

**Amendment No. 121**

Assembly Amendment to Senate Bill No. 31 First Reprint (BDR 32-434)

**Proposed by:** Assembly Committee on Taxation

**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 underlining* is newly added transitory language.

SJC/BJE



Date: 3/31/2011

S.B. No. 31—Makes various changes to provisions governing administration of taxes. (BDR 32-434)



## SENATE BILL NO. 31—COMMITTEE ON REVENUE

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 14, 2010

Referred to Committee on Revenue

SUMMARY—Makes various changes to provisions governing administration of taxes. (BDR 32-434)

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 the administration of taxes; clarifying provisions governing the determination and certification of population for apportionment purposes and requiring additional projections of population; revising provisions governing joint and several liability of certain responsible persons for taxes and certain waivers of penalties and interest; extending the period for the Department of Taxation or a county to bring an action in a court of competent jurisdiction for summary judgment against a person owing a delinquent tax or deficiency determination; extending the period for the Department or a county to record a tax lien; extending the period for the Department or a county to issue a warrant for the enforcement of a lien and collect a delinquent tax; temporarily extending the deadline for submitting cooperative agreements altering the formula for the distribution of money from the Local Government Tax Distribution Account; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law requires the Department of Taxation to determine, and the Governor to certify, the annual population of each town, township, city and county in this State for purposes of the apportionment of taxes during the next fiscal year. (NRS 360.283, 360.285) **Sections 2 and 3** of this bill clarify that this determination and certification is of the relevant population as of July 1 of the immediately preceding year. **Section 1** of this bill additionally requires the Department to issue annual reports containing 5-year and 20-year projections of the population of each county.

The provisions of title 32 of NRS require the Department of Taxation to collect certain taxes imposed on property of an interstate or intercounty nature, the net proceeds of minerals, financial institutions and other businesses, live entertainment, liquor, tobacco, controlled substances, estates and generation-skipping transfers, and various sales and use taxes. (Chapters 361, 362, 363A, 363B, 368A, 369, 370, 372, 372A, 374, 374A, 375A-377B of NRS) Existing law imposes joint and several liability upon certain responsible persons who fail to collect or pay to the Department some of these taxes or any pertinent fees. (NRS

360.297) **Section 4** of this bill limits this liability to the willful failure to pay or collect an applicable tax or fee and applies this liability to all of the taxes and fees required to be paid to the Department under title 32 of NRS.

Under existing law, the Department of Taxation is authorized to waive or reduce the interest and penalties imposed on a person whose failure to timely file a return or pay certain taxes collected by the Department is the result of circumstances beyond the person's control and occurred despite the exercise of ordinary care and without intent. (NRS 360.419) **Section 5** of this bill extends that authority to all of the taxes and fees required to be paid to the Department under title 32 of NRS and to certain fees imposed on the lease of a passenger car by a short-term lessor.

If a person owes delinquent taxes or has a deficiency determination against him or her with respect to any tax administered by the Department of Taxation, existing law authorizes the Department to attempt collection of the tax or deficiency in certain ways. The Department may: (1) file an action in any court of competent jurisdiction for summary judgment for the amount due; (2) file a certificate in the office of any county recorder, at which time the amount due becomes a lien upon all real and personal property the person owns or acquires in the county before the lien expires or is discharged; and (3) issue a warrant for the enforcement of a lien and for the collection of any delinquent tax or fee. (NRS 360.420, 360.473, 360.483) Existing law also allows a county to take such actions when any tax is delinquent on a transfer of real property in the county. (NRS 375.160, 375.170, 375.200) Such actions must occur within 3 years after the date the tax, fee or deficiency determination was due. Existing law allows the State Controller to take certain actions with respect to unpaid debts to the State within 4 years after the debt becomes due. (NRS 353C.140, 353C.150) **Sections ~~6-11~~ 6-8 and 10-12** of this bill similarly extend the time by which the Department or county may take action to collect delinquent taxes, fees or deficiencies to within 4 years after payment was due.

