

REPORT ON THE ASSESSMENT OF CHURCHES AND RELIGIOUS ORGANIZATIONS LOCATED WITHIN LOCAL IMPROVEMENT DISTRICTS



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Report on the Assessment of Churches and Religious Organizations Located Within Local Improvement Districts

Prepared by the Fiscal Analysis Division, Legislative Counsel Bureau
at the direction of the Legislative Commission

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Introduction and Overview

Assembly Bill 339 of the 74th Legislative Session, introduced by Assemblyman Bernie Anderson, proposed the exemption of property owned by certain churches and religious groups from any fees or taxes that may be imposed under state law. The bill was heard by the Assembly Committee on Taxation on March 29, 2007.

On April 5, 2007, the Committee, by unanimous vote, recommended the drafting of a letter to the Legislative Commission to request an interim staff study of the assessment of churches and religious organizations located within local improvement districts, particularly with regard to treatment of these entities in districts organized under Chapter 271 of *Nevada Revised Statutes*. At its September 18, 2007, meeting, the Legislative Commission unanimously requested that the Fiscal Analysis Division conduct the study of that subject.

This report contains the staff study conducted by the Fiscal Analysis Division pursuant to the request of the Assembly Committee on Taxation and the Legislative Commission. Included in this report is an overview of the treatment of churches and religious organizations in Nevada with respect to taxation, an overview and brief history of the Consolidated Local Improvements Law (Chapter 271), a summary of Assembly Bill 339 of the 2007 Session, and an overview of the testimony and concerns raised during that hearing by religious advocates, local governments, and bond counsel.

In the preparation of this study, Fiscal Analysis Division staff requested information and solicited additional input from the interested religious groups, as well as local governments and bond counsel, with regard to suggestions for potential future legislation addressing this issue. The information submitted from these parties, as well as any suggestions brought forth to address the issue, is also included in this study. A summary of these recommendations is included below.

Summary of Recommendations

Assembly Bill 339 of the 2007 Session, which proposed an exemption from any taxes and fees imposed by state and local governments on property owned by certain religious and educational organizations, was heard by the Assembly Committee on Taxation on March 29, 2007. Though the legislation was drafted broadly to exempt religious and educational organizations from all fees and taxes, the main focus of the testimony – and the concerns raised on the bill – centered on the consequences of providing exemptions to these groups from those assessments levied within local improvement districts organized under Chapter 271 of *Nevada Revised Statutes*.

On April 5, 2007, the Committee unanimously recommended the drafting of a letter from the Committee to the Legislative Commission requesting that staff of the Legislative Counsel Bureau further study the issues raised in Assembly Bill 339, citing concerns raised by local governments and bond counsel regarding the potential risks to bond covenants that were addressed during the hearing on the bill. The Legislative Commission unanimously approved this request at its September 18, 2007, meeting.

Following the Legislative Commission's approval, staff from the Fiscal Analysis Division contacted bond counsel, local governments, and representatives from religious organizations to gather information and set up meetings with interested parties regarding the issues raised as a result of this legislation, specifically requesting these parties to provide any proposed recommendations for legislation that would address the concerns previously mentioned. The information received from these parties and the issues raised during these meetings are included in this report.

In response to the requests made, the Fiscal Analysis Division received one recommendation for changes to current law regarding the assessment of churches within local improvement districts. This proposal from Reverend John Emerson, pastor emeritus of the First United Methodist Church in Reno, seeks to exempt property owned by a church or religious group that is used as a house of worship from those assessments levied pursuant to Chapter 271 of NRS. The exemption would be similar in form to an exemption granted to churches located within special assessment districts formed in the state of Ohio (which are discussed in greater detail in Appendix D of this report) and would only apply to districts formed after the enactment of the exemption.

Many of the local governments that responded to the Fiscal Analysis Division's request for information expressed opposition to the provision of such an exemption for churches and religious organizations. Reasons cited by these local governments included concerns regarding bond covenants, equity among those persons being assessed, and the removal of flexibility of local governments to provide assessment relief on a case-by-case basis.

The Fiscal Analysis Division also received additional information from bond counsel regarding concerns that the provision of additional exemptions from these assessments would potentially jeopardize the ability of a municipality to repay bonds issued for that improvement district. Though there were no recommendations for legislation that were brought forth specifically by bond counsel, many of these concerns were addressed by both religious organizations and local governments in the supplemental materials provided, as well as in the recommendation put forth by the First United Methodist Church.

As nonpartisan staff, this report prepared by the Legislative Counsel Bureau does not advocate or recommend that a specific proposal be put forth or make any recommendations regarding future actions that the Legislature may take with respect to the assessment of churches or religious organizations. This report does, however, contain several points that may be considered were such an exemption to be brought forward for consideration by the Nevada Legislature.

Summary of Assembly Bill 339 of the 2007 Session

To address the issue of assessment of religious and educational organizations, Assemblyman Bernie Anderson introduced Assembly Bill 339, which was heard by the Assembly Committee on Taxation during its March 29, 2007, hearing. Section 1 of the proposed legislation specifically addressed this issue through the insertion of a new section to Chapter 354 of *Nevada Revised Statutes*:

Property that is owned by an organization described in subsection 2 or 4 of NRS 372.3261 is exempt from any tax or mandatory assessment imposed by a local government, including, without limitation, a tax or assessment imposed pursuant to chapters 244A, 268, 271, 318, 543, and 555 of NRS.

This new section in Chapter 354 would have provided an exemption from taxes and assessments by cities and towns, counties, local improvement districts, general improvement districts, flood control districts, and weed control districts on real and personal property owned by certain religious and educational organizations (based upon eligibility criteria found in NRS 372.3261), effective July 1, 2007. Section 2 of A.B. 339 would have further expanded the exemptions to assessments or taxes imposed by all other local governments, including irrigation districts and electric and light power districts (but excluding the Nevada Rural Housing Authority).

Table 1 summarizes the various taxes, fees, and assessments imposed in the chapters that would have been specifically made exempt in Section 1 of A.B. 339, including information on the rate imposed, the type of local government that is authorized to impose that rate, and whether churches and religious organizations are already exempt from the tax or fee listed. Table 1 also contains revenues that are authorized within the sections specifically noted in Assembly Bill 339 that churches are already exempt from, such as property tax rates that may be imposed by local governments that are authorized in those sections.

NOTE: The taxes, fees, and assessments listed in Table 1 may not be a comprehensive list of those levies that would have become exempt had Assembly Bill 339 been enacted during the 2007 Session. Though the legislation specifically provided exemptions to Chapters 244A, 268, 271, 318, 543, and 555, exemptions may have been granted to taxes, fees, and assessments located in other sections of NRS as a result of passage of this legislation.

An expanded summary of each of the items listed in this table is included in Appendix A, *Overview of the Taxation of Religious Organizations*, and an overview of local improvement districts organized under Chapter 271 of *Nevada Revised Statutes* can be found in Appendix B.

Table 1: Selected Taxes and Fees That May Have Been Affected by Passage of Assembly Bill 339 of the 2007 Session

Statutory Citation	Type of Levy	Description of Tax/Fee/Assessment	Rate Imposed	Who May Impose	Are Churches Already Exempt?
NRS 244A.343	Special Assessment	Assessment for street beautification projects	A rate sufficient to defray part or all of the project's costs when divided among the property owners within the district	Counties	NO
NRS 244A.531	Property Tax	Ad valorem tax rate for sewer and wastewater projects (in counties of 400,000 or more)	Any rate that does not cause combined rate to exceed \$3.64 cap allowed under NRS 361.453	Counties whose population is 400,000 or more	YES – Churches are exempt from property taxes pursuant to NRS 361.125
NRS 244A.7643	Telephone Surcharge	Monthly surcharge on each access line and trunk line for the provision of 911 emergency service	Up to 25 cents per access line per month; 10 times the access line charge per month for trunk lines	Counties whose population is less than 400,000	NO
NRS 244A.775	Property Tax	Ad valorem tax rate on all property located within a taxing district for the creation of 911 emergency service	Up to ½ cent per \$100 of assessed value	Mandatory in counties whose population is 400,000 or more; optional in all other counties (with voter approval)	YES – Churches are exempt from property taxes pursuant to NRS 361.125
NRS 244A.789	Property Tax	Ad valorem tax rate on all property located within a taxing district for the creation of public parks	Any rate that does not cause the combined rate to exceed \$3.64 cap allowed under NRS 361.453 (with voter approval)	Counties whose population is 400,000 or more	YES – Churches are exempt from property taxes pursuant to NRS 361.125
NRS 244A.810	Short-Term Car Rental Fee	Fee on the short-term lease of an automobile in the county for which the fee is collected, for the construction of a minor-league baseball stadium	2 percent of the lease price paid	Counties whose population is between 100,000 and 400,000	NO

Statutory Citation	Type of Levy	Description of Tax/Fee/Assessment	Rate Imposed	Who May Impose	Are Churches Already Exempt?
NRS 268.090 – 268.0975	License Fee	Fees for the issuance of business licenses for various activities	Fees dependent upon city/town imposing rate, as well as activity being licensed	Any incorporated city or town	NO
NRS 268.4112	Water Surcharge	Monthly water surcharge for the finance of a water facility	Up to 0.25 percent of the monthly water bill for residential users; up to 5 percent of the monthly water bill for all other consumers	Any city in a county whose population is 400,000 or more	NO
NRS 268.4122	Special Assessment	Assessment levied on property owner for the abatement of dangerous or noxious structures or conditions upon that property	Any rate sufficient to defray the cost of abating the dangerous or noxious structure or condition	Any city	NO
NRS 268.4124	Special Assessment	Assessment levied on property owner for the abatement of chronic nuisances upon that property	Any rate sufficient to defray the cost of abating the chronic nuisance	Any city	NO
NRS 268.4126	Special Assessment	Assessment levied on property owner for the abatement of abandoned nuisances upon that property	Any rate sufficient to defray the cost of abating the abandoned nuisance	Any city	NO
NRS 268.423	License Fee	Fee for the issuance of a permit to solicit charitable contributions while standing on the median strip of a highway	A rate sufficient to defray the administrative costs of processing the application, not to exceed \$50	Required in all cities located in counties whose population is more than 400,000; optional in all other counties	NO
NRS 268.429 – 268.4298	License Fee	Fee for the issuance of a license to conduct any outdoor assembly with an actual or reasonably expected attendance of 1,000 or more	Any rate, as determined by the city's governing board (NRS 268.4294)	All cities	NO

Statutory Citation	Type of Levy	Description of Tax/Fee/Assessment	Rate Imposed	Who May Impose	Are Churches Already Exempt?
NRS 268.780 – 268.785	Special Assessment	Imposition of a special assessment district for the provision of additional police protection within that district	An assessment that is sufficient to pay for the additional police protection within the district, when combined with other revenue sources	Any city in a county whose population is between 100,000 and 400,000 that has also exercised its power of redevelopment or urban renewal pursuant to Chapter 279 of NRS	NO
NRS 268.790 – 268.795	Special Assessment	Imposition of a special assessment district for the provision of additional maintenance within that district	An assessment that is sufficient to pay for the additional maintenance within the district, when combined with other revenue sources	Any city in a county whose population is between 100,000 and 400,000 that has also exercised its power of redevelopment or urban renewal pursuant to Chapter 279 of NRS	NO
NRS 268.801 – 268.808	Room Tax	Imposing a tax on the rental of transient lodging within a central business district for the improvement of that area	No more than 2 percent of the cost of transient lodging located within that district	Any city whose population is 300,000 or more	NO
NRS 268.810 – 268.823	Special Assessment	Imposition of a special assessment upon property located within a pedestrian mall	Assessment is based on the amount of revenue needed to improve the mall, in proportion to the benefit received	Any city whose population is 300,000 or more	NO
NRS 271.270	Special Assessment	Imposition of a special assessment on property located in a district created to undertake any special improvement authorized in Chapter 271 of NRS	Assessment is based on the cost of the project in proportion with other properties located in the district, but may not exceed the maximum special benefit or the fair market value of the property	Any county, city, or unincorporated town	NO

Statutory Citation	Type of Levy	Description of Tax/Fee/Assessment	Rate Imposed	Who May Impose	Are Churches Already Exempt?
NRS 318.118	Property Tax	Ad valorem rate for the abatement of rats and insects	Up to 15 cents per \$100 of assessed value (or 20 cents with approval of the board of county commissioners)	Any general improvement district	YES – Churches are exempt from property taxes pursuant to NRS 361.125
NRS 318.119	Property Tax	Ad valorem rate for the support of public cemeteries	Up to 2 mills per dollar of assessed value	Any general improvement district	YES – Churches are exempt from property taxes pursuant to NRS 361.125
NRS 543.600	Property Tax	Ad valorem rate for the support of a flood control district	The rate that is sufficient to meet the financial obligations of the district	Any county that has created a flood control district pursuant to Chapter 543	YES – Churches are exempt from property taxes pursuant to NRS 361.125
NRS 543.600	Sales and Use Tax	Sales tax rate for the support of a flood control district	Up to 0.25 percent	Any county whose population is 400,000 or more	YES – Churches are exempt from payment of local option sales and use taxes pursuant to NRS 374.3305
NRS 555.202 – 555.220	Special Assessment	Assessments to defray the cost of weed control within a designated special assessment district	A rate imposed by the board of county commissioners, in accordance with a budget prepared pursuant to the Local Government Budget and Finance Act	Any county that has created a weed control district	NO
NRS 555.500 – 555.570	Special Assessment	Assessments to defray the cost of rodent control within a designated special assessment district	A rate imposed by the board of county commissioners, in accordance with a budget prepared pursuant to the Local Government Budget and Finance Act	Any county that has created a rodent control district	NO

Viewpoints and Issues Brought Forth by Religious Organizations

Assembly Bill 339 Hearing – March 29, 2007

The primary viewpoint of religious organizations during the testimony on Assembly Bill 339 at the Assembly Committee on Taxation hearing on March 29, 2007, was given by representatives of the First United Methodist Church of Reno. Located near the corner of West First Street and Arlington Avenue in downtown Reno, the church is included within the downtown train trench (ReTRAC) special assessment district, as well as a police protection district organized pursuant to Chapter 268 of NRS. Prepared testimony from Reverend John Auer, pastor of the church, indicated that the object of providing tax exemptions to religious organizations was to preserve the freedom and independence of churches granted according to the First Amendment of the *United States Constitution*, and that the special assessment levied for ReTRAC and the police protection levy were little more than taxes under a different name.

Pat Smith, a member of the church who also testified in support of A.B. 339, noted that the church makes its investment in downtown Reno through outreach efforts and community programs, but for a nonprofit organization, these programs do not translate into additional revenue for the church. Mrs. Smith felt that additional assessments would be inevitable in the area in which the church is currently located, such that the church might consider moving out of downtown in the future.

Reverend John Emerson, pastor emeritus of the church, gave testimony that largely echoed that of Reverend Auer and Mrs. Smith. Reverend Emerson also made reference to the potential for judicial relief under the Religious Freedom Restoration Act of 1993, federal legislation which found that governments should not substantially burden religious exercise without compelling justification – even if that burden is equally applied among all persons.¹ In addition, Reverend Emerson noted that the state of Ohio exempts churches and other religious organizations from special assessments. (The exemptions granted in Ohio are discussed in Appendix D of this report.)

Additional testimony from the religious community came from Larry Struve, lobbyist for the Religious Alliance in Nevada (RAIN), who spoke of the need to protect the free exercise of religion and the potential impact of excessive amounts of special assessments upon that right, and from Reverend Gene Savoy, Jr., pastor of the International Community of Christ Church, who also noted the undue financial burden placed upon his church as a result of the assessments.

The minutes from the Committee's March 29, 2007, meeting, as well as exhibits provided to the Committee by Reverend Auer, Reverend Emerson, and Mrs. Smith, are provided in Appendix E of this report.

Meeting With Fiscal Analysis Division Staff – November 23, 2007

Fiscal Analysis Division staff met with Reverend John Emerson, Kay Greene, and Pat Smith, representatives of the First United Methodist Church, as well as Larry Struve, lobbyist for the Religious Alliance in Nevada (RAIN), on November 23, 2007, to discuss in greater detail additional issues and concerns regarding the assessment of religious organizations. The viewpoints brought forward from these individuals focused on the direct effects of the assessment, as well as more broadly with constitutional and other issues brought forth as a result of these assessments.

Issues for Consideration Raised by the First United Methodist Church

During the meeting, the members of the First United Methodist Church reiterated their concerns regarding the risk of future assessments upon the church and the potential effect of those assessments. While the church had been the benefactor of various grants and reductions to their assessments (such as a 50 percent reduction from the church's ReTRAC assessment that was granted by the Reno City Council in 2005²), Ms. Smith, Mrs. Greene, and Reverend Emerson all raised concerns that similar benevolence may not be shown to their church or other religious organizations in the future. While the concerns of increasing assessments had been allayed in the past due to the actions of Reno Mayor Robert Cashell and the remainder of the city council, they pointed to the fact that the potential for additional assessments for flood control and other improvements may create an increased burden on the church, to the point that they have considered leaving their downtown location due to the increased costs.

A concern raised by members of the First United Methodist Church during the hearings on Assembly Bill 339, as well as through the course of this study, was that legislation providing an exemption from these special assessments would provide consistency and permanence that does not exist under current statute. Currently, the church must apply to the city council for an exemption just as any other person or organization would, and the approval of an exemption or reduction in the assessment is then subject to a number of factors that may or may not result in the approval of that request.

Other questions raised by the issue of assessments (and the need for an exemption from the assessments), writes Reverend Emerson in an e-mail to Fiscal staff dated February 13, 2008 (see Appendix F), are those of morality and constitutionality:

A purpose of this provision is to protect the free exercise of religion, as provided for under the First Amendment of the U.S. Constitution and Article 1, Section 4 of the Nevada Constitution (see also [Attorney General's Opinion] 320), without which religious houses of worship might cease to exist by being substantially burdened by government imposition of certain taxes and assessments. We believe this addresses a moral question with regard to the highest good: should religious houses of worship, that do not generate revenues yet provide outreach services that benefit the community and reduce demands on municipal and county budgets, be charged assessments which may imperil the organizations' very existence?

Issues for Consideration Raised by the Religious Alliance in Nevada (RAIN)

Larry Struve, lobbyist for the Religious Alliance in Nevada (RAIN)³, provided Fiscal staff with a letter dated December 20, 2007, outlining several issues for consideration with respect to a potential exemption from special assessments for religious organizations. Mr. Struve's letter highlighted three key areas for consideration:

- **Religious organizations are not producers of economic wealth.** Since churches do not exist to create wealth or to make a profit, they are generally ill-suited to pay assessments for public works projects. Mr. Struve's letter notes that there is a collective moral responsibility for society to provide goods and services to those who lack the means to pay for these goods and services, such as is seen with the homeless, victims of crime, or abused and abandoned children.
- **Churches and other non-profit organizations help society to meet needs that cannot be met by the private sector, but these organizations cannot and should not act as revenue agents for the government.** Historically, governments have provided churches and other "corporations for public benefit" with exemptions from taxation so that they can better carry out their charitable purposes. Because these organizations are formed to meet charitable goals rather than supporting the mission of government, obtaining revenue from these organizations (either in the form of taxes or assessments) constitutes "bad economic policy, bad social policy, and bad public policy."
- **Assessment of a church organization without consideration of the entity's ability to pay may raise constitutional issues regarding the free exercise of religion.** Current law does not take into account the ability of a property owner to pay its assessment prior to the assessment being made. Since such consideration is not made, if the levy of an assessment upon a religious organization caused that organization to close because it was unable to pay its assessment, the right of that organization's members to free exercise of religion under the First Amendment of the *United States Constitution* may be impaired.

Mr. Struve's letter also expressed concerns that attempts by local governments to pay assessments on behalf of religious organizations (such as has been done by the city of Reno on behalf of the First United Methodist Church and other groups) does not create assurance that all religious organizations within a special assessment district are being treated fairly and equitably, and that some groups may actually receive preferential treatment over other groups. RAIN's concern with this treatment is that such behavior may lead to future challenges to assessments on church properties, citing an Attorney General Opinion from 1954 as its basis for concern:

There is no question but that the framers of the *Nevada Constitution* recognized the import of the 1st Amendment to the *U.S. Constitution* and in the [Nevada] *Constitution* provided that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state; thus the *Nevada Constitution*, aside from the 14th Amendment to the *U.S. Constitution*, prohibits the Legislature from making any law respecting the establishment of religion or the free exercise thereof.⁴

The letter sent by Mr. Struve to the Fiscal Analysis Division, which can be found in Appendix F of this report, was also sent to the members of the RAIN Board, with the suggestion that member churches may also provide additional comments regarding this issue. The Fiscal Analysis Division, however, did not receive any additional comments or information from RAIN board members or its member churches.

Suggestions for Proposed Legislation to Provide Exemptions From Assessments

In an e-mail sent to Fiscal Analysis Division staff on February 13, 2008, Reverend John Emerson of the First United Methodist Church proposed an outline for legislation providing an exemption from special assessments for eligible property of religious organizations. This legislation would insert a new section into Chapter 354 of NRS providing an exemption to houses of worship owned by those entities considered nonprofit organizations under Section 501(c)(3) of the Internal Revenue Code.

Reverend Emerson's e-mail suggested that the following items be taken into consideration for any bill draft request that would propose an exemption from special assessments:

- The scope of the exemption should be as narrow as possible. Reverend Emerson indicated that he realized that Assembly Bill 339 was drafted too broadly, and that the scope should be limited to houses of worship (or, more narrowly, houses of worship located within assessment districts).
- The exemption should only apply to future assessments, due to the difficulty of providing retroactive exemptions.
- If a property within an assessed district is sold to a house of worship, the amount of the assessment should be included in the selling price and paid in full in escrow.

Reverend Emerson's written proposal, which is also included in Appendix F, referred to the exemption granted to eligible religious organizations from assessments in special improvement districts under Chapter 1710 of the *Ohio Revised Code*. The exemption granted in the state of Ohio is discussed in greater detail in Appendix D of this report.

Viewpoints and Issues Brought Forth by Bond Counsel

Assembly Bill 339 Hearing – March 29, 2007

At the March 29, 2007, hearing of the Assembly Committee on Taxation for Assembly Bill 339, testimony regarding the potential effect of an exemption from special assessments for religious and educational organizations was primarily given by John Swendseid of Swendseid & Stern, who serves as bond counsel for many local governments within the state of Nevada. Mr. Swendseid noted that the Legislature has been careful in not providing exemptions to special assessments, with the exception of school districts and the constitutional provisions that exempt the federal government unless they specifically consent to the assessment, and expressed concerns regarding the fairness of exempting entities within a special improvement district that receive equal benefit from the projects as all other property owners who actually pay the assessment.

Perhaps more significantly, Mr. Swendseid expressed his concern as to whether the bill would affect special assessment districts under Chapter 271 where the assessments are pledged to bonds. If this were the case, he noted that the exemption could potentially impair the ability to issue and service bonds, which is prohibited under the Nevada and U.S. Constitutions. If schools and churches were released from their obligations, he noted, less money would be available to repay bonds secured by the assessments, with the potential of problems in repaying some assessment bonds.

Mr. Swendseid also noted that the bill was unclear as to whether property currently assessed within a district that was later sold to an eligible school or church would become exempt from that assessment upon its acquisition. He argued that if this were the case, it could become a risk for bondholders that could increase the cost of borrowing for these special improvement districts.

During the hearing, Assemblyman Moises Denis asked Mr. Swendseid whether it would be possible to mitigate these risks by splitting the exempted amounts among the remaining property owners within the district. Mr. Swendseid stated that it depended on the circumstances, but he noted that state law prohibits a property to be assessed within a district at greater than the benefit received from the improvements and noted that a property cannot be assessed at greater than its fair market value. He noted that these restrictions often preclude a jurisdiction from passing along costs for certain improvements. If it was decided to exempt a school or church, the local government may be required to make up the difference through its general fund.

The Committee also received written testimony from Stephen E. Heaney, the managing director of Stone & Youngberg, a Los Angeles-based firm specializing in the underwriting of local government bonds, that raised similar concerns regarding the ability of local governments to sell special assessment district bonds, particularly from the standpoint of investors holding these types of bonds. This written testimony, along with the written testimony provided by Mr. Swendseid, is included in Appendix E.

Meeting With Fiscal Analysis Division Staff – November 27, 2007

Fiscal Analysis Division staff met with Mr. Swendseid on November 27, 2007, to discuss issues and concerns related to the exemption of churches and religious organizations from special assessment districts. Mr. Swendseid's comments, which are attached in Appendix F and summarized in this section, deal specifically with the effect on local governments' obligations to current and future bonds issued within these assessments.

During this meeting, Mr. Swendseid reiterated many of the concerns that he had addressed during the original hearing on Assembly Bill 339. He restated his belief that the Legislature has been careful in not allowing exemptions from the assessments levied under Chapter 271 (except to the federal government and school districts), since all properties in the district – even those parcels owned by state and local governments - stand to benefit from the improvements for which the assessment is levied.

Mr. Swendseid also expressed concerns regarding fairness issues that could arise as a result of certain property owners not being expected to pay their portion of the assessment. He noted that, in many instances, it would be unfair to distribute the unpaid assessment among the other parcels in the district (as well as potentially not possible, due to the prohibition on levying an assessment greater than the proportional benefit received), particularly when the properties exempt from the assessment also receive the benefit of the improvement for which the assessment is being levied without having paid for it.

