

Amendment No. CA12

First Conference Committee Amendment to (BDR S-1333)
Assembly Bill No. 461 Second Reprint

Proposed by: First Conference Committee

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

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.

EGO/KMG



Date: 6/2/2007

A.B. No. 461—Makes certain changes concerning sales and use taxes.
(BDR S-1333)



ASSEMBLY BILL NO. 461—ASSEMBLYMEN PARKS, KIRKPATRICK, KOIVISTO, MCCLAIN, PIERCE, ANDERSON, ARBERRY, ATKINSON, BUCKLEY, CLABORN, CONKLIN, DENIS, GERHARDT, HARDY, HOGAN, HORNE, KIHUEN, LESLIE, MANENDO, MORTENSON, OCEGUERA, OHRENSCHALL AND WOMACK

MARCH 19, 2007

Referred to Committee on Taxation

SUMMARY—Makes certain changes concerning sales and use taxes.
(BDR S-1333)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 taxation; providing for certain reporting requirements and the review of certain expenditures relating to the Clark County Sales and Use Tax Act of 2005; authorizing the Board of County Commissioners of Nye County to increase the sales and use tax to support public safety services in Nye County; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Clark County Sales and Use Tax Act of 2005 authorized the Board of County Commissioners of Clark County to impose up to one-half of 1 percent sales and use tax to employ and equip additional police officers for various police departments in Clark County. **Section 1** of this bill adds a requirement that any governmental entity that authorizes expenditures from the tax revenues for a police department must submit periodic reports to the Legislature concerning the use of that money, and authorizes the Legislative Commission to review and investigate those expenditures.

Sections 3-22 of this bill are modeled on the provisions of the Clark County Sales and Use Tax Act of 2005, and authorize the Board of County Commissioners of Nye County to impose an additional sales tax of up to one-half of 1 percent for the purposes of recruiting, employing and equipping additional firefighters, deputy sheriffs and other public safety personnel and constructing, improving and equipping public safety facilities in Nye County. Any proposed change in the use of the proceeds of the tax must be submitted to the voters and be approved by the Legislature. **Section 17.5 of this bill contains requirements identical to those in section 1 of this bill concerning reporting of expenditures of the tax revenues and the review and investigation of those expenditures.**

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

Section 1. The Clark County Sales and Use Tax Act of 2005, being chapter 249, Statutes of Nevada 2005, at page 912, is hereby amended by adding thereto a new section to be designated as section 13.5, immediately following section 13, to read as follows:

Sec. 13.5. 1. Any governing body that has approved expenditures pursuant to section 13 of this Act shall submit to the Director of the Legislative Counsel Bureau for transmittal to the members of the Legislature or the Legislative Commission when the Legislature is not in regular session, the periodic reports required pursuant to this section and such other information relating to the provisions of this Act as may be requested by the Director of the Legislative Counsel Bureau.

2. The reports required pursuant to this section must be submitted:

(a) On or before:

(1) February 15 for the 3-month period ending on the immediately preceding December 31;

(2) May 15 for the 3-month period ending on the immediately preceding March 31;

(3) August 15 for the 3-month period ending on the immediately preceding June 30; and

(4) November 15 for the 3-month period ending on the immediately preceding September 30; and

(b) On or before August 15 for the 12-month period ending on the immediately preceding June 30.

3. Each report must be submitted on a form provided by the Director of the Legislative Counsel Bureau and include, with respect to the period covered by the report:

(a) The total proceeds received by the respective police department from the sales and use tax imposed pursuant to this Act;

(b) A detailed description of the use of the proceeds, including, without limitation:

(1) The total expenditures made by the respective police department from the sales and use tax imposed pursuant to this Act;

(2) The total number of police officers hired by the police department and the number of those officers that are filling authorized, funded positions for new officers; and

(3) A detailed analysis of the manner in which each expenditure:

(I) Conforms to all provisions of this Act; and

(II) Does not replace or supplant funding which existed before October 1, 2005, for the police department; and

(c) Any other information required to complete the form for the report.

4. The Legislative Commission may review and investigate the reports submitted pursuant to this section and the expenditure of any proceeds pursuant to section 13 of this Act.

Sec. 2. Notwithstanding the provisions of section 1 of this act, the report submitted pursuant to section 1 of this act by a governing body to the Director of the Legislative Counsel Bureau on or before November 15, 2007, must separately cover:

1. The period beginning on October 1, 2005, and ending on September 30, 2007; and

2. The period beginning on July 1, 2006, and ending on June 30, 2007.

Sec. 3. Sections 3 to 22, inclusive, of this act may be cited as the Nye County Sales and Use Tax Act of 2007.

