REQUIRES TWO-THIRDS MAJORITY VOTE (§§ 1, 3)

S.B. 10

SENATE BILL NO. 10–COMMITTEE ON JUDICIARY

(ON BEHALF OF THE STATE GAMING CONTROL BOARD)

PREFILED DECEMBER 19, 2012

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to refunds of excess state fees and certain taxes paid by gaming licensees. (BDR 41-330)

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 gaming; revising provisions relating to refunds of excess state fees and certain taxes paid by gaming licensees; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes a gaming licensee to seek a refund of state gaming license fees or taxes paid in excess of the amount required to be reported and paid. (NRS 463.387) **Section 1** of this bill authorizes the State Gaming Control Board to determine, charge and collect a fee for the expenses of agents and employees of the Board engaged in reviewing a claim for refund of such license fees or taxes.

Existing law provides that any person against whom a determination of deficiency has been made by the Board may petition the Nevada Gaming Commission for a redetermination. (NRS 463.3883) **Section 2** of this bill provides that interest must not be moved or paid on certain payments made before the date that an order or decision of the Commission becomes final.

Existing law also authorizes a licensed gaming establishment to apply to the Board for a refund of taxes paid on admission to any facility in this State where live entertainment is provided. (NRS 368A.260) **Section 3** of this bill authorizes the Board to determine, charge and collect a fee for the expenses of agents and employees of the Board engaged in reviewing a claim for refund of such taxes.

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

Section 1. NRS 463.387 is hereby amended to read as follows:

463.387 1. State gaming license fees or taxes paid in excess of the amount required to be reported and paid may be refunded, upon the approval of the Commission, as other claims against the State are paid.

2. Within 90 days after the mailing of the notice of the Commission's action upon a claim for refund filed pursuant to this chapter, the claimant may bring an action against the Commission on the grounds set forth in the claim in any court of competent jurisdiction for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

3. Failure to bring an action within the time specified in subsection 2 constitutes a waiver of any demand against the State on account of alleged overpayments.

4. Within 20 days after the mailing of the notice of the Commission's action upon a claim for refund filed pursuant to this chapter, the claimant may file a motion for rehearing with the Commission. The Commission must take action on the motion for rehearing within 50 days after it has been filed with the Commission. If the motion for rehearing is granted, the Commission's earlier action upon the claim for refund is rescinded and the 90-day period specified in subsection 2 does not begin until the Commission mails notice of its action upon the claim following the rehearing.

5. If the Commission fails to mail its notice of action on a claim within 6 months after the claim is filed or reheard, the claimant may consider the claim disallowed and bring an action against the Commission on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

6. In any case where a refund is granted, interest must be allowed at one-half the rate prescribed in NRS 17.130 upon the amount found to have been erroneously paid from the first day of the first month following the date of overpayment until paid. The Commission may in its discretion deny or limit the payment of interest if it finds that the claimant has failed to file a claim for a refund within 90 days after receiving written notification of overpayment from the Board or has impeded the Board's ability to process the claim in a timely manner.

7. Notwithstanding the provisions of NRS 353.115, any claim for refund of state gaming license fees or taxes paid in excess of the amount required to be reported and paid must be filed with the

Commission within 5 years after the date of overpayment and not thereafter.

8. ***In addition to all other fees and charges imposed by this chapter, the Board may determine, charge and collect a fee for the expenses of agents and employees of the Board engaged in reviewing a claim for refund of state gaming license fees or taxes paid in excess of the amount required to be reported and paid.***

9. The provisions of this chapter must not be construed to permit the proration of state gaming taxes or license fees for purposes of a refund.

Sec. 2. NRS 463.3883 is hereby amended to read as follows:

463.3883 1. Any person against whom a determination is made pursuant to NRS 463.388 may petition the Commission for a redetermination within 30 days after service of notice of the determination upon the person. If a petition for redetermination satisfying the requirements of subsection 3 is not filed within 30 days, the determination becomes final at the expiration of the period.

2. If a petition for redetermination satisfying the requirements of subsection 3 is filed within the 30-day period, the Commission shall reconsider the determination and, if the petitioner has so requested, shall grant the petitioner a hearing.

3. A petition for redetermination must:

(a) Specify the contested portions of the determination of deficiency;

(b) Specify the grounds for redetermination;

(c) State whether a hearing is requested; and

(d) Be accompanied by payment in full of the uncontested portion of the determination, including any interest and penalties.

4. ***No interest may be allowed or paid upon any contested portion of the determination of deficiency, or any portion of the associated interest and penalties, that is paid before the date the order or decision of the Commission becomes final.***

5. An order or decision of the Commission upon a petition for redetermination is final 10 days after service upon the petitioner.

~~[5.]~~ ***6.*** A petitioner against whom an order or decision of the Commission has become final may, within 60 days after it becomes final, petition for judicial review in the manner provided by NRS 463.315 to 463.318, inclusive. The Board may not petition for judicial review.

Sec. 3. NRS 368A.260 is hereby amended to read as follows:

368A.260 1. Except as otherwise provided in NRS 360.235 and 360.395:

(a) No refund may be allowed unless a claim for it is filed with:

(1) The Board, if the taxpayer is a licensed gaming establishment; or

(2) The Department, if the taxpayer is not a licensed gaming establishment.

➥ A claim must be filed within 3 years after the last day of the month following the reporting period for which the overpayment was made.

(b) No credit may be allowed after the expiration of the period specified for filing claims for refund unless a claim for credit is filed with the Board or the Department within that period.

2. Each claim must be in writing and must state the specific grounds upon which the claim is founded.

3. Failure to file a claim within the time prescribed in this chapter constitutes a waiver of any demand against the State on account of overpayment.

4. Within 30 days after rejecting any claim in whole or in part, the Board or the Department shall serve notice of its action on the claimant in the manner prescribed for service of notice of a deficiency determination.

5. In addition to all other fees and charges, the Board may determine, charge and collect a fee for the expenses of agents and employees of the Board engaged in reviewing a claim for refund.

Sec. 4. This act becomes effective on July 1, 2013.