
ASSEMBLY BILL NO. 361—COMMITTEE ON TAXATION

MARCH 17, 2003

Referred to Committee on Taxation

SUMMARY—Requires local governments that acquire certain public utilities or expand certain facilities for utility service to make certain payments or provide certain compensation in lieu of taxes and franchise fees. (BDR 32-627)

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 governmental finances; requiring local governments that acquire certain public utilities or expand certain facilities for utility service to make certain payments or provide certain compensation in lieu of taxes and franchise fees; 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 360 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 10, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 10, inclusive, of this act,*
5 *unless the context otherwise requires, the words and terms defined*
6 *in sections 3 to 6, inclusive, of this act have the meanings ascribed*
7 *to them in those sections.*

8 **Sec. 3.** *“Affected local government” means any local*
9 *government that will receive less money from state or local taxes*
10 *or franchise fees or from payments in lieu of those taxes or*
11 *franchise fees, or less compensation from another local*
12 *government pursuant to section 8 of this act, as a direct result of*



1 *the acquisition of any public utility or expansion of any facilities*
2 *by a local government as provided in section 8 of this act.*

3 **Sec. 4.** *“Local government” means any city, county, district*
4 *or other political subdivision of this state.*

5 **Sec. 5.** *“Public utility” means any privately, publicly or*
6 *cooperatively owned system for providing a utility service to the*
7 *public or a segment of the public.*

8 **Sec. 6.** *“Telecommunications service” has the meaning*
9 *ascribed to it in 47 U.S.C. § 153(46), as that section existed on*
10 *July 1, 2003.*

11 **Sec. 7. 1.** *Except as otherwise provided in this section, if on*
12 *or after July 1, 2003, a local government acquires from another*
13 *entity a public utility that provides electric service, natural gas*
14 *service, telecommunications service or community antenna*
15 *television service:*

16 *(a) The local government shall make payments in lieu of and*
17 *equal to all state and local taxes and franchise fees from which the*
18 *local government is exempt but for which the public utility would*
19 *be liable if the public utility was not owned by a governmental*
20 *entity; and*

21 *(b) The Nevada Tax Commission shall, solely for the purpose*
22 *set forth in this paragraph, annually determine and apportion the*
23 *assessed valuation of the property of the public utility. For the*
24 *purpose of calculating any allocation or apportionment of money*
25 *for distribution among local governments pursuant to a formula*
26 *required by state law which is based partially or entirely on the*
27 *assessed valuation of taxable property:*

28 *(1) The property of the public utility shall be deemed to*
29 *constitute taxable property to the same extent as if the public*
30 *utility was not owned by a governmental entity; and*

31 *(2) To the extent that the property of the public utility is*
32 *deemed to constitute taxable property pursuant to this paragraph:*

33 *(I) The assessed valuation of that property must be*
34 *included in that calculation as determined and apportioned by the*
35 *Nevada Tax Commission pursuant to this paragraph; and*

36 *(II) The payments required by paragraph (a) in lieu of*
37 *any taxes that would otherwise be required on the basis of the*
38 *assessed valuation of that property shall be deemed to constitute*
39 *payments of those taxes.*

40 **2.** *The payments in lieu of taxes and franchise fees required*
41 *by subsection 1 are due at the same time and must be collected,*
42 *accounted for and distributed in the same manner as those taxes*
43 *and franchise fees would be due, collected, accounted for and*
44 *distributed if the public utility was not owned by a governmental*
45 *entity, except that no lien attaches upon any property or money of*



1 *the local government by virtue of any failure to make all or any*
2 *part of those payments. The local government may contest the*
3 *validity and amount of any payment in lieu of a tax or franchise*
4 *fee to the same extent as if that payment was a payment of the tax*
5 *or franchise fee itself. The payments in lieu of taxes and franchise*
6 *fees must be reduced if and to the extent that such a contest is*
7 *successful.*

8 *3. The provisions of this section do not:*

9 *(a) Apply to the acquisition by a local government of a public*
10 *utility owned by another governmental entity, except a public*
11 *utility owned by another local government for which any payments*
12 *in lieu of state or local taxes or franchise fees was required before*
13 *its acquisition as provided in this section.*

14 *(b) Require a local government to make any payments in lieu*
15 *of taxes or franchise fees to the extent that the making of those*
16 *payments would cause a deficiency in the money available to the*
17 *local government to make required payments of principal of,*
18 *premium, if any, or interest on any bonds or other securities*
19 *issued to finance the acquisition of that public utility or to make*
20 *required payments to any funds established under the proceedings*
21 *under which those bonds or other securities were issued.*