From the perspective of bond counsel, Mr. Swendseid also raised concerns regarding the interpretation of Assembly Bill 339 where the assessments are pledged towards bonds. He noted that Article I, Section 10 of the *United States Constitution* and Article I, Section 15 of the *Nevada Constitution* both prohibit the passage of laws that impair contracts, which he argued could occur if churches and non-profit schools were released from their payment obligations. He also noted that the bill was not clear as to whether property sold to an exempt organization within an existing assessment district would then become exempt upon its acquisition. If this were the case, he noted, it could become a disclosure issue and a risk for bondholders that could increase the cost of borrowing for the special assessment district.

Viewpoints and Issues Brought Forth by Local Governments and Other Parties

Assembly Bill 339 Hearing – March 29, 2007

In addition to the testimony presented by church representatives and bond counsel, the Committee also received testimony from persons representing local governments and developers, as well as an individual representing a business association located within the special assessment districts in downtown Reno. The testimony from these persons raised concerns similar to those raised by bond counsel regarding the proposed exemption, specifically with regard to the risk that could be placed on bonds issued within these districts.

From the local government perspective, representatives from the cities of North Las Vegas, Henderson, and Reno testified in opposition to the bill. Gerard Cote, accounting manager for the city of North Las Vegas, specifically noted concerns that developers may not wish to have churches or other eligible nonprofits within their districts due to the potential problems raised by this bill. Shaun Jillions, representing the city of Henderson, indicated that cities may be forced to pay the assessments out of their general fund in order to preserve the bonding capacity of the district.

Susan Fisher, representing the city of Reno, indicated that the city, in fact, has paid assessments for the First United Methodist Church out of the city's general fund when a waiver has been requested by the church. She noted that, on one occasion, Reno Mayor Robert Cashell paid the assessment for the church out of his own pocket. Ms. Fisher's testimony also raised concerns about the potential effect on the city's bond rating as a result of exempting certain payments of assessments, as well as the benefits that the projects funded by the special assessments bring to all property owners within that district.

Jennifer Lazovich, representing Focus Property Group, and Bill Gregory, representing the Howard Hughes Corporation, also raised concerns regarding these potential exemptions from special assessments. From the developers' standpoint, both Mr. Gregory and Ms. Lazovich expressed that they welcomed churches and schools within their developments, but they both raised concerns regarding the effect of these exemptions on the ability to issue and service bonds. Mr. Gregory also noted that benefits to these groups are often given in different ways, such as discounts given on land sold within these developments to nonprofit entities.

The Committee also received testimony from Roberta Ross, who represents the Downtown Improvement Association, a group of businesses located within the downtown Reno area. She noted that the ReTRAC and police protection assessments have helped the downtown area, and she also raised concerns regarding unintended consequences of exempting certain entities that still receive the benefit from these improvements.

Written testimony provided to the Committee from the city of Henderson and the Howard Hughes Corporation is included in Appendix E.

Supplemental Information Provided by Local Governments for the Report

On December 10, 2007, staff from the Fiscal Analysis Division mailed letters to various city and county managers within Nevada to obtain information and feedback from local governments regarding special assessment districts and considerations regarding the potential of providing exemptions for certain entities. Specifically, the Fiscal Analysis Division requested that these entities provide information on any special assessment districts located in their jurisdictions, as well as information on property owned by religious organizations within these districts. The letter also invited districts to submit any comments regarding issues or concerns about exemptions that may be provided to assessments under Chapter 271 of NRS.

A copy of the letter sent to the city of Reno is provided in Appendix I; this letter was also sent to the cities of Boulder City, Elko, Henderson, Las Vegas, North Las Vegas, and Sparks, as well as to Clark and Washoe Counties. The Nevada League of Cities and the Nevada Association of Counties were also contacted in order to solicit input from other local governments that did not receive a letter directly from the Fiscal Analysis Division.

In response to this request, the Fiscal Analysis Division received responses from the city of Reno, the city of North Las Vegas, Washoe County, Clark County, and the Nevada Association of Counties (on behalf of Carson City, Humboldt, Lyon, and Mineral Counties). This section summarizes the information that was received from these entities.

City of Reno

The Fiscal Analysis Division received a letter and information from Charles McNeely, Reno city manager, indicating that there are a total of 28 special improvement districts in the city of Reno. These districts, a list of which is included in the letter received from the city in Appendix H, are for various purposes, such as the ReTRAC train trench project, the Regional Transportation Commission of Washoe County, and other various street improvement projects. In these districts, city staff identified a total of 3,717 total assessments, with a total assessment of \$67,219.072. Mr. McNeely's letter also gave information regarding the downtown police protection district that has been organized pursuant to Chapter 268, indicating that there is one religious organization within that district (the First United Methodist Church) paying an annual assessment of \$1,195.

City of Reno staff also identified, within these districts, a total of 26 religious properties that were being assessed along with other properties in the districts. The total lifetime amount of these properties' assessments was, according to the information provided, \$82,460. Mr. McNeely indicated that since this amount was part of the proceeds used to repay bonds used to finance the improvements, the \$82,460 represents approximately \$820,000 in bond capacity that could not be utilized by the city if the assessments were to be exempted.

With regard to the exemptions proposed in Assembly Bill 339, Mr. McNeely echoed testimony given by the city of Reno during the hearing on that bill, raising concerns as to where the necessary funds to repay existing bonds would be generated if certain parcels became exempt from the assessments. Mr. McNeely also raised concerns regarding the effect of an exempt parcel moving in or out of a district and the effect of the waiver on surrounding properties and district finances. He argued that it might require a continual reapportionment of the district and may also have an adverse impact on local government's bonding capacity, as well as adverse risk to bond investors.

The summation of Mr. McNeely's letter provided some insight into the process utilized by the city with regard to its police protection and downtown maintenance districts. He noted that each year, on or before April 20, the city posts notice and holds a public hearing regarding the assessments in these districts, and that a religious organization has appeared at these meetings and requested a reduction or dismissal of the assessments in that year. The city council has decided at these meetings to relieve or waive the assessment, but it has also decided during certain years not to provide such a benefit. Mr. McNeely explained that the city believes that it should have the discretion to approve exemptions on an individual basis, taking into account the direct benefit to the property, the ability to pay, cost-effectiveness, and fairness. A blanket exemption, he argued, would eliminate local discretion and review that can be utilized currently.

City of North Las Vegas

As of June 30, 2008, the city of North Las Vegas had a total of seven special assessment districts, with a total assessment of \$59,074,323. (As of that date, \$50,250,669 had not yet been billed or collected from the property owners within those districts.) According to information provided by Gregory Rose, city manager for North Las Vegas, there was only one parcel owned by a church or religious organization, located in the Aliante district, which would be presently affected by an exemption. This parcel, owned by the Greater Evergreen Baptist Church, has paid \$960 out of its total assessment of \$8,684, according to the letter provided by Mr. Rose (see Appendix H).

Mr. Rose also noted the city of North Las Vegas' continued opposition to any proposed exemption to special assessments for religious organizations. He noted that the city did not want to be in the position of imposing additional burdens upon surrounding property owners as more religious organizations locate within assessment districts within the city.

Washoe County

On February 12, 2008, Fiscal Analysis Division staff received an e-mail from John Sherman, Washoe County finance director, which included information on special assessment districts within Washoe County. According to the information provided by Mr. Sherman (which is included in Appendix H), there are currently 11 special assessment districts for various road and sewer projects in Washoe County, which include 1,469 parcels and a total assessment of \$14,152,095. Of this amount, \$9,600,707 has not been billed to the property owners as of February 5, 2008.

Based on the information provided by Mr. Sherman, two of the special assessment districts within Washoe County contain parcels owned by religious organizations. These districts, the Antelope Valley Road and Matterhorn Drive road projects, contain a total of 38 parcels owned by religious organizations, with a total assessment of \$135,416. Of the total assessment, \$49,375 was unbilled as of February 5, 2008.

Table 2 below shows, for each of these assessment districts, the portion of the total assessment that belongs to these religious properties:

Table 2: Property held by religious organizations in Washoe County assessment districts

Improvement District	# of Religious Properties	# of Total Properties in District	Religious Properties as % of Total	Religious Property Assessments	Total Assessment	Religious Assessments as % of Total
Matterhorn Drive	24	94	25.5%	\$51,542	\$193,854	26.6%
Antelope Valley Rd.	14	126	11.1%	\$83,874	\$726,644	11.5%

Clark County

The Fiscal Analysis Division received from Dennis Cederburg, Clark County director of public works, a summary of parcel and assessment balances for each special assessment district located in Clark County. According to the information provided by Mr. Cederburg (which can be found in Appendix H), there were 56 districts located within Clark County as of February 5, 2008, with total original assessments of \$305,294,930. (Of this amount, \$232,916,029 remained unpaid.)

Mr. Cederburg also provided Fiscal Analysis Division staff with a complete listing of all parcels for these 56 districts; however, he noted that he was unable to provide a specific breakdown of those parcels that could potentially be affected by an exemption provided to churches and other religious organizations.

Nevada Association of Counties

The Fiscal Analysis Division received a letter from Wes Henderson, government affairs coordinator for the Nevada Association of Counties (NACO), indicating that the letter sent to NACO had generated responses from Carson City, Humboldt, Lyon, and Mineral Counties. Mr. Henderson's letter (shown in Appendix H) indicates that, of these counties, only Carson City had any special assessment districts organized under Chapter 271 of NRS. Carson City's one district, according to the letter, does not have any properties that are owned by churches or other religious organizations.

Recommendations for Consideration Proposed by Interested Parties

As previously noted in this report, two recommendations were ultimately put forth by interested parties regarding the treatment of church or religious property in local improvement districts: to not allow an exemption, as was advocated by local government representatives, or to provide an exemption from Chapter 271 assessments, as was proposed by the First United Methodist Church and RAIN. If such an exemption were proposed through legislation in the 75th Session or a future session, the following questions should be considered with regard to the parameters of the exemption proposed:

- **Should the exemption be retroactive or prospective?** Concerns raised regarding the ability to repay bonds in existing districts would apply were the exemption made retroactive. These concerns would be alleviated, based on the testimony presented by bond counsel, were the exemption only to apply to districts created after the effective date of the exemption.
- **Will other property owners pay more?** In the special assessment districts in Ohio where church property is exempt, the amount of the assessment is divided up among other property owners in the district. (See Appendix D for a more detailed summary of the types of special assessment districts that may be utilized in the state of Ohio.) The amount that is exempted in a Nevada district could similarly be divided up among the other property owners in the district; however, consideration would have to be given to the provisions currently existing in Chapter 271 that prohibit an assessment from exceeding either the market value of the property or the estimated amount of special benefit received by the parcel.

In the Ohio districts that allow an exemption to churches and religious groups, a petition is required to form the district, signed by affected property owners (of at least 60 percent of the total front footage of the district or at least 75 percent of the total area). By organizing and signing the petition, these owners (in creating a district where certain properties will be exempt) give implied consent to assuming a higher assessment burden than if these properties were included in the calculation. Consideration may be given as to whether consent should be obtained from non-exempt property owners in Nevada districts to assume a higher assessment than they would have, absent the exemption.

- **If other property owners don't pay more, who will?** Current statute requires that any deficiencies in assessments be made up through a surplus and deficiency fund maintained by the municipality or, if that fund cannot make up the deficiency, by the municipality itself. If the municipality chooses not to (or cannot) spread the exempted amount among the other property owners in the district, it may be required to raise additional revenue from sources other than assessments or, if necessary, use its general fund or other legally available sources.

Consideration should also be given as to the types of funding sources that may be used if additional assessments upon the municipality cause a violation of the 15 percent limit on municipal assessments imposed under NRS 271.3665.

- **Should other exemptions be considered?** Concerns were raised by the proponents of the exemption during the hearing on Assembly Bill 339 that the legislation was too broad; however, the proposed bill draft by Reverend Emerson narrowed the scope only to districts organized under Chapter 271. Churches and other religious organizations would still be subject to other assessments outside of Chapter 271, such as those for police protection, transportation, street beautification, and other districts that may be organized under Chapters 244A, 268, and elsewhere in NRS.
- **Who should receive the exemption?** Assembly Bill 339, as originally introduced, offered an exemption to all property owned by religious organizations, as defined in subsection 2 of NRS 372.3261, and educational organizations, as defined in subsection 4 of NRS 372.3261. This section of statute, which defines these organizations for the purpose of granting exemptions to sales and use taxes, defines an eligible religious organization as one whose “sole or primary purpose ... is the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men’s, women’s or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.” The organization must also meet several other guidelines outlined in subsection 5 of NRS 372.3261, such as acting as a not-for-profit entity and not actively campaigning on behalf of any political party or candidate.

The proposal for a BDR to address this issue, as submitted by Reverend Emerson (see Exhibit F), suggested narrowing the exemption only to houses of worship owned by nonprofit organizations organized under Section 501(c)(3) of the Internal Revenue Code.⁵ Consideration may be given as to whether the exemption should be granted only to churches and religious organizations, whether it should be extended to educational organizations not already exempt from the assessment⁶, or whether additional organizations should be considered for inclusion.

- **What happens when non-exempt property is sold to an entity that would cause the property to become exempt?** John Swendseid of Swendseid & Stern raised concerns regarding a status change of any property in a district from non-exempt to exempt during the life of a bond issued for that district, having noted that sales of non-exempt properties to entities that would cause the property to become exempt could cause disclosure issues, increase the risks for bondholders, and potentially increase the cost of borrowing for that district.

To address this concern, Reverend Emerson’s BDR proposal (as shown in Appendix F) suggested a requirement that the unbilled assessment amount be included in the sale price and paid in full at the time of escrow.

APPENDIX A: Overview of the Taxation of Religious Organizations

Sales and Use Tax

Exemptions for religious organizations from collection or payment of the state two percent sales tax are currently governed by NRS 372.326, which exempts from the sales and use tax gross receipts from the sale of, and the storage, use or other consumption of, any tangible personal property sold by or to a nonprofit organization created for religious, charitable or educational purposes. This section of the Sales and Use Tax Act of 1955 was introduced as part of Senate Bill 144 of the 1995 Legislative Session and was approved via ballot question at the November 5, 1996, General Election. Under NRS 372.326, the Legislature was also required to develop standards for determining whether an entity qualifies as a charitable, educational, or religious organization.⁷

The eligibility standard developed by the Legislature as part of Senate Bill 144, which appears in statute as NRS 372.3261, defines an eligible religious organization as an organization whose sole or primary purpose is “the operation of a church, synagogue or other place of religious worship at which nonprofit religious services and activities are regularly conducted. Such an organization includes, without limitation, an integrated auxiliary or affiliate of the organization, men’s, women’s or youth groups established by the organization, a school or mission society operated by the organization, an organization of local units of a church and a convention or association of churches.”

The organization must also meet additional requirements under subsection 5 of NRS 372.3261 to be considered as a qualifying religious organization:

- No part of the net earnings of any such organization may inure to the benefit of a private shareholder, individual or entity;
- The business of the organization may not be conducted for profit;
- No substantial part of the business of the organization may be devoted to the advocacy of any political principle or the defeat or passage of any state or federal legislation;
- The organization may not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office; and
- Any property sold to the organization for which an exemption is claimed must be used by the organization in this state in furtherance of the religious, charitable or educational purposes of the organization.

Senate Bill 144 also contained provisions that provide identical exemptions from the Local School Support Tax (LSST) (Chapter 374), Basic City-County Relief Tax (BCCRT) (Chapter 377), Supplemental City-County Relief Tax (SCCRT) (Chapter 377), and any local option sales taxes (Chapters 377A and 377B, as well as various special local acts), contingent upon passage of the ballot question required for passage of the exemptions from the state two percent sales tax. Since the exemption from the state two percent sales and use tax was approved by voters, the exemption from the LSST is

codified in NRS 374.3305 (which is identical to NRS 372.326) and 374.3306 (which is identical to NRS 372.3261). As the other local rates are statutorily tied to the provisions of the LSST, these exemptions also apply to the BCCRT, SCCRT, and local option taxes.

Property Tax

Chapter 361 of NRS, which governs the assessment of taxes on real and personal property in Nevada, contains specific exemptions applicable to religious organizations. Specifically, current law (NRS 361.125) exempts churches, chapels, and other buildings used for religious worship and owned by a recognized religious society or group, as well as the land on which the building is situated. NRS 361.125 also exempts from taxation any furniture and equipment owned by the religious group that is located within the church or other building.

An exception to the exemption provided in NRS 361.125, located in subsection 2, states that property owned by a church or religious organization that is used for purposes other than church purposes, and for which rent or other consideration is received, must be taxed. This exception does not apply to the following types of activities discussed in NRS 361.157:

- The use of exempt property that is leased, loaned or made available to a public officer or employee, incident to or in the course of public employment;
- A parsonage owned by a recognized religious society or corporation when used exclusively as a parsonage;
- Property owned by a charitable or religious organization all, or a portion, of which is made available to and is used as a residence by a natural person in connection with carrying out the activities of the organization;
- The occasional rental of meeting rooms or similar facilities for periods of less than 30 consecutive days; or
- The use of exempt property to provide day care for children if the day care is provided by a nonprofit organization.

Statute regarding the assessment of property tax, however, is not currently limited to Chapter 361 of NRS. Throughout statute, in fact, authorization is given to state and local governments alike to impose ad valorem rates for purposes ranging from education and medical care for the indigent to road repair and general operation. Nonetheless, the exemption granted in NRS 361.125 from property taxes still applies – churches are not subject to ad valorem taxation under any of these rates.

Additional Chapters Where Taxes and Fees May Be Levied

Though the primary discussion of this report has focused on the treatment of churches and other religious organizations within local improvement districts organized pursuant to Chapter 271, Assembly Bill 339 of the 2007 Session proposed an exemption from all other fees and taxes that can be levied by state or local governments. In addition to the

exemption specifically proposed from assessments under Chapter 271, A.B. 339 also specifically referenced those taxes and levies imposed under Chapters 244A, 268, 271, 318, 543, and 555. This appendix contains an overview of the taxes and fees authorized in statute for each of these chapters.

Many of the taxes and fees imposed or authorized under these chapters apply only to certain counties, based on population thresholds set in statute. Pursuant to NRS 0.050, “population” is defined as the population as of the last decennial census; therefore, levies allowed in counties whose population is more than 400,000, for example, would apply only to Clark County, since Clark County is the only county in Nevada whose population exceeded 400,000 at the 2000 Census.

CHAPTER 244A – Counties: Financing of Public Improvements

Transportation Districts (NRS 244A.252 – 244A.256)

Although they are not specifically authorized to raise revenue or impose taxes, transportation districts, which may be created by county ordinance pursuant to NRS 244A.252, may receive revenue from several sources authorized in NRS 244A.256:

- Imposition of a tax on the rental of transient lodging of up to one percent, pursuant to NRS 244.3351;
- Imposition of a privilege tax on the construction of residential, commercial, industrial, or other development, pursuant to NRS 278.710;
- Imposition of an additional governmental services tax rate of up to one percent, pursuant to NRS 371.045; and
- Imposition of an additional sales tax of one-half percent, pursuant to NRS 377A.020 and 377A.030.

Churches and other religious organizations meeting the proper criteria in NRS 372.3261 would specifically be exempt from any sales taxes imposed for this purpose, based on the general sales tax exemption that is granted for these organizations under NRS 372.326. None of the three other revenue sources that may be utilized by these transportation districts, however, have specific exemptions for churches or other religious organizations.

Street Beautification Projects (NRS 244A.291 – 244A.343)

NRS 244A.343 gives boards of county commissioners the authority to create street beautification districts and assess districts located within each district for projects to be performed within the district. In the legislative declaration located in NRS 244A.291, the Legislature found that “the acquisition, improvement, equipment, operation and maintenance of any street beautification project is in the public interest and is of special benefit to the property assessed to defray the cost thereof.”

A street beautification project is defined in NRS 244A.333 as:

“... the beautification of any street, avenue, boulevard, alley, parkway, highway or other public right-of-way used primarily for vehicular traffic, including, without limitation, paving, median strips, crosswalks, street dividers, sidewalks, curbs, gutters, storm sewers, sanitary sewers, drains, covered walkways or areas, street-lighting facilities, water-distribution and irrigation systems, vehicular parking areas, retaining walls, landscaping, tree planting, shrubbery, foliage, fountains, waterfalls, decorative structures, benches, information booths, restrooms, signs, and other structures, works, and any other project or facility authorized by the Consolidated Local Improvements Law pertaining thereto, including the reconstruction and relocation of existing municipally owned works, improvements or facilities on such streets.”

The assessments allowed pursuant to statute may be levied upon any assessable property, and the statutory provisions established for street beautification projects do provide for the exemption to any assessable property of the required assessment.

County Bonds for Swimming Pools and Facilities (NRS 244A.441 – 244A.553)

Counties are authorized to construct, furnish, equip, and improve public swimming pools. A county may issue bonds pledged with revenues from the operations of these facilities, taxes, or both to facilitate such projects. No specific exemptions are listed with regard to the taxes that may be used to pay these bonds. It should be noted that NRS 377A.030 allows counties of less than 15,000 to impose an optional sales tax rate of up to one-quarter percent for the operation and maintenance of a county swimming pool. Organizations that are exempt from sales taxes (including religious organizations) would be exempt from this optional tax, which is not currently imposed in any county within the state.

If a county chose to utilize property tax revenues to finance a swimming pool, churches or other religious organizations would also be exempt, pursuant to the property tax exemptions granted from real and personal property in NRS 361.125.

County Sewage and Wastewater Law (NRS 244A.455 – 244A.573)

The County Sewage and Wastewater Law, enacted pursuant to Senate Bill 288 of the 1973 Session, permits local governments in counties of greater than 400,000 to create policies and plans to deal with wastewater and sewage-related issues. This act authorized the imposition of ad valorem property taxes by the county's board of county commissioners, pursuant to NRS 244A.531, for the support of programs and services authorized under this act. (Churches and religious organizations would be exempt from this levy, just as they are exempt from all ad valorem property tax rates pursuant to NRS 361.125.)

County Fair and Recreation Boards (NRS 244A.597 – 244A.655)

Under this portion of Chapter 244A, counties are authorized to organize boards to facilitate the construction, maintenance, and promotion of recreation facilities, convention halls, and other related facilities. The county fair and recreation board organized under this section is also given the authority to issue general obligation or revenue bonds, payable from revenue generated from the operation of these recreation facilities and other sources, including taxes, to facilitate the acquisition of recreation facilities as allowed by statute.

The fair and recreation boards that operate in counties of less than 400,000 receive five-eighths of the one percent mandatory tax on the rental of transient lodging that is imposed pursuant to NRS 244.3352, for the purpose of promoting tourism to that county. (The remaining three-eighths of one percent tax is deposited with the State Treasurer for credit to the Fund for the Promotion of Tourism.)

Chapters 244A and 364 of NRS, as well as Chapter 364 of the *Nevada Administrative Code* (which governs the collection and distribution of transient lodging taxes by the Department of Taxation), are silent as to exemptions that may be provided from these taxes. Counties may, at their discretion, enact ordinances providing exemptions from transient lodging taxes.⁸

Surcharge for Enhancement or Improvement of Telephone System Used for Reporting Emergency (NRS 244A.7641 – 244A.7647)

The board of county commissioners in a county whose population is between 100,000 and 400,000 may, by ordinance, impose a surcharge on each telephone access line, trunk line, and cellular phone customer in the county for the purpose of enhancing the emergency telephone system utilized in that county. The additional charge per access line may not exceed 25 cents per month; cellular phone users must be charged the same monthly amount as access lines; and trunk lines must be charged at a rate equal to ten times the amount charged to an access line.

Counties with a population of 100,000 or less may impose a similar surcharge on access lines, trunk lines, and mobile phone customers; however, the board must adopt a five-year master plan for the enhancement or improvement of the telephone system for reporting emergencies in the county, which must include an estimate of the cost of the enhancement or improvement of the telephone system and all proposed sources of money for funding the enhancement or improvement. In adopting this plan, the board must also appoint an advisory committee of no fewer than five persons to develop the plan and oversee any money allocated for this purpose.

No specific exemptions to this surcharge are noted in statute.

Taxing District to Provide Telephone Number for Use in Emergency (NRS 244A.765 – 244A.777)

Chapter 244A of NRS requires the board of county commissioners in a county whose population is greater than 400,000 to enact an ordinance creating a taxing district for the purpose of creating an emergency telephone system to be operated by the metropolitan police department within that county. (Counties with a population of less than 400,000 are authorized to create a district; however, this action is not mandatory for these counties.) The telephone system is to be supported by imposing an ad valorem tax rate on all real and personal property within the tax district not to exceed one-half cent per \$100 of assessed value.

As this particular levy is imposed as an ad valorem property tax rate, churches and other religious organizations are exempt from this levy, pursuant to NRS 361.125.

District for the Support of Public Parks (NRS 244A.785 – 244A.789)

The board of county commissioners in a county with a population of more than 400,000 is authorized to create, by ordinance, one or more districts within the county for the support of public parks. This district may issue (with approval of voters within the district) general obligation bonds to finance park projects to be undertaken, with the levy of ad valorem property tax rates to support the repayment of those bonds.

Churches and religious organizations, being exempt from ad valorem taxation pursuant to NRS 361.125, would not be subject to any levies imposed for this purpose.

Minor League Baseball Stadium Project (NRS 244A.800 – 244A.830)

In any county whose population is between 100,000 and 400,000, the board of county commissioners may, by ordinance, impose a surcharge on the short-term rental of a motor vehicle of no more than two percent of the total amount of the rental cost (exclusive of other taxes or government-imposed fees) for the purpose of constructing and maintaining a minor-league baseball stadium within that county.

