EXEMPT
(REPRINTED WITH ADOPTED AMENDMENTS)
FIRST REPRINT **S.B. 411**

SENATE BILL NO. 411–SENATOR O'CONNELL

MARCH 15, 1999

Referred to Committee on Taxation

SUMMARY—Conforms methods used by Nevada tax commission for valuation of property to methods used by county assessors, exempts intangible personal property from taxation and requires legislative committee to study distribution among local governments of revenue from state and local taxes to conduct a study. (BDR 32-1007)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: Yes.

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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 taxation; conforming the permissible methods for use by the Nevada tax commission in determining the taxable value of property to those permissible for use by county assessors; exempting intangible personal property from taxation; directing the legislative committee to study the distribution among local governments of revenue from state and local taxes to conduct a study; requiring that a report of the recommendations and findings of the study be presented to the 71st session of the Nevada legislature; 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. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. All intangible personal property is exempt from taxation, including, without limitation:

(a) Shares of stock, bonds, mortgages, notes, bank deposits, book accounts such as an acquisition adjustment and credits, and securities and choses in action of like character; and

(b) Goodwill, customer lists, contracts and contract rights, patents, trade-marks, trade names, custom computer programs, copyrights, trade secrets, franchises and licenses.

2. The value of intangible personal property must not enhance or be reflected in the value of real property or tangible personal property.

3. The attributes of real property, such as zoning, location, view and geographic features, are not intangible personal property and must be considered in valuing the real property, if appropriate.

Sec. 2. NRS 361.260 is hereby amended to read as follows:

361.260 1. Each year, the county assessor, except as otherwise required by a particular statute, shall ascertain by diligent inquiry and examination all real and secured personal property in his county which is subject to taxation, and also the names of all persons, corporations, associations, companies or firms owning the property. He shall then determine the taxable value of all such property and he shall then list and assess it to the person, firm, corporation, association or company owning it. He shall take the same action between May 1 and the following April 30, with respect to personal property which is to be placed on the unsecured tax roll.

2. At any time before the lien date for the following fiscal year, the county assessor may include additional personal property and mobile homes on the secured tax roll if the owner of the personal property or mobile home owns real property within the same taxing district which has an assessed value that is equal to or greater than the taxes for 3 years on both the real property and the personal property or mobile home, plus penalties. Personal property and mobile homes in the county on July 1, but not on the secured tax roll for the current year, must be placed on the unsecured tax roll for the current year.

3. An improvement on real property in existence on July 1 whose existence was not ascertained in time to be placed on the secured roll for that tax year and which is not governed by subsection 4 must be placed on the unsecured tax roll.

4. The value of any property apportioned among counties pursuant to NRS 361.320, 361.321 and 361.323 must be added to the central assessment roll at the assessed value established by the Nevada tax commission or as established pursuant to an appeal to the state board of equalization.

5. ~~[In arriving at the taxable value of all public utilities of an intracounty nature, the intangible or franchise element must be considered as an addition to the physical value and a portion of the taxable value.~~

~~6.]~~ In addition to the inquiry and examination required in subsection 1, for any property not reappraised in the current assessment year, the county assessor shall determine its assessed value for that year by applying a factor for improvements, if any, and a factor for land to the assessed value for the preceding year. The factor for improvements must reasonably represent the change, if any, in the taxable value of typical improvements in the area since the preceding year, and must take into account all applicable depreciation and obsolescence. The factor for improvements must be adopted by the Nevada tax commission. The factor for land must be developed by the county assessor and approved by the commission. The factor for land must be so chosen that the median ratio of the assessed value of the land to the taxable value of the land in each area subject to the factor is not less than 30 percent nor more than 35 percent.

~~[7.]~~ ***6.*** The county assessor shall reappraise all real property at least once every 5 years.

~~[8.]~~ ***7.*** Each county assessor shall submit a written request to the board of county commissioners and the governing body of each of the local governments located in the county which maintain a unit of government that issues building permits for a copy of each building permit that is issued. Upon receipt of such a request, the governing body shall direct the unit which issues the permits to provide a copy of each permit to the county assessor within a reasonable time after issuance.

Sec. 3. NRS 361.320 is hereby amended to read as follows:

361.320 1. At the regular session of the Nevada tax commission commencing on the first Monday in October of each year, the Nevada tax commission shall establish the valuation for assessment purposes of any property of an interstate and intercounty nature, which must in any event include the property of all interstate or intercounty railroad, sleeping car, private car, street railway, traction, telegraph, water, telephone, scheduled and unscheduled air transport, electric light and power companies, ~~[together with their franchises,]~~ and the property ~~[and franchises]~~ of all railway express companies operating on any common or contract carrier in this state. This valuation must not include the value of vehicles as defined in NRS 371.020.

