

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 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 a city 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 certain projects for infrastructure and capital projects for the principal campus of the Nevada State College.

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 pursuant to this bill.



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 may be created pursuant to this section by a cooperative agreement between a city in which the principal campus of the Nevada State College is located or intended to be located and the Nevada System of Higher Education, if the boundaries of the tax increment area include only land:

(a) On which the principal campus of the Nevada State College is located or intended to be located; and

(b) Which:

(1) Consists of not more than 509 acres;

(2) Was transferred by the city creating the tax increment area to the Nevada System of Higher Education for the use of the Nevada State College;

(3) Has never been subject to property taxation; and

(4) The Nevada System of Higher Education has agreed to continue to own for the term of the tax increment area.

↪ 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 such a tax increment area is subject to the provisions of subsections 2 to 9, inclusive.

2. Whenever the governing body of a city in which the principal campus of the Nevada State College is located or intended to be located and the Board of Regents of the University of Nevada determine that the interests of the city, 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 city and the Secretary of the Board of Regents which contains:

(a) A statement of the last finalized amount of the assessed valuation of the real property within the boundaries of the tax increment area, which boundaries must be in compliance with subsection 1, and a statement that, based upon the records of the county treasurer, no property taxes were collected on any of that



1 *property, or on any interest therein, during the most recent year*
2 *for which those records are available; and*

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

9 *3. The governing body may, at any time after the effective*
10 *date of a cooperative agreement entered into pursuant to this*
11 *section, adopt a resolution that provisionally orders the*
12 *undertakings and creation of the tax increment area.*

13 *4. The notice of the meeting required pursuant to subsection*
14 *3 of NRS 278C.170 must:*

15 *(a) Describe by reference the general types of undertakings*
16 *authorized pursuant to NRS 278C.140 and the undertakings*
17 *proposed for the tax increment area;*

18 *(b) Describe the last finalized amount of the assessed valuation*
19 *of the real property within the boundaries of the tax increment*
20 *area, and state that, based upon the records of the county*
21 *treasurer, no property taxes were collected on any of that property,*
22 *or on any interest therein, during the most recent year for which*
23 *those records are available;*

24 *(c) Describe the tax increment area or its location, so that the*
25 *various tracts of taxable real or personal property may be*
26 *identified and determined to be within or without the tax*
27 *increment area; and*

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

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

44 *(a) Overruling all complaints, protests and objections not*
45 *otherwise acted upon;*



- (b) Ordering the undertaking;*
- (c) Describing the tax increment area to which the undertaking pertains; and*
- (d) Creating a tax increment account for the undertaking.*

6. Money deposited in the tax increment account as described in paragraph (b) of subsection 1 of NRS 278C.250 may be used to pay the capital costs of the undertaking directly, in addition to being used to pay the bond requirements of loans, money advanced or indebtedness incurred to finance or refinance an undertaking, and may continue to be used for those purposes until the expiration of the tax increment area pursuant to NRS 278C.300.

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

8. The city may delegate to the Board of Regents the authority to issue any security other than a general obligation security which the city is authorized to issue pursuant to this chapter, and in connection therewith, may irrevocably dedicate to the Board of Regents the revenues that are authorized pursuant to this chapter to be pledged or used to repay those securities, including, without limitation, all money in the tax increment account created pursuant to subsection 5. The irrevocable dedication of any security pursuant to this subsection must be for the term of the security issued by the Nevada System of Higher Education and any security refunding those securities and may also extend for the term of the tax increment area.

9. If the boundaries of a county school district include a tax increment area created pursuant to this section and the county school district operates a public school on property within the boundaries of that tax increment area, the county school district and the Nevada System of Higher Education shall consult with one another regarding funding for the operating costs of that public school.



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1 **Sec. 2.** NRS 278C.140 is hereby amended to read as follows:
2 278C.140 “Undertaking” means any enterprise to acquire,
3 improve or equip, or any combination thereof:

4 1. In the case of counties:

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

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

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

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

10 (e) An underpass project, as defined in NRS 244A.055; or

11 (f) A water project, as defined in NRS 244A.056.

12 2. In the case of cities:

13 (a) A drainage project or flood control project, as defined in
14 NRS 268.682;

15 (b) An overpass project, as defined in NRS 268.700;

16 (c) A sewerage project, as defined in NRS 268.714;

17 (d) A street project, as defined in NRS 268.722;

18 (e) An underpass project, as defined in NRS 268.726; or

19 (f) A water project, as defined in NRS 268.728.

20 3. *In the case of a city with respect to any tax increment area
21 created pursuant to a cooperative agreement between the city and
22 the Nevada System of Higher Education pursuant to section 1 of
23 this act, in addition to the projects described in subsection 2:*

24 (a) *A project for any other infrastructure necessary or
25 desirable for the principal campus of the Nevada State College
26 that is approved by the Board of Regents of the University of
27 Nevada; or*

28 (b) *An educational facility or other capital project for the
29 principal campus of the Nevada State College that is owned by the
30 Nevada System of Higher Education and approved by the Board of
31 Regents of the University of Nevada.*

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

33 361.157 1. When any real estate or portion of real estate
34 which for any reason is exempt from taxation is leased, loaned or
35 otherwise made available to and used by a natural person,
36 association, partnership or corporation in connection with a business
37 conducted for profit or as a residence, or both, the leasehold interest,
38 possessory interest, beneficial interest or beneficial use of the lessee
39 or user of the property is subject to taxation to the extent the:

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

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




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1 ➡ can be segregated and identified. The taxable value of the interest
2 or use must be determined in the manner provided in subsection 3 of
3 NRS 361.227 and in accordance with NRS 361.2275.

4 2. Subsection 1 does not apply to:

5 (a) Property located upon a public airport, park, market or
6 fairground, or any property owned by a public airport, unless the
7 property owned by the public airport is not located upon the public
8 airport and the property is leased, loaned or otherwise made
9 available for purposes other than for the purposes of a public airport,
10 including, without limitation, residential, commercial or industrial
11 purposes;

12 (b) Federal property for which payments are made in lieu of
13 taxes in amounts equivalent to taxes which might otherwise be
14 lawfully assessed;

15 (c) Property of any state-supported educational institution ,
16 *except any part of such property located within a tax increment*
17 *area created pursuant to section 1 of this act;*

18 (d) Property leased or otherwise made available to and used by a
19 natural person, private association, private corporation, municipal
20 corporation, quasi-municipal corporation or a political subdivision
21 under the provisions of the Taylor Grazing Act or by the United
22 States Forest Service or the Bureau of Reclamation of the United
23 States Department of the Interior;

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

27 (f) Vending stand locations and facilities operated by blind
28 persons under the auspices of the Bureau of Services to the Blind
29 and Visually Impaired of the Rehabilitation Division of the
30 Department of Employment, Training and Rehabilitation, whether
31 or not the property is owned by the federal, state or a local
32 government;

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

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

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

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



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

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

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

8 3. Taxes must be assessed to lessees or users of exempt real
9 estate and collected in the same manner as taxes assessed to owners
10 of other real estate, except that taxes due under this section do not
11 become a lien against the property. When due, the taxes constitute a
12 debt due from the lessee or user to the county for which the taxes
13 were assessed and, if unpaid, are recoverable by the county in the
14 proper court of the county.

