

ASSEMBLY BILL NO. 90—ASSEMBLYWOMAN BENITEZ-THOMPSON

FEBRUARY 4, 2021

Referred to Committee on Government Affairs

SUMMARY—Requires counties to pay impact fees to certain local governments for projects of intercounty significance. (BDR 22-883)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§§ 9-12) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; requiring counties to determine whether projects are projects of intercounty significance; requiring counties to pay impact fees to certain local governments for certain costs incurred as a result of projects of intercounty significance; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes, under certain circumstances, certain local governments to impose an impact fee on new development to finance the costs of capital improvement or facility expansion necessitated by and attributable to the new development. (Chapter 278B of NRS) This bill sets forth a process for a county to pay an impact fee to certain local governments that are impacted by a project of intercounty significance.

Section 9 of this bill requires a county to determine if a project is a project of intercounty significance before the county takes any final action to approve the development, construction or expansion of a project. **Section 9** also sets forth a process for a local government to dispute a county’s finding that a project is not a project of intercounty significance.

Section 10 of this bill provides that before a county may take any final action to approve the development, construction or expansion of a project of intercounty significance, the county must: (1) notify and request an impact statement from every affected local government; and (2) allow every affected local government a reasonable amount of time to submit an impact statement. An impact statement must include, without limitation, supporting documentation and set forth the costs that the affected local government reasonably expects to incur for the development, creation, construction, expansion or improvement of the following as a result of the



20 project: (1) housing units; (2) transportation infrastructure and facilities; (3)
21 educational facilities for kindergarten through grade 12; (4) facilities for water or
22 sewer services; (5) facilities for flood control; (6) facilities and services related to
23 public safety, health and criminal justice; and (7) social services.

24 **Section 11** of this bill sets forth: (1) the methods by which a county must
25 compensate an affected local government for the impacts caused by a project of
26 intercounty significance; and (2) if the county and affected local government
27 disagree on the amount of impact costs, the process for determining such costs.

28 **Section 12** of this bill authorizes an affected local government to submit an
29 impact statement to and request compensation from a county for not more than one
30 project of intercounty significance that is already developed, constructed or in
31 operation on July 1, 2021.

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

1 **Section 1.** Title 22 of NRS is hereby amended by adding
2 thereto a new chapter to consist of the provisions set forth as
3 sections 2 to 12, inclusive, of this act.

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

7 **Sec. 3.** *“Affected local government” means:*

8 1. *A county that is adjacent to the county where a project of*
9 *intercounty significance is located or proposed to be located;*

10 2. *A city located in a county that is adjacent to the county*
11 *where a project of intercounty significance is located or proposed*
12 *to be located; and*

13 3. *A school district located in a county that is adjacent to the*
14 *county where a project of intercounty significance is located or*
15 *proposed to be located.*

16 **Sec. 4.** *“Mining operation” means the activities and facilities*
17 *involved in the extraction of metallic ores from the earth.*

18 **Sec. 5.** 1. *“Project of intercounty significance,” with*
19 *respect to a project of any person other than a public utility,*
20 *means a project which:*

21 (a) *Required or will require a change in zoning, a special use*
22 *permit, an amendment to a master plan, a tentative map or other*
23 *approval for the use of land and had or will have an effect of*
24 *increasing in the region:*

25 (1) *Employment by at least 938 employees;*

26 (2) *Housing by at least 625 units;*

27 (3) *Hotel accommodations by at least 625 rooms;*

28 (4) *Sewage by at least 187,500 gallons a day;*

29 (5) *Water usage, except for the use of treated effluent for*
30 *irrigation, by at least 625 acre-feet per year;*



1 (6) Traffic by an average of at least 6,250 trips daily; or
2 (7) The student population for kindergarten through grade
3 12 by at least 325 students; or

4 (b) Required or will require a change in zoning, a special use
5 permit, an amendment to a master plan, a tentative map or other
6 approval for the use of land and which resulted in or will result in:

7 (1) The creation of a geothermal field and a facility for the
8 production of geothermal energy;

9 (2) The creation of a mining operation;

10 (3) The alteration of a stream channel or watercourse of
11 any portion of a river of this State or any tributary of a river of
12 this State;

13 (4) The alteration of a wetland in a manner requiring a
14 permit pursuant to the provisions of section 404 of the Clean
15 Water Act, 33 U.S.C. § 1344;

16 (5) A new or significantly expanded landfill or other similar
17 facility;

18 (6) A new or significantly expanded facility for the
19 management of hazardous waste; or

20 (7) The loss or significant degradation of a paleontological
21 site, if the paleontological site has been identified in a master plan.

22 2. "Project of intercounty significance," with respect to a
23 project of a public utility, means:

24 (a) An electric substation;

25 (b) A transmission line that carries 60 kilovolts or more;

26 (c) A facility that generates electricity greater than 5
27 megawatts;

28 (d) Natural gas storage and peak shaving facilities; or

29 (e) Gas regulator stations and mains that operate over 100
30 pounds per square inch.

