

Amendment No. 708

Assembly Amendment to Senate Bill No. 283 First Reprint (BDR 22-792)

Proposed by: Assembly Committee on Government Affairs

Amendment Box: Replaces Amendment No. 528.

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 283—SENATOR BROOKS

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to local improvements. (BDR 22-792)

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

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

AN ACT relating to local improvements; authorizing a municipality to create a district for certain qualified improvement projects; setting forth the requirements for creating such a district; authorizing certain financing to pay for a qualified improvement project in such a district; making various other changes relating to local improvements; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth the procedures for the governing body of a municipality to create a district to finance certain energy efficiency improvement projects and renewable energy projects. (NRS 271.6312-271.6325) This bill revises these procedures.

Section 15 of this bill authorizes the governing body of a municipality to create a district to finance or refinance one of more qualified improvement projects. **Section 6** of this bill defines a qualified improvement project as an energy efficiency improvement project, a renewable energy project, a resiliency project and a water efficiency improvement project. **Sections 4 and 7-9** of this bill, respectively, define the terms “energy efficiency improvement project,” “renewable energy project,” “resiliency project” and “water efficiency improvement project.”

Section 16 of this bill provides that the governing body may create a district only under certain circumstances, including if: (1) the governing body makes a finding that the creation of the district serves certain public purposes; and (2) the governing body adopts by resolution certain procedures for the creation and administration of the district. **Section 11** of this bill requires that each owner of a tract on which a qualified improvement project will be located enter into a voluntary assessment agreement in which the owner consents in writing to the location of the project on the tract, ~~to pay the financing set forth in the~~ **levy of an specific amount of the** assessment against the tract ~~to pay the financing set forth in the~~ **provided by a** financing agreement and the placement of ~~an~~ **an assessment** lien on the property. **Sections 5 and 5.5** of this bill, respectively, define the terms “financing agreement” and “property owner.”

Section 12 of this bill ~~provides that a lien must be filed~~ **requires the execution and recording of an assessment lien** on the ~~tract~~ **real property** and sets forth the priority of such a lien.

Section 17 of this bill provides that: (1) construction of a qualified improvement project must be completed through independent contracts with contractors licensed in Nevada; (2) the municipality is not responsible for the construction or any delays or defects; and (3) the laws relating to public bidding, public works or public procurement are not applicable to the construction of a qualified improvement project.

29 **Section 18** of this bill sets forth certain requirements for the resolution that specifies the
 30 procedures for the creation and administration of a district.

31 **Section 10** of this bill requires, with certain exceptions, that a qualified improvement
 32 project be financed or refinanced only through an assessment on the real property. **Section 11**
 33 of this bill provides that while the governing body imposes the assessment, the capital
 34 provider is solely responsible for the billing, collection and enforcement of the assessment.
 35 **Section 3** of this bill defines the term “capital provider.”

36 ~~—Section 12 of this bill requires the municipality to record a notice of assessment and
 37 assessment lien on the real property and sets forth the priority of such a lien.~~

38 **Section 13** of this bill authorizes, under certain circumstances, a person who is leasing
 39 real property within a district to enter into a financing agreement with a capital provider for a
 40 qualified improvement project.

41 **Section 13.5** of this bill provides that: (1) a municipality and its governing body, officers
 42 and employees shall not be liable for any actions taken pursuant to existing law providing for
 43 the creation of a district and **sections 2-13.5** of this bill, except in cases of ~~gross negligence,~~
 44 ~~recklessness or~~ willful misconduct; (2) a municipality shall not use public funds to fund an
 45 assessment imposed on a property owner to repay bonds or direct financing ~~or~~ or
 46 refinancing nor pledge the full faith and credit of ~~a local government~~ the municipality for
 47 such purposes; ~~and~~ (3) a municipality shall not be liable for any amount due related to a
 48 qualified improvement project, including, without limitation, the costs of construction of
 49 the qualified improvement project; and (4) a municipality that establishes a qualified
 50 improvement district may impose a fee to recover the ~~actual~~ reasonable administrative costs
 51 from participating property owners.

52 **Section 19** of this bill provides that the governing body of a municipality that created a
 53 district pursuant to NRS 271.6312 to 271.6325, inclusive, before October 1, 2021, may use the
 54 provisions of this bill in the district but that this bill does not affect any financing, billing,
 55 collection or enforcement of financing of any existing project in the district.

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

1 **Section 1.** Chapter 271 of NRS is hereby amended by adding thereto the
 2 provisions set forth as sections 2 to 13.5, inclusive, of this act.

