

ASSEMBLY BILL NO. 273—ASSEMBLYWOMAN NEAL

MARCH 15, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to local governmental financial administration. (BDR 31-1069)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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 financial administration; requiring the governing body of a local government to apply a certain percentage of the money collected from a license tax imposed on a marijuana establishment or medical marijuana establishment to the repayment of money or the reduction of the amount of money loaned or transferred from an enterprise fund under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes certain local governments to fix, impose and collect a  
2 license tax on a marijuana establishment and a medical marijuana establishment.  
3 (NRS 244.35253, 268.0977, 269.183) Existing law places certain restrictions on  
4 the ability of a governing body of a local government to loan or transfer money  
5 from an enterprise fund. Under existing law, a governing body of a local  
6 government is authorized to loan or transfer money from an enterprise fund only if  
7 the loan or transfer is made: (1) as a medium-term obligation in compliance with  
8 certain requirements; (2) to pay the expenses of the pertinent enterprise; (3) for a  
9 cost allocation for employees, equipment or other resources; or (4) upon the  
10 dissolution of the enterprise fund. However, existing law provides an exception  
11 from these restrictions for certain local governments that transfer money  
12 from an enterprise fund to the general fund of the local government for the  
13 purposes of subsidizing the general fund. (NRS 354.613) This bill requires a local  
14 government that engages in such a loan or transfer to which the foregoing  
15 restrictions do not apply to apply 0.5 percent of the license tax rate imposed by the  
16 local government on a marijuana establishment or medical marijuana  
17 establishment to the repayment of the money loaned or transferred to, or the  
18 reduction of the amount of money loaned or transferred from, the enterprise



19 fund before any money collected from such a license tax may be spent for any  
20 other purpose.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1       **Section 1.** NRS 354.613 is hereby amended to read as follows:

2       354.613 1. Except as otherwise provided in this section, the  
3 governing body of a local government may, on or after July 1, 2011,  
4 loan or transfer money from an enterprise fund, money collected  
5 from fees imposed for the purpose for which an enterprise fund was  
6 created or any income or interest earned on money in an enterprise  
7 fund only if the loan or transfer is made:

8       (a) In accordance with a medium-term obligation issued by the  
9 recipient in compliance with the provisions of chapter 350 of NRS,  
10 the loan or transfer is proposed to be made and the governing body  
11 approves the loan or transfer under a nonconsent item that is  
12 separately listed on the agenda for a regular meeting of the  
13 governing body, and:

14       (1) The money is repaid in full to the enterprise fund within 5  
15 years; or

16       (2) If the recipient will be unable to repay the money in full  
17 to the enterprise fund within 5 years, the recipient notifies the  
18 Committee on Local Government Finance of:

19           (I) The total amount of the loan or transfer;

20           (II) The purpose of the loan or transfer;

21           (III) The date of the loan or transfer; and

22           (IV) The estimated date that the money will be repaid in  
23 full to the enterprise fund;

24       (b) To pay the expenses related to the purpose for which the  
25 enterprise fund was created;

26       (c) For a cost allocation for employees, equipment or other  
27 resources related to the purpose of the enterprise fund which is  
28 approved by the governing body under a nonconsent item that is  
29 separately listed on the agenda for a regular meeting of the  
30 governing body; or

31       (d) Upon the dissolution of the enterprise fund.

32       2. Except as otherwise provided in this section, the governing  
33 body of a local government may increase the amount of any fee  
34 imposed for the purpose for which an enterprise fund was created  
35 only if the governing body approves the increase under a  
36 nonconsent item that is separately listed on the agenda for a regular  
37 meeting of the governing body, and the governing body determines  
38 that:

39       (a) The increase is not prohibited by law;



1 (b) The increase is necessary for the continuation or expansion  
2 of the purpose for which the enterprise fund was created; and

3 (c) All fees that are deposited in the enterprise fund are used  
4 solely for the purposes for which the fees are collected.

5 3. Upon the adoption of an increase in any fee pursuant to  
6 subsection 2, the governing body shall, except as otherwise provided  
7 in this subsection, provide to the Department of Taxation an  
8 executed copy of the action increasing the fee. This requirement  
9 does not apply to the governing body of a federally regulated  
10 airport.

11 4. The provisions of subsection 2 do not limit the authority of  
12 the governing body of a local government to increase the amount of  
13 any fee imposed upon a public utility in compliance with the  
14 provisions of NRS 354.59881 to 354.59889, inclusive, for a right-  
15 of-way over any public area if the public utility is billed separately  
16 for that fee. As used in this subsection, "public utility" has the  
17 meaning ascribed to it in NRS 354.598817.

18 5. This section must not be construed to:

19 (a) Prohibit a local government from increasing a fee or using  
20 money in an enterprise fund to repay a loan lawfully made to the  
21 enterprise fund from another fund of the local government; or

22 (b) Prohibit or impose any substantive or procedural limitations  
23 on any increase of a fee that is necessary to meet the requirements of  
24 an instrument that authorizes any bonds or other debt obligations  
25 which are secured by or payable from, in whole or in part, money in  
26 the enterprise fund or the revenues of the enterprise for which the  
27 enterprise fund was created.

28 6. The Department of Taxation shall provide to the Committee  
29 on Local Government Finance a copy of each report submitted to  
30 the Department on or after July 1, 2011, by a county or city pursuant  
31 to NRS 354.6015. The Committee shall:

32 (a) Review each report to determine whether the governing body  
33 of the local government is in compliance with the provisions of this  
34 section; and

35 (b) On or before January 15 of each odd-numbered year, submit  
36 a report of its findings to the Director of the Legislative Counsel  
37 Bureau for transmittal to the Legislature.