31 **Sec. 6. 1. "Public utility" means a public utility as defined**
32 **in NRS 704.020.**

33 **2. The term does not include the persons excluded by**
34 **NRS 704.021.**

35 **Sec. 7. "Region" means:**

36 **1. The county where a project of intercounty significance is**
37 **located or proposed to be located; and**

38 **2. Every affected local government.**

39 **Sec. 8. The Legislature hereby finds and declares that:**

40 **1. The provisions of this chapter are intended to ensure that**
41 **the county in which a project of intercounty significance is located**
42 **or proposed to be located coordinates with affected local**
43 **governments in order to mitigate the impact that the project of**
44 **intercounty significance may have on education, conservation,**



1 *land use, transportation, public safety, public facilities and public*
2 *services in the region.*

3 2. *The provisions of this chapter are intended to ensure the*
4 *long-term safety, health and welfare of residents of the county in*
5 *which a project of intercounty significance is located and affected*
6 *local governments.*

7 3. *The provisions of this chapter are not intended to limit*
8 *development or the expansion of development.*

9 **Sec. 9. 1.** *Before a county takes any final action to approve*
10 *the development, construction or expansion of a project, the*
11 *county must determine if the project is a project of intercounty*
12 *significance. If the county determines that a project is not a*
13 *project of intercounty significance, any local government may*
14 *dispute that determination if the local government:*

15 (a) *Reasonably believes that the project is a project of*
16 *intercounty significance; and*

17 (b) *Would be an affected local government if the project is a*
18 *project of intercounty significance.*

19 2. *If a local government disputes the finding of the county*
20 *that a project is not a project of intercounty significance:*

21 (a) *The local government must submit documentation to the*
22 *county explaining why the project is a project of intercounty*
23 *significance; and*

24 (b) *The county must consider the documentation submitted*
25 *pursuant to paragraph (a) and determine if the documentation*
26 *supports a finding that the project is a project of intercounty*
27 *significance.*

28 3. *If the county determines pursuant to paragraph (b) of*
29 *subsection 2 that the documentation submitted by the local*
30 *government supports a finding that the project is a project of*
31 *intercounty significance, the county must comply with the*
32 *provisions of sections 10 and 11 of this act before the county takes*
33 *any final action to approve the development, construction or*
34 *expansion of the project.*

35 4. *If the county determines pursuant to paragraph (b) of*
36 *subsection 2 that the documentation submitted by the local*
37 *government does not support a finding that the project is a project*
38 *of intercounty significance, the local government may file an*
39 *action in a court of competent jurisdiction requesting the court to*
40 *determine if the project is a project of intercounty significance. If*
41 *the court finds that the project is a project of intercounty*
42 *significance, the county must comply with the provisions of*
43 *sections 10 and 11 of this act before the county takes any final*
44 *action to approve the development, construction or expansion of*
45 *the project.*



1 **Sec. 10. 1.** *Before a county takes any final action to*
2 *approve the development, construction or expansion of a project of*
3 *intercounty significance, the county must:*

4 *(a) Notify and request an impact statement from every affected*
5 *local government; and*

6 *(b) Allow every affected local government a reasonable*
7 *amount of time to submit to the county an impact statement.*

8 **2.** *An impact statement submitted pursuant to subsection 1*
9 *must include, without limitation, supporting documentation and*
10 *set forth the costs that the affected local government reasonably*
11 *expects to incur for the development, creation, construction,*
12 *expansion or improvement of the following as a direct result of the*
13 *project of intercounty significance:*

14 *(a) Housing units.*

15 *(b) Transportation infrastructure and facilities.*

16 *(c) Educational facilities for kindergarten through grade 12.*

17 *(d) Facilities for water and sewer services.*

18 *(e) Facilities for flood control.*

19 *(f) Facilities and services related to public safety, health and*
20 *criminal justice.*

21 *(g) Social services.*

22 **3.** *An affected local government may submit an impact*
23 *statement to a county pursuant to this section even if the county*
24 *does not request an impact statement from the affected local*
25 *government.*

26 **Sec. 11. 1.** *If the county finds that the project of*
27 *intercounty significance will impact the affected local government*
28 *to the extent set forth in the impact statement, the county must*
29 *compensate the affected local government for such impacts using*
30 *one or more of the following methods:*

31 *(a) The county may pay the affected local government from*
32 *any unrestricted funds available to the county.*

33 *(b) The county and the affected local government may enter*
34 *into an agreement for the county to provide to the affected local*
35 *government a portion of any revenue that the county will receive*
36 *from the project of intercounty significance.*

37 *(c) The county and the affected local government may enter*
38 *into an interlocal agreement for the county to mitigate the impact*
39 *of the project of intercounty significance on the affected local*
40 *government.*

41 *(d) The county may assess an impact fee on the project of*
42 *intercounty significance for the purpose of using the impact fees*
43 *collected to compensate the affected local government.*

44 **2.** *If the county does not find that the project of intercounty*
45 *significance will impact the affected local government to the*



