authorizing the project
5 and the issuance of municipal securities therefor or in any act supple-
6 mental thereto, in anticipation of taxes or pledged revenues, or both, and
7 constituting either general obligations or special obligations of the munic-
8 ipality, any one or more or all of the following types of municipal secu-
9 rities:
- 10 1. Notes, evidencing any amount borrowed by the municipality;
 - 11 2. Warrants, evidencing the amount due to any person for any serv-
12 ices or supplies, equipment or other materials furnished to or for the
13 benefit of the municipality and appertaining to a project;
 - 14 3. Bonds, evidencing any amount borrowed by the municipality and
15 constituting long-term financing;
 - 16 4. Temporary bonds, pending the preparation of and exchangeable
17 for definitive bonds of like character and in like principal amount when
18 prepared and issued in compliance with the conditions and limitations
19 herein provided; and
 - 20 5. Interim debentures, evidencing any [emergency loans,] *short-*
21 *term financing*, construction loans, and other temporary loans of not
22 exceeding [3] 5 years, in supplementation of long-term financing and the
23 issuance of bonds, as provided in NRS 350.672 to 350.682, inclusive.
- 24 **SEC. 2.** This act shall become effective upon passage and approval.

S. B. 100**SENATE BILL NO. 100—COMMITTEE ON
GOVERNMENT AFFAIRS**

JANUARY 30, 1975

Referred to Committee on Government Affairs

SUMMARY—Makes provisions on fair employment practices applicable to school districts and district departments. Fiscal Note: No. (BDR 23-439)**EXPLANATION**—Matter in *italics* is new; matter in brackets [] is material to be omitted.

AN ACT relating to fair employment practices; making provisions on fair employment practices applicable to school districts and district departments.

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

- 1 SECTION 1. NRS 281.370 is hereby amended to read as follows:
2 281.370 1. All personnel actions taken by state, county, *school dis-*
3 *trict, district* or municipal departments, agencies, boards or appointing
4 officers thereof shall be based solely on merit and fitness.
5 2. State, county, *school district, district* or municipal departments,
6 agencies, boards or appointing officers thereof shall not:
7 (a) Refuse to hire a person because of such person's race, color, creed,
8 national origin, sex or age, unless based upon a bona fide occupational
9 classification.
10 (b) Discharge or bar any person from employment because of such
11 person's race, creed, color, national origin, sex or age.
12 (c) Discriminate against any person in compensation or in other terms
13 or conditions of employment because of such person's race, creed, color,
14 national origin, sex or age, except as provided in NRS 284.3781.

S. B. 364**SENATE BILL NO. 364—COMMITTEE ON
GOVERNMENT AFFAIRS**

MARCH 20, 1975

Referred to Committee on Government Affairs

SUMMARY—Amends County Economic Development Revenue Bond Law to promote furnishing of water if available on reasonable demand to members of public and amends and adds to manner of financing all projects authorized. Fiscal Note: No. (BDR 20-1317)

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

AN ACT relating to the County Economic Development Revenue Bond Law; expanding the definition of "project" to promote the furnishing of water if available on reasonable demand to members of the public; authorizing counties to finance, acquire, own, lease or sell certain water projects; amending and adding definitions of certain words and terms applicable to all projects as defined in the County Economic Development Revenue Bond Law; specifying other county powers applicable to all such projects; 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. Chapter 244 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 5, inclusive, of this act.
3 SEC. 2. "*Finance*" or "*financing*" includes the issue of bonds by a
4 county for the purpose of using substantially all of the proceeds to pay (or
5 to reimburse the obligor or its designee) for the costs of acquiring, improv-
6 ing and equipping a project, whether these costs are incurred by the
7 county, the obligor or a designee of the obligor. Title to or in such project
8 may at all times remain in the obligor or the obligor's designee or assignee
9 and, in such case, the bonds of the county shall be secured by a pledge of
10 one or more notes, debentures, bonds or other secured or unsecured debt
11 obligations of the obligor.
12 SEC. 3. "*Financing agreement*" means an agreement pursuant to
13 which the county agrees to issue bonds pursuant to NRS 244.9191 to
14 244.9219, inclusive, to finance one or more projects and pursuant
15 to which the obligor agrees to:
16 1. Make payments (directly or through notes, debentures, bonds or
17 other secured or unsecured debt obligations of the obligor executed and
18 delivered by the obligor to the county or the county's designee or assignee,

1 including a trustee, pursuant to such financing agreement) sufficient to pay
2 the principal of, premium, if any, and interest on the bonds;

3 2. Pay other amounts required by NRS 244.9191 to 244.9219, inclu-
4 sive; and

5 3. Comply with all other applicable provisions of NRS 244.9191 to
6 244.9219, inclusive.

