ASSEMBLY BILL NO. 174–COMMITTEE ON TAXATION

FEBRUARY 9, 1999

(ON BEHALF OF DOUGLAS COUNTY)

Referred to Committee on Taxation

SUMMARY—Authorizes board of county commissioners of Douglas County to impose local sales and use tax. (BDR S-593)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

AN ACT relating to Douglas County; authorizing the board of county commissioners of the county to impose a local sales and use tax for libraries, airports, facilities and services for senior citizens and parks and recreational programs and facilities; authorizing the board to issue bonds and other securities to fund libraries, airports and facilities and services for senior citizens; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. This act may be cited as the Douglas County Sales and Use Tax Act of 1999.

Sec. 2. The legislature hereby finds and declares that:

1. The enactment of the Douglas County Lodgers Tax Law, chapter 639, Statutes of Nevada 1969, at page 1250, provided Douglas County with a unique means to finance airport, recreational and combined facilities by the imposition and collection of an occupancy tax;

2. The enactment of the Tahoe-Douglas Visitor's Authority Act, chapter 496, Statutes of Nevada 1997, at page 2375, redirected the expenditure of the revenue from the occupancy tax from airport, recreational and combined facilities to the promotion of tourism and the construction and operation of a convention center in the Tahoe Township of Douglas County;

3. The Tahoe-Douglas Visitor's Authority Act made no provision for an additional tax to replace the revenue from the occupancy tax needed to finance airport, recreational and combined facilities in Douglas County;

4. A majority of the voters in Douglas County approved at the 1998 primary election an increase in the sales tax of one-quarter of 1 percent for the acquisition, development, operation and maintenance of libraries, airports and facilities and services for senior citizens and for the operation and maintenance of parks and recreational programs and facilities;

5. The necessity for this act results from:

(a) The small, but growing, population of Douglas County;

(b) Its geographical location on the border of the densely populated State of California and on a portion of Lake Tahoe;

(c) Its natural tourist attractions and its availability to tourists; and

(d) Its atypical financial problems resulting from the foregoing and other singular factors;

6. A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this state, the unique growth patterns occurring in Douglas County and the special financial conditions experienced in the county related to the need to acquire, develop, operate and maintain libraries, airports, and facilities and services for senior citizens and to operate and maintain parks and recreational programs and facilities; and

7. The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, terms used or referred to in this act have the meanings ascribed to them in chapter 372 of NRS, as from time to time amended, but the definitions in sections 4 to 16, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

Sec. 4. "Act" means the Douglas County Sales and Use Tax Act of 1999.

Sec. 5. "Airport" means an airport or airports and air navigation facilities that are owned, acquired, developed, operated and maintained by the county pursuant to chapter 496 of NRS, as from time to time amended.

Sec. 6. "Board" means the board of county commissioners of Douglas County.

Sec. 7. "County" means Douglas County.

Sec. 8. "County treasurer" means the county treasurer of Douglas County.

Sec. 9. "Department" means the department of taxation created pursuant to NRS 360.120.

Sec. 10. "Facility for senior citizens" means personal property and improvements to real property that are designed to meet the recreational, cultural, leisure or nutritional needs of senior citizens, or any combination thereof, and all appurtenant or customary facilities and uses associated therewith.

Sec. 11. "Library" means:

1. A county library established, operated and maintained by the county pursuant to NRS 379.010; and

2. A district library established, operated and maintained by the county pursuant to NRS 379.021.

Sec. 12. "Park" means real property and any improvements made thereon that are designed to serve the cultural, leisure, recreational and outdoor needs of natural persons.

Sec. 13. "Recreational facility" means personal property and improvements to real property for athletic, cultural and leisure activities and all appurtenant or customary facilities and uses associated therewith.

Sec. 14. "Recreational program" means a program that is designed to provide athletic, cultural or leisure activities to members of the general public.

Sec. 15. "Senior citizen" means a person who:

1. Is 65 years of age or older; or

2. Has a physical or mental limitation that restricts his ability to provide for his recreational, cultural, leisure or nutritional needs.

Sec. 16. "Services for senior citizens" means services that are designed to meet the recreational, cultural, leisure or nutritional needs of senior citizens.

Sec. 17. 1. The board may enact an ordinance imposing a local sales and use tax to:

(a) Acquire, develop, construct, equip, operate, maintain, improve and manage libraries, airports, and facilities and services for senior citizens located in the county; and

(b) Operate and maintain parks and recreational programs and facilities located in the county.

2. Annually, the board shall allocate the proceeds from the tax imposed pursuant to this section from the preceding fiscal year, the interest and other income earned on those proceeds, and any amount carried forward pursuant to subsection 3, among the uses set forth in subsection 1 and include those allocations in the final budget adopted by the board pursuant to NRS 354.598. The proceeds from the tax, including interest and other income earned thereon, must be used in accordance with those allocations.

