

SENATE BILL NO. 100—SENATOR HARDY

PREFILED JANUARY 26, 2011

Referred to Committee on Government Affairs

SUMMARY—Makes changes to provisions governing local improvement districts. (BDR 21-392)

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 improvement districts; authorizing certain modifications after a local improvement project has begun and assessments have been levied; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law authorizes counties, cities and towns to initiate, levy assessments  
2 and issue bonds for local improvement projects under certain conditions. (NRS  
3 271.265, 271.270) After a governing body passes an ordinance ordering such a  
4 project, modifications may be made to the project by amending the ordinance  
5 provided that no construction contracts have yet been entered. (NRS 271.325)  
6 **Section 4** of this bill allows certain modifications to be made after the project has  
7 begun and assessments have been levied. **Sections 6 and 7** of this bill provide  
8 procedures for a governing body to modify such a project without holding a hearing  
9 if, after receiving a report on the proposed modification from the municipal  
10 engineer or a competent engineer or an engineering firm hired by the governing  
11 body, the governing body determines that the magnitude of the changes to the  
12 original project do not exceed certain thresholds. **Sections 8-13** of this bill provide  
13 procedures, including notice, hearing and judicial review, for a governing body to  
14 modify such an agreement if those thresholds are exceeded. **Sections 14 and 15** of  
15 this bill provide further requirements for a governing body that modifies a local  
16 improvement project, and **section 16** of this bill authorizes a governing body that  
17 begins procedures to modify a local improvement project at the request of a person  
18 to require that person to pay any expenses incurred by the governing body in  
19 connection with the modification. **Sections 3 and 18** of this bill authorize the  
20 payment, repayment or defeasance of certain obligations as a type of local  
21 improvement project.



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

1     **Section 1.** (Deleted by amendment.)

2     **Sec. 2.** Chapter 271 of NRS is hereby amended by adding  
3 thereto the provisions set forth as sections 3 to 16, inclusive, of this  
4 act.

5     **Sec. 3.** *“Defeasance district project” means the financing of*  
6 *amounts necessary to:*

7     1. *Eliminate any assessment levied pursuant to this chapter;*  
8 *or*

9     2. *Pay, repay or defease any obligation to pay any*  
10 *indebtedness secured by any assessment levied pursuant to this*  
11 *chapter within the area of an improvement district or to pay debt*  
12 *service on such indebtedness.*

13     **Sec. 4.** *After the acquisition or improvement of a project*  
14 *ordered pursuant to NRS 271.325 has begun and any special*  
15 *assessment thereon has been levied and divided into installments,*  
16 *the governing body may modify the project subject to the*  
17 *provisions of sections 4 to 16, inclusive, of this act by:*

18     1. *Eliminating a portion of the project;*

19     2. *Making changes or additions to the project;*

20     3. *Modifying the assessments to reflect the changes or*  
21 *additions to the project; and*

22     4. *Modifying the assessment installments and the due dates of*  
23 *the assessment installments.*

24     **Sec. 5.** *Whenever the governing body determines that a*  
25 *modification authorized pursuant to section 4 of this act is*  
26 *warranted, the engineer shall prepare and file with the clerk a*  
27 *report showing:*

28     1. *The proposed modification of the project;*

29     2. *If the modified portion of the project is, as modified,*  
30 *functionally equivalent to that portion of the project before*  
31 *modification, a statement to that effect;*

32     3. *The estimated cost of the project, as modified;*

33     4. *The amount of maximum special benefits estimated to be*  
34 *derived from the project, as modified, by each tract in the*  
35 *improvement district;*

36     5. *The modification, if any, of the assessment on each tract in*  
37 *the improvement district resulting from the modification of the*  
38 *project;*

39     6. *The modification, if any, of the assessment installments*  
40 *and the due dates of the assessment installments;*

41     7. *A revised map showing the location of the project, as*  
42 *modified;*



1 8. *If the assessments on each tract in the improvement district*  
2 *are proposed to be modified, an assessment plat with the modified*  
3 *assessments, apportioned based on the project, as modified; and*

4 9. *Whether, upon modification of the project the assessment*  
5 *on each tract in the improvement district will exceed the estimated*  
6 *maximum special benefits to be derived by each such tract from*  
7 *the project.*