7 SEC. 4. "Obligor" means the individual, partnership, firm, company,
8 corporation (including a public utility), association, trust, estate, political
9 subdivision, state agency or any other legal entity, or its legal representa-
10 tive, agent or assigns, who agrees to make the payments required by the
11 financing agreement.

12 SEC. 5. "Revenues" of a project, or derived from a project, include
13 payments under a lease, agreement of sale or financing agreement, or
14 under notes, debentures, bonds and other secured or unsecured debt
15 obligations of an obligor executed and delivered by the obligor to the
16 county or the county's designee or assignee (including a trustee) pursuant
17 to such lease, agreement of sale or financing agreement.

18 SEC. 6. NRS 244.9191 is hereby amended to read as follows:
19 244.9191 NRS 244.9191 to 244.9219, inclusive, and sections 2 to
20 5, inclusive, of this act may be cited as the County Economic Develop-
21 ment Revenue Bond Law.

22 SEC. 7. NRS 244.9192 is hereby amended to read as follows:
23 244.9192. Wherever used in NRS 244.9191 to 244.9219, inclusive,
24 unless a different meaning clearly appears from the context, the following
25 words and terms defined in NRS 244.9193 to 244.9196, inclusive, and
26 sections 2 to 5, inclusive, of this act, have the meanings ascribed to them
27 in [NRS 244.9193 to 244.9196, inclusive.] such sections.

28 SEC. 8. NRS 244.9196 is hereby amended to read as follows:
29 244.9196 "Project" means:

30 1. Any land, building or other improvement and all real and personal
31 properties necessary in connection therewith, whether or not in existence,
32 suitable for *commercial*, manufacturing, industrial, [or] research and
33 development enterprises [.] or for *residential real and personal property*.

34 2. Any land, building, structure, facility, system, fixture, improve-
35 ment, appurtenance, machinery, equipment, or any combination thereof
36 or any interest therein, used by any individual, partnership, firm, com-
37 pany, corporation (including a public utility), association, trust, estate,
38 political subdivision, state agency or any other legal entity, or its legal rep-
39 resentative, agent or assigns: [., for]

40 (a) For the reduction, abatement or prevention of pollution or for the
41 removal or treatment of any substance in a processed material which
42 otherwise would cause pollution when such material is used.

43 (b) In connection with furnishing of water if available on reasonable
44 demand to members of the general public.

45 SEC. 9. NRS 244.9197 is hereby amended to read as follows:

46 244.9197 1. It is the intent of the legislature to authorize counties
47 to *finance*, acquire, own, lease, improve and dispose of properties to the
48 end that such counties may be able to promote industry and develop
49 trade by inducing manufacturing, industrial and research and develop-
50 ment enterprises to locate in or remain in this state, in order to assist in

1 relieving the serious threat of extensive unemployment in parts of this
2 state, in securing and maintaining a balanced and stable economy in all
3 parts of this state and in furthering the use of its agricultural products
4 and natural resources. It is, therefore, the intention of the legislature to
5 vest such counties with all powers that may be necessary to enable them
6 to accomplish such purposes, which powers shall in all respects be exer-
7 cised for the benefit of the inhabitants of this state for the promotion of
8 their safety, welfare, convenience and prosperity.

9 2. It is also the intent of the legislature to authorize counties to
10 finance, acquire, own, lease or sell projects or interests therein for the
11 purpose of: **[reducing,]**

12 (a) *Reducing*, abating or preventing pollution or removing or treating
13 any substance in processed material which otherwise would cause pollu-
14 tion when such material is used, to protect and promote the health, wel-
15 fare and safety of the citizens of this state and to retain and promote
16 private industry and commerce with the resultant higher level of employ-
17 ment and economic activity and stability.

18 (b) *Promoting the furnishing of water if available on reasonable demand*
19 *to members of the general public in order to protect and promote the*
20 *health, welfare and safety of the citizens of this state and to retain and*
21 *promote private industry and commerce with the resultant higher level of*
22 *employment and economic activity and stability.*

23 3. It is not intended hereby that any county shall itself be authorized
24 to operate any such manufacturing, industrial or research and develop-
25 ment enterprise.

26 4. No county may by virtue of NRS 244.9191 to 244.9219, inclu-
27 sive, assist any manufacturing, industrial or research and development
28 enterprise to locate in the county which would offer substantial compe-
29 tition to an existing enterprise within the county whose intrastate markets
30 are substantially the same.

31 5. NRS 244.9191 to 244.9219, inclusive, shall be liberally construed
32 in conformity with this declaration of purpose.