Current law does not provide for exemptions from the payment of these fees, either in Chapter 244A or in Chapter 482 (the section dealing specifically with short-term car rental fees paid to the State General Fund and State Highway Fund).

Performing Arts Center (NRS 244A.850 – 244A.870)

In any county whose population is more than 400,000, the board of county commissioners may, by ordinance, impose a surcharge on the short-term rental of a motor vehicle of no more than two percent of the total amount of the rental cost (exclusive of other taxes or government-imposed fees) for the purpose of constructing and maintaining a performing arts center within that county.

Current law does not provide for exemptions from the payment of these fees, either in Chapter 244A or in Chapter 482 (the section dealing specifically with short-term car rental fees paid to the State General Fund and State Highway Fund).

CHAPTER 268 – Powers and Duties Common to Cities and Towns Incorporated Under General or Special Laws

Regulation, Taxation, and Licensing of Businesses and Occupations (NRS 268.090 – 268.0975)

Chapter 268 gives incorporated cities in Nevada the right to regulate, issue licenses and/or collect license fees and taxes for any of the following activities:

- The sale of beer, wine, and intoxicating liquors (NRS 268.090);
- The organization of a farmers' market (NRS 268.091 – 268.094);
- The issuance of business licenses for general revenue or other purposes (NRS 268.095 – 268.0955);
- The rental of transient lodging (NRS 268.096 – NRS 296.0968);
- The operation of a taxicab (NRS 268.097);
- The operation of paging services in counties with a population of more than 400,000 (NRS 268.0972);
- The operation of a pawnbroker who accepts motor vehicles as collateral (NRS 268.0973);
- The operation of a secondhand dealership (NRS 268.0974); and
- The operation of a tent show, circus, theme park, or permanent exhibition (NRS 268.0975).

None of the fees imposed for these licenses or regulations have any exemptions specified in statute.

Tax to Finance Water Facility by City in County Whose Population is 400,000 or More (NRS 268.4112)

In any county whose population is 400,000 or more, the governing body of a city may, if requested by its municipal water authority, enact an ordinance imposing an excise tax on the use of water in an amount sufficient to defray the cost of acquiring, establishing, constructing, improving, or equipping a water facility. The amount of the levy, which must be imposed on the customers of the municipal water system for which the improvements are being made, may not exceed one-quarter percent of the monthly water bill for residential customers and five percent of the monthly water bill for commercial and all other customers.

No specific exemption from these taxes is mentioned in statute.

Abatement of Dangerous or Noxious Structures or Conditions on Private Property (NRS 268.4122)

As part of its power to protect public safety through the regulation of hazardous or dangerous structures or conditions on private property, a city that uses its powers to abate a dangerous condition may levy a special assessment upon the owner of the property upon which the dangerous condition was located. This special assessment may be collected at the same time as other county taxes that are due against the property and is subject to the same delinquency and enforcement laws as other county taxes.

Abatement of Chronic Nuisance (NRS 268.4124)

Cities may also impose special assessments upon certain properties to defray the cost of abating chronic nuisances on that property. As defined in statute, these chronic nuisances are properties with repeated instances of nuisance activity, such as criminal activity; excessive noise; the presence of junk, litter, or abandoned vehicles, or where controlled substances are manufactured or sold.

Abatement of Abandoned Nuisance (NRS 268.4126)

In addition to the special assessments that may be levied above, cities located in counties whose population is 100,000 or more may also impose special assessments upon certain properties to defray the cost of abating nuisances in abandoned buildings. These assessments may be imposed on the property on which the abandoned nuisance is located if there are two or more nuisance activities in a 12-month period in any property that has been vacant for 12 months or more.

No exemptions from any of the special assessments listed for nuisances or hazardous conditions are listed in statute, though it should be noted that all of the special assessments authorized in these sections are at the discretion of the city in which the property is located.

Permits to Solicit Charitable Contributions While Standing on Median Strip of Highway or Sidewalk Adjacent to Highway (NRS 268.423)

In a county whose population is more than 400,000, the governing body of each city within the county is required to enact an ordinance requiring the licensing of charitable solicitations on the median or sidewalk adjacent to any public street within that city. (Cities in counties whose population is 400,000 or less may impose a similar ordinance at their own discretion.) To qualify for such a permit, a charitable organization must be registered as a nonprofit organization under Chapter 501(c)(3) of the Internal Revenue Code, as well as be registered to do business with the Secretary of State.

This statute gives the city the right to regulate the time, place and manner of such solicitation in order to preserve public safety; additionally, a fee of no more than \$50 may be imposed to defray the administrative costs of processing and administering the application. No exemptions are specifically noted in statute to the payment of this fee.

Regulation and Licensing of Outdoor Assemblies (NRS 268.429 – 268.4298)

Cities are required by statute to establish ordinances related to the regulation and licensing of outdoor assemblies, and they are also required to issue licenses for any assembly whose anticipated attendance exceeds 1,000 persons. The city council is permitted by statute to collect a fee for the issuance of a license to a person or group that wishes to organize an outdoor assembly.

No specific exemption from this fee is mentioned in statute.

Facilitation of Transportation (NRS 268.442 – 268.448)

The governing body of any city may create, by ordinance, one or more districts in the county for the purpose of constructing or maintaining sidewalks, streets, avenues, boulevards, highways and other public rights-of-way and/or the payment of bonds issued to finance such projects. These districts may receive the portion of the revenue from the tax on the rental of transient lodging that may be imposed pursuant to NRS 244.3351 that is attributable to lodging establishments located within the district.

Collection of License Taxes Levied by County Before City's Incorporation (NRS 268.460 – 268.510)

If it is so necessary for bond or other debt obligations, a county license tax levied for any trade, business, occupation or profession that was levied upon an unincorporated area must be levied by that city or town on behalf of the district for which those proceeds were dedicated. The city or town is responsible for collecting and remitting the appropriate taxes for as long as principal or interest on any outstanding obligation remains.

Taxing District to Provide Telephone Number for Use in Emergency (NRS 268.765 - 268.777)

Any city within a county whose population is more than 400,000 that is not part of a countywide taxing district for emergency telephone service pursuant to NRS 244A.765 – 244A.777 must, by ordinance, create its own tax district to provide 911 service to residents of the city. The city council may, upon approval of voters within the district, impose an ad valorem property tax rate not to exceed 0.5 cents per \$100 of assessed value.

Churches and other religious organizations that are exempt from ad valorem taxation pursuant to NRS 361.125 are not subject to this taxation.

Taxing District to Defray Cost of Additional Police Protection (NRS 268.780 – 268.785)

An incorporated city located within a county with a population between 100,000 and 400,000 that has utilized the power of redevelopment or urban renewal pursuant to Chapter 279 of NRS may create a police protection district as part or all of that redevelopment/urban renewal area. The city council must find that the district will benefit from the provision of additional police protection.

(The district may also be created via a petition signed by at least 10 percent of the property owners in that district, who represent at least 25 percent of the total assessed value of real property located within the district.)

Each property owner within the district is then assessed in proportion to the special benefit received by the property, as determined by the city council. The city council may also pass an ordinance imposing a tax of not more than one percent on the rental of transient lodging located within the district.

No specific exemption from this assessment for churches or religious organizations is mentioned in statute.

Taxing District to Defray Cost of Maintenance (NRS 268.790 – 268.795)

An incorporated city located within a county with a population between 100,000 and 400,000 that has utilized the power of redevelopment or urban renewal pursuant to Chapter 279 of NRS may create a maintenance district as part or all of that redevelopment/urban renewal area. The city council must find that the district will benefit from the provision of additional maintenance.

(The district may also be created via a petition signed by at least 10 percent of the property owners in that district, who represent at least 25 percent of the total assessed value of real property located within the district.)

Each property owner within the district is then assessed in proportion to the special benefit received by the property, as determined by the city council. The city council may also pass an ordinance imposing a tax of not more than one percent on the rental of transient lodging located within the district.

No specific exemption from this assessment for churches or religious organizations is mentioned in statute.

District to Defray Cost of Improving Central Business Area (NRS 268.801 – 268.808)

In any city whose population is 300,000 or more, the governing body may, by ordinance, create a single tax district to defray the cost of improving the central business area of that city. To provide revenue for the district, the city council may enact an ordinance imposing a tax not to exceed two percent on the rental of transient lodging within the district.

The revenue generated from this tax may be used for “constructing, acquiring, improving, operating or maintaining urban projects, or any combination thereof, including, without limitation, recreational facilities and other projects designed to encourage tourism or to improve the aesthetic environment of the central business area located within the boundaries of the district,” and/or for paying principal and interest on bonds or other obligations issued by the city to fund such projects.

No specific exemption from this assessment for churches or religious organizations is mentioned in statute.

Pedestrian Malls (NRS 268.810 – 268.823)

Pursuant to NRS 268.811, the governing board of a city with a population of 300,000 or more may, by ordinance, create one or more pedestrian malls if such a project is needed to improve the public safety of pedestrians along cities or highways within that city. A *pedestrian mall* is defined as an “area including portions of one or more streets or alleys that has been set aside for use primarily by pedestrians and to which access by motor vehicles is prohibited or restricted,” and includes “all improvements and appurtenances thereto that are designed to be used primarily for the movement, safety, convenience, enjoyment, entertainment, recreation or relaxation of pedestrians.”

If it is necessary for the operation or maintenance of the pedestrian mall, the governing body of the city may collect a special assessment from all property owners located within the district, which may include any contiguous or noncontiguous parcels within four blocks of the pedestrian mall. Each property is assessed in proportion to the benefit that is received from the pedestrian mall.

No specific exemption from this assessment for churches or religious organizations is mentioned in statute.

CHAPTER 318 – General Improvement Districts

General improvement districts, which are authorized under Chapter 318 of NRS, allow counties to subdivide unincorporated areas into organized districts to increase local services provided to residents of these areas. One or more counties may subdivide land into a general improvement district, either by a resolution passed by the county commission or a petition signed by the residents of the proposed district, so long as the land contained within the district is no more than seven miles from the borders of an incorporated city or unincorporated town. (Land within this seven-mile radius may be included in the district upon consent of the city or town, with unanimous consent of the county commission, so long as the city or town has previously rejected annexation of that land.)

NRS 318.116 gives general improvement districts the power to furnish one or more of the following services:

- Electric light and power;
- Extermination and abatement of mosquitoes, flies, other insects, rats, and liver fluke or *Fasciola hepatica*;
- Facilities or services for public cemeteries;
- Facilities for swimming pools;
- Facilities for television;
- Facilities for FM radio;
- Streets and alleys;
- Curbs, gutters and sidewalks;
- Sidewalks;
- Facilities for storm drainage or flood control;
- Sanitary facilities for sewerage;
- Facilities for lighting streets;
- Facilities for the collection and disposal of garbage and refuse;
- Recreational facilities;
- Facilities for water;
- Fencing;
- Facilities for protection from fire;
- Energy for space heating;
- Emergency medical services;
- Control and eradication of noxious weeds; and
- Establishing, controlling, managing and operating an area or zone for the preservation of one or more species or subspecies of wildlife that has been declared endangered or threatened pursuant to the federal Endangered Species Act of 1973, 16 U.S.C. §§ 1531 et seq.

To facilitate the provision of these services, general improvement districts are authorized under statute to levy fees, tolls, and rates related to the provision of these services (e.g., charge an admission fee to the local swimming pool or charge a user for water service). The general improvement district is also allowed to levy an ad valorem tax to support its general operation at a rate that is sufficient to raise the revenue needed for this purpose, as authorized in NRS 318.225 and 318.230.

In addition to this general right for ad valorem taxation, general improvement districts are further authorized to impose additional ad valorem rates for specific purposes:

- Insect and rat abatement: Up to 15 cents per \$100 of assessed value, or 20 cents per \$200 with approval of the board of county commissioners (NRS 318.118); and
- Public cemeteries: Up to 20 cents per \$100 of assessed value (NRS 318.119).

Churches located within general improvement districts would also be exempt from these additional ad valorem rates, given the exemption granted to these organizations from real and personal property taxes in NRS 361.125.

CHAPTER 543 – Control of Floods

Chapter 543 of NRS governs the creation of districts for the purpose of protecting public health, maximizing the use of water resources, and creating effective and efficient water distribution systems. The board of county commissioners in a county whose population is less than 400,000 may create one or more flood control districts within its borders (or across county borders, with the consent of the other board of county commissioners). In counties whose population is 400,000 or more, the entire county is a single flood control district.

To facilitate the operation of the flood control district, the board of county commissioners in a county whose population is 400,000 or more may, upon approval of voters within that county, impose an ad valorem property tax at a rate that is sufficient to meet the revenue needs for the district. The rate that is imposed, per NRS 543.600, is not subject to the rate limitation in NRS 354.59811 that limits the total combined rate for a tax rate to that rate which would provide a six percent increase on tax revenue generated from property that was on the prior year's tax roll. The ballot question may also combine this ad valorem rate with a sales tax rate not to exceed 0.25 percent.

(Counties whose population is less than 400,000 may impose an ad valorem property tax rate for this purpose, but they are prohibited from imposing a sales tax rate for the flood control district.)

As the operation of the flood control district (apart from federal funding that may be received) relies upon sales and property tax revenue, churches and religious organizations meeting the exemptions stated in Chapters 361, 372 and 374 are not subject to taxation for the support of these entities.

CHAPTER 555 – Control of Insects, Pests and Noxious Weeds

Weed Control Districts (NRS 555.202 – 555.220)

The board of county commissioners in any county may create one or more special districts for the control of weeds. The district must be created in accordance with the Special District Control Law (Chapter 308), which requires public hearings, the filing of a service plan, and subsequent approval of that plan by the board of county commissioners to create the district.

The board of county commissioners, upon preparation and approval of a budget prepared pursuant to the Local Government Budget and Finance Act, may impose assessments upon each property situated within the district. No specific exemptions to this assessment, however, are mentioned in statute.

Rodent Control Districts (NRS 555.500 – 555.570)

The board of county commissioners in any county shall create one or more rodent control districts in areas of the county outside an incorporated city when a petition is filed requesting the creation of such a district. The petition must be signed by the owners of at least 50 percent of the assessed value of property to be included in the district.

To facilitate the control or abatement of rodents for which the district was intended, the board of county commissioners shall impose an assessment upon the owner of each parcel located in the district.

APPENDIX B: Overview of Chapter 271 – Local Improvement Districts

During the 1965 Session, the Nevada Legislature passed Senate Bill 80, making the following legislative declaration:

It is hereby declared as a matter of legislative determination:

That providing for municipalities to which this chapter appertains the purposes, powers, duties, rights, disabilities, privileges, liabilities and immunities herein provided will serve a public use and will promote the health, safety, prosperity, security and general welfare of the inhabitants thereof and of the State of Nevada.

That the acquisition, improvement, equipment, maintenance and operation of any project herein authorized is in the public interest, is conducive to the public welfare, and constitutes a part of the established and permanent policy of the State of Nevada.

That the necessity for this chapter is a result of the large population growth and intense residential, commercial and industrial development in the incorporated and unincorporated areas of portions of the State and of the ensuing need for extensive local improvements therein.

That the Legislature recognizes the duty of municipalities as instruments of State Government to meet adequately the needs for such facilities within their boundaries, in cooperation with the State, counties and districts within the State.

That for the accomplishment of these purposes, the provisions of this chapter shall be broadly construed, and the rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

That the notices herein provided are reasonably calculated to inform each interested person of his legally protected rights.

That the rights and privileges herein granted and the duties, disabilities and liabilities herein provided comply in all respects with any requirement or limitation imposed by any constitutional provision.

The legislation in which this declaration was contained was codified in Chapter 271 of *Nevada Revised Statutes*, which gives counties, cities and towns the right to organize special districts for the purpose of providing and financing certain improvements within the district. The project to be provided within the district is paid by the property owners within the district – rather than from a general fund or other source – such that the assessment is specifically levied on those who will receive benefit from the improvement that is proposed.

This section of the study provides a brief overview of the provisions of Chapter 271, discussing the circumstances under which a district can be created, the process that must be utilized to create a district, the levying of assessments within these districts, and other issues that must be taken into consideration when a district is created.

When Can Districts Be Created?

The power to organize local improvement districts is provided to all counties, cities, and incorporated towns for the following types of projects, according to NRS 271.265:

- Commercial area vitalization projects;
- Curb and gutter projects;
- Drainage projects;
- Off street parking projects;
- Overpass projects;
- Park projects;
- Sanitary sewer projects;
- Security walls;
- Sidewalk projects;
- Storm sewer projects;
- Street projects;
- Street beautification projects;
- Transportation projects;
- Underpass projects;
- Water projects; or
- Any combination of such projects.

Further authorization is provided under NRS 271.265 for project types other than those listed above:

- Cities with a commission form of government may utilize local improvement districts to acquire, maintain, improve, operate or equip telephone projects or electric projects. These projects may be separate or combined with one another, and a district with a telephone and/or electric project may also include any of the other projects allowed above.
- In counties with a population of 400,000 or less, districts for entertainment, tourism or art projects may be created, so long as the municipality where the district is to be located meets the eligibility requirements provided for under NRS 271.650. (Such requirements include a finding that a preponderance of the sales and use tax revenue generated from that project will come from non-residents of Nevada, as well as approval by the Governor.)

How Is a District Created?

Current law allows for the creation of a local assessment district through two separate procedures – one initiated by the municipality and the other initiated by the property owners within the district.

The first process – referred to in statute as a **provisional order** – allows the governing body of the municipality to create the district via ordinance. Under NRS 271.280, the procedure that must be followed under the provisional order includes all of the following:

- The creation of a preliminary plan showing the improvements and costs;
- The preparation of an assessment plat and the amount of maximum benefits estimated to be established against each tract in the assessment area; and
- The creation of a resolution that outlines the portion of the project that will be paid by assessments, the portion to be paid through other funds, and the basis by which the assessments will be levied.

The provisional order must also set a time (no less than 20 days after that date) and place where a public hearing will be held regarding the propriety and advisability of the project being proposed. Notice must be given to the owners of the tracts via publication, mail and public posting, and must include information on:

- The kind of project proposed;
- The estimated cost of the project (including the portion to be paid from sources other than assessments);
- The basis for apportioning the assessments;
- The number of installments and the time required to pay such assessments;
- The maximum rate of interest on unpaid installments;
- The extent of the district to be assessed, such as boundaries; and
- The time and place of the hearing where the governing body will consider objections to the project. The governing body must also state that written objections to the project must be received no more than three days prior to the hearing.

If the project is not a commercial area vitalization project, it may not be acquired or improved if a majority of the property owners within the district object within the time allowed, unless the municipality pays one half or more of the cost of the project (excluding park projects) using revenue sources other than assessments, or if the project constitutes not more than 2,640 feet, including intersections, remaining unimproved in any street, including an alley, between improvements already made to either side of the same street or between improvements already made to intersecting streets.

If the project is a commercial area vitalization project, written complaints by the owners of tracts constituting one-third or more of the basis for the assessments for the proposed projects will cause that project to not be approved. Further, persons who reside or own property within the district that is used exclusively for residential purposes may protest inclusion in the assessment plat.

Finally, the provisional order process allows the tract owner to object to the amount of maximum benefits estimated or to the legality of the proposed assessment. The person who objects is entitled to representation by counsel at the open meeting and is allowed to present evidence supporting his claim at the hearing.

In the second process, residents located within the area that would become the improvement district may organize a petition to request the governing body to create a district for any project that body is authorized by law to undertake. NRS 271.385 allows a petition to be submitted by parcel owners representing at least two-thirds of the assessment basis (frontage, area, or other basis used) to initiate a project where at least 90 percent of the cost of the project will be undertaken by assessments on the property owners. (A project for a commercial area vitalization project need only be signed by persons representing at least one-half of the assessment basis.)

As with the provisional order, the governing body is required to hold public meetings regarding a project proposed by a petition, including written and public notice for the property owners and other interested parties, which give the right to dispute the legal sufficiency of the petition or the project itself, if it chooses to consider the petition. The governing body may choose to incorporate the project into an existing district, may create the district as requested, or may decline to create the district if it determines, subsequent to the public hearing, that the project does not suit the public interest. The governing body, in addition, may require a deposit or payment to be paid by the tract owners to defray costs incurred by the municipality in the creation of the district.

Finally, the governing body may choose to not act on a petition it receives if it determines, by resolution, that the project is not feasible for one or more reasons specifically stated within the resolution.

How Are Assessments Determined?

The assessment plat that is to be created as part of the district must include, pursuant to NRS 271.280, the area to be assessed and the maximum special benefit that is estimated to be assessed against each tract in the district. This plat is then used, in combination with one of several methods, to determine the amount that is to be assessed against each tract within the district.

Current law allows the computation of assessments to be made on the basis of frontage (based on the proportion of the parcel's frontage to the frontage of all parcels in the district), area, or other basis (depending on the relative portion of the whole as a proportion of the estimated benefit derived from the project). NRS 271.365, the statute governing the method of computing assessments, requires that irregularly shaped tracts must be assessed in proportion to the special benefit derived, irrespective of the method used to calculate the assessment.

NRS 271.365 also limits the amount of assessment on any one parcel; the assessment cannot exceed the estimated maximum special benefit assessed to the tract, nor can the assessment for any single project exceed the reasonable market value assessed for that tract. If the cost of the project would cause the assessment to exceed either threshold, that amount exceeding the threshold must be defrayed by sources other than assessments.

Who Is Assessed?

NRS 271.040 defines “assessable property” as any parcel located within the district that would receive special benefit from a project that is to be undertaken and paid for (in whole or in part) by special assessments, with the exception of:

- Any land owned by the federal government, unless the federal government consents to the assessment;
- Any land owned by the municipality, unless the municipality passes a resolution stating that its land will specially benefit from the assessment (if the municipality consents to assessing itself for the project by passing a resolution to that effect, NRS 271.366 stipulates that it cannot assess itself for more than 15 percent of the total assessment to be levied among all parcels in the district); and
- Any streets or other public rights-of-way.

NRS 271.366 provides a further limitation on assessments in the form of an exemption for land owned by school districts. The school district may, however, consent to the assessment and pay its share if it so chooses. NRS 271.305 also gives the right for those persons living in or owning wholly residential property in a proposed commercial area vitalization district to protest the assessment for that district; otherwise, no other exceptions or exemptions are granted from the payment of assessments within Chapter 271.

How Are Assessments Paid?

Current statute requires that all assessments are due within 30 days of the enactment of the assessment ordinance by the governing body. Under NRS 271.415, the person being assessed may opt to pay his assessment in installments (including interest), such that each installment payment is sufficient to pay the principal and interest in a period of not less than 2 and not more than 30 years. (If the assessment district is created for a project with a total cost of \$300,000 or less and is financed via the municipality’s general fund as is allowed by NRS 271.536, the assessment must be repaid by no more than ten annual installments, according to NRS 271.537.)

NRS 271.405, which gives the assessed owner 30 days to pay his assessment, states that failure to pay the assessment in the prescribed 30-day period constitutes an election to pay the assessment in installments. The acceptance of installment payments (even via failure to pay) constitutes an acceptance of the project and assessment itself by the property owner; he waives all further rights to question the

power or jurisdiction of the municipality to acquire or improve the projects, the quality of the work, the regularity or sufficiency of the proceedings or the validity or correctness of the assessment.

NRS 271.405 also allows the balance of the assessment (including interest) to be paid off at any time if the owner of the property so chooses. The municipality may, however, impose a prepayment penalty of no more than five percent of the unpaid principal and interest. Such penalty must be defined in the assessment ordinance by the municipality.

What if Assessments Are Not Paid?

NRS 271.410 states that any installment payment that is not paid in full on its due date shall cause the entire balance of the assessment (including unpaid interest) to come due and be payable immediately at the option of the municipality. If such action is taken by the municipality, it must be accompanied by foreclosure proceedings upon the property. (NRS 271.420 states that the payment of the assessment is secured by an assessment lien against the property.) If the unpaid installment is made prior to the day of the sale, however, foreclosure proceedings are stopped, and the right of the property owner to make annual installments on the remaining balance is restored as it was prior to the foreclosure action.

What if Assessments Are Not Sufficient to Pay Costs?

NRS 271.428 requires that a municipality that has created an improvement district pursuant to Chapter 271 to create a surplus and deficiency fund, to be funded with excess revenue that remains from assessments after all outstanding bonds, principal, interest and other costs have been paid, after all valid refunds have been issued. The money in this fund must be used to offset any deficiencies in funds created pursuant to NRS 271.490 for the payment of bonds connected to local improvement districts established pursuant to Chapter 271 of NRS. (The surplus and deficiency fund may also be used to pay the assessments levied against property owned by the municipality or the federal government if the total balance of the fund exceeds 10 percent of the principal amount of outstanding bonds issued pursuant to NRS 244A.193, 271.325, or 318.070 at the end of any fiscal year.)

If the surplus and deficiency fund balance is insufficient to cover the shortfall from the assessments, the municipality must cover the remaining amount through any legally available general fund revenue, pursuant to NRS 271.495, regardless of its source. If the municipality's general fund cannot cover the shortfall, the municipality must levy an ad valorem rate on all real and personal property in the municipality at a rate sufficient to cover the shortfall, so long as that rate, combined with all other rates imposed within the municipality does not exceed the statutory maximum established in NRS 361.453 (which is currently set at \$3.64 per \$100 of assessed value) or in Article 10, Section 2 of the *Nevada Constitution* (which is fixed at \$5.00 per \$100 of assessed value).