3 **Sec. 2.** *As used in NRS 271.6312 to 271.6325, inclusive, and sections 2 to*
 4 *13.5, inclusive, of this act, unless the context otherwise requires, the words and*
 5 *terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed*
 6 *to them in those sections.*

7 **Sec. 3.** *“Capital provider” means any private entity or the designee,*
 8 *successor or assign of the private entity that provides direct financing or*
 9 *refinancing to a qualified improvement project pursuant to the provisions of*
 10 *NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.*

11 **Sec. 4.** *“Energy efficiency improvement project” means the installation or*
 12 *modification of one or more energy efficiency improvements that decrease or*
 13 *support the decrease of energy consumption or demand for energy through the*
 14 *use of efficiency technologies, products or activities and incidentals which are*
 15 *necessary, useful or desirable for any such improvements and which installation*
 16 *or modification has a useful life of not less than 10 years.*

17 **Sec. 5.** *“Financing agreement” means the contract pursuant to which a*
 18 *property owner or lessee, as applicable, agrees to repay the capital provider for*
 19 *financing or refinancing a qualified improvement project, including, without*
 20 *limitation, any finance charges, fees, debt servicing, interest, penalties and any*
 21 *other provision relating to the treatment of prepayment or partial payment,*
 22 *billing, collection and enforcement of the assessment and lien securing the*
 23 *financing.*

1 Sec. 5.3. “Program guide” means the comprehensive document adopted by
2 a governing body pursuant to NRS 271.6325 that sets forth standard forms and
3 establishes any appropriate guidelines, specifications and criteria for the
4 underwriting and approval of a qualified improvement project.

5 Sec. 5.5. “Property owner” means all of the ~~owner~~ owners of record of
6 the tract on which a qualified improvement project is installed.

7 Sec. 6. “Qualified improvement project” means one or more of the
8 following projects ~~installed~~ which are permanently affixed to real property in
9 an existing structure or in new construction, performed pursuant to NRS
10 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act:

- 11 1. Energy efficiency improvement project.
- 12 2. Renewable energy project.
- 13 3. Resiliency project.
- 14 4. Water efficiency improvement project.

15 Sec. 7. “Renewable energy project” means any improvement to real
16 property, and facilities and equipment used to generate electricity from renewable
17 energy to offset customer load in whole or in part on the real property, or to
18 support the production of renewable or thermal energy including, without
19 limitation, ~~micro grids,~~ energy storage , [and any other device or interacting
20 group of products or devices on the customer’s side of the meter that generates
21 electricity or provides thermal energy, and all appurtenances and incidentals
22 necessary, useful or desirable for any such improvements, facilities and
23 equipment, and which improvement has a useful life of not less than 10 years.

24 Sec. 8. “Resiliency project” means ~~a qualified~~ an improvement to real
25 property, facilities or equipment with a useful life of not less than 10 years that:

- 26 1. Increases a building’s structural resiliency for seismic events;
- 27 2. Improves indoor air quality;
- 28 3. Improves wind and fire resistance;
- 29 4. Improves stormwater quality or reduces on-site or off-site risk of flash
- 30 flooding;
- 31 5. Improves or enhances the ability of a building to withstand an electrical
- 32 outage;
- 33 6. Reduces or mitigates the urban heat island effect or the effects of
- 34 extreme heat;
- 35 7. Reduces any other environmental hazard identified by a municipality; or
- 36 8. Enhances the surrounding environment in which the real property is
- 37 located.

38 Sec. 9. “Water efficiency improvement project” means an improvement to
39 real property , facilities or equipment, and all necessary appurtenances and
40 incidentals thereto, with a useful life of not less than 10 years that is designed to
41 ~~reduce~~ :

- 42 1. Reduce the water consumption of the real property ~~it~~ ; or
- 43 2. Conserve or remediate water, in whole or in part, on the real property.

44 Sec. 10. 1. Except as otherwise provided in this section, a qualified
45 improvement project must be financed or refinanced only through an assessment
46 on the real property ~~it~~ that secures the direct financing or refinancing obtained
47 from a capital provider pursuant to a financing agreement.

48 2. In addition to, but not in lieu of the direct financing ~~from a capital~~
49 provider, the governing body may issue bonds and warrants to pay a portion of
50 or refinancing described in subsection 1, a qualified improvement project ~~but~~
51 any such may be financed or refinanced through an assessment on the real
52 property to secure bonds issued pursuant to NRS 271.475. Any bonds ~~or~~
53 warrants issued for a qualified improvement project:

1 (a) Shall not constitute the debt or indebtedness of the municipality within
 2 the meaning of any provision or limitation of the Constitution of the State of
 3 Nevada or statute;

4 (b) Shall not be secured by a pledge of the general credit or taxing power of
 5 the municipality or by the surplus and deficiency fund established pursuant to
 6 NRS 271.428; and

7 (c) Shall not be used in furtherance of or in support of direct financing or
 8 refinancing from a capital provider.