8 **Sec. 6.** 1. *After receipt of the report required pursuant to*  
9 *section 5 of this act, the governing body may, by ordinance and*  
10 *without a protest hearing, modify the project, the assessments on*  
11 *each tract in the improvement district, the assessment installments*  
12 *and the due dates of the assessment installments as provided in the*  
13 *report pursuant to the provisions of this section if the governing*  
14 *body determines that:*

15 (a) *The public convenience and necessity require the*  
16 *modification;*

17 (b) *The modified portion of the project, as modified, will be*  
18 *functionally equivalent to that portion of the project before*  
19 *modification;*

20 (c) *The cost of the modified portion of the project, as modified,*  
21 *will be no greater than the cost of that portion of the project before*  
22 *modification;*

23 (d) *No assessment on any tract in the project will be increased*  
24 *as a result of the modification of the project; and*

25 (e) *Upon the modification of the project and, if applicable, the*  
26 *assessments, the amount assessed against each tract in the*  
27 *improvement district will not exceed the maximum special benefits*  
28 *to be derived by each such tract from the project.*

29 2. *A determination that is made pursuant to this section is*  
30 *conclusive in the absence of fraud or gross abuse of discretion.*

31 3. *An ordinance adopted pursuant to this section may be*  
32 *adopted as if an emergency existed.*

33 **Sec. 7.** 1. *After receipt of the report required pursuant to*  
34 *section 5 of this act, the governing body may, by ordinance and*  
35 *without a protest hearing, modify the project, the assessments on*  
36 *each tract in the improvement project, the assessment installments*  
37 *and the due dates of the assessment installments as provided in the*  
38 *report pursuant to the provisions of this section if:*

39 (a) *The governing body determines that the public convenience*  
40 *and necessity require the modification;*

41 (b) *The owner of each tract in the improvement district which*  
42 *is proposed to have its assessment modified or which derives*  
43 *benefits from the portion of the project proposed to be eliminated*  
44 *or modified or from the additions proposed to be made to the*  
45 *project has filed written consent to the modification with the clerk;*



1 (c) *There has been filed with the clerk:*

2 (1) *Evidence that the modification has been consented to by*  
3 *the owners of the bonds for the improvement district which are*  
4 *payable from the assessments in the manner as provided in the*  
5 *ordinance or in the indenture, fiscal agent agreement, resolution*  
6 *or other instrument pursuant to which the bonds are issued; or*

7 (2) *An opinion from independent bond counsel stating that*  
8 *the modification does not materially or adversely affect the*  
9 *interests of the owners of the bonds; and*

10 (d) *The governing body determines that, upon modification of*  
11 *the project and, if applicable, the assessments, the amount*  
12 *assessed against each tract in the improvement district does not*  
13 *exceed the maximum special benefits to be derived by each such*  
14 *tract from the project.*

15 2. *A determination that is made pursuant to this section is*  
16 *conclusive in the absence of fraud or gross abuse of discretion.*

17 3. *An ordinance adopted pursuant to this section may be*  
18 *adopted as if an emergency existed.*

19 **Sec. 8. 1.** *After receipt of the report required pursuant to*  
20 *section 5 of this act, if the governing body does not proceed*  
21 *pursuant to section 6 or 7 of this act, the governing body may*  
22 *make a provisional order by resolution to the effect that the project*  
23 *will be modified.*

24 2. *In a provisional order made pursuant to subsection 1, the*  
25 *governing body shall set a time, at least 20 days thereafter, and a*  
26 *place at which the owner of each tract in the improvement district,*  
27 *or any other interested person, may appear before the governing*  
28 *body and be heard as to the propriety and advisability of modifying*  
29 *the project and, if applicable, the assessments, the assessment*  
30 *installments and the due dates of the assessment installments. If a*  
31 *mobile home park is located on a tract in the improvement district,*  
32 *the notice must be given to the owner of the tract and each tenant*  
33 *of the mobile home park.*

34 3. *Notice must be given:*

35 (a) *By publication.*

36 (b) *By mail.*

37 (c) *By posting.*

38 4. *Proof of publication must be by affidavit of the publisher.*

39 5. *Proof of mailing and proof of posting must be by affidavit*  
40 *of the engineer, clerk, or any deputy mailing the notice and*  
41 *posting the notice, respectively.*

42 6. *Proof of publication, proof of mailing and proof of posting*  
43 *must be maintained in the records of the municipality until all the*  
44 *assessments appertaining to the project have been paid in full,*  
45 *including principal, interest, penalties and any collection costs.*



