

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; changing the manner in which certain revenue limitations apply to securities issued for certain tax increment areas; 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.

Under existing law, the total revenue paid to a tax increment area is limited to 10 percent if the population of the applicable municipality is 100,000 or more and is limited to 15 percent if the population of the applicable municipality is less than 100,000. (NRS 278C.250) **Section 3** of this bill provides that if a municipality issues securities for a tax increment area when the population of the municipality is less than 100,000, the municipality will receive the benefit of the higher 15-percent revenue limitation until such securities are paid in full, regardless of whether the population of the municipality reaches or exceeds 100,000 after such securities are issued.



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 4** 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 4 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



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1 *contains or refers to an exhibit filed with the clerk of the city and*
2 *the Secretary of the Board of Regents which contains:*

3 *(a) A statement of the last finalized amount of the assessed*
4 *valuation of the real property within the boundaries of the tax*
5 *increment area, which boundaries must be in compliance with*
6 *subsection 1, and a statement that, based upon the records of the*
7 *county treasurer, no property taxes were collected on any of that*
8 *property, or on any interest therein, during the most recent year*
9 *for which those records are available; and*

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

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

20 *4. The notice of the meeting required pursuant to subsection*
21 *3 of NRS 278C.170 must:*

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

25 *(b) Describe the last finalized amount of the assessed valuation*
26 *of the real property within the boundaries of the tax increment*
27 *area, and state that, based upon the records of the county*
28 *treasurer, no property taxes were collected on any of that property,*
29 *or on any interest therein, during the most recent year for which*
30 *those records are available;*

31 *(c) Describe the tax increment area or its location, so that the*
32 *various tracts of taxable real or personal property may be*
33 *identified and determined to be within or without the tax*
34 *increment area; and*

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

37 *5. If, after considering all properly submitted and relevant*
38 *written and oral complaints, protests, objections and other relevant*
39 *comments and after considering any other relevant material, the*
40 *governing body determines that the undertaking is in the public*
41 *interest and defines that public interest, the governing body shall*
42 *determine whether to proceed with the undertaking. If the*
43 *governing body has ordered any modification to an undertaking*
44 *and has determined to proceed, the governing body must consult*
45 *with the Board of Regents to obtain its consent to the proposed*



1 *modification. When the Board of Regents and the governing body*
2 *are in agreement on the modification, if any, and a statement of*
3 *the modification is filed with the clerk, if the governing body wants*
4 *to proceed with the undertaking, the governing body shall adopt*
5 *an ordinance in the same manner as any other ordinance:*

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

8 *(b) Ordering the undertaking;*

9 *(c) Describing the tax increment area to which the*
10 *undertaking pertains; and*

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

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

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

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

44 *9. If the boundaries of a county school district include a tax*
45 *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.

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

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

1. In the case of counties:

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

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

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

(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 with respect to any tax increment area created pursuant to a cooperative agreement between the city and the Nevada System of Higher Education pursuant to section 1 of this act, in addition to the projects described in subsection 2:*

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

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

Sec. 3. NRS 278C.250 is hereby amended to read as follows:

278C.250 1. After the effective date of the ordinance adopted pursuant to NRS 278C.220, any taxes levied upon taxable property in the tax increment area each year by or for the benefit of the State, the municipality and any public body must be divided as follows:

(a) That portion of the taxes that would be produced by the rate upon which the tax is levied each year by or for each of those taxing agencies upon the total sum of the assessed value of the taxable property in the tax increment area as shown upon the last equalized



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1 assessment roll used in connection with the taxation of the property
2 by the taxing agency, must be allocated to and when collected must
3 be paid into the funds of the respective taxing agencies as taxes by
4 or for the taxing agencies on all other property are paid.

5 (b) Except as otherwise provided in this section, the portion of
6 the taxes levied each year in excess of the amount determined
7 pursuant to paragraph (a) must be allocated to, and when collected
8 must be paid into, the tax increment account pertaining to the
9 undertaking to pay the bond requirements of loans, money advanced
10 to, or indebtedness, whether funded, refunded, assumed or
11 otherwise, incurred by the municipality to finance or refinance, in
12 whole or in part, the undertaking. Unless the total assessed valuation
13 of the taxable property in the tax increment area exceeds the total
14 assessed value of the taxable property in the area as shown by the
15 last equalized assessment roll referred to in this subsection, all of the
16 taxes levied and collected upon the taxable property in the area must
17 be paid into the funds of the respective taxing agencies. When the
18 loans, advances and indebtedness, if any, and interest thereon, have
19 been paid, all money thereafter received from taxes upon the taxable
20 property in the tax increment area must be paid into the funds of the
21 respective taxing agencies as taxes on all other property are paid.

22 (c) The amount of the taxes levied each year which are paid into
23 the tax increment account pursuant to paragraph (b) must be limited
24 by the governing body to an amount not to exceed the combined
25 total amount required for annual debt service of the project or
26 projects acquired, improved or equipped, or any combination
27 thereof, as part of the undertaking.

