

ASSEMBLY BILL NO. 499—COMMITTEE ON
GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

MARCH 24, 2003

Referred to Committee on Government Affairs

SUMMARY—Authorizes governing body of local government to create maintenance districts to pay cost of maintaining and improving certain local improvement projects. (BDR 21-274)

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 improvements; authorizing the governing body of a local government to create maintenance districts to pay the cost of maintaining and improving certain local improvement projects; providing for the levying of assessments in connection with such maintenance districts; 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 271 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.
3 **Sec. 2.** *“Maintenance district” means a district created*
4 *pursuant to section 3 of this act.*
5 **Sec. 3.** *1. A governing body may, by ordinance, create a*
6 *district to pay the cost of maintaining and improving a commercial*
7 *vitalization project, pedestrian overpass project, street*
8 *beautification project or transportation project, regardless of*
9 *whether such project was originally acquired or constructed with*
10 *proceeds from assessments. Insofar as practicable, such a*



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1 *maintenance district must be created in the manner specified in*
2 *NRS 271.275 or 271.710. A maintenance district created pursuant*
3 *to this subsection remains in existence until the governing body,*
4 *by ordinance, dissolves the maintenance district.*

5 *2. After the governing body creates a maintenance district*
6 *pursuant to subsection 1, the governing body may periodically levy*
7 *assessments during the existence of the district to pay the cost of*
8 *maintaining and improving the commercial vitalization project,*
9 *pedestrian overpass project, street beautification project or*
10 *transportation project. The amount of such assessments must be*
11 *determined periodically by the governing body during the*
12 *existence of the district but at least once every 3 years. To*
13 *determine the amount of the assessments for such a period not*
14 *exceeding 3 years, the governing body shall prepare or cause to be*
15 *prepared:*

16 *(a) An estimate of the costs expected to be incurred to*
17 *maintain and improve the applicable project during the period;*
18 *and*

19 *(b) A proposed assessment roll in the form required by*
20 *paragraph (b) of subsection 1 of NRS 271.360, setting forth the*
21 *amounts to be assessed against the tracts specially benefited by the*
22 *applicable project during the period. The total of those amounts*
23 *must not exceed the costs estimated pursuant to paragraph (a).*
24 *The amount to be assessed for the period against each tract*
25 *specially benefited by the applicable project must not exceed the*
26 *reasonable market value of the tract, as provided in subsection 5*
27 *of NRS 271.365.*

28 *The basis for the computation of the assessments must be the*
29 *frontage or another uniform and quantifiable basis.*

30 *3. The governing body shall hold a public hearing upon the*
31 *estimate of costs and proposed assessment roll prepared pursuant*
32 *to subsection 2. Notice of the hearing must be given, and the*
33 *hearing conducted, in the manner described in NRS 271.380 and*
34 *271.385. The proposed assessments for the period may not exceed*
35 *the estimate of maximum special benefits to the tracts assessed*
36 *which was determined, as provided in subsection 2 of NRS*
37 *271.300, when the maintenance district was created unless the*
38 *maximum special benefits are redetermined at a new hearing*
39 *which is held after notice is mailed and published in the manner*
40 *provided in NRS 271.305, 271.306 and 271.310 and the proposed*
41 *assessments do not exceed the redetermined amount of the*
42 *estimated maximum special benefits.*

43 *4. After the public hearing, the governing body shall, by*
44 *resolution or ordinance, confirm the assessments, as specified in*
45 *the proposed assessment roll or as modified, and levy the*



1 *assessments for the period by ordinance as provided in NRS*
2 *271.390. The ordinance pursuant to which the assessments are*
3 *levied must specify the period not exceeding 3 years over which*
4 *the assessments are due.*

5 *5. The assessments levied pursuant to subsection 4 must be*
6 *due over the period that:*

7 *(a) Begins on the effective date of the resolution or ordinance*
8 *confirming the assessments; and*