Sec. 4. The Legislature hereby finds and declares that:

1. Nye County has experienced and continues to experience substantial growth, growing from a population of 32,485 residents in 2000 to a projected population of over 44,580 residents in 2006;

2. Nye County is the third largest county in terms of geographic area in the United States and the growth in Nye County has occurred over this wide geographical area;

3. The increase in the number of public safety personnel and facilities to protect the residents of Nye County has not kept pace with this growth;

4. The danger from fire and crime is increasing in Nye County, and so is the time it takes for public safety personnel to respond when a resident reports a fire or crime;

5. It is intended that the Board of County Commissioners of Nye County establish a program that promotes community participation in protecting the residents of the community that includes, without limitation:

(a) A written policy on providing public safety services oriented toward the involvement of residents of the community;

(b) The provision of training for all public safety personnel employed in the County that includes, without limitation, training relating to:

(1) Methods that may be used to analyze, respond to and solve problems commonly confronted by public safety personnel in the community;

(2) The cultural and racial diversity of the residents of the community;

(3) The proper utilization of community resources, such as local housing authorities, public utilities and local public officials, that are available to assist in providing public safety services; and

(4) Issues concerning not only the prevention of fires and crime, but also improving the quality of life for the residents of the community; and

(c) The formation of partnerships with the residents of the community and public and private agencies and organizations to address mutual concerns relating to the provision of public safety services;

6. A general law cannot be made applicable to the purposes, objects, powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act because of the demographic, economic and geographic diversity of the local governments of this State, the unique growth patterns occurring in Nye County and the special financial conditions experienced in the County relating to the need to recruit, employ and equip more public safety personnel and to construct, improve and equip public safety facilities; and

7. The powers, rights, privileges, immunities, liabilities, duties and disabilities provided in this act comply in all respects with any requirement or limitation pertaining thereto and imposed by any constitutional provisions.

Sec. 5. Except as otherwise provided in this act or unless the context otherwise requires, the terms used or referred to in this act have the meanings ascribed to them in chapter 374 of NRS, as from time to time amended, but the

definitions in sections 6 to 13, inclusive, of this act, unless the context otherwise requires, govern the construction of this act.

Sec. 6. “Act” means the Nye County Sales and Use Tax Act of 2007.

Sec. 7. “Board” means the Board of County Commissioners of Nye County.

Sec. 8. “County” means Nye County.

Sec. 9. “County Treasurer” means the County Treasurer of Nye County.

Sec. 10. “Department” means the Department of Taxation created pursuant to NRS 360.120.

Sec. 11. “Employ” means making an expenditure for the purpose of providing employment, including, without limitation, paying wages and benefits.

Sec. 12. “Recruit” means making an expenditure for the purpose of attracting applicants for employment or persuading an applicant to accept employment, including, without limitation, providing materials and services relating to recruitment, paying signing bonuses, paying expenses relating to relocation and providing assistance with the purchase of a house.

Sec. 13. “Sheriff” means the Sheriff of Nye County.

Sec. 14. 1. The Board may enact an ordinance imposing a local sales and use tax to:

(a) Recruit, employ and equip additional firefighters, deputy sheriffs to the Sheriff and other public safety personnel;

(b) Improve and equip existing public safety facilities; and

(c) Construct and equip new public safety facilities.

2. Before enacting such an ordinance, the Board shall hold a public hearing to present its plan for implementing the local sales and use tax.

3. The proceeds from the tax authorized pursuant to this section, including interest and other income earned thereon, must be:

(a) Allocated for expenditure:

(1) In the areas of Pahrump, Amargosa Valley, Beatty, Tonopah, Round Mountain, Manhattan, Gabbs and any other town or city created in Nye County after October 1, 2007, and in the remaining unincorporated area of Nye County on a pro rata basis in each of those areas based upon the ratio of the population of that area to the total population of Nye County; or

(2) In any other manner that the Board and the governing body of each of those areas agree to be appropriate to carry out the purposes set forth in subsection 1 in accordance with the provisions of section 17 of this act.

➤ As used in this paragraph, “population” means the estimated annual population determined pursuant to NRS 360.283.