33 SEC. 10. NRS 244.9198 is hereby amended to read as follows:

34 244.9198 In addition to any other powers which it may now have,
35 each county shall have the following powers:

36 1. **[To acquire, whether by construction, purchase, gift, devise, lease**
37 **or sublease, to improve and equip, and to sell or otherwise dispose of,**
38 **one or more projects or part thereof. The power to sell includes the**
39 **power to receive the note or notes of the purchaser. Such projects, upon**
40 **completion of such acquisition, shall be located within the county.**

41 2. **To lease or to sell to others any or all of its projects for such**
42 **rentals or installment payments and upon such terms and conditions as**
43 **the board considers advisable.] To finance or acquire, whether by con-**
44 **struction, purchase, gift, devise, lease or sublease or any one or more of**
45 **such methods, and to improve and equip one or more projects or parts**
46 **thereof, which shall be located within this state, and which may be located**
47 **within or partially within such county.**

48 2. **To finance, sell, lease or otherwise dispose of any or all its projects**
49 **upon such terms and conditions as the board considers advisable.**

1 3. To issue revenue bonds for the purpose of *financing or defraying*
2 the cost of acquiring, improving and equipping any project [including the
3 payment of principal and interest on such bonds for not exceeding 3 years
4 and all other incidental expenses incurred in issuing such bonds.] *as set*
5 *forth in NRS 244.9213.*

6 4. To secure payment of such bonds as provided in NRS 244.9191 to
7 244.9219, inclusive.

8 5. *To take such actions as are necessary or useful in order to under-*
9 *take, carry out, accomplish and otherwise implement the provisions of*
10 *NRS 244.9191 to 244.9219, inclusive, including the adoption of resolu-*
11 *tions, which may be introduced and adopted at the same special or regular*
12 *meeting of the board and which shall become effective upon adoption.*

13 SEC. 11. NRS 244.920 is hereby amended to read as follows:

14 244.920 After holding a public hearing or hearings, as provided in
15 NRS 244.9199, the board of county commissioners shall proceed no fur-
16 ther unless or until *by resolution* it:

17 1. Determines the total amount of money necessary to be provided by
18 the county for the acquisition, improvement and equipment of the project;

19 2. Determines that the contemplated lessee [or purchaser], *pur-*
20 *chaser or other obligor* has sufficient financial resources to place the
21 project in operation and to continue its operation, meeting the obligations
22 of the lease [or purchase contract;], *purchase contract or financing*
23 *agreement;*

24 3. Determines, in the case of a project as defined in subsection 1 of
25 NRS 244.9196, that the revenue which can reasonably be expected to
26 be derived from normal operation of the project under normal economic
27 conditions is sufficient with a suitable margin of safety to meet the obli-
28 gations of a lease [or purchase contract], *purchase contract or financing*
29 *agreement* which in turn will meet in full the debt service requirements
30 of a bond issue to provide the amount of money determined pursuant to
31 subsection 1; and

32 4. If any part of the project or improvements is to be constructed
33 by a lessee or a lessee's designee or a purchaser or a purchaser's designee
34 [;] *or an obligor or an obligor's designee, provides, or determines that*
35 *there are provided,* sufficient safeguards to assure that all money provided
36 by the county will be expended solely for the purposes of the project.

37 SEC. 12. NRS 244.9201 is hereby amended to read as follows:

38 244.9201 1. All bonds issued by a county under the authority of
39 NRS 244.9191 to 244.9219, inclusive, shall be special, limited obligations
40 of the county. The principal of and interest on such bonds shall be pay-
41 able, subject to the [mortgage] *security* provisions herein, solely out of
42 the revenues derived from the *financing, leasing or sale of the project to*
43 *be financed by the bonds.*

44 2. The bonds and interest coupons, if any, appurtenant thereto shall
45 never constitute the debt or indebtedness of the county within the mean-
46 ing of any provision or limitation of the constitution of the State of
47 Nevada or statutes, and shall not constitute nor give rise to a pecuniary
48 liability of the county or a charge against its general credit or taxing
49 powers. Such limitation shall be plainly stated on the face of each such
50 bond.

1 SEC. 13. NRS 244.9202 is hereby amended to read as follows:

2 244.9202 1. The bonds shall:

3 (a) Be authorized by ~~ordinance;~~ *resolution*;

4 (b) Be in such denominations;

5 (c) Bear such date or dates;

6 (d) Mature at such time or times not exceeding 40 years from their
7 respective dates;

8 (e) Bear such interest at a rate or rates not exceeding ~~8~~ 12 percent
9 per annum;

10 (f) Be in such form;

11 (g) Carry such registration privileges;

12 (h) Be executed in such manner ~~;~~ *, including the use of one or more*
13 *facsimile signatures so long as at least one manual signature appears on*
14 *the bonds, which manual signature may be either an official of the county*
15 *or an officer of the trustee authenticating the same;*

16 (i) Be payable at such place or places within or without the state; and

17 (j) Be subject to such terms of redemption,

18 as the authorizing ~~ordinance~~ *resolution* may provide.

19 2. The bonds may be sold in one or more series at par, or below or
20 above par, in such manner and for such price or prices as the county, in its
21 discretion, shall determine. As an incidental expense of the project, the
22 county, in its discretion, may employ financial and legal consultants in
23 regard to the financing of the project.

