

Assembly Bill No. 471–Committee
on Government Affairs

CHAPTER.....

AN ACT relating to local government financial administration; limiting the authority of a governing body of a local government to loan or transfer money from an enterprise fund and to increase fees imposed for the purpose of an enterprise fund; requiring certain reports from the Committee on Local Government Finance; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Local Government Budget and Finance Act authorizes the governing body of a local government to establish certain funds, including an enterprise fund to account for operations which are financed and conducted in a manner similar to the operations of a private business, where the intent of the governing body is to have the expenses of providing goods or services to the general public financed through charges imposed on users. (NRS 354.470-354.626) **Section 1** of this bill allows a governing body of a local government to loan or transfer money from an enterprise fund only if the loan or transfer is made: (1) as a medium-term obligation in compliance with certain requirements; (2) to pay the expenses of the pertinent enterprise; (3) for a cost allocation for employees, equipment or other resources; or (4) upon the dissolution of the fund. In addition, **section 1** allows such a governing body to increase the amount of the fees imposed for the purpose for which an enterprise fund was created only if the fees are used for certain specified purposes or the governing body determines that: (1) the increase is not prohibited by law; (2) the increase is necessary for the pertinent enterprise; and (3) all fees that are deposited in the enterprise fund are used solely for the purposes for which the fees are collected. Furthermore, **section 1** requires the Committee on Local Government Finance to submit biennial reports to the Legislature regarding compliance with the requirements of that section. **Section 9** of this bill provides that any officer or employee of a local government who violates **section 1** is guilty of a misdemeanor and upon conviction ceases to hold his or her office or employment.

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

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

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

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



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

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

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

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

(II) The purpose of the loan or transfer;

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

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

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

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

(d) Upon the dissolution of the enterprise fund.

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

(a) The increase is not prohibited by law;

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

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

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



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

5. *This section must not be construed to:*

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

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

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

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

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

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

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

(a) *Each cost allocation makes an equitable distribution of all general, overhead, administrative and similar expenses of the local*



government among all activities of the local government, including the activities funded by the enterprise fund; and

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

9. Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:

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

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

10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.

11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.

Sec. 2. NRS 354.470 is hereby amended to read as follows:

354.470 NRS 354.470 to 354.626, inclusive, **and section 1 of this act** may be cited as the Local Government Budget and Finance Act.

Sec. 3. NRS 354.472 is hereby amended to read as follows:

354.472 1. The purposes of NRS 354.470 to 354.626, inclusive, **and section 1 of this act** are:

(a) To establish standard methods and procedures for the preparation, presentation, adoption and administration of budgets of all local governments.

(b) To enable local governments to make financial plans for programs of both current and capital expenditures and to formulate fiscal policies to accomplish these programs.



(c) To provide for estimation and determination of revenues, expenditures and tax levies.

(d) To provide for the control of revenues, expenditures and expenses in order to promote prudence and efficiency in the expenditure of public money.

(e) To provide specific methods enabling the public, taxpayers and investors to be apprised of the financial preparations, plans, policies and administration of all local governments.

2. For the accomplishment of these purposes, the provisions of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* must be broadly and liberally construed.

Sec. 4. NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive ~~(1)~~, *and section 1 of this act*:

(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" does not include the Nevada Rural Housing Authority.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, *and section 1 of this act*, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, *and section 1 of this act* for a year in which the district does not issue bonds or levy an assessment if the district files with the Department of



Taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Utilities Service of the United States Department of Agriculture.

Sec. 5. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 354.479 to 354.578, inclusive, have the meanings ascribed to them in those sections.

Sec. 6. NRS 354.524 is hereby amended to read as follows:

354.524 “Final budget” means the budget which has been adopted by a local governing body or adopted by default as defined by NRS 354.470 to 354.626, inclusive, *and section 1 of this act* and which has been determined by the Department of Taxation to be in compliance with applicable statutes and regulations.

