

SENATE BILL NO. 383—SENATOR CEGAVSKE

MARCH 21, 2011

Referred to Committee on Revenue

SUMMARY—Revises provisions relating to economic development. (BDR 32-19)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 economic development; authorizing the partial abatement of certain taxes in enterprise zones; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Commission on Economic Development to grant to certain businesses partial abatements of property taxes, business taxes and local sales and use taxes. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 363B.120, 374.357, 701A.210) This bill authorizes the Commission to grant a partial abatement of taxes for certain businesses that relocate or expand in enterprise zones which are counties, cities and towns that have unemployment rates of at least 8 percent for 4 consecutive quarters.

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. A person who intends to locate or expand a business in an enterprise zone may apply to the Commission on Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Commission on Economic Development shall approve an application for a partial abatement if the Commission makes the following determinations:



* S B 3 8 3 *

(a) *The applicant has executed an agreement with the Commission which must:*

(1) *Comply with the requirements of NRS 360.755;*

(2) *State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4, continue in operation in this State for a period specified by the Commission, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and*

(3) *Bind the successors in interest of the business for the specified period.*

(b) *The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.*

(c) *The business meets at least two of the following requirements:*

(1) *The business will have 500 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.*

(2) *Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.*

(3) *The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:*

(I) *The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and*

(II) *The cost to the business for the benefits the business provides to its employees in this State will meet the minimum requirements for benefits established by the Commission by regulation pursuant to subsection 8.*

(d) *If the business is an existing business, the business meets at least two of the following requirements:*

(1) *The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.*

(2) *The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:*



1 (I) County assessor of the county in which the business
2 will expand, if the business is locally assessed; or

3 (II) Department, if the business is centrally assessed.

4 (3) The average hourly wage that will be paid by the
5 existing business to its new employees in this State is at least the
6 amount of the average hourly wage required to be paid by
7 businesses pursuant to subparagraph (2) of either paragraph (a)
8 or (b) of subsection 2 of NRS 361.0687, whichever is applicable,
9 and:

10 (I) The business will provide a health insurance plan for
11 all new employees that includes an option for health insurance
12 coverage for dependents of the employees; and

13 (II) The cost to the business for the benefits the business
14 provides to its new employees in this State will meet the minimum
15 requirements for benefits established by the Commission by
16 regulation pursuant to subsection 8.

17 3. Notwithstanding the provisions of subsection 2, the
18 Commission on Economic Development:

19 (a) Shall not consider an application for a partial abatement
20 unless the Commission has requested a letter of acknowledgment
21 of the request for the abatement from any affected county, school
22 district, city or town.

23 (b) May, if the Commission determines that such action is
24 necessary:

25 (1) Approve an application for a partial abatement by a
26 business that does not meet the requirements set forth in
27 paragraph (c) or (d) of subsection 2;

28 (2) Make the requirements set forth in paragraph (c) or (d)
29 of subsection 2 more stringent; or

30 (3) Add additional requirements that a business must meet
31 to qualify for a partial abatement.

32 4. If the Commission on Economic Development approves an
33 application for a partial abatement, the Commission shall
34 immediately forward a certificate of eligibility for the abatement
35 to:

36 (a) The Department;

37 (b) The Nevada Tax Commission; and

38 (c) If the partial abatement is from the property tax imposed
39 pursuant to chapter 361 of NRS, the county treasurer.

40 5. An applicant for a partial abatement pursuant to this
41 section or an existing business whose partial abatement is in effect
42 shall, upon the request of the Executive Director of the
43 Commission on Economic Development, furnish the Executive
44 Director with copies of all records necessary to verify that the
45 applicant meets the requirements of subsection 2.



1 6. *If a business whose partial abatement has been approved*
2 *pursuant to this section and is in effect ceases:*

3 (a) *To meet the requirements set forth in subsection 2; or*

4 (b) *Operation before the time specified in the agreement*
5 *described in paragraph (a) of subsection 2,*

6 ↳ *the business shall repay to the Department or, if the partial*
7 *abatement was from the property tax imposed pursuant to chapter*
8 *361 of NRS, to the county treasurer, the amount of the exemption*
9 *that was allowed pursuant to this section before the failure of the*
10 *business to comply unless the Nevada Tax Commission determines*
11 *that the business has substantially complied with the requirements*
12 *of this section. Except as otherwise provided in NRS 360.232 and*
13 *360.320, the business shall, in addition to the amount of the*
14 *exemption required to be paid pursuant to this subsection, pay*
15 *interest on the amount due at the rate most recently established*
16 *pursuant to NRS 99.040 for each month, or portion thereof, from*
17 *the last day of the month following the period for which the*
18 *payment would have been made had the partial abatement not*
19 *been approved until the date of payment of the tax.*

20 7. *A county treasurer:*

21 (a) *Shall deposit any money that he or she receives pursuant to*
22 *subsection 6 in one or more of the funds established by a local*
23 *government of the county pursuant to NRS 354.6113 or 354.6115;*
24 *and*

