
ASSEMBLY BILL NO. 196—ASSEMBLYMEN COLLINS, CHOWNING,
CLABORN, ANDONOV, ATKINSON, BUCKLEY, GEDDES,
GIUNCHIGLIANI, GOICOCHEA, GRADY, HARDY, KOIVISTO,
MANENDO, McCLAIN, OCEGUERA, PIERCE AND SHERER

FEBRUARY 26, 2003

Referred to Committee on Government Affairs

SUMMARY—Authorizes certain local governments to require dedication of certain land or impose tax on nonresidential construction projects for regional parks. (BDR 22-653)

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

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

AN ACT relating to local governments; authorizing certain local governments to require the dedication of certain land or impose a tax on nonresidential construction projects for regional parks; 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 278 of NRS is hereby amended by adding
2 thereto a new section to read as follows:
3 *“Nonresidential construction project” means construction*
4 *other than construction of residential dwelling units or an*
5 *apartment house or the development of mobile home lots. The*
6 *term does not include any construction by a governmental agency.*
7 **Sec. 2.** NRS 278.497 is hereby amended to read as follows:
8 278.497 As used in NRS 278.497 to 278.4987, inclusive, *and*
9 *section 1 of this act*, the words and terms defined in NRS 278.4971
10 to 278.4977, inclusive, *and section 1 of this act*, have the meanings
11 ascribed to them in those sections, unless the context otherwise
12 requires.



1 **Sec. 3.** NRS 278.4979 is hereby amended to read as follows:
2 278.4979 The governing body of a city or county may, by
3 ordinance, require that a subdivider of land or a developer of land
4 for mobile home lots , ~~{or}~~ an apartment house *or a nonresidential*
5 *construction project* dedicate such land areas, sites and locations for
6 park and playground purposes as are reasonably necessary to serve
7 the proposed subdivision or development and the future ~~{residents}~~
8 *occupants* of the subdivision or development.

9 **Sec. 4.** NRS 278.4981 is hereby amended to read as follows:
10 278.4981 1. The ordinance adopted pursuant to NRS
11 278.4979 ~~{must set forth the standards to be applied in determining~~
12 ~~the amount of land that is required to be dedicated. The ordinance}~~
13 must contain standards *for* determining the amount, quality and
14 location of land that is required to be dedicated which ~~{are}~~ *must be*
15 based upon the number and type of *residential* dwelling units , ~~{or~~
16 ~~structures,}~~ apartment houses , ~~{or}~~ mobile home lots ~~{,}~~ *or*
17 *nonresidential construction projects* or any combination thereof,
18 included in each subdivision or development and give due
19 consideration to the relative desirability and market value of the
20 land that may be included within the area of any particular proposed
21 subdivision or development.

22 2. The ordinance must, without limiting the general powers
23 conferred in this chapter, include the following:

24 (a) Provisions for the creation, in accordance with the applicable
25 master plan, of park districts or service areas which would serve
26 neighborhoods , *regions* or communities of interest within the city
27 or county.

28 (b) A delegation of authority to designated departments or
29 agencies of the city or county to select the location of the land areas
30 to be dedicated for park and playground purposes. The land to be
31 dedicated for park and playground purposes must be within the park
32 district or service area created pursuant to paragraph (a) in which the
33 subdivision, apartment house , ~~{or}~~ mobile home lots *or*
34 *nonresidential construction projects* are located.

35 (c) A provision limiting the amount of land required to be
36 dedicated to an amount of land having a fair market value,
37 determined by independent appraisal, which does not exceed the
38 amount of any ~~{residential}~~ construction tax which would otherwise
39 have been collected ~~{under}~~ *pursuant to* NRS 278.4983.

40 (d) A provision for the transfer of title to the dedicated land
41 upon the issuance of building permits and the construction of the
42 first unit of the subdivision or development from which the land was
43 dedicated.