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1       7. *The notice must be prepared by the engineer, ratified by*  
2 *the governing body and state:*

3       (a) *In general terms, the proposed modification of the project.*

4       (b) *The estimated cost of the project, as modified, and the*  
5 *amount by which that cost is greater or less than the original cost*  
6 *of the project, as reflected in the ordinance creating the*  
7 *improvement district and ordering the project to be acquired or*  
8 *improved.*

9       (c) *The time and place of the hearing where the governing*  
10 *body will consider all objections to the modification of the project*  
11 *and, if applicable, the assessments, the assessment installments*  
12 *and the due dates of the assessment installments.*

13       (d) *That all written objections to the modification of the project*  
14 *and, if applicable, the assessments, the assessment installments*  
15 *and the due dates of the assessment installments must be filed with*  
16 *the clerk at least 3 days before the time set for the hearing.*

17       (e) *That if the owners of tracts in the improvement district*  
18 *which:*

19           (1) *Are proposed to have assessments modified or which*  
20 *derive benefits from the portion of the project proposed to be*  
21 *eliminated or changed or from the additions proposed to be made*  
22 *to the project; and*

23           (2) *Upon the modification of the project and, if applicable,*  
24 *the assessments, will in the aggregate have assessments greater*  
25 *than 50 percent of the aggregate amount of the assessments on the*  
26 *tracts in the improvement district which are proposed to have*  
27 *assessments modified or which derive benefits from the portion of*  
28 *the project proposed to be eliminated or changed or from the*  
29 *additions proposed to be made to the project,*

30       ↳ *object in writing, within the time stated in paragraph (d), such*  
31 *modification of the project and, if applicable, the assessments, the*  
32 *assessment installments and the due dates of the installments will*  
33 *not be made.*

34       (f) *That if the assessment on any tract is increased as a result*  
35 *of the modification of the project, the modification of the project*  
36 *and, if applicable, the assessments, the assessment installments*  
37 *and the due dates of the assessment installments will not be made*  
38 *unless the owner of each such tract has consented in writing to the*  
39 *increase.*

40       (g) *That the modification of the project and, if applicable, the*  
41 *assessments, the assessment installments and the due dates of the*  
42 *assessment installments will not be made unless there has been*  
43 *filed with the clerk:*

44           (1) *Evidence that the modification is consented to:*



1           (I) *By the owners of the bonds for the improvement*  
2 *district which are payable from the assessments; and*

3           (II) *In the same manner as amendments to the*  
4 *ordinance creating the improvement district and ordering the*  
5 *project to be acquired or improved, as provided in the ordinance or*  
6 *in the indenture, fiscal agent agreement, resolution or other*  
7 *instrument pursuant to which the bonds are issued; or*

8           (2) *An opinion from an independent bond counsel stating*  
9 *that the modification does not materially adversely affect the*  
10 *interests of the owners of the bonds.*

11           (h) *That all proceedings regarding and records of the*  
12 *following are available for inspection at the office of the clerk:*

13           (1) *The amount of maximum special benefits estimated to*  
14 *be derived from the project, as modified, by each tract in the*  
15 *improvement district;*

16           (2) *If applicable, the modified assessment on each tract in*  
17 *the improvement district resulting from the modification of the*  
18 *project; and*

19           (3) *If applicable, the modified assessment installments and*  
20 *the due dates of the assessment installments.*

21           (i) *That a person may object to the modification of the project*  
22 *and, if applicable, the assessments, the assessment installments*  
23 *and the due dates of the assessment installments using the*  
24 *procedure outlined in the notice.*

25           (j) *That if a person objects to the amount of maximum special*  
26 *benefits estimated to be derived from the project, as modified, or to*  
27 *the legality of the proposed modification in any respect:*

28           (1) *The person is entitled to be represented by counsel at*  
29 *the hearing;*

30           (2) *Any evidence the person wants to present must be*  
31 *presented at the hearing; and*

32           (3) *Evidence that is not presented at the hearing may not be*  
33 *presented in an action brought pursuant to section 11 of this act.*

34           8. *No substantial change in the proposed modification of the*  
35 *project or, if applicable, the assessments, the assessment*  
36 *installments or the due dates of the assessment installments may*  
37 *be made after the first publication, posting or mailing of notice to*  
38 *property owners, whichever occurs first.*

