



Funding Economic Development in Nevada: Special Assessment Districts

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This fact sheet is the fifth of five separate University of Nevada Cooperative Extension fact sheets exploring different local economic development funding tools in Nevada. This fifth fact sheet explores the related impact and legal aspects of the use of Special Assessment Districts (SADs) in the State of Nevada.

Nevada Revised Statutes (NRS) 271 “Local Improvements” contains the legal structure of SADs and other related state regulations on the purpose, the creation and the activities of local SADs in Nevada.

Current Use

Table 1 presents the total number of local SADs and the combined total amount of revenue generated from all SADs in each county in Nevada according to the individual county treasurer in each county located throughout the State of Nevada for FY 2011 and FY 2012. Despite several attempts to acquire the data, data on existing SADs for Churchill, Esmeralda, Lyon, Mineral, Nye, Pershing and White Pine counties was not available.

Table 1 Total Number and Total Value of all SADs Active in Nevada FY 2011 and FY 2012				
County	Number of Active SADs FY 2010	Number of Active SADs FY 2011	Revenue Generated From all Active SADs FY 2010	Revenue Generated From all Active SADs FY 2011
Carson City	0	0	\$0	\$0
Churchill County	N/A	N/A	N/A	N/A
Clark County	67	65	\$65,942,192	\$66,654,101
Douglas County	2	2	\$298,446	\$291,227
Elko County	1	1	\$258,052	\$271,333
Esmeralda County	N/A	N/A	N/A	N/A
Eureka County	0	0	\$0	\$0
Humboldt County	1	1	\$41,418	\$39,338
Lander County	0	0	\$0	\$0
Lincoln County	3	3	\$80,306	\$87,248
Lyon County	N/A	N/A	N/A	N/A
Mineral County	N/A	N/A	N/A	N/A
Nye County	N/A	N/A	N/A	N/A
Pershing County	N/A	N/A	N/A	N/A
Storey County	0	0	\$0	\$0
Washoe County	11	10	\$1,801,492	\$1,590,510
White Pine County	N/A	N/A	N/A	N/A
TOTAL	85	82	\$68,421,906	\$68,933,756

Source: Individual County Treasurer Offices, State of Nevada

Based on available data, there were 85 active SADs in FY 2010 and 82 active SADs in FY 2011 in operation statewide, a net decline of three total SADs or 3.5 percent. Statewide, the combined amount of revenue generated from all active SADs increased slightly, increasing from approximately \$68.4 million in FY 2010 to approximately \$68.9 million in FY 2011, a net increase of \$511,851 or 0.8 percent. Although these estimates are useful in demonstrating the overall popularity of SADs in Nevada, the lack of available data from seven counties suggests that the data in Table 1 significantly underrepresents the widescale usage of SADs as a way to fund economic development and other local government expenditures in Nevada.

Purpose

Special Assessment Districts (SADs), as defined in NRS Chapter 271, is a broad financing tool that local county and municipal governments in the State of Nevada can use to fund a wide variety of infrastructure and improvement projects. In general, the governing body of a county, municipality or town may use future ad valorem property tax revenues, either through annual collections or through the issuance of property tax backed bonds or other securities, to finance different infrastructure and improvement projects that the governing body has determined to be necessary to support the development of the SAD and to provide necessary services to the residents and businesses of the SAD.

In part, the Legislative Declaration in NRS 271.020 declares:

- That providing for municipalities to which NRS 271 appertains the purposes, powers, duties, rights, disabilities, privileges, liabilities and immunities in NRS 271 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 as defined by NRS 271 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 Special Assessment Districts is a result of the large population growth and intense residential, commercial and industrial development in the incorporated and unincorporated areas of the state and of the ensuring need for extensive local improvements provided within.
- That the Legislature recognizes the duty of municipalities to adequately meet the needs for such facilities within their boundaries, in cooperation with the state, counties and other districts within the State.
- That for the accomplishment of these purposes, the provisions in NRS 271 shall be broadly construed, and the rule that statutes in derogation of the common law are to be strictly construed shall have no application.

