

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 in larger counties 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 in larger counties 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 the provisions set forth as sections 2 to 8, inclusive, of this
3 act.
4 **Sec. 2.** *As used in sections 2 to 8, inclusive, of this act, unless*
5 *the context otherwise requires, the words and terms defined in*
6 *sections 3 and 4 of this act have the meanings ascribed to them in*
7 *those sections.*
8 **Sec. 3.** *“Nonresidential construction project” means*
9 *construction other than construction of residential dwelling units*
10 *or an apartment house or the development of mobile home lots for*
11 *which a residential construction tax may be imposed pursuant to*



* A B 1 9 6 R 1 *

1 *NRS 278.497 to 278.4987, inclusive. The term does not include*
2 *any construction by a governmental agency.*

3 **Sec. 4.** *“Regional park” means a site exceeding 50 acres,*
4 *which is designed to serve the outdoor needs of persons who live*
5 *or work in the region in which it is located.*

6 **Sec. 5. 1.** *In a county whose population is 400,000 or more,*
7 *the governing body of the county or a city in the county may, by*
8 *ordinance, require that a developer of land for a nonresidential*
9 *construction project dedicate such land areas, sites and locations*
10 *for a regional park as are reasonably necessary to serve the people*
11 *who live or work in the region of the city or county in which the*
12 *nonresidential construction project is located.*

13 **2.** *The ordinance adopted pursuant to subsection 1 must,*
14 *insofar as practicable, conform to the recreation plan in the*
15 *master plan of the city or county.*

16 **3.** *The ordinance adopted pursuant to subsection 1 must*
17 *contain standards for determining the amount, quality and*
18 *location of land that is required to be dedicated which must be*
19 *based upon the number and type of nonresidential construction*
20 *projects included in each development and give due consideration*
21 *to the relative desirability and market value of the land that may*
22 *be included within the area of any particular proposed*
23 *development.*

24 **4.** *The ordinance adopted pursuant to subsection 1 must,*
25 *without limiting the general powers conferred in this chapter,*
26 *include the following:*

27 **(a)** *Provisions for the creation, in accordance with the*
28 *applicable master plan, of park districts or service areas which*
29 *would serve regions within the city or county.*

30 **(b)** *A delegation of authority to designated departments or*
31 *agencies of the city or county to select the location of the land*
32 *areas to be dedicated for regional parks. The land to be dedicated*
33 *for regional parks must be within the park district or service area*
34 *created pursuant to paragraph (a) in which the nonresidential*
35 *construction projects are located.*

36 **(c)** *A provision limiting the amount of land required to be*
37 *dedicated to an amount of land having a fair market value,*
38 *determined by independent appraisal, which does not exceed the*
39 *amount of any nonresidential construction tax which would*
40 *otherwise have been collected pursuant to section 7 of this act.*

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

44 **Sec. 6. 1.** *If the land area dedicated by any developer*
45 *pursuant to section 5 of this act exceeds a proportionate*



1 *contribution to the total regional park site, taking into*
2 *consideration the total persons who live or work in the park*
3 *districts or service areas which serve regions within the city or*
4 *county reasonably expected to benefit from the regional park, the*
5 *developer making the dedication must be compensated at fair*
6 *market value for the excess value contributed.*

7 2. *When 25 percent of the nonresidential construction project*
8 *from which the land was dedicated is constructed, the local*
9 *governing body or agency to which the dedicated land is conveyed*
10 *shall provide for planning, public hearings and the adoption of a*
11 *plan for development of the site, a schedule of that development*
12 *and a plan for financing which includes operational and*
13 *maintenance costs of the regional park.*

14 3. *If a regional park has not been developed on the land*
15 *dedicated for that purpose within 5 years after the date on which*
16 *75 percent of the nonresidential construction project first became*
17 *occupied, title to the land reverts to the owners of the*
18 *nonresidential construction project at the time of the reversion on*
19 *a pro rata basis.*

20 **Sec. 7. 1.** *In a county whose population is 400,000 or more,*
21 *the governing body of the county and any city in the county which*
22 *has adopted a master plan and recreation plan, as provided in this*
23 *chapter, which includes, as a part of the plan, future or present*
24 *sites for regional parks may, by ordinance, impose a*
25 *nonresidential construction tax pursuant to this section.*

