

SENATE BILL NO. 374—SENATOR HARDY

MARCH 19, 2007

Referred to Committee on Taxation

SUMMARY—Makes certain changes concerning tax increment areas. (BDR 22-816)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: 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 tax increment areas; authorizing the creation of tax increment areas by cooperative agreement between a county or city and the Board of Regents of the University of Nevada in certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the creation of tax increment areas by the governing body of a county or city. (NRS 278C.150) The governing body may dedicate the revenues from the property tax imposed in a tax increment area to the financing, acquisition, improvement or equipment of certain specific undertakings, including a drainage and flood control project, overpass project, sewerage project, street project, underpass project or water project. (NRS 278C.140) **Section 1** of this bill authorizes the creation of a tax increment area by cooperative agreement between the city or county and the Board of Regents of the University of Nevada in certain circumstances. **Section 2** of this bill provides that for the purposes of a tax increment area created by such a cooperative agreement, in addition to other undertakings, an undertaking may include: (1) any project for infrastructure which is necessary or desirable for the development of any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area or within 1 mile of that campus; (2) a capital project for any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area; (3) certain housing projects within the tax increment area or within 1 mile of the tax increment area; or (4) certain commercial projects approved by the Board of Regents that provide, or that provide land or buildings for, certain businesses.

Existing law provides that when real estate or a portion of real estate which is exempt from taxation is leased, loaned or otherwise made available to and used by a person or entity in connection with a business conducted for profit, or as a residence, that real estate is subject to a certain amount of taxation, except in certain circumstances, including when it involves property of any state-supported



educational institution. (NRS 361.157) **Section 3** of this bill excludes from that exception any part of such property located within a tax increment area created by cooperative agreement between the Nevada System of Higher Education and a city or county.

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

Section 1. Chapter 278C of NRS is hereby amended by adding thereto a new section to read as follows:

1. A tax increment area which includes any part of a campus of the Nevada System of Higher Education within its boundaries may be created pursuant to a cooperative agreement between the city or county creating the tax increment area and the Nevada System of Higher Education. The provisions of NRS 278C.160, subsections 4, 6 and 7 of NRS 278C.170, NRS 278C.220, paragraphs (c) and (d) of subsection 1 of NRS 278C.250 and paragraph (d) of subsection 3 of NRS 278C.250 do not apply to a tax increment area created pursuant to this section, but a tax increment area created pursuant to this subsection is subject to the provisions of subsections 2 to 9, inclusive.

2. Whenever the governing body of a municipality and the Board of Regents of the University of Nevada determine that the interests of the municipality, the Nevada System of Higher Education and the public require an undertaking, the governing body and the Board of Regents may enter into a cooperative agreement pursuant to NRS 277.080 to 277.180, inclusive, which describes by reference to the general types of undertakings authorized pursuant to NRS 278C.140 and the undertakings proposed for the tax increment area, and which contains or refers to an exhibit filed with the clerk of the municipality and the Secretary of the Board of Regents which contains:

(a) A statement of the last finalized amount of the assessed valuation of the taxable property within the tax increment area, and the amount of taxes, including, without limitation, the sum of any unpaid taxes, whether or not such taxes are delinquent, resulting from the last taxation of the property, based upon the records of the county assessor and county treasurer; and

(b) A description of the tax increment area or its location, so that the various tracts of taxable real property and any taxable personal property may be identified and determined to be within or without the tax increment area, except that the description need not describe in complete detail each tract of real property proposed to be included within the tax increment area.



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1 3. The governing body may, at any time after the effective
2 date of a cooperative agreement entered into pursuant to
3 subsection 2, adopt a resolution that provisionally orders the
4 undertakings and creation of the tax increment area.

5 4. The notice of the meeting required pursuant to subsection
6 3 of NRS 278C.170 must:

7 (a) Describe by reference the general types of undertakings
8 authorized pursuant to NRS 278C.140 and the undertakings
9 proposed for the tax increment area;

10 (b) Describe the last finalized amount of the assessed valuation
11 of the taxable property within the tax increment area, and the
12 amount of taxes, including, without limitation, the sum of any
13 unpaid taxes, whether or not such taxes are delinquent, resulting
14 from the last taxation of the property, based upon the records of
15 the county assessor and county treasurer;

16 (c) Describe the tax increment area or its location, so that the
17 various tracts of taxable real or personal property may be
18 identified and determined to be within or without the tax
19 increment area; and

20 (d) State the date, time and place of the meeting described in
21 subsection 1 of NRS 278C.170.