25 (b) *May use the money deposited pursuant to paragraph (a)*
26 *only for the purposes authorized by NRS 354.6113 and 354.6115.*

27 8. *The Commission on Economic Development:*

28 (a) *Shall adopt regulations relating to the minimum level of*
29 *benefits that a business must provide to its employees if the*
30 *business is going to use benefits paid to employees as a basis to*
31 *qualify for a partial abatement; and*

32 (b) *May adopt such other regulations as the Commission on*
33 *Economic Development determines to be necessary to carry out*
34 *the provisions of this section and NRS 360.755.*

35 9. *The Nevada Tax Commission:*

36 (a) *Shall adopt regulations regarding:*

37 (1) *The capital investment that a new business must make*
38 *to meet the requirement set forth in paragraph (c) of subsection 2;*
39 *and*

40 (2) *Any security that a business is required to post to*
41 *qualify for a partial abatement pursuant to this section.*

42 (b) *May adopt such other regulations as the Nevada Tax*
43 *Commission determines to be necessary to carry out the provisions*
44 *of this section and NRS 360.755.*



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1 **10. An applicant for an abatement who is aggrieved by a final**
2 **decision of the Commission on Economic Development may**
3 **petition for judicial review in the manner provided in chapter**
4 **233B of NRS.**

5 **11. As used in this section, "enterprise zone" means any**
6 **county, city or town that has had an unemployment rate of at least**
7 **8 percent for at least 4 consecutive quarters.**

8 **Sec. 2.** NRS 360.755 is hereby amended to read as follows:

9 360.755 1. If the Commission on Economic Development
10 approves an application by a business for a partial abatement
11 pursuant to NRS 360.750, **or section 1 of this act**, the agreement
12 with the Commission must provide that the business:

13 (a) Agrees to allow the Department to conduct audits of the
14 business to determine whether the business is in compliance with
15 the requirements for the partial abatement; and

16 (b) Consents to the disclosure of the audit reports in the manner
17 set forth in this section.

18 2. If the Department conducts an audit of the business to
19 determine whether the business is in compliance with the
20 requirements for the partial abatement, the Department shall, upon
21 request, provide the audit report to the Commission on Economic
22 Development.

23 3. Until the business has exhausted all appeals to the
24 Department and the Nevada Tax Commission relating to the audit,
25 the information contained in the audit report provided to the
26 Commission on Economic Development:

27 (a) Is confidential proprietary information of the business;

28 (b) Is not a public record; and

29 (c) Must not be disclosed to any person who is not an officer or
30 employee of the Commission on Economic Development unless the
31 business consents to the disclosure.

32 4. After the business has exhausted all appeals to the
33 Department and the Nevada Tax Commission relating to the audit:

34 (a) The audit report provided to the Commission on Economic
35 Development is a public record; and

36 (b) Upon request by any person, the Executive Director of the
37 Commission on Economic Development shall disclose the audit
38 report to the person who made the request, except for any
39 information in the audit report that is protected from disclosure
40 pursuant to subsection 5.

41 5. Before the Executive Director of the Commission on
42 Economic Development discloses the audit report to the public, the
43 business may submit a request to the Executive Director to protect
44 from disclosure any information in the audit report which, under
45 generally accepted business practices, would be considered a trade



* S B 3 8 3 *

1 secret or other confidential proprietary information of the business.
2 After consulting with the business, the Executive Director shall
3 determine whether to protect the information from disclosure. The
4 decision of the Executive Director is final and is not subject to
5 judicial review. If the Executive Director determines to protect the
6 information from disclosure, the protected information:

- 7 (a) Is confidential proprietary information of the business;
- 8 (b) Is not a public record;
- 9 (c) Must be redacted by the Executive Director from any audit
10 report that is disclosed to the public; and
- 11 (d) Must not be disclosed to any person who is not an officer or
12 employee of the Commission on Economic Development unless the
13 business consents to the disclosure.

14 **Sec. 3.** NRS 361.0687 is hereby amended to read as follows:

15 361.0687 1. A person who intends to locate or expand a
16 business in this State may, pursuant to NRS 360.750, *or section 1 of*
17 *this act*, apply to the Commission on Economic Development for a
18 partial abatement from the taxes imposed by this chapter.

19 2. For a business to qualify pursuant to NRS 360.750 for a
20 partial abatement from the taxes imposed by this chapter, the
21 Commission on Economic Development must determine that, in
22 addition to meeting the other requirements set forth in subsection 2
23 of that section:

24 (a) If the business is a new business in a county whose
25 population is 100,000 or more or a city whose population is 60,000
26 or more:

27 (1) The business will make a capital investment in the county
28 of at least \$50,000,000 if the business is an industrial or
29 manufacturing business or at least \$5,000,000 if the business is not
30 an industrial or manufacturing business; and

31 (2) The average hourly wage that will be paid by the new
32 business to its employees in this State is at least 100 percent of the
33 average statewide hourly wage as established by the Employment
34 Security Division of the Department of Employment, Training and
35 Rehabilitation on July 1 of each fiscal year.