39           **Sec. 9.** *A modification may not be made pursuant to the*  
40 *provisions of section 7 of this act if, within the time specified in the*  
41 *notice pursuant to paragraph (d) of subsection 7 of section 8 of*  
42 *this act, the owners of tracts in the improvement district which:*

43           1. *Are proposed to have assessments modified or which derive*  
44 *benefits from the portion of the project proposed to be eliminated*



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1 or changed or from the additions proposed to be made to the  
2 project; and

3 2. Upon the modification of the project and, if applicable, the  
4 assessments, will in the aggregate have assessments greater than  
5 50 percent of the aggregate amount of the assessments on the  
6 tracts in the improvement district which are proposed to have  
7 assessments modified or which derive benefits from the portion of  
8 the project proposed to be eliminated or changed or from the  
9 additions proposed to be made to the project,

10 ↳ file a written objection to the modification with the clerk.

11 **Sec. 10.** 1. On the date and at the place fixed for the  
12 hearing, any and all property owners and other interested persons  
13 may present their views to the governing body with respect to the  
14 proposed modification. The governing body may adjourn the  
15 hearing from time to time.

16 2. After the hearing has been concluded, all written  
17 complaints, protests and objections have been read and  
18 considered, and all persons desiring to be heard in person have  
19 been heard, the governing body shall consider the arguments, if  
20 any, and any other relevant material put forth, and shall by  
21 resolution or ordinance, as the governing body determines, pass  
22 upon the merits of each such complaint, protest or objection.

23 3. If the governing body determines that it is not in the public  
24 interest that the proposed modification of the project and, if  
25 applicable, the assessments, the assessment installments and the  
26 due dates of the assessment installments be made, the governing  
27 body shall make an order by resolution to that effect, and  
28 thereupon the proceedings for the modification of the project and,  
29 if applicable, the assessments, the assessment installments and the  
30 due dates of the assessment installments determined against by the  
31 order must stop and must not be begun again until the adoption of  
32 a new resolution.

33 4. Any complaint, protest or objection to:

34 (a) The modification of the project or, if applicable, the  
35 assessments, the assessment installments or the due dates of the  
36 assessment installments;

37 (b) The estimated cost of the project, as modified;

38 (c) The method used to estimate the special benefits to be  
39 derived from the project, as modified, generally or by any tract in  
40 the improvement district;

41 (d) The basis established for the apportionment of the  
42 assessments based on the project, as modified; or

43 (e) The regularity, validity and correctness of any other  
44 proceedings or instruments taken, adopted or made before the date  
45 of the hearing,





1   ↪ shall be deemed waived unless presented at the hearing  
2 described in section 10 of this act or in writing at the time and in  
3 the manner provided by section 9 of this act.

4   **Sec. 11.** 1. Any person filing a written complaint, protest or  
5 objection as provided in section 9 of this act, within 30 days after  
6 the governing body has finally passed on the complaint, protest or  
7 objection by resolution or ordinance as provided in subsection 2 of  
8 section 10 of this act, may commence an action or suit in any  
9 court of competent jurisdiction to correct or set aside the  
10 determination, but thereafter all actions or suits attacking the  
11 validity of the proceedings and the amount of special benefits are  
12 perpetually barred.

13   2. Any person who brings an action pursuant to this section  
14 must plead with particularity and prove the facts upon which he or  
15 she relies to establish:

16   (a) That the estimate of the cost of the project, as modified, the  
17 special benefits to be derived from the project, as modified, or the  
18 method used to apportion the cost of the project, as modified, is  
19 fraudulent, arbitrary or unsupported by substantial evidence; or

20   (b) That a provision of sections 4 to 16, inclusive, of this act  
21 has been violated.

22   3. Conclusory allegations of fact or law are insufficient to  
23 comply with the requirements of subsections 1 and 2.

24   4. In any action brought pursuant to this section, judicial  
25 review of the proceedings is confined to the record before the  
26 governing body. Evidence that has not been presented to the  
27 governing body must not be considered by the court.

28   **Sec. 12.** 1. After the hearing and the governing body has:

29   (a) Disposed of all verbal and written complaints, protests and  
30 objections;

31   (b) Determined that no assessment on a tract in the  
32 improvement district is increased as a result of the modification  
33 or, if any such assessment is increased, that the written consent  
34 described in paragraph (f) of subsection 7 of section 8 of this act  
35 has been filed with the clerk;

36   (c) Determined that the written consent described in paragraph  
37 (g) of subsection 7 of section 8 of this act has been filed with the  
38 clerk; and

39   (d) Determined that no written objections to the modification  
40 were filed pursuant to section 9 of this act,

41   ↪ and the governing body has jurisdiction to proceed, the  
42 governing body shall determine whether to proceed with the  
43 modification of the project and, if applicable, the assessments,  
44 the assessment installments and the due dates of the assessment  
45 installments.





