

LEGISLATIVE REPORT

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

ISSUE 3-13

FEBRUARY 4, 2013 to FEBRUARY 8, 2013

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Notes:

- Page numbers continue from previous issue.
- This issue contains a summary of issues that have a substantial impact on State or local government budgets and bills that we believe are of general interest to our members, which were prefiled or were introduced commencing February 4.
- 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.”

VETOED BILLS RETURNED BY SECRETARY OF STATE

Per NRS 218D.685 if a bill is vetoed by the Governor within 10 days after the adjournment of the Legislature, it is returned to the next regular session of the Legislature by the Secretary of State. A two-thirds majority of each house is required to override the veto. The following bills have been delivered by the Secretary of State to their respective house of origin.

Note: An Asterisk () after the bill number indicates 2011 Session.*

AB 136* - Sentencing Credits. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Revises provisions governing credits for offenders sentenced for certain crimes.

AB 137* - Public School Nutrition. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Revises provisions governing programs of nutrition in public schools.

AB 152* - Highway Funding. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Creates a 24-month, eight-member advisory committee to make recommendations on funding highway projects.
AB 300* - Private Entities Providing Public Services. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Revises provisions governing foreclosures on property.

AB 301* - Felon Civil Rights. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Revises provisions governing the restoration of civil rights for ex-felons.

AB 416* - Renewable Energy. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Revises provisions governing certain programs for renewable energy.

AB 433* - Public Employees in Politics. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Expands prohibition on employers taking certain actions to prohibit, punish or prevent employees from engaging in politics or becoming candidates for public office with certain exceptions.

AB 550* - Interim Study: Ports of Entry. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Directs the Legislative Commission to conduct an interim study concerning state ports of entry.

AB 546* - Early Childhood Care and Education. *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*
Makes various changes to provisions governing early childhood care and education.

TAXES

Business Taxes

IP 1 – Union’s Margin Tax on Business – Requires 2/3 Majority

Delivered by the Secretary of State and introduced to the Assembly on February 4, 2013. Referred to Committee on Taxation.

This 53 page bill has 84 sections which deal with: definitions ranging from “affiliated groups” to “unitary business”; authority and administration of the tax; the rate of 2%; the calculation of the rate; returns, payment and refunds; and remedies for claims. The initiative also makes appropriations from the General Fund to the Department of Taxation to gear-up for imposing the tax and further increases the modified business tax on financial institutions, until the tax is imposed, to fund the department.

Position: Oppose. Let’s count the reasons this tax is *tax policy at its worst and does not work* – or not – as that would take too many pages. Suffice to say that (1) tax law should never be written by initiative, due to all the unintended consequences (2) it is designed to *get revenue, not work* (3) it ignores the fact that the state is still recovering from an economic downturn that was the worst in the United States and (4) it is *not* based on the ability to pay. For a summary of the myriad of problems associated with this tax, visit the NTA website – www.nevadataxpayers.org and go to “Publications” – “Tax Facts” – July 2012. Note: The summary contained in this issue is based on the first filing. This version (the second filing) removed the very controversial “confidentiality” provision contained in the first filing.

Gaming Taxes

AB 5 – Internet Gaming *Introduced on December 19, 2012*

On behalf of Gaming Control Board, introduced by Committee on Judiciary and referred to same. (BDR 41-331)

Removes the existing provision that a license to operate interstate interactive gaming does not become effective until it is permissible under Federal law. Authorizes the Governor to enter agreements with other states to allow patrons in those states to participate in interactive gaming.

Property Taxes

AB 75 –Property Tax Roll Publication: Clark and Washoe

Prefiled January 31, 2013. Sponsored by Assemblyman Aizley, et al (2 Co-Sponsors); Joint Sponsors: Senators Parks and Segerblom; referred to Committee on Taxation. (BDR (32-486)

Revises existing law to allow counties over 100,000 (Clark and Washoe) the option of publishing the annual property tax rolls on an internet web site maintained by the county assessor instead of in a general circulation newspaper. If the county chooses that option they must run a display ad advising taxpayers where they can obtain the information on the property tax roll.

Effective: July 1, 2013

Position: Support. This is not only a cost saving measure, but also recognizes that more people prefer to have access to information over the Internet.

AJR 1* - Property Tax Depreciation. *Introduced on 02/04/2013. Referred to Committee on Taxation.*

Note: The asterisk () indicates introduction and passage in the 2011 Session.*

Amends Article 10 of the Nevada Constitution to add a new section (11) as follows: “11. The Legislature may provide by law for the determination of the value of improvements to real property for the purposes of taxation upon the transfer, sale or other conveyance of the property as the Legislature determines to be appropriate.”

Comment: *A Constitutional Amendment that is originally proposed by the Legislature, must be passed a second time as originally introduced by the next regular session of the Legislature as well and then be presented to the voters in the next general election. Also see AB 26 on page 3 of Issue 1-13 “Statutory Rate of Depreciation.”*

Mining Taxes

SJR 15* - Net Proceeds of Mines Tax. *Introduced on 02/04/2013. Referred to Committee on Revenue and Economic Development. Note: The asterisk (*) indicates introduction and passage in the 2011 Session.*

Continued on next page

SJR 15 continued from previous page*

Deletes language from Section 1 of Article 10 of the Nevada Constitution to remove the exemption of mines and mining claims from the tax imposed on all other property. Repeals Section 5 of Article 10 of the Nevada Constitution establishing a separate tax on the net proceeds of mines.

Comment: See AJR1 under "Property Taxes" on page 14 of this issue.