APPENDIX C: A Brief History of the Consolidated Local Improvements Law

The sections of Chapter 271 dealing with the implementation and administration of special assessment districts, also known as the Consolidated Local Improvements Law, were enacted as a result of Senate Bill 80 of the 53rd Legislative Session, which was approved by the Legislature on April 14, 1965. In the enrolled version, the act gave cities and towns (both incorporated and unincorporated) the authority to create districts (and assess the properties within these districts) for a variety of projects authorized under the act.⁹

Under Senate Bill 80, cities and towns were allowed to create districts and assess properties located within the district for the acquisition, improvement, equipment, operation and maintenance of any of the following:

- Curb and gutter projects;
- Drainage projects;
- Off street parking projects;
- Overpass projects;
- Park projects;
- Sanitary sewer projects;
- Sidewalk projects;
- Storm sewer projects;
- Street projects;
- Underpass projects; and
- Water projects.

As is codified in statute, Senate Bill 80 allowed the municipality to issue bonds as part of the financing of the project, with the assessments to be used to pay the debts incurred through the issuance of these bonds, but the amount of the assessment levied may not exceed the estimated special benefit received by the tract or the tract's market value.

With regard to exemptions, Senate Bill 80 defined "assessable property" as any tract of land specially benefited by the project for which the assessment is being made, with the exception of land owned by the federal government, the municipality or any public body, unless that body has specifically consented to the assessment. (The definition of "public body" in Senate Bill 80 included "the state of Nevada, or any agency, instrumentality, or corporation thereof, or any municipality, county, school district, other type district, or any other subdivision of the State, excluding the Federal Government.")

A review of the testimony provided for Senate Bill 80 indicates that the legislation (which was based on an idea developed in the city of Minneapolis, Minnesota) was needed, in part, to fund the construction and operation of city parks that were demanded by residents but could not be supported with general fund revenues. Consideration was also given to other types of projects, such as bomb shelters, that were ultimately removed from the enrolled version of the bill.

The text of Senate Bill 80 of the 1965 Session has not been included in this report due to its length; however, a copy of the text of this bill as enrolled is available from the Fiscal Analysis Division by request.

Revisions to the Consolidated Local Improvements Law – Exempt Properties

As previously noted, Senate Bill 80 of the 1965 Session provided an exemption from assessments for all property owned by the federal government or another public body, which included the state, any county, city, school district, or other political subdivision of the state. This exemption provided to government-owned property was narrowed as a result of Assembly Bill 85 of the 1971 Session, which amended NRS 271.040 to clarify that the definition of “assessable property” excluded property owned by the federal government or the municipality, and not property owned by other public bodies such as school districts.

The exemption for school districts, which was removed under Assembly Bill 85 of the 1971 Session, was restored as the result of Assembly Bill 482 of the 1989 Session. This language was added as an amendment at the request of Washoe County School District, which raised concerns that assessments could be levied against school district property for which the property would receive no benefit. The exemption was further clarified as part of Assembly Bill 369 of the 1991 Session, which allowed school districts to pay their assessments if they so chose, but the district’s property would remain exempt from the assessment unless the school district made that choice to pay. Testimony on this legislation from representatives of the Clark County School District indicated that the change made during the 1989 Session precluded districts that were willing to pay their portion of the assessment from doing so under law.

Senate Bill 411 of the 2005 Session partially removed the exemption granted to municipalities from the payment of assessments. The bill amended the definition of “assessable property” in NRS 271.040 to exclude property owned by a municipality unless the municipality passed a resolution stating that it would specially benefit from the improvement project. The bill also limited the amount of assessment that could be paid by a municipality to 15 percent of the total assessments levied, irrespective of the amount of property owned within the district by the municipality.

Other Notable Revisions to the Consolidated Local Improvements Law

Senate Bill 152 of the 1969 Session added a requirement to NRS 271.495 that the municipality must cover any deficiency in assessments of properties within the district from legally available general fund assets, regardless of the source. The bill also amended NRS 271.500, which governs bond liability, to allow municipalities to repay bonds from general fund sources if required.

In Assembly Bill 284 of the 1981 Session, the Legislature further addressed the issue of deficiencies by requiring the creation of surplus and deficiency funds in each municipality. Designed to regulate the handling of any revenues in excess of what is

necessary to pay for the project, including principal and interest on outstanding bonds, the proceeds of the fund must be used to offset any deficiencies from assessments before general fund revenues are used. The revenue in the fund may also be used to pay advance amounts for projects or pay the assessments of the municipality or federal government under certain circumstances, and unspent portions remaining in the fund exceeding \$10,000 may be refunded to parcel owners once all bond obligations for the district are paid. (The threshold for refunded excesses in the surplus fund was increased to \$25,000 as a result of Senate Bill 426 of the 2005 Session.)

Assembly Bill 329 of the 1979 Session added several provisions to the Consolidated Local Improvements Law regarding the formation of districts where the total cost of the project was less than \$150,000. A municipality forming such a district would be permitted, in lieu of issuing bonds, to pay the cost of the project using general fund revenue (or short-term financing if general fund revenue were not available) and repay that obligation using assessments for a period not to exceed ten years. (The threshold by which projects could be financed using general fund revenue in lieu of issuing bonds was increased to \$300,000 as a result of Assembly Bill 603 of the 1989 Session.)

APPENDIX D: Overview of the Exemption Granted to Churches in Ohio Special Improvement Districts

During the Assembly Committee on Taxation's hearing on Assembly Bill 339, representatives of the First United Methodist Church and Assemblyman Bernie Anderson referenced an exemption that is given to churches and religious organizations located within special assessment districts in the state of Ohio. This section of the study provides a brief overview of special assessment districts in that state, as well as the exemption granted for a specific type of assessment district.

Special Assessments as Utilized by Local Governments

Special assessments are used in Ohio, similar to those in Nevada, to allow municipalities to generate revenue for the purpose of financing certain types of improvements – sewers, parks, streets, and so on. Chapters 727 and 729 of the *Ohio Revised Code* (ORC) grant municipal corporations the authority to levy and collect special assessments for these improvements. For these assessments, no specific exemptions are granted under ORC. In fact, ORC 727.05 requires the municipal corporation itself to bear a portion of the cost of the improvements, which cannot be less than one-fiftieth (or two percent) of the total cost. (Municipal corporations are also required to pay the cost of any intersections that are improved as part of the assessment.)

More specifically, churches and other organizations are not exempt from these types of special assessments levied by municipal governments in the state of Ohio.

Special Improvement Districts

In addition to the special assessments that may be utilized by municipal corporations under these chapters, Ohio law also allows for the organization of special improvement districts within the boundaries of a single municipal corporation or township, or among a combination of contiguous municipal corporations and townships, for the same purposes that are authorized in Chapters 727 and 729. These special improvement districts are governed specifically under Chapter 1710 of ORC.

Under ORC 1710.02, the following limitations are placed on the creation of these districts:

- The territory in a district must be contiguous;
- A municipal corporation or township may contain more than one special improvement district, but no property may be part of multiple districts unless the property owner specifically consents to both assessments;
- A district may not include any property owned by the federal, state, or local government, unless that government specifically requests that it be made part of the district; and

- A district may not include any property owned by a church, unless the church specifically requests that it be made part of the district.

According to Peter Cooper, research analyst for the Ohio Legislative Service Commission, properties that are specifically granted an exemption from placement into the district – church and government properties – are disregarded from the calculation of the assessment, and that portion of the assessment is then divided among the non-exempt properties within the district. The division must be made, according to Mr. Cooper, such that the assessment added to any other assessments made on that parcel in the preceding five years does not exceed $33^{1/3}$ percent of the market value of the parcel. Additionally, the assessment must not exceed the benefit received by the parcel, just as is required in Nevada.

However, what is fundamentally different regarding Ohio's special improvement districts in comparison to a special assessment district organized in Nevada under Chapter 271, is that the special improvement district in Ohio is a nonprofit corporation – a nongovernmental entity – that must be approved via a petition of affected property owners. In fact, subsection E of ORC 1710.02 requires that a request to form a special improvement district must include a petition signed either by the owners of at least 60 percent of the front footage of non-exempt real property in the district or by the owners of at least 75 percent of the non-exempt real property (measured in total area). The petitions are submitted with the articles of incorporation for the nonprofit corporation to the municipal corporation, which must approve or disapprove the petition within 60 days of its submission.

An observation of this type of district – where property owners request the assessment via petition – is that the affected owners explicitly consent to the assessment by signing and presenting a petition to the municipal corporation. This first observation then creates another observation – an implicit agreement by these same owners to assume the portion of the assessment that would otherwise be made by properties that are exempt from the assessment. Such implied consent to pay a portion of the assessment of churches may not similarly exist in special assessments in Nevada, because the assessment (unless specifically requested through the petition process) is imposed by the local government creating the district and assessment, rather than a self-created and imposed district as is utilized in Ohio.

ASSEMBLY BILL NO. 339—ASSEMBLYMEN ANDERSON, PARKS, BEERS, CLABORN, LESLIE, ATKINSON, BOBZIEN, BUCKLEY, CARPENTER, CONKLIN, DENIS, GOEDHART, GOICOECHEA, GRADY, HOGAN, HORNE, KIRKPATRICK, MORTENSON, MUNFORD, PIERCE, SEGERBLOM, SETTELMAYER AND WOMACK (BY REQUEST)

MARCH 15, 2007

Referred to Committee on Taxation

SUMMARY—Exempts property owned by certain nonprofit organizations from certain taxes and assessments. (BDR 31-106)

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

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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 real property; exempting property owned by certain nonprofit organizations from certain taxes and assessments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, property owned by certain nonprofit organizations is
- 2 exempt from property taxation. (Nev. Const. Art. 8, § 2; NRS 361.105, 361.125,
- 3 361.140) However, such property may be subject to other taxes and mandatory
- 4 assessments for various purposes. This bill exempts property owned by a nonprofit
- 5 organization created for religious or educational purposes from any tax or
- 6 mandatory assessment imposed by a local government, including, without
- 7 limitation, a tax or assessment imposed by a local improvement district, police
- 8 protection district, general improvement district or flood control district.



* A B 3 3 9 *

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:

Property that is owned by an organization described in subsection 2 or 4 of NRS 372.3261 is exempt from any tax or mandatory assessment imposed by a local government, including, without limitation, a tax or assessment imposed pursuant to chapters 244A, 268, 271, 318, 543 and 555 of NRS.

Sec. 2. 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 Electrification Administration of the United States Department of Agriculture.



* A B 3 3 9 *

1 **Sec. 3.** This act becomes effective on July 1, 2007.

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* A B 3 3 9 *

**EXECUTIVE AGENCY
FISCAL NOTE**

AGENCY'S ESTIMATES

Date Prepared: March 27, 2007

Agency Submitting: Assessment Standards, Taxation

Items of Revenue or Expense, or Both	Fiscal Year 2006-07	Fiscal Year 2007-08	Fiscal Year 2008-09	Effect on Future Biennia
See Explanation Below (Revenue)				
See Explanation Below (Expense)				
Total				

Explanation

(Use Additional Sheets of Attachments, if required)

This Act exempts property owned by certain nonprofit organizations from certain taxes and assessments, other than property tax. The properties belonging to nonprofit organizations are already exempt from property taxes. This act serves to exempt these properties from other taxes and assessments, generally "mandatory assessments by a local government for various purposes".

Generally, these taxes or assessments are for financing of public projects or capital improvements by local governments by means other than property taxes. Besides including a vast array of projects there are multiple financing methods included or associated with this BDR.

Generally the methods of financing and associated projects or assessments related to this BDR would not involve additional levy of State funds. Therefore, these exemptions should have no affect on State revenues.

Name Dino DiCianno

Title Executive Director

DEPARTMENT OF ADMINISTRATION'S COMMENTS

Agency's response appears reasonable.

Date Monday, March 26, 2007

Name Elizabeth L. Barber

Title Deputy Director Administration

LOCAL GOVERNMENT
FISCAL NOTE

AGENCY'S ESTIMATES

Date Prepared: March 27, 2007

Agency Submitting: Local Government

Items of Revenue or Expense, or Both	Fiscal Year 2006-07	Fiscal Year 2007-08	Fiscal Year 2008-09	Effect on Future Biennia
Total				

Explanation

(Use Additional Sheets of Attachments, if required)

See attached.

Name Tina Calilung

Title Deputy Fiscal Analyst

LOCAL GOVERNMENT RESPONSES
AB 339 / BDR 31 - 106

	Impact	FY 2007 - 08	FY 2008 - 09	Future Biennia	Comments
Carson City	No impact				
City of Henderson	Increase in Expense	\$500,000		\$500,000	The proposed legislation will have a significant fiscal impact directly on the taxpayers of the city of Henderson because it may be necessary to cover the costs of the required assessments for the exempt organizations. The city does not have the data required to adequately calculate the negative fiscal impact that would result from passage of this bill. Data resides with the Department of Taxation. The city would oppose any such exemption as it reduces the state-collected shared revenues.
City of Las Vegas					Not enough information is available at this time to determine an accurate estimate of the fiscal impact this bill would have. This bill would be economically detrimental to the city of North Las Vegas if nonprofits were forgiven their portion of the bonds payable in existing improvement districts. Who would pay the nonprofits' share of the semi-annual debt payment? Would this law only be effective for new improvement districts?
City of North Las Vegas					This bill would have no financial impact on the city of Reno. If certain properties within a special assessment district were excluded from paying taxes, there is still a certain amount of money that must be collected from that district meaning that the other property owners in the district would be forced to make up the difference. Therefore, the financial burden of this bill does not rest with the
City of Reno					

	Impact	FY 2007 - 08	FY 2008 - 09	Future Biennia	Comments
City of Reno (cont)					city of Reno, but with the other property owners within a special assessment district.
City of Sparks	No impact				
Churchill County					Churchill County has no taxes or mandatory assessments imposed by a local government; including, taxes or assessment imposed by a local improvement district, police protection district, general improvement district or flood control district.
Clark County					Unable to determine the fiscal impact as there are too many unknown variables.
Eureka County	No impact				
Humboldt County					Cannot determine an amount, however any exemption reduces the revenue for operations. We do not believe this would have a significant impact.
Mineral County					This bill would have a minimal financial impact on the county.
NACO	No impact				Minimal impact if any.
Washoe County	No impact				No or minimal impact.
Churchill County School District					Has impact

	Impact	FY 2007 - 08	FY 2008 - 09	Future Biennia	Comments
Clark County School District	No impact				Has no significant fiscal impact.
Douglas County School District	No impact				
Elko County School District	No impact				
Esmeralda County School District					At this time, we are unable to discern the financial impact of the proposed legislation.
Humboldt County School District	No impact				This would be a benefit to HCSD. Recently we paid an assessment district fee of \$220,000 on property the district owned. We did this of our own accord, however, given this BDR we would not have been subject to the cost. Overall, no fiscal impact however may provide future cost savings.
Lincoln County School District	No impact				It appears that this would have no impact on Lincoln County School District at this time. It may give an extra level of assurance that we would be protected from future local taxes or assessments.
Mineral County School District	No impact				

	Impact	FY 2007 - 08	FY 2008 - 09	Future Biennia	Comments
Nye County School District					Not enough information to determine if this will impact the school district.
Pershing County School District					The district does not have sufficient information to estimate the loss of revenues due to exempting nonprofits from tax liabilities.
Washoe County School District					This bill would have a positive impact on WCSD. It would exempt the district from assessments that are imposed by other local governments.
White Pine County School District	No impact				

The following cities/counties/school districts did not provide a response: League of Cities, Douglas County, Elko County, Lander County, Lincoln County, Lyon County, Nye County, Pershing County, Storey County, White Pine County, Carson City School District, Eureka County School District, Lander County School District, Lyon County School District and Storey County School District.

City of Henderson
BDR 31-106
AB 339

The proposed legislation will have a significant fiscal impact directly on the taxpayers of the City of Henderson because it may be necessary to cover the costs of the required assessments for the exempt organizations. Another option would be to not complete infrastructure surrounding the property which will hurt the surrounding property owners and would require the exempt property owner to build and finance the improvement costs themselves when they decide to develop the property. Following are examples of some past LID assessments that would not be allowed under the proposed legislation: a synagogue \$419,984, a church \$163,274, and a private school \$387,000. Within LID/SIDs the improvements are very “localized” as are the specific benefits. The basic premise of NRS 271 is that those that benefit must pay and those that pay must benefit. The costs of a non-profit religious or education agency cannot be spread among the other properties within the district because they have no increased benefit. The proposed legislation does not clearly identify who will pay for these costs or whether the property will need to remain undeveloped. Like any other land owner, they need to pay their fair share of the public infrastructure costs associated with their development. Yes it is expensive but the cost and benefit is directly proportionate to the special benefits received by all properties including the church/private school; in that case an increase in valuation, and completion of their share of the public improvements along their property. Those improvements are constructed and financed by the Improvement District for all properties within the District benefiting area regardless of each property’s ownership, final use, and/or perceived community benefit. For any owner or “developer” of land, infrastructure costs real money regardless of the owner’s corporate status or purpose. The LID/SIDs costs are not a tax but simply each respective owner’s share of building the public infrastructure that collectively builds a community. Regardless of the financing mechanism used to pay for the improvements, LID/SID bond proceeds or private capital, every property owner is generally expected and in fact required by most local development ordinances to pay for their fair share. It’s how we build our communities.

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fourth Session
March 29, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:37 p.m., on Thursday, March 29, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/74th/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblyman David R. Parks, Vice Chair
Assemblywoman Francis Allen
Assemblyman Morse Arberry Jr.
Assemblyman Mo Denis
Assemblyman Tom Grady
Assemblyman William Horne
Assemblyman John W. Marvel
Assemblyman Harry Mortenson
Assemblyman James Ohrenschall
Assemblywoman Peggy Pierce
Assemblywoman Valerie E. Weber

GUEST LEGISLATORS PRESENT:

Assemblyman James A. Settlemeyer, Assembly District No. 39
Assemblyman Bernie Anderson, Assembly District No. 31

STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary

Minutes ID: 726



OTHERS PRESENT:

Dino DiCianno, Executive Director, Department of Taxation
Carole Vilardo, President, Nevada Taxpayers Association
John Auer, Pastor, Reno First United Methodist Church
Pat Smith, Member, Reno First United Methodist Church
John Emerson, representing California-Nevada Conference, United Methodist Church; Conference Committee on Children and Poverty, United Methodist Church; and Nevada Sierra District Council on Ministries; and Pastor Emeritus, Reno First United Methodist Church
Larry Struve, representing Religious Alliance in Nevada
Gene Savoy, Jr., Pastor, International Community of Christ
John Swendseid, Bond Counsel, Swendseid & Stern
Gerard H. Cote, Accounting Manager, City of North Las Vegas
Jennifer Lazovich, representing Focus Property Group
Bill Gregory, representing The Howard Hughes Corporation
Susan Fisher, representing City of Reno
Shaun Jillions, representing City of Henderson
Roberta Ross, representing Downtown Improvement Association, City of Reno

Chair McClain:

[Meeting was called to order at 1:37 p.m. Roll was called.] We have two bills to hear today. The first one is Assembly Bill 236. Is Assemblyman Mabey here?

Assembly Bill 236: Makes certain changes regarding the reporting, payment and collection of sales and use taxes. (BDR 32-1096)

Assemblyman James A. Settelmeyer, Assembly District No. 39:

[Distributed ([Exhibit C](#)) and ([Exhibit D](#)).] Assemblyman Mabey was kind enough to request this bill on my behalf. An envelope is being handed out to you now ([Exhibit C](#)) dealing with sales tax in the State of Nevada. I had originally sold some garlic at a farmers' market. Agricultural products are not taxed, so I was not paying anything. However, with a business license, you have to pay tax either monthly—if you make more than \$10,000 in saleable income—or quarterly. Those are the two choices. I did not make much money selling garlic so I quit doing it.

Dino DiCianno:

I believe what Mr. Settelmeyer was referring to dovetails with what Ms. Vilardo just talked about, which is providing the de minimis amount. Once the Commission can establish that de minimis amount, that is something we could live with.

Chair McClain:

Do you just want that wording, or do you want an amount?

Dino DiCianno:

I will leave that policy question to this Committee.

Carole Vilardo:

We already have statutory language that speaks to a de minimis amount. I will go back, reference it, and if it looks like there are some qualifications, I will do a separate note that the Committee might want to consider for additional wording.

Chair McClain:

That would be great.

Assemblyman Horne:

Remember when they were having the debate about sending checks back for vehicle registration and how much it would cost to send that back? The consensus was that we had to send those checks out; we had to spend that money to do it.

Chair McClain:

I believe at that time it cost roughly \$35 to process a check, not to mention the ones that never got cashed because they were for a penny. Then there was the reprocessing to get the checks off the roll. I am glad to know there is a reference to "de minimis."

Are there any other questions, comments, or concerns? [There was no response.] I will close the hearing on A.B. 236. We will open the hearing on Assembly Bill 339.

Assembly Bill 339: Exempts property owned by certain nonprofit organizations from certain taxes and assessments. (BDR 31-106)

Assemblyman Bernie Anderson, Assembly District No. 31:

I was surprised to discover that religious and educational institutions were not exempt from tax language in special districts, as they are in other places in our

statutes. If there is a new curb or sidewalk or sewer line that benefits an educational institution or a religious institution, I think they should be taxed for the cost of putting in that kind of infrastructure. If, however, the situation places a financial burden that will destroy those institutions, I feel there is a reason and need for this bill.

I understand that the people who have raised the questions have reached something of an accord with the city of Reno, and they have additional requests that may be made by the Committee. I still feel there is an issue here that should be addressed and resolved, and I await input from this Committee in determining this. It may be an issue that would be better resolved in the interim. One way or another there has to be an equitable solution to this problem.

John Auer, Pastor, Reno First United Methodist Church:

[Read from prepared testimony ([Exhibit E](#)).]

Pat Smith, Member, Reno First United Methodist Church:

[Read from prepared testimony ([Exhibit F](#)).] I have held a number of positions in the church, one of which was chairing our finance committee for quite a few years. This morning's lead story in the *Reno Gazette-Journal* was about the Virginia Street Bridge. It is very possible there could be an assessment levied to replace or repair that bridge.

John Emerson, representing California-Nevada Conference, United Methodist Church; Conference Committee on Children and Poverty, United Methodist Church; and Nevada Sierra District Council on Ministries; and Pastor Emeritus, Reno First United Methodist Church:

[Read from prepared testimony ([Exhibit G](#)).] This morning I received a report from a Legislative Counsel Bureau (LCB) staff researcher indicating that the state of Ohio has a statutory exemption for churches, and the churches are able to opt in to an assessment district rather than having to opt out. It is a lengthy report, but that is the gist of the statute in Ohio.

Since preparing my testimony, I have learned that the Religious Freedom Restoration Act of 1993 ([Exhibit G](#)) was struck down by the U.S. Supreme Court. My life is full of surprises.

Chair McClain:

What is the difference between subsections 2 and 4 of *Nevada Revised Statutes* (NRS) 372.3261?

John Emerson:

Subsection 2 references organizations created for religious purposes. There is a rather lengthy description, which I can read if you need me to. Subsection 4 refers to operating schools, colleges, and such institutions.

Chair McClain:

So subsection 2 refers to churches and subsection 4 refers to schools. Do you know right offhand what the assessments or taxes imposed by these other chapters are?

John Emerson:

Yes, Chapter 244A of NRS refers to counties and public improvements. Chapter 268 of NRS refers to powers and duties of cities. Chapter 271 of NRS refers to local improvements. Chapter 318 of NRS refers to general improvement districts (GIDs). Chapter 543 of NRS refers to flood control. Chapter 555 of NRS refers to control of insects, pests, and noxious weeds.

Chair McClain:

Thank you for knowing that. We usually have to go look it up. Are there any questions?

Assemblywoman Weber:

Do other states do it like this? Have they exempted nonprofits that own property that would be assessed these taxes or assessments?

John Emerson:

So far we have discovered that Ohio has a statutory provision. I do not know of any other state that does at this time.

Assemblyman Anderson:

Before I had the drafting of the legislation, I had the LCB Research Division look at the overall question of special assessment districts, how unusual they were, how many other places in the State were doing this, and how it might impact not just the community in which this particular religious institution and educational institution are. It has been a strange discovery because some communities have already exempted them by the way they drew their lines, recognizing the difference in property taxes and ad valorem tax. What the group with this bill is suggesting is that the Standing Committee on Taxation would take this up as part of their burden in the interim to look at this along with other examples as further review.

The nature of development in Nevada is that we have created large blocks of land that are developed by a single developer, and then a certain predicated

development within that for roads and streets, and those general assessments are put forward. This bill makes a clear statutory change forward, rather than backward, in time, so it would not change the kinds of statutes that are already in place. As Rev. Emerson has already indicated, Ohio legislation, which takes up just the question of churches, is currently the clearest example, so yes, other states have done this.

Relative to the Supreme Court decision Rev. Emerson referred to, I had a bill last session and was about to introduce it when I recognized it created a certain series of problems relative to constitutional language. I wanted to wait for a resolution to that question. In the state of Texas there has been a longstanding question of historic properties, which often predate cities—in fact, the organization of cities often follows the establishment of a particular church in a community, and the city grows out and around it. When the church wants to change its property, how is it affected by city statutes? That, by itself, creates an interesting set of problems constitutionally. However, the tax question in Ohio has been solved. There is a legitimate question of tax policy that should be clearly drawn by an interim committee. That would, in my opinion, be a good thing to add to your burden.

