

LEGISLATIVE REPORT

A publication of the Nevada Taxpayers Association serving the citizens Nevada since 1922

ISSUE 1 - 13

PREFILED BILLS

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This issue contains a summary of tax, fee and fines and penalty bills, which were prefiled between December 19, 2013 and January 10, 2013. The next issue of Legislative Report will summarize bills that have a substantial impact on State or local government budgets and bills that we believe are of general interest to our members.

Notes:

The default effective date for bills, unless otherwise requested, is October 1, 2013. An effective date for the bills reported will be shown only when it differs from the default date.

For the purpose of this report, the "fiscal effect" shown is taken from the bill and not determined by NTA.

The full text of all bills is available by logging onto www.leg.state.nv.us and going to "Session Information - 2013."

TAXES

Section 18, subsections 2 and 3 of Article 4 of the Nevada Constitution require a 2/3 vote of each House of the Legislature to approve a public revenue measure, or a simple majority if the measure is put to the voters for approval. The following is the language as it appears in the Constitution.

2. Except as otherwise provided in subsection 3, an affirmative vote of not fewer than two-thirds of the members elected to each House is necessary to pass a bill or joint resolution which creates, generates, or increases any public revenue in any form, including but not limited to taxes, fees, assessments and rates, or changes in the computation bases for taxes, fees, assessments and rates.

3. A majority of all of the members elected to each House may refer any measure which creates, generates, or increases any revenue in any form to the people of the State at the next general election, and shall become effective and enforced only if it has been approved by a majority of the votes cast on the measure at such election.

Combination of Taxes

AB 46 – Washoe County School District: Property Tax & Sales Tax for Capital Projects - Requires 2/3 Majority
On behalf of Washoe County School District, introduced by Committee on Taxation and referred to same. (BDR 32-413)

Requires the Board of County Commissioners in a county between 100,000 and 700,000 in population (Washoe) to impose additional taxes -- a ¼ of 1 percent sales and use tax and a property tax of 5 cents per \$100 of assessed value – for deposit in the district's fund for capital projects. The bill exempts this new property tax from the existing \$3.64 per \$100 cap and from the partial abatement on property tax bills.

Fiscal effect: May have impact on local government.

Effective: Upon passage and approval.

Comment: Bills proposing to increase property values or taxes and those increasing the rate of sales tax should be considered in concert with one another to determine the impact on the taxpayer. A sales tax rate that is too high in the eyes of a purchaser will prove the point that there is a law of diminishing returns.

Excise Taxes

SB 8 – Tax on Non-Cigarette Tobacco Products

On behalf of Department of Taxation, introduced by Committee on Revenue and Economic Development and referred to same. (BDR 32-300)

This bill clarifies that the "wholesale price" upon which the tax is the established price for which tobacco products other than cigarettes are sold to the wholesale dealer, before any discount or other reduction is made, irrespective of whether the wholesale dealer purchases the product from the manufacture or any other person.

SB 67 - Master Tobacco Settlement Revisions – Requires 2/3 Majority

On behalf of Attorney General, introduced by Committee on Revenue and Economic Development and referred to same. (BDR 32-404)

This bill generally revises existing, and provides additional, procedures and licensing requirements to aid in the statutory enforcement of the Master Settlement Agreement. Sets forth licensing requirements and procedures for a stamping agent, wholesale dealer and retail dealer and sets forth licensing license suspension and revocation procedures for those found in violation of the law. Also, includes the purchase of “roll-your-own” in the “other tobacco products” tax of 30 percent of the wholesale price.

Fiscal effect: On Local Government: Increases or creates imprisonment terms in county or city jail or detention facility.

Effective: July 1, 2013

Gaming Taxes & Fees

AB 3 – Gaming Control Board: Enforcement of the Live Entertainment Tax

On behalf of State Gaming Control Board, introduced by Committee on Judiciary and referred to same. (BDR 41-326)

Requires the Gaming Control Board to investigate and initiate hearings by filing complaints with the Nevada Gaming Commission if satisfied that an entity has violated statutory or regulatory provisions relating to the tax on live entertainment. Increases potential penalties for such offenses to include revocation of an entity’s gaming license.

Fiscal effect: Yes, on State.

Effective: Upon passage and approval.