1 *extent set forth in the impact statement, the county must notify the*
2 *affected local government that the county wishes to enter*
3 *immediately into negotiations to determine the amount, if any, that*
4 *the county must pay to the affected local government for the*
5 *impacts caused by the project of intercounty significance. If the*
6 *county and the affected local government do not reach an*
7 *agreement after 60 days of negotiations:*

8 (a) *The county and the affected local government may by*
9 *mutual agreement continue negotiations for any number of 60-day*
10 *periods;*

11 (b) *The county and the affected local government may*
12 *mutually agree to engage in a method of alternative dispute*
13 *resolution, which may be binding if agreed to by both parties; or*

14 (c) *The county or the affected local government may file an*
15 *action in a court of competent jurisdiction requesting the court to*
16 *determine the amount, if any, that the county must pay to the*
17 *affected local government for the impacts caused by the project of*
18 *intercounty significance. Such an action takes precedence over*
19 *other civil proceedings.*

20 3. *If the amount that the county must pay to the affected local*
21 *government for the impacts that will be caused by the project of*
22 *intercounty significance is determined pursuant to subsection 2,*
23 *the county shall provide such compensation using one or more of*
24 *the methods set forth in subsection 1.*

25 **Sec. 12.** 1. *An affected local government may request*
26 *compensation from the county where a project of intercounty*
27 *significance is located by submitting an impact statement*
28 *requesting payment for the impacts caused by not more than one*
29 *project of intercounty significance that is developed, constructed*
30 *or in operation in the county on July 1, 2021.*

31 2. *The impact statement must include, without limitation,*
32 *supporting documentation and set forth the costs that the affected*
33 *local government incurred for the development, creation,*
34 *construction, expansion or improvement of the following as a*
35 *direct result of the project of intercounty significance:*

36 (a) *Housing units.*

37 (b) *Transportation infrastructure and facilities.*

38 (c) *Educational facilities for kindergarten through grade 12.*

39 (d) *Facilities for water and sewer services.*

40 (e) *Facilities for flood control.*

41 (f) *Facilities and services related to public safety, health and*
42 *criminal justice.*

43 (g) *Social services.*

44 3. *If the county finds that the project of intercounty*
45 *significance impacted the affected local government to the extent*



1 *set forth in the impact statement, the county shall compensate the*
2 *affected local government for such impacts using one or more of*
3 *the following methods:*

4 (a) *The county may pay the affected local government from*
5 *any unrestricted funds available to the county.*

6 (b) *The county and the affected local government may enter*
7 *into an agreement for the county to provide a portion of any*
8 *revenue that the county receives as a result of the project of*
9 *intercounty significance.*

10 (c) *The county and the affected local government may enter*
11 *into an interlocal agreement for the county to mitigate the impact*
12 *of the project of intercounty significance on the affected local*
13 *government.*

14 4. *If the county does not find that the project of intercounty*
15 *significance impacted the affected local government to the extent*
16 *set forth in the impact statement, the county must notify the*
17 *affected local government that the county wishes to enter*
18 *immediately into negotiations to determine the amount, if any, that*
19 *the county must pay to the affected local government for the*
20 *impacts caused by the project of intercounty significance. If the*
21 *county and the affected local government do not reach an*
22 *agreement after 60 days of negotiations:*

23 (a) *The county and the affected local government may by*
24 *mutual agreement continue negotiations for any number of*
25 *successive 60-day periods;*

26 (b) *The county and the affected local government may*
27 *mutually agree to engage in a method of alternative dispute*
28 *resolution, which may be binding if agreed to by both parties; or*

29 (c) *The county or the affected local government may file an*
30 *action in a court of competent jurisdiction requesting the court to*
31 *determine the amount, if any, that the county must pay to the*
32 *affected local government for the impacts caused by the project of*
33 *intercounty significance. Such an action takes precedence over*
34 *other civil proceedings.*

35 5. *If the amount that the county must pay the affected local*
36 *government for the impacts caused by the project of intercounty*
37 *significance is determined pursuant to subsection 4, the county*
38 *must provide such compensation using one or more of the*
39 *methods set forth in subsection 3.*

40 6. *Nothing in this section requires or authorizes a county to*
41 *violate any written agreement that it has entered into before*
42 *July 1, 2021, relating to a project of intercounty significance.*

43 **Sec. 13.** 1. Except as otherwise provided in subsection 2, if
44 on July 1, 2021, a county has not taken any final action to approve
45 the development, construction or expansion of a proposed project of



1 intercounty significance, the county must comply with the
2 provisions of sections 10 and 11 of this act before taking such final
3 action.

4 2. Nothing in this section requires or authorizes a county to
5 violate any written agreement that it has entered into before July 1,
6 2021, relating to a project of intercounty significance.

7 3. As used in this section, "project of intercounty significance"
8 has the meaning ascribed to it in section 5 of this act.

9 **Sec. 14.** The provisions of NRS 354.599 do not apply to any
10 additional expenses of a local government that are related to the
11 provisions of this act.

12 **Sec. 15.** This act becomes effective on July 1, 2021.