2. Except as otherwise provided in subsection 3 and NRS 361.323, the commission shall establish and fix the valuation of ~~[the franchise, if any, and]~~ all physical property used directly in the operation of any such business of any such company in this state, as a collective unit. If the company is operating in more than one county, on establishing the unit valuation for the collective property, the commission shall then determine the total aggregate mileage operated within the state and within its several counties, and apportion the mileage upon a mile-unit valuation basis. The number of miles apportioned to any county are subject to assessment in that county according to the mile-unit valuation established by the commission.

3. After establishing the valuation, as a collective unit, of a public utility which generates, transmits or distributes electricity, the commission shall segregate the value of any project in this state for the generation of electricity which is not yet put to use. This value must be assessed in the county where the project is located and must be taxed at the same rate as other property.

4. The Nevada tax commission shall adopt formulas, and cause them to be incorporated in its records, providing the method or methods pursued in fixing and establishing the taxable value of all ~~[franchises and]~~ property assessed by it. The formulas must be adopted and may be changed from time to time upon its own motion or when made necessary by judicial decisions, but the formulas must in any event show all the elements of value considered by the commission in arriving at and fixing the value for any class of property assessed by it. These formulas must take into account, as indicators of value, the company's income ~~[, stock and debt,]~~ and the cost of its assets ~~[.]~~ ***, but the taxable value may not exceed the cost appropriately depreciated.***

5. If two or more persons perform separate functions that collectively are needed to deliver electric service to the final customer and the property used in performing the functions would be centrally assessed if owned by one person, the Nevada tax commission shall establish its valuation and apportion the valuation among the several counties in the same manner as the valuation of other centrally assessed property. The Nevada tax commission shall determine the proportion of the tax levied upon the property by each county according to the valuation of the contribution of each person to the aggregate valuation of the property. This subsection does not apply to qualified facilities, as defined in 18 C.F.R. § 292.101, which were constructed before July 1, 1997.

6. As used in this section, "company" means any person, company, corporation or association engaged in the business described.

7. All other property must be assessed by the county assessors, except as otherwise provided in NRS 361.321 and 362.100 and except that the valuation of land and mobile homes must be established for assessment purposes by the Nevada tax commission as provided in NRS 361.325.

8. On or before November 1 of each year, the department shall forward a tax statement to each private car line company based on the valuation established pursuant to this section and in accordance with the tax levies of the several districts in each county. The company shall remit the ad valorem taxes due on or before December 15 to the department which shall allocate the taxes due each county on a mile-unit basis and remit the taxes to the counties no later than January 31. The portion of the taxes which is due the state must be transmitted directly to the state treasurer. A company which fails to pay the tax within the time required shall pay a penalty of 10 percent of the tax due or $5,000, whichever is greater, in addition to the tax. Any amount paid as a penalty must be deposited in the state general fund. The department may, for good cause shown, waive the payment of a penalty pursuant to this subsection. As an alternative to any other method of recovering delinquent taxes provided by this chapter, the attorney general may bring a civil action in a court of competent jurisdiction to

recover delinquent taxes due pursuant to this subsection in the manner provided in NRS 361.560.

Sec. 4. 1. The legislature hereby finds and declares that:

(a) Those businesses that hold property of an interstate or intercounty nature which is valued for assessment purposes pursuant to NRS 361.320 are a stable and important component of the tax base of local governments;

(b) Because of economic forces at work over the years, the method of valuation and appraisal employed to assess property of an interstate or intercounty nature has resulted in the taxation of intangible personal property, while the method of valuation and appraisal employed to assess property of an intracounty nature has not resulted in the taxation of intangible personal property;

(c) The legislature hereby finds and determines that it is more equitable to establish the valuation for assessment purposes of all personal property in the same manner; and

(d) The gradual elimination of intangible personal property from the valuation and assessment of property of an interstate or intercounty nature should allow the natural growth of those businesses that hold such property to offset the elimination of intangible personal property from the tax base of local governments.

2. Notwithstanding the amendatory provisions of this act:

(a) For the fiscal year commencing July 1, 2000, the department of taxation must assess 100 percent of the value of intangible personal property of an interstate or intercounty nature as though the intangible personal property were real or tangible personal property.