Chair McClain:

Would you be willing to let staff look at how we could rewrite this little bit so it “highly urges” that interim committee? Would you like us to look at it that way?

Assemblyman Anderson:

I believe the best solution in the long term would be to try to bring accord to this group so there is a clear resolution. There is a real, urgent need because special assessment districts, water districts, and GIDs all come into play here. As the communities continue to grow, I think we should clearly make religious institutions that are qualified know what their tax burden is going to be. Their contribution to a community cannot be measured in dollars and cents, and we have always recognized that as one of the basic principles. They do not charge people who come in the doors of their sanctuaries. They neither charge admission nor expect a profit. It is what people carry away from there that is of greater value that cannot be measured in dollars and cents.

Chair McClain:

We will have staff work on that language to highly urge that standing committee to look at this. Is there anyone else in support? Then, just for the Committee’s information, we will have some of the people who have concerns about the bill put their concerns on the record.

Assemblyman Marvel:

Have you read the letter from the bond counsel ([Exhibit H](#))? [Chair McClain indicated she had not yet read it.] It is very important.

Larry Struve, representing Religious Alliance in Nevada:

The United Methodist Church, including the First United Methodist Church in downtown Reno, is a part of the Religious Alliance in Nevada (RAIN). There has been quite an active discussion within RAIN about this bill. The RAIN board met yesterday and has instructed me to come here and put on the record that they are in support of the concept behind this bill. The reason they are in support is that there are times when trying to make nonprofits pay their fair share results in such substantial burdens on those nonprofits as to threaten their very existence. In fact, that is the reason Congress passed the Religious Freedom Restoration Act of 1993 referred to by Rev. Emerson.

The United States Supreme Court struck that act down because they found it went beyond the scope of Congress's authority to enter this area. They were not given that power in the *United States Constitution*. What the Supreme Court said was that individual states have the power to protect the free exercise of religious freedom. Since the Supreme Court struck this law down in the mid-1990s, many states have adopted religious freedom restoration acts. We have talked with Assemblyman Anderson about this concept, but we did not want to come forward to this Body until we had some concrete examples where the free exercise of religion had been burdened. You now have a case before you.

It seems what you are talking about here is proportionality. You heard the Methodists say they are willing to pay a fair share. However, when they are being asked to pay assessment upon assessment, and no consideration is being given to the cumulative burden on the ability of that congregation to exist, then you have something that may very well cross the constitutional line. As a matter of public policy, you want to enact a law that makes local governments as well as the State consider the free exercise of religion when considering how much of a burden to place on a particular organization.

It appears you are interested in studying this issue, and RAIN would strongly support that. As you study the impact of special assessments on religious organizations and others, we would also respectfully ask that you consider a state religious freedom restoration act because we cannot anticipate all the instances where government action could impose substantial burdens on free exercise of religion. It may or may not be appropriate to consider it, but now you have a case where a substantial burden has been imposed, and we want to

protect the rights of our faith communities—not just those in RAIN but all faith communities—to the free exercise of their religion in this State.

Gene Savoy, Jr., Pastor, International Community of Christ:

I am also here to support my colleagues and friends at the First United Methodist Church. I am here to support the bill. The International Community of Christ has been in Reno as a functioning 501(c)(3) since 1972, and we are currently paying two local assessments that total several thousand dollars annually. Our concern is that it places an undue financial burden, and we are concerned about the potential for future assessments. We do not know when they will come up, and we do not have the option to buy into them. We are required to pay.

I would like to reiterate my belief, as Mrs. Smith stated, that you may call a tax by a different word, but it is, nonetheless, a tax. I would encourage you to move the bill along so we can realize eventual passage of the bill. I appreciate your time and effort in this regard.

Chair McClain:

I think that is all the people I have signed in to speak in support. Others signed in as being in support but not wanting to speak, and we appreciate you being here. With the Committee's indulgence, we will listen to a few who have signed in with grave concerns or in opposition.

John Swendseid, Bond Counsel, Swendseid & Stern:

[Provided a letter from Stone & Youngberg, an underwriter of tax-exempt assessment bonds ([Exhibit H](#)), and a copy of his prepared testimony ([Exhibit I](#)).] I serve as bond counsel to most of the cities and counties in the State of Nevada. [Read from prepared testimony ([Exhibit I](#)).] Some of the proponents of this bill acknowledge that it will affect local improvement districts. No nonprofits, religious, educational, or otherwise, are exempt from these assessments. The Legislature has generally been very careful to assess everyone according to benefit, including government, nongovernment, profit, nonprofit—everyone within the district who has benefited from the water or sewer.

If you now exempt revenue sources that are already pledged to bonds, the bondholders may have a legitimate complaint that the Legislature has impaired the contract it has allowed cities and counties to make with bondholders. We are further concerned that even if you exempted existing districts but provided that any time a church acquired property within an assessment district in the future, that property would become exempt from the assessment, we would have difficulty selling assessment bonds. A person might not want to buy a

bond where we could say the security for the bonds is the assessments against these 100 parcels, but 10 of the parcels might be owned by churches in the future, 10 might be owned by schools in the future, and they would then not have to pay their assessments and we might not have enough money to repay that bond.

We do not think this is the way Nevada wants to go with assessment districts. So far, we have had a very successful assessment district program that has provided a way for local government to add streets, water lines, and sewer lines that have been needed to keep up with our fantastic growth. Also associated with that growth are more churches and schools, and the idea beyond existing law is that those institutions, along with everybody else, pay their fair share.

Chair McClain:

We will make sure this letter gets put in the record.

Assemblyman Horne:

Have you done an assessment of what you think that loss would be if this bill were to pass? [Mr. Swendseid indicated he had not.] That would be helpful. If we had a number, it would be something more realistic.

John Swendseid:

We have had several assessment districts in which churches and schools were part of the property assessed. We have noticed that because it has been marked as a school parcel or a church parcel. We know there would be some loss, but to do a study of all the districts in the State would take quite an effort. However, if you do an interim study on this project as has been suggested, that should provide the time to look at and maybe get some samples of what revenue would be lost in particular districts.

Assemblyman Horne:

I have heard numbers of \$1,700 per property per year, so I am trying to conceptualize in my head how many properties we are talking about and what that impact would be.

John Swendseid:

The way we do assessment districts under Nevada law is that the bonds are issued in exactly the same amount as is assessed against the property owners. If there is \$100,000 of assessment against property owners, we issue \$100,000 in bonds. That means if we lose the assessment against even one of those properties, even if the assessment for that property is \$10,000 over 20 years, there will not be enough to pay the bonds. There is no extra money in assessment district financing.

Assemblyman Denis:

When we make an assessment, do we have the ability, if a church is able to opt out, to increase the assessment on the rest of the property owners?

John Swendseid:

That depends on the circumstances. State law provides that we cannot assess any property for an amount more than the amount by which that property is benefited by improvements. State law also provides we cannot assess any property an amount greater than its fair market value. Many times that limit will mean the city cannot pass on to other property owners the cost of putting the street, water line, or sewer line in front of the church or school. Instead, if the local government decides to exempt the church or school, the local government has to make that up from its general fund.

Sometimes that is done. Churches in downtown Reno have experienced times when the city has taken their protest into account. The city has sometimes relieved churches and schools of this burden, but other times has felt it is fairer to all the taxpayers in the city for them to pay their share. However, they do get the opportunity to present their arguments to the city council, and the city council can see whether the other property owners or the general fund can help.

Gerard H. Cote, Accounting Manager, City of North Las Vegas:

This bill would have a significant negative impact on the city of North Las Vegas for future special improvement district (SID) debt. Bondholders would be subject to significant risk. This would make it more difficult to develop districts and sell bonds. Although we currently do not have any nonprofits that would affect our current collections, our concern is going forward, as we want to use SIDs to revitalize the developed areas of the city that already have churches and educational facilities in place. Structuring the SID would be more cumbersome. Other unintended consequences could result in a reluctance for investors to buy SID bonds, and developers may not want to have nonprofits in their developments.

Jennifer Lazovich, representing Focus Property Group:

Focus Property Group develops master planned communities in southern Nevada. My testimony would echo that of John Swendseid. Obviously, churches and schools are integral to any great community, but the things assessments are generally used for, such as roads, sewer, and water, really bring an advantage to them as well. From that standpoint, with the language as it is written today, we think the bill is too broad, and we cannot support it at this time.

Bill Gregory, representing The Howard Hughes Corporation:

[Distributed an internal communication ([Exhibit J](#)).] I will echo the comments of Ms. Lazovich and Mr. Swendseid. The Howard Hughes Corporation welcomes churches and schools in the development. In fact, most of the time, the land is severely discounted to them. Assessments are another issue, though, because of the bonds. Hughes currently has nine active SIDs, anywhere from \$20 to \$40 million and 300 to 1,100 acres, and those bondholders are expecting that revenue back. When you have this land, you have no idea where a church or school is going to buy land, and as they purchase that land, you do not have the ability to tell the bondholder he is not going to get his money from this piece of land. You also cannot pass that loss of revenue to the other land holders. That is a problem from our perspective, also.

Susan Fisher, representing City of Reno:

I hate to come up here and be a Scrooge, and I would like to thank the people from the First United Methodist Church for meeting with the city and with Nick Anthony. He gets to play good cop; I get to play bad cop today. We have worked with them in good faith. On different occasions when they have come to the city of Reno, to the council, to ask for a waiver, if the city feels it can, at that time, take the money out of the general fund to pay for it, that has been done. On occasion, Mayor Cashell has even written a check out of his own personal account to pay for their assessment for the year to help them.

However, these assessments, as you have heard, are direct improvements and direct benefits to all properties in the assessment district. We have the police assessment district. We had complaints in prior years about some of the elements in downtown Reno, and businesses, churches, and nonprofits in the downtown corridor said we needed to clean it up. We hired extra police to patrol those areas day and night. We have them on bicycles downtown, and that is a direct benefit to those people paying that assessment. It is not spread out over the entire town.

We are also, as Mr. Swendseid said, very concerned about the bond rating. If we exempt it for them, how far does it go? We think that is a problem. We are willing to work with them some more. We have tried but have not yet come to an agreement on what it could be reduced to for particular properties.

Shaun Jillions, representing City of Henderson:

[Distributed fiscal note from Henderson ([Exhibit K](#)).] Mr. Swendseid does represent us on bond matters, and he did a great job of addressing our concerns about the broadness of the language.

Assemblyman Marvel:

I noticed in your fiscal note ([Exhibit K](#)) that Henderson is going to be impacted by \$500,000. How did you derive that figure?

Shaun Jillions:

I will be happy to get that information to the Committee. All I have is the final breakdown. We do have a lot of local improvement districts within the city of Henderson. I would imagine they are assuming that rather than doing an additional assessment on current property owners, we would make up for it in general fund dollars. I would be happy to get the Committee an actual breakdown of those costs.

Chair McClain:

That would be great.

Roberta Ross, representing Downtown Improvement Association, City of Reno:

I am a business and property owner across from the First United Methodist Church, with whom I have discussed this matter. As a downtown improvement association, I would like to share a simple example with you. We are concerned about certain nonprofits not paying the special assessments. We believe the improvement benefits them as much as it does everyone else. Downtown Reno was definitely a deteriorating city, and the redevelopment agency came in, as did the Downtown Improvement Association. The Association was very much in support of the police tax district because downtown Reno was in such a bad state with such a large criminal element. The police tax district is able to afford 14 police officers who have made a direct improvement in downtown Reno regarding crime and the homeless element.

Having a building in downtown Reno, I see the improvements. I know they help all the people involved, including those people who frequent any business downtown. Whether the business is a profit or nonprofit, it does benefit. We have concerns about this bill going forward and about its unintended consequences.

Chair McClain:

Are there any questions for these witnesses? Do we have anybody else who wants to weigh in on this bill, either pro or con? [There was no response.] I will close the hearing on A.B. 339. We do not have anything for work session

yet. In fact, we are still waiting for fiscal notes for some of the bills we are going to be hearing in the next two weeks. With that, we are adjourned [at 3:05 p.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Kathy McClain, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 29, 2007

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
<u>A.B. 236</u>	C	Assemblyman Settlemeyer	Envelope containing sales and use tax return
<u>A.B. 236</u>	D	Assemblyman Settlemeyer	Issue for <u>A.B. 236</u>
<u>A.B. 339</u>	E	John Auer / Reno First United Methodist Church	Prepared testimony in support
<u>A.B. 339</u>	F	Pat Smith / Reno First United Methodist Church	Prepared testimony in support
<u>A.B. 339</u>	G	John Emerson / United Methodist Church	Prepared testimony in support and Religious Freedom Restoration Act of 1993
<u>A.B. 339</u>	H	John Swendseid / Swendseid & Stern	Letter from Stone & Youngberg in opposition
<u>A.B. 339</u>	I	John Swendseid / Swendseid & Stern	Prepared testimony in opposition
<u>A.B. 339</u>	J	Bill Gregory / The Howard Hughes Corporation	Internal communication in opposition
<u>A.B. 339</u>	K	Shaun Jillions / City of Henderson	Fiscal note

Testimony to Committee on Taxation, AB 339, 29 March 2007

Our thanks to the chair and members of the committee for scheduling this hearing on AB 339. I am John Auer, pastor, First United Methodist Church in downtown Reno. With me are Pat Smith and John Emerson who will speak as well. Thanks to Assemblyman Bernie Anderson for hearing our concern and introducing this bill to give us the chance to share our concern.

First United Methodist Church has been a vital not-for-profit institution of the downtown community for nearly one hundred and forty years – in our current historic building since 1926. Twice in our history we helped to start other congregations so as not to move out of downtown. Costly as our aging building may be, inconvenient as parking and access may be, we are where we want to be -- and where we want to stay.

At 209 West First Street, we love being part of Reno's emerging arts and culture district along the Truckee. We cooperate with beautification and redevelopment plans enthusiastically in every way we can -- while remaining true to our life and mission as a 501(c)(3) constitutionally tax-exempt religious organization. Tax-exemption as we understand it is meant to preserve the independence and the integrity of religious organizations to bear public witness and give public service in ways consistent with the freedom of belief. In the spirit of American fairness, both those who profit and those who do not are free to be who they are.

We are not exempt from giving back to our community. In fact, we live to do so! We give all the time -- through uses of our building, time and talent of our staff and volunteers, programs of our congregation, commitments to social action and advocacy, cooperation with other religious and community organizations, and the nation- and world-wide ministries of the larger United Methodist Church. Our smaller, older congregation does not receive financial support from the larger church; we give it! -- for emergency relief, community health and well-being, movements for justice and peace -- here and around the world.

We invite you to check us out -- twelve-step recovery programs; food distributions; rotating shelter for families with children; full slate of Artown events with the city; the River Walk Merchants Association; open programs for children, youth, and young adults in need; weddings galore; public spaces for vigils and memorial celebrations; for theater, music and art -- even for candidate forums! We pay to play -- as well as to pray -- in the downtown building and downtown community we love and serve so much. As redevelopment grows, we perceive our free and public space, our free and prophetic stance, will be more, not less, in demand.

We are willing and eager to be transparent and accountable for being and doing who we say we are. But in recent years, we have been taxed in the form of special assessments created by the city of Reno for the general good and

development of our downtown community. A tax by any other name may still be a tax. Do we benefit by the assessment projects? Yes! Do we want to enjoy the collective good of our community? Yes again! But we must insist upon being true to who we are – who the Constitution supports us to be.

We let our city council member and our city manager know our intent through this bill. We met with our city legislative relations person. We are happy to work on shared agreements. We do not seek to be sheltered and hid from view or from engagement. We are a link to the past. We are also a springboard to the future!

Thank you. John Auer, Pastor, Reno First United Methodist Church
(775) 322-4564, JohnAuer@gbis.com, www.renofirstmethodist.org.

AB 339
Meeting I.D. 726
by Pat Smith

I am Pat Smith, and I have been a member of Reno First United Methodist Church since 1966. Allow me to clarify our concerns.

AB 339 did not come about because of the two assessments we already pay for expanded police protection and the lowering of the railroad tracks. In fact, the Reno City Council has reduced the train trench assessment by half, trying to lessen the burden on us, and we appreciate their efforts. Even so, we are still paying, and we know that additional assessments are inevitable if something isn't done soon.

The two assessments we currently pay amount to about \$1,700 per year, but due to an automatic increase in the police assessment each year and the continuing nature of the assessment, the total for the two assessments will grow to over \$2,000 in the next couple of years. We expect a special assessment district to be created to help pay for flood control. It's just a matter of time, and we have no idea how much that assessment will be or how many other assessments will follow.

We are attempting to plan ahead, knowing that our location in the redevelopment district makes future assessments inevitable, and that we will be expected to pay more and more as time marches on. If we are going to have to either pay increasing assessment taxes or consider moving out of the downtown area, we need to know that now so we can begin planning.

There are reasons why there are laws that exempt nonprofits from paying taxes. Because businesses make money, the argument can be made that projects funded by assessment taxes will benefit surrounding businesses with increased revenue from which to pay assessments.

On the other hand, nonprofit organizations – specifically churches – are not in business to make money. Projects funded by assessments do not translate into increased revenue for our church. Our pastor John Auer has identified our outreach efforts. We are proud to be active participants in the rebirth of Reno's downtown, but instead of money, we invest in our community using the currency of outreach programs and services.

We appreciate Nick Anthony's willingness to meet with us, which we did this past Monday. He has asked that we deal with this issue locally, which is how we have been dealing with it until now. Even so, we have agreed to try to work together, and we are most hopeful that some sort of long-range solution will come of our joint efforts. If not, I guess you will be seeing us next session. It is important to note, though, that by working on this locally, our main concern will remain unaddressed, unless you decide to focus on it.

And that concern is this: Is it the right thing to do to tax nonprofit, tax-exempt organizations that have no business-generating income? We are exempt from all other kinds of taxes. Is it the right thing, the ethical thing, to name a "tax" an "assessment," which allows bypassing the law that exempts nonprofit organizations?

Although the legal definition of "tax" may be different than the definition of "assessment," from our vantage point there is no difference. The idea is that assessments pay for things that directly benefit the businesses inside the assessment district. Example: We pay an assessment tax for increased police presence. It is assumed that we benefit from increased police presence. On the other hand, we don't pay taxes for maintaining the roads by our church, even though we benefit from having decent roads outside our church. We don't pay taxes for road maintenance because we are a tax-exempt organization. Why then are we paying any taxes - for extra police or otherwise?

A primary principle on which our country was founded is the separation of church and state. Madam Chairman, and members of the Committee, to our little church community it doesn't feel very separate any more.



John H. Emerson
Nevada Legislative Advocate

Nevada-Sierra District ❖ Board of Church & Society ❖
Committee on Children and Poverty
Of the California-Nevada Conference of
The United Methodist Church

The General Conference is the only official voice of The United Methodist Church

"Toward Making Hope a Reality"

March 29, 2007

Assembly Committee on Taxation
Nevada Legislature
Carson City, NV

RE: AB 339; Meeting ID 726

Good afternoon Madam Chairwoman and members of the committee. My name is John Emerson. I am a registered lobbyist representing three agencies of The United Methodist Church that engage in justice advocacy in No. Nevada. In the interest of full disclosure, I should report that I am pastor emeritus of First United Methodist Church of Reno. Thank you for the opportunity to speak favorably to the intent of AB 339 while acknowledging there may be unintended consequences should the bill become law.

There are two issues woven into the fabric of AB 339. Pastor Auer and Mrs. Smith have addressed the one issue related to the financial burden the historic downtown church may face should assessment districts continue to be established to meet the needs of inner-city re-development. I would be remiss if I failed to thank Assemblyman Bernie Anderson for sponsoring the bill at the request of the Reno church, City of Reno officials for their sensitivity to the church's need for some measure of financial relief, and the helpfulness of Nicholas Anthony to work with the church in time to come to solve assessment problems. We believe we can commit to that cooperative effort. But over time, we know the key players change, memories of prior commitments fade, and perspectives and opinions may become contrary to what went before. That remains a serious concern, but we believe at this time AB339 may not be the mechanism for relief.

I want to address the second issue, which is an overarching Constitutional matter, impacting all communities and all religious houses of worship throughout the state. Addressing the Danbury Baptists on January 1, 1802, Thomas Jefferson coined the phrase *"building a wall of separation between Church and State."* That wall, over time, has fallen into disrepair. This becomes an opportunity to re-visit the "wall of separation" and gain fresh clarity about the building materials of that wall. We are currently researching what other states may have enacted to date as statute to strengthen that wall with respect to tax and assessment exemptions for religious entities under the Federal tax-exempt status of 501c3.

In 1993, Congressional findings concluded that *"laws 'neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise"* and *"governments should not substantially burden religious exercise without compelling justification"* (Sec. 2(a)(2)(3) of the Religious Freedom Restoration Act of 1993). This and other findings led to the passage of the Religious Freedom Restoration Act of 1993, which in part was to *"restore the compelling interest test"* and *"provide a claim or*

[concluded on page two]

defense to persons whose religious exercise is substantially burdened by government" (Sec. 2(b)(1)(2) of the Religious Freedom Restoration Act of 1993). There are other provisions in this Act of Congress. I have appended it as Exhibit A to my written remarks for distribution to you. Should a religious organization become burdened by government taxes or assessments threatening the closure of that organization, there is in the Religious Freedom Restoration Act provision for judicial relief. The process of litigation would likely be expensive and protracted. In the meantime, a church like historic First United Methodist Church of Reno might vanish - this jewel of the inner-city with many outreach programs serving people of the area.

In conclusion, it appears that AB339 has the potential to satisfy the Constitutional issue and preclude the need for religious entities to pursue lengthy and costly judicial relief through the Religious Freedom Restoration Act. In our view, AB339 is a useful start. But we recommend that your committee place AB 339 on your agenda for an interim study to complete the research we have begun and to obtain legal opinions from the Nevada Secretary of State's office and elsewhere. This legislation could then be finely tuned for the 2009 legislative session. For example, you may decide it would be prudent to limit the application of this proposed amendment to Chapter 354 of the NRS to entities defined only in subsection 2 of NRS 372.3261. There are a number of unanswered questions at this point in time and your huge legislative workload is such that it does not seem wise to rush this through in the remaining days of this session. Again, thank you for giving me, Pat Smith and John Auer an opportunity to testify on AB 339. We will be happy to answer any questions you may have.

Respectfully,



John H. Emerson

EXHIBIT A

Religious Freedom Restoration Act of 1993 Enrolled Bill (Sent to the President)

H.R.1308

One Hundred Third Congress of the United States of America AT THE FIRST SESSION Begun and held at the City of Washington on Tuesday, the fifth day of January, one thousand nine hundred and ninety-three An Act

TITLE: To protect the free exercise of religion.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Religious Freedom Restoration Act of 1993'.

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSES.

(a) **Findings:** The Congress finds that--

- (1) the framers of the Constitution, recognizing free exercise of religion as an unalienable right, secured its protection in the First Amendment to the Constitution;
- (2) laws 'neutral' toward religion may burden religious exercise as surely as laws intended to interfere with religious exercise;
- (3) governments should not substantially burden religious exercise without compelling justification;
- (4) in *Employment Division v. Smith*, 494 U.S. 872 (1990) the Supreme Court virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion; and
- (5) the compelling interest test as set forth in prior Federal court rulings is a workable test for striking sensible balances between religious liberty and competing prior governmental interests.

(b) **Purposes:** The purposes of this Act are--

- (1) to restore the compelling interest test as set forth in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v. Yoder*, 406 U.S. 205 (1972) and to guarantee its application in all cases where free exercise of religion is substantially burdened; and
- (2) to provide a claim or defense to persons whose religious exercise is substantially burdened by government.

SEC. 3. FREE EXERCISE OF RELIGION PROTECTED.

- (a) **In General:** Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).
- (b) **Exception:** Government may substantially burden a person's exercise of religion only if it demonstrates that application of the burden to the person--

(1) is in furtherance of a compelling governmental interest; and

(2) is the least restrictive means of furthering that compelling governmental interest.

(c) **Judicial Relief:** A person whose religious exercise has been burdened in violation of this section may assert that violation as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed by the general rules of standing under article III of the Constitution.

SEC. 4. ATTORNEYS FEES.

(a) **Judicial Proceedings:** Section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting 'the Religious Freedom Restoration Act of 1993,' before 'or title VI of the Civil Rights Act of 1964'.

(b) **Administrative Proceedings:** Section 504(b)(1)(C) of title 5, United States Code, is amended--

(1) by striking 'and' at the end of clause (ii);

(2) by striking the semicolon at the end of clause (iii) and inserting ', and'; and

(3) by inserting '(iv) the Religious Freedom Restoration Act of 1993;' after clause (iii).

SEC. 5. DEFINITIONS.

As used in this Act --

(1) the term 'government' includes a branch, department, agency, instrumentality, and official (or other person acting under color of law) of the United States, a State, or a subdivision of a State;

(2) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and each territory and possession of the United States;

(3) the term 'demonstrates' means meets the burdens of going forward with the evidence and of persuasion; and

(4) the term 'exercise of religion' means the exercise of religion under the First Amendment to the Constitution.

SEC. 6. APPLICABILITY.

(a) **In General.**--This Act applies to all Federal and State law, and the implementation of that law, whether statutory or otherwise, and whether adopted before or after the enactment of this Act .