9 *(b) Ends on the last day of the period set forth in the ordinance*
10 *pursuant to which the assessments are levied.*

11 *6. The assessments may be made payable at one time or in*
12 *monthly, quarterly, semiannual or annual installments over the*
13 *period described in subsection 5.*

14 *7. Interest may not be charged on an assessment or*
15 *installment paid when due.*

16 *8. Except as otherwise provided in this section, an assessment*
17 *imposed pursuant to this section must be levied, collected and*
18 *enforced at the same time, in the same manner, by the same*
19 *officers and with the same interest and penalties as other special*
20 *assessments levied pursuant to this chapter. The proceeds of an*
21 *assessment imposed pursuant to this section must be placed in a*
22 *separate fund of the municipality and expended only for the*
23 *maintenance and improvement of the project for which the*
24 *assessment was imposed.*

25 *9. As used in this section, "pedestrian overpass project"*
26 *means any bridge, viaduct or other structure or facilities for the*
27 *use of pedestrians over any street, stream or railroad tracks, and*
28 *any other way or place, approaches, ramps, structures, crosswalks,*
29 *sidewalks, driveways, culverts, drains, sewers, manholes, inlets,*
30 *outlets, retaining walls, artificial lights, pumping equipment,*
31 *ventilating equipment, and all appurtenances and incidentals*
32 *necessary, useful or desirable for any such overpass, or any*
33 *combination thereof, including real and other property therefor.*

34 **Sec. 4.** NRS 271.030 is hereby amended to read as follows:

35 271.030 As used in this chapter, unless the context otherwise
36 requires, the words and terms defined in NRS 271.035 to 271.250,
37 inclusive, *and section 2 of this act* have the meanings ascribed to
38 them in those sections.

39 **Sec. 5.** NRS 271.265 is hereby amended to read as follows:

40 271.265 1. The governing body of a county, city or town,
41 upon behalf of the municipality and in its name, without any
42 election, may from time to time acquire, improve, equip, operate
43 and maintain, within or without the municipality, or both within and
44 without the municipality:

45 (a) A commercial area vitalization project;



- 1 (b) A curb and gutter project;
- 2 (c) A drainage project;
- 3 (d) An off-street parking project;
- 4 (e) An overpass project;
- 5 (f) A park project;
- 6 (g) A sanitary sewer project;
- 7 (h) A security wall;
- 8 (i) A sidewalk project;
- 9 (j) A storm sewer project;
- 10 (k) A street project;
- 11 (l) A street beautification project;
- 12 (m) A transportation project;
- 13 (n) An underpass project;
- 14 (o) A water project; and
- 15 (p) Any combination of such projects.

16 2. In addition to the power specified in subsection 1, the
17 governing body of a city having a commission form of government
18 as defined in NRS 267.010, upon behalf of the municipality and in
19 its name, without any election, may from time to time acquire,
20 improve, equip, operate and maintain, within or without the
21 municipality, or both within and without the municipality:

- 22 (a) An electrical project;
- 23 (b) A telephone project;
- 24 (c) A combination of an electrical project and a telephone
25 project;
- 26 (d) A combination of an electrical project or a telephone project
27 with any of the projects, or any combination thereof, specified in
28 subsection 1; and
- 29 (e) A combination of an electrical project and a telephone
30 project with any of the projects, or any combination thereof,
31 specified in subsection 1.

32 3. In addition to the power specified in subsections 1 and 2, the
33 governing body of a municipality, on behalf of the municipality and
34 in its name, without an election, may finance an underground
35 conversion project with the approval of each service provider that
36 owns the overhead service facilities to be converted.