22 5. If, after considering all properly submitted and relevant
23 written and oral complaints, protests, objections and other relevant
24 comments and after considering any other relevant material, the
25 governing body determines that the undertaking is in the public
26 interest and defines that public interest, the governing body shall
27 determine whether to proceed with the undertaking. If the
28 governing body has ordered any modification to an undertaking
29 and has determined to proceed, the governing body must consult
30 with the Board of Regents to obtain its consent to the proposed
31 modification. When the Board of Regents and the governing body
32 are in agreement on the modification, if any, and a statement of
33 the modification is filed with the clerk, if the governing body wants
34 to proceed with the undertaking, the governing body shall adopt
35 an ordinance in the same manner as any other ordinance:

36 (a) Overruling all complaints, protests and objections not
37 otherwise acted upon;

38 (b) Ordering the undertaking;

39 (c) Describing the tax increment area to which the
40 undertaking pertains; and

41 (d) Creating a tax increment account for the undertaking.

42 6. Money deposited in the tax increment account as described
43 in paragraph (b) of subsection 1 of NRS 278C.250 may be used to
44 pay the costs of the undertaking directly, in addition to being used
45 to pay the bond requirements of loans, money advanced or



1 *indebtedness incurred to finance or refinance an undertaking, and*
2 *may continue to be used for those purposes until the expiration of*
3 *the tax increment area pursuant to NRS 278C.300.*

4 7. *The cooperative agreement entered into pursuant to this*
5 *section may create a separate legal entity with such powers as are*
6 *delegated to it by the governing body and the Board of Regents in*
7 *the cooperative agreement.*

8 8. *The Board of Regents may pledge to any securities it issues*
9 *under a delegation pursuant to subsection 7, or irrevocably*
10 *dedicate to the municipality or to an entity described in subsection*
11 *7 that will issue securities hereunder, any revenues of the Nevada*
12 *System of Higher Education derived from the campus of the Nevada*
13 *Nevada System of Higher Education whose boundaries are*
14 *included in whole or in part in the tax increment area, other than*
15 *revenues from state appropriations and from student fees, and*
16 *subject to any covenants or restrictions in any instruments*
17 *authorizing other securities. Such an irrevocable dedication must*
18 *be for the term of the securities issued by the municipality or any*
19 *entity described in subsection 7 and any securities refunding those*
20 *securities and may also extend for the term of the tax increment*
21 *area.*

22 9. *The municipality may delegate to the Board of Regents or*
23 *to an entity created pursuant to subsection 7 the authority to issue*
24 *any security other than a general obligation security which the*
25 *municipality is authorized to issue pursuant to this chapter, and in*
26 *connection therewith, may irrevocably dedicate to the Board of*
27 *Regents or to an entity created pursuant to subsection 7 the*
28 *revenues that are authorized pursuant to this chapter to be pledged*
29 *or used to repay those securities, including, without limitation, all*
30 *money in the tax increment account created pursuant to*
31 *subsection 5. The irrevocable dedication of any security pursuant*
32 *to this subsection must be for the term of the security issued by the*
33 *Nevada System of Higher Education or any entity created*
34 *pursuant to subsection 7 and any security refunding those*
35 *securities and may also extend for the term of the tax increment*
36 *area.*

37 **Sec. 2.** NRS 278C.140 is hereby amended to read as follows:

38 278C.140 "Undertaking" means any enterprise to acquire,
39 improve or equip, or any combination thereof:

40 1. In the case of counties:

41 (a) A drainage and flood control project, as defined in
42 NRS 244A.027;

43 (b) An overpass project, as defined in NRS 244A.037;

44 (c) A sewerage project, as defined in NRS 244A.0505;

45 (d) A street project, as defined in NRS 244A.053;



- (e) An underpass project, as defined in NRS 244A.055; or
- (f) A water project, as defined in NRS 244A.056.

2. In the case of cities:

- (a) A drainage project or flood control project, as defined in NRS 268.682;
- (b) An overpass project, as defined in NRS 268.700;
- (c) A sewerage project, as defined in NRS 268.714;
- (d) A street project, as defined in NRS 268.722;
- (e) An underpass project, as defined in NRS 268.726; or
- (f) A water project, as defined in NRS 268.728.

