

Amendment No. 214

Senate Amendment to Senate Bill No. 264

(BDR 31-81)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: Add Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date	
Adopted	☐	Lost	☐	Adopted	☐	Lost	☐
Concurred In	☐	Not	☐	Concurred In	☐	Not	☐
Receded	☐	Not	☐	Receded	☐	Not	☐

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 dashed underlining*** is newly added transitory language.

CLB/BJE



Date: 4/11/2009

S.B. No. 264—Authorizes local governments to impose, increase, decrease and repeal certain taxes to carry out their functions. (BDR 31-81)



SENATE BILL NO. 264—SENATOR CARE

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—~~Authorizes local governments to impose, increase, decrease and repeal certain taxes to carry out their functions.~~ Directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments. (BDR ~~[31-81]~~ S-81)

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

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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 local governmental ~~financial~~ administration; ~~authorizing local governments to impose, increase, decrease and repeal certain taxes to carry out their functions;~~ directing the Legislative Commission to conduct an interim study of the powers delegated to local governments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~Existing law authorizes local governments to levy various taxes for specific purposes. Section 1 of this bill authorizes a local government to impose a property tax, a sales and use tax, a room tax, a fuel tax and a tax on transfers of real property, and to increase, decrease or repeal that tax, for the purpose of carrying out any of its functions.~~ This bill directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments, including the feasibility of increasing the powers of local governments related to taxation.

WHEREAS, In 1868, Judge John F. Dillon of the Iowa Supreme Court established in Merriam v. Moody's Executors, 25 Iowa 163 (1868), a common law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments; and

WHEREAS, Under Dillon's Rule, a local government possesses and can exercise only those powers which are: (1) granted in express words; (2) necessarily or fairly implied in or incident to the powers expressly granted; or (3) essential to the accomplishment of the declared objects and purposes of the local government and which are not simply convenient, but indispensable; and

WHEREAS, The Nevada Supreme Court has cited Dillon's Rule in several opinions; and

WHEREAS, Allowing greater autonomy for local governments in this State may promote more efficient use of limited governmental resources; now, therefore,

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

Section 1. ~~[Chapter 354 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~— Except as otherwise provided in or limited by federal law or the Constitution of the State of Nevada and notwithstanding any statutory provision of this State to the contrary, the governing body of a local government may, for the purpose of carrying out any function of the local government:~~

~~— 1. Impose:~~

~~— (a) A tax ad valorem on all taxable property within the boundaries of the local government;~~

~~— (b) 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 within the boundaries of the local government;~~

~~— (c) A tax on the gross receipts from the rental of transient lodging within the boundaries of the local government upon all persons in the business of providing lodging;~~

~~— (d) A tax on aviation fuel, as defined in NRS 365.015, fuel for jet or turbine-powered aircraft, as defined in NRS 365.035, motor vehicle fuel, as defined in NRS 365.060, or special fuel, as defined in NRS 366.060, or on any two or more of those fuels, sold within the boundaries of the local government;~~

~~— (e) A tax on each deed or other legal document by which any lands, tenements or other realty located within the boundaries of the local government is granted, assigned, transferred or otherwise conveyed to, or vested in, another person;~~

~~— 2. Increase, decrease or repeal any tax imposed pursuant to subsection 1;~~

~~— 3. At its discretion, submit a question regarding any action described in subsection 1 or 2 to the registered voters within the jurisdiction of the local government; (Deleted by amendment.)~~

Sec. 2. ~~[NRS 354.470 is hereby amended to read as follows:~~

~~— 354.470 NRS 354.470 to 354.626, inclusive, and section 1 of this act may be cited as the Local Government Budget and Finance Act.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 354.474 is hereby amended to read as follows:~~

~~— 354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, and section 1 of this act apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive [1], and section 1 of this act:~~

~~— (a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 319 and 379 of NRS, NRS 450.550 to 450.750, inclusive, and chapters 474, 541, 543 and 555 of NRS, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision;~~