Existing law requires the deposit of certain proceeds from liquor taxes, cigarette taxes, real property transfer taxes, city-county relief taxes and governmental services taxes into the Local Government Tax Distribution Account. (NRS 369.173, 370.260, 375.070, 377.055, 377.057, 482.181) Under existing law, the Executive Director of the Department of Taxation is required to allocate the money in the Account each fiscal year to local governments, special districts and enterprise districts in accordance with a mathematical formula, except that a county clerk may, not later than December 31 of the immediately preceding year, submit to the Executive Director a local cooperative agreement which provides for the allocation of that money under an alternative formula that commences the next fiscal year. (NRS 360.680, 360.690, 360.730) Section 9 of this bill extends until May 31, 2011, the deadline for submitting such a cooperative agreement for an alternative formula that would commence with the fiscal year beginning on July 1, 2011.

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

**Section 1.** Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

**1. The Department shall:**

(a) *On or before March 1 of each calendar year, issue an annual report of the projected population of each ~~town, township, city and~~ county in this State as of July 1 of that year and the next succeeding 4 years; and*

(b) *On or before October 1 of each calendar year, issue an annual report of the projected population, as classified by age, sex, race and Hispanic origin, of each ~~town, township, city and~~ county in this State as of July 1 of that year and the next succeeding 19 years.*

**2. The Department shall post the annual reports required by subsection 1 on an Internet website maintained by the Department and, if the demographer**

1 *employed pursuant to NRS 360.283 maintains a separate Internet website,*  
2 *require the demographer to post the annual reports required by subsection 1 on*  
3 *an Internet website maintained by the demographer.*

4 **Sec. 2.** NRS 360.283 is hereby amended to read as follows:

5 360.283 1. The Department shall adopt regulations to establish a method of  
6 determining annually the population of each town, township, city and county in this  
7 State and estimate the population of each town, township, city and county pursuant  
8 to those regulations.

9 2. The Department shall , *on or after July 1 of each year,* issue an annual  
10 report of the estimated population of each town, township, city and county in this  
11 State ~~as of July 1 of that year.~~

12 3. Any town, city or county in this State may petition the Department to  
13 revise the estimated population of that town, city or county. No such petition may  
14 be filed on behalf of a township. The Department shall by regulation establish a  
15 procedure to review each petition and to appeal the decision on review.

16 4. The Department shall, upon the completion of any review and appeal  
17 thereon pursuant to subsection 3, determine the population of each town, township,  
18 city and county in this State, and submit its determination to the Governor.

19 5. The Department shall employ a demographer to assist in the determination  
20 of population pursuant to this section *and the projection of population pursuant to*  
21 *section 1 of this act,* and to cooperate with the Federal Government in the conduct  
22 of each decennial census as it relates to this State.

23 **Sec. 3.** NRS 360.285 is hereby amended to read as follows:

24 360.285 1. For the purposes of this title, the Governor shall, on or before  
25 March 1 of each year, certify the population of each town, township, city and  
26 county in this state *as of the immediately preceding July 1* from the determination  
27 submitted to the Governor by the Department ~~as pursuant to subsection 4 of NRS~~  
28 ~~360.283.~~

29 2. Where any tax is collected by the Department for apportionment in whole  
30 or in part to any political subdivision and the basis of the apportionment is the  
31 population of the political subdivision, the Department shall use the populations  
32 certified by the Governor. The transition from one such certification to the next  
33 must be made on July 1 following the certification for use in the fiscal year  
34 beginning then. Every payment before that date must be based upon the earlier  
35 certification and every payment on or after that date must be based upon the later  
36 certification.

37 **Sec. 4.** NRS 360.297 is hereby amended to read as follows:

38 360.297 1. A responsible person who *willfully* fails to collect or pay to the  
39 Department any tax or fee ~~imposed by this chapter, chapter 363A, 363B, 368A,~~  
40 ~~369, 370, 372 or 374 of NRS,] required to be paid to the Department pursuant to~~  
41 *this title,* NRS 444A.090 or 482.313, or chapter 680B of NRS, or who attempts to  
42 evade the payment of any such tax or fee, is jointly and severally liable with any  
43 other person who is required to pay such a tax or fee for the tax or fee owed plus  
44 interest and all applicable penalties. The responsible person shall pay the tax or fee  
45 upon notice from the Department that it is due.