(b) **Rule of Construction.**--Federal statutory law adopted after the date of the enactment of this Act is subject to this Act unless such law explicitly excludes such application by reference to this Act .

(c) **Religious Belief Unaffected.**--Nothing in this Act shall be construed to authorize any government to burden any religious belief.

SEC. 7. ESTABLISHMENT CLAUSE UNAFFECTED.

Nothing in this Act shall be construed to affect, interpret, or in any way address that portion of the First Amendment prohibiting laws respecting the establishment of religion (referred to in this section as the 'Establishment Clause'). Granting government funding, benefits, or exemptions, to the extent permissible under the Establishment Clause, shall not constitute a violation of this Act . As used in this section, the term 'granting', used with respect to government funding, benefits, or exemptions, does not include the denial of government funding, benefits, or exemptions.



March 28, 2007

To: Assembly Taxation Committee

RE: AB 339

I am writing to register serious concerns about the impact of AB 339 upon bond investors and upon the ability of local government to effectively and efficiently use NRS 271 improvement districts in the future to help meet infrastructure needs of the State's growing communities, particularly those districts considered "developer districts". My firm, Stone & Youngberg has underwritten several hundred million dollars of improvement district bonds in the State. These bonds have been sold to investors, and the monies realized from the sale have been used to pay for the streets, sewer, water and flood control projects needed to sustain the growth in both northern and southern Nevada. NRS 271 mandates that assessments be apportioned upon land in direct relation to the benefit that the land receives from the installation of improvements to be paid for with the assessments. The districts are generally formed well in advance of ownership opportunities by nonprofit organizations (these are largely master planned communities).

My reading of AB 339 leaves me with two main areas of concern. First, there are improvement districts that have been formed, assessments apportioned and bonds sold to investors where all property is not as yet in the hands of end users. In these districts, should a nonprofit organization purchase a parcel of land, or be given a parcel by the current land owner, what is to become of the assessment lien currently in place? The lien provides the sole security for the bond investors. The language in AB 339 would seem to suggest that the nonprofit purchaser of the property is simply exempt from the obligation to pay the assessment. Who would then be obligated? Where would bond investors turn to be repaid for the assessment lien on this property?

Secondly, in creating future districts we would need to consider just how to assure ourselves that in the event a nonprofit became an owner of land that the assessment lien in place would be prepaid prior to a change in ownership. Exactly how this would be accomplished and enforced is at this point unclear. NRS 271 provides that assessments may be prepaid, but does not mandate prepayment. If the master developer who formed the district agreed to be bound by an agreement to prepay in the event of nonprofit ownership, enforcement would be difficult at best, and if enforcement failed investors would again be exposed to the possible default of their bonds as a result of the exemption from the obligation to pay the assessment. Careful consideration would need to be made of existing State laws and local ordinances to determine how to prevent this from occurring.

The market for local improvement district bonds issued under NRS 271 is a very strong and diverse market that has evolved over the last 15 years to help assure local government a way to meet the infrastructure needs brought about by growth. In its current form, AB 339 would appear to be a serious problem for investors holding bonds of improvement districts where nonprofits might purchase or otherwise come into ownership of land if those nonprofit owners are then exempt from payment of assessment liens already in place on the land.

Very truly yours,

Stephen E. Heaney
Managing Director

Testimony of John Swendseid
On AB 339

March 29, 2007

AB 339 exempts property owned by religious and educational non-profit organizations from any tax or mandatory assessment imposed by a local government, including any tax or assessment under NRS chapter 244A (Counties), 268 (Cities), 271 (assessment or improvement districts), 318 (GIDs), 543 (Flood control districts), and 555 (control of insects and weeds).

As bond counsel to many local governments in Nevada, we are concerned about the breadth of this exemption, especially the exemption from assessments imposed under NRS Chapter 271 by Cities, Counties and General Improvement Districts:

Assessments under Chapter 271 are made for projects that provide benefits to the assessed property, such as streets, sewer lines, and water lined adjacent to the assessed property. Under NRS 271.300 and NRS 271.365, the assessment cannot exceed the estimated benefit to the property assessed from the project. Generally after property is assessed (a fairly long process under Chapter 271, that involves two mailed notices to all property owners, two hearings at which any owner of property in the District can protest and two opportunities to seek court review of the assessments), bonds are issued secured by the assessments. The money received from selling these bonds is used to construct the improvements, and the bonds are repaid by the assessment payments made by the owners of the assessed properties.

The Legislature has been very careful in not allowing exemptions from assessments--even the government imposing the assessment and the state government are not exempt from these assessments (federal property is exempt, however, unless the United States consents to the assessment due to a provision in the United States Constitution). NRS 271.040. It is common in these types of districts to assess property of a government, a non-profit school or church for local improvements (e.g., streets, water and sewer lines) that benefit that property, as well as other benefited property.

A real fairness problem can arise if the non-profit school or church does not have to pay for the sewer line or sidewalk in front of the property owned by the non-profit. Who pays for it? In many cases will not be possible (and would be unfair) to assess other properties in the district for this cost, so the general fund of the government creating the district would have to pay--all taxpayers would have to pay--if the project is to go forward. It does not seem fair for all taxpayers to pay for an improvement that improves--provides special benefit to--the value of property owned by a non-profit school or church.

As bond counsel, we are also nervous about how this bill will be interpreted--will it affect existing local improvement districts where the assessments are pledged to bonds? If so there is an impairment of bonds problem under provisions of the U.S. and Nevada Constitution that prohibit the passage of laws that impair contracts. This legal problem arises if under the bill the non-profit schools and churches are released from their current assessment obligations. This will result in less money being available to pay bonds secured by these assessments, and possibly even result in a problem in re-paying some assessment bond issues.

In addition it is not clear whether property that is sold to a non-profit school or church that has an assessment on it becomes exempt from the assessment when it is acquired by the non-profit? If so, this could be a significant disclosure issue and a risk for bondholders that could increase the cost of borrowing for these districts.

The Howard Hughes Corporation

an affiliate of General Growth Properties, Inc.



INTERNAL
COMMUNICATION

Date: March 27, 2007

To: Bill Gregory

From: Tom Warden

Subject: AB 339

Per our discussion, the problems this bill will create include:

1. While perhaps not intended to address assessments currently being paid by nonprofits, the language would create a problem in any existing SID if a nonprofit bought a parcel of land after passage of the bill. The bill clearly says nonprofits are exempt. There is no mechanism to extinguish the lien already in place other than prepayment, which requires someone to come out of pocket. There is no requirement in any district to prepay.
2. Going forward the SIDs when formed will not know whether a nonprofit might become an owner in the future or for that matter which parcel a nonprofit might own. Since investors who buy bonds of the SIDs rely on payment of the assessments for security the possibility that land could become owned by an entity that was exempt from payment would create serious problems. In order to protect investors we would need to limit the amount of land in any district that could be owned by a nonprofit and would need to mandate prepayment of the assessment by the owner prior to sale to a nonprofit. This latter point is likely to raise some thorny legal issues.

MEMO TO: Russell Guindon and Michael Nakamoto; Legislative Council Bureau
Cc: The Rev. John Auer, Mrs. Kay Greene, Mrs. Pat Smith, and Mr. Larry
Struve, RAIN legislative advocate
FROM: The Rev. John H. Emerson, 74th Legislative Session lobbyist #228
RE: Interim Study of AB 339; items for consideration in perfecting the bill to
reintroduce for referral to the Assembly Taxation Committee for the 75th
Legislative Session
DATE: November 20, 2007

- (1) Limit the scope of reference (RNS 372.3261) to subsection 2 only and chapters related thereto.
- (2) In response to concerns expressed in testimonies by Stephen Heaney of Stone & Youngberg and John Swendseid, a statute should include a provision that any previously assessed real property subsequently purchased by a 501c3 church, synagogue, or temple include in the purchase price the balance due on the assessment(s) as a liability placed in escrow at the time of the transfer of sale; and exemption(s) not be retroactive.
- (3) I propose that language similar to that of Chapter 1710, Special Improvement Districts, Ohio Revised Code, be considered for inclusion in the revision of the intent of AB339.
- (4) A guiding moral/ethical question is this: should religious organizations that do not generate revenues contributing to the economy of a community be charged assessments for public works projects at the peril of causing such organizations to cease to operate and exist? The spirit of the 1993 Religious Freedom Restoration Act needs to be invoked.

Respectfully submitted,

John H. Emerson
729 Palmwood Drive
Sparks, NV 89434
775-358-1165

Nakamoto, Michael

From: Larry Struve [ldstruve@sbcglobal.net]
Sent: Sunday, December 23, 2007 7:58 PM
To: Nakamoto, Michael
Cc: bbelpolley@cox.net; Tom Beck; Ruth Frazier; Art Ritter; Wayne Brown; Tim O'Callaghan; Diane Drach-Meinell; John Auer; Julie Auer; Jane Foraker-Thompson; Reverend Alan Dorway; John Cracchiolo; jhemerson@yahoo.com
Subject: Information from RAIN Re LCB Staff Study Regarding Assessment of Religious Organizations
Attachments: 2528638735-Letter to Legislative Counsel Bureau re Interim Study on Special Assessments 2007-2008.doc

To: Michael Nakamoto, Deputy Fiscal Analyst
 Fiscal Analysis Division
 Legislative Counsel Bureau, Nevada Legislature

Dear Mr. Nakamoto:

This e mail and attachment are being sent in response to your Memo dated Nov. 26, 2007, inviting RAIN to provide information as to its concerns regarding the staff study currently underway of the assessment of religious organizations by government entities in Nevada. The statement enclosed is a preliminary discussion of the issues that have concerned the RAIN Board since the introduction of AB 339 in the 2007 Nevada Legislature.

Representatives of the 5 denominations represented on the RAIN Board may have additional concerns that they would like to bring to your attention; and for that reason, this e mail is also being sent to the members of the RAIN Board for their information. If I receive additional information regarding the subject matter of your aforesaid study, I will pass it on to you. In the meantime, do not hesitate to advise if you have additional questions for RAIN to consider. Thank you for allowing the RAIN coalition to share its concerns with you. Sincerely, Larry Struve, RAIN Advocate PS A hard copy of the attached memo letter is also being sent to you via regular mail.



MEMBERS OF THE RELIGIOUS ALLIANCE IN NEVADA



Corporate Office: Faith Lutheran Church, 2075 W. 7th St., Reno, NV 89503 (775) 747-3246

Advocates for social justice in Nevada

December 20, 2007

To: Michael Nakamoto, Deputy Fiscal Analyst
Fiscal Analysis Division
Legislative Counsel Bureau, Nevada Legislature

From: Larry Struve, Advocate for RAIN

Re: Preliminary Response to Request for Information in re Study of Assessment of Religious Organizations in Nevada

The following is in response to your November 26, 2007 Memo, requesting written comments regarding concerns of RAIN about the assessment of religious organizations within local assessment districts in this State. It is our understanding that the interim study of special assessments was prompted by a hearing on AB 339 introduced in the 2007 Nevada Legislature, which would have exempted property owned by religious and educational nonprofit organizations from certain taxes and assessments.

I. Church Organizations By and Large Are Not Producers of Wealth

The main concern of the RAIN Board regarding special assessments of churches is that religious organizations are not producers of economic wealth and are generally ill suited to pay large assessments for public works projects. Furthermore, RAIN members believe that there is a public interest in encouraging religious organizations to exist and witness in downtown areas which are often the subject of special assessments because of the services that these organizations provide to the needy and underserved segments of the population who live in these areas.

The fact is that the private sector of the American economy creates all of the wealth by which our society lives and grows. The market mechanisms of the private sector do a pretty good job of distributing goods and services to those with wants and needs, provided these people are able to pay for them. But when the market fails, RAIN members believe there is a collective moral responsibility on the part of society to provide goods and services to those who lack the means to pay for the goods and services they need (e.g., those who are homeless, or crime victims who deserve justice, or children who need protection when they are abused or abandoned.) In addition, where the goods and services are of such a magnitude and cost and the beneficiaries are so dispersed that the market cannot provide them efficiently (e.g. providing for the "national defense" or developing comprehensive roadway systems), society steps in to pay these costs for the betterment of everyone.

II. Non-profit Providers of Goods and Services, Including Church Organizations, Exist To Help Society Address Needs That Cannot Be Met by the Private Sector; But in Doing So, Said Organizations Are Not Intending to Act as Revenue Agents for Government for the Purpose of Raising Funds To Carry out Needed Governmental Functions.

Member denominations of RAIN strongly believe in the historic Judeo-Christian heritage that public policies established by government must help those who cannot obtain, through lack of wealth or personal disabilities, essential goods or services available to those who can afford to pay through traditional market mechanisms. For that reason, government has allowed “corporations for public benefit” to be created for public or charitable purposes, which are exempt from taxation so they can better carry out their charitable purposes. See: NRS 82.021 and Internal Revenue Code, Section 501 (c) (3), and Chapter 84 of NRS (regarding “corporations sole.”) These non-profit entities do not create wealth. Rather, they receive donations (which are often tax deductible to the donors), so these resources can be redistributed in the form of goods and services to those who cannot individually pay for them or to support the purposes, uses or benefits of a church or religious society or denomination, which includes works of public charity.

Non-profit and religious entities are expected to be responsible in their stewardship of the resources provided to them by the private sector so that these entities can provide the goods and services for needy beneficiaries or to carry out the charitable purposes for which they were formed. If such stewardship is abused, these entities can lose their tax exempt status. But if a non-profit entity is properly carrying out its charitable and religious purposes, it should not be subject to taxes or assessments from a governmental entity, because the non-profit or religious entity was not created for the purpose of supporting the mission of government but to provide a public benefit by delivering goods and services to those in need or facilitating the free exercise of religion and enjoyment of religious profession and worship guaranteed by the First Amendment to the U.S. Constitution and Section 4 of Article 1 of the Nevada Constitution. In short, the over-riding public interest is that all resources provided to corporations for public benefit and religious entities should go to support the charitable purposes for which these entities were organized and chartered, thereby providing for the public’s benefit. Accordingly, the RAIN Board believes that neither taxing nor assessing non-profit entities, including church organizations, is in the public interest, because it is bad economic policy, bad social policy, and bad public policy.

III. Allowing a Church Organization to be Assessed without Consideration of the Ability of Said Organization to Pay Such Obligation to the Government Could Raise a Constitutional Issue of Free Exercise of Religion

It is RAIN’s understanding that nothing in current law requires a governing entity, prior to levying special assessments against properties being used for religious purposes, to consider the ability to pay on the part of the religious organization to be assessed. If, as a result of such an organization not being able to pay its assessments, it were forced to close the religious facilities where its members worship, the constitutional right of said members to the free exercise and enjoyment of their religious profession might be impaired.

Furthermore, RAIN members have been advised that there have been instances in Nevada where a local government has attempted to help religious organizations on an ad hoc basis to pay their assessments by providing contributions from public officials or providing grants to the religious organization in the budget of the local government levying the special assessments. Though

such gestures recognize the unique benefits being provided to the community by religious organizations receiving such special treatment, there is no assurance that all religious organizations within a special assessment district are being treated in the same fair and equitable manner. This could result in preferential treatment for those religious organizations that receive such assistance. In RAIN's view, it would be unwise not to clarify public policy in this area, in order to preclude challenges to future assessments on church properties. The Nevada Attorney General issued an opinion in 1954 that explains why this issue is so important:

"There is no question but that the framers of the Nevada Constitution recognized the import of the 1st Amendment to the U.S. Constitution and in the [Nevada] Constitution provided that the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state; thus the Nevada Constitution, aside from the 14th Amendment to the U.S. Constitution, prohibits the Legislature from making any law respecting the establishment of religion or the free exercise thereof." AGO 320 (3-3-1954)

IV. Conclusion

The foregoing is offered as a preliminary statement of RAIN, expressing some of the concerns of this coalition regarding the study you are conducting. A copy of this statement is being circulated to the members of the RAIN Board, and additional comments may be offered on behalf of member denominations, regarding the subject matter of your study. Thank you for the opportunity to provide these comments and concerns.

Larry Struve, RAIN Advocate

Cc RAIN Board

Nakamoto, Michael

From: John Emerson [jhemerson@yahoo.com]
Sent: Wednesday, February 13, 2008 8:06 PM
To: Nakamoto, Michael
Cc: Kay & Ira Greene; Pat and Ron Smith; John Auer; Larry Struve
Subject: Interim study of AB339 proposal

MEMO TO: Michael Nakamoto; Nevada Legislative Counsel Bureau
 RE: AB339 of the 2007 Legislative Session

Dear Mr. Nakamoto:

We advocates on behalf of the intent of AB339 are grateful for the opportunity to have met with you on Nov. 20, 2007 to begin the process of perfecting the intent of AB339. It was good talking with you by phone yesterday to seek clarification about the submission of this final draft of our proposal.

We acknowledge that the language in AB339 of the 2007 Legislature was too broad and inclusive. It had other problems as well. That is why we asked the Assembly Taxation Committee to not pass the bill, but to send it instead to an interim study committee.

With the following conditions (as numbered below) to be satisfied, we respectfully request that a new BDR be crafted to amend Chapter 354 of the NRS by adding thereto a new section to exempt **houses of worship** owned by 501(c)(3) nonprofit organizations.

The following are the issues we discussed and now propose to be conditions included in the language of a new BDR:

1. There is a need to narrow the focus of any future bill. We suggest narrowing the definition from all nonprofits to just **houses of worship**. If that still is too broad, we would suggest that the exemption be limited only to houses of worship in redevelopment districts.
2. The exemption should apply only to future assessments. (We understand that local governments rely on assessments, and it would be unwise to try to implement an exemption retroactively.)
3. In the event a property under assessment is sold to a **house of worship**, the assessment would be included in the selling price and paid in full in escrow.
4. Local governments with redevelopment districts and **houses of worship** share a need for stability in the future. Providing an exemption across the board in the future would make public policy straightforward and equitable, as it would apply equally to all houses of worship in redevelopment districts throughout Nevada.

A purpose of this provision is to protect the free exercise of religion, as provided for under the First Amendment of the U.S. Constitution and Article 1, Section 4 of the Nevada Constitution (see also AGO 320), without which religious houses of worship might cease to exist by being substantially burdened by government imposition of certain taxes and assessments. We believe this addresses a moral question with regard to the highest good: should religious houses of worship, that do not generate revenues yet provide outreach services that benefit the community and reduce demands on municipal and county budgets, be charged

assessments which may imperil the organizations' very existence?

With respect to the above concerns and issues, at least one other state has enacted a statute of exemption for religious organizations: see Chapter 1710 of the Ohio Revised Code, which contains, in part, a provision that reads as follows: "*No special improvement district shall include any **church** property...unless the **church**...specifically requests in writing that the property be included within the district*" (1710.02, division A).

Should you have any questions concerning this proposal, please feel free to contact John Emerson at (775) 358-1165. Again, thank you for giving our concern your attention.

Respectfully submitted.

Kay Greene
Pat Smith
The Rev. John H. Emerson

Swendseid & Stern

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Sherman & Howard L.L.C.

To: LCB—Russ Guindon
From: John Swendseid
Date: November 27, 2007

RE: AB 339 (2007 Legislative session)—Exemption of Property Owned by Religious and Educational Non-profit Organizations From Mandatory Assessments Imposed by a Local Government

AB 339 of the 2007 Legislative session would have exempted property owned by religious and educational non-profit organizations from any tax or mandatory assessment imposed by a local government, including any tax or assessment under NRS chapter 244A (Counties), 268 (Cities), 271 (assessment or improvement districts), 318 (GIDs), 543 (Flood control districts), and 555 (control of insects and weeds).

Assessment District concerns: As bond counsel to many local governments in Nevada, we were concerned about the breadth of the proposed exemption, especially the exemption from assessments imposed under NRS Chapter 271 by Cities, Counties and General Improvement Districts.

Assessments under Chapter 271 are made for projects that provide benefits to the assessed property, such as streets, sewer lines, and water lined adjacent to the assessed property. Under NRS 271.300 and NRS 271.365, the assessment cannot exceed the estimated benefit to the property assessed from the project. Generally after property is assessed (a fairly long process under Chapter 271, that involves two mailed notices to all property owners, two hearings at which any owner of property in the District can protest and two opportunities to seek court review of the assessments), bonds are issued secured by the assessments. The money received from selling these bonds is used to construct the improvements, and the bonds are repaid by the assessment payments made by the owners of the assessed properties.

The Legislature has been very careful in not allowing exemptions from assessments—even the government imposing the assessment and the state government are not exempt from these assessments (federal property is exempt, however, unless the United States consents to the assessment due to constitutional concerns nrs 271.040; the only other exception is for property of a school district, absent the consent of the school district trustees -- NRS 271.366.). It is common in these types of districts to assess property of a government, a non-profit school or church for local improvements (e.g., streets, water and sewer lines) that benefit that property, as well as other benefited property.

A real fairness problem can arise if the non-profit school or church does not have to pay for the sewer line or sidewalk in front of the property owned by the non-profit. Who pays for it? In many cases

Swendseid & Stern

will not be possible (and would be unfair) to assess other properties in the district for this cost, so the general fund of the government creating the district would have to pay--all taxpayers would have to pay—if the project is to go forward. It does not seem fair for all taxpayers to pay for an improvement that improves—provides special benefit to--the value of property owned by a non-profit school or church.

As bond counsel, we were also very nervous about how the bill would be interpreted—would it affect existing local improvement districts where the assessments are pledged to bonds? If so there would be an impairment of bonds problem under provisions of the U.S. (Art. 1, Sec. 10) and Nevada (Art. 1, Sec. 15) Constitution that prohibit the passage of laws that impair contracts. This legal problem arises if under the bill the non-profit schools and churches are released from their current assessment obligations. This will result in less money being available to pay bonds secured by these assessments, and possibly even result in a problem in re-paying some assessment bond issues.

In addition it was not clear whether property that is sold to a non-profit school or church that has an assessment on it became exempt from the assessment when it is acquired by the non-profit church or school. If so, this could be a significant disclosure issue and a risk for bondholders that could increase the cost of borrowing for these districts.

Other concerns: The bill was very broad in exempting all property of owned by religious and educational non-profit organizations from local taxes. By comparison, the exemption of church and non-profit school property from property taxes in existing law is narrow. See NRS 361.105 & NRS 361.125. The bill apparently would exempt property that is owned by a church or non-profit school, but not used for church or school purposes from all taxes and assessments. So if a non profit school or church happened to own a hotel, vacant land, or other property that it held for investment purposes, this bill would exempt that property from all locally imposed taxes and assessments. This likely will make the fairness and other problems for assessment districts more problematic, as there is potentially more property involved.

In addition, this would appear to create a new property tax exemption for properties owned by a church or non-profit school that are not used as a church or school—e.g., properties used for investment. This could harm the local governments that rely on property taxes, and does create a fairness issue on property taxes.

Also, how broad is this exemption from “mandatory taxes and assessments. It seems to me it could be read very broadly, covering things that perhaps should not be included, e.g., the remediation district fee imposed by counties under Ch 540A.250, real estate transfer taxes on church/non-profit school owned property, etc.

NRS 361.105 Exemptions of nonprofit private schools. Nonprofit private schools, with lots appurtenant thereto and furniture and equipment, shall be exempt from taxation.

[Part 1:344:1953; A 1954, 29; 1955, 340]

WEST PUBLISHING CO.

Taxation ⇌ 242(1)-242(8).

WESTLAW Topic No. 371.

C.J.S. Taxation 281-303.

ATTORNEY GENERAL'S OPINIONS.

Real property owned by nonprofit private school in another state is not entitled to exemption from taxation in Nevada. Real property situate in Nevada, which is owned by a nonprofit private school located in another state, is not entitled to an exemption from taxation under NCL 6418 (cf. NRS 361.105). AGO 304 (4-1-1941)

NRS 361.125 Exemption of churches and chapels.

1. Except as otherwise provided in subsection 2, churches, chapels, other than marriage chapels, and other buildings used for religious worship, with their furniture and equipment, and the lots of ground on which they stand, used therewith and necessary thereto, owned by some recognized religious society or corporation, and parsonages so owned, are exempt from taxation.

2. Except as otherwise provided in NRS 361.157, when any such property is used exclusively or in part for any other than church purposes, and a rent or other valuable consideration is received for its use, the property must be taxed.

3. The exemption provided by this section must be prorated for the portion of a fiscal year during which the religious society or corporation owns the real property. For the purposes of this subsection, ownership of property purchased begins on the date of recording of the deed to the purchaser.

[Part 1:344:1953; A 1954, 29; 1955, 340](NRS A 1973, 710; 1979, 132; 1991, 2094; 1995, 1888; 1999, 2771)

NRS CROSS REFERENCES.

Constitutional exemption for religious corporations, Const. Art. 8 2, Art. 10 1

WEST PUBLISHING CO.

Taxation ⇌ 244.

WESTLAW Topic No. 371.

C.J.S. Taxation 281, 289 et seq., 303.

NEVADA CASES.