SB 10 – Refunds to Gaming Licensees – Requires 2/3 Majority

On behalf of State Gaming Control Board, introduced by Committee on Judiciary and referred to same. (BDR 41-330)

Existing law allows a gaming licensee to seek a refund of state gaming license fees or live entertainment taxes paid in excess of the amount required. This bill authorizes the State Gaming Control Board to determine, charge and collect a fee for the expenses of agents and employees of the Board engaged in reviewing a claim for such license fees or taxes. If a petition for redetermination is filed, no interest may be allowed or paid upon any contested part of the determination of deficiency that is paid before the date the order or decision of the Commission becomes final.

Effective: July 1, 2013.

SB 17 – Gaming License Fees Reporting and Payment Date Accelerated

On behalf of State Gaming Control Board, introduced by Committee on Judiciary and referred to same. (BDR 41-332)

Revises the date from the 24th to the 15th of the month following each quarter on which filings of reports and payments of fees related to gaming license fees and expired slot machine wagering vouchers are due from gaming licensees to the Gaming Commission.

Effective: Upon passage and approval for administrative tasks and July 1, 2013 for all other purposes.

Miscellaneous Taxes

AB 68 – Consolidated Tax (C-Tax): Changes to the Distribution Formula

On behalf of Legislative Commission’s Subcommittee to Study the Allocation of Money Distributed from the Local Government Tax Distribution Account, introduced by Committee on Taxation and referred to same. (BDR 247)

Clarifies that each apportioned payment of taxes by the Department of Taxation attributable to a fiscal year must be based upon the Governor’s certification made on or before March 1 immediately preceding the fiscal year for which the payment will be made. For the distribution of “excess” revenue as existed prior to July 1, 2013 the average percentage change will be based on the 5 calendar years immediately preceding the year the allocation is made. Changes the distribution formula in counties if money remains in the subaccount after the monthly distribution, and addresses distributions based on a factor of 0 or 1 plus. Changes the dates on which notice of and copies of actual cooperative agreements for alternate formulas for distribution from the Fund must be submitted to the Department of Taxation.

Fiscal effect: Yes, on State. May have impact on Local Government.

Effective: Upon passage and approval for administrative tasks, July 1, 2013 and July 1, 2014

Miscellaneous Taxes Continued

SCR 1 – Interim Study on Taxation of Services

On behalf of Nevada League of Cities and Municipalities, introduced by Committee on Legislative Operations and Elections and referred to same. (BDR R-260)

A committee of three Senators and three Assembly members appointed by the Legislative Commission is to conduct an interim study on the feasibility of imposing sales taxes on selected services in conjunction with an examination of neutrality that could be achieved by a corresponding lowering the rate of sales taxes. The Legislative Commission shall also appoint a five member advisory subcommittee to assist with the study, three to be nominated by Nevada League of Cities and two nominated by Nevada Association of Counties. A report is to be submitted to the 78th Legislative Session (2015) through the Legislative Commission. The committee and subcommittee are to be appointed as soon as practicable after July 1, 2013.

Comment: The advisory committee should include individuals who have experience in tax collection, for a real world perspective. Since the 1985 service census, more than 50% of Nevada's Gross Domestic Product has been service based. This study is needed.

Property Tax

AB 26 – Statutory Rate of Depreciation – Requires 2/3 Majority

On behalf of Nevada League of Cities, introduced by Committee on Taxation and referred to same. (BDR 32-258)

Reduces the statutory rate of depreciation applicable to improvements made on real property to 1 percent (from 1.5 percent) of the cost of replacement of the improvement for each year after 2012 for the purpose of determining the taxable value of the property. Restates the maximum rate of depreciation as 75 percent of replacement cost rather than 50 years.

Effective: Upon passage and approval for adopting regulations and July 1, 2014 for all other purposes.

Comment: This change is prospective. The rate of 1 ½ percent depreciation remains through December 31, 2012. The change to the rate of depreciation on the valuation of property occurs on January 1, 2013. Therefore, for purposes of any property taxes there is no change in the determination of any property tax imposed until after July 1, 2014. Additionally, the legislature will have before an amendment to the Constitution, AJR I of the 2011 session which, "Proposes to amend certain provisions of the Nevada Constitution related to the assessment and collection of property taxes to authorize the Legislature to provide by law for the calculation of the taxable value of improvements to real property upon the transfer, sale or conveyance of the property."

AB 66 – Property Tax: Board of Equalization Notifications

On behalf of the Department of Taxation, introduced by Committee on Taxation and referred to same. (BDR 301)

Provides that notice by the State Board of Equalization to increase the value of property in a proceeding to resolve an appeal or other complaint before the Board is limited to the interested persons.

Effective: Upon passage and approval.