3. At the end of a fiscal year, the proceeds from the tax, including interest and other income earned thereon, not expended or otherwise obligated for the purposes set forth in this section, must be carried forward and become part of the total proceeds of the tax, including interest and other income earned thereon, available in the next fiscal year.

4. The board of county commissioners shall, before submitting to the legislature any request to change the uses for the proceeds from the tax authorized by this section, including interest and other income earned thereon, submit an advisory question to the voters of the county pursuant to NRS 293.482, asking whether the uses for the proceeds from the tax should be so changed. The board shall not submit such a request to the legislature if a majority of the voters in the county disapprove the proposed change.

Sec. 18. An ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include provisions in substance as follows:

1. A provision imposing a tax of not more than one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the county.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the board shall contract before the effective date of the ordinance with the department to perform all the functions incident to the administration or operation of the tax in the county.

5. A provision that exempts from the tax the gross receipts from the sale of tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted,

and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

Sec. 19. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the board shall amend a contract made pursuant to subsection 4 of section 18 of this act by a contract made between the board and the department before the effective date of the amendatory ordinance, unless the board determines with the written concurrence of the department that no such amendment of the contract is needed.

Sec. 20. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid to the county pursuant to this act must be paid to the department in the form of remittances payable to the department.

2. The department shall deposit the payments with the state treasurer for credit to the sales and use tax account in the state general fund.

3. The state controller, acting upon the collection data furnished by the department, shall monthly:

(a) Transfer from the sales and use tax account to the appropriate account in the state general fund a percentage of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the state for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only and the percentage must not exceed 1 percent.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the county pursuant to this act during the preceding month, less the amount transferred to the state general fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the intergovernmental fund and remit the money to the county treasurer.

Sec. 21. The department may redistribute any proceeds from the tax, interest or penalty collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the department obtains knowledge of the improper distribution.

Sec. 22. 1. The county treasurer shall deposit money received from the state controller pursuant to paragraph (c) of subsection 3 of section 20 of this act into the county treasury for credit to the fund created for the use of the proceeds from the tax authorized by this act.

2. The fund of the county created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.

Sec. 23. 1. Money to acquire, develop, construct, equip, improve and manage libraries, airports, and facilities and services for senior citizens located in the county may be obtained:

(a) By the issuance of bonds and other securities as provided in subsection 3, subject to any pledges, liens and other contractual limitations made pursuant to this act;

(b) By direct distribution from the fund created pursuant to section 22 of this act; or

(c) By both the issuance of such securities and by direct distribution, as the board may determine appropriate.

2. Money to operate and maintain libraries, airports, facilities and services for senior citizens, parks and recreational programs and facilities located in the county may be obtained by direct distribution from the fund created pursuant to section 22 of this act.

3. The board may, after the enactment of the ordinance imposing the tax, from time to time, issue bonds and other securities, which are general or special obligations of the county and that may be secured as to principal and interest by a pledge of the proceeds from the tax authorized by this act.

4. An ordinance authorizing the issuance of such a bond or other security must describe the purpose for which the bond or other security is issued.

Sec. 24. 1. To acquire, develop, construct, equip, improve and manage libraries, airports, and facilities and services for senior citizens located in the county, the board may issue:

(a) General obligation bonds;

(b) General obligation bonds for which payment is additionally secured by a pledge of the proceeds of the tax imposed pursuant to this act, and if so determined by the board, further secured by a pledge of the gross or net revenues derived from the operation of libraries, airports or facilities and services for senior facilities or any other project of the county which produces income, or from any license fees or other excise taxes imposed for revenue by the county, or otherwise, as may be legally made available for payment of the bonds;

(c) Revenue bonds for which payment is solely secured by a pledge of the proceeds of the tax imposed pursuant to this act, and if so determined by the board, further secured by a pledge of the gross or net revenues derived from the operation of the libraries, airports or facilities for senior citizens or any other project of the county which produces income, or from any license fees or other excise taxes imposed for revenue by the county, or otherwise, as may be legally made available for payment of the bonds; and

(d) Medium-term obligations pursuant to NRS 350.085 to 350.095, inclusive.

2. Money pledged to the payment of bonds or other securities pursuant to subsection 1 may be treated for the purposes of subsection 3 of NRS 350.020 as pledged revenue for the uses authorized by this act.

Sec. 25. The board shall not repeal or amend or otherwise directly or indirectly modify the ordinance imposing the tax authorized by this act in such a manner as to impair an outstanding bond issued pursuant to this act, or other obligations incurred pursuant to this act, until all obligations for which revenue from an ordinance have been pledged or otherwise made payable from such revenue pursuant to this act have been discharged in full or provision for full payment and redemption has been made.

Sec. 26. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the department may act for and on behalf of the county.

Sec. 27. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.

2. This act must not be construed to prevent the exercise of any power granted by any other law to the county or any officer, agent or employee of the county.

3. This act must not be construed to repeal or otherwise affect any other law or part thereof.

4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.

5. If any provision of this act, or application thereof to any person, thing or circumstance is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 28. This act becomes effective on July 1, 1999.

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