

**Carson City
Agenda Report**

Date Submitted: March 19, 2013

Agenda Date Requested: March 25, 2013

Time Requested: 10 minutes

To: Mayor and Supervisors

From: City Manager

Subject Title: For possible action. Discussion and possible action to convey to the 2013 Legislature the Board's position on AB387 (BDR 30-564), a bill to require that certain proposals for bonding by a municipality in a county with a population less than 100,000 be approved by two-thirds of the electors of the municipality and that a failed proposal may not be resubmitted for at least 5 years.

Staff Summary: The existing law requires a majority of the electors approve certain general obligations with no time limits specifying when a proposal may be resubmitted to the electors.

Type of Action Requested: (check one)

Resolution

Ordinance

Formal Action/Motion

Other (Specify)

Does This Action Require A Business Impact Statement: Yes No

Recommended Board Action: I move to convey to the 2013 Legislature that the Carson City Board of Supervisors (does) (does not) (would support with amendments as discussed) AB387 (BDR S-41), a bill to require that certain proposals for bonding by a municipality in a county whose population is less than 100,000 be approved by two-thirds of the electors of the municipality and that a failed proposal may not be resubmitted for at least 5 years.

Explanation for Recommended Board Action: See above.

Applicable Statute, Code, Policy, Rule or Regulation:

Fiscal Impact: Difficult to determine.

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: N/A

Supporting Material: AB387

Prepared By: Lawrence A. Werner, P.E., P.L.S.

Reviewed By:

 (Department Head)

 (City Manager)

 (District Attorney)

 (Finance Director)

Date: _____

Date: 3/19/13

Date: 3/19/13

Date: 3/19/13

Board Action Taken:

Motion: _____

1) _____ Aye/Nay

2) _____

(Vote Recorded By)

SUMMARY—Revises provisions governing public financial administration. (BDR 30-564)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.

Effect on the State: No.

AN ACT relating to public financial administration; requiring that certain proposals relating to bonding by a municipality in certain smaller counties be approved by two-thirds of the electors of the municipality; requiring such a municipality to discontinue the collection of certain taxes under certain circumstances; requiring a local government in certain smaller counties to use the proceeds of certain taxes for the specific purpose for which the tax was levied; establishing a limit on the amount of revenue that may be raised or collected by such a local government in a fiscal year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that proposals by a municipality to issue or incur general obligations be submitted to and approved by a majority of the electors of the municipality. (NRS 350.020-350.070) **Section 1** of this bill requires that, in a county whose population is less than 100,000 (currently counties other than Clark and Washoe Counties), a proposal by a municipality to incur an obligation or debt from the issuance of a bond, or to renew or continue such an obligation or debt, be submitted to and approved by two-thirds of the electors of the municipality. **Section 1**



also prohibits a failed proposal from being resubmitted to the electors for at least 5 years.

Section 1 requires such a municipality, if the municipality levies a tax for the purposes of discharging a bond, to discontinue the collection of such taxes upon discharging the bond.

Section 4 of this bill requires a local government in a county whose population is less than 100,000, if the local government levies a tax for a specific purpose, to use the proceeds of the tax in accordance with the specified purpose. **Section 4** also establishes a limit on the amount of revenue that may be raised or collected by such a local government in a fiscal year and authorizes any person to request from a local government certain information to determine whether the local government is in compliance with **section 4**.

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

Section 1. Chapter 350 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If a municipality in a county whose population is less than 100,000 proposes to issue or incur an obligation or debt from the issuance of a bond, or to renew or continue such an obligation or debt, the proposal must be submitted to and approved by two-thirds of the electors of the municipality at a special election called for that purpose or at the next general



municipal election or general state election in the manner set forth for the submission of a proposal to issue or incur general obligations pursuant to NRS 350.020 to 350.070, inclusive.

2. A proposal submitted pursuant to subsection 1 that fails to be approved by two-thirds of the electors may not be resubmitted to the electors for at least 5 years.

3. If a municipality levies a tax for the purpose of discharging an obligation or debt from the issuance of a bond pursuant to this section, the municipality shall discontinue the collection of the tax upon discharging the obligation or debt.

4. As used in this section, "bond" has the meaning ascribed to it in NRS 350.115.

Sec. 2. NRS 350.020 is hereby amended to read as follows:

350.020 1. Except as otherwise provided by subsections 3 and 4, *and section 1 of this act*, if a municipality proposes to issue or incur general obligations, the proposal must be submitted to the electors of the municipality at a special election called for that purpose or the next general municipal election or general state election.

2. Such a special election may be held:

(a) At any time, including, without limitation, on the date of a primary municipal election or a primary state election, if the governing body of the municipality determines, by a unanimous vote, that an emergency exists; or

(b) On the first Tuesday after the first Monday in June of an odd-numbered year,

↪ except that the governing body shall not determine that an emergency exists if the special election is for the purpose of submitting to the electors a proposal to refund bonds. The determination made by the governing body is conclusive unless it is shown that the governing



body acted with fraud, a gross abuse of discretion or in violation of the provisions of this subsection. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any occurrence or combination of occurrences which requires immediate action by the governing body of the municipality to prevent or mitigate a substantial financial loss to the municipality or to enable the governing body to provide an essential service to the residents of the municipality.

