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MEMORANDUM

DATE: December 18, 2015

TO: Members of the 29th Special Session of the Legislature

FROM: Joe Reel, Deputy Fiscal Analyst
Fiscal Analysis Division

SUBJECT: **Fiscal Note for Senate Bill 1 – Additional Responses**

Subsequent to the issuance of the fiscal note on Senate Bill 1, the following fiscal impact statements were submitted to the Fiscal Analysis Division.

STATE GOVERNMENT RESPONSES

Department of Conservation and Natural Resources

There would be no additional fiscal impact required by the bill. Although we will certainly incur costs associated with processing any of the subject water right applications that fall within our normal cost of doing business.

Jason King, State Engineer
Division of Water Resources

LOCAL GOVERNMENT RESPONSES

Nevada Association of Counties (on behalf of its member counties)

Senate Bill 1 allows the Office of Economic Development (Office) to approve applications for partial abatements of certain taxes for mid-tier projects with new capital investments of at least \$1 billion over a 15-year period. The partial abatements that fiscally impact local governments include the abatement of 75% of property taxes for 10 years and 100% of

sales and use taxes for 15 years. If property and sales taxes are abated, these are revenues that will not be collected by local governments for a period of up to 15 years in the case of property taxes, and up to ten years for sales and use taxes. While SB 1 would have a fiscal impact on a county that hosts a qualified project, the exact amount of any impact cannot be quantified; however, as an example, a simple calculation on a \$1 billion project investment would generate annual property taxes (based on Clark County's countywide property tax rate) of \$1.7 million annually. With an abatement of 75% of property taxes, it can be estimated that that county would not receive approximately \$1,275,000 annually in property tax revenues for the next 10 years. This amount is much higher if the property taxes of other local jurisdictions within the county are factored into the calculation. Additionally, it can be assumed that local governments would not collect property tax revenue on the remaining 25% in unabated property taxes, as these revenues may be pledged to pay for debt service on infrastructure in a tax increment area or special district, as authorized in Sections 19-29 of the bill. As for the fiscal impact to a host county from the sales and use tax abatements, the amount cannot be quantified as there are too many unknown variables.

Section 15 of SB 1 allows the Office to require that all or a portion of the abated taxes be remitted by the applicant and deposited into a trust fund until all or a portion of the requirements for the abatement are met. This language is prudent in that it provides for assurances that the requirements for partial abatements are met before distribution of the abatements; however, Section 15, paragraph 3 states that the Office of Economic Development "may" require participants to pay abated taxes into a trust fund, rather than "shall" require participants to pay abated taxes into a trust fund.

Sections 37 and 40 of the bill provide that the economic development financing agreement may be modified at any time by the Office of Economic Development "without the consent of the governing body". This provision could have a fiscal impact to counties if the changes result in, for example, an extension of the life of the district or otherwise impact property tax revenue to the county. If local governments are required to assess, collect, and remit tax revenues for tax increment and special districts under NRS Chapters 271, 271A, and 278C, the entities should consent to any changes related to the financing agreement.

Jeff Fontaine, Executive Director

Elko County

Upon a general review of the bill it appears that it has the potential to fiscally impact Elko County particularly as it relates to the mining industry.

Section 15 of the bill allows for an abatement of 75% of all property taxes for up to ten years and 100% of local sales and use taxes for up to 15 years. For Elko County the loss of these revenue resources would severely impact the County's ability to provide services such as: police, jail, fire, and streets & highways etc. Additionally, it is the State Office of Economic Development that would approve these abatements within Elko County with absolutely no consideration given to the governing authority of Elko County. It appears that the local government should have the ability to approve any possible abatement prior to the State Office of Economic Development due to the serious nature of the fiscal impact to governmental services.

Section 16 of the bill provides amendments that enable and provide the State Engineer the authority to expedite water rights application and/or transfers without full due process and requirements as provided in NRS 533.370. This would also negate the statute that allows the respective county the authority to veto, block or tax an inter-basin transfer. Effectively giving the State Engineer all-inclusive authority regardless of existing rights or adjudications.

(a) Whether the applicant has justified the need to import the water from another basin;

(b) If the State Engineer determines that a plan for conservation of water is advisable for the basin into which the water is to be imported, whether the applicant has demonstrated that such a plan has been adopted and is being effectively carried out;

(d) Whether the proposed action is an appropriate long-term use which will not unduly limit the future growth and development in the basin from which the water is exported; and ...

This provision would permit an application to be processed and approved (in my opinion) even if a basin is over allocated or an area designated by the State Engineer as an area or basin of critical concern and requiring critical management policy.

(a) The State Engineer is not required to consider the factors identified in paragraphs (a) to (d), inclusive, of subsection 3 of NRS 533.370 when acting on the application.

Additionally, there is a provision that will limit or restrict due process of authority. Meaning that NRS permits anyone the ability to protest an application or transfer even without a vested right. This provision will "only" permit a person or entity the right to protest or appeal if they hold a valid water right of an earlier priority in the specific basin or basins affected.

(b) Any action taken by the State Engineer with regard to the application or any permit issued as a result of the approval of the application is subject to protest and appeal only by a person who holds a right of earlier priority in such a basin or basins.

Cash Minor, Assistant County Manager/CFO

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