3. In the case of a city or county with respect to any tax increment area created pursuant to a cooperative agreement between the city or county and the Nevada System of Higher Education pursuant to section 1 of this act which includes any part of a campus of the Nevada System of Higher Education within its boundaries, in addition to the projects described in subsections 1 and 2:

(a) A project for any other infrastructure necessary or desirable for the development of any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area, or the area that is within 1 mile of that campus;

(b) An educational facility or other capital project for any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area;

(c) A housing project within the tax increment area or within 1 mile of the tax increment area, including, without limitation, rental housing and owner-occupied housing that provides housing for students, faculty and members of the public; or

(d) A commercial project that provides or that provides land or buildings for, a business that:

(1) Provides goods and services to the Nevada System of Higher Education, students faculty, residents of the tax increment area and other members of the public; or

(2) Is related to education, research or any other activity undertaken at any campus of the Nevada System of Higher Education that is located wholly or partially within the tax increment area,

↳ that is approved by the Board of Regents of the Nevada System of Higher Education.

Sec. 3. NRS 361.157 is hereby amended to read as follows:

361.157 1. When any real estate or portion of real estate which for any reason is exempt from taxation is leased, loaned or otherwise made available to and used by a natural person, association, partnership or corporation in connection with a business



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1 conducted for profit or as a residence, or both, the leasehold interest,
2 possessory interest, beneficial interest or beneficial use of the lessee
3 or user of the property is subject to taxation to the extent the:

4 (a) Portion of the property leased or used; and


5 (b) Percentage of time during the fiscal year that the property is
6 leased by the lessee or used by the user, in accordance with
7 NRS 361.2275,

8 ➔ can be segregated and identified. The taxable value of the interest
9 or use must be determined in the manner provided in subsection 3 of
10 NRS 361.227 and in accordance with NRS 361.2275.

11 2. Subsection 1 does not apply to:

12 (a) Property located upon a public airport, park, market or
13 fairground, or any property owned by a public airport, unless the
14 property owned by the public airport is not located upon the public
15 airport and the property is leased, loaned or otherwise made
16 available for purposes other than for the purposes of a public airport,
17 including, without limitation, residential, commercial or industrial
18 purposes;

19 (b) Federal property for which payments are made in lieu of
20 taxes in amounts equivalent to taxes which might otherwise be
21 lawfully assessed;

22 (c) Property of any state-supported educational institution ,
23 *except any part of such property located within a tax increment*
24 *area created pursuant to chapter 278 of NRS pursuant to a*
25 *cooperative agreement between the Nevada System of Higher*
26 *Education and a city or county;*

27 (d) Property leased or otherwise made available to and used by a
28 natural person, private association, private corporation, municipal
29 corporation, quasi-municipal corporation or a political subdivision
30 under the provisions of the Taylor Grazing Act or by the United
31 States Forest Service or the Bureau of Reclamation of the United
32 States Department of the Interior;

33 (e) Property of any Indian or of any Indian tribe, band or
34 community which is held in trust by the United States or subject to a
35 restriction against alienation by the United States;

36 (f) Vending stand locations and facilities operated by blind
37 persons under the auspices of the Bureau of Services to the Blind
38 and Visually Impaired of the Rehabilitation Division of the
39 Department of Employment, Training and Rehabilitation, whether
40 or not the property is owned by the federal, state or a local
41 government;

42 (g) Leases held by a natural person, corporation, association,
43 municipal corporation, quasi-municipal corporation or political
44 subdivision for development of geothermal resources, but only for
45 resources which have not been put into commercial production;



1 (h) The use of exempt property that is leased, loaned or made
2 available to a public officer or employee, incident to or in the course
3 of public employment;

4 (i) A parsonage owned by a recognized religious society or
5 corporation when used exclusively as a parsonage;

6 (j) Property owned by a charitable or religious organization all,
7 or a portion, of which is made available to and is used as a residence
8 by a natural person in connection with carrying out the activities of
9 the organization;

10 (k) Property owned by a governmental entity and used to
11 provide shelter at a reduced rate to elderly persons or persons having
12 low incomes;

13 (l) The occasional rental of meeting rooms or similar facilities
14 for periods of less than 30 consecutive days; or

15 (m) The use of exempt property to provide day care for children
16 if the day care is provided by a nonprofit organization.

17 3. Taxes must be assessed to lessees or users of exempt real
18 estate and collected in the same manner as taxes assessed to owners
19 of other real estate, except that taxes due under this section do not
20 become a lien against the property. When due, the taxes constitute a
21 debt due from the lessee or user to the county for which the taxes
22 were assessed and, if unpaid, are recoverable by the county in the
23 proper court of the county.