38 7. A fee increase imposed in violation of this section must not  
39 be invalidated on the basis of that violation. The sole remedy for a  
40 violation of this section is the penalty provided in NRS 354.626.  
41 Any person who pays a fee for the enterprise for which the  
42 enterprise fund is created may file a complaint with the district  
43 attorney or Attorney General alleging a violation of this section for  
44 prosecution pursuant to NRS 354.626.



1 8. For the purposes of paragraph (c) of subsection 1, the  
2 Committee on Local Government Finance shall adopt regulations  
3 setting forth the extent to which general, overhead, administrative  
4 and similar expenses of a local government of a type described in  
5 paragraph (c) of subsection 1 may be allocated to an enterprise fund.  
6 The regulations must require that:

7 (a) Each cost allocation makes an equitable distribution of all  
8 general, overhead, administrative and similar expenses of the local  
9 government among all activities of the local government, including  
10 the activities funded by the enterprise fund; and

11 (b) Only the enterprise fund's equitable share of those expenses  
12 may be treated as expenses of the enterprise fund and allocated to it  
13 pursuant to paragraph (c) of subsection 1.

14 9. Except as otherwise provided in subsections 10 and 11, if a  
15 local government has subsidized its general fund with money from  
16 an enterprise fund for the 5 fiscal years immediately preceding the  
17 fiscal year beginning on July 1, 2011, the provisions of subsection 1  
18 do not apply to transfers from the enterprise fund to the general fund  
19 of the local government for the purpose of subsidizing the general  
20 fund if the local government:

21 (a) Does not increase the amount of the transfers to subsidize the  
22 general fund in any fiscal year beginning on or after July 1, 2011,  
23 above the amount transferred in the fiscal year ending on June 30,  
24 2011, except for loans and transfers that comply with the provisions  
25 of subsection 1; and

26 (b) Does not, on or after July 1, 2011, increase any fees for any  
27 enterprise fund used to subsidize the general fund except for  
28 increases described in paragraph (b) of subsection 5.

29 10. On and after July 1, 2021, the provisions of subsection 1  
30 apply to transfers from an enterprise fund described in subsection 9  
31 to the general fund of a local government for the purpose of  
32 subsidizing the general fund unless:

33 (a) On or before July 1, 2018, the Committee on Local  
34 Government Finance has approved a plan adopted by the governing  
35 body of the local government to eliminate transfers from an  
36 enterprise fund to subsidize the general fund of the local  
37 government that are not made in compliance with subsection 1,  
38 which must include, without limitation, a plan to reduce, by at least  
39 3.3 percent each fiscal year during the term of the plan, the amount  
40 of the transfers from the enterprise fund to the general fund of the  
41 local government for the purpose of subsidizing the general fund;  
42 and

43 (b) In accordance with the plan approved by the Committee on  
44 Local Government Finance pursuant to paragraph (a), for each fiscal  
45 year during the term of the plan, the local government reduces by at



1 least 3.3 percent the amount of the transfers from the enterprise fund  
2 to the general fund of the local government for the purpose of  
3 subsidizing the general fund.

4 11. Each plan approved by the Committee on Local  
5 Government Finance pursuant to subsection 10 is subject to annual  
6 review by the Committee.

7 12. After the expiration of the term of a plan approved by the  
8 Committee on Local Government Finance pursuant to subsection  
9 10, the provisions of subsection 1 apply to the local government that  
10 adopted the plan.

11 *13. If the governing body of a local government loans or*  
12 *transfers money from an enterprise fund to the general fund of the*  
13 *local government for the purpose of subsidizing the general fund,*  
14 *the provisions of subsection 1 do not apply to such a loan or*  
15 *transfer pursuant to subsection 9 or 10 and the local government*  
16 *imposes a license tax on a marijuana establishment or medical*  
17 *marijuana establishment pursuant to NRS 244.35253, 268.0977 or*  
18 *269.183, as applicable:*

19 *(a) If the license tax imposed is an amount that does not*  
20 *exceed 0.5 percent of the gross revenue of the marijuana*  
21 *establishment or medical marijuana establishment, all of the*  
22 *money collected by the local government must be applied to the*  
23 *repayment to the enterprise fund of the money loaned or*  
24 *transferred or to reducing the amount of money loaned or*  
25 *transferred from an enterprise fund.*

26 *(b) If the license tax imposed is an amount that exceeds 0.5*  
27 *percent of the gross revenue of the marijuana establishment or*  
28 *medical marijuana establishment, an amount of money collected*  
29 *equal to 0.5 percent of the gross revenue of the marijuana*  
30 *establishment or medical marijuana establishment must be applied*  
31 *to the repayment to the enterprise fund of the money loaned or*  
32 *transferred or to reducing the amount of money loaned or*  
33 *transferred from an enterprise fund before any of the money*  
34 *collected may be spent on any other purpose.*

35 *14. As used in this section:*

36 *(a) "Marijuana establishment" has the meaning ascribed to it*  
37 *in NRS 453D.030.*

38 *(b) "Medical marijuana establishment" has the meaning*  
39 *ascribed to it in NRS 453A.116.*

40 **Sec. 2.** This act becomes effective on July 1, 2019.