44 The ordinance may also contain a provision allowing an increase in
45 the number of *residential* dwelling units ~~{or structures,}~~ apartment



1 houses , ~~for~~ mobile home lots ~~[.]~~ *or nonresidential construction*
2 *projects* or any combination of them, in the subdivision *or*
3 *development* equal to the number which would otherwise have been
4 allowed on the land dedicated for parks and playgrounds.

5 **Sec. 5.** NRS 278.4983 is hereby amended to read as follows:
6 278.4983 1. The ~~[city council]~~ *governing body* of any city or
7 ~~[the board of county commissioners of any]~~ county which has
8 adopted a master plan and recreation plan, as provided in this
9 chapter, which includes, as a part of the plan, future or present sites
10 for neighborhood *or regional* parks may, by ordinance, impose a
11 ~~[residential]~~ construction tax pursuant to this section.

12 2. If imposed, the ~~[residential]~~ construction tax must be
13 imposed on the privilege of constructing apartment houses , ~~and~~
14 residential dwelling units *and nonresidential construction projects*
15 and developing mobile home lots in the respective cities and
16 counties. The rate of the tax must not exceed:

17 (a) With respect to the construction of apartment houses and
18 residential dwelling units, 1 percent of the valuation of each
19 building permit issued or \$1,000 per residential dwelling unit,
20 whichever is less. For the purpose of *calculating* the ~~[residential]~~
21 construction tax ~~[-, the city council of the city or the board of county~~
22 ~~commissioners of the county]~~ *pursuant to this paragraph, the*
23 *governing body* shall adopt an ordinance basing the valuation of
24 building permits on the actual costs of residential construction in the
25 area.

26 (b) With respect to the development of mobile home lots, for
27 each mobile home lot authorized by a lot development permit, 80
28 percent of the average ~~[residential]~~ construction tax paid *pursuant*
29 *to paragraph (a)* per residential dwelling unit in the respective city
30 or county during the calendar year next preceding the fiscal year in
31 which the lot development permit is issued.

32 (c) *With respect to the construction of a nonresidential*
33 *construction project, 1 percent of the valuation of each building*
34 *permit issued or \$20,000 per nonresidential construction project,*
35 *whichever is less. For the purpose of calculating the construction*
36 *tax pursuant to this paragraph, the governing body shall adopt an*
37 *ordinance basing the valuation of building permits on the actual*
38 *costs of nonresidential construction projects in the area.*

39 3. The purpose of the tax *imposed pursuant to this section* is
40 to raise revenue to enable the cities and counties to provide
41 neighborhood *and regional* parks and facilities for *such* parks
42 which are required by ~~[the residents of those apartment houses,~~
43 ~~mobile homes and residences.]~~ *or which benefit persons who live*
44 *or work in the park districts or service areas within the city or*
45 *county.*



1 4. An ordinance enacted pursuant to subsection 1 must
2 establish the procedures for collecting the tax, set its rate, and
3 determine the purposes for which the tax is to be used, subject to the
4 restrictions and standards provided in this chapter. The ordinance
5 must, without limiting the general powers conferred in this chapter,
6 also include:

7 (a) Provisions for the creation, in accordance with the applicable
8 master plan, of park districts *or service areas* which would serve
9 neighborhoods , *regions or communities of interest* within the city
10 or county.

11 (b) A provision for collecting the tax at the time of issuance of a
12 building permit for the construction of any apartment houses , ~~for~~
13 residential dwelling units ~~or~~ *or nonresidential construction projects*
14 or *issuance of* a lot development permit for the development of
15 mobile home lots.

16 5. All ~~residential~~ construction taxes collected pursuant to the
17 provisions of this section and any ordinance enacted by a ~~city~~
18 ~~council or board of county commissioners,~~ *governing body* and all
19 interest accrued on the money, must be placed with the city treasurer
20 or county treasurer in a special fund. *The money in the fund that is*
21 *collected pursuant to paragraphs (a) and (b) of subsection 2 must*
22 *be accounted for separately from the money in the fund that is*
23 *collected pursuant to paragraph (c) of subsection 2.*

24 6. Except as otherwise provided in subsection ~~6,~~ 8, the money
25 in the fund *that is collected pursuant to paragraphs (a) and (b) of*
26 *subsection 2* may only be ~~used~~ :

27 (a) *Used* for the acquisition, improvement and expansion of
28 neighborhood parks or the installation of facilities in existing or
29 neighborhood parks in the city or county. ~~Money in the fund must~~
30 ~~be expended~~

31 (b) *Expended* for the benefit of the neighborhood from which it
32 was collected.