3. If payment of a general obligation of the municipality is additionally secured by a pledge of gross or net revenue of a project to be financed by its issue, and the governing body determines, by an affirmative vote of two-thirds of the members elected to the governing body, that the pledged revenue will at least equal the amount required in each year for the payment of interest and principal, without regard to any option reserved by the municipality for early redemption, the municipality may, after a public hearing, incur this general obligation without an election unless, within 90 days after publication of a resolution of intent to issue the bonds, a petition is presented to the governing body signed by not less than 5 percent of the registered voters of the municipality. Any member elected to the governing body whose authority to vote is limited by charter, statute or otherwise may vote on the determination required to be made by the governing body pursuant to this subsection. The determination by the governing body becomes conclusive on the last day for filing the petition. For the purpose of this subsection, the number of registered voters must be determined as of the close of registration for the last preceding general election. The resolution of intent need not be published in full, but the publication must



include the amount of the obligation and the purpose for which it is to be incurred. Notice of the public hearing must be published at least 10 days before the day of the hearing. The publications must be made once in a newspaper of general circulation in the municipality. When published, the notice of the public hearing must be at least as large as 5 inches high by 4 inches wide.

4. The board of trustees of a school district may issue general obligation bonds which are not expected to result in an increase in the existing property tax levy for the payment of bonds of the school district without holding an election for each issuance of the bonds if the qualified electors approve a question submitted by the board of trustees that authorizes issuance of bonds for a period of 10 years after the date of approval by the voters. If the question is approved, the board of trustees of the school district may issue the bonds for a period of 10 years after the date of approval by the voters, after obtaining the approval of the debt management commission in the county in which the school district is located and, in a county whose population is 100,000 or more, the approval of the oversight panel for school facilities established pursuant to NRS 393.092 in that county, if the board of trustees of the school district finds that the existing tax for debt service will at least equal the amount required to pay the principal and interest on the outstanding general obligations of the school district and the general obligations proposed to be issued. The finding made by the board of trustees is conclusive in the absence of fraud or gross abuse of discretion. As used in this subsection, "general obligations" does not include medium-term obligations issued pursuant to NRS 350.087 to 350.095, inclusive.

5. At the time of issuance of bonds authorized pursuant to subsection 4, the board of trustees shall establish a reserve account in its debt service fund for payment of the outstanding bonds of



the school district. The reserve account must be established and maintained in an amount at least equal to the lesser of:

(a) For a school district located in a county whose population is 100,000 or more, 25 percent; and

(b) For a school district located in a county whose population is less than 100,000, 50 percent,

→ of the amount of principal and interest payments due on all of the outstanding bonds of the school district in the next fiscal year or 10 percent of the outstanding principal amount of the outstanding bonds of the school district.

6. If the amount in the reserve account falls below the amount required by subsection 5:

(a) The board of trustees shall not issue additional bonds pursuant to subsection 4 until the reserve account is restored to the level required by subsection 5; and

(b) The board of trustees shall apply all of the taxes levied by the school district for payment of bonds of the school district that are not needed for payment of the principal and interest on bonds of the school district in the current fiscal year to restore the reserve account to the level required pursuant to subsection 5.

7. A question presented to the voters pursuant to subsection 4 may authorize all or a portion of the revenue generated by the debt rate which is in excess of the amount required:

(a) For debt service in the current fiscal year;

(b) For other purposes related to the bonds by the instrument pursuant to which the bonds were issued; and



(c) To maintain the reserve account required pursuant to subsection 5,
→ to be transferred to the county school district's fund for capital projects established pursuant to NRS 387.328 and used to pay the cost of capital projects which can lawfully be paid from that fund. Any such transfer must not limit the ability of the school district to issue bonds during the period of voter authorization if the findings and approvals required by subsection 4 are obtained.

8. ~~[A]~~ *Except as otherwise provided in section 1 of this act, a municipality may issue special or medium-term obligations without an election.*

Sec. 3. NRS 350.070 is hereby amended to read as follows:

350.070 *Except as otherwise provided in section 1 of this act:*

1. If a majority of the electors voting on the question is in favor of the proposal submitted, the proposal is carried, and the proper officers of the municipality shall proceed to issue or incur the obligations proposed.

2. If the majority of the electors voting on the question is against the proposal submitted, the proposal fails, and the proper officers of the municipality shall proceed no further except to certify the result of the election to the proper officers of the governing body.

3. Except as otherwise specifically provided in NRS 350.030, any informality, omission or defect in the giving of any notice or the conduct of the election does not affect the result of the election if it can be ascertained with reasonable certainty whether the proposal was approved or rejected by a majority of the registered voters voting on the question.

Sec. 4. Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:



In a county whose population is less than 100,000:

1. If, at the time a tax is levied by a local government, the proceeds of the tax are designated for a particular purpose, the local government that levied the tax shall not use the proceeds for any other purpose except as otherwise provided in NRS 354.6117, 354.6118 and 354.612.

2. A local government shall not raise or collect through the levy of taxes an amount greater than 110 percent of that amount which is reasonably projected to meet the financial obligations of the local government in a fiscal year, together with reasonable reserves and in accordance with generally accepted accounting principles. Any amount raised or collected in excess of the amount specified in this subsection must be credited or rebated, with interest at the legal rate thereon, proportionally to the taxpayers of the local government.

3. Any person may, not earlier than 45 days after the close of a fiscal year, request from a local government a copy of any document, record or file for the purpose of determining compliance with this section. A local government shall provide to the person a copy of the document, record or file not later than 10 days after receiving the request.

Sec. 5. 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 4 of this act* apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive ~~{}~~, *and section 4 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" includes the Nevada Rural Housing Authority for the purpose of loans of money from a local government in a county whose population is less than 100,000 to the Nevada Rural Housing Authority in accordance with NRS 354.6118. The term does not include the Nevada Rural Housing Authority for any other purpose.

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 4 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 4 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 4 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. 6. NRS 354.476 is hereby amended to read as follows:

354.476 As used in NRS 354.470 to 354.626, inclusive, *and section 4 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. 7. 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 4 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. 8. This act becomes effective on July 1, 2013.