46 2. As used in this section, "responsible person" includes:

47 (a) An officer or employee of a corporation; and

48 (b) A member or employee of a partnership or limited-liability company,

49 ~~whose job or duty it is to collect, account for or pay to the Department any tax or~~  
50 ~~fee imposed by this chapter, chapter 363A, 363B, 368A, 369, 370, 372 or 374 of~~  
51 ~~NRS,] required to be paid to the Department pursuant to this title,~~ NRS 444A.090  
52 or 482.313, or chapter 680B of NRS.

1       **Sec. 5.** NRS 360.419 is hereby amended to read as follows:

2       360.419 1. If the Executive Director or a designated hearing officer finds  
3 that the failure of a person to make a timely return or payment of ~~tax imposed~~  
4 ~~pursuant to NRS 361.320 or chapter 361A, 362, 363A, 363B, 369, 370, 372, 372A,~~  
5 ~~374, 375A, 375B, 376A, 377 or 377A of NRS.] any tax or fee required to be paid~~  
6 ~~to the Department pursuant to this title or NRS 482.313~~ is the result of  
7 circumstances beyond his or her control and occurred despite the exercise of  
8 ordinary care and without intent, the Department may relieve the person of all or  
9 part of any interest or penalty, or both.

10       2. A person seeking relief must file with the Department a statement under  
11 oath setting forth the facts upon which the person bases his or her claim.

12       3. The Department shall disclose, upon the request of any person:

13       (a) The name of the person to whom relief was granted; and

14       (b) The amount of the relief.

15       4. The Executive Director or a designated hearing officer shall act upon the  
16 request of a taxpayer seeking relief pursuant to NRS 361.4835 which is deferred by  
17 a county treasurer or county assessor.

18       **Sec. 6.** NRS 360.420 is hereby amended to read as follows:

19       360.420 1. If, with respect to any tax or fee administered by the  
20 Department, a person:

21       (a) Fails to pay the tax or fee when due according to his or her own return filed  
22 with the Department;

23       (b) Fails to pay a deficiency determination when due; or

24       (c) Defaults on a payment pursuant to a written agreement with the  
25 Department,

26       the Department may, within ~~3~~ 4 years after the amount is due, file in the office  
27 of the clerk of any court of competent jurisdiction an application for the entry of a  
28 summary judgment for the amount due.

29       2. The application must be accompanied by a certificate specifying:

30       (a) The amount required to be paid, including any interest and penalties due;

31       (b) The name and address of the person liable for the payment, as they appear  
32 on the records of the Department;

33       (c) The basis for the determination of the Department of the amount due; and

34       (d) That the Department has complied with the applicable provisions of law in  
35 relation to the determination of the amount required to be paid.

36       3. The application must include a request that judgment be entered against the  
37 person in the amount required to be paid, including any interest and penalties due,  
38 as set forth in the certificate.

39       **Sec. 7.** NRS 360.473 is hereby amended to read as follows:

40       360.473 1. If any tax or fee administered by the Department is not paid  
41 when due, the Department may, within ~~3~~ 4 years after the date that the tax or fee  
42 was due, file for record a certificate in the office of any county recorder which  
43 states:

44       (a) The amount of the tax or fee and any interest or penalties due;

45       (b) The name and address of the person who is liable for the amount due as  
46 they appear on the records of the Department; and

47       (c) That the Department has complied with all procedures required by law for  
48 determining the amount due.

49       2. From the time of the filing of the certificate, the amount due, including  
50 interest and penalties, constitutes a lien upon all real and personal property in the  
51 county owned by the person or acquired by the person afterwards and before the  
52 lien expires. The lien has the effect and priority of a judgment lien and continues

1 for 5 years after the time of the filing of the certificate unless sooner released or  
2 otherwise discharged.