1       2. Any determination made pursuant to this section is  
2 *conclusive in the absence of fraud or gross abuse of discretion.*

3       **Sec. 13.** 1. *If the governing body determines pursuant to*  
4 *section 12 of this act to proceed with the modification of the*  
5 *project and, if applicable, the assessments, the assessment*  
6 *installments and the due dates of the assessment installments, the*  
7 *governing body may, by ordinance, modify the project and, if*  
8 *applicable, the assessments, the assessment installments and the*  
9 *due dates of the assessment installments as provided in the report*  
10 *of the engineer filed pursuant to section 5 of this act if:*

11       (a) *The governing body determines that the public convenience*  
12 *and necessity require the modification; and*

13       (b) *The governing body finds and determines that, upon the*  
14 *modification, the amount assessed against each tract in the*  
15 *improvement district does not exceed the maximum special*  
16 *benefits to be derived by such tract from the project, as modified.*

17       2. *Any determination or finding made by the governing body*  
18 *pursuant to this section is conclusive in the absence of fraud or*  
19 *gross abuse of discretion.*

20       3. *An ordinance adopted pursuant to this section may be*  
21 *adopted as if an emergency existed.*

22       **Sec. 14.** 1. *If assessments are modified pursuant to an*  
23 *ordinance adopted pursuant to section 6, 7 or 13 of this act, upon*  
24 *adoption of the ordinance, the governing body shall cause to be*  
25 *recorded in the office of the county recorder a certified copy of a*  
26 *list of the tracts in the improvement district, the amount of the*  
27 *assessment on each such tract and the amount of maximum*  
28 *special benefits to be derived from the project, as modified, by each*  
29 *tract in the improvement district, as shown on the assessment plat*  
30 *provided by the engineer pursuant to section 5 of this act.*

31       2. *Neither the failure to record the list as provided in this*  
32 *subsection nor any defect or omission in the list regarding any*  
33 *parcel or parcels within the district affects the validity of any*  
34 *assessment, the lien for the payment thereof or the priority of that*  
35 *lien.*

36       **Sec. 15.** 1. *If assessments are reduced pursuant to an*  
37 *ordinance adopted pursuant to section 6, 7 or 13 of this act, the*  
38 *governing body shall adopt an ordinance establishing a fair*  
39 *procedure for providing payment or credit to any person who has*  
40 *paid assessments that would have been reduced pursuant to the*  
41 *ordinance which reduces assessments.*

42       2. *A determination regarding the fairness of the procedure*  
43 *established by an ordinance adopted pursuant to this section is*  
44 *conclusive in the absence of fraud or gross abuse of discretion.*



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1       **3. An ordinance adopted pursuant to this section may be**  
2 **adopted as if an emergency existed.**

3       **Sec. 16. If a governing body begins proceedings to modify a**  
4 **project pursuant to the provisions of sections 4 to 16, inclusive, of**  
5 **this act at the request of a person, before beginning those**  
6 **proceedings, the governing body may require the person**  
7 **requesting the modification to pay any expenses incurred by the**  
8 **governing body in connection with the proceedings.**

9       **Sec. 17.** NRS 271.030 is hereby amended to read as follows:

10       271.030 As used in this chapter, unless the context otherwise  
11 requires, the words and terms defined in NRS 271.035 to 271.250,  
12 inclusive, **and section 3 of this act** have the meanings ascribed to  
13 them in those sections.