26 2. *If imposed, the nonresidential construction tax must be*
27 *imposed on the privilege of constructing nonresidential*
28 *construction projects in the city or county, as applicable. The rate*
29 *of the tax must not exceed 1 percent of the valuation of each*
30 *building permit issued or \$20,000 per nonresidential construction*
31 *project, whichever is less. For the purpose of calculating the*
32 *nonresidential construction tax pursuant to this subsection, the*
33 *governing body shall adopt an ordinance basing the valuation of*
34 *building permits on the actual costs of nonresidential construction*
35 *projects in the area.*

36 3. *The purpose of the tax imposed pursuant to this section is*
37 *to raise revenue to enable the cities and counties to provide*
38 *regional parks and facilities for such parks which benefit persons*
39 *who live or work in the park districts or service areas which serve*
40 *regions within the city or county.*

41 4. *An ordinance enacted pursuant to subsection 1 must*
42 *establish the procedures for collecting the tax, set its rate, and*
43 *determine the purposes for which the tax is to be used, subject to*
44 *the restrictions and standards provided in this chapter. The*



1 ordinance must, without limiting the general powers conferred in
2 this chapter, also include:

3 (a) Provisions for the creation, in accordance with the
4 applicable master plan, of park districts or service areas which
5 would serve regions within the city or county.

6 (b) A provision for collecting the tax at the time of issuance of
7 a building permit for the construction of a nonresidential
8 construction project.

9 5. All nonresidential construction taxes collected pursuant to
10 the provisions of this section and any ordinance enacted by a
11 governing body and all interest accrued on the money must be
12 placed with the city treasurer or county treasurer in a special fund.
13 Except as otherwise provided in subsection 6, the money in the
14 fund that is collected pursuant to subsection 2 may only be:

15 (a) Used for the acquisition, improvement and expansion of
16 regional parks or the installation of facilities in existing regional
17 parks in the city or county.

18 (b) Expended for the benefit of the park district or service area
19 from which it was collected.

20 6. If a regional park has not been developed or facilities have
21 not been installed in an existing regional park within 5 years after
22 the date on which 75 percent of the nonresidential construction
23 project first became occupied, all money paid by the developer
24 pursuant to subsection 2, together with interest at the rate at which
25 the city or county has invested the money in the fund, must be
26 refunded to the owners of the nonresidential construction project
27 on a pro rata basis.

28 7. The limitation of time established pursuant to subsection 6
29 is suspended for any period, not to exceed 1 year, during which
30 this state or the Federal Government takes any action to protect
31 the environment or an endangered species which prohibits, stops
32 or delays the development of a regional park or installation of
33 facilities in existing regional parks.

34 8. As used in this section, "facilities" means turf, trees,
35 irrigation systems, playground apparatus, playing fields, areas to
36 be used for organized amateur sports, play areas, picnic areas,
37 horseshoe pits and other recreational equipment or appurtenances
38 designed to serve the persons who use the regional park in which
39 the facilities are located.

40 **Sec. 8. 1.** The requirement for dedication of land pursuant
41 to section 5 of this act and the imposition of a nonresidential
42 construction tax pursuant to section 7 of this act are mutually
43 exclusive as to any particular nonresidential construction project
44 which may be benefited or affected by any such requirement or
45 imposition.



1 **2. Any governing body determining to provide a regional park**
2 **pursuant to sections 2 to 8, inclusive, of this act must elect, for any**
3 **one period, to follow only one of the procedures provided in these**
4 **sections.**

5 **Sec. 9.** NRS 278B.240 is hereby amended to read as follows:
6 278B.240 1. If an owner is required by a local government,
7 as a condition of the approval of the development, to construct or
8 dedicate, or both, a portion of the off-site facilities for which impact
9 fees other than for a park project are imposed, the off-site facilities
10 must be credited against those impact fees.

11 2. If a school district is required by a local government to
12 construct or dedicate, or both, a portion of the off-site facilities for
13 which impact fees are imposed, the local government shall, upon the
14 request of the school district, reimburse or enter into an agreement
15 to reimburse the school district for the cost of the off-site facilities
16 constructed or dedicated, or both, minus the cost of the off-site
17 facilities immediately adjacent to or providing connection to the
18 school development which would be required by local ordinance in
19 the absence of an ordinance authorizing impact fees.