~~— (b) "Local government" does not include the Nevada Rural Housing Authority;~~

~~— 2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The~~

1 ~~levy of such assessments and the posting and publication of claims and annual~~
2 ~~financial statements as required by chapter 539 of NRS shall be deemed compliance~~
3 ~~with the budgeting, filing and publication requirements of NRS 354.470 to 354.626,~~
4 ~~inclusive, and section 1 of this act, but any such irrigation district which levies an~~
5 ~~ad valorem tax shall comply with the filing and publication requirements of NRS~~
6 ~~354.470 to 354.626, inclusive, and section 1 of this act in addition to the~~
7 ~~requirements of chapter 539 of NRS.~~

8 ~~3. An electric light and power district created pursuant to chapter 318 of NRS~~
9 ~~shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626,~~
10 ~~inclusive, and section 1 of this act for a year in which the district does not issue~~
11 ~~bonds or levy an assessment if the district files with the Department of Taxation a~~
12 ~~copy of all documents relating to its budget for that year which the district~~
13 ~~submitted to the Rural [Electrification Administration] Utilities Service of the~~
14 ~~United States Department of Agriculture.] (Deleted by amendment.)~~

15 **Sec. 4.** ~~[NRS 354.476 is hereby amended to read as follows:~~

16 ~~354.476 As used in NRS 354.470 to 354.626, inclusive, and section 1 of this~~
17 ~~act, unless the context otherwise requires, the words and terms defined in NRS~~
18 ~~354.470 to 354.578, inclusive, have the meanings ascribed to them in those~~
19 ~~sections.] (Deleted by amendment.)~~

20 **Sec. 5.** ~~[NRS 244.3359 is hereby amended to read as follows:~~

21 ~~244.3359 1. A county whose population is 400,000 or more shall not~~
22 ~~impose a new tax on the rental of transient lodging or increase the rate of an~~
23 ~~existing tax on the rental of transient lodging after March 25, 1991, except pursuant~~
24 ~~to NRS 244.3351 and 244.3352 [.] and section 1 of this act.~~

25 ~~2. [A] Except as otherwise provided in section 1 of this act, a county whose~~
26 ~~population is 100,000 or more but less than 400,000 shall not impose a new tax on~~
27 ~~the rental of transient lodging or increase the rate of an existing tax on the rental of~~
28 ~~transient lodging after March 25, 1991.~~

29 ~~3. The Legislature hereby declares that the limitation imposed by subsection 2~~
30 ~~will not be repealed or amended after July 1, 2009, except to allow the imposition~~
31 ~~of an increase in such a tax for the promotion of tourism or for the construction or~~
32 ~~operation of tourism facilities by a convention and visitors authority.] (Deleted by~~
33 ~~amendment.)~~

34 **Sec. 6.** ~~[NRS 268.0968 is hereby amended to read as follows:~~

35 ~~268.0968 1. Except as otherwise provided in NRS 268.096 and 268.801 to~~
36 ~~268.808, inclusive, and section 1 of this act, a city located in a county whose~~
37 ~~population is 400,000 or more shall not impose a new tax on the rental of transient~~
38 ~~lodging or increase the rate of an existing tax on the rental of transient lodging after~~
39 ~~March 25, 1991.~~

40 ~~2. Except as otherwise provided in NRS 268.7945 [.] and section 1 of this~~
41 ~~act, a city located in a county whose population is 100,000 or more but less than~~
42 ~~400,000 shall not impose a new tax on the rental of transient lodging or increase the~~
43 ~~rate of an existing tax on the rental of transient lodging after March 25, 1991.~~

44 ~~3. The Legislature hereby declares that the limitation imposed by subsection 2~~
45 ~~will not be repealed or amended after July 1, 2009, except to allow the imposition~~
46 ~~of an increase in such a tax for:~~

47 ~~(a) The promotion of tourism;~~

48 ~~(b) The construction or operation of tourism facilities by a convention and~~
49 ~~visitors authority; or~~