33 ~~6,~~ 7. *Except as otherwise provided in subsection 9, the*
34 *money in the fund that is collected pursuant to paragraph (c) of*
35 *subsection 2 may only be:*

36 (a) *Used for the acquisition, improvement and expansion of*
37 *regional parks or the installation of facilities in existing regional*
38 *parks in the city or county.*

39 (b) *Expended for the benefit of the park district or service area*
40 *from which it was collected.*

41 8. If a neighborhood park has not been developed or facilities
42 have not been installed in an existing park in the park district
43 created to serve the neighborhood in which the subdivision or
44 development is located within 3 years after the date on which 75
45 percent of the residential dwelling units authorized within that



1 subdivision or development first became occupied, all money paid
2 by the subdivider or developer ~~[] pursuant to paragraph (a) or (b)~~
3 *of subsection 2*, together with interest at the rate at which the city or
4 county has invested the money in the fund, must be refunded to the
5 owners of the lots in the subdivision or development ~~[at the time of~~
6 ~~the reversion]~~ on a pro rata basis.

7 ~~[7.]~~ *9. If a regional park has not been developed or facilities*
8 *have not been installed in an existing regional park within 5 years*
9 *after the date on which 75 percent of the nonresidential*
10 *construction project first became occupied, all money paid by the*
11 *developer pursuant to paragraph (c) of subsection 2, together with*
12 *interest at the rate at which the city or county has invested the*
13 *money in the fund, must be refunded to the owners of the*
14 *nonresidential construction project on a pro rata basis.*

15 *10.* The limitation of time established pursuant to ~~[subsection~~
16 ~~6] subsections 8 and 9~~ is suspended for any period, not to exceed 1
17 year, during which this state or the Federal Government takes any
18 action to protect the environment or an endangered species which
19 prohibits, stops or delays the development of a park or installation
20 of facilities.

21 ~~[8.—For the purposes of]~~

22 *11. As used in* this section:

23 (a) "Facilities" means turf, trees, irrigation, playground
24 apparatus, playing fields, areas to be used for organized amateur
25 sports, play areas, picnic areas, horseshoe pits and other recreational
26 equipment or appurtenances designed to serve the ~~[natural persons,~~
27 ~~families and small groups from the neighborhood from which the~~
28 ~~tax was collected.] persons who use the park in which the facilities~~
29 ~~are located.~~

30 (b) "Neighborhood park" means a site not exceeding 25 acres,
31 designed to serve the recreational and outdoor needs of natural
32 persons, families and small groups ~~[] in the neighborhood from~~
33 ~~which the tax was collected.~~

34 (c) "Regional park" means a site exceeding 50 acres, designed
35 to serve the outdoor needs of persons who live or work in the
36 region in which it is located.

37 **Sec. 6.** NRS 278.4985 is hereby amended to read as follows:

38 278.4985 1. The ~~[city council]~~ *governing body* of any city or
39 ~~[the board of county commissioners of any]~~ county which has
40 adopted a master plan as provided in this chapter which includes
41 future or present sites for parks and playgrounds may require that:

42 (a) The developers of a planned unit development dedicate land
43 as provided by NRS 278.4979, 278.498 and 278.4981; or



1 (b) A ~~residential~~ construction tax be imposed on the privilege
2 of constructing planned unit developments in the manner provided
3 by NRS 278.4983,
4 if the ordinance defining and regulating planned unit developments
5 in the particular city or county imposes open space requirements
6 less than those required by the ordinance adopted pursuant to
7 NRS 278.4981.