SB 66 – Powers of Counties Over Property – Requires 2/3 Majority

On behalf of Esmeralda County, introduced by Committee on Government Affairs and referred to same. (BDR 20-225)

Expands authority of a board of county commissioners to property within the county in addition to property of the county and to recover costs for actions such as plowing private roads, graffiti removal from private property and nuisance property abatement.

Effective: January 1, 2014

AB 68 - Underground Utility Districts

Introduced by Senator Segerblom and referred to the Committee on Government Affairs

Requires the board of Clark County commissioners to create an underground utility district in the unincorporated areas of the county by ordinance which sets out the boundaries of the district. Provides for the governance, operation of the district. Authorizes the sale of general obligation bonds and the levying of a property tax rate to retire the bonds, if first approved by the voters of the district. Extends, but does not mandate that other counties may establish an underground utility district.

Fiscal effect: May have impact on local government.

Effective: Upon Passage and approval for preparatory tasks required and July 1, 2013 for all other purposes.

Sales Tax

AB 49 – Imposes Sales and Use Tax for Indigent Legal Defense Fund – Requires 2/3 Majority

On behalf of Nevada Association of Counties, introduced by Committee on Taxation and referred to same. (BDR 32-255)

Mandates the imposition throughout the state of a sales and use tax rate of $\frac{1}{8}$ of 1 percent for deposit, less the 1.75 percent state collection allowance, into a separate fund to be known as the indigent legal defense fund. Directs the State Controller to distribute the tax to the county in which it is collected. The county can only use money in this fund to pay for: (1) the county's public defender; (2) any amount required to be paid by the county to the State Public Defender; or (3) any other costs required to be paid by the county in connection with the provision of legal services to indigent persons. Additionally, it enables any Board of County Commissioners to impose an additional sales and use tax, not to exceed, of $\frac{1}{8}$ of 1 percent, to the state Fund for Legal Defense of Indigent Persons, by a two-thirds majority vote. A Board of Trustees of the Fund is created, made up of one county commissioner from each participating county that participates at the maximum level will administer the Fund and may reimburse a participating county for extraordinary costs paid by the county in providing indigent defense services.

Effective: July 1, 2013.

Comment: The sales and use tax rate in a county for this Fund could be $\frac{1}{4}$ percent if a county board of commissioners enacts the additional $\frac{1}{8}$ percent. Bills proposing to increase the rate of sales tax should be considered in concert with one another to determine the impact on the taxpayer. A sales tax rate that is too high in the eyes of a purchaser will prove the law of diminishing returns.

Tax Abatements

AB 32 – Tax Abatement Requirements and Conditions

On behalf of Nevada Association of Counties, introduced by Committee on Taxation and referred to same. (BDR 32-173)

Revises the conditions under which the Office of Economic Development or Office of Energy grant partial tax abatements to new or expanded or renewable energy businesses. Requires the business to agree to submit an annual attestation of compliance with those conditions and requires prior county approval of each application for such abatement. Provides that the levels of abatement and time periods are "not to exceed" the levels currently specified by statute. By October 1, 2013, each board of county commissioners is required to adopt an ordinance setting forth its policies and criteria for approval or denial of applications for these partial abatements and clarifies that such an ordinance is not subject to certain prerequisites by a local government of certain rules which affect businesses.

Fiscal effect: May have impact on local government.

Effective: July 1, 2013. The provisions of NRS 701A.300 and 701A. 390 (energy related tax incentives) expire by limitation on July 1, 2049.

AB 33 – Tax Abatements for Energy Efficient Buildings

On behalf of the Office of Energy, introduced by Committee on Commerce and Labor and referred to same. (BDR 58-280)

Requires the Director of the Office of Energy to grant a partial abatement of certain property taxes to any owner of an existing building or other structure who renovates the building or other structure to bring it into compliance with at least silver level standards of the Green Building Rating System adopted by the Director. Repeals existing provisions that restricted these abatements to certain manufacturers.

Fiscal effect: Yes, on State. May have impact on Local Government.

Effective: Upon passage and approval.

