

LEGISLATIVE REPORT

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

ISSUE 6-11

FEBRUARY 28 THROUGH MARCH 4, 2011

PAGE 43

NOTES:

- Page sequence continues from last issue.
- Unless otherwise identified, the effective default date is October 1, 2011
- For the purpose of this report, the “fiscal effect: shown is taken from the “Fiscal Note” which can be found on the Legislative website.
- To access bills go to www.leg.state.nv.us - “session information.”

TAXES

AB 218 - Tax on Bottled Water - Requires 2/3 Majority

Sponsored by Assemblyman Segerblom, et al (3 co-sponsors); referred to Assembly Committee on Taxation. (BDR 32-542)

Amends NRS 360B* to remove “bottled water” from the definition of food for human consumption, making it subject to sales tax. This includes bottled water that contains Fluoride, carbonation, vitamins, minerals, electrolytes, oxygen, preservatives, and flavors, extracts, or essences derived from spice or fruit, as well as water delivered to the buyer in reusable containers not sold with the water.

Effective: July 1, 2011

NTA Comment: The taxation of food was exempted by the voters from the State’s portion of the sales and use tax (NRS 372) and the analogous chapters in 1980.

NTA Position: Oppose. We can appreciate wanting to obtain more revenue for the State. However, in establishing what food would be exempt from the sales tax, it was determined the definition would be “food that could be purchased with food stamps”, which includes water. Because this is an exemption to NRS 372, which was approved by referendum, according to Nevada’s Constitution it can only be changed by the voters.

*NRS 360B, the chapter used to remove the exemption for water by this bill was created in 2001 to deal with the administrative provisions of the Streamlined Sales Tax Act.

SB 199 - Waiver of Payroll Taxes for New Hires

Sponsored by Senator Settelmeyer, et al (4 co-sponsors); Joint Sponsor: Assemblyman Stewart; referred to Senate Committee on Revenue. (BDR 32-332)

Authorizes employers, including financial institutions, to deduct wages paid to newly hired employees for the first year of their employment from the total amount of wages reported for payroll tax purposes, if certain conditions are met.

Effective: July 1, 2011

NTA Position: Support. This bill can be considered a “Jobs bill,” because it provides an incentive to employers to consider hiring additional employees. It is not a loss of budgeted revenue, as the rate of unemployment has been considered in the revenue projections of the modified business tax.

SB 203 - Over-the-Counter Drugs Reclassified

Sponsored by Senator Leslie; referred to Senate Committee on Health and Human Services. (BDR 40-648)

Directs the State Board of Pharmacy to designate ephedrine, pseudoephedrine and phenylpropanolamine (commonly used in cold medications) as controlled substances, schedule III, regardless of the amount contained in a product, meaning a prescription is needed to purchase medications containing these elements.

Effective: Upon passage and approval

NTA Position: Concern Making the sale of ephedrine, pseudoephedrine and phenylpropanolamine a controlled substance that may only be purchased by the ultimate user with a prescription will cause a loss of sales tax revenue for the State and local governments. Nevada governments cannot afford any loss of revenue at this time.

SJR 7 - Property Tax Limits

Sponsored by Senator Gustavson, et al (3 co-sponsors); Joint Sponsors: Assemblyman Goedhart, et al (6 co-sponsors); referred to Senate Committee on Legislative Operations and Elections. (BDR C-17)

Fiscal Effect: Yes, on State. May have impact on local government.

This amendment to the Nevada Constitution limits the amount of property taxes which may be cumulatively levied per year on real property to 1 percent of the base value of the property. Additionally, this amendment provides that: (1) if one-half or more of the ownership interest in certain real property is transferred, the base value of the property becomes the cash value of the property on the date the ownership interest is transferred; (2) an improvement to real property increases the base value of the property by the cash value of the improvement, unless the improvement replaces certain improvements which were destroyed, protects the safety of the occupants or improves accessibility to persons with disabilities; (3) the base value of real property cannot increase from year to year by more than 2 percent, except as otherwise provided in this amendment; (4) an owner domiciled in Nevada who has attained the age of 62 years may transfer the base value of his or her principal residence to a new residence of comparable value; and (5) an owner whose real property is taken by the exercise of eminent domain may transfer the base value of the condemned property to a new property of comparable value.

NTA Position: Oppose. This bill is almost a duplicate of the 2004 initiative petition and has numerous problems, just a couple of which are 1) voters have also approved a pay-as-you-go property tax rate for school construction in Elko County; and 2) a property tax rate for manpower in the Clark County Metropolitan Police District. However, these voter-approved rates are not exempt from the caps imposed by this legislation as are general obligation bonds.