9 Sec. 11. 1. ~~##~~ Notwithstanding any other provision of this chapter, in
 10 order to impose an assessment for a qualified improvement project, the
 11 municipality must enter into a written voluntary assessment agreement with a
 12 property owner whereby the property owner ~~consents~~ ;

13 (a) Consents in writing ~~that an~~ to:

14 (I) The specific amount of the assessment that will be imposed on the
 15 real property for the qualified improvement project to ~~repay~~ secure repayment
 16 of:

17 (I) The direct financing or refinancing provided by the capital
 18 provider for the qualified improvement project, as set forth in the financing
 19 agreement; or

20 (II) The repayment of any bonds issued pursuant to NRS 271.475 for
 21 the qualified improvement project; and

22 (2) The placement of an assessment lien ~~will be placed~~ on the real
 23 property ~~Each voluntary assessment agreement must describe~~ ; and

24 (b) Provides a written description of the tract to be assessed and the qualified
 25 improvements included in the qualified improvement project that are to be
 26 financed or refinanced by the capital provider ~~and~~ and, if applicable, the bonds
 27 issued pursuant to NRS 271.475.

28 2. Notwithstanding the execution of a voluntary assessment agreement
 29 pursuant to subsection 1, except for the imposition and amount of the assessment
 30 and the assessment lien, in no event is the municipality responsible for the form
 31 of the voluntary assessment agreement or any statement, term, provision or other
 32 matter contained in the voluntary assessment agreement.

33 3. Each voluntary assessment agreement, and any substantive amendment
 34 thereto, must be recorded in the office of the county recorder and, once recorded,
 35 is binding on the owner who signed the voluntary assessment agreement and any
 36 other person who holds any interest in the tract to which the voluntary
 37 assessment agreement relates ~~and~~

38 ~~3.~~ regardless of whether the interest in the tract came into existence before
 39 or after the recording of the voluntary assessment agreement.

40 4. Any amendment to a voluntary assessment agreement must be executed
 41 by the property owner and the municipality. If an amendment is a substantive
 42 change to the voluntary assessment agreement, the amendment must be recorded.
 43 Any amendment is binding on the property owner and any other person who
 44 holds an interest in the tract.

45 5. If a direct financing agreement is used to finance a qualified
 46 improvement project:

47 (a) A municipality must assign the assessment and assessment lien,
 48 including, without limitation, the right to receive payment in accordance with the
 49 terms of the financing agreement, to the capital provider.

50 (b) The capital provider is solely responsible for the billing, collection and
 51 the enforcement of an assessment imposed on real property pursuant to NRS
 52 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

1 ~~44~~ (c) Delinquent payment of an assessment will result in the interest and
2 penalties set forth in the financing agreement.

3 ~~45~~ (d) Enforcement of a delinquent payment shall be by judicial
4 foreclosure in the manner of a mortgage.

5 6. Assessments not yet due must not be accelerated or eliminated by
6 foreclosure. In the event of foreclosure, any ~~outstanding or delinquent~~
7 ~~assessments~~ liens securing the payment of general taxes must be satisfied ~~along~~
8 ~~with~~ before the payment of ~~any delinquent ad valorem taxes~~ outstanding or
9 delinquent assessments.

10 7. An assessment lien placed on real property pursuant to NRS 271.6312 to
11 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act:

12 (a) Is created by the voluntary assessment agreement between the
13 municipality and the property owner; and

14 (b) Is not created by ordinance or resolution of the municipality.

15 Sec. 12. 1. A municipality shall execute and record a notice of assessment
16 and assessment lien on the real property on which an assessment is imposed
17 pursuant to the provisions of NRS 271.6312 to 271.6325, inclusive, and sections 2
18 to 13.5, inclusive, of this act. The municipality may delegate to the capital
19 provider responsibility for recording the notice of assessment and assessment
20 lien.

21 2. The notice of assessment and assessment lien must include, without
22 limitation:

23 (a) The legal description of the real property;

24 (b) The name of each property owner;

25 (c) The date on which the lien was created ~~44~~, which is the date on which
26 the notice of assessment is recorded;

27 (d) The principal amount of the assessment lien;

28 (e) The ~~terms and length~~ term of the assessment lien; and

29 (f) A copy of the voluntary assessment agreement entered into between the
30 municipality and the property owner pursuant to section 11 of this act.

31 ~~42~~ 3. Notwithstanding the provisions of any other statute to the contrary,
32 an assessment and assessment lien:

33 (a) ~~43~~ Is coequal with the latest lien thereon to secure the payment of general
34 taxes.

35 ~~44~~ (b) Runs Run with the land and is not subject to acceleration or
36 extinguishment by the sale of any property on account of the nonpayment of
37 general taxes.

38 ~~45~~ (c) ~~46~~ (b) Are prior and superior to all liens, claims, encumbrances and
39 titles other than the liens of assessments and general taxes attached to the tract
40 pursuant to the provisions of NRS 361.450.

41 Sec. 13. A person that is leasing real property within a district created
42 pursuant to NRS 271.6312 to 271.6325, inclusive, and sections 2 to 13.5,
43 inclusive, of this act may enter into a financing agreement with a capital provider
44 for a qualified improvement project if the owner of the real property enters into a
45 voluntary written assessment agreement with the municipality pursuant to section
46 11 of this act.