3 3. Within 5 years after the date of the filing of the certificate or within 5 years  
4 after the date of the last extension of the lien pursuant to this subsection, the lien  
5 may be extended by filing for record a new certificate in the office of the county  
6 recorder of any county. From the time of filing, the lien is extended to all real and  
7 personal property in the county owned by the person or acquired by the person  
8 afterwards for 5 years, unless sooner released or otherwise discharged.

9 **Sec. 8.** NRS 360.483 is hereby amended to read as follows:

10 360.483 1. The Department or its authorized representative may issue a  
11 warrant for the enforcement of a lien and for the collection of any delinquent tax or  
12 fee which is administered by the Department:

13 (a) Within ~~3~~ 4 years after the person is delinquent in the payment of the tax or  
14 fee; or

15 (b) Within 5 years after the last recording of an abstract of judgment or of a  
16 certificate constituting a lien for the tax or fee.

17 2. The warrant must be directed to a sheriff or constable and has the same  
18 effect as a writ of execution.

19 3. The warrant must be levied and sale made pursuant to the warrant in the  
20 same manner and with the same effect as a levy of and a sale pursuant to a writ of  
21 execution.

22 **Sec. 9.** NRS 360.730 is hereby amended to read as follows:

23 360.730 1. The governing bodies of two or more local governments or  
24 special districts, or any combination thereof, may, pursuant to the provisions of  
25 NRS 277.045, enter into a cooperative agreement that sets forth an alternative  
26 formula for the distribution of the taxes included in the Account to the local  
27 governments or special districts which are parties to the agreement. The governing  
28 bodies of each local government or special district that is a party to the agreement  
29 must approve the alternative formula by majority vote.

30 2. The county clerk of a county in which a local government or special district  
31 that is a party to a cooperative agreement pursuant to subsection 1 is located shall  
32 transmit a copy of the cooperative agreement to the Executive Director:

33 (a) Within 10 days after the agreement is approved by each of the governing  
34 bodies of the local governments or special districts that are parties to the agreement;  
35 and

36 (b) Not later than ~~[December 31 of the year]~~ May 31 immediately preceding  
37 the initial year of distribution that will be governed by the cooperative agreement.

38 3. The governing bodies of two or more local governments or special districts  
39 shall not enter into more than one cooperative agreement pursuant to subsection 1  
40 that involves the same local governments or special districts.

41 4. If at least two cooperative agreements exist among the local governments  
42 and special districts that are located in the same county, the Executive Director  
43 shall ensure that the terms of those cooperative agreements do not conflict.

44 5. Any local government or special district that is not a party to a cooperative  
45 agreement pursuant to subsection 1 must continue to receive money from the  
46 Account pursuant to the provisions of NRS 360.680 and 360.690.

47 6. The governing bodies of the local governments and special districts that  
48 have entered into a cooperative agreement pursuant to subsection 1 may, by  
49 majority vote, amend the terms of the agreement. The governing bodies shall not  
50 amend the terms of a cooperative agreement more than once during the first 2 years  
51 after the cooperative agreement is effective and once every year thereafter, unless  
52 the Committee on Local Government Finance approves the amendment. The  
53 provisions of this subsection do not apply to any interlocal agreements for the

consolidation of governmental services entered into by local governments or special districts pursuant to the provisions of NRS 277.080 to 277.180, inclusive, that do not relate to the distribution of taxes included in the Account.

7. A cooperative agreement executed pursuant to this section may not be terminated unless the governing body of each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 agrees to terminate the agreement.

8. For each fiscal year the cooperative agreement is in effect, the Executive Director shall continue to calculate the amount each local government or special district that is a party to a cooperative agreement pursuant to subsection 1 would receive pursuant to the provisions of NRS 360.680 and 360.690.

9. If the governing bodies of the local governments or special districts that are parties to a cooperative agreement terminate the agreement pursuant to subsection 7, the Executive Director must distribute to those local governments or special districts an amount equal to the amount the local government or special district would have received pursuant to the provisions of NRS 360.680 and 360.690 according to the calculations performed pursuant to subsection 8.