37 ***4. In addition to the power specified in subsections 1, 2 and 3,***
38 ***the governing body of a municipality, on behalf of the***
39 ***municipality and in its name, without an election, may create a***
40 ***maintenance district pursuant to section 3 of this act.***

41 **Sec. 6.** NRS 271.280 is hereby amended to read as follows:

42 271.280 1. Whenever the governing body is of the opinion
43 that the interest of the municipality requires any project, the
44 governing body, by resolution, shall direct the engineer to prepare,
45 or may, after he has prepared, ratify:



- 1 (a) Preliminary plans showing:
- 2 (1) A typical section of the contemplated improvement.
- 3 (2) The type or types of material, approximate thickness and
- 4 wideness.
- 5 (3) A preliminary estimate of the cost of the project,
- 6 including incidental costs.
- 7 (b) An assessment plat showing:
- 8 (1) The area to be assessed.
- 9 (2) ~~[Except as otherwise provided in NRS 271.378, the]~~ *The*
- 10 amount of maximum benefits estimated to be assessed against each
- 11 tract in the assessment area.
- 12 The governing body is not required to employ the services of an
- 13 appraiser to estimate or to assist the engineer in estimating the
- 14 benefits to be derived from the project.
- 15 2. The resolution or ratification may provide for one or more
- 16 types of construction, and the engineer shall separately estimate the
- 17 cost of each type of construction. The estimate may be made in a
- 18 lump sum or by unit prices, as the engineer determines is most
- 19 desirable for the improvement complete in place.
- 20 3. The resolution or document ratified must describe the
- 21 project in general terms.
- 22 4. The resolution or document ratified must state:
- 23 (a) What part or portion of the expense of the project is of
- 24 special benefit and therefore is to be paid by assessments.
- 25 (b) What part, if any, has been or is proposed to be defrayed
- 26 with money derived from other than the levy of assessments.
- 27 (c) The basis by which the cost will be apportioned and
- 28 assessments levied.
- 29 5. If the assessment is not to be made according to front feet,
- 30 the resolution or document ratified must:
- 31 (a) By apt description designate the improvement district,
- 32 including the tracts to be assessed.
- 33 (b) Describe definitely the location of the project.
- 34 (c) State that the assessment is to be made upon all the tracts
- 35 benefited by the project proportionately to the benefits received.
- 36 6. If the assessment is to be upon the abutting property upon a
- 37 frontage basis, it is sufficient for the resolution or document ratified
- 38 so to state and to define the location of the project to be made.
- 39 7. It is not necessary in any case to describe minutely in the
- 40 resolution or document ratified each particular tract to be assessed,
- 41 but simply to designate the property, improvement district or the
- 42 location, so that the various parts to be assessed can be ascertained
- 43 and determined to be within or without the proposed improvement
- 44 district.



1 8. If the preliminary plans include a commercial area
2 vitalization project, then in addition to the other requirements in this
3 section, before the plans are ratified by the governing body, the
4 plans must include a plan for the management of the proposed
5 improvement district which must include, without limitation:
6 (a) The improvements proposed for each year of the first 5 fiscal
7 years of the proposed improvement district;
8 (b) An estimate of the total amount to be expended on
9 improvements in the first year of operation;
10 (c) A list of any other special assessments that are currently
11 being levied within the proposed improvement district;
12 (d) The name of any proposed association; and
13 (e) Any other matter that the governing body requires to be set
14 forth in the plan.
15 9. The engineer shall forthwith prepare and file with the clerk:
16 (a) The preliminary plans; and
17 (b) The assessment plat.
18 10. Upon the filing of the plans and plat, they must be
19 examined by the governing body. If the plans and plat are found to
20 be satisfactory, the governing body shall make a provisional order
21 by resolution to the effect that the project will be acquired or
22 improved, or both acquired and improved.
23 **Sec. 7.** NRS 271.296 is hereby amended to read as follows:
24 271.296 1. The governing body may, by resolution, dissolve
25 an improvement district that is created for the purposes of a
26 commercial area vitalization project if property owners whose
27 property is assessed for a combined total of more than 50 percent of
28 the total amount of the assessments of all the property in the
29 improvement district submit a written petition to the governing body
30 that requests the dissolution of the district within the period
31 prescribed in subsection 2.
32 2. The dissolution of an improvement district pursuant to this
33 section may be requested within 30 days after:
34 (a) The first anniversary of the date the improvement district
35 was created; and
36 (b) Each subsequent anniversary thereafter.
37 3. As soon as practicable after the receipt of the written petition
38 of the property owners submitted pursuant to subsection 1, the
39 governing body shall pass a resolution of intention to dissolve the
40 improvement district. The governing body shall give notice of a
41 hearing on the dissolution. The notice must be provided and the
42 hearing must be held ~~[pursuant to the requirements set forth in NRS~~
43 ~~271.377.]~~ *in the manner described in NRS 271.380 and 271.385*
44 *for hearings for assessments.* If the governing body determines that
45 dissolution of the improvement district is appropriate, it shall