FEES

AB 231 - Repeal of Concealed Firearm Law

Sponsored by Assemblyman Goedhart, et al (10 co-sponsors); referred to Assembly Committee on Judiciary. (BDR 15-894)

Removes firearms from the list of weapons which a person is prohibited from carrying in a concealed manner, and repeals all provisions governing permits to carry concealed firearms.

AB 232 - Department of Transportation Fees: Payment Plan

Sponsored by Assemblywoman Woodbury, et al (16 co-sponsors); Jointly sponsored by Senator Hardy, et al (2 co-sponsors); referred to Assembly Committee on Transportation. (BDR 58-868)

Operators of combination vehicles exceeding 70 feet in length and 80,000 pounds are required to pay an annual fee to obtain a special permit from the Department of Transportation. This requires the Department to adopt regulations creating a schedule of amounts and dates for installment payments of these fees.

Effective: Upon passage and approval for adopting regulations and administrative tasks and January 1, 2012 for all other purposes.

SB 214 - Boulder City Toll Road - Requires 2/3 Majority

Sponsored by Senator Hardy, et al (2 co-sponsors); Joint Sponsors: Assemblymen Stewart and Hardy; referred to Senate Committee on Transportation. (BDR S-842)

Requires the Department of Transportation to establish a demonstration project for a toll road in connection with the Boulder City Bypass Project. The demonstration project must be and remain a public highway owned by the Department but the Department is to enter into contracts with one or more public-private partnerships for planning, designing, financing, constructing, improving, maintaining, operating or acquiring rights-of-way for the project. The Board of Directors of the Department is to establish or include in a public-private partnership: (1) a schedule of tolls for the use of the demonstration project or a methodology for establishing such a schedule; and (2) administrative fines and other penalties for nonpayment of tolls. Toll money collected, after covering costs of administration, construction, maintenance and repair of the demonstration project, is to be deposited in the State Highway Fund. The bill also includes detailed provisions on the public-private partnership arrangements, reporting requirements, and others.

Effective: July 1, 2011

NTA Position: Support. Given the shortfall of transportation funding available, this provides another mechanism that can be utilized to fund roads.

BUSINESS ISSUES**SB 206 - Lobbyist Reporting Requirements**

Sponsored by Senator Leslie and referred to Senate Committee on Legislative Operations and Elections. (BDR 17-1004)

Directs registered Lobbyists to file quarterly reports of lobbying expenditures during the interim period between Legislative Sessions in addition to the existing requirement of filing monthly during a Session. Expenditures over \$50 in any interim quarter require itemized filings.

Effective: Upon passage and approval

SB 207 - Penalties for Employee Misclassification

On behalf of the Legislative Commission's Subcommittee to Study Employee Misclassification, introduced by the Senate Committee on Commerce, Labor and Energy and referred to same. (BDR 53-165)

Fiscal Effect: Yes, on State.

Authorizes the Labor Commissioner to impose administrative penalties on employers who misclassify an employee as an independent contractor, regardless of the employer's intent, as follows: For a first offense, \$5,000 to \$15,000 per employee misclassified; second offense, \$15,000 to \$25,000 per employee misclassified; third or subsequent offense, at least \$25,000 per employee misclassified and the Secretary of State may revoke the employer's business license for up to three years.

NTA Comment: As this bill imposes an administrative assessment it appears it would require a 2/3 majority vote. See page 1 of first issue of Legislative Report (Issue 1-11) to see the constitutional language requiring a 2/3 vote.

SB 208 - Task Force on Employee Misclassification

On behalf of the Legislative Commission's Subcommittee to Study Employee Misclassification, introduced by the Senate Committee on Commerce, Labor and Energy and referred to same. (BDR 53-164)

Creates a 10-person Task Force on Employee Classification, including representatives of the Labor Commission, the Division of Industrial Relations of the Department of Business and Industry, the Employment Security Division of DETR, the Department of Taxation, and Attorney General (all of which are also instructed to communicate information with each other about suspected abuses), and other representatives. The Task Force shall review employee misclassification policies and practices of the government entities named above, any fines, penalties or disciplinary actions authorized to be imposed by a state agency, and develop recommendations for policies, practices or legislation to reduce the incidence of employee misclassification. Findings are to be reported to the Legislative Counsel Bureau by July 1 each year beginning in 2012.

Effective: Varies by section from upon passage and approval to July 1, 2011.

PUBLIC EMPLOYEE COMPENSATION**AB 216 - Employee Benefits for Merged Law Enforcement Agencies**

Sponsored by Assemblyman Kirner, et al (14 Co-Sponsors); Jointly Sponsored by Senator Gustavson, et al (2 Co-Sponsors); referred to Assembly Committee on Government Affairs. (BDR 22-644)

Deletes the provision that when local (county or city) law enforcement agencies merge on or after October 1, 2011, the most generous employee benefit plan of the merged entities will apply to all. Instead, the employee benefits that are in effect for the employees of each merging law enforcement agency immediately before the merger will continue to be the benefits for those employees after the merger until the earlier of: (1) the date on which the agreement that established those benefits is set to expire; or (2) the date on which a negotiated agreement that establishes the benefits applicable to all employees of the department becomes effective. Does not apply to mergers initiated, but not completed, on or before October 1 if all participating political subdivisions have adopted ordinances providing for the merger and those ordinances are in effect on or before October 1, 2011, and, if the merger involves an existing metropolitan police department, its committee on financial affairs has unanimously consented to the merger.

