

SENATE BILL NO. 448—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 26, 2007

Referred to Committee on Taxation

SUMMARY—Revises provisions governing certain appeals to the Nevada Tax Commission. (BDR 32-1353)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; revising provisions governing certain appeals to the Nevada Tax Commission; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that meetings of public bodies be open to the public. (Chapter 241 of NRS) Exceptions to the general rule are allowed by specific statute. (NRS 241.020) One such exception authorizes the Nevada Tax Commission to hold a closed hearing on an appeal by a taxpayer if the taxpayer requests that the hearing be closed. (NRS 360.247) **Section 1** of this bill limits the purpose for which a taxpayer may request a closed hearing to the receipt of proprietary or confidential information and provides the Commission with the discretion to determine whether the material to be presented at the hearing is proprietary or confidential information. **Section 1** also clarifies that if a taxpayer requests that the hearing be closed, any receipt of information, discussion, deliberation, motion or vote by the Commission on the appeal must occur in the closed hearing. **Section 1** also requires the Commission to announce its decision on the appeal in an open meeting in a manner that does not make public any proprietary or confidential information. The Commission also must prepare an abstract of the decision, which must be made available to the public within 45 days after the Commission makes its decision. In addition, **section 1** provides immunity from criminal penalties and civil liability to members of the Commission and officers, agents and employees of the Department of Taxation for the use or publication of proprietary or confidential information.

Under existing law, it is a misdemeanor for a member of the Nevada Tax Commission and officers, agents and employees of the Department of Taxation to make public certain taxpayer information. (NRS 372.750) **Section 2** of this bill extends this criminal penalty to interveners and interested third parties in taxpayer matters.



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

Section 1. NRS 360.247 is hereby amended to read as follows:
360.247 **1.** Except as otherwise provided in this section, any appeal to the Nevada Tax Commission which is taken by a taxpayer concerning his liability for tax must be heard during a session of the Commission which is open to the public. ~~{A}~~ *Upon request by the taxpayer, a hearing on such an appeal may be closed to the public ~~if the taxpayer requests that it be closed.~~ to receive proprietary or confidential information.*

2. *As soon as practicable after closing a hearing, the Nevada Tax Commission shall determine whether the information to be presented in the closed hearing is proprietary or confidential information. If the Commission determines that the information is not proprietary or confidential information, the Commission shall immediately open the hearing to the public. If the Commission determines that the information is proprietary or confidential information:*

(a) The Commission shall receive the information in a manner which ensures that all the members of the Commission have a reasonable and adequate opportunity to make any inquiries that a member believes to be necessary and appropriate; and

(b) The receipt of the information and any discussion, deliberation, motion or vote on the appeal by the Commission must occur in the closed hearing. After the Commission has made a decision on the appeal in the closed hearing, the Commission shall open the hearing to the public and announce the decision in a manner that does not make public any proprietary or confidential information.

3. *Not later than 45 days after the Nevada Tax Commission makes a decision on an appeal in a closed hearing pursuant to this section, the Commission shall prepare an abstract that explains the reasons for the decision, which must be made available to the public upon request. Such an abstract must not contain any proprietary or confidential information relating to the taxpayer.*

4. *A member of the Nevada Tax Commission and an officer, agent or employee of the Department is not subject to any criminal penalty or civil liability for the use or publication of proprietary or confidential information regardless of whether the information was received in a closed hearing.*

5. *The Nevada Tax Commission shall adopt regulations which establish procedures:*

(a) By which a taxpayer may request a closed hearing pursuant to this section; and



* S B 4 4 8 R 1 *

(b) By which the Commission may determine whether information is proprietary or confidential information during a closed hearing.

6. As used in this section:

(a) "Confidential economic information":

(1) Means any information which is not available to the public generally, which confers an economic benefit on the holder of the information as a result of its unavailability and which is the subject of reasonable efforts by the taxpayer to maintain its secrecy.

(2) Includes, without limitation, information relating to the amount or source of any income, profits, losses or expenditures of the taxpayer, such as data relating to costs, prices or customers.

(b) "Proprietary or confidential information":

(1) Means:

(I) Any trade secret or confidential economic information that is submitted to the Nevada Tax Commission by the taxpayer and is determined to be proprietary or confidential by the Commission; or

(II) Any information that a specific statute declares to be confidential or prohibits the Commission from making public.

(2) Does not include any information that has been published for public distribution or is otherwise available to the public generally or in the public domain.

Sec. 2. NRS 372.750 is hereby amended to read as follows:

372.750 1. Except as otherwise provided in this section ~~§~~ and NRS 360.247, it is a misdemeanor for any member of the Tax Commission, ~~tax~~ officer, agent or employee of the Department, *intervener or other interested third party*, to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures or any particular of them, set forth or disclosed in any return, or to permit any return or copy of a return, or any book containing any abstract or particulars of it to be seen or examined by any person not connected with the Department.

2. The Tax Commission may agree with any county fair and recreation board or the governing body of any county, city or town for the continuing exchange of information concerning taxpayers.

3. The Governor may, by general or special order, authorize the examination of the records maintained by the Department under this chapter by other state officers, by tax officers of another state, by the Federal Government, if a reciprocal arrangement exists, or by



1 any other person. The information so obtained may not be made
2 public except to the extent and in the manner that the order may
3 authorize that it be made public.

4 4. Upon written request made by a public officer of a local
5 government, the Executive Director shall furnish from the records of
6 the Department, the name and address of the owner of any seller or
7 retailer who must file a return with the Department. The request
8 must set forth the social security number of the owner of the seller
9 or retailer about which the request is made and contain a statement
10 signed by the proper authority of the local government certifying
11 that the request is made to allow the proper authority to enforce a
12 law to recover a debt or obligation owed to the local government.
13 The information obtained by the local government is confidential
14 and may not be used or disclosed for any purpose other than the
15 collection of a debt or obligation owed to that local government.
16 The Executive Director may charge a reasonable fee for the cost of
17 providing the requested information.

18 5. Successors, receivers, trustees, executors, administrators,
19 assignees and guarantors, if directly interested, may be given
20 information as to the items included in the measure and amounts of
21 any unpaid tax or amounts of tax required to be collected, interest
22 and penalties.

23 6. Relevant information may be disclosed as evidence in an
24 appeal by the taxpayer from a determination of tax due.

25 7. At any time after a determination, decision or order of the
26 Executive Director or other officer of the Department imposing
27 upon a person a penalty for fraud or intent to evade the tax imposed
28 by this chapter on the sale, storage, use or other consumption of any
29 vehicle, vessel or aircraft becomes final or is affirmed by the
30 Commission, any member of the Commission or officer, agent or
31 employee of the Department may publicly disclose the identity of
32 that person and the amount of tax assessed and penalties imposed
33 against him.

34 **Sec. 3.** The provisions of NRS 360.247, as amended by
35 section 1 of this act, do not apply to any appeal to the Nevada Tax
36 Commission which has been taken by a taxpayer concerning his
37 liability for tax before the effective date of this act.

38 **Sec. 4.** This act becomes effective upon passage and approval.