Sec. 7. NRS 354.594 is hereby amended to read as follows:

354.594 The Committee on Local Government Finance shall determine and advise local government officers of regulations, procedures and report forms for compliance with NRS 354.470 to 354.626, inclusive ~~§~~, *and section 1 of this act*.

Sec. 8. NRS 354.6241 is hereby amended to read as follows:

354.6241 1. The statement required by paragraph (a) of subsection 5 of NRS 354.624 must indicate for each fund set forth in that paragraph:

(a) Whether the fund is being used in accordance with the provisions of this chapter.

(b) Whether the fund is being administered in accordance with generally accepted accounting procedures.

(c) Whether the reserve in the fund is limited to an amount that is reasonable and necessary to carry out the purposes of the fund.

(d) The sources of revenues available for the fund during the fiscal year, including transfers from any other funds.

(e) The statutory and regulatory requirements applicable to the fund.

(f) The balance and retained earnings of the fund.

2. Except as otherwise provided in NRS 354.59891 ~~§~~ *and section 1 of this act*, to the extent that the reserve in any fund set forth in paragraph (a) of subsection 5 of NRS 354.624 exceeds the amount that is reasonable and necessary to carry out the purposes for which the fund was created, the reserve may be expended by the local government pursuant to the provisions of chapter 288 of NRS.

Sec. 9. NRS 354.626 is hereby amended to read as follows:

354.626 1. No governing body or member thereof, officer, office, department or agency may, during any fiscal year, expend or



contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, in excess of the amounts appropriated for that function, other than bond repayments, medium-term obligation repayments and any other long-term contract expressly authorized by law. Any officer or employee of a local government who willfully violates NRS 354.470 to 354.626, inclusive, *and section 1 of this act* is guilty of a misdemeanor and upon conviction thereof ceases to hold his or her office or employment. Prosecution for any violation of this section may be conducted by the Attorney General or, in the case of incorporated cities, school districts or special districts, by the district attorney.

2. Without limiting the generality of the exceptions contained in subsection 1, the provisions of this section specifically do not apply to:

(a) Purchase of coverage and professional services directly related to a program of insurance which require an audit at the end of the term thereof.

(b) Long-term cooperative agreements as authorized by chapter 277 of NRS.

(c) Long-term contracts in connection with planning and zoning as authorized by NRS 278.010 to 278.630, inclusive.

(d) Long-term contracts for the purchase of utility service such as, but not limited to, heat, light, sewerage, power, water and telephone service.

(e) Contracts between a local government and an employee covering professional services to be performed within 24 months following the date of such contract or contracts entered into between local government employers and employee organizations.

(f) Contracts between a local government and any person for the construction or completion of public works, money for which has been or will be provided by the proceeds of a sale of bonds, medium-term obligations or an installment-purchase agreement and that are entered into by the local government after:

(1) Any election required for the approval of the bonds or installment-purchase agreement has been held;

(2) Any approvals by any other governmental entity required to be obtained before the bonds, medium-term obligations or installment-purchase agreement can be issued have been obtained; and

(3) The ordinance or resolution that specifies each of the terms of the bonds, medium-term obligations or



installment-purchase agreement, except those terms that are set forth in subsection 2 of NRS 350.165, has been adopted.

➔ Neither the fund balance of a governmental fund nor the equity balance in any proprietary fund may be used unless appropriated in a manner provided by law.

(g) Contracts which are entered into by a local government and delivered to any person solely for the purpose of acquiring supplies, services and equipment necessarily ordered in the current fiscal year for use in an ensuing fiscal year and which, under the method of accounting adopted by the local government, will be charged against an appropriation of a subsequent fiscal year. Purchase orders evidencing such contracts are public records available for inspection by any person on demand.

(h) Long-term contracts for the furnishing of television or FM radio broadcast translator signals as authorized by NRS 269.127.