As the information in Table 1 above illustrates, counties, municipalities and towns have used the broad powers of SADs in NRS 271 in a variety of ways to finance the development of different projects determined to be necessary to support the development of these Special Assessment Districts through the provision of necessary infrastructure and improvements.

Creation and Use

According to NRS 271.275, a Special Assessment District can be initiated using either a provisional order method or a petition method. NRS 271.280 outlines the

individual sections and steps related to the creation of a SAD using the provisional order method:

- Whenever the governing body of a county, municipality or town decides to form a Special Assessment District, the appropriate county, municipal or town engineer shall prepare and file with the county, municipal or town clerk (a) a preliminary plan showing a typical section of the contemplated improvement, the type or types of material to be used, and a preliminary estimate of the cost of the project, including incidental costs, and (b) an assessment plan showing the physical area to be designated a SAD and an estimate of the amount of benefits to be assessed against each tract (or parcel) in the proposed SAD.
- The preliminary plan may provide for one or more types of construction, and the engineer shall separately estimate the cost of each type of construction. The estimate may be made in a lump sum or by unit prices.
- A resolution or document prepared by the engineer that describes the project in general terms is required. The resolution or document must state (a) what part or portion of the expense of the project is of special benefit and therefore is to be paid by assessments, (b) what part, if any, has been or is proposed to be defrayed with money derived from other sources than the levy of assessments, and (c) the basis by which the cost will be apportioned and assessments levied.
- If the assessment is **not** to be made according to front feet (or street frontage), the resolution or document must state that (a) by apt description, designate the improvement district, including the tracts to be assessed, (b) describe definitely the location of the

project, and (c) state that the assessment is to be made upon all the tracts benefited by the project proportionately to the benefits received. If the assessment is to be upon the abutting property **upon** a frontage basis, it is sufficient for the resolution or document to state and to define the location of the project to be made.

- If the preliminary plan includes a **Commercial Area Vitalization Project**, then, in addition to the requirements of NRS 271.280, before the plans are ratified by the governing body, the plans must include a plan for the management of the proposed improvement district that must include, without limitation, (a) the improvements proposed for each year of the first five fiscal years of the proposed improvement district, (b) an estimate of the total amount to be expended on improvements in the first year of operation, (c) a list of any other special assessments that are currently being levied within the proposed improvement district, (d) the name of any proposed association, and (e) any other matter that the governing body requires to be set forth in the plan.
- Once the preliminary plan and assessment plan are completed and approved by the governing body, the governing body may create the Special Assessment District by making a provisional order by resolution to the effect that the project will be acquired or improved, or both acquired and improved.

NRS 271.285 outlines the individual sections and steps related to the creation of a SAD using the petition method:

- Whenever the owner or owners of lands to be assessed for not less than 90 percent of the entire cost of any project, including all incidental expenses, constituting at least $66 \frac{2}{3}$ percent in

frontage, in the area or other property basis used for the computation of assessments as therein provided, may initiate by written position the acquisition of any project that the governing body is authorized to initiate subject to certain limitations as listed in NRS 271.285 subsection 1(a), 1(b), 1(c), and 1(d).

- A petition signed by owners of tracts constituting at least one-half of the basis used for computation of assessments is sufficient to initiate procedures for acquiring or improving a **Commercial Area Vitalization Project**. A petition for acquiring or improving a commercial area vitalization project must be accompanied by a plan describing proposed improvements and a proposed assessment plan when submitted to the governing body.

Powers and Activities

The governing body of a county, a municipality or a town may, under the broad powers of a SAD defined in NRS 271.265, without any election, from time to time:

- Acquire, improve, equip, operate and maintain a variety of projects including a Commercial Area Vitalization Project (NRS 271.063), a curb and gutter project, a drainage project, an energy-efficiency improvement project, an off-street parking project, an overpass project, a park project, a public safety project, a renewable energy project, a sanitary sewer project, a security wall, a sidewalk project, a storm sewer project, a street project, a street-beautification project, a transportation project, an underpass project, a water project or any combination of these projects.
- Acquire, improve, equip, operate and maintain additional projects including an electric project, a telephone project, a combination of an electrical and telephone project, a combination of an

electrical and telephone project with any of the project, or any combination thereof, of the projects listed above (such as a commercial area vitalization project or a curb and gutter project).