(b) Used only as approved pursuant to section 17 of this act and only for the purposes set forth in subsection 1 unless the Legislature changes the use. The Board shall, before submitting to the Legislature any request to change the uses for the proceeds from the tax, submit an advisory question to the voters of the County pursuant to NRS 293.482, asking whether the uses for the proceeds from the tax should be so changed. The Board shall not submit such a request to the Legislature if a majority of the voters in the County disapprove the proposed change.

Sec. 15. An ordinance enacted pursuant to this act must include provisions in substance as follows:

1. A provision imposing a tax on the gross receipts of any retailer from the sale of all tangible personal property sold at retail or stored, used or otherwise consumed in the County, including incorporated cities in the County, at a rate that does not exceed one-half of 1 percent.

2. Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

3. A provision that an amendment to chapter 374 of NRS enacted after the effective date of the ordinance, not inconsistent with this act, automatically becomes part of the ordinance imposing the tax.

4. A provision that the Board shall contract with the Department, before the effective date of the ordinance, to perform all the functions incident to the administration or operation of the tax in the County.

5. A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed on the sale of, and the storage, use or other consumption in the County, including incorporated cities in the County, of, tangible personal property used for the performance of a written contract for the construction of an improvement to real property:

(a) That was entered into on or before the effective date of the tax; or

(b) For which a binding bid was submitted before that date if the bid was afterward accepted, and pursuant to the terms of the contract or bid, the contract price or bid amount may not be adjusted to reflect the imposition of the tax.

6. A provision that specifies the date on which the tax must first be imposed, which must not be earlier than the first day of the second calendar month following the effective date of the ordinance.

Sec. 16. An ordinance amending an ordinance enacted pursuant to this act, except an ordinance authorizing the issuance of bonds or other securities, must include a provision in substance that the Board shall amend a contract made pursuant to subsection 4 of section 15 of this act by a contract made between the Board and the Department before the effective date of the amendatory ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is needed.

Sec. 17. 1. The proceeds received from any sales and use tax imposed pursuant to this act must be expended in each of the areas to which those proceeds are allocated for expenditure pursuant to section 14 of this act in such a manner that half of those proceeds are expended for the support of the services provided by local fire departments in that area and the remaining half of those proceeds are expended for the support of the services provided by the Sheriff in that area.

2. No expenditure of those proceeds may be made unless the expenditure has been approved by the governing body of the area to which those proceeds have been allocated for expenditure. The governing body must approve the expenditure of the proceeds if it determines that:

(a) The proposed use of the money conforms to all provisions of this act; and

(b) The proposed use will not replace or supplant existing funding for the purposes set forth in subsection 1 of section 14 of this act for the support of the services provided by local fire departments and the Sheriff in that area.

3. In determining whether a proposed use meets the requirement set forth in paragraph (b) of subsection 2, the governing body shall determine whether the amount approved for expenditure for the fiscal year for the purposes set forth in subsection 1 of section 14 of this act for the support of the services of local fire departments and the Sheriff in that area, not including any money received or expended pursuant to this act, is equal to or greater than the amount approved for expenditure in the immediately preceding fiscal year for the purposes set forth in subsection 1 of section 14 of this act for the support of the services of local fire departments and the Sheriff in that area.

Sec. 17.5. 1. Any governing body of an area that has approved expenditures pursuant to section 17 of this act shall ~~submit to the Director of the Legislative Counsel Bureau for transmittal to~~ ~~on or before September 1 of each year,~~

1 the members of the Legislature, or the Legislative Commission when the
2 Legislature is not in regular session, the periodic reports required pursuant to
3 this section and such other information relating to the provisions of this act as
4 may be requested by the Director of the Legislative Counsel Bureau.

5 2. The reports required pursuant to this section must be submitted:

6 (a) On or before:

7 (1) February 15 for the 3-month period ending on the immediately
8 preceding December 31;

9 (2) May 15 for the 3-month period ending on the immediately
10 preceding March 31;

11 (3) August 15 for the 3-month period ending on the immediately
12 preceding June 30; and

13 (4) November 15 for the 3-month period ending on the immediately
14 preceding September 30; and

15 (b) On or before August 15 for the 12-month period ending on the
16 immediately preceding June 30.