14       **Sec. 18.** NRS 271.265 is hereby amended to read as follows:

15       271.265 1. The governing body of a county, city or town,  
16 upon behalf of the municipality and in its name, without any  
17 election, may from time to time acquire, improve, equip, operate ,  
18 ~~and~~ maintain ~~it~~ **and finance**, within or without the municipality,  
19 or both within and without the municipality:

- 20       (a) A commercial area vitalization project;  
21       (b) A curb and gutter project;  
22       (c) A drainage project;  
23       (d) An energy efficiency improvement project;  
24       (e) An off-street parking project;  
25       (f) An overpass project;  
26       (g) A park project;  
27       (h) A public safety project;  
28       (i) A renewable energy project;  
29       (j) A sanitary sewer project;  
30       (k) A security wall;  
31       (l) A sidewalk project;  
32       (m) A storm sewer project;  
33       (n) A street project;  
34       (o) A street beautification project;  
35       (p) A transportation project;  
36       (q) An underpass project;  
37       (r) A water project; ~~and~~  
38       (s) **A defeasance district project; and**  
39       **(t) Any combination of such projects.**

40       2. In addition to the power specified in subsection 1, the  
41 governing body of a city having a commission form of government  
42 as defined in NRS 267.010, upon behalf of the municipality and in  
43 its name, without any election, may from time to time acquire,  
44 improve, equip, operate and maintain, within or without the  
45 municipality, or both within and without the municipality:



- 1 (a) An electrical project;
- 2 (b) A telephone project;
- 3 (c) A combination of an electrical project and a telephone
- 4 project;
- 5 (d) A combination of an electrical project or a telephone project
- 6 with any of the projects, or any combination thereof, specified in
- 7 subsection 1; and
- 8 (e) A combination of an electrical project and a telephone
- 9 project with any of the projects, or any combination thereof,
- 10 specified in subsection 1.

11 3. In addition to the power specified in subsections 1 and 2, the

12 governing body of a municipality, on behalf of the municipality and

13 in its name, without an election, may finance an underground

14 conversion project with the approval of each service provider that

15 owns the overhead service facilities to be converted.

16 4. In addition to the power specified in subsections 1, 2 and 3,

17 if the governing body of a municipality in a county whose

18 population is less than 400,000 complies with the provisions of NRS

19 271.650, the governing body of the municipality, on behalf of the

20 municipality and in its name, without any election, may from time to

21 time acquire, improve, equip, operate and maintain, within or

22 without the municipality, or both within and without the

23 municipality:

- 24 (a) An art project; and
- 25 (b) A tourism and entertainment project.

26 **Sec. 19.** NRS 271.305 is hereby amended to read as follows:

27 271.305 1. In the provisional order the governing body shall

28 set a time, at least 20 days thereafter, and a place at which the

29 owners of the tracts to be assessed, or any other interested persons,

30 may appear before the governing body and be heard as to the

31 propriety and advisability of acquiring or improving, or acquiring

32 and improving, the project or projects provisionally ordered. If a

33 mobile home park is located on one or more of the tracts to be

34 assessed, the notice must be given to the owner of the tract and each

35 tenant of that mobile home park.

36 2. Notice must be given:

- 37 (a) By publication.
- 38 (b) By mail.
- 39 (c) By posting.

40 3. Proof of publication must be by affidavit of the publisher.

41 4. Proof of mailing and proof of posting must be by affidavit of

42 the engineer, clerk, or any deputy mailing the notice and posting the

43 notice, respectively.

44 5. Proof of publication, proof of mailing and proof of posting

45 must be maintained in the records of the municipality until all the



1 assessments appertaining to the project have been paid in full,  
2 including principal, interest, any penalties, and any collection costs.

3 6. The notice may be prepared by the engineer and ratified by  
4 the governing body, and, except as otherwise provided in subsection  
5 7, must state:

6 (a) The kind of project proposed.

7 (b) The estimated cost of the project, and the portion, if any, to  
8 be paid from sources other than assessments.

9 (c) The basis for apportioning the assessments, which  
10 assessments must be in proportion to the special benefits derived to  
11 each of the several tracts comprising the assessable property and on  
12 a front foot, area, zone or other equitable basis.

13 (d) The number of installments and time in which the  
14 assessments will be payable.

15 (e) The maximum rate of interest on unpaid installments of  
16 assessments.

17 (f) The extent of the improvement district to be assessed, by  
18 boundaries or other brief description.

19 (g) The time and place of the hearing where the governing body  
20 will consider all objections to the project.

21 (h) That all written objections to the project must be filed with  
22 the clerk of the municipality at least 3 days before the time set for  
23 the hearing.