Joss house used for religious worship was exempt from taxation. Where a Chinese religious society brought action to quiet title to land on the theory that the owner of the land had given it to the society as a site for a joss house, the fact that the society paid no taxes on the land did not militate against evidence showing the gift, because a joss house, which was used for religious worship, was exempt from taxation, and under RL 3621 (cf. NRS 361.125), its furniture and equipment and the land on which it stood were also exempt. *Su Lee v. Peck*, 49 Nev. 124, 240 Pac. 435 (1925)

Essential requirements for tax exemption are improvement to and actual use of real property. Respondent owned two large parcels of noncontiguous real property which it had divided into smaller tracts of land which it called churches. Upon each tract there was an open-air worship area which contained an altar or communion table. Large crosses were erected upon several tracts, but there was no building or structure on any tract. The county assessor determined that the altar, communion tables, crosses, other improvements and cleared areas for worship were exempt from taxation. In total, 146 of 1,300 acres were determined to be exempt. Respondent challenged the assessor's determination and district court declared all 1,300 acres to be exempt. In reversing the decision, the supreme court held that the essential requirements for tax exemption pursuant to NRS 361.125 and 361.140 are improvement to and actual use of real property. The improvement need not be a traditional church, but can be any improvement that a church actually uses. *Simpson v. The Int'l Community of Christ*, 106 Nev. 458, 796 P.2d 217 (1990)

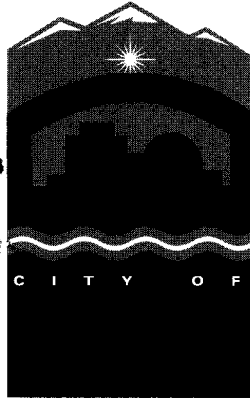
ATTORNEY GENERAL'S OPINIONS.

Commodities raised on ranch owned and operated are not exempt from taxation. A ranch owned and operated by a church and the commodities raised on such a ranch are not exempt from taxation under NCL 6418 (cf. NRS 361.125) exempting church property from taxation. AGO B967 (11-13-1950)

Revenue acquired through sale of produce is not entitled to charitable exemption. Under NRS 361.125 and 361.140, relating to tax exemptions for churches and charitable organizations, property owned by a religious organization and cultivated by organization members, revenue acquired through the sale of produce from which is devoted to organization purposes, is not entitled to an exemption. AGO 377 (1-19-1967)

Charles E. McNeely
City Manager

RECEIVED
08 FEB 26 PM 3:34
L.C.B.
FISCAL ANALYSIS DIVISION



February 19, 2008

Michael Nakamoto
Deputy Fiscal Analyst
Fiscal Analysis Division, LCB
401 South Carson Street
Carson City, Nevada 89701

Dear Mr. Nakamoto:

This letter responds to your inquiry, dated November 10, 2007, wherein you requested information for a Staff Study Regarding the Taxation of Religious Organizations in Local Improvement Districts.

For your information, attached is a spreadsheet detailing all of the local improvement districts within the City of Reno, as authorized under Chapter 271 of the Nevada Revised Statutes (NRS). These districts include vital improvements, such as the ReTRAC capital improvement project, City and RTC streets, and public sidewalk improvements. Per your request, we have identified each district by type, duration, total number of properties assessed, total dollar amounts assessed, number of religious properties, and the dollar amount assessment for each religious property.

Presently, staff has identified 28 religious properties within City of Reno local improvement districts. The total dollar figure if all of these religious properties were excluded is estimated to be \$82,460 over the life of the districts. While the total dollar figure may not seem to be an overbearing sum of money, the annual assessments represent a portion of proceeds to repay a bonded amount for the improvements. As such, the \$82,460 plus represents over \$820,000 in additional bond capacity improvements. Thus, the fiscal impact is much greater than the total amount assessed, as the assessment largely repays the principal and interest for any bonded obligations for the life of the district.

It should also be noted that an assessment is not a tax, as it does not go into the local government's general fund for expenditure in other areas of the city. Rather an assessment is a specifically dedicated funding stream to provide certain services or infrastructure needs to that particular property. Under current state law, each property may only be assessed proportionally to its special benefit which is directly attributable to the improvement project, and may not be assessed by any further amount.

Michael Nakamoto
February 19, 2008
Page 2

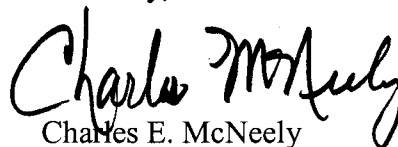
For your additional reference, we have included information on the City of Reno's NRS Chapter 268 police protection district and downtown maintenance district (although the maintenance district does not have any religious facilities within its boundaries). Generally, local improvement districts are set for a length of time (10-20 years) and the total dollar assessment may be financed over that particular period; however, NRS Chapter 268 districts are generally assessed on an annual basis to pay for ongoing services. There is presently one religious organization located within Reno's downtown police protection district, and that property is currently assessed \$1,195 annually.

As was testified to on Assembly Bill 339 (2007), if a certain type of property owner were to be excluded from the assessment rolls, it is unclear as to where the necessary funds to repay the bonds would be generated and would most likely have to be paid out of the local government's general fund. Another potential problem arises wherein a religious organization moves into or out of a special assessment district that has already been established. The question then becomes how their assessment waiver would affect the surrounding neighbors and district finances, and it may require a continual reapportionment of the district. As identified by bond counsel, these questions may serve to detract bond investors and may adversely impact local government's bonding capacity and ability to pay for needed improvements and services.

By way of local history, the City of Reno is keenly familiar with the issue of religious organizations being located in assessment districts. Each year, on or before April 20, the City posts a notice and holds a public hearing regarding the police protection and downtown maintenance assessments. On several past occasions, a local religious organization has appeared and formally requested a reduction or dismissal of its downtown police protection assessment. The Reno City Council has sometimes reduced or completely relieved this burden, but other times it has felt it is fairer to all properties in the assessment district to pay their share. The City firmly believes that the exemption of certain properties from assessments is an issue which should be considered on an individual case, on the basis of the direct benefit to the property, the ability to pay, cost effectiveness, and fairness. A blanket policy statement to the contrary would serve to bind much needed local discretion and review.

Again, I would like to thank you for contacting the City of Reno and soliciting our input on this critical issue. If you should have any further questions or comments, please feel free to contact me at 334-2020.

Sincerely,



Charles E. McNeely
Reno City Manager

cc: Reno City Council

SAD #	SAD Type/Name	Date District Created	Ordinance #	Date Assessments Levied	Ordinance #	SAD Length	# of Assessments	Total \$'s Assessed	# of Religious Properties	Amount Assessed	Note #s
SAD 99-02	ReTRAC	11/10/1998	4932	3/9/2005	5668	20 Years	596	\$15,993,209.01	6	\$28,787.00	1-6, A
SAD 99-03	Dry Creek	6/8/1999	5543	11/27/2001	5292	20 Years	25	\$4,286,791.81	0	\$0.00	B
SAD 00-01	City Streets	Unit 1					37	\$23,777.39	0	\$0.00	
		Unit 2					110	\$121,491.70	2	\$4,297.70	7-8
		Unit 3					71	\$40,605.41	0	\$0.00	
	RTC	Unit 4					132	\$92,322.17	0	\$0.00	
	Totals:	2/8/2000	5122	11/13/2001	5289	10 Years	350	\$278,196.67	2	\$4,297.70	
SAD 00-02	Sierra Corporate Center	07/18/00	5164	11/13/2001	5290	20 Years	13	\$5,055,000.00	0	\$0.00	C
SAD 01-01	City Streets/RTC	Unit 1					18	\$23,910.93	0	\$0.00	
		Unit 2					37	\$53,201.24	2	\$4,032.18	9-10
		Unit 3					26	\$36,395.59	2	\$3,013.54	11-12
	Totals:	6/26/2001	5253	5/14/2002	5335	10 Years	81	\$113,507.76	4	\$7,045.72	
SAD 01-02	RTC (Stead)	7/24/2001	5259	11/5/2002	5389	10 Years	34	\$3,273,191.60	0	\$0.00	D
SAD 02-01	RTC (9th and Evans)	5/28/2002	5344	12/17/2003	5530	10 Years	54	\$144,179.84	0	\$0.00	
SAD 02-02	RTC (Coleman and Baker)	5/28/2002	5343	2/11/2004	5540	10 Years	65	\$103,543.37	1	\$9,258.95	13
SAD 02-03	Double R Boulevard	2/25/2004	5543	3/24/2004	5552	20 Years	16	\$7,100,000.00	0	\$0.00	E
SAD 02-04	Sommerset	7/9/2002	5360	11/26/2002	5392	20 Years	246	\$18,000,000.00	0	\$0.00	F
SAD 02-05	Downtown Events Center	9/24/2002	5372	9/24/2002	5372	20 Years	354	\$22,280,296.99	0	\$0.00	G
SAD 02-05	Downtown Events Center (Amended)	10/26/2005	5372	1/11/2006	Res. # 6691	20 Years	42	\$9,725,369.56	0	\$0.00	
SAD 03-01	City Streets	Unit 1					135	\$177,228.24	1	\$2,326.27	14
		Unit 2					128	\$90,992.94	1	\$117.07	15, H
		Unit 3					47	\$19,158.25	1	\$82.24	16
		Unit 4					127	\$107,797.29	0	\$0.00	
	Totals:	12/10/2002	5407	3/24/2004	5551	10 Years	437	\$395,176.72	3	\$2,525.58	
SAD 03-02	RTC	Unit 1					108	\$96,455.95	1	\$1,199.74	17, I
		Unit 2					23	\$35,159.61	0	\$0.00	
	Totals:	5/14/2003	5455	4/13/2005	5676	10 Years	131	\$131,615.56	1	\$1,199.74	
SAD 04-01	City Streets	Unit 1					86	\$91,173.22	0	\$0.00	
		Unit 2					3	\$67,937.81	0	\$0.00	
		Unit 3					101	\$101,140.77	0	\$0.00	
		Unit 4					79	\$61,743.00	1	\$1,254.77	18
	Totals:	11/19/2003	5526	4/27/2005	5693	10 Years	269	\$321,994.80	1	\$1,254.77	
SAD 04-02	Wells Avenue	4/7/2004	5559	5/10/06 & 6/28/06	5829 & 5853	20 Years	104	\$385,676.50	2	\$3,167.34	19-20
SAD 04-03	RTC	Unit 1					115	\$157,892.06	0	\$0.00	
		Unit 2					28	\$26,611.28	1	\$895.57	21
	Totals:	4/21/2004	5566	7/6/2005	5720	10 Years	143	\$184,503.34	1	\$895.57	
SAD 04-04	Lovitt Lane	5/26/2004	5573	12/1/2005	5777	20 Years	52	\$600,504.78	0	\$0.00	J
SAD 05-01	City Streets	Unit 2					48	\$26,509.03	0	\$0.00	
		Unit 4					53	\$245,167.20	2	\$11,772.68	22-23
	Totals:	12/1/2004	5637	3/22/2006	5815	10 Years	101	\$271,676.23	2	\$11,772.68	
SAD 05-02	RTC	Unit 1					48	\$70,733.79	3	\$6,130.14	24-26
		Unit 2					28	\$53,862.26	1	\$1,427.00	27
		Unit 3					7	\$19,259.08	0	\$0.00	
	Totals:	2/23/2005	5665	6/28/2006	5854	10 Years	83	\$143,855.13	4	\$7,557.14	
SAD 05-03	RTC	Unit 1					206	\$168,328.20	0	\$0.00	
		Unit 2					23	\$23,202.41	0	\$0.00	
	Totals:	2/23/2005	5666	6/28/2006	5855	10 Years	229	\$191,530.61	0	\$0.00	

SAD #	SAD Type/Name	Date District Created	Ordinance #	Date Assessments Levied	Ordinance #	SAD Length	# of Assessments	Total \$'s Assessed	# of Religious Properties	Amount Assessed	Note #s
SAD 06-01	City Streets	11/16/2005	5768	3/28/2007	5911	10 Years	247	\$301,983.10	0	\$0.00	
SAD 06-02	RTC	2/22/2006	5806	6/13/2007	5936	10 Years	87	\$217,565.92	1	\$4,697.96	28
SAD 07-01	City Streets	11/15/2006	5891	3/26/2008	TBD	10 Years	204	\$241,199.13	0	\$0.00	
TOTALS:							3,717	\$67,219,072.31	28	\$82,460.15	

NRS 268	Downtown Maintenance SAD	2/24/1997				Annual	88	\$157,858.00	0	\$0.00	
NRS 268	Downtown Police SAD	2/24/1997				Annual	567	\$1,126,128.00	1	\$1,195.00	29

1	Center Street Mission	\$1,171.50
2	Catholic Community Services of Nevada	\$0.00
3	Bethel African Methodist Episcopal	\$488.50
4	Roman Catholic Bishop of Reno	\$16,939.50
5	1st Methodist Church of Reno	\$9,163.00
6	Roman Catholic Bishop of Las Vegas	\$1,662.00
7	Salvation Army	\$420.16
8	St. Pauls Methodist Church of Reno	\$3,877.54
9	Church of Jesus Christ of Latter Day Saints	\$1,298.72
10	Calvary Baptist Church of Reno	\$2,733.46
11	Pilgrim Rest Missionary Baptist Church	\$2,830.14
12	Second baptist Church of Reno	\$183.40
13	Church of Jesus Christ of Latter Day Saints Reorganized	\$9,258.95
14	Corporate Presiding Bishop of Church of Latter Day Saints	\$2,326.27
15	Roman Catholic Bishop of Reno	\$117.07
16	Corporate Presiding Bishop of Church of Latter Day Saints	\$82.24
17	Northern Nevada Sikh Society	\$1,199.74
18	Church of Jesus Christ of Latter Day Saints	\$1,254.77
19	Salvation Army	\$1,954.99
20	Salvation Army	\$1,212.35
21	Corporate Presiding Bishop of Church of Latter Day Saints	\$895.57
22	Roman Catholic Bishop of Reno	\$4,426.03
23	Roman Catholic Bishop of Reno	\$7,346.65
24	Roman Catholic Bishop of Reno	\$4,308.71
25	Roman Catholic Bishop of Reno	\$1,394.93
26	Roman Catholic Bishop of Reno	\$426.50
27	Salvation Army	\$1,427.00
29	Vestry of Trinity Parish	\$2,752.71
29	1st Methodist Church of Reno	\$1,195.00

- A This Assessment District has been reapportioned 3 times.
 B This Assessment District has been reapportioned 2 times.
 C This Assessment District has been reapportioned 1 time.
 D This Assessment District has been reapportioned 4 times.
 E This Assessment District has been reapportioned 7 times.
 F This Assessment District has been reapportioned 59 times.
 G This Assessment District has been reapportioned 1 time.
 H This Assessment District has been reapportioned 1 time.
 I This Assessment District has been reapportioned 1 time.
 J This Assessment District has been reapportioned 1 time.

Mayor
Michael L. Montandon

Council Members
William E. Robinson
Stephanie S. Smith
Shari Buck
Robert L. Eliason



City Manager
Gregory E. Rose

07 DEC 21 AM 11:28

FISCAL ANALYSIS DIVISION

Your Community of Choice

City Manager's Office

2200 Civic Center Drive • North Las Vegas, Nevada 89030
Telephone: (702) 633-1005 • Fax: (702) 633-1339 • TDD: (800) 326-6868
www.cityofnorthlasvegas.com

December 17, 2007

Mr. Michael Nakamoto
Deputy Fiscal Analyst
State of Nevada Legislative Counsel Bureau
Fiscal Analysis Division
401 South Carson Street
Carson City, Nevada 89701-4747

Dear Mr. Nakamoto:


In response to your memorandum dated November 10, 2007 pertaining to the request for information for the interim staff study regarding the taxation of religious organizations in local improvement districts, attached is a list of property owners who currently are assessed via local improvement districts in North Las Vegas, the amount collected each year since creation of the district, and the individual assessments noting religious organizations.

The City of North Las Vegas has assessed one church, Church Baptist Greater Evergreen, located in district 60. The church was assessed \$8,684.43; they have paid \$959.71 to date.

It is in the best interest of the City of North Las Vegas to oppose this proposal. As we grow and have the potential of having more religious organizations locate with local assessment districts we do not want to be in a position where we are forced to impose an additional burden to surrounding property owners.

If you need additional information do not hesitate to contact me.

Sincerely,


Gregory E. Rose
City Manager

Attachment

SUMMARY OF PARCEL BALANCES

Assessment Balances as of 06/30/2008

Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
District: 7101 - Civic Center Drive, District #54, Local Improvement Bonds											
Total Outstanding Balances Count: 25		1,469,790.24	628,671.52	567,664.59		-133,353.09	0.00	0.00	0.00	0.00	0.00
District: 7106 - Craig Road, District #58, Local Improvement Bonds											
Total Outstanding Balances Count: 19		1,099,357.81	381,664.86	400,465.59		0.00	4,953.80	1,183.09	0.00	453.88	6,590.77
District: 7107 - Aliante, District #60, Local Improvement Bonds Series 2006											
Total Outstanding Balances Count: 5,087		39,153,255.21	33,951,037.16	35,090,380.98		-1,147,180.95	29,888.72	38,023.28	-77,902.13	114,527.94	104,537.81
District: 7108 - Craig Rd Phase II, District #59, Local Improvement Bonds Series 2003											
Total Outstanding Balances Count: 3		250,179.27	136,561.38	143,509.45		0.00	0.00	0.00	0.00	0.00	0.00
District: 7109 - Ann Road, District #61, Ann Road and Ancillary Streets											
Total Outstanding Balances Count: 13		3,119,219.41	2,625,206.40	3,015,568.16		0.00	203,491.78	107,593.79	0.00	0.00	311,085.57
District: 7110 - Clayton St, District #62, Clayton St - Craig Rd to Lone Mtn											
Total Outstanding Balances Count: 2		1,250,936.23	1,022,846.77	1,053,612.16		0.00	0.00	0.00	-0.01	0.00	-0.01
District: 7111 - Lamb Blvd, District #63, Lamb Blvd - I-15 to CC 215											
Total Outstanding Balances Count: 14		12,731,585.01	11,504,680.70	12,452,476.48		0.00	0.00	0.00	0.00	0.00	0.00
Grand Total of Outstanding Balances Count: 5,163		59,074,323.18	50,250,668.79	52,723,677.41		-1,280,534.04	238,334.30	146,800.16	-77,902.14	114,981.82	422,214.14

Nakamoto, Michael

From: Sherman, John [JSherman@washoecounty.us]
Sent: Tuesday, February 12, 2008 1:59 PM
To: Nakamoto, Michael
Cc: Slaughter, John; lisa@lgstrat.com; jswendse@sah.com
Subject: Taxation of Religious Organization in Local Improvement Districts
Attachments: Special Assessment District Study - Washoe County.xls

Michael Nakamoto:

This email is in response to your request for information to assist in the Interim study on Taxation of Religious Organization in Local Improvement Districts. Find attached the information requested, which has been summarized in the first tab of the spreadsheet, with additional detail for each SAD in subsequent tabs. Let me know if Washoe County can be of further assistance regarding this matter.

<<Special Assessment District Study - Washoe County.xls>>

John Sherman

Washoe County Finance Director
P.O. Box 11130
Reno, NV 89520

T 775-328-2073

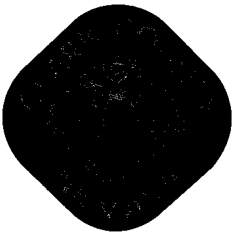
F 775-328-2094

M 775-843-9877

E jsheermon@washoecounty.us

Special Assessment Districts in Washoe County	Lien date	Purpose of Special Assessment	Number of property owners include in SAD	Original Assessment	Unbilled Assessment as of 02/05/2008	Total Collected as of 02/05/2008	Number of parcels owned by church/religious organization	Original Assessment	Unbilled Assessment as of 02/05/2008
SAD 21	6/11/1996	Sewer - Cold Springs	226	\$ 1,208,426.89	\$ 776,292.84	\$ 432,134.05			
SAD 23	10/28/1997	Sewer & Water - Arrowcreek	778	\$ 9,588,048.30	\$ 6,364,871.31	\$ 3,223,176.99			
SAD 25	11/24/1998	Road - Calle De La Plata	31	\$ 41,762.97	\$ 5,717.53	\$ 36,045.44			
SAD 26*****	8/10/1999	Road - Matterhorn Drive	94	\$ 193,854.13	\$ 39,382.72	\$ 154,471.41	24	\$ 51,542.12	\$ 10,298.84
SAD 27	8/10/1999	Road - Osage Rd/Placerville Rd	8	\$ 56,088.86	\$ 10,642.02	\$ 45,446.84			
SAD 29	10/8/2004	Sewer - Mt. Rose Phase 1	17	\$ 1,270,305.04	\$ 1,128,653.29	\$ 141,651.75			
SAD 30*****	1/18/2002	Road - Antelope Valley Road	126	\$ 726,643.96	\$ 342,236.41	\$ 384,407.55	14	\$ 83,874.00	\$ 39,076.52
SAD 31	2/2/2006	Road - Spearhead Wy/Running Bear Dr	20	\$ 92,144.52	\$ 72,224.21	\$ 19,920.31			
SAD 35	1/21/2005	Road - Rhodes Road	15	\$ 58,940.00	\$ 43,516.94	\$ 15,423.06			
SAD 36	1/21/2005	Road - Evergreen Hills Drive	11	\$ 220,976.00	\$ 165,932.82	\$ 55,043.18			
SAD 37	2/27/2007	Sewer - Spanish Springs Phase 1A	143	\$ 694,904.21	\$ 651,236.58	\$ 43,667.63			
			1469	\$ 14,152,094.88	\$ 9,600,706.67	\$ 4,551,388.21	38	\$ 135,416.12	\$ 49,375.36

*****There are parcels within this SAD where the owner is a church/religious organization



Department of Public Works

500 S Grand Central Pky • Box 554000 • Las Vegas NV 89155-4000
(702) 455-6000 • Fax (702) 455-6040

Denis Cederburg, P.E., Director • E-Mail: dlc@co.clark.nv.us



March 24, 2008

Mr. Michael Nakamoto, Deputy Fiscal Analyst
Fiscal Analysis Division
State of Nevada Legislative Counsel Bureau
555 East Washington Avenue, Room 4400
Las Vegas, NV 89101-1049

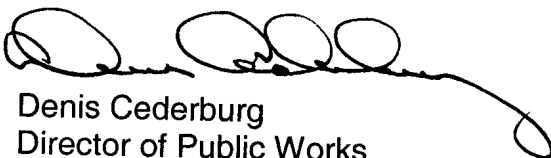
REQUEST FOR INFORMATION FOR THE INTERIM STAFF STUDY REGARDING THE TAXATION OF RELIGIOUS ORGANIZATIONS IN LOCAL IMPROVEMENT DISTRICTS

Dear Mr. Nakamoto:

I am writing to transmit the attached Summary of Parcel Balances (Assessment Balances) as well as AMG's list of all Clark County's SID Parcels in disc. There was not a means to determine which parcels are owned by religious organizations.

Please contact me at (702) 455-6000 should you have any questions.