47 Sec. 13.5. 1. A municipality, its governing body, its officers and its
48 employees shall not be liable for actions taken pursuant to NRS 271.6312 to
49 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act, except in cases
50 of ~~gross negligence, recklessness or~~ willful misconduct.

51 2. A municipality shall not use any public funds to pay an assessment
52 imposed to repay bonds or direct financing ~~between a capital provider and a~~

1 ~~property owner,~~ or refinancing of a qualified improvement project nor pledge the
 2 full faith and credit of the municipality for such purposes.

3 3. The amount necessary to repay bonds or the direct financing or
 4 refinancing of a qualified improvement project is secured solely by the
 5 assessment and a municipality shall not use or pledge any money derived from
 6 any other source for such purposes.

7 4. A municipality is not liable for any amount due related to a qualified
 8 improvement project, including, without limitation, the costs for construction of
 9 the qualified improvement project.

10 5. A municipality that establishes a district pursuant to NRS 271.6312 to
 11 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act, may impose a fee
 12 ~~to~~ on a property owner that enters into a voluntary assessment agreement
 13 pursuant to section 11 of this act to recover the reasonable ~~and actual~~ costs of
 14 administration and the performance of its duties pursuant to NRS 271.6312 to
 15 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.

16 **Sec. 14.** NRS 271.385 is hereby amended to read as follows:

17 271.385 1. At the time and place designated pursuant to NRS 271.380, the
 18 governing body shall hear and determine any written complaint, protest or objection
 19 filed as provided in that section and any verbal views expressed in respect to the
 20 proposed assessments, assessment roll or assessment procedure. The governing
 21 body may adjourn the hearing from time to time.

22 2. The governing body, by resolution, may revise, correct, confirm or set
 23 aside any assessment and order that the assessment be made de novo.

24 3. Any complaint, protest or objection to:

- 25 (a) The assessment roll;
 26 (b) The regularity, validity and correctness of each assessment;
 27 (c) The amount of each assessment; or
 28 (d) The regularity, validity and correctness of any other proceedings occurring

29 after the date of the hearing described in NRS 271.310 and before the date of the
 30 hearing governed by this section,

31 ~~shall be deemed waived unless filed in writing within the time and in the manner~~
 32 ~~provided by NRS 271.380.~~

33 ~~[4. If any owner of a tract which is assessed for the purpose of creating a~~
 34 ~~district pursuant to NRS 271.6312 objects in writing within the time and in the~~
 35 ~~manner provided by NRS 271.380, the tract must be removed from the assessment~~
 36 ~~roll, and the municipality shall not finance the project located on the tract unless the~~
 37 ~~objecting owner withdraws his or her objection in writing within the time specified~~
 38 ~~by the governing body.]~~

39 **Sec. 15.** NRS 271.6312 is hereby amended to read as follows:

40 271.6312 1. The governing body of a municipality, on behalf of the
 41 municipality and in its name, without an election, may by resolution create a
 42 district to finance or refinance one or more ~~[energy efficiency improvement~~
 43 ~~projects or renewable energy]~~ qualified improvement projects:

44 (a) On qualifying commercial or industrial real property, which may include
 45 any real property other than:

46 (1) A residential dwelling that contains fewer than five individual dwelling
 47 units; or

48 (2) Property financed by a government-guaranteed financing program that
 49 prohibits the subordination of the government's interest in the property or otherwise
 50 prohibits a contract under NRS 271.6312 to 271.6325, inclusive ~~to~~, and sections 2
 51 to 13.5, inclusive, of this act.

52 (b) That meet one of the following requirements:

1 (1) For an energy efficiency improvement project, the project must be
2 determined to *meet the definition of an energy efficiency improvement project set*
3 *forth in section 4 of this act, comply with applicable requirements set forth in the*
4 *program guide and be ~~[appropriate through]~~ supported by an energy audit*
5 *conducted by a qualified service company ~~[. A project may be determined to be~~*
6 *~~appropriate if:~~*

7 ~~_____ (I) The energy audit includes a summary of recommendations, which~~
8 ~~for each recommendation must include existing and expected consumption and~~
9 ~~expected energy savings expressed in British thermal units, kilowatt hours, and~~
10 ~~kilowatts, the expected annual energy savings, the cost, the payback period in years,~~
11 ~~the expected life cycle in years and the percentage of savings, as applicable; and~~

12 ~~_____ (II) The expected energy savings from the project exceeds the~~
13 ~~investment costs of the project.] that includes [, without limitation,] a written~~
14 ~~energy analysis of the project.~~

15 (2) For a renewable energy project, the project must ~~[be determined to be~~
16 ~~feasible through a written feasibility study conducted]~~ *meet the definition of a*
17 *renewable energy project set forth in section 7 of this act, as determined by a*
18 *qualified service company ~~[,]~~ and comply with applicable requirements set forth*
19 *in the program guide. The determination of the qualified service company must*
20 *be supported by a written feasibility study. Except as otherwise provided in this*
21 *subparagraph, a renewable energy project must not be used to sell or distribute*
22 *renewable energy between tracts. If the structure that is benefitting from the*
23 *qualified improvement project is located on more than one contiguous tract, the*
24 *renewable energy project may be used to serve the entire structure.*