Effective: October 1, 2011

NTA Position: Support. Requiring the most liberal benefits to become the new contract, acts as a disincentive to merge, because personnel costs are the most expensive part of government.

EDUCATION**AB 220 - Evaluation of Education Courses and Facilities**

Sponsored by Assemblyman Ocegüera, et al (26 co-sponsors); Jointly Sponsored by Senator Leslie, et al (2 co-sponsors); referred to Assembly Committee on Education. (BDR 34-725)

Encourages the Board of Regents of the University of Nevada to: (1) analyze the function, strengths and most efficient use of the facilities, resources and staff of each institution within the System; (2) analyze the educational opportunities, programs and services offered by those institutions; and (3) take steps to ensure the educational needs of students and prospective students will be met in the most economical and efficient manner possible, including revising the courses of study offered at the various institutions so that programs of remedial education, continuing education and entry-level higher education are conducted at community colleges within the System; programs of baccalaureate-level higher education for teachers and nurses and other related medical fields are conducted at state colleges within the System; and programs of baccalaureate-level higher education in other disciplines and graduate-level higher education and research are conducted at universities within the System and the Desert Research Institute.

Effective: July 1, 2011

NTA Comment: This concept was proposed by NTA as Recommendation #55 in its June, 2010 *Nevada Issues*, "Spending Reforms for Nevada".

AB 222 - Teacher Evaluation; Advisory Council

Sponsored by Assemblywoman Smith, et al (18 co-sponsors); Jointly sponsored by Senators Horsford and Leslie; referred to Assembly Concurrent Committees on Education and Ways and Means. (BDR 34-873)

Fiscal Effect: Yes, on State. May have impact on local government.

Creates a permanent 16-member Teachers and Leaders Council of Nevada to make recommendations to the State Board of Education on a statewide performance evaluation system for teachers and administrators. By July 1, 2013, the evaluation system created by the Board is to include a 50 percent value of reports on pupil achievement generated by the State's automated system of accountability information and to use evaluation categories for teachers and administrators of: "highly effective," "effective," "minimally effective" or "ineffective," rather than the current "satisfactory" or "unsatisfactory."

Effective: July 1, 2011 and July 1, 2013 depending on the section.

AB 229 - Accountability: Education Personnel and Districts

Sponsored by Assemblyman Ocegüera, et al (19 co-sponsors); referred to Assembly Committee on Education. (BDR 34-515)

Fiscal Effect: Yes, on State. May have impact on local government

Presents a number of adjustments to provisions covering school reporting and evaluating personnel. Requires the Department of Education and boards of each school district to include the number and percentages of teachers, administrators and support staff for each school. Requires each school district board to develop a program of performance pay and enhanced compensation to retain licensed teachers and administrators beginning with the 2014-15 school year. Revises evaluation categories for personnel to "highly effective," "effective," "minimally effective" or "ineffective," as of July 1, 2013, and revises guidelines for disciplinary measures, suspensions and dismissals. Increases teacher probationary period from 2 one-year periods with the second year of probation waived for satisfactory performance, to 3 one-year periods with no waivers.

Effective: Varies from July 1, 2011 to July 1, 2013

NTA Position: Amend. According to the language of the bill in Section 8. 1. "The board of trustees of each school district shall: (a) Establish a program of performance pay and enhanced compensation for the recruitment and retention of licensed teachers and administrators which must be negotiated pursuant to chapter 288 of NRS;" Why would there not be a state-wide standard for performance pay and enhanced compensation? Why should "performance pay" be subject to the local government employee bargaining act, which could result in 17 District variations depending on how negotiations are handled.

SB 212 - State Board of Charter Schools

Introduced by the Senate Committee on Education and referred to same. (BDR (34-900)

Fiscal Effect: Yes, on State.

Creates the State Board of Charter Schools and moves authority to sponsor charter schools from the State Board of Education to this new entity, as well as duties, responsibilities, regulatory authority and reporting requirements related to charter schools that now sit with other bodies, including school boards. Repeals the State Board of Education Subcommittee on Charter Schools. Members of the State Board of Charter Schools are to be appointed by the Governor and Legislative leadership.

Effective: Upon passage and approval for regulations and administrative tasks and July 1, 2011 for all other purposes.