36 (b) If the business is a new business in a county whose
37 population is less than 100,000 or a city whose population is less
38 than 60,000:

39 (1) The business will make a capital investment in the county
40 of at least \$5,000,000 if the business is an industrial or
41 manufacturing business or at least \$500,000 if the business is not an
42 industrial or manufacturing business; and

43 (2) The average hourly wage that will be paid by the new
44 business to its employees in this State is at least 100 percent of the
45 average statewide hourly wage or the average countywide hourly



* S B 3 8 3 *

1 wage, whichever is less, as established by the Employment Security
2 Division of the Department of Employment, Training and
3 Rehabilitation on July 1 of each fiscal year.

4 3. *For a business to qualify pursuant to section 1 of this act*
5 *for a partial abatement from the taxes imposed by this chapter, the*
6 *Commission on Economic Development must determine that the*
7 *business meets the requirements set forth in subsection 2 of that*
8 *section.*

9 4. Except as otherwise provided in NRS 701A.210, if a partial
10 abatement from the taxes imposed by this chapter is approved by the
11 Commission on Economic Development pursuant to NRS 360.750
12 *or section 1 of this act:*

13 (a) The partial abatement must:

14 (1) Be for a duration of at least 1 year but not more than 10
15 years;

16 (2) Not exceed 50 percent of the taxes on personal property
17 payable by a business each year pursuant to this chapter; and

18 (3) Be administered and carried out in the manner set forth in
19 NRS 360.750 *or section 1 of this act.*

20 (b) The Executive Director of the Commission on Economic
21 Development shall notify the county assessor of the county in which
22 the business is located of the approval of the partial abatement,
23 including, without limitation, the duration and percentage of the
24 partial abatement that the Commission granted. The Executive
25 Director shall, on or before April 15 of each year, advise the county
26 assessor of each county in which a business qualifies for a partial
27 abatement during the current fiscal year as to whether the business is
28 still eligible for the partial abatement in the next succeeding fiscal
29 year.

30 **Sec. 4.** NRS 363B.120 is hereby amended to read as follows:

31 363B.120 1. An employer that qualifies pursuant to the
32 provisions of NRS 360.750 *or section 1 of this act* is entitled to an
33 exemption of 50 percent of the amount of tax otherwise due
34 pursuant to NRS 363B.110 during the first 4 years of its operation.

35 2. If a partial abatement from the taxes otherwise due pursuant
36 to NRS 363B.110 is approved by the Commission on Economic
37 Development pursuant to NRS 360.750, *or section 1 of this act*, the
38 partial abatement must be administered and carried out in the
39 manner set forth in NRS 360.750 *or section 1 of this act.*

40 **Sec. 5.** NRS 374.357 is hereby amended to read as follows:

41 374.357 1. A person who maintains a business or intends to
42 locate a business in this State may, pursuant to NRS 360.750, *or*
43 *section 1 of this act*, apply to the Commission on Economic
44 Development for an abatement from the taxes imposed by this
45 chapter on the gross receipts from the sale, and the storage, use or



1 other consumption, of eligible machinery or equipment for use by a
2 business which has been approved for an abatement pursuant to
3 NRS 360.750 ~~§~~ *or section 1 of this act.*

4 2. If an application for an abatement is approved pursuant to
5 NRS 360.750 ~~§~~ *or section 1 of this act:*

6 (a) The taxpayer is eligible for an abatement from the tax
7 imposed by this chapter for not more than 2 years.

8 (b) The abatement must be administered and carried out in the
9 manner set forth in NRS 360.750 ~~§~~ *or section 1 of this act.*

10 3. As used in this section, unless the context otherwise
11 requires, "eligible machinery or equipment" means machinery or
12 equipment for which a deduction is authorized pursuant to 26 U.S.C.
13 § 179. The term does not include:

14 (a) Buildings or the structural components of buildings;

15 (b) Equipment used by a public utility;

16 (c) Equipment used for medical treatment;

17 (d) Machinery or equipment used in mining; or

18 (e) Machinery or equipment used in gaming.

19 **Sec. 6.** NRS 231.0685 is hereby amended to read as follows:

20 231.0685 The Commission on Economic Development shall,
21 on or before January 15 of each odd-numbered year, prepare and
22 submit to the Director of the Legislative Counsel Bureau for
23 transmission to the Legislature a report concerning the abatements
24 from taxation that the Commission approved pursuant to NRS
25 274.310, 274.320, 274.330 or 360.750 ~~§~~ *or section 1 of this act.*
26 The report must set forth, for each abatement from taxation that the
27 Commission approved in the 2-year period immediately preceding
28 the submission of the report:

29 1. The dollar amount of the abatement;

30 2. The location of the business for which the abatement was
31 approved;

32 3. If applicable, the number of employees that the business for
33 which the abatement was approved employs or will employ;

34 4. Whether the business for which the abatement was approved
35 is a new business or an existing business; and

36 5. Any other information that the Commission determines to be
37 useful.

38 **Sec. 7.** This act becomes effective upon passage and approval.