24 3. The county may exchange all or a part of its bonds for all or an
25 equivalent part of the project for which the bonds are issued, the exchange
26 to be preceded by determination of the fair value of the project or part
27 of the project exchanged for the bonds. Such determination shall be by
28 ordinance and shall be conclusive.

29 4. The bonds shall be fully negotiable under the terms of the Uniform
30 Commercial Code—Investment Securities.

31 SEC. 14. NRS 244.9203 is hereby amended to read as follows:

32 244.9203 The principal of, the interest on and any prior redemption
33 premiums due in connection with the bonds shall be payable from, secured
34 by a pledge of and constitute a lien on the revenues out of which such
35 bonds shall be made payable. In addition, they may, in the discretion of
36 the county, be secured by a mortgage covering all or any part of the project
37 or by a pledge of the lease ~~or~~ *,* the agreement of sale ~~of~~ *or the*
38 *financing agreement with respect to* such project, or both. *In addition,*
39 *they may, in the discretion of the county, be secured by a pledge of one or*
40 *more notes, debentures, bonds or other secured or unsecured debt obliga-*
41 *tions of the obligor.*

42 SEC. 15. NRS 244.9204 is hereby amended to read as follows:

43 244.9204 The ~~proceedings~~ *resolution* under which the bonds are
44 authorized to be issued, and any *indenture or* mortgage given to secure
45 the same, may contain any provisions customarily contained in instru-
46 ments securing bonds and constituting a covenant with the bondholders,
47 including, but not limited to:

48 1. Custody of the proceeds from the sale of the bonds, including
49 their investment and reinvestment until used to *finance or* defray the cost
50 of the project.

- 1 2. The fixing and collection of [rents or installment] payments
 2 [for] , with respect to the project [.] to be made under the lease, the
 3 agreement of sale or the financing statement.
- 4 3. The terms to be incorporated in the lease [or] , the agreement
 5 of sale [of] or the financing agreement with respect to the project.
- 6 4. The maintenance and insurance of the project.
- 7 5. The creation of funds and accounts into which any bond pro-
 8 ceeds, revenues and income may be deposited or credited.
- 9 6. Limitation on the purpose to which the proceeds of any bonds
 10 then or thereafter to be issued may be applied.
- 11 7. Limitations on the issuance of additional bonds, the terms upon
 12 which additional bonds may be issued and secured, the refunding of bonds
 13 and the replacement of bonds.
- 14 8. The procedure, if any, by which the terms of any contract with
 15 bondholders may be amended or abrogated.
- 16 9. Vesting in a trustee or trustees *located within or without this state*
 17 such properties, rights, powers and duties in trust as the board may deter-
 18 mine, and limiting the rights, duties and powers of such trustees.
- 19 10. The rights and remedies available in case of a default to the bond-
 20 holders or to any trustee under the lease, agreement of sale, *financing*
 21 *agreement, indenture* or a mortgage.
- 22 SEC. 16. NRS 244.9205 is hereby amended to read as follows:
 23 244.9205 1. The county may provide that proceeds from the sale of
 24 bonds and special funds from the revenues of the project shall be invested
 25 and reinvested in such securities and other investments, whether or not
 26 any such investment or reinvestment is authorized under any other law of
 27 this state, as may be provided in the proceedings under which the bonds
 28 are authorized to be issued, including but not limited to:
- 29 (a) Bonds or other obligations of the United States of America.
- 30 (b) Bonds or other obligations, the payment of the principal and inter-
 31 est of which is unconditionally guaranteed by the United States of
 32 America.
- 33 (c) Obligations issued or guaranteed as to principal and interest by
 34 any agency or person controlled or supervised by and acting as an instru-
 35 mentality of the United States of America pursuant to authority granted
 36 by the Congress of the United States of America.
- 37 (d) Obligations issued or guaranteed by any state of the United States
 38 of America, or any political subdivision of any such state.
- 39 (e) Prime commercial paper.
- 40 (f) Prime finance company paper.
- 41 (g) Bankers' acceptances drawn on and accepted by commercial
 42 banks.
- 43 (h) Repurchase agreements fully secured by obligations issued or
 44 guaranteed as to principal and interest by the United States of America
 45 or by any person controlled or supervised by and acting as an instru-
 46 mentality of the United States of America pursuant to authority granted
 47 by the Congress of the United States of America.
- 48 (i) Certificates of deposit issued by commercial banks [.] , *including*
 49 *banks domiciled outside of the United States of America.*

1 2. The county may also provide that such proceeds or funds or
2 investments and the [rents] payments payable under the lease, [or the
3 installment payments payable pursuant to] the agreement of sale or the
4 financing agreement shall be received, held and disbursed by one or more
5 banks or trust companies located within or out of this state.