25 (3) For a resiliency project, the project must be determined to meet the
26 definition of a resiliency project set forth in section 8 of this act by a licensed
27 professional in the field of the resiliency project that is approved by the
28 municipality pursuant to NRS 271.6325 ~~[,]~~ *and comply with applicable*
29 *requirements set forth in the program guide. The determination of the licensed*
30 *professional must be contained in a written analysis of the project.*

31 (4) For a water efficiency improvement project, the project must be
32 determined to meet the definition of a water efficiency improvement project set
33 forth in section 9 of this act by a qualified service company ~~[,]~~ *and comply with*
34 *applicable requirements set forth in the program guide. The determination of the*
35 *qualified service company must be ~~[based on]~~ contained in a written analysis of*
36 *the project.*

37 2. ~~[A bond or interim warrant issued for a district created pursuant to this~~
38 ~~section must not be secured by a pledge of the general credit or taxing power of the~~
39 ~~municipality or by the surplus and deficiency fund established pursuant to NRS~~
40 ~~271.428.] Subject to the provisions of subsection 2 of NRS 271.6315, a district~~
41 ~~created pursuant to subsection 1 may comprise the entire jurisdictional~~
42 ~~boundaries of the municipality or any portion or individual tract, thereof.~~

43 3. The improvements to or installations within a district created pursuant to
44 this section must not be owned by a municipality but shall be ~~[deemed to be]~~ the
45 property of the owner of the tract upon which the improvement or installation is
46 located.

47 4. The provisions of:

48 (a) NRS 271.275 to 271.365, inclusive, *and 271.367 to 271.472, inclusive*, do
49 not apply to a district which is created pursuant to this section.

50 (b) NRS 271.495 and 271.500 do not apply to any bonds or interim warrants
51 issued to finance ~~[an energy efficiency improvement project or renewable energy]~~ *a*
52 *qualified improvement* project within a district created pursuant to this section.

53 5. As used in this section:

1 (a) "Energy audit" means a formal evaluation of the energy consumption of a
2 permanent building or any structural improvement to real property that is consistent
3 with the requirements of ASTM International Standard E2797, "Standard Practice
4 for Building Energy Performance Assessment for a Building Involved in a Real
5 Estate Transaction," the ASHRAE Level 2 or 3 guidelines for energy audits or any
6 comparable energy assessment guidelines.

7 (b) "Qualified service company" has the meaning ascribed to it in NRS
8 333A.060.

9 **Sec. 16.** NRS 271.6315 is hereby amended to read as follows:

10 271.6315 1. A governing body may create a district pursuant to NRS
11 271.6312 only if:

12 (a) *The governing body makes a finding that the creation of the district*
13 *serves the public purposes of resource conservation, reducing emissions or*
14 *increasing the resiliency of the community.*

15 (b) The governing body has, pursuant to NRS 271.6325, adopted by resolution
16 a procedure for the creation and administration of a district for the purpose of
17 financing *or refinancing* one or more ~~energy efficiency improvement projects or~~
18 ~~renewable energy~~ *qualified improvement* projects.

19 ~~Each~~

20 2. *The governing body shall not ~~include~~ approve a tract within the*
21 *boundaries of the district ~~for financing or refinancing a qualified improvement~~*
22 *project unless:*

23 (a) *The owner of ~~each~~ the tract on which ~~an energy efficiency improvement~~*
24 *project or ~~renewable energy~~ a qualified improvement project will be located*
25 *[consents in writing to the location of the project on the tract and] enters into a*
26 *voluntary assessment agreement pursuant to section 11 of this act ~~agreeing to~~*
27 *the levy of an assessment against the tract to pay all or a portion of the cost thereof*
28 *in an amount up to the estimated maximum benefit to the tract from the installation*
29 *or improvement. The estimated maximum benefit may not exceed the market value*
30 *of the tract as determined by the governing body.*

31 ~~— (c) the amount of financing or refinancing set forth in the financing~~
32 ~~agreement and the placement of an assessment lien on the property pursuant to~~
33 ~~the provisions of section 12 of this act.~~

34 ~~— Each consent provided pursuant to paragraph (b):~~

35 ~~— (1) Describes the tract to be assessed and the improvements to be financed;~~
36 ~~— (2) States the estimated maximum benefit that the owner agrees will be~~
37 ~~conferred on the tract by virtue of the installation or improvement; and~~