Sincerely,



Denis Cederburg
Director of Public Works

DC:iam

Enclosures

SUMMARY OF PARCEL BALANCES
Assessment Balances as of 02/05/2008

Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
District: 7501 - Gateway Russell Rd Imp Dist #81, Local Improvement Bonds											
Total Outstanding Balances		7,385,748.73	2,811,614.21	2,042,501.97		-698,278.31	0.00	0.00	-141,124.13	0.00	-141,124.13
Count: 129											
District: 7502 - Summerlin South District #108, Local Improvement Bonds											
Total Outstanding Balances		32,371,717.44	18,312,927.60	17,036,647.47		-2,329,888.26	14,416.06	9,105.34	-54,606.67	14,016.51	-17,068.76
Count: 3,955											
District: 7503 - Hiko Springs Imp Dist #74, Local Improvement Bonds											
Total Outstanding Balances		4,362,142.04	2,259,486.11	2,353,848.49		0.00	7,181.09	5,069.10	0.00	9,808.71	22,058.90
Count: 103											
District: 7505 - Las Vegas Blvd Beautification #97A, Local Improvement Bonds											
Total Outstanding Balances		9,858,406.65	4,100,996.43	4,364,682.74		0.00	61,956.38	27,888.15	-14,095.59	0.00	75,748.94
Count: 54											
District: 7506 - Las Vegas Blvd Maintenance #97B, Strip Maintenance											
Total Outstanding Balances		902,070.88	225,517.48	450,895.86		0.00	223,515.46	0.00	25.00	1,837.92	225,378.38
Count: 70											
District: 7514 - 1998 B Refunding (71A), Unnamed Wash Hazard/NonHazard											
Total Outstanding Balances		1,438,872.74	556,982.96	644,436.05		0.00	46,147.16	24,596.43	0.00	0.00	70,743.59
Count: 11											
District: 7515 - Clark County Imp District #104, Desert Inn / Mojave / Boulder HWY											
Total Outstanding Balances		23,254.93	2,211.59	2,301.93		0.00	0.00	0.00	0.00	0.00	0.00
Count: 2											
District: 7516 - Clark County Imp District #110, Vegas Manor III											
Total Outstanding Balances		803,271.35	75,838.81	78,451.37		0.00	2,213.81	143.75	-3,185.04	341.94	-485.54
Count: 169											
District: 7517 - Clark County Imp District #102, Desert Inn Rd, Durango to Jones											
Total Outstanding Balances		236,328.78	23,451.02	24,448.67		0.00	1.00	0.00	0.00	0.00	1.00
Count: 17											
District: 7518 - Clark County Imp District #107, Patrick Lane & Oquendo Rd											
Total Outstanding Balances		100,953.40	10,085.38	10,513.99		0.00	0.00	0.00	0.00	0.00	0.00
Count: 6											

Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
District: 7519 - Clark County Imp District #82, Russell Road											
Total Outstanding Balances Count: 19		171,558.09	31,835.67	33,405.71		0.00	0.00	0.00	-165.62	0.00	-165.62
District: 7521 - Clark County Imp District #103, Spring Mountain Road											
Total Outstanding Balances Count: 6		648,036.29	129,607.26	136,673.31		0.00	0.00	0.00	0.00	0.00	0.00
District: 7522 - Clark County Imp District #106, Gowan Road											
Total Outstanding Balances Count: 9		57,173.43	10,823.22	10,154.64		0.00	0.00	0.00	-1,258.69	0.00	-1,258.69
District: 7523 - Clark County Imp District #109, Valley View Blvd											
Total Outstanding Balances Count: 11		2,123,148.55	424,629.70	447,453.53		0.00	0.00	0.00	0.00	0.00	0.00
District: 7524 - Southern Highlands District #121, Local Improvement Refunding Bonds											
Total Outstanding Balances Count: 5,890		39,772,988.63	27,881,320.14	29,703,422.32		-326,892.28	643,673.87	663,006.24	-13,258.62	19,133.96	1,312,555.45
District: 7525 - Gardens at Summerlin Dist #124, Local Improvement Bonds											
Total Outstanding Balances Count: 793		6,436,868.69	4,814,987.64	4,571,919.78		-523,080.68	2,278.13	1,776.20	-10,205.70	2,678.10	-3,473.27
District: 7526 - South Strip Maintenance #114B, Strip Maintenance											
Total Outstanding Balances Count: 15		64,813.05	16,203.18	33,134.28		0.00	16,820.07	0.00	0.00	111.03	16,931.10
District: 7527 - Clark County Imp District #105, Windmill Lane and Pebble Road											
Total Outstanding Balances Count: 40		1,298,419.41	373,511.19	396,274.47		0.00	1,786.20	344.61	0.00	556.24	2,687.05
District: 7528 - Clark County Imp Dist No. 132, Local Improvement Bonds											
Total Outstanding Balances Count: 1,244		22,397,768.32	18,175,281.66	17,372,222.03		-2,050,581.33	3,874.84	5,210.42	-17,001.83	6,943.48	-973.09
District: 7530 - Clark County Imp Dist No. 128, Local Imp Bonds Series 2000B											
Total Outstanding Balances Count: 1,568		6,990,110.30	5,416,738.30	5,147,547.34		-635,442.09	3,894.46	5,676.90	-17,933.95	6,442.57	-1,920.02
District: 7531 - Clark County Imp District #89, Durango Dr and Twain Ave											

Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
Total Outstanding Balances		79,785.81	27,925.04	29,313.31		0.00	0.00	0.00	0.00	0.00	0.00
Count: 2											
District: 7532 - Clark County Imp District #119A, Craig Road											
Total Outstanding Balances		52,432.92	18,351.30	19,263.62		0.00	0.00	0.00	0.00	0.00	0.00
Count: 2											
District: 7533 - Clark County Imp District #120, Jones Boulevard											
Total Outstanding Balances		128,930.64	43,468.56	45,629.56		0.00	0.00	0.00	0.00	0.00	0.00
Count: 7											
District: 7534 - Clark County Imp District #123, Flamingo Road											
Total Outstanding Balances		284,149.52	99,451.99	103,418.46		0.00	307.19	58.98	-1,444.53	100.66	-977.70
Count: 12											
District: 7563 - Clark County Imp District #116, Tropicana Ave (Beltway to Durango)											
Total Outstanding Balances		74,502.54	33,526.18	35,224.84		0.00	0.00	0.00	0.00	0.00	0.00
Count: 2											
District: 7564 - Clark County Imp District #118, Maryland Pkwy (Pebble to Windmill)											
Total Outstanding Balances		266,448.91	119,901.96	124,181.50		0.00	0.00	0.00	-1,795.49	0.00	-1,795.49
Count: 9											
District: 7565 - Clark County Imp District #117, Durango Drive & Edna Avenue											
Total Outstanding Balances		152,941.70	82,542.82	87,813.81		0.00	924.54	231.20	-413.37	420.32	1,162.69
Count: 45											
District: 7566 - Clark County Imp District #125, Jones Blvd (Southern to Hacienda)											
Total Outstanding Balances		332,088.62	177,147.88	189,296.12		0.00	1,891.81	510.79	0.00	928.50	3,331.10
Count: 5											
District: 7567 - Clark County Imp District #126A, Boulder Strip Beautification											
Total Outstanding Balances		1,503,190.76	1,156,936.65	1,221,747.44		0.00	622.83	0.00	-22.04	0.00	600.79
Count: 19											
District: 7568 - Clark County Imp District #129, Ann Rd (US 95 to Decatur Blvd)											
Total Outstanding Balances		110,624.16	60,707.77	66,927.76		0.00	1,382.02	237.78	286.59	1,292.08	3,198.47
Count: 40											
District: 7569 - Clark County Imp District #136, Tenaya Wy (Tropical Pkwy to Azure)											
Total Outstanding Balances		286,574.00	157,613.04	164,729.61		0.00	0.00	0.00	-728.23	0.00	-728.23
Count: 14											

Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
District: 7570 - Clark County Imp District #139, Buffalo Dr (Tropicana to Sahara)											
Total Outstanding Balances		407,373.72	213,464.32	226,344.40		0.00	1,285.83	346.63	-7.17	630.10	2,255.39
Count: 28											
District: 7571 - Clark County Imp Dist No. 142, Local Improvement Bonds Series 2003											
Total Outstanding Balances		90,683,562.40	83,923,464.88	81,179,883.82	-8,400,230.22		79,201.32	123,958.14	-253,240.13	139,162.41	89,081.74
Count: 9,042											
District: 7572 - Clark County Imp Dist No. 128, Local Imp Bonds 2003 Conversion											
Total Outstanding Balances		10,291,676.95	8,376,472.11	7,980,112.99	-951,578.83		2,881.06	3,770.84	-6,289.23	4,639.44	5,002.11
Count: 681											
District: 7573 - Clark County Imp Dist No. 113,											
Total Outstanding Balances		238,195.03	154,826.69	167,256.24		0.00	2,084.76	773.48	-17.56	1,198.42	4,039.10
Count: 25											
District: 7574 - Clark County Imp Dist No. 130,											
Total Outstanding Balances		1,428,032.30	926,462.93	984,858.19		0.00	4,779.73	1,631.94	-952.92	2,728.80	8,187.55
Count: 228											
District: 7575 - Clark County Imp Dist No. 133,											
Total Outstanding Balances		147,133.31	95,636.67	101,645.93		0.00	438.06	162.52	-25.89	251.82	826.51
Count: 10											
District: 7576 - Clark County Imp Dist No. 138, Pebble Rd (Las Vegas Blvd to Easter											
Total Outstanding Balances		722,771.15	469,801.34	493,280.88		0.00	174.07	0.00	-2,154.15	0.00	-1,980.08
Count: 29											
District: 7577 - Clark County Imp Dist No. 141,											
Total Outstanding Balances		43,076.52	27,291.29	28,158.15		0.00	0.00	0.00	-612.08	0.00	-612.08
Count: 9											
District: 7578 - Clark County Imp Dist No. 143,											
Total Outstanding Balances		1,807,996.27	1,084,797.79	1,143,376.87		0.00	0.00	0.00	0.00	0.00	0.00
Count: 1											
District: 7579 - Clark County Imp Dist No. 144B,											
Total Outstanding Balances		816,886.00	530,975.91	559,750.72		0.00	0.00	0.00	0.00	0.00	0.00
Count: 3											
District: 7580 - Clark County Imp Dist No. 140,											

Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
Total Outstanding Balances Count: 20		737,163.85	552,787.69	598,506.99		0.00	9,170.43	4,034.99	-4,196.31	6,030.48	15,039.59

District: 7581 - Clark County Imp Dist No. 126B, Strip Maintenance

Total Outstanding Balances Count: 27	208,443.55	52,110.85	101,999.35		0.00	49,888.50	0.00	0.00	0.00	49,888.50
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District: 7582 - Summerlin-Mesa District #151, Local Improvement Bonds

Total Outstanding Balances Count: 617	25,470,264.42	23,993,610.42	23,379,880.52	-2,051,433.29		13,169.16	5,171.94	-11,265.88	2,916.34	9,991.56
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District: 7583 - Clark County Imp Dist No. 134, Robindale Road

Total Outstanding Balances Count: 2	22,835.07	17,126.30	18,076.81		0.00	0.00	0.00	0.00	0.00	0.00
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District: 7584 - Clark County Imp Dist No. 127, Russell

Total Outstanding Balances Count: 37	1,239,076.57	990,951.25	1,043,827.41		0.00	1,015.93	277.87	-4,248.80	709.52	-2,245.48
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District: 7585 - Clark County Imp Dist No. 145, Tenaya Way (N Beltway to Elkhorn)

Total Outstanding Balances Count: 37	105,648.23	84,518.64	88,659.44		0.00	0.00	0.00	-560.49	0.00	-560.49
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District: 7586 - Southern Highlands District #121, Local Improvement Refunding Bonds

Total Outstanding Balances Count: 156	14,496,046.37	10,870,511.21	10,909,777.42	-762,754.84		141,067.69	334,837.75	0.00	0.00	475,905.44
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District: 7587 - Clark County Imp Dist No. 146, Alexander Rd (Hualapai to Cimarron)

Total Outstanding Balances Count: 22	408,802.78	345,171.50	351,352.27		0.00	2,215.41	971.68	-17,165.05	1,545.34	-12,432.62
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District: 7588 - Clark County Imp Dist No. 150, Silverado Ranch Blvd Interchange

Total Outstanding Balances Count: 1	34,924.61	31,432.15	33,062.96		0.00	0.00	0.00	0.00	0.00	0.00
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District: 7589 - Clark County Imp Dist No. 148, Craig Road and Cimarron Road

Total Outstanding Balances Count: 68	478,371.80	419,122.90	442,529.01		0.00	900.80	407.90	-1,233.58	642.56	717.68
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District: 7590 - Clark County Imp Dist No. 144A, Durango Dr

Total Outstanding Balances Count: 7	397,124.81	357,412.33	376,760.25		0.00	0.00	0.00	0.00	0.00	0.00
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Parcel Number	Owner	Original Assessment	Unbilled Assessment	Payoff Amount	Status	DSRF Credit	Principal	Interest	Other	Late Fees	Total Due
District: 7591 - Clark County Imp Dist No. 128, Local Imp Bonds 2007 Conversion											
Total Outstanding Balances		581,167.19	460,533.14	438,202.81		-49,702.50	0.00	0.00	0.00	0.00	0.00
Count: 1											
District: 7592 - Clark County Imp Dist No. 131, Ft Apache (Tropicana to Desert Inn)											
Total Outstanding Balances		451,948.44	406,755.31	428,446.09		0.00	0.00	0.00	-328.80	0.00	-328.80
Count: 276											
District: 7593 - Clark County Imp Dist No. 128, Local Imp Bonds 2007 Conversion											
Total Outstanding Balances		13,006,685.30	10,564,466.86	10,413,061.12		-783,940.00	0.00	0.00	0.00	0.00	0.00
Count: 2											
District: 7596 - Clark County Imp Dist No. 137, Bermuda Silverado Rch to Warm Spgs											
Total Outstanding Balances		354,401.90	334,701.82	368,478.98		0.00	3,581.48	2,650.29	0.00	2,971.18	9,202.95
Count: 40											
Grand Total of Outstanding Balances		305,294,929.82	232,916,029.04	228,805,771.60		-19,563,802.63	1,344,741.15	1,222,851.86	-579,225.95	228,038.43	2,216,405.49
Count: 25,637											



NEVADA ASSOCIATION OF COUNTIES

201 SOUTH ROOP STREET, SUITE 101 • CARSON CITY, NEVADA 89701 • (775) 883-7863 FAX (775) 883-7398

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FISCAL ANALYSIS DIVISION



Michael Nakamoto
State of Nevada
Legislative Counsel Bureau
Fiscal Analysis Division
401 S. Carson Street
Carson City, NV 89701-4747

February 29, 2008

Dear Mr. Nakamoto

Pursuant to your letter of November 10, 2007 we requested information from all counties except Clark and Washoe as to the number of Local Improvement Districts organized under NRS 271. We received information from Carson City, Humboldt, Lyon, and Mineral Counties. Of these, only Carson City had any 271 districts. Carson City had one such district but no tax exempt properties were within the district. The lack of response from other counties implies that they do not have 271 districts.

Given the information, or lack thereof, supplied by the counties the exemption of religious organizations from special assessments levied by 271 local improvement districts would have a minimal impact if any at all.

Please contact me if I can be of further assistance in this or any other matter.

Sincerely,


Wes Henderson
Government Affairs Coordinator

KATHY McClAIN

ASSEMBLYWOMAN

District No. 15



DISTRICT OFFICE:

2457 Swan Lane
Las Vegas, Nevada 89121-5242
Office: (702) 898-5579

COMMITTEES:

Chairman

Taxation

Member

Health and Human Services

Ways and Means

Select Committee on Corrections,
Parole, and Probation

LEGISLATIVE BUILDING:

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State of Nevada Assembly

Seventy-Fourth Session

June 3, 2007

Senator Randolph J. Townsend
Chairman, Legislative Commission
Nevada Legislative Counsel Bureau
401 S. Carson Street
Carson City, Nevada 89701

Senator Townsend:

At its March 29, 2007, meeting, the Assembly Committee on Taxation heard Assembly Bill 339, which proposed to provide an exemption to certain educational and religious organizations from the assessments and fees levied on real property by local governments, particularly assessments on property located in special assessment districts. The Committee received testimony from representatives of religious organizations with regard to the fiscal burden the assessments place on their organization when included in a special assessment district. Representatives from local governments discussed the role and importance of special assessment districts in providing funding for the provision of local government services. Bond counsel for the local governments informed the Committee that providing exemptions to certain entities located in a special assessment district may adversely affect existing bond obligations from the reduction in revenue. Based on this information, it became apparent to the Committee that the potential conflict between granting the exemption and affecting existing bond contracts could not be resolved without further study and additional information concerning the issue.

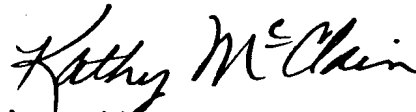
Based on a unanimous recommendation, the Assembly Committee on Taxation requests the Legislative Commission to direct staff from the Fiscal Analysis Division of the Legislative Counsel Bureau to study the taxation of property owned by religious and other nonprofit organizations located in special assessment districts. Fiscal Analysis Division staff should specifically examine the possibility of providing exemptions to property located in a special assessment district without adversely affecting existing bond obligations. Representatives from the Department of Taxation, local governments and their bond counsel should be requested to assist the Fiscal Analysis Division staff in

gathering information and performing any analysis required to conduct the study, as needed.

The Fiscal Analysis Division should be directed to provide a report of its findings to the Legislative Commission on or before September 1, 2008. The Legislative Commission may direct staff to provide updates on the progress of their study during the 2007-09 interim. A copy of the report would be provided to members of the Assembly and Senate Committees on Taxation for consideration during the 75th Session of the Legislature.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, reading "Kathy McClain". The signature is written in a cursive style with a large, stylized "K" and "M".

Assemblywoman Kathy McClain
Chair, Assembly Committee on Taxation

cc: Lorne Malkiewich, Director, Legislative Counsel Bureau

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

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Lorne J. Malkiewich, Director, Secretary

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MORSE ARBERRY JR., Assemblyman, Chairman
Mark W. Stevens, Fiscal Analyst
Gary L. Ghiggeri, Fiscal Analyst

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555 E. Washington Avenue, Room 4400

Las Vegas, Nevada 89101-1049

Fax No.: (702) 486-2810

BRIAN L. DAVIE, *Legislative Services Officer* (702) 486-2800

MEMORANDUM

DATE: November 10, 2007

TO: Charles McNeely, City Manager
City of Reno

FROM: Michael Nakamoto, Deputy Fiscal Analyst *mn*
Fiscal Analysis Division

SUBJECT: Request for Information for the Interim Staff Study regarding the
Taxation of Religious Organizations in Local Improvement Districts

At its September 18, 2007, meeting, the Legislative Commission directed staff from the Fiscal Analysis Division to study the taxation of churches and religious organizations in the state of Nevada, with a special emphasis on the treatment of these organizations within local improvement districts organized pursuant to Chapter 271 of *Nevada Revised Statutes*. The request for this study, which was made by Assemblywoman Kathy McClain, Chair of the Assembly Taxation Committee, came as a result of testimony heard by that committee on Assembly Bill 339 during the 2007 Session, which proposed to exempt these organizations from assessments in local improvement districts, as well as certain other assessments that may be levied against them.

A section of this study will be devoted to a general discussion of local improvement districts in Nevada, with information on the legislative history authorizing the creation of these districts, how they have been used by local governments, and other relevant information regarding these entities. To facilitate this section of the study, the Fiscal Analysis Division is requesting information from local governments regarding local improvement districts located within each jurisdiction, as well as the specific purpose of each district. Please include the number of property owners assessed in each district, the total amount collected from the assessment for each year since the creation of the district, and the amount of assessment on each property owner in the district, if

possible. This information should also include the number of churches or other religious organizations located within each district and the amount of these organizations' assessments, if available.

The Fiscal Analysis Division, as part of the study, is also soliciting input from local governments and other parties regarding any issues or concerns that potentially arise from the exemption of religious organizations as proposed under A.B. 339. Local governments choosing to participate can provide their information for consideration in this study to the Fiscal Analysis Division via email or regular mail. Since the Fiscal Analysis Division may contact local governments for further clarification regarding materials submitted, please clearly indicate the individual that should be contacted to address our questions.

The Fiscal Analysis Division's role in this study is to produce a document for potential consideration by legislators concerning the imposition of special assessments on religious organizations and the relevant issues to consider with regard to providing exemptions from the special assessments. As nonpartisan staff to the Legislature, the Fiscal Analysis Division will not advance any recommendations for legislative action based on any proposals or issues submitted by any affected party.

All information to be submitted for this study should be received by the Fiscal Analysis Division no later than February 29, 2008. Please send all information by both print copy and electronic files, if possible, to the attention of Michael Nakamoto, Deputy Fiscal Analyst. You may contact me at (775) 684-6821 or via email at mnakamoto@lcb.state.nv.us, if you need additional information or have any questions regarding this request.

cc: Senator Randolph Townsend, Chair, Legislative Commission
Assemblywoman Kathy McClain, Chair, Assembly Committee on Taxation
Lorne Malkiewich, Director, Legislative Counsel Bureau
Mark Stevens, Assembly Fiscal Analyst
Russell Guindon, Senior Deputy Fiscal Analyst

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Lorne J. Malkiewich, *Director, Secretary*

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555 E. Washington Avenue, Room 4400
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BRIAN L. DAVIE, *Legislative Services Officer* (702) 486-2800

MEMORANDUM

DATE: December 3, 2007

TO: John Swendseid
Swendseid & Stern

FROM: Michael Nakamoto, Deputy Fiscal Analyst *[Signature]*
Fiscal Analysis Division

SUBJECT: Request for Information for Study regarding Assessment of Religious Organizations

I would like to thank you for coming to Carson City on November 27, 2007, to discuss your perspective on issues related to the assessment of churches, as well as your indication of interest in participating in the study of this subject requested by the Legislative Commission. Your participation in this study is crucial for creating a report that encompasses all viewpoints and provides as much information as possible to the members of the Legislative Commission and the other members of the Legislature in advance of the 2009 Session.

The information that you provided during this meeting will be included as part of the final report prepared for this study. We would also like to extend the opportunity for you to submit additional information or concerns to be included in the final document. This information may include additional issues or concerns that were raised during our meeting, any other issues or concerns not previously discussed, and any possible ideas for resolution of this matter.

Please remember that the Fiscal Analysis Division's role in this study is to produce a document for potential consideration by legislators concerning the imposition of special assessments on religious organizations and the relevant issues to consider with regard to providing exemptions from the special assessments. As nonpartisan staff to the Legislature, the Fiscal Analysis Division will not advance any recommendations for legislative action based on any proposals or issues submitted by any affected party.



John Swendseid
December 4, 2007
Page 2 of 2

All supplemental information to be submitted for this study should be received by the Fiscal Analysis Division no later than February 29, 2008. Please send all information by both print copy and electronic files, if possible, to the attention of Michael Nakamoto, Deputy Fiscal Analyst. You may contact me at (775) 684-6821 or via email at mnakamoto@lcb.state.nv.us, if you need additional information or have any questions regarding this request.

cc: Senator Randolph Townsend, Chair, Legislative Commission
Assemblywoman Kathy McClain, Chair, Assembly Committee on Taxation
Lorne Malkiewich, Director, Legislative Counsel Bureau
Mark Stevens, Assembly Fiscal Analyst
Russell Guindon, Senior Deputy Fiscal Analyst

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Las Vegas, Nevada 89101-1049

Fax No.: (702) 486-2810

BRIAN L. DAVIE, *Legislative Services Officer* (702) 486-2800

MEMORANDUM

DATE: November 26, 2007

TO: Rev. John Emerson, Kay Greene and Pat Smith
Reno First United Methodist Church

FROM: Michael Nakamoto, Deputy Fiscal Analyst 
Fiscal Analysis Division

SUBJECT: Request for Information for Study regarding Assessment of Religious Organizations

I would like to thank you for coming to Carson City on November 20, 2007, to discuss your perspective on issues related to the assessment of churches, as well as your indication of interest in participating in the study of this subject requested by the Legislative Commission. The participation of religious organizations in this study is crucial for creating a report that encompasses all viewpoints and provides as much information as possible to the members of the Legislative Commission and the other members of the Legislature in advance of the 2009 Session.

As discussed, the Fiscal Analysis Division would like you to provide written comments regarding your concerns about the assessment of religious organizations within local assessment districts for inclusion in the final report. Information provided should include any background information regarding assessments currently levied, any other issues that arise as a result of these assessments, as well as any items for consideration with regard to potential solutions or resolutions to the issue. This information should also include any efforts made by your organization to work with a local government to reduce or eliminate an assessment and the response from that local government, if applicable.

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cc: Senator Randolph Townsend, Chair, Legislative Commission
Assemblywoman Kathy McClain, Chair, Assembly Committee on Taxation
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Russell Guindon, Senior Deputy Fiscal Analyst

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Las Vegas, Nevada 891 01-1049
Fax No.: (702) 486-2810
BRIAN L. DAVIE, Legislative Services Officer (702) 486-2800

MEMORANDUM

DATE: November 26, 2007

TO: Larry Struve
Religious Alliance in Nevada

FROM: Michael Nakamoto, Deputy Fiscal Analyst *[Signature]*
Fiscal Analysis Division

SUBJECT: Request for Information for Study regarding Assessment of Religious Organizations

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Larry Struve
November 26, 2007
Page 2 of 2

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¹ It should be noted that the portions of the Religious Freedom Restoration Act that apply to actions by state governments were overturned by the Supreme Court in the 1997 case *City of Boerne (TX) v. Flores* (521 U.S. 507). The Court ruled that Congress overstepped its authority in applying the provisions of the act to state governments, but left in place the portions applicable to the federal governments. The Court's ruling also noted that states were free to pass similar legislation dealing with state and local governments if they so chose.

² Minutes from the February 23, 2005, meeting of the Reno City Council indicate that, in addition to the 50 percent exemption given to the First United Methodist Church, several other parcels owned by religious organizations received a 50 or 100 percent exemption from the assessment under a resolution passed by the city council on that date. These minutes can be found at the city of Reno website, <http://www.cityofreno.com/index.aspx?recordid=2765&page=67>.

³ According to its website (<http://www.rainnv.org>), RAIN acts as "Public-Interest Advocates for Social Justice Issues before the Legislature in the State of Nevada" for numerous Catholic, Methodist, Presbyterian, Lutheran, and Episcopal churches throughout the state.

⁴ Attorney General's Opinion 320, March 3, 1954.

⁵ Section 501(c)(3) of the Internal Revenue Code, which governs charitable organizations, generally includes religious organizations in its definition, so long as they meet the specific guidelines of the section. These include restrictions on the ability to generate a profit for private interests or shareholders, as well as restrictions on lobbying or active campaigning the organization may conduct. See <http://www.irs.gov/charities/charitable/article/0,,id=96099,00.html>.

⁶ Property located within an improvement district that is owned by a school district is exempt from assessment unless the school district's board of trustees specifically consents to paying their portion of the assessment. See NRS 271.366.

⁷ Prior to January 1, 1997 – the effective date of the exemptions proposed under the ballot question – churches were eligible for sales tax exemptions pursuant to now-deleted subsections in NRS 372.325 and 374.330, which dealt with general exemptions from the two percent sales tax and all other state and local rates, respectively. The introduction of S.B. 144 during the 1995 Session was the result of an Attorney General Opinion issued in 1992, which stated that the exemptions offered under these sections applied only to those items purchased by the organization, and not to items sold by the organization.

⁸ Chapter 4.08.050 of the Clark County Code provides an exemption from room taxes paid within the county for stays of longer than 30 days; rent received from permanent residents of Clark County, the U.S. Government, the state, federally chartered credit unions, the American Red Cross, or properly registered foreign diplomats. No specific exemption is given by Clark County to churches or members of churches staying in a room in Clark County while on church business.

⁹ Senate Bill 80 also added sections to Chapter 244 of NRS – the County Improvements Law – that gave similar authority to counties that was given to cities and towns under the Consolidated Local Improvements Law. The authority for counties to create assessment districts was moved to Chapter 271 as a result of Assembly Bill 284 of the 1981 Legislative Session.