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SB 495 (1st Reprint) EXPLANATION

This is a brief summary of SB 495, which authorizes sales tax increment financing in connection with assessment districts in certain circumstances.

This bill is an amendment to Ch. 271 which authorizes the issuance of bonds secured by special assessments, and the authority in this bill can only be used if a special assessment district is created, and if special assessments are levied to pay for the costs of the project against the property benefitted from the project. If these procedures are followed and successfully completed, and the other requirements of the bill are met, the sales tax increment can also be pledged as the bonds, however, if for any reason the sales tax increment was insufficient to pay principal and interest on the bonds, the property assessed would remain liable for the assessments.

1. **A preamble** is included to explain that the bill's provisions are intended to promote economic development and tourism.

2. **Projects.** Sections 1-3 define an "art project" and a "tourism and entertainment project" and allow special assessments for these types of projects in special assessment districts to which sales and use tax revenues are pledged as described below.

The other projects already authorized in CH 271 of NRS, which are primarily infrastructure type projects, such as streets, sewer and water projects and e.g., highway overpass and intersections, could also be done with this new type of financing. Art Projects and Tourism and Entertainment Projects, however could only be financed if all of the requirements of the bill for pledging the sale tax increment are met.

3. **Requirements for sales tax pledge.** Section 4 would authorize, in certain circumstances, a municipality (which includes the county) to pledge the proceeds of certain sales tax increments derived from up to 75% of the State sales tax (2%), the basic and supplemental City/County relief sales tax (2.25%) and the basic school support sales tax (2.25%) to special assessments which secure bonds issued for projects for which assessment district bonds can be issued under existing law (generally, infrastructure related projects such as roads, sewer, water, etc. mentioned above and the new art and tourism and entertainment projects).

State collection fee. As with other sales taxes, the state is entitled to retain a 0.75% collection fee with respect to any sales taxes pledged under the bill.

Sales tax increment pledged: No retail sales businesses in district before assessments are levied. Sales tax increment is defined as the difference between (i) the sales tax from the above three taxes collected in the assessment district in a particular year less (ii) the sales tax from the above three taxes collected in the year the ordinance levying assessments is adopted, which must be \$0.00. (Sales tax can be pledged only to a district which has no retail business in it at the time of adoption of the assessment ordinance or earlier in the same fiscal year as the year in which the assessment ordinance is adopted).

Required findings and determinations. This section provides some limits on the authority to pledge sales tax increments to assessments. In particular, this authority can be used only if:

(i) **County Findings.** the Board of County Commissioners of each county in which the district is located has found after a hearing (following at least 15 days published notice) that (a) construction of the project will result in retailers locating their businesses in the District, (b) as a result, there will be a substantial increase in sales tax revenues in the District; and (c) a preponderance of the increase in sales tax revenues in the district will be the result of transactions with tourists who are not residents of Nevada;

(ii) **Commission on Tourism findings:** the Nevada Commission on Tourism after notice and a hearing makes a similar determination that a preponderance of the increase in sales tax will be from sales to tourists who are not residents of Nevada.

(iii) **Governor's findings:** the Governor has determined that the project and the pledge of sales tax increment to the assessment bonds will significantly contribute to economic development and tourism in the State.

Fiscal effect on school finance: Before making this determination, the Governor must consider the fiscal effect of an improvement district on school finance, including the comments of the school district in which the improvement district is located. The governor can also request reports from the Department of Education or Department of Taxation or both on these fiscal effects.

If the governor determines the improvement district would have a significant adverse fiscal effect on school finance, the governor could require that the governing body commit to make payments to the school district (through an agreement with the owners of property in the improvement district as described below in Section 6) or otherwise) before making his or her determinations.

Appeal of County Findings: This section also provides that if a district is created by a municipality other than a county, and the county refuses to make the determination described above, the governing body can appeal the County's refusal to the Commission on Tourism.

4. **Procedures:** Section 5 is a procedural section which provides that a governing body that establishes the district to which that sales tax increment is pledged must enter into an agreement with the Department of Taxation specifying the dates and procedures for distribution of the pledged sales tax increment to the municipality.

5. **Agreements with property owners if improvement district will have a negative fiscal impact on the provision of local government services:** Section 6 allows a municipality to enter into certain agreements with the property owners in the District. Specifically, if the governing body makes a finding that, taking into account

(i) the local government services (including, without limitation, police protection and fire protection) needed as a result of the project and the development of land within the District,

(ii) the taxes and other governmental revenues generated by the property located in the district, and

(iii) the use of sales tax revenues as authorized by the bill and the assessment ordinance,

the project will not have a positive fiscal impact on the provision of local governmental services, the governing body may enter into an agreement with one or more owners of property in the District, under which those property owners agree to make payments to the municipality and/or other governmental entities providing local governmental services during the term of the pledge of sales tax authorized by the assessment ordinance for the purpose of assisting local governments in providing those local governmental services.

Notice to/hearing before School Trustees. Before making this finding, the governing body must give written notice to the school board in which the improvement district is located, and the school board must hold a hearing on the fiscal effect of the improvement district on the school district. Comments of the school board on this fiscal effect are to be considered by the governing body in making its finding and in making an agreement, if any, with the property owner.

6. **No general fund or property taxing power pledge.** Section 7. It is contemplated that bonds secured by these assessments will be issued under the typical assessment district procedure in Chapter 271 of NRS. Under this procedure, if the sales tax increment were insufficient to make payments on the assessments, the owners of the property assessed would have to make payments (which must be sufficient to make payments due on the assessments bonds). If the owners fail to pay assessments on time, the governing body is authorized to institute foreclosure proceedings against the property assessed and use proceeds of the foreclosure to pay the bonds. Section 7 prohibits the governing body from pledging its general fund and taxing power to the payment of the assessment bonds to which the sales tax increment is pledged.

7. **Application of pledged sale tax revenues to assessment payments.** Section 10 adds sales tax increment revenues to the revenues that may be pledged to assessments bonds. The effect of this addition is to provide that sales tax increment from the three taxes mentioned above during the term of the assessments is to be applied as a credit for assessments levied against property in the assessment district as follows:

If, in a particular year, there is enough sales tax increment to pay the assessment installment plus interest for that year in the district, the owners of the property assessed will not need to pay the assessment installment.

To the extent the sales tax increment is insufficient to pay the assessment installment plus interest due in a particular year, the owners of the property assessed must make up the difference.

8. **Application of pledged sales tax monies not needed to make assessment payment.** Section 12 provides that to the extent there is more sales tax increment than there are assessment installments due, the excess sales tax increment is to be distributed to the entities who would have received the tax if there was no district in the following order of priority:

(i) first to the county school fund;

(ii) second to the state general fund; and

(iii) third to other funds that would have received the tax.

Regulations. This section also provides certain procedural matters, including authority for the Tax Commission to make regulations needed to collect and distribute sales taxes as provided in the bill.

9. **Delayed effective date for distribution of pledged sales taxes.** Section 18 provides that the bill does not require the distribution of money remitted to the state before July 1, 2005 unless the Department of Taxation deems that to be reasonably feasible.

9. **Reports to the Legislature.** Section 19 provides that any municipality that pledges sales taxes under the bill must make a report by February 1, 2007 for the 2007 session of the legislature.

10. **Conforming Changes.** The other sections of the bill make conforming changes to NRS.