38 ~~— (3) Is accompanied by:~~

39 ~~— (I) A signed copy of each contract between an owner of the tract and~~
40 ~~each contractor described in NRS 271.6321 pursuant to which the contractor agrees to~~
41 ~~construct, acquire and install the installation or improvement identified in the~~
42 ~~consent at a total price which does not exceed the limitation set forth in NRS~~
43 ~~271.6321 and which contains any terms, including, without limitation, application~~
44 ~~fees and costs, the total amount financed, annual percentage rate, total amount paid~~
45 ~~over the life of any assessment, any appraisal fees, bond related costs, annual~~
46 ~~administrative fees, closing costs, credit reporting fees and recording fees, and such~~
47 ~~other terms not inconsistent with the provisions of NRS 271.6312 to 271.6325,~~
48 ~~inclusive, or with the resolution adopted pursuant to NRS 271.6325, as may be~~
49 ~~agreed upon by the owner of the tract and the contractor and is acceptable to the~~
50 ~~governing body; and~~

51 ~~— (II) A deposit in an amount determined in the manner specified in the~~
52 ~~resolution adopted pursuant to NRS 271.6325, which may be refunded if the project~~

1 to which the consent relates is completed and is financed with assessments levied
2 pursuant to this chapter within the period specified in the resolution.

3 ~~—(d)~~ (b) *The amount of the assessment lien that will be placed on the tract for
4 a qualified improvement project, if used for improving or retrofitting an
5 existing structure, does not exceed 25 percent of the fair market value of the
6 property assessed, as determined by a certified appraiser pursuant to guidelines
7 adopted pursuant to NRS 271.6325.*

8 (c) *The amount of the assessment lien that will be placed on the tract for a
9 qualified improvement project, if used for new construction or a gut
10 rehabilitation, does not exceed 35 percent of the fair market value of the property
11 assessed, as determined by a certified appraiser pursuant to guidelines adopted
12 pursuant to NRS 271.6325.*

13 (d) The outstanding amount owed on all recorded instruments which are liens
14 against ~~[any] the tract [included in the district, does]~~ *including the assessment lien
15 for the qualified improvement project, will not exceed 90 percent of the estimated
16 fair market value of the property assessed [as defined by the governing body,
17 taking into account the imposition of the liens for assessments pursuant to NRS
18 271.6312 to 271.6325, inclusive, and the additional value added to the tract by a
19 project financed pursuant to NRS 271.6312 to 271.6325, inclusive.*

20 ~~—(e)~~ , *as determined by a certified appraiser pursuant to guidelines adopted
21 pursuant to NRS 271.6325.*

22 (e) Any lender who holds a lien on ~~[any] the~~ tract on which ~~[an energy
23 efficiency] the qualified~~ improvement project ~~[or renewable energy project]~~ will be
24 located consents in writing to the levy of an assessment *and assessment lien*
25 against the tract to ~~[pay all or a portion of the cost of the installation or
26 improvement.]~~ *secure repayment of the financing or refinancing of the qualified
27 improvement project.* A consent signed pursuant to this paragraph must be in a
28 recordable form and is binding on the holder of a lien who signs the consent. ~~[A
29 lender described in this paragraph is entitled, within 30 days after providing consent
30 pursuant to this paragraph, to offer a loan to the owner of the tract as the primary
31 lender on the new levy of an assessment.~~

32 ~~—2.]~~ Each consent provided pursuant to *this* paragraph ~~[(b) of subsection 1 and
33 each amendment thereto]~~ must be recorded in the office of the county recorder and,
34 once recorded, is binding on the ~~[owner] lender~~ who signed the consent ~~[and any
35 other person who holds any interest in the tract to which the consent relates and
36 who signed the consent.]~~ *and any successors or assigns.*

37 3. *Real property owned by the United States Department of Defense is not
38 eligible for any qualified improvement project authorized pursuant to NRS
39 271.6312 to 271.6325, inclusive, and sections 2 to 13.5, inclusive, of this act.*

40 4. A district created pursuant to NRS 271.6312 may be created at any time as
41 designated by a governing body . ~~[, but must only include tracts for which a consent
42 has been recorded pursuant to subsection 2.]~~

43 ~~[4.]~~ 5. As used in this section, “lender” means a mortgagee, the beneficiary of
44 a deed of trust or other creditor who holds a mortgage, deed of trust or other
45 *recorded* instrument that encumbers a tract as security for the repayment of a loan .
46 ~~[used to purchase the tract.]~~

47 **Sec. 17.** NRS 271.6321 is hereby amended to read as follows:

48 271.6321 Construction *of a qualified improvement project* within a district
49 created pursuant to NRS 271.6312 must be completed through independent
50 contracts with contractors licensed in Nevada . ~~[who are approved by the governing
51 body.]~~ The municipality is not responsible for the construction, or any defects or
52 delays thereof. The laws of this State relating to public bidding, public works or
53 public procurement are not applicable to contracts for construction ~~[executed~~

1 ~~pursuant to this subsection. The total contract price of any improvement or~~
 2 ~~installation must not exceed 80 percent of the estimated maximum benefit for the~~
 3 ~~tract as stated in the consent, as it may be amended from time to time, unless the~~
 4 ~~owner of the property to be assessed:~~

5 ~~— 1. Agrees to pay and pays, or causes another party to pay, the difference~~
 6 ~~between 80 percent of the estimated maximum benefit and the total contract price~~
 7 ~~from a source other than financing provided pursuant to this chapter; and~~

8 ~~— 2. Agrees in writing that the improvement or installation will in fact benefit~~
 9 ~~the tract by an amount at least equal to the sum of the estimated maximum benefit~~
 10 ~~stated in the consent and the amount to be paid from a source other than financing~~
 11 ~~provided pursuant to this chapter.] of a qualified improvement project.~~

12 **Sec. 18.** NRS 271.6325 is hereby amended to read as follows:

13 271.6325 1. Before creating a district pursuant to NRS 271.6312, a
 14 governing body must adopt a resolution ~~[an ordinance]~~ which specifies the
 15 procedures for the creation and administration of such a district.