50 ~~(c) The acquisition, establishment, construction or expansion of one or more~~
51 ~~railroad grade separation projects.] (Deleted by amendment.)~~

1 **Sec. 7. ~~[NRS 365.210 is hereby amended to read as follows:~~**
2 ~~365.210 1. No county, city or other political subdivision or municipal~~
3 ~~corporation may levy or collect any excise, privilege or occupation tax upon or~~
4 ~~measured by the receipt, storage, sale, distribution, transportation or use of motor~~
5 ~~vehicle fuel, fuel for jet or turbine powered aircraft or any other inflammable or~~
6 ~~combustible liquids except:~~
7 ~~(a) The county motor vehicle fuel tax authorized by chapter 373 of NRS;~~
8 ~~(b) A tax on fuel for jet or turbine powered aircraft authorized by NRS~~
9 ~~365.203;~~
10 ~~(c) A tax on aviation fuel authorized by NRS 365.203;~~
11 ~~(d) Any motor vehicle fuel taxation in effect on January 1, 1935, in any city or~~
12 ~~town;~~
13 ~~(e) A tax or fee imposed upon a business by a county or city that is authorized~~
14 ~~by law, except as otherwise provided in subsection 2 or pursuant to subsection 1 of~~
15 ~~NRS 364.210;~~
16 ~~(f) A tax authorized by section 1 of this act;~~
17 ~~2. After March 25, 1991, no county, city or other political subdivision or~~
18 ~~municipal corporation responsible for the operation of an airport may impose a new~~
19 ~~tax or fee upon the sale or distribution of fuel for jet or turbine powered aircraft~~
20 ~~except:~~
21 ~~(a) A tax on fuel for jet or turbine powered aircraft authorized by NRS~~
22 ~~365.203;~~
23 ~~(b) Any fuel flowage fee imposed upon aircraft or organizations servicing~~
24 ~~aircraft in lieu of rent for use of the terminal, landing fees or other airport charges;~~
25 ~~(c) A tax authorized by section 1 of this act.](Deleted by amendment.)~~
26 **Sec. 8. 1. The Legislative Commission shall appoint an interim**
27 **committee to conduct a study of the powers of local governments in this State.**
28 **The study must include, without limitation, an examination of:**
29 **(a) The structure, formation, function and powers of local governments in**
30 **this State;**
31 **(b) The potential fiscal impact in this State resulting from abolishing**
32 **Dillon's Rule;**
33 **(c) The feasibility of increasing the powers of local governments in this**
34 **State; and**
35 **(d) The experiences of states that have rejected Dillon's Rule.**
36 **2. The interim committee must be composed of six Legislators, one of**
37 **whom must be appointed as Chairman of the committee, as follows:**
38 **(a) The Chairman of the Senate Standing Committee on Government**
39 **Affairs;**
40 **(b) The Chairman of the Assembly Standing Committee on Government**
41 **Affairs;**
42 **(c) One member appointed by the Majority Leader of the Senate;**
43 **(d) One member appointed by the Minority Leader of the Senate;**
44 **(e) One member appointed by the Speaker of the Assembly; and**
45 **(f) One member appointed by the Minority Leader of the Assembly.**
46 **3. To assist with the study, the Chairman of the interim committee may**
47 **appoint a technical advisory committee consisting of representatives of local**
48 **governments in this State, who serve without salary, but are entitled to receive**
49 **the per diem allowance and travel expenses provided for state officers and**
50 **employees generally.**
51 **4. Any recommended legislation proposed by the interim committee must**
52 **be approved by a majority of members of the Senate and a majority of the**
53 **members of the Assembly appointed to the Committee.**

1 ~~5. On or before February 1, 2011, the Legislative Commission shall~~
2 ~~submit a report of the results of the study conducted pursuant to this section~~
3 ~~and any recommendation for legislation to the Director of the Legislative~~
4 ~~Counsel Bureau for transmission to the 76th Session of the Nevada~~
5 ~~Legislature.~~

6 **Sec. 9.** This act becomes effective on July 1, 2009.