22 *(c) Require a county to duplicate any payments in lieu of taxes*
23 *required pursuant to NRS 244A.755.*

24 **Sec. 8. 1. Except as otherwise provided in this section, if on**
25 **or after July 1, 2003, a local government:**

26 *(a) Acquires from another entity a public utility that provides*
27 *water service or sewer service; or*

28 *(b) Expands facilities for the provision of water service, sewer*
29 *service, electric service, natural gas service, telecommunications*
30 *service or community antenna television service, and the*
31 *expansion results in the local government serving additional retail*
32 *customers who were, before the expansion, retail customers of a*
33 *public utility which provided that service,*
34 *the local government shall enter into an interlocal agreement with*
35 *each affected local government to compensate the affected local*
36 *government each fiscal year, as nearly as practicable, for the*
37 *amount of any money from state and local taxes and franchise*
38 *fees and from payments in lieu of those taxes and franchise fees,*
39 *and for any compensation from a local government pursuant to*
40 *this section, the affected local government would be entitled to*
41 *receive but will not receive because of the acquisition of that*
42 *public utility or expansion of those facilities as provided in this*
43 *section.*

44 *2. An affected local government may waive any or all of the*
45 *compensation to which it may be entitled pursuant to subsection 1.*



1 3. *The provisions of this section do not require a:*
2 (a) *Local government to provide any compensation to an*
3 *affected local government to the extent that the provision of that*
4 *compensation would cause a deficiency in the money available to*
5 *the local government to make required payments of principal of,*
6 *premium, if any, or interest on any bonds or other securities*
7 *issued to finance the acquisition of that public utility or expansion*
8 *of those facilities, or to make required payments to any funds*
9 *established under the proceedings under which those bonds or*
10 *other securities were issued.*

11 (b) *County to duplicate any compensation an affected local*
12 *government receives from any payments in lieu of taxes required*
13 *pursuant to NRS 244A.755.*

14 **Sec. 9. 1.** *If a local government and an affected local*
15 *government cannot reach agreement pursuant to section 8 of this*
16 *act, either party may submit to the Executive Director its proposal*
17 *for the terms of an interlocal agreement, together with any*
18 *information it deems appropriate relating to such an agreement.*
19 *Within 30 days after the receipt of that proposal, the Executive*
20 *Director shall:*

21 (a) *Provide to the other party:*
22 (1) *A copy of the proposal and any information received*
23 *with the proposal; and*

24 (2) *An opportunity to submit its proposal for the terms of an*
25 *interlocal agreement and any information that party deems*
26 *appropriate relating to such an agreement;*

27 (b) *Review each proposal and any other information submitted*
28 *by the parties; and*

29 (c) *Submit to the Committee on Local Government Finance*
30 *his findings regarding the terms of a fair and equitable interlocal*
31 *agreement.*

32 2. *Within 30 days after the receipt of the findings of the*
33 *Executive Director pursuant to subsection 1, the Committee on*
34 *Local Government Finance shall:*

35 (a) *Review those findings; and*

36 (b) *Submit to the Nevada Tax Commission its*
37 *recommendations for the terms of a fair and equitable interlocal*
38 *agreement.*

39 3. *The Nevada Tax Commission shall schedule a public*
40 *hearing within 30 days after the Committee on Local Government*
41 *Finance submits its recommendations pursuant to subsection 2.*
42 *The Nevada Tax Commission shall provide public notice of the*
43 *hearing at least 10 days before the date on which the hearing will*
44 *be held. The Executive Director shall provide copies of all*
45 *documents relevant to the recommendations of the Committee on*



1 *Local Government Finance to each of the parties. After the*
2 *hearing, the Nevada Tax Commission shall notify the parties of its*
3 *determination of the terms of a fair and equitable interlocal*
4 *agreement.*

5 *4. Within 30 days after the parties receive notification of the*
6 *determination of the Nevada Tax Commission pursuant to*
7 *subsection 3, the parties shall enter into an interlocal agreement*
8 *in accordance with that determination.*

9 **Sec. 10.** *The Nevada Tax Commission shall adopt such*
10 *regulations as it deems appropriate to carry out the provisions of*
11 *sections 2 to 10, inclusive, of this act.*

12 **Sec. 11.** This act becomes effective on July 1, 2003.