6 SEC. 17. NRS 244.9206 is hereby amended to read as follows:

7 244.9206 The county may also provide that:

8 1. The project and improvements to be constructed, if any, shall be
9 constructed by the county, lessee or the lessee's designee, purchaser or
10 purchaser's designee, obligor or obligor's designee, or any one or more of
11 them, on real estate owned by the county, the lessee or the lessee's designee,
12 or the purchaser or the purchaser's designee, or the obligor or the
13 obligor's designee, as the case may be.

14 2. The bond proceeds shall be disbursed by the trustee bank or banks,
15 trust company or trust companies, during construction upon the estimate,
16 order or certificate of the lessee or the lessee's designee, or of the purchaser
17 or the purchaser's designee [.] , or of the obligor or the obligor's
18 designee.

19 SEC. 18. NRS 244.9208 is hereby amended to read as follows:

20 244.9208 1. The [proceedings] resolution authorizing any bonds or
21 any indenture or mortgage securing such bonds may provide that if there
22 is a default in the payment of the principal of, the interest on, or any prior
23 redemption premiums due in connection with the bonds or in the performance
24 of any agreement contained in such [proceedings] resolution, indenture
25 or mortgage, the payment and performance may be enforced by
26 mandamus or by the appointment of a receiver with power to charge [and
27 collect rents and to apply the revenues from the project in accordance
28 with the proceedings or the provisions of the mortgage.] , collect and
29 apply the revenues from the project in accordance with the resolution or
30 the provisions of the indenture or mortgage.

31 2. Any mortgage to secure bonds issued thereunder, may also provide
32 that if there is a default in the payment thereof or a violation of any
33 agreement contained in the mortgage, it may be foreclosed and there may
34 be a sale in any manner permitted by law. Such mortgage may also provide
35 that any trustee under such mortgage or the holder of any bonds
36 secured thereby may become the purchaser at any foreclosure sale if he is
37 the highest bidder and may apply toward the purchase price unpaid bonds
38 at the face value thereof.

39 SEC. 19. NRS 244.9209 is hereby amended to read as follows:

40 244.9209 1. Prior to the initial leasing [or sale] , sale or financing
41 of any project, the board shall by resolution determine:

42 (a) The amount necessary in each year to pay the principal of and the
43 interest on the first bonds proposed to be issued to finance such project
44 and on any subsequent issues of bonds which may be permitted under
45 the lease [or sale] , sale or financing and authorizing [proceedings]
46 resolutions pertinent to financings hereunder.

47 (b) The amount necessary to be paid each year into any reserve funds
48 which the board may deem advisable to establish in connection with the
49 retirement of the proposed bonds and the maintenance of the project.

50 (c) The estimated cost of maintaining the project in good repair and

1 keeping it properly insured, unless the terms under which the project is
2 to be leased [or sold] , *sold or financed* provide that the lessee [or
3 purchaser] , *purchaser or obligor* shall maintain the project and carry all
4 proper insurance with respect thereto.

5 2. The determination and findings of the board, required to be made
6 by subsection 1, shall be set forth in the [proceedings] *resolution* under
7 which the proposed bonds are to be issued, but the foregoing amounts
8 need not be expressed in dollars and cents in the lease [or the agreement
9 of sale and proceedings] , *agreement of sale or financing agreement and*
10 *the resolution* under which the bonds are authorized to be issued, but
11 may be set forth in the form of a formula or formulas.

12 SEC. 20. NRS 244.921 is hereby amended to read as follows:

13 244.921 Prior to the issuance of any bonds authorized by NRS
14 244.9191 to 244.9219, inclusive, the county shall lease [or sell the
15 project to a lessee or purchaser] , *sell or finance the project* under an
16 agreement conditioned upon completion of the project and providing for
17 payment to the county of such [rentals or installment payments] *re-*
18 *venues* as, upon the basis of such determinations and findings, will be suf-
19 ficient to:

20 1. Pay the principal of and interest on the bonds issued to finance
21 the project.

22 2. Build up and maintain any reserves deemed advisable by the
23 board in connection therewith.

24 3. Pay the costs of maintaining the project in good repair and keeping
25 it properly insured, unless the [agreement of lease or sale obligates the
26 lessee or purchaser] *lease, agreement of sale or financing agreement obli-*
27 *gates the lessee, purchaser or obligor* to pay for the maintenance and
28 insurance on the project.

29 SEC. 21. NRS 244.9212 is hereby amended to read as follows:

30 244.9212 1. Any bonds issued under the provisions of NRS 244.-
31 9191 to 244.9219, inclusive, and at any time outstanding may at any time
32 and from time to time be refunded by a county by the issuance of its
33 refunding bonds in such amount as the board may deem necessary to
34 refund the principal of the bonds to be so refunded, any unpaid interest
35 thereon and any premiums and incidental expenses necessary to be paid
36 in connection therewith.