(i) The receipt and proper expenditure of money received pursuant to a grant awarded by an agency of the Federal Government.

(j) The incurrence of obligations beyond the current fiscal year under a lease or contract for installment purchase which contains a provision that the obligation incurred thereby is extinguished by the failure of the governing body to appropriate money for the ensuing fiscal year for the payment of the amounts then due.

(k) The receipt by a local government of increased revenue that:

(1) Was not anticipated in the preparation of the final budget of the local government; and

(2) Is required by statute to be remitted to another governmental entity.

(l) An agreement authorized pursuant to NRS 277A.370.

Sec. 10. Section 1 of this act is hereby amended to read as follows:

Section 1. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:

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

(a) In accordance with a medium-term obligation issued by the recipient in compliance with the provisions of chapter 350 of NRS, the loan or transfer is proposed to be made and



the governing body approves the loan or transfer under a nonconsent item that is separately listed on the agenda for a regular meeting of the governing body, and:

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

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

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

(II) The purpose of the loan or transfer;

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

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

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

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

(d) Upon the dissolution of the enterprise fund.

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

(a) The increase is not prohibited by law;

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

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

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

4. The provisions of subsection 2 do not limit the authority of the governing body of a local government to increase the amount of any fee imposed upon a public utility



in compliance with the provisions of NRS 354.59881 to 354.59889, inclusive, for a right-of-way over any public area if the public utility is billed separately for that fee. As used in this subsection, "public utility" has the meaning ascribed to it in NRS 354.598817.

5. This section must not be construed to:

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

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

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

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

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

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

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



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

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

~~[9.— Except as otherwise provided in subsections 10 and 11, if a local government has subsidized its general fund with money from an enterprise fund for the 5 fiscal years immediately preceding the fiscal year beginning on July 1, 2011, the provisions of subsection 1 do not apply until July 1, 2021, to transfers from the enterprise fund to the general fund of the local government for the purpose of subsidizing the general fund if the local government:~~

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

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

~~—10. On or before July 1, 2012, a local government to which the provisions of subsection 9 apply shall adopt a plan to eliminate, on or before the fiscal year beginning on July 1, 2021, all transfers from any enterprise funds to subsidize the general fund that are not made in compliance with subsection 1. A copy of the plan must be filed with the Department of Taxation on or before July 15, 2012.~~

~~—11. On and after July 1, 2012, the provisions of subsection 9 do not apply to a local government that fails to comply with the provisions of subsection 10.]~~

Sec. 11. Section 3.130 of the Charter of the City of Las Vegas, being chapter 517, Statutes of Nevada 1983, at page 1409, is hereby amended to read as follows:

Sec. 3.130 Department of Financial Management:
Director; qualifications; duties.

1. The City Council shall establish a Department of Financial Management, the head of which is the Director of Financial Management. The Department of Financial



Management may also include such other qualified personnel as the City Manager determines are necessary properly to handle the financial matters of the City.

2. The Director of Financial Management:

(a) Must have knowledge of municipal accounting and taxation.

(b) Must have experience in budgeting and financial control.

(c) Has charge of the administration of the financial affairs of the City.

(d) Must provide a surety bond in the amount which is fixed by the City Council.

(e) Shall perform or cause to be performed on behalf of the City all of the duties and responsibilities which are imposed upon the City by NRS 354.470 to 354.626, inclusive **[§]**, and *section 1 of this act*.

3. The City Council may establish by ordinance such regulations as it deems are necessary for the proper conduct of the Department of Financial Management and its officers and employees.

Sec. 12. The Committee on Local Government Finance shall, on or before January 1, 2012, adopt such regulations as the Committee determines to be necessary to carry out the provisions of subsection 8 of section 1 of this act.

Sec. 13. 1. This section and sections 1 to 9, inclusive, 11 and 12 of this act become effective on July 1, 2011.

2. Section 10 of this act becomes effective on July 1, 2021.