AB 38 – Tax Abatements for New and Expanded Businesses

On behalf of Office of Economic Development, introduced by Committee on Taxation and referred to same. (BDR 32-296)

Repeals provisions of existing statute that apply solely to a business that furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product. Makes various changes to other existing qualifications, including the number of employees required and requiring that any employees or capital investments used to qualify for the abatement must be retained at the location of the business for the first 5 years after the abatement becomes effective. If a partial abatement is approved for a business in a foreign trade zone, it can be for 1 to 15 years and cannot exceed 85 percent of personal property taxes payable by a business each year. Qualifications for a deferral of sales and use taxes due on purchases of capital goods is increased to \$1 million, with the requirement the property is maintained at the

Continued next page

Tax Abatements Continued

AB 38 continued

location of the business for the 5-year duration of the deferral. The taxpayer must begin making partial payments of the deferred taxes within one year after the deferral is granted.

Fiscal effect: Yes, on State. May have impact on Local Government

Effective: Upon passage and approval for regulations and July 1, 2013 for all other purposes. The provision for the abatement in a foreign trade zone expires on June 30, 2017. The amendatory provisions of sections 3, 4, 8 and 9 of the bill expire on June 30, 2032.

AB 61 – Tax Abatements: Economic Development

On behalf of Office of Economic Development, introduced by Committee on Taxation and referred to same. (BDR 18-291)

Amends existing statute so that entities whose cumulative partial tax abatements for the immediately preceding two years plus the partial tax abatement being requested equals \$250,000 or more, must seek approval by the Board of Economic Development. If the cumulative total equals less than \$250,000, approval may be given by the Executive Director of the Office of Economic Development. Changes the makeup of the Board to include the Director of the Department of Employment, Training and Rehabilitation instead of an appointee by that Department. Makes various changes to the designations and definitions of regional development authorities. Authorizes counties or incorporated cities to apply for a grant or loan from the Catalyst Fund. Abolishes the Interagency Committee for Coordinating Tourism and Economic Development and the Advisory Council on Economic Development

Effective: Upon passage and approval.

Tax Administration

SB 7 – Department of Taxation Technical Bulletins

On behalf of Department of Taxation, introduced by Committee on Revenue and Economic Development and referred to same. (BDR 299)

Requires the Executive Director of the Department of Taxation to prepare, publish and periodically revise technical bulletins that provide information to the public about issues related to their businesses, and to taxes administered by the Department. Such technical bulletins are for informational purposes only and are exempt from the provisions of the Nevada Administrative Procedure Act governing administrative regulations. The technical bulletins are to be submitted to the Nevada Tax Commission for approval before publishing.

Fiscal effect: Yes, on State, not identified at this time.

Effective: Upon passage and approval.

Vehicle and Fuel Taxes and Fees

AB 6 – Distribution of Tax on Special Fuels

On behalf of Nevada Association of Counties, introduced by Committee on Taxation and referred to same. (BDR 32-256)

Requires the State Treasurer to return 20 percent of each county's revenue from the taxation on special fuel to the respective county, exclusively for use in construction and maintenance of county roads. Minus the portion used to administer the Department of Motor Vehicles, the remainder of the revenue is to be credited to the Motor Vehicle Fund, to be used for construction and maintenance of public highways.

Effective: July 1, 2013.

Fiscal effect: Yes, on State.

AB 24 – Nevada 150th Anniversary License Plate – Requires 2/3 Majority

On behalf of Department of Motor Vehicles, introduced by Committee on Transportation and referred to same. (BDR 43-367)

Provides for issuance of a special Nevada sesquicentennial license plate with an initial special license plate issuance fee of \$7.50 in addition to all other applicable registration and license fees. The \$7.50 is to be distributed quarterly by the State Treasurer to the Nevada Cultural Affairs Foundation from the General Fund. Design and issuance of these plates are exempt from several existing law provisions relating to design, minimum number of applications and design approval.

Fiscal effect: Yes, on State.

Effective: Upon passage and approval.

FEES

NTA Policy Statement of Fee Financing of Public Services

- *Fee revenue should be used to finance specific services, licensing, or products provided to the fee payer by the governmental agency. Fees should not finance general governmental services that have a broad benefit to the general community, such as law enforcement, fire services, libraries and education. These are governmental services that are traditionally and appropriately financed by tax revenue.*
- *Fees should cover the cost of the service, license, or product and not exceed the costs reasonably borne by the government entity in providing the service or product, including overhead costs.*
- *Fee revenue should not be used to finance services other than those for which the fees are charged. If fees produce revenue greater than the amounts necessary to finance the indicated services, the fees should be reduced rather than transferred to other accounts for other uses.*

AB 20 – Department of Agriculture: Expands Use of Fees and Licensing Requirements - Requires 2/3 Majority

On behalf of State Department of Agriculture, introduced by Committee on Natural Resources, Agriculture, and Mining and referred to same. (BDR 50-321)

Moves the current fee schedule for the Livestock Inspection Account from NRS 571.035 to a new section in NRS 575. Amends the description of who may obtain certification as a producer of farm products other than livestock, livestock product or poultry and who may obtain a permit to sell these unprocessed products directly to consumers, restaurant or grocery store. Expands the purposes of expenditures from the Livestock Inspection Account and the Program for the Control of Pests and Plant Diseases. Fees based on the cost to the Department for performing the services are charged for certification inspection and permit issuance. Raises the required liability and property damage insurance for pest control license holders to \$50,000 from \$10,000 and amends the definition of who is required to hold a pest control license.