37 2. Any such refunding may be effected, whether the bonds to be
38 refunded have matured or thereafter mature, either by sale of the refund-
39 ing bonds and the application of the proceeds thereof, directly or indi-
40 rectly, to the payment of the bonds to be refunded thereby, or by exchange
41 of the refunding bonds for the bonds to be refunded thereby, but the
42 holders of any bonds to be so refunded shall not be compelled, without
43 their consent, to surrender their bonds for payment or exchange prior to
44 the date on which they are payable by maturity date, option to redeem or
45 otherwise, or if they are called for redemption, prior to the date on which
46 they are by their terms subject to redemption by option or otherwise.
47 [Except to the extent expressly or impliedly inconsistent with the terms
48 of NRS 244.9191 to 244.9219, inclusive, the provisions of the Local
49 Government Securities Law shall govern the issuance of such refunding
50 bonds and the establishment of any escrow in connection therewith.]

1 3. All refunding bonds, issued under authority of this section, shall
2 be payable solely from revenues out of which the bonds to be refunded
3 thereby are payable or from revenues out of which bonds of the same
4 character may be made payable under this or any other law then in effect
5 at the time of the refunding.

6 SEC. 22. NRS 244.9213 is hereby amended to read as follows:

7 244.9213 1. The proceeds from the sale of any bonds shall be
8 applied only for the purpose for which the bonds were issued and if, for
9 any reason, any portion of such proceeds is not needed for the purpose
10 for which the bonds were issued, such unneeded portion of such proceeds
11 shall be applied to the payment of the principal of or the interest on
12 the bonds.

13 2. The cost of acquiring, *improving and equipping* any project shall
14 be deemed to include the actual cost of [.] *acquiring and improving*
15 a site or the cost of the construction of any part of a project which may
16 have been constructed, plus the total of all reasonable or necessary costs
17 incidental to the acquisition, construction, reconstruction, repair, alter-
18 ation, improvement, *equipment* and extension of any project including
19 without limitation:

20 (a) The cost of studies and surveys;
21 (b) Plans, specifications, architectural and engineering costs;
22 (c) Legal, organization, marketing or other special services;
23 (d) Financing, acquisition, demolition, construction, equipment and
24 site development of new and rehabilitated buildings;
25 (e) Rehabilitation, reconstruction, repair or remodeling of existing
26 buildings;

27 (f) *Acquisition, installation, construction, reconstruction, repair, alter-*
28 *ation and improvement of fixtures, machinery, equipment and furnish-*
29 *ings;*

30 (g) An initial bond and interest reserve together with interest on bonds
31 issued to finance such projects to a date 6 months subsequent to the
32 estimated date of completion; and

33 [(g)] (h) All other necessary and incidental expenses.

34 SEC. 23. NRS 244.9214 is hereby amended to read as follows:

35 244.9214 1. No county shall have the power to pay out of its gen-
36 eral fund or otherwise contribute any part of the costs of acquiring,
37 *improving and equipping* a project and shall not have the power to use
38 land already owned by the county, or in which the county has an equity
39 (unless specifically acquired for uses of the character herein described
40 or unless the land is determined by the board no longer to be necessary
41 for other county purposes), for the construction thereon of a project or
42 any part thereof.

43 2. The entire cost of acquiring, *improving and equipping* any project
44 must be paid out of the proceeds from the sale of the bonds, but this pro-
45 vision shall not be construed to prevent a county from accepting donations
46 of property to be used as a part of any project or money to be used for
47 defraying any part of the cost of any project [.] , *including the comple-*
48 *tion of the project by the lessee, purchaser or obligor without any cost or*
49 *liability to the county.*