LOCAL GOVERNMENT**AB 216 - Employee Benefits for Merged Law Enforcement Agencies**

See "Public Employee Compensation" heading on page 45 for bill summary.

STATE APPROPRIATIONS**SB 216 - Reading Skills Development Centers**

Introduced by the Senate Committee on Education and referred to same. (BDR 34-1098)

Fiscal Effect: On State, contains appropriations **not included** in the Executive Budget.

Establishes a Reading Skills Development Center at both University of Nevada Reno and Las Vegas, with each school receiving \$1,000,000 from the State Supplemental School Support Fund to cover use of these Centers. The Centers are to assist school districts in assessing reading, literacy and language acquisition barriers in Grade 1, 2, and 3 pupils. Assessment and intervention services are also to be available to pupils in all other grades of public schools. Each Center is also to provide professional development programs on these subjects to school district teachers.

Effective: July 1, 2011

NTA Comment: Interesting that each University is given \$1 million dollars, yet the Southern end of the State has the majority of students and proportionately would be expected to have the majority of students requiring reading assistance.

SB 219 - Unemployed Workforce Skills Assessments

Sponsored by Senators Horsford and Kihuen; Jointly Sponsored by Assemblywomen Kirkpatrick and Smith; referred to Senate Select Committee on Economic Growth and Employment. (BDR 18-936)

Fiscal Effect: On State, contains appropriations **not included** in the Executive Budget.

Upon passage and approval, appropriates from the State General Fund \$350,000 to the College of Southern Nevada and \$60,000 to Truckee Meadows Community College to perform skills assessments of unemployed persons to determine the training that might be appropriate to help such persons become employed in industries having the highest potential for growth in this State. These appropriations are for the current biennium and the unused funds as of June 30, 2011 must revert to the State General Fund before September 20, 2011. This is to be done in conjunction with the Employment Security Division of the Department of Employment, Training and Rehabilitation and the Department's Workforce Investment Act partners.

Effective: Upon passage and approval

GENERAL INTEREST**AB 215 - Utility Rate Adjustments**

Introduced by the Assembly Committee on Commerce and Labor and referred to same. (BDR 58-593)

Allows public gas and electric utilities to apply for authorization to adjust rates, within limits, on a quarterly basis. If such authorization is given by the Public Utilities Commission, the annual applications for adjustment by these utilities is subject to additional scrutiny before any further rate changes are considered or approved.

SB 206 - Lobbyist Reporting Requirements

Sponsored by Senator Leslie and referred to Senate Committee on Legislative Operations and Elections. (BDR 17-1004)

Directs registered Lobbyists to file quarterly reports of lobbying expenditures during the interim period between Legislative Sessions in addition to the existing requirement of filing monthly during Sessions. Expenditures over \$50 in any interim quarter require itemized filings.

Effective: Upon passage and approval

SB 220 - Kenny C. Guinn Memorial Millennium Scholarship

Sponsored by Senator Kieckhefer, et al (20 co-sponsors); Jointly sponsored by Assemblyman Ocegueda, et al (41 co-sponsors); referred to Senate Committee on Finance. (BDR 34-594)

To the extent of available money, creates an annual scholarship using memorial donations honoring Governor Guinn that are currently being held in a special account. The single, annual recipient is to be a high school senior who is receiving

SB 220 - Kenny C. Guinn Memorial Millennium Scholarship - *continued*

the Millennium Scholarship, attending a Nevada college or university, majoring in elementary or secondary education and meets certain other criteria. The annual scholarship cannot exceed \$4500 and is to pay educational expenses not covered by the Millennium Scholarship.

Effective: July 1, 2011

STUDIES**SB 211 - Common Core State Standards in Public Schools**

Introduced by the Senate Committee on Education and referred to same. (BDR S-1099)

Requires the Legislative Committee on Education to conduct a study to determine the extent to which: (1) the curriculum and instruction for kindergarten through grade 12 in the public schools in this State is adapted to the Common Core State Standards; (2) teachers and other licensed educational personnel are afforded sufficient professional development opportunities and resources to aid in the transition process to the Common Core State Standards; and (3) a plan and time line are in place for aligning Nevada's assessment system for the public schools with the Common Core State Standards. The study is to be done in consultation with the Nevada STEM Education Coalition, is a statewide group dedicated to improving education in science, technology, engineering and mathematics in Nevada. The Committee is to submit a report of the results and any recommendations for legislation to the Director of the Legislative Counsel Bureau on or before February 1, 2013, for transmittal to the 77th Session of the Nevada Legislature.

Effective: July 1, 2011

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.

CARSON CITY OFFICE
116 East 7th Street, Suite 202, 89701
775-882-2697

LAS VEGAS OFFICE
2303 East Sahara Avenue, Suite 203, 89104
702/457-8442

www.nevadataxpayers.org