20 3. If an owner is required by a local government to:
21 (a) Pay a residential construction tax pursuant to NRS 278.4983;
22 (b) Dedicate land pursuant to NRS 278.4979 , **278.498 and**
23 **278.4981** or otherwise dedicate or improve land, or both, for use as
24 a park; ~~or~~

25 (c) **Pay a nonresidential construction tax pursuant to section 7**
26 **of this act;**

27 (d) **Dedicate land pursuant to section 5 of this act or otherwise**
28 **dedicate or improve land, or both, for use as a regional park; or**

29 (e) Construct or dedicate a portion of the off-site facilities for
30 which impact fees for a park project are imposed,
31 the owner is entitled to a credit against the impact fee imposed for
32 the park project for the amount of the residential construction tax **or**
33 **nonresidential construction tax** paid, the fair market value of the
34 land dedicated, the cost of any improvements to the dedicated land
35 or the cost of the off-site facilities dedicated or constructed, as
36 applicable.

37 **Sec. 10.** NRS 354.59891 is hereby amended to read as
38 follows:

39 354.59891 1. As used in this section:
40 (a) "Building permit" means the official document or certificate
41 issued by the building officer of a local government which
42 authorizes the construction of a structure.

43 (b) "Building permit basis" means the combination of the rate
44 and the valuation method used to calculate the ~~total~~ building
45 permit fee.



1 (c) "Building permit fee" means the ~~total~~ fees that must be
2 paid before the issuance of a building permit, including , without
3 limitation, all permit fees and inspection fees. The term does not
4 include, without limitation, fees relating to water, sewer or other
5 utilities, residential construction tax ~~is~~ *imposed pursuant to NRS*
6 *278.4983, nonresidential construction tax imposed pursuant to*
7 *section 7 of this act, tax on residential construction imposed*
8 *pursuant to NRS 387.331, tax for the improvement of*
9 transportation imposed pursuant to NRS 278.710, any fee imposed
10 pursuant to NRS 244.386 or any amount expended to change the
11 zoning of the property.

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

17 (e) "Current liability" means any debt incurred by a local
18 government to provide the services associated with issuing building
19 permits that, at the end of the current fiscal year, is determined by
20 the local government to require payment within the next ensuing
21 fiscal year.

22 (f) "Operating cost" means the amount paid by a local
23 government for supplies, services, salaries, wages and employee
24 benefits to provide the services associated with issuing building
25 permits.

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

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

35 3. A local government may submit an application to increase
36 its building permit basis by an amount greater than otherwise
37 allowable pursuant to subsection 2 to the Nevada Tax Commission.
38 The Nevada Tax Commission may allow the increase only if it finds
39 that:

40 (a) Emergency conditions exist which impair the ability of the
41 local government to perform the basic functions for which it was
42 created; or

43 (b) The building permit basis of the local government is
44 substantially below that of other local governments in the State and
45 the cost of providing the services associated with the issuance of



1 building permits in the previous fiscal year exceeded the total
2 revenue received from building permit fees [~~excluding any amount~~
3 ~~of residential construction tax collected,~~] for that fiscal year.

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

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

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

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

16 (d) The local government does not use any of the money in the
17 enterprise fund for any purpose other than the actual direct and
18 indirect costs of the program for the issuance of building permits,
19 including, without limitation, the cost of checking plans, issuing
20 permits, inspecting buildings and administering the program. The
21 Committee on Local Government Finance shall adopt regulations
22 governing the permissible expenditures from an enterprise fund
23 pursuant to this paragraph.

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

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

31 (b) An amount that does not exceed the total amount of
32 expenditures for the program for the issuance of building permits of
33 the local government set forth in the capital improvement plan of the
34 local government prepared pursuant to NRS 354.5945 for the
35 current fiscal year; and

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

40 6. Any amount in an enterprise fund created pursuant to this
41 section that is designated for special use, including, without
42 limitation, prepaid fees and any other amount subject to a
43 contractual agreement, must be identified as a restricted asset and
44 must not be included as a current asset in the calculation of working
45 capital.



1 7. If a balance in excess of the amount authorized pursuant to
2 subsections 4 and 5 is maintained in an enterprise fund created
3 pursuant to this section at the close of 2 consecutive fiscal years, the
4 local government shall reduce the building permit fees it charges by
5 an amount that is sufficient to ensure that the balance in the
6 enterprise fund at the close of the fiscal year next following those 2
7 consecutive fiscal years does not exceed the amount authorized
8 pursuant to subsections 4 and 5.
9 **Sec. 11.** This act becomes effective on July 1, 2003.

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