8 2. If a requirement to dedicate land or pay a ~~residential~~
9 construction tax is imposed on the construction of a planned unit
10 development, the planned unit development is eligible to receive a
11 credit against the amount of land to be dedicated or the amount of
12 the ~~residential~~ construction tax imposed, for the amount and value
13 of the developed open space within the planned unit development.

14 **Sec. 7.** NRS 278.4987 is hereby amended to read as follows:

15 278.4987 1. The requirement for dedication of land ~~under~~
16 *pursuant to* NRS 278.4979, 278.498 and 278.4981 and the
17 imposition of ~~the residential~~ a construction tax ~~under~~ *pursuant*
18 *to* NRS 278.4983, are mutually exclusive as to any particular
19 subdivision, apartment house, mobile home lot, ~~or~~ residential
20 dwelling unit *or nonresidential construction project* which may be
21 benefited or affected by any such requirement or imposition.

22 2. Any ~~city council or board of county commissioners~~
23 *governing body* determining to provide park or playground facilities
24 ~~under the provisions of~~ *pursuant to* NRS 278.497 to 278.4987,
25 inclusive, *and section 1 of this act*, shall elect, for any one period,
26 to follow only one of the procedures provided in these sections.

27 **Sec. 8.** NRS 278B.240 is hereby amended to read as follows:

28 278B.240 1. If an owner is required by a local government,
29 as a condition of the approval of the development, to construct or
30 dedicate, or both, a portion of the off-site facilities for which impact
31 fees other than for a park project are imposed, the off-site facilities
32 must be credited against those impact fees.

33 2. If a school district is required by a local government to
34 construct or dedicate, or both, a portion of the off-site facilities for
35 which impact fees are imposed, the local government shall, upon the
36 request of the school district, reimburse or enter into an agreement
37 to reimburse the school district for the cost of the off-site facilities
38 constructed or dedicated, or both, minus the cost of the off-site
39 facilities immediately adjacent to or providing connection to the
40 school development which would be required by local ordinance in
41 the absence of an ordinance authorizing impact fees.

42 3. If an owner is required by a local government to:

43 (a) Pay a ~~residential~~ construction tax pursuant to
44 NRS 278.4983;



1 (b) Dedicate land pursuant to NRS 278.4979 , *278.498 and*
2 *278.4981* or otherwise dedicate or improve land, or both, for use as
3 a park; or

4 (c) Construct or dedicate a portion of the off-site facilities for
5 which impact fees for a park project are imposed,
6 the owner is entitled to a credit against the impact fee imposed for
7 the park project for the amount of the ~~residential~~ construction tax
8 paid, the fair market value of the land dedicated, the cost of any
9 improvements to the dedicated land or the cost of the off-site
10 facilities dedicated or constructed, as applicable.

11 **Sec. 9.** NRS 354.59891 is hereby amended to read as follows:
12 354.59891 1. As used in this section:

13 (a) "Building permit" means the official document or certificate
14 issued by the building officer of a local government which
15 authorizes the construction of a structure.

16 (b) "Building permit basis" means the combination of the rate
17 and the valuation method used to calculate the ~~total~~ building
18 permit fee.

19 (c) "Building permit fee" means the ~~total~~ fees that must be
20 paid before the issuance of a building permit, including , without
21 limitation, all permit fees and inspection fees. The term does not
22 include, without limitation, fees relating to water, sewer or other
23 utilities, ~~residential~~ construction tax ~~[,] imposed pursuant to NRS~~
24 *278.4983, tax on residential construction imposed pursuant to*
25 *NRS 387.331*, tax for the improvement of transportation imposed
26 pursuant to NRS 278.710, any fee imposed pursuant to NRS
27 244.386 or any amount expended to change the zoning of the
28 property.

29 (d) "Current asset" means any cash maintained in an enterprise
30 fund and any interest or other income earned on the money in the
31 enterprise fund that, at the end of the current fiscal year, is
32 anticipated by a local government to be consumed or converted into
33 cash during the next ensuing fiscal year.

