

Amendment No. 749

Assembly Amendment to Senate Bill No. 374 First Reprint (BDR 22-816)

Proposed by: Assembly Committee on Government Affairs

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

HAC/MSM



Date: 5/16/2007

S.B. No. 374—Makes certain changes concerning tax increment areas.

(BDR 22-816)



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 ~~13~~ 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 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 property, or on any interest therein, during the most recent year for which those records are available; 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.

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

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

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

4 (b) Describe the last finalized amount of the assessed valuation of the real
5 property within the boundaries of the tax increment area, and state that, based
6 upon the records of the county treasurer, no property taxes were collected on any
7 of that property, or on any interest therein, during the most recent year for which
8 those records are available;

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

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

14 5. If, after considering all properly submitted and relevant written and oral
15 complaints, protests, objections and other relevant comments and after
16 considering any other relevant material, the governing body determines that
17 the undertaking is in the public interest and defines that public interest, the
18 governing body shall determine whether to proceed with the undertaking. If the
19 governing body has ordered any modification to an undertaking and has
20 determined to proceed, the governing body must consult with the Board of
21 Regents to obtain its consent to the proposed modification. When the Board of
22 Regents and the governing body are in agreement on the modification, if any,
23 and a statement of the modification is filed with the clerk, if the governing body
24 wants to proceed with the undertaking, the governing body shall adopt an
25 ordinance in the same manner as any other ordinance:

26 (a) Overruling all complaints, protests and objections not otherwise acted
27 upon;

28 (b) Ordering the undertaking;

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

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

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

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

47 8. The city may delegate to the Board of Regents the authority to issue any
48 security other than a general obligation security which the city is authorized to
49 issue pursuant to this chapter, and in connection therewith, may irrevocably
50 dedicate to the Board of Regents the revenues that are authorized pursuant to this
51 chapter to be pledged or used to repay those securities, including, without
52 limitation, all money in the tax increment account created pursuant to subsection
53 5. The irrevocable dedication of any security pursuant to this subsection must be

1 *for the term of the security issued by the Nevada System of Higher Education and*
2 *any security refunding those securities and may also extend for the term of the*
3 *tax increment area.*

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

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

10 278C.140 "Undertaking" means any enterprise to acquire, improve or equip,
11 or any combination thereof:

12 1. In the case of counties:

- 13 (a) A drainage and flood control project, as defined in NRS 244A.027;
14 (b) An overpass project, as defined in NRS 244A.037;
15 (c) A sewerage project, as defined in NRS 244A.0505;
16 (d) A street project, as defined in NRS 244A.053;
17 (e) An underpass project, as defined in NRS 244A.055; or
18 (f) A water project, as defined in NRS 244A.056.

19 2. In the case of cities:

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

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

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

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

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

37 278C.250 1. After the effective date of the ordinance adopted pursuant to
38 NRS 278C.220, any taxes levied upon taxable property in the tax increment area
39 each year by or for the benefit of the State, the municipality and any public body
40 must be divided as follows:

41 (a) That portion of the taxes that would be produced by the rate upon which the
42 tax is levied each year by or for each of those taxing agencies upon the total sum of
43 the assessed value of the taxable property in the tax increment area as shown upon
44 the last equalized assessment roll used in connection with the taxation of the
45 property by the taxing agency, must be allocated to and when collected must be
46 paid into the funds of the respective taxing agencies as taxes by or for the taxing
47 agencies on all other property are paid.

48 (b) Except as otherwise provided in this section, the portion of the taxes levied
49 each year in excess of the amount determined pursuant to paragraph (a) must be
50 allocated to, and when collected must be paid into, the tax increment account
51 pertaining to the undertaking to pay the bond requirements of loans, money
52 advanced to, or indebtedness, whether funded, refunded, assumed or otherwise,
53 incurred by the municipality to finance or refinance, in whole or in part, the

undertaking. Unless the total assessed valuation of the taxable property in the tax increment area exceeds the total assessed value of the taxable property in the area as shown by the last equalized assessment roll referred to in this subsection, all of the taxes levied and collected upon the taxable property in the area must be paid into the funds of the respective taxing agencies. When the loans, advances and indebtedness, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the tax increment area must be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

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

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

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

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

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

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

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

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

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

(b) In excess of any tax rate of that taxing agency applicable to the last taxation of the property before the effective date of the ordinance, if that additional rate was approved by a majority of the registered voters within the area of the taxing agency

1 voting upon the question, must be allocated to, and when collected must be paid
2 into, the appropriate fund of that taxing agency.

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

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

10 ~~4.4~~ 5. The provisions of paragraph (a) of subsection ~~4.3~~ 4 include, without
11 limitation, a tax rate approved for bonds of a county school district issued pursuant
12 to NRS 350.020, including, without limitation, amounts necessary for a reserve
13 account in the debt service fund.

14 ~~5.4~~ 6. As used in this section, the term "last equalized assessment roll"
15 means the assessment roll in existence on the 15th day of March immediately
16 preceding the effective date of the ordinance.

17 ~~Sec. 3.1~~ Sec. 4. NRS 361.157 is hereby amended to read as follows:

18 361.157 1. When any real estate or portion of real estate which for any
19 reason is exempt from taxation is leased, loaned or otherwise made available to and
20 used by a natural person, association, partnership or corporation in connection with
21 a business conducted for profit or as a residence, or both, the leasehold interest,
22 possessory interest, beneficial interest or beneficial use of the lessee or user of the
23 property is subject to taxation to the extent the:

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

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

27 ➤ can be segregated and identified. The taxable value of the interest or use must be
28 determined in the manner provided in subsection 3 of NRS 361.227 and in
29 accordance with NRS 361.2275.

30 2. Subsection 1 does not apply to:

31 (a) Property located upon a public airport, park, market or fairground, or any
32 property owned by a public airport, unless the property owned by the public airport
33 is not located upon the public airport and the property is leased, loaned or otherwise
34 made available for purposes other than for the purposes of a public airport,
35 including, without limitation, residential, commercial or industrial purposes;

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

38 (c) Property of any state-supported educational institution ~~4.1~~, *except any part*
39 *of such property located within a tax increment area created pursuant to section*
40 *1 of this act;*

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

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

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

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

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

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

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

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

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

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

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