16 2. ~~The [ordinance]~~ resolution ~~adopted pursuant to subsection 1 must~~
 17 ~~approve a program guide that [without limitation, sets forth the forms for any~~
 18 ~~agreements necessary between the district, the property owner and the capital~~
 19 ~~provider. The forms must include,]~~ contains, without limitation:

20 (a) ~~A draft voluntary assessment agreement between the municipality and the~~
 21 ~~property owner;~~

22 (b) ~~A draft notice of assessment and assessment lien; and~~

23 (c) ~~A draft assignment of the assessment and the assessment lien.~~

24 3. ~~The [ordinance]~~ resolution ~~adopted pursuant to subsection 1 or the~~
 25 ~~program guide approved pursuant to subsection 2 must:~~

26 (a) ~~Require that the property owner agree to the assessment in the amount~~
 27 ~~approved by the governing body as repayment for the financing of the qualified~~
 28 ~~improvement project.~~

29 (b) ~~Require that the property owner acknowledge that [a] an assessment lien~~
 30 ~~will be recorded on the real property pursuant to section 12 of this act to secure~~
 31 ~~the repayment of the financing set forth in the financing agreement.~~

32 (c) ~~Prohibit any financing agreement the duration of which exceeds the~~
 33 ~~expected useful life of the qualified improvement project or, if the qualified~~
 34 ~~improvement project includes more than one qualified improvement, the weighted~~
 35 ~~average expected life of all qualified improvements included in the qualified~~
 36 ~~improvement project [a] that are financed by the financing agreement or bond~~
 37 ~~issuance.~~

38 (d) ~~Describe the application and eligibility requirements for real property to~~
 39 ~~be included in a district, including, without limitation, with respect to a resiliency~~
 40 ~~project. Such provisions must set forth:~~

41 (1) ~~The nature of resiliency improvements that may be included in a~~
 42 ~~resiliency project;~~

43 (2) ~~The standards and codes that must be met for a resiliency project to~~
 44 ~~be a qualified improvement; and~~

45 (3) ~~The types of licensed professionals who are approved by the~~
 46 ~~municipality to determine whether the resiliency project meets the definition set~~
 47 ~~forth in section 8 of this act, as required by NRS 271.6312, including, without~~
 48 ~~limitation, whether a specific type of resiliency project needs to be approved by:~~

49 (I) ~~An architect registered pursuant to chapter 623 of NRS;~~

50 (II) ~~A landscape architect registered pursuant to chapter 623A of~~

51 NRS;

52 (III) ~~A professional engineer licensed pursuant to chapter 625 of~~

53 NRS;

1 (IV) An environmental health specialist that has a certificate of
2 registration pursuant to chapter 625A of NRS;

3 (V) A land use planner certified by the American Institute of
4 Certified Planners; or

5 (VI) Any other licensed professional person, as set forth in the
6 ~~ordinance,~~ **resolution or program guide.**

7 (e) Describe the requirements to be a capital provider.

8 (f) Require each application to be reviewed on its own merits.

9 (g) Require each application to include the submission of the analysis or
10 feasibility study required pursuant to NRS 271.6312.

11 (h) Provide that any approval of a qualified improvement project by a
12 municipality will only apply to the tract or tracts set forth in the application.

13 (i) Set forth guidelines for a certified appraiser to determine the fair market
14 value of the property that will be assessed.

15 4. The ~~ordinance,~~ **resolution or program guide** may provide for one or more
16 of the following:

17 (a) Additional notices of the proposal to create the district, notices of the
18 opportunity to apply for inclusion in the district or any other notices;

19 (b) **Any additional requirements for a qualified improvement project,**
20 **including, without limitation, any requirement for insurance, security features or**
21 **additional covenants and agreements that must be entered into by the**
22 **municipality, capital provider, property owner and, if applicable, lessee;**

23 (c) **If applicable:**

24 (1) A reserve of money for bonds issued for the district, the method of
25 funding the reserve and the disposition of any interest earned upon or the principal
26 of the reserve that is not needed to repay any bonds or interim warrants issued for
27 the purposes of financing ~~an energy efficiency improvement project or renewable~~
28 ~~energy~~ **a qualified improvement** project within the district; **and**