~~Sec. 9.~~ **Sec. 10.** NRS 375.160 is hereby amended to read as follows:

375.160 1. If any tax imposed pursuant to this chapter is not paid when due, the county may, within ~~3~~ 4 years after the date that the tax was due, record a certificate in the office of the county recorder which states:

- (a) The amount of the tax and any interest or penalties due;
- (b) The name and address of the person who is liable for the amount due as they appear on the records of the county; and
- (c) That the county recorder has complied with all procedures required by law for determining the amount due.

2. From the time of the recording of the certificate, the amount due, including interest and penalties, constitutes:

- (a) A lien upon the real property for which the tax was due if the person who owes the tax still owns the property; or
- (b) A demand for payment if the property has been sold or otherwise transferred to another person.

3. The lien has the effect and priority of a judgment lien and continues for 5 years after the time of the recording of the certificate unless sooner released or otherwise discharged.

4. Within 5 years after the date of recording the certificate or within 5 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the time of recording the new certificate, the lien is extended for 5 years, unless sooner released or otherwise discharged.

~~Sec. 10.~~ **Sec. 11.** NRS 375.170 is hereby amended to read as follows:

375.170 1. If a person is delinquent in the payment of any tax imposed by this chapter or has not paid the amount of a deficiency determination, the county may bring an action in a court of this state, a court of any other state or a court of the United States that has competent jurisdiction to collect the delinquent or deficient amount, penalties and interest. The action:

(a) May not be brought if the decision that the payment is delinquent or that there is a deficiency determination is on appeal to a hearing officer pursuant to NRS 375.320.

(b) Must be brought not later than ~~3~~ 4 years after the payment became delinquent or the determination became final.

2. The district attorney shall prosecute the action. The provisions of the Nevada Revised Statutes, Nevada Rules of Civil Procedure and Nevada Rules of

Appellate Procedure relating to service of summons, pleadings, proofs, trials and appeals are applicable to the proceedings. In the action, a writ of attachment may issue. A bond or affidavit is not required before an attachment may be issued.

3. In an action, a certificate by the county recorder showing the delinquency is prima facie evidence of:

- (a) The determination of the tax or the amount of the tax;
- (b) The delinquency of the amounts; and
- (c) The compliance by the county recorder with all the procedures required by law relating to the computation and determination of the amounts.

~~Sec. 11.~~ **Sec. 12.** NRS 375.200 is hereby amended to read as follows:

375.200 1. The county or its authorized representative may issue a warrant for the enforcement of a lien and for the collection of any delinquent tax that is administered pursuant to this chapter:

- (a) Within ~~3~~ 4 years after the person is delinquent in the payment of the tax; or
- (b) Within 5 years after the last recording of a certificate copy constituting a lien for the tax.

2. The warrant must be directed to a sheriff or constable and has the same effect as a writ of execution.

3. The warrant must be levied and sale made pursuant to the warrant in the same manner and with the same effect as a levy of and a sale pursuant to a writ of execution.

~~Sec. 12.~~ **Sec. 13.** NRS 4.065 is hereby amended to read as follows:

4.065 1. The justice of the peace shall, on the commencement of any action or proceeding in the justice court for which a fee is required, and on the answer or appearance of any defendant in any such action or proceeding for which a fee is required, charge and collect a fee of \$1 from the party commencing, answering or appearing in the action or proceeding. These fees are in addition to any other fee required by law.

2. On or before the first Monday of each month, the justice of the peace shall pay over to the county treasurer the amount of all fees collected by the justice of the peace pursuant to subsection 1 for credit to the State General Fund. Quarterly, the county treasurer shall remit all money so collected to the State Controller, who shall place the money in an account in the State General Fund for use by the Executive Director of the Department of Taxation to administer the provisions of NRS 360.283 ~~and section 1 of this act.~~

~~Sec. 13.~~ **Sec. 14.** ~~[This act becomes]~~

1. This section becomes effective upon passage and approval.

2. Section 9 of this act becomes effective upon passage and approval and expires by limitation on June 30, 2011.

3. Sections 1 to 8, inclusive, and 10 to 13, inclusive, of this act become effective on July 1, 2011.