FEES
AB 74 – Document Preparation Services Registration- Requires 2/3rd Majority

Prefiled January 31, 2013. Sponsored by Assemblywoman Flores, referred to Committee on Judiciary. (BDR 19-84)

Requires a "document preparation service", i.e., any person providing advice or assistance in a legal matter for compensation, to register annually with the Secretary of State. Sets a \$300 application fee plus other fees to be determined and a \$100 annual renewal fee. The term "legal matter" encompasses wills, trusts, immigration, and any other matter affecting the legal rights, duties, obligations or liabilities of a person. Other provisions set qualifications, a bond of \$50,000, contract requirements, penalties and sentences. Excludes licensed attorneys and their employees, governmental entities and their employees, non-profits providing free legal services, certain legal aid and referral services, and others including licensed accountants, architects, etc.

Fiscal Effect: Yes, on State. On Local Government: increases or creates term of imprisonment in county or city detention facility.

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

BUSINESS RELATED ISSUES
SB 87 – Discrimination for Use of Lawful Substances

Prefiled February 1, 2013. Sponsored by Senator Hardy, referred to Committee on Commerce, Labor and Energy. (BDR 53-104)

Repeals the prohibition against discrimination by an employer based upon an employee's or prospective employee's lawful use of any product outside the premises of the employer during his or her nonworking hours which does not adversely affect his or her job performance or the safety of other employees.

Effective: July 1, 2013

Comment: It would appear that this would allow an employer to not hire an employee who smokes or drinks.

SB 95 – Employee Misclassification Task Force

Introduced by Committee on Commerce, Labor and Energy and referred to same. (BDR 53-580)

Creates a 10-member Task Force on Employee Misclassification that is to meet at least twice a year. Members include the Labor Commissioner, Administrators of the Division of Industrial Relations and Employment Security Division, the Executive Director of Department of Taxation or his designee, and the Attorney General or his designee as ex-officio members. Five members representing employers, organized labor, independent contractors and the general public are to be appointed by the Legislative Commission from recommendations by the Governor and Legislative Leadership. Requires the offices of the Labor Commissioner, the Division of Industrial Relations, the Employment Security Division and Rehabilitation, the Department of Taxation and the Attorney General to share amongst their respective offices information relating to suspected employee misclassification that is received in the performance of their official duties.

Fiscal Effect: Yes, on State.

Effective: Upon passage and approval and July 1, 2013.

SB 96 - Misclassification of Employee as Independent Contractor: Administrative Penalty

Introduced by Committee on Commerce, Labor and Energy and referred to same. (BDR 53-579)

Authorizes the Labor Commissioner to impose an administrative penalty against an employer who misclassifies an employee as an independent contractor. First offense fines are \$250 to \$1,000 for each unintentional misclassification and \$5,000 to \$15,000 for each willful misclassification. Second offense fines are at least \$15,000 but not more than \$25,000 per misclassification. Third or subsequent offenses carry a \$25,000 per person fine and possible suspension of

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SB 96, continued from previous page

the business license for up to 3 years. Posted notices of the employer's industrial insurer must now include prominent definitions of "Employee" and "Independent Contractor." Persons misrepresenting themselves to an employer or his agent is liable in a civil action for fines of not more than \$5,000 for first offenses, up to \$15,000 for a second occurrence and not more than \$25,000 for a third of subsequent occurrence plus three times the amount of reasonable expenses incurred by the State in the enforcement and any money. Collected goes toward expenses of the Fraud Control Unit for Industrial Insurance and does not revert to the General Fund.

Fiscal Effect: Yes, on State

SJR 2 – Minimum Wage Modification

Prefiled February 1, 2013. Sponsored by Senator Hardy, referred to Committee on Legislative Operations and Elections. (BDR C-473)

Proposes to amend Section 16 of Article 3 15 of the Nevada Constitution to abolish the requirement that employers who do not provide health benefits to employees pay a minimum wage \$1.00 per hour higher.

LOCAL GOVERNMENT**AB 78 – Deposits of County Funds in Insured Accounts**

Prefiled February 1, 2013. Sponsored by Assemblyman Hickey, referred to Committee on Government Affairs. (BDR 31-664)

Amends existing law to ensure County Treasurers deposit county funds into insured accounts of institutions in their respective county or the State and directs that if the funds in an account exceed the insured deposit limit, an additional insured account must be opened for the excess deposited amount.

Effective: July 1, 2013

LEGISLATURE**AB578*-Interim Committee Structure.** *Introduced on 02/04/2013. Placed on Chief Clerk's Desk.*

Revises the interim committee structure of the Legislature to create Joint Interim Standing Committees that parallel standing committees established by the Legislature during its biennial regular sessions. .

Comment: See AJR1 under "Property Taxes" on page 14 of this issue.

COURTS**SJR 14* - Appellate Court.** *Introduced on 02/04/2013 and referred to Committee on Judiciary. Note: The asterisk (*) indicates introduction and passage in the 2011 Session.*

Proposes to amend the Nevada Constitution to create an intermediate appellate court.

Comment: See AJR1 under "Property Taxes" on page 14 of this issue.

GENERAL INTEREST**AB 77 – Former Legislators Wait Period before Lobbying**

Prefiled February 1, 2013. Sponsored by Assemblyman Hickey, referred to Committee on Legislative Operation and Elections. (BDR 17-436)

Prohibits a former State Legislator from receiving compensation or other consideration to serve as a lobbyist to the Legislature for two years after leaving office.

SB 88 – Vehicle Insurance: Notice of Cancellation of

Prefiled February 1, 2013. Sponsored by Senator Hardy, referred to Committee on Commerce, Labor and Energy. (BDR 57-109)

Changes to at least 14 days the amount of notice insurers are required to provide to insured parties of the intent to cancel motor vehicle insurance for non-payment of premiums. For uniformity, increases the timing of such notice to the Department of Motor Vehicles to the same time frame. Notice of intent to cancel required for all other insurance policies remains at 10 days.

Effective: July 1, 2013

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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