- 1 SEC. 24. NRS 244.9216 is hereby amended to read as follows:
2 244.9216 Pursuant to NRS 361.060, all property owned by a county
3 pursuant to NRS 244.9191 to 244.9219, inclusive, shall be and remain
4 exempt from taxation. The lessee or purchaser shall pay all taxes assessed
5 to him pursuant to NRS 361.157 and 361.159 [.] , and any obligor
6 shall pay all taxes assessed to him in the same manner as any other tax-
7 payer.
- 8 SEC. 25. NRS 244.9218 is hereby amended to read as follows:
9 244.9218 No action may be brought questioning the legality of any
10 contract, lease, agreement of sale, *financing agreement, indenture*, mort-
11 gage, *resolution* proceedings or bonds executed, *adopted or taken* in con-
12 nection with any project or improvements authorized by NRS 244.9191
13 to 244.9219, inclusive, from and after 30 days from the effective date of
14 the [Ordinance] *resolution* authorizing the issuance of such bonds.
- 15 SEC. 26. NRS 244.9219 is hereby amended to read as follows:
16 244.9219 1. NRS 244.9191 to 244.9219, inclusive, without refer-
17 ence to other statutes of the state, shall constitute full authority for the
18 exercise of powers granted in NRS 244.9191 to 244.9219, inclusive,
19 including but not limited to the authorization and issuance of bonds
20 hereunder.
- 21 2. No other act or law with regard to the authorization or issuance
22 of bonds that provides for an election, requires an approval, or in any
23 way impedes or restricts the carrying out of the acts authorized in NRS
24 244.9191 to 244.9219, inclusive, to be done, shall be construed as
25 applying to any proceedings taken under NRS 244.9191 to 244.9219,
26 inclusive, or acts done pursuant to NRS 244.9191 to 244.9219, inclusive,
27 except for laws to which reference is expressly made in NRS 244.9191
28 to 244.9219, inclusive, or by necessary implication of NRS 244.9191 to
29 244.9219, inclusive.
- 30 3. The provisions of no other law, either general or local, except as
31 provided in NRS 244.9191 to 244.9219, inclusive, shall apply to doing
32 of the things authorized in NRS 244.9191 to 244.9219, inclusive, to be
33 done, and no board, agency, bureau, commission or official not desig-
34 nated in NRS 244.9191 to 244.9219, inclusive, shall have any authority
35 or jurisdiction over the doing of any of the acts authorized in NRS
36 244.9191 to 244.9219, inclusive, to be done, except as otherwise pro-
37 vided in NRS 244.9191 to 244.9219, inclusive.
- 38 4. No notice, consent or approval by any public body or officer
39 thereof shall be required as a prerequisite to the sale or issuance of any
40 bonds, the making of any contract or lease, or the exercise of any other
41 power under NRS 244.9191 to 244.9219, inclusive, except as provided
42 in NRS 244.9191 to 244.9219, inclusive.
- 43 5. A project is not subject to any requirements relating to public
44 buildings, structures, ground works or improvements imposed by the Stat-
45 utes of Nevada or any other similar requirements which may be lawfully
46 waived by this section, and any requirement of competitive bidding or
47 other restriction imposed on the procedure for award of contracts for such
48 purpose or the lease, sale or other disposition of property of the counties
49 is not applicable to any action taken pursuant to NRS 244.9191 to
50 244.9219, inclusive.

1 6. *Any bank or trust company located within or without this state*
2 *may be appointed and act as a trustee with respect to bonds issued and*
3 *projects financed pursuant to NRS 244.9191 to 244.9219, inclusive,*
4 *without the necessity of associating with any other person or entity as*
5 *cofiduciary (but such association shall not be hereby prohibited), any*
6 *other law, including NRS 662.245, to the contrary notwithstanding.*

7 7. The powers conferred by NRS 244.9191 to 244.9219, inclusive,
8 shall be in addition and supplemental to, and not in substitution for, and
9 the limitations imposed by NRS 244.9191 to 244.9219, inclusive, shall
10 not affect the powers conferred by any other law.

11 **[7.]** 8. No part of NRS 244.9191 to 244.9219, inclusive, shall
12 repeal or affect any other law or part thereof, except to the extent that
13 NRS 244.9191 to 244.9219, inclusive, are inconsistent with any other
14 law, it being intended that NRS 244.9191 to 244.9219, inclusive, shall
15 provide a separate method of accomplishing its objectives, and not an
16 exclusive one; and NRS 244.9191 to 244.9219, inclusive, shall not be
17 construed as repealing, amending or changing any such other law except
18 to the extent of such inconsistency.

19 SEC. 27. 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

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 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 bene-*
30 *ficiary 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. 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.
-

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. 421

SENATE BILL NO. 421—COMMITTEE ON
GOVERNMENT AFFAIRS

APRIL 1, 1975

Referred to Committee on Government Affairs

SUMMARY—Validates securities, voted and nonvoted, securities issued in anticipation of the issuance of such securities and proceedings pertaining to such securities. Fiscal Note: No. (BDR S-1447)

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

AN ACT to be designated as the 1975 Public Securities Validation Act; validating, ratifying, approving and confirming outstanding public securities of the state and all corporate subdivisions and agencies thereof, and acts and proceedings had or taken thereby and pertaining to public securities; repealing acts in conflict with this act; 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. This act shall be known as the 1975 Public Securities
2 Validation Act.
- 3 SEC. 2. As used in this act:
- 4 1. "Public body" of the state means any state educational institution
5 or other state institution, its board of regents or other governing body
6 thereof constituting a body corporate, any county, incorporated city or
7 incorporated town, whether incorporated or governed under a general act,
8 special legislative act or special charter enacted, adopted or granted pur-
9 suant to sections 1 or 8, article 8, of the constitution of the state, or other-
10 wise, any unincorporated city or unincorporated town, any school district,
11 local improvement district, general improvement district, irrigation dis-
12 trict, drainage district, water conservancy district, flood control district,
13 county fire protection district, fire protection district, housing authority,
14 urban renewal agency, community redevelopment agency, any other cor-
15 porate district, any corporate commission, or any other political subdivi-
16 sion of the state constituting a body corporate.
- 17 2. "Public security" means a bond, note, warrant, debenture, interim
18 debenture, certificate of indebtedness, or other obligation for the pay-
19 ment of money, issued by this state or by any public body thereof, either
20 a general obligation for the payment of which the state or public body

1 issuing the obligation pledges its full faith and credit or a special obliga-
2 tion payable from special assessments or designated revenues from
3 sources other than special assessments.