1 dissolve the improvement district by resolution, effective not earlier
2 than the 30th day after the hearing.

3 4. If there is indebtedness, outstanding and unpaid, incurred to
4 accomplish any of the purposes of the improvement district, the
5 portion of the assessment necessary to pay the indebtedness remains
6 effective and must be continued in the following years until the debt
7 is paid.

8 **Sec. 8.** NRS 271.297 is hereby amended to read as follows:

9 271.297 An association with which a governing body contracts
10 pursuant to NRS 271.332 may, at any time, request that the
11 governing body modify a plan or plat with regard to the commercial
12 area vitalization project. Upon the written request of the association,
13 the governing body may modify the plan or plat by ordinance after
14 holding a hearing on the proposed modification ~~[pursuant to NRS~~
15 ~~271.377.]~~ *in the manner described in NRS 271.380 and 271.385*
16 *for hearings for assessments.* If the proposed modification of a plat
17 expands the territory for assessment, a person who owns or resides
18 within a tract which is located within the territory proposed to be
19 added to the improvement district and which is used exclusively for
20 residential purposes may file a protest pursuant to NRS 271.392 at
21 any time before the governing body modifies the plat by ordinance.
22 A petition is not required for a modification made pursuant to this
23 section.

24 **Sec. 9.** NRS 271.315 is hereby amended to read as follows:

25 271.315 1. Any person filing a written complaint, protest or
26 objection as provided in NRS 271.305 may, within 30 days after the
27 governing body has finally passed on the complaint, protest or
28 objection by resolution or ordinance as provided in subsection 2 of
29 NRS 271.310, commence an action or suit in any court of competent
30 jurisdiction to correct or set aside the determination, but thereafter
31 all actions or suits attacking the validity of the proceedings and the
32 amount of benefits are perpetually barred.

33 2. Any person who brings an action pursuant to this section
34 must plead with particularity and prove the facts upon which he
35 relies to establish:

36 (a) That the estimate of the benefits to be derived from the
37 project or the method used to apportion the cost of the project is
38 fraudulent, arbitrary or unsupported by substantial evidence; or

39 (b) That any provision of NRS 271.265 to 271.310, inclusive, or
40 271.800 *or section 3 of this act* has been violated.

41 Conclusory allegations of fact or law are insufficient to comply with
42 the requirements of this subsection.

43 3. In any action brought pursuant to this section, judicial
44 review of the proceedings is confined to the record before the



1 governing body. Evidence that has not been presented to the
2 governing body must not be considered by the court.

3 **Sec. 10.** NRS 271.332 is hereby amended to read as follows:
4 271.332 1. A governing body that forms an improvement
5 district for a commercial area vitalization project may contract with
6 a nonprofit association to provide the improvements that are
7 specified in the plans for the commercial area vitalization project. If
8 creation of the commercial improvement district was initiated by
9 petition, the governing body shall contract for that purpose with the
10 association named in the plan for management of the improvement
11 district.