17 3. Each report must be submitted on a form provided by the Director of
18 the Legislative Counsel Bureau and include, with respect to the period covered
19 by the report:

20 (a) The total proceeds received by the respective local fire departments
21 and the Sheriff from the sales and use tax imposed pursuant to this act;

22 (b) A detailed description of the use of the ~~{money}~~ proceeds, including,
23 without limitation ~~{, a}~~ :

24 (1) The total expenditures made by the respective local fire
25 departments and the Sheriff for the purposes set forth in subsection 1 of
26 section 14 of this act for the support of the services provided by the respective
27 local fire departments and the Sheriff in each applicable area from the sales
28 and use tax imposed pursuant to this act;

29 (2) The total number of firefighters, deputy sheriffs and other public
30 safety personnel hired by local fire departments or the Sheriff, as applicable,
31 and the number of those employees that are filling authorized, funded
32 positions for new employees; and

33 (3) A detailed analysis of the manner in which each expenditure:

34 ~~{, }~~ (I) Conforms to all provisions of this act; and

35 ~~{, }~~ (II) Does not replace or supplant funding which existed before October 1,
36 2007, for the purposes set forth in subsection 1 of section 14 of this act for the
37 support of the services provided by local fire departments and the Sheriff in ~~{that}~~
38 each applicable area ~~{,~~

39 ~~{to the Director of the Legislative Counsel Bureau for transmittal to the members~~
40 ~~of the Legislature.} ; and~~

41 (c) Any other information required to complete the form for the report.

42 4. The Legislative Commission may review and investigate the reports
43 submitted pursuant to this section and the expenditure of any proceeds
44 pursuant to section 17 of this act.

45 Sec. 18. 1. All fees, taxes, interest and penalties imposed and all amounts
46 of tax required to be paid to the County pursuant to this act must be paid to the
47 Department in the form of remittances payable to the Department.

48 2. The Department shall deposit the payments with the State Treasurer for
49 credit to the Sales and Use Tax Account in the State General Fund.

50 3. The State Controller, acting upon the collection data furnished by the
51 Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account to the appropriate account in the State General Fund a percentage of all fees, taxes, interest and penalties collected pursuant to this act during the preceding month as compensation to the State for the cost of collecting the tax. The percentage to be transferred pursuant to this paragraph must be the same percentage as the percentage of proceeds transferred pursuant to paragraph (a) of subsection 3 of NRS 374.785, but the percentage must be applied to the proceeds collected pursuant to this act only.

(b) Determine the amount equal to all fees, taxes, interest and penalties collected in or for the County pursuant to this act during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined pursuant to paragraph (b) to the Intergovernmental Fund and remit the money to the County Treasurer.

Sec. 19. The Department may redistribute any proceeds from the taxes, interest or penalties collected pursuant to this act which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

Sec. 20. 1. The County Treasurer shall:

(a) Deposit money received from the State Controller pursuant to paragraph (c) of subsection 3 of section 18 of this act into the County Treasury for credit to a special revenue fund created for the use of the proceeds from the tax authorized by this act; and

(b) Allocate that money into separate accounts within that fund as appropriate to carry out the provisions of paragraph (a) of subsection 3 of section 14 of this act.

2. The special revenue fund of the County created for the use of the proceeds from the tax authorized by this act must be accounted for as a separate fund and not as a part of any other fund.

3. Interest earned on the special revenue fund created pursuant to subsection 1 must be credited to the fund. The money in each such fund must remain in the fund and must not revert to the County Treasury at the end of any fiscal year.

Sec. 21. In a proceeding arising from an ordinance imposing a tax pursuant to this act, the Department may act for and on behalf of the County.

Sec. 22. 1. The powers conferred by this act are in addition and supplemental to, and not in substitution for, the powers conferred by any other law and the limitations imposed by this act do not affect the powers conferred by any other law.

2. This act must not be construed to prevent the exercise of any power granted by any other law to the County or any officer, agent or employee of the County.

3. This act must not be construed to repeal or otherwise affect any other law or part thereof.

4. This act is intended to provide a separate method of accomplishing the objectives of the act, but not an exclusive method.

5. If any provision of this act, or application thereof to any person, thing or circumstance, is held invalid, the invalidity shall not affect the provisions or application of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 23. 1. This section and sections 3 to 22, inclusive, of this act become effective:

(a) Upon passage and approval for the purposes of enacting ordinances and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On October 1, 2007, for all other purposes.

- 1 2. Sections 1 and 2 of this act become effective on October 1, 2007, and
- 2 expire by limitation on October 1, 2025.
- 3 3. Sections 3 to 22, inclusive, of this act expire by limitation on October 1,
- 4 2027.