- Finance an underground conversion project with the approval of each service provider that owns the overhead service facilities to be converted.
- In municipalities in a county whose population is less than 700,000, acquire, improve, equip, operate and maintain an art project or a tourism and entertainment project.

The use of a SAD to fund and administer a Commercial Area Vitalization Project, as defined in NRS 271.063, is a special use of a SAD. According to NRS 271.063, the Commercial Area Vitalization Project (CAVP) includes:

- The beautification and improvement of the public portions of any area zoned primarily for business or commercial purposes including, without limitation, public restrooms; facilities for outdoor lighting and heating; decorations; fountains; landscaping; facilities or equipment, or both, to enhance protection of persons and property within the improvement district; ramps, sidewalks, and plazas; and rehabilitation or removal of existing structures.
- The improvement of an area zoned primarily for business or commercial purposes by providing promotional activities.

Traditionally, counties, municipalities, and towns have used "Business Improvement Districts" (BIDs) to fund the types of improvements listed in NRS 271.063. However, there is currently no direct reference or authorizing statute in the NRS that would permit a county, municipality, or town to create a BID. The CAVP definition

provided in NRS 271.063 is the closest statute in the NRS to a traditional BID.

Projects that are developed and funded through the use of a Special Assessment District can be funded by using one of two primary methods. First, annual assessments of each tract (or parcel) of land within the Special Assessment District can be made and then collected to fund annual estimated expenditures on an ongoing annual basis. Second, projects can be financed through the issuance of debt (negotiable bonds) financed over the course of a determined number of years using annually collected assessments of each tract (or parcel) of land within the Special Assessment District. In either of the two approaches, an ad valorem property tax assessment is most often made on each property within the SAD and used to finance the SAD over time. This ad valorem assessment is made ***in addition to*** existing property tax rates and is not subject to state mandated caps on property tax rates.

In either of the two approaches, the annual amount of ad valorem tax that each tract (or parcel) in the SAD is required to pay is often based on the physical size of the tract (or parcel) and the amount of street frontage the tract (or parcel) has relative to other tracts (or parcels) in the SAD. In short, larger tracts with more frontage pay more of the SAD ad valorem assessment than smaller tracts with less frontage. However, alternative assessment approaches can be, and have been, used. For example, some governing bodies have chosen to use the total assessed value, as determined on an annual basis by the appropriate County Assessor, of each individual tract within the SAD to calculate annual individual assessments.

In general, if annual assessments are used to finance annual expenditures on an ongoing basis without the issuance of debt, the governing body, with the assistance of staff, must prepare an annual financial

estimate of costs and needed revenues to support the annual operation of the SAD. Once completed, the financial report is received by the governing board during a properly notified public hearing, and individual assessment notices are sent out to each property owner within the SAD.

In general, if the governing body chooses to issue debt to finance the up-front costs of a project within the SAD, the governing body must follow NRS 271.485. Individual assessments are made and collected each year to finance and retire the debt over a determined period of time. Because this debt is often financed over a period of several decades, individual assessments may increase or decrease due to changes in property-ownership patterns within the SAD over time. For example, depending upon the size and complexity of the SAD, individual tracts (or parcels) may be combined resulting in larger tracts with increased frontage or larger tracts with larger assessed value levels. Owners of tracts with increased size, or owners of tracts that have appreciated in value, may experience increases in their individual assessments. Subsequently, if tracts are subdivided, creating multiple tracts (or parcels) from a single tract, individual assessments for previously existing property owners may be reduced as there are now more property owners to share the fixed cost of repaying debt issued to finance the development of projects within the SAD.

Conclusion

A Special Assessment District is a broad financing tool that counties, municipalities, and towns in Nevada can use to fund a variety of infrastructure and improvement projects. Proper understanding of its legal structure, and the proper procedures for creating, administering and financing a SAD, is vital to properly discharging and understanding the powers of a Special Assessment District.

References

State of Nevada. 2012. *Nevada Revised Statutes Chapter 271 – Local Improvements*. <http://leg.state.nv.us/NRS/NRS-271.html>.