12 2. An association with which a governing body contracts
13 pursuant to subsection 1 must be a private nonprofit corporation and
14 must be identified in the plan for management of the improvement
15 district. The association shall maintain liability insurance covering
16 its activities.

17 3. The contract between the governing body and the
18 association is a contract for professional services and is not subject
19 to the limitations of subsection 1 of NRS 354.626. The terms of the
20 contract may extend:

21 (a) Beyond the terms of office of members of the governing
22 body; and

23 (b) For the time necessary to cover the life of improvements and
24 to fulfill financial commitments for equipment, services and related
25 undertakings.

26 4. The association does not become a political subdivision,
27 local government, public body, governmental agency or entity,
28 establishment of the government, public corporation or quasi-public
29 corporation for any purpose solely on the basis of a contract entered
30 into with a governing body pursuant to subsection 1.

31 5. A contract executed pursuant to this section must ensure that
32 the type and level of services provided by the municipality at the
33 time of the creation of the improvement district continue after the
34 improvement district is formed.

35 **6. *An improvement district created for a commercial area
36 vitalization project is not entitled to any distribution from the local
37 government tax distribution account.***

38 **Sec. 11.** Section 6.5 of the Washoe County Taxes on Transient
39 Lodging Act, being chapter 334, Statutes of Nevada 2001, at page
40 1572, is hereby amended to read as follows:

41 Sec. 6.5. 1. The City Council of the City of Reno may
42 by ordinance create a local improvement district and levy
43 special assessments within that district to provide money to
44 acquire, establish, construct, expand, equip, improve, operate
45 and maintain capital improvement projects which have been



1 approved by the Truckee Meadows Tourism Facility and
2 Revitalization Steering Committee pursuant to subsection 2
3 of section 6 of this act. If the City Council creates a local
4 improvement district pursuant to this subsection:

5 (a) Except as otherwise provided in this section, the
6 creation of the local improvement district and the levying of
7 the special assessments within that district must be carried out
8 in the manner provided for a street beautification project in
9 chapter 271 of NRS; and

10 (b) The boundaries of the local improvement district must
11 be as prescribed by the City Council in the ordinance creating
12 the district, except that the boundaries must include only
13 property that is located in or within 4 city blocks, as
14 determined by the City Council, of a district described in
15 NRS 268.780 to 268.785, inclusive, in which a 1 percent tax
16 is imposed on the gross receipts from the rental of transient
17 lodging for railroad grade separation projects.

18 2. Any special assessments levied pursuant to this
19 section must be apportioned based on the special benefit
20 derived by the property being assessed from the capital
21 improvement project for which the assessment is being
22 levied. The City Council may use one or any combination of
23 the following methods that, in the determination of the City
24 Council, reflects most accurately the special benefits derived
25 by the property so assessed:

26 (a) A method by which the assessment or a portion
27 thereof is proportionate to the assessed value of the property
28 for purposes of ad valorem taxation, as that value may change
29 from year to year;

30 (b) A method by which the assessment or a portion
31 thereof is proportionate to the number of rooms for which the
32 owner of the property pays the tax on the rental of transient
33 lodging, as that number of rooms may change from year to
34 year;

35 (c) A method by which the assessment or a portion
36 thereof is proportionate to, or otherwise related to, the
37 distance of the property from the project for which the
38 assessment is being levied; or

39 (d) A method by which the assessment or a portion
40 thereof is proportionate to the gross or net square footage of
41 the property that is used for retail sales, gaming, transient
42 lodging or for any other purpose determined by the City
43 Council to be specially benefited by the project for which the
44 assessment is being levied, as that square footage may change
45 from year to year.