34 (e) "Current liability" means any debt incurred by a local
35 government to provide the services associated with issuing building
36 permits that, at the end of the current fiscal year, is determined by
37 the local government to require payment within the next ensuing
38 fiscal year.

39 (f) "Operating cost" means the amount paid by a local
40 government for supplies, services, salaries, wages and employee
41 benefits to provide the services associated with issuing building
42 permits.

43 (g) "Working capital" means the excess of current assets over
44 current liabilities, as determined by the local government at the end
45 of the current fiscal year.



1 2. Except as otherwise provided in subsections 3 and 4, a local
2 government shall not increase its building permit basis by more than
3 an amount equal to the building permit basis on June 30, 1989,
4 multiplied by a percentage equal to the percentage increase in the
5 Consumer Price Index from January 1, 1988, to the January 1 next
6 preceding the fiscal year for which the calculation is made.

7 3. A local government may submit an application to increase
8 its building permit basis by an amount greater than otherwise
9 allowable pursuant to subsection 2 to the Nevada Tax Commission.
10 The Nevada Tax Commission may allow the increase only if it finds
11 that:

12 (a) Emergency conditions exist which impair the ability of the
13 local government to perform the basic functions for which it was
14 created; or

15 (b) The building permit basis of the local government is
16 substantially below that of other local governments in the State and
17 the cost of providing the services associated with the issuance of
18 building permits in the previous fiscal year exceeded the total
19 revenue received from building permit fees ~~[, excluding any amount~~
20 ~~of residential construction tax collected.]~~ for that fiscal year.

21 4. Upon application by a local government, the Nevada Tax
22 Commission shall exempt the local government from the limitation
23 on the increase of its building permit basis if:

24 (a) The local government creates an enterprise fund exclusively
25 for building permit fees;

26 (b) Any interest or other income earned on the money in the
27 enterprise fund is credited to the fund;

28 (c) Except as otherwise provided in subsection 5, the local
29 government maintains a balance of unreserved working capital in
30 the enterprise fund that does not exceed an amount equal to 9
31 months' operating costs for the program for the issuance of building
32 permits of the local government; and

33 (d) The local government does not use any of the money in the
34 enterprise fund for any purpose other than the actual direct and
35 indirect costs of the program for the issuance of building permits,
36 including, without limitation, the cost of checking plans, issuing
37 permits, inspecting buildings and administering the program. The
38 Committee on Local Government Finance shall adopt regulations
39 governing the permissible expenditures from an enterprise fund
40 pursuant to this paragraph.

41 5. In addition to the balance of unreserved working capital
42 authorized pursuant to subsection 4, the local government may
43 maintain in an enterprise fund created pursuant to this section an
44 amount of working capital for the following purposes:



1 (a) An amount sufficient to pay the debt service for 1 year on
2 any debt incurred by the local government to provide the services
3 associated with issuing building permits;

4 (b) An amount that does not exceed the total amount of
5 expenditures for the program for the issuance of building permits of
6 the local government set forth in the capital improvement plan of the
7 local government prepared pursuant to NRS 354.5945 for the
8 current fiscal year; and

9 (c) An amount that does not exceed 4 percent of the annual
10 operating costs of the program for the issuance of building permits
11 of the local government which must be used to pay for unanticipated
12 capital replacement.

13 6. Any amount in an enterprise fund created pursuant to this
14 section that is designated for special use, including, without
15 limitation, prepaid fees and any other amount subject to a
16 contractual agreement, must be identified as a restricted asset and
17 must not be included as a current asset in the calculation of working
18 capital.

19 7. If a balance in excess of the amount authorized pursuant to
20 subsections 4 and 5 is maintained in an enterprise fund created
21 pursuant to this section at the close of 2 consecutive fiscal years, the
22 local government shall reduce the building permit fees it charges by
23 an amount that is sufficient to ensure that the balance in the
24 enterprise fund at the close of the fiscal year next following those 2
25 consecutive fiscal years does not exceed the amount authorized
26 pursuant to subsections 4 and 5.

27 **Sec. 10.** This act becomes effective on July 1, 2003.