29 ~~{(e)}~~ (2) Any other security for those bonds or interim warrants ; ~~[, and the~~
30 ~~method of determining the term of the bonds in compliance with NRS 271.515;]~~

31 (d) Any requirements for casualty insurance, liability insurance or other types
32 of insurance for any project within the district;

33 (e) The method of determining the lien-to-value ratio of the property for the
34 purpose of complying with the limitation prescribed by paragraph ~~(d)~~ ~~{(e)}~~
35 subsection ~~{1}~~ **2** of NRS 271.6315;

36 (f) Any limitation on the lien-to-value ratio that would result in a lower lien-to-
37 value ratio than that prescribed by paragraph ~~(d)~~ ~~{(e)}~~ of subsection ~~{1}~~ **2** of NRS
38 271.6315;

39 ~~{(g)}~~ ~~[Any limitation on the amount of the contract price, as a percentage of the~~
40 ~~estimated maximum benefit, that is lower than the limitation prescribed by NRS~~
41 ~~271.6321;~~

42 ~~—(h)~~ Any sources, other than the proceeds of assessments, that will be used to
43 pay:

44 (1) The cost of construction and installation of improvements financed
45 pursuant to NRS 271.6312 to 271.6325, inclusive ~~{1}~~ , **and sections 2 to 13.5,**
46 **inclusive, of this act;**

47 (2) The cost of any reserve of money or other security for financing ~~an~~
48 ~~energy efficiency improvement project or renewable energy~~ **a qualified**
49 **improvement** project pursuant to NRS 271.6312 to 271.6325, inclusive ~~{1}~~ , **and**
50 **sections 2 to 13.5, inclusive, of this act;** or

51 (3) The cost of engineering work, the cost to issue any bonds or provide
52 other financing, or the cost of other incidentals pursuant to NRS 271.6312 to
53 271.6325, inclusive ~~{1}~~ , **and sections 2 to 13.5, inclusive, of this act;**

1 ~~[(h)]~~ (h) Any other security features, covenants required of property owners,
 2 covenants required of other parties or any other covenants, guarantees, insurance or
 3 other matters which the governing body finds are necessary or desirable for the
 4 financing of ~~[an energy efficiency improvement project or renewable energy]~~ a
 5 qualified improvement project pursuant to NRS 271.6312 to 271.6325, inclusive ~~;~~
 6 , and sections 2 to 13.5, inclusive, of this act; and

7 ~~—(j)]~~ (i) Any other matters, procedures or financing or program terms which the
 8 governing body, in its sole discretion, determines are necessary or desirable to carry
 9 out the purposes of NRS 271.6312 to 271.6325, inclusive ~~;~~ ; and sections 2 to
 10 13.5, inclusive, of this act ~~—and],~~ including, without limitation, any requirement
 11 related to the estimated benefit conferred on the property by the qualified
 12 improvement project;

13 (j) The amount of, or the basis for determining the amount of, any
 14 application or administrative fees that must be paid to the municipality, the
 15 program administrator, or both, and the time when any such fee will be due; and

16 (k) A designation delegating all or any part of the governance and
 17 administration of the district to ~~[the municipality, its]~~ ;

18 (1) The governing body ~~;~~ ;

19 (2) A designated ~~[employees]~~ official, department or employee of the
 20 municipality; or ~~[an]~~

21 (3) An independent third party administrator.

22 ~~[(2)]~~ 5. A resolution ~~[An ordinance]~~ adopted pursuant to this section ~~;~~

23 ~~—(a) Must contain or incorporate by reference an exhibit describing each tract to~~
 24 ~~be assessed, the type of improvement or installation to be financed for each tract~~
 25 ~~and the estimated maximum benefit as stated in the consent provided pursuant to~~
 26 ~~paragraph (b) of subsection 1 of NRS 271.6315.~~

27 ~~—(b) May~~ may must be adopted ~~[as if an emergency exists by a vote of not less~~
 28 ~~than two thirds of all the voting members of the governing body.]~~ by a majority
 29 vote of the governing body. Such a resolution is effective upon adoption or on
 30 any date thereafter, as provided in the resolution.

31 **Sec. 19.** 1. The provisions of sections 1 to 18, inclusive, of this act may be
 32 used by the governing body of a municipality that has created a district pursuant to
 33 NRS 271.6312 to 271.6325, inclusive, before October 1, 2021, but the provisions of
 34 sections 1 to 18, inclusive, of this act do not affect any financing, billing, collection
 35 or enforcement of financing of any existing project in the district created pursuant
 36 to NRS 271.6312 to 271.6325, before October 1, 2021.

37 2. As used in this section:

38 (a) “Governing body” has the meaning ascribed to it in NRS 271.115.

39 (b) “Municipality” has the meaning ascribed to it in NRS 271.145.

40 (c) “Project” means an energy efficiency improvement project or renewable
 41 energy project that began before October 1, 2021, in a district created pursuant to
 42 NRS 271.6312 to 271.6325, inclusive, as those provisions existed on September 30,
 43 2021.