4 3. "State" means the State of Nevada and any board, commission,
5 department, corporation, instrumentality or agency thereof.

6 4. "Voted public security" means a public security which has been
7 approved by those qualified electors of the public body issuing the public
8 security and voting on a proposal authorizing its issuance, notwithstand-
9 ing any possible invalidity of such election or of the proceedings taken
10 wholly or in part preliminary to such election.

11 SEC. 3. The legislature by this act finds and declares that:

12 1. Decisions of various state and federal courts in the United States in
13 recent years concerning qualifications of voters at elections of various
14 types, including, without limitation, elections on bond questions, raise by
15 implication questions as to the possible invalidity of elections pertaining to
16 voted public securities and the proceedings taken wholly or in part prelim-
17 inary to and in the issuance of voted public securities and other public
18 securities which may be funded wholly or in part with the proceeds of
19 voted public securities and are issued or are to be issued in anticipation of
20 the subsequent issuance of voted public securities.

21 2. The state and certain public bodies thereof need additional and
22 costly public facilities and need to be able to borrow money to defray
23 wholly or in part the cost of such facilities by the issuance of such voted
24 public securities, other public securities issued in anticipation thereof and
25 which may be funded by such voted public securities, and other nonvoted
26 public securities.

27 3. The public health, safety, convenience and welfare require that the
28 legislature resolve all questions as to the legality of such public securities
29 and the proceedings had and taken prior to the adoption of this act wholly
30 or in part preliminary to and in the issuance of such public securities,
31 whether such public securities have heretofore been issued or are to be
32 issued subsequent to the adoption of this act and whether any such ques-
33 tion arises because of any irregularity or purported irregularity pertaining
34 to such a bond election or otherwise.

35 SEC. 4. All outstanding voted public securities, other outstanding pub-
36 lic securities issued in anticipation of voted public securities and which
37 may be funded with the proceeds thereof, and other outstanding public
38 securities of the state and of all public bodies thereof, and all acts and
39 proceedings heretofore had or taken, or purportedly had or taken, by or
40 on behalf of the state or any public body thereof under law or under
41 color of law preliminary to and in the authorization, execution, sale, issua-
42 nce and payment (or any combination thereof) of all public securities,
43 whether issued or to be issued, are hereby validated, ratified, approved
44 and confirmed, including, without limitation, the terms, provisions, con-
45 ditions and covenants of any resolution or ordinance pertaining thereto,
46 the redemption of public securities before maturity and provisions there-
47 for, the levy and collection of fees, rates, tolls and other charges, license
48 taxes, and general and other property taxes, and the acquisition and
49 application of other revenues, the pledge and use of the proceeds thereof,
50 and the establishment of liens thereon and funds and accounts therefor,

1 pertaining to such public securities, notwithstanding any lack of power,
2 authority or otherwise, and notwithstanding any defects and irregular-
3 ities, in the creation of such public body and in such public securities,
4 acts and proceedings, and in such authorization, execution, sale, issuance
5 and payment, including, without limitation, such acts and proceedings
6 pertaining to such public securities all or any part of which have not
7 heretofore been issued nor purportedly issued. Such outstanding public
8 securities are and shall be, and such public securities heretofore not issued
9 nor purportedly issued shall be, after their issuance, binding, legal, valid
10 and enforceable obligations of the state or the public body issuing them
11 in accordance with their terms and their authorizing proceedings, subject
12 to the taking or adoption, in substantial and due compliance with laws
13 pertaining to any such public securities heretofore not issued nor pur-
14 portedly issued, of all acts and proceedings which are required by law
15 to be had or taken subsequent to the acts and proceedings validated, rati-
16 fied, approved and confirmed by this act.

17 SEC. 5. This act shall operate to supply such legislative authority as
18 may be necessary to validate any public securities heretofore issued and
19 any such acts and proceedings heretofore taken which the legislature
20 could have supplied or provided for in the law under which such public
21 securities were issued and such acts or proceedings were taken.

22 SEC. 6. This act being necessary to secure and preserve the public
23 health, safety, convenience and welfare shall be liberally construed to
24 effect its purposes.

25 SEC. 7. If any provision of this act or the application thereof to any
26 person, thing or circumstance is held invalid, such invalidity shall not
27 affect the provisions or application of this act that can be given effect
28 without the invalid provision or application, and to this end the provisions
29 of this act are declared to be severable.

30 SEC. 8. This act shall become effective upon passage and approval.