24 (i) If the project is not a commercial area vitalization project,  
25 that pursuant to NRS 271.306, if a majority of the property owners  
26 to be assessed for a project proposed by a governing body object in  
27 writing within the time stated in paragraph (h), the project must not  
28 be acquired or improved unless:

29 (1) The municipality pays one-half or more of the total cost  
30 of the project, other than a park project, with money derived from  
31 other than the levy or assessments; or

32 (2) The project constitutes not more than 2,640 feet,  
33 including intersections, remaining unimproved in any street,  
34 including an alley, between improvements already made to either  
35 side of the same street or between improvements already made to  
36 intersecting streets.

37 (j) That the description of the tracts to be assessed, the  
38 maximum amount of benefits estimated to be conferred on each  
39 such tract and all proceedings in the premises are on file and can be  
40 examined at the office of the clerk.

41 (k) Unless there will be no substantial change, that a substantial  
42 change in certain existing street elevations or grades will result from  
43 the project, without necessarily including any statement in detail of  
44 the extent or location of any such change.



1 (l) That a person should object to the formation of the district  
2 using the procedure outlined in the notice if the person's support for  
3 the district is based upon a statement or representation concerning  
4 the project that is not contained in the language of the notice.

5 (m) That if a person objects to the amount of maximum benefits  
6 estimated to be assessed or to the legality of the proposed  
7 assessments in any respect:

8 (1) The person is entitled to be represented by counsel at the  
9 hearing;

10 (2) Any evidence the person desires to present on these  
11 issues must be presented at the hearing; and

12 (3) Evidence on these issues that is not presented at the  
13 hearing may not thereafter be presented in an action brought  
14 pursuant to NRS 271.315.

15 (n) If the project is a commercial area vitalization project, that:

16 (1) A person who owns or resides within a tract in the  
17 proposed improvement district and which is used exclusively for  
18 residential purposes may file a protest to inclusion in the assessment  
19 plat pursuant to NRS 271.392; and

20 (2) Pursuant to NRS 271.306, if written remonstrances by the  
21 owners of tracts constituting one-third or more of the basis for the  
22 computation of assessments for the commercial area vitalization  
23 project are presented to the governing body, the governing body  
24 shall not proceed with the commercial area vitalization project.

25 7. The notice need not state either or both of the exceptions  
26 stated in subsection 2 of NRS 271.306 unless either or both of the  
27 exceptions are determined by the governing body or the engineer to  
28 be relevant to the proposed improvement district to which the notice  
29 appertains.

30 8. All proceedings may be modified or rescinded wholly or in  
31 part by resolution adopted by the governing body, or by a document  
32 prepared by the engineer and ratified by the governing body, at any  
33 time before the passage of the ordinance adopted pursuant to NRS  
34 271.325, creating the improvement district, and authorizing the  
35 project.

36 9. No substantial change in the improvement district, details,  
37 preliminary plans or specifications or estimates may be made after  
38 the first publication, posting or mailing of notice to property owners,  
39 whichever occurs first, except ~~for~~:

40 (a) *As otherwise provided in sections 4 to 16, inclusive, of this*  
41 *act; or*

42 (b) *For* the deletion of a portion of a project and property from  
43 the proposed program and improvement district or any assessment  
44 unit.



1 10. The engineer may make minor changes in time, plans and  
2 materials entering into the work at any time before its completion.

3 11. If the ordinance is for a commercial area vitalization  
4 project, notice sent pursuant to this section must be sent by mail to  
5 each person who owns real property which is located within the  
6 proposed improvement district and to each tenant who resides or  
7 owns a business located within the proposed improvement district.

8 **Sec. 20.** NRS 271.320 is hereby amended to read as follows:

9 271.320 1. After the hearing and after the governing body  
10 has:

11 (a) Disposed of all complaints, protests and objections, oral and  
12 in writing;

13 (b) Determined that it is not prevented from proceeding pursuant  
14 to subsection 3 or 4 of NRS 271.306; and

15 (c) Determined that:

16 (1) Either or both exceptions stated in subsection 2 of NRS  
17 271.306 apply; or

18 (2) There were not filed with the clerk complaints, protests  
19 and objections in writing and signed by the owners of tracts  
20 constituting a majority of the frontage, of the area, of the zone, or of  
21 the other basis for the computation of assessments stated in the  
22 notice, of the tracts to be assessed in the improvement district or in  
23 the assessment unit, if any,

24 and the governing body has jurisdiction to proceed, the governing  
25 body shall determine whether to proceed with the improvement  
26 district, and with each assessment unit, if any, except as otherwise  
27 provided in this chapter.