(b) For the fiscal year commencing July 1, 2001, the department of taxation must assess 66.6 percent of the value of intangible personal property of an interstate or intercounty nature as though the intangible personal property were real or tangible personal property.

(c) For the fiscal year commencing July 1, 2002, the department of taxation must assess 33.3 percent of the value of intangible personal property of an interstate or intercounty nature as though the intangible personal property were real or tangible personal property.

(d) For the purposes of distributing the proceeds of the taxes included in the local government tax distribution account:

(1) For the fiscal years commencing July 1, 2001, and July 1, 2002, if the assessed value of all property of an interstate or intercounty nature assessed pursuant to subsections 2 and 3 that is allocated to a county is less than 100 percent of the assessed value of all property of an interstate or intercounty nature that was allocated to that county for the fiscal tax year commencing July 1, 1999, the department of taxation shall adjust the allocation of the assessed value of all property of an interstate or intercounty nature for that county in a manner that will ensure that the

allocation remains at least equal to the assessed value for the fiscal tax year commencing July 1, 1999.

(2) For the fiscal year commencing July 1, 2003, if the assessed value of all property of an interstate or intercounty nature assessed pursuant to NRS 361.320 that is allocated to a county is less than 100 percent of the assessed value of all property of an interstate or intercounty nature that was allocated to that county for the fiscal tax year commencing July 1, 1999, the department of taxation shall adjust the allocation of the assessed value of all property of an interstate or intercounty nature for that county in a manner that will ensure that the allocation remains at least equal to the assessed value for the fiscal year commencing July 1, 1999.

Sec. 5. 1. The committee shall monitor the implementation of this act and conduct an interim study of the current system of taxation of those businesses, whether centrally or locally assessed as of June 30, 1999, that are engaged, in whole or in part, in any of the following activities:

(a) Railroad, sleeping car, private car, street railway or traction;

(b) Scheduled or unscheduled air transport;

(c) Telegraph, telephone or telecommunications;

(d) Natural gas transmission and distribution;

(e) Electric light and power; or

(f) Railway express.

2. On or before February 15, 2001, the committee shall prepare a report of its findings and recommendations and submit the report to the director of the legislative counsel bureau for transmittal to the senate and assembly committees on taxation of the 71st session of the Nevada legislature for their review.

3. The chairman of the committee may appoint a subcommittee to assist in conducting the study. Any subcommittee appointed by the chair of the committee shall consist of members of the committee, members of the advisory committee to the committee and members of businesses described in subsection 1. Any subcommittee appointed pursuant to this subsection shall report its findings to the committee on or before October 1, 2000.

4. The report required pursuant to subsection 2 must include:

(a) An evaluation of whether the current system of taxation used to assess taxes upon those businesses described in subsection 1 is fair and equitable, including the method of assessment and application of the property tax, when compared with the system of taxation used to assess taxes upon other businesses in this state;

(b) An evaluation of the extent to which local governments in this state rely upon the revenues obtained from the current system of taxation used to assess taxes upon those businesses described in subsection 1, including, without limitation, an evaluation of the manner in which the tax bases of the local governments are affected by that system;

(c) An evaluation of the impact of the changes made by the provisions of this act upon revenues of local governments and upon the tax base relied upon by each local government for its revenue;

(d) An evaluation of the extent to which any local government or agency of the state provides services that compete with the businesses described in subsection 1;

(e) An evaluation of any alternative system of taxation that could be used to assess taxes upon the businesses described in subsection 1 that:

(1) Does not create substantially more or less revenue for local governments, in the aggregate, than would otherwise be available if the system of taxation were not changed;

(2) Provides for a source of revenue for local governments that is as stable and reliable as possible; and

(3) Is fair and equitable to the businesses described in subsection 1 as compared to the current system of taxation used to assess taxes upon all businesses in this state; and

(f) A recommendation from the committee regarding whether a change to the system of taxation used to assess taxes upon the businesses described in subsection 1 is advisable and, if so, the alternative system of taxation which would ensure the most fair and equitable result possible.

5. As used in this section, "committee" has the meaning ascribed to it in NRS 218.5388.

Sec. 6. 1. This section and sections 1, 3 and 5 of this act become effective on July 1, 1999, for the purpose of authorizing the department of taxation to take all actions necessary to carry out the provisions of this act in a timely manner, and on July 1, 2000, for all other purposes.

2. Sections 2 and 4 of this act become effective on July 1, 1999.

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