1 3. The City Council may determine that certain uses of
2 property will not be specially benefited by a capital
3 improvement project for which the local improvement district
4 is being created. If the City Council makes such a
5 determination, the City Council shall set forth in the
6 ordinance creating the local improvement district:

7 (a) The uses of property that the City Council has
8 determined will not be specially benefited by a capital
9 improvement project for which the local improvement district
10 is being created;

11 (b) A date in each year after the creation of the local
12 improvement district on which the City Council will
13 determine whether each property within the local
14 improvement district is being used, in whole or in part, for
15 such a specified nonbenefited use;

16 (c) Whether a property that is used in part for such a
17 specified nonbenefited use will be assessed and, if so,
18 whether and in what manner the assessment will be reduced
19 to reflect the specified nonbenefited use; and

20 (d) Any other matter that the City Council determines is
21 necessary or desirable in connection with the assessment of
22 properties based in whole or in part on the use of the
23 properties on the date in each year established pursuant to
24 paragraph (b).

25 4. The assessments set forth in the assessment roll with
26 regard to which a hearing is held pursuant to NRS 271.380
27 must reflect the adjustments, if any, made to assessments
28 based on the use of a property, in whole or in part, for one or
29 more of the nonbenefited uses specified in the ordinance
30 creating the local improvement district pursuant to subsection
31 3. In addition to the requirements of subsection 2 of NRS
32 271.380, the notice of hearing must state that:

33 (a) Any adjustment to the assessments based on the uses
34 made of certain properties as of the date specified pursuant to
35 paragraph (b) of subsection 3 are shown on the assessment
36 roll; and

37 (b) A person who objects to the assessment roll, an
38 adjustment to the assessment roll or any determination made
39 by the City Council in connection with the assessment roll or
40 an adjustment thereto must file an objection in writing in the
41 manner and within the period prescribed by paragraph (e) of
42 subsection 2 of NRS 271.380 and if he fails to do so, his
43 objection shall be deemed waived.

44 5. Notwithstanding the method or methods of
45 apportionment selected pursuant to subsection 2, the City



1 Council shall, if it determines that an equitable adjustment is
2 appropriate, make an equitable adjustment to an assessment
3 against an irregularly shaped property for which the selected
4 method or methods of apportionment do not result in an
5 assessment that is in proportion to the special benefit that the
6 property derives from the project for which the assessment is
7 being levied.

8 6. An assessment apportioned pursuant to the method
9 described in paragraph (a) of subsection 2 must not be
10 considered a property tax for the purpose of any limitation on
11 the rate of property taxation.

12 7. The following determinations made by the City
13 Council are conclusive in the absence of fraud or a gross
14 abuse of discretion:

15 (a) The boundaries of the local improvement district, the
16 specification of uses of properties that are not specially
17 benefited by a capital improvement project for which the
18 assessments are being levied, the method or methods of
19 apportioning the assessments and the special benefits to be
20 derived from the project by the properties being assessed, as
21 made after a hearing on the provisional order for the local
22 improvement district as provided in chapter 271 of NRS; and

23 (b) The apportionment of the assessments against
24 properties in the local improvement district in each year after
25 the creation of the local improvement district, whether or not
26 a property is being used, in whole or in part, for a use that is
27 specified in the ordinance creating the local improvement
28 district as a use which is not specially benefited by the capital
29 improvement project for which the assessments are being
30 levied and any other matter concerning the amounts of the
31 assessments against properties, as made after the hearing held
32 on the assessments in the manner provided in NRS ~~271.378.~~
33 **271.380 and 271.385.**

34 **Sec. 12.** NRS 271.369, 271.377 and 271.378 are hereby
35 repealed.

LEADLINES OF REPEALED SECTIONS

271.369 Transportation project: Estimate of expenditures to maintain, operate, improve and repair project; assessment; use of proceeds.



271.377 Estimate of expenditures and proposed assessment roll for commercial area vitalization projects; public hearing required; levy of assessments; limit on distribution from local government tax distribution account.

271.378 Estimate of expenditures and proposed assessment roll for street beautification projects; public hearing required; confirmation of assessments; installment payments authorized.

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