28 2. ~~§~~ *Except as otherwise provided in sections 4 to 16,*  
29 *inclusive, of this act, if* the governing body desires to proceed and  
30 desires any modification, by motion or resolution it shall direct the  
31 engineer to prepare and present to the governing body:

32 (a) A revised and detailed estimate of the total cost, including,  
33 without limiting the generality of the foregoing, the cost of  
34 acquiring or improving each proposed project and of each of the  
35 incidental costs. The revised estimate does not constitute a  
36 limitation for any purpose.

37 (b) Full and detailed plans and specifications for each proposed  
38 project designed to permit and encourage competition among the  
39 bidders, if any project is to be acquired by construction contract.

40 (c) A revised map and assessment plat showing respectively the  
41 location of each project and the tracts to be assessed therefor, not  
42 including any area or project not before the governing body at a  
43 provisional order hearing.

44 3. That resolution, a separate resolution, or the ordinance  
45 creating the improvement district may combine or divide the



1 proposed project or projects into suitable construction units for the  
2 purpose of letting separate and independent contracts, regardless of  
3 the extent of any project constituting an assessment unit and  
4 regardless of whether a portion or none of the cost of any project is  
5 to be defrayed other than by the levy of special assessments. Costs  
6 of unrelated projects must be segregated for assessment purposes as  
7 provided in this chapter.

8 **Sec. 21.** NRS 271.325 is hereby amended to read as follows:

9 271.325 1. When an accurate estimate of cost, full and  
10 detailed plans and specifications and map are prepared, are  
11 presented and are satisfactory to the governing body, it shall, by  
12 resolution, make a determination that:

13 (a) Public convenience and necessity require the creation of the  
14 district; and

15 (b) The creation of the district is economically sound and  
16 feasible.

17 ➤ This determination may be made part of the ordinance creating  
18 the district adopted pursuant to subsection 2 and is conclusive in the  
19 absence of fraud or gross abuse of discretion.

20 2. The governing body may, by ordinance, create the district  
21 and order the proposed project to be acquired or improved. This  
22 ordinance may be adopted and amended as if an emergency existed.

23 3. The ordinance must prescribe:

24 (a) The extent of the improvement district to be assessed, by  
25 boundaries or other brief description, and similarly of each  
26 assessment unit therein, if any.

27 (b) The kind and location of each project proposed, without  
28 mentioning minor details.

29 (c) The amount or proportion of the total cost to be defrayed by  
30 assessments, the method of levying assessments, the number of  
31 installments and the times in which the costs assessed will be  
32 payable.

33 (d) The character and extent of any construction units.

34 4. The engineer may further revise the cost, plans and  
35 specifications and map from time to time for all or any part of any  
36 project, and the ordinance may be appropriately amended. ~~before~~  
37 *Except as otherwise provided in sections 4 to 16, inclusive, of this*  
38 *act, such amendment must take place before* letting any  
39 construction contract therefor and before any work being done other  
40 than by independent contract let by the municipality.

41 5. The ordinance, if amended, must order the work to be done  
42 as provided in this chapter.

43 6. Upon adoption or amendment of the ordinance, the  
44 governing body shall cause to be recorded in the office of the county  
45 recorder a certified copy of a list of the tracts to be assessed and the





1 amount of maximum benefits estimated to be assessed against each  
2 tract in the assessment area, as shown on the assessment plat as  
3 revised and approved by the governing body pursuant to NRS  
4 271.320. Neither the failure to record the list as provided in this  
5 subsection nor any defect or omission in the list regarding any  
6 parcel or parcels to be included within the district affects the validity  
7 of any assessment, the lien for the payment thereof or the priority of  
8 that lien.

9 7. The governing body may not adopt an ordinance creating or  
10 modifying the boundaries of an improvement district for a  
11 commercial area vitalization project if the boundaries of the  
12 improvement district overlap an existing improvement district  
13 created for a commercial area vitalization project.

14 **Sec. 22.** NRS 271.367 is hereby amended to read as follows:

15 271.367 Because the protection afforded by a security wall  
16 benefits each tract in the subdivision, in addition to any other basis  
17 for apportioning the assessments authorized in NRS 271.010 to  
18 271.360, inclusive, *and sections 4 to 16, inclusive, of this act*, the  
19 governing body may apportion the assessments for a security wall  
20 on the basis that all tracts in the subdivision share equally in the cost  
21 and maintenance of the project.

22 **Sec. 23.** This act becomes effective on July 1, 2011.