Fiscal effect: Yes, on State.

Effective: Upon passage and approval.

AB 54 – Justice Court Fees – Requires 2/3 Majority

On behalf of Nevada Supreme Court, introduced by Committee on Judiciary and referred to same. (BDR 1-388)

Increases the schedule of fees and expands the tiers of fees charged by each justice of the peace. Requires county treasurers to deposit 25 percent of fees received from the justice of the peace into a special county account maintained for the benefit of county justice courts. These funds are not to be used for existing budgets but, rather, for specific purposes such as land acquisition, construction, facilities improvement, furniture, technology, security enhancements and other uses in support of the county's justice system.

Effective: July 1, 2013

AB 60 – Nonprofit Corporation Fundraising - Requires 2/3 Majority

On behalf of Attorney General, introduced by Committee on Judiciary and referred to same. (BDR 7-217)

Requires every nonprofit corporation that intends to solicit tax-deductible contributions to annually register and file a financial statement (IRS Form 990 minus donor schedule) with the Secretary of State. Failure to file by the annual deadline will result in a \$50 delinquency fee and possible other penalties. Authorizes the Secretary of State to investigate transactions, solicitations and relationships of the nonprofit corporation to ensure purposes, solicitations, fiduciary responsibilities and existing laws are being adhered to. Registration information is to be available to the public on an internet website. Non-profit for the purpose of this bill is identified as section 170(c) of the Internal Revenue Code of 1986, 26 U.S.C. § 170(c).

Fiscal effect: Yes, on State.

Effective: January 1, 2014

FINES & PENALTIES**SB 21 – State Controller Procedures – Requires 2/3 Majority**

On behalf of State Controller, introduced by Committee on Government Affairs and referred to same. (BDR 31-379)

Makes various revisions to existing law setting procedures for the State Controller, including: any agency debt assigned to the Controller is to accrue interest at the current rate set by NRS 99.040; the State Controller is not required to refund overpayments of less than \$5 unless a written request is received within one year; licensing agencies shall not renew a professional license for a person listed on the Controller's list of persons who owe a debt to the State. Clarifies the costs and fees charged to debtors who owe in excess of \$300 to the State and authorizes the Controller to establish a fee to charge a payee who refuses electronic payment of an account payable. Authorizes fines of up to \$3,000 to be imposed on a contractual fiscal agent who makes payments to vendors not legally authorized in this State on behalf of the Public Employees Benefit Program or State Plan for Medicaid.

Fiscal effect: Yes, on State. May have impact on Local Government

Effective: July 1, 2013

SB 40 – Medical Laboratory and Personnel Licensing Requirements –Requires 2/3 Majority

On behalf of Health Division, introduced by Committee on Commerce, Labor and Energy and referred to same. (BDR 54-314)

Eliminates the requirement that an application for licensing a medical laboratory be made under oath and adds a requirement that proof of identity of laboratory director be provided. Removes the certification requirements for a medical laboratory assistant and requires them to be established by regulation of the State Board of Health. Clarifies that licensed medical professionals may perform waived tests without obtaining certification as an assistant in a medical laboratory. Increases the maximum administrative penalty for violation any of the provisions governing medical laboratories from a maximum of \$500 to "not more than \$10,000" for each violation. Money from an administrative penalty is deposited in the General Fund and may be accounted for separately and used by the Health Division to carry out provisions of this chapter. The Division may petition the State Board of Examiners to recommend the Interim Finance Committee approve funds to pay court costs, attorneys' fees and other matters related to collecting the administrative penalty.

Fiscal effect: Yes, on State.

Effective: Upon passage and approval for regulations and administrative tasks and January 1, 2014 for all other purposes.

Nevada Taxpayers Association

Legislative Report is published weekly during a legislative session. Occasional Reports are issued prior to the Legislative Session, which summarize prefiled bills.

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