28 (d) Any revenues generated within the tax increment district in
29 excess of the amount referenced in paragraph (c), if any, will be
30 paid into the funds of the respective taxing agencies in the same
31 proportion as their base amount was distributed.

32 2. ~~HH~~ *Except as otherwise provided in this subsection, in* any
33 fiscal year, the total revenue paid to a tax increment area in
34 combination with the total revenue paid to any other tax increment
35 areas and any redevelopment agencies of a municipality must not
36 exceed:

37 (a) In a municipality whose population is 100,000 or more, an
38 amount equal to the combined tax rates of the taxing agencies for
39 that fiscal year multiplied by 10 percent of the total assessed
40 valuation of the municipality.

41 (b) In a municipality whose population is less than 100,000, an
42 amount equal to the combined tax rates of the taxing agencies for
43 that fiscal year multiplied by 15 percent of the total assessed
44 valuation of the municipality.



1 ↪ *Notwithstanding the provisions of this subsection, if a*
2 *municipality has a population of less than 100,000 at the time the*
3 *municipality issues securities for a tax increment area pursuant to*
4 *NRS 278C.280, the revenue limitation set forth in paragraph (b)*
5 *must remain the revenue limitation for the tax increment area*
6 *until such time as the securities issued for that tax increment area*
7 *pursuant to NRS 278C.280 have been paid in full, including any*
8 *securities issued to refund those securities, regardless of whether*
9 *the population of the municipality reaches or exceeds 100,000*
10 *after the issuance of those securities.*

11 3. If the revenue paid to a tax increment area must be limited
12 pursuant to paragraph (a) or (b) *of subsection 2* and the municipality
13 has more than one redevelopment agency or tax increment area, or
14 one of each, the municipality shall determine the allocation to each
15 agency and area. Any revenue that would be allocated to a tax
16 increment area but for the provisions of this section must be paid
17 into the funds of the respective taxing agencies.

18 ~~[3.]~~ 4. The portion of the taxes levied each year in excess of
19 the amount determined pursuant to paragraph (a) of subsection 1
20 which is attributable to any tax rate levied by a taxing agency:

21 (a) To produce revenue in an amount sufficient to make annual
22 repayments of the principal of, and the interest on, any bonded
23 indebtedness that was approved by a majority of the registered
24 voters within the area of the taxing agency voting upon the question,
25 must be allocated to, and when collected must be paid into, the debt
26 service fund of that taxing agency.

27 (b) In excess of any tax rate of that taxing agency applicable to
28 the last taxation of the property before the effective date of the
29 ordinance, if that additional rate was approved by a majority of the
30 registered voters within the area of the taxing agency voting upon
31 the question, must be allocated to, and when collected must be paid
32 into, the appropriate fund of that taxing agency.

33 (c) Pursuant to NRS 387.3285 or 387.3287, if that rate was
34 approved by a majority of the registered voters within the area of the
35 taxing agency voting upon the question, must be allocated to, and
36 when collected must be paid into, the appropriate fund of that taxing
37 agency.

38 (d) For the support of the public schools within a county school
39 district pursuant to NRS 387.195, must be allocated to, and when
40 collected must be paid into, the appropriate fund of that taxing
41 agency.

42 ~~[4.]~~ 5. The provisions of paragraph (a) of subsection ~~[3.]~~ 4
43 include, without limitation, a tax rate approved for bonds of a
44 county school district issued pursuant to NRS 350.020, including,



1 without limitation, amounts necessary for a reserve account in the
2 debt service fund.

3 ~~5.1~~ 6. As used in this section, the term "last equalized
4 assessment roll" means the assessment roll in existence on the 15th
5 day of March immediately preceding the effective date of the
6 ordinance.

7 **Sec. 4.** NRS 361.157 is hereby amended to read as follows:

8 361.157 1. When any real estate or portion of real estate
9 which for any reason is exempt from taxation is leased, loaned or
10 otherwise made available to and used by a natural person,
11 association, partnership or corporation in connection with a business
12 conducted for profit or as a residence, or both, the leasehold interest,
13 possessory interest, beneficial interest or beneficial use of the lessee
14 or user of the property is subject to taxation to the extent the:

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

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

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

22 2. Subsection 1 does not apply to:

23 (a) Property located upon a public airport, park, market or
24 fairground, or any property owned by a public airport, unless the
25 property owned by the public airport is not located upon the public
26 airport and the property is leased, loaned or otherwise made
27 available for purposes other than for the purposes of a public airport,
28 including, without limitation, residential, commercial or industrial
29 purposes;

30 (b) Federal property for which payments are made in lieu of
31 taxes in amounts equivalent to taxes which might otherwise be
32 lawfully assessed;

33 (c) Property of any state-supported educational institution ~~H~~,
34 *except any part of such property located within a tax increment*
35 *area created pursuant to section 1 of this act;*

36 (d) Property leased or otherwise made available to and used by a
37 natural person, private association, private corporation, municipal
38 corporation, quasi-municipal corporation or a political subdivision
39 under the provisions of the Taylor Grazing Act or by the United
40 States Forest Service or the Bureau of Reclamation of the United
41 States Department of the Interior;

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



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

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

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

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

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

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

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

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

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

