
ASSEMBLY BILL NO. 80—COMMITTEE ON TAXATION

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

PREFILED DECEMBER 20, 2014

Referred to Committee on Taxation

SUMMARY—Revises provisions governing the prepayment of taxes on the net proceeds of minerals. (BDR 32-466)

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 governmental financial administration; extending the prospective expiration of certain requirements regarding the imposition and advance payment of the tax upon the net proceeds of minerals and royalties paid for the privilege of extracting a mineral to require advance payment of the portion of the tax that is distributed to the State; requiring the payment of the portion of the tax that is distributed to local governments to be based upon actual net proceeds and royalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires, until June 30, 2015, the advance payment of the tax on
2 the net proceeds of minerals based upon the estimated net proceeds and royalties of
3 a mining operation for the current calendar year. (Chapter 4, Statutes of Nevada
4 2008, 25th Special Session, as last amended by chapter 518, Statutes of Nevada
5 2013, p. 3425) This bill: (1) delays the expiration of this requirement for advance
6 payment until June 30, 2017, so that the portion of the tax that is distributed to the
7 State must be paid in advance; and (2) requires the portion of the tax that is
8 distributed to local governments to be based upon the actual net proceeds from the
9 preceding calendar year and the actual royalties received during the preceding
10 calendar year.



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

1 **Section 1.** NRS 362.105 is hereby amended to read as follows:
2 362.105 As used in NRS 362.100 to 362.240, inclusive, unless
3 the context otherwise requires:

4 1. *“Local portion of the tax” means the portion of the tax*
5 *imposed pursuant to NRS 362.100 to 362.240, inclusive, which is*
6 *subject to appropriation to a county pursuant to NRS 362.170.*

7 2. “Royalty” means a portion of the proceeds from extraction
8 of a mineral which is paid for the privilege of extracting the mineral.
9 ~~2. —“Royalties” do~~ *The term does* not include:

10 (a) Rents or other compensatory payments which are fixed and
11 certain in amount and payable periodically over the duration of the
12 lease regardless of the extent of extractions; or

13 (b) Minimum royalties covering periods when no mineral is
14 extracted if the payments are fixed and certain in amount and
15 payable on a regular periodic basis.

16 3. *“State portion of the tax” means the portion of the tax*
17 *imposed pursuant to NRS 362.100 to 362.240, inclusive, which is*
18 *not subject to appropriation to a county pursuant to NRS 362.170.*

19 **Sec. 2.** NRS 362.115 is hereby amended to read as follows:

20 362.115 1. In addition to the statement required by
21 subsection 1 of NRS 362.110, each person extracting any mineral in
22 this State:

23 (a) Shall, on or before March 1 of each year, file with the
24 Department a statement showing the estimated gross yield and
25 estimated net proceeds from each such operation for the entire
26 current calendar year and an estimate of all royalties that will be
27 paid during the current calendar year and shall pay the *State portion*
28 *of the tax* upon the net proceeds and upon the royalties so estimated.
29 The estimated payment may be reduced by the amount of any credit
30 *for the overpayment of the State portion of the tax* to which the
31 taxpayer is entitled pursuant to NRS 362.130. The amount of the
32 *State portion of the tax* paid upon royalties must be deducted from
33 the payment of the royalties.

34 (b) May file with the Department a quarterly report stating an
35 estimate for the year and the actual quarterly amounts of production,
36 gross yield and net proceeds as of March 31, June 30, September 30
37 and December 31, and pay any additional amount *of the State*
38 *portion of the tax which is* due. The additional estimated tax
39 liability must be calculated by determining the difference between
40 the revised estimates of net proceeds based on the recent production
41 figures as indicated by the quarterly reports and the original estimate
42 supplied pursuant to paragraph (a). If the person chooses to submit



such reports, the reports must be submitted on a form prescribed by the Department not later than the last day of the month following the end of the calendar quarter and payment must be made within 30 days after filing any quarterly report that indicates an additional estimated ~~tax~~ liability ~~[]~~ *for the State portion of the tax.*

2. The Department shall:

(a) Use the statement filed pursuant to subsection 1 to prepare estimates for use by local governments in the preparation of their budgets; and

(b) Submit those estimates to the affected local governments on or before March 15 of each year.

Sec. 3. NRS 362.130 is hereby amended to read as follows:

362.130 1. When the Department determines from the annual statement filed pursuant to NRS 362.110 the net proceeds of any minerals extracted, it shall ~~[prepare]~~ :

(a) *Prepare* its certificate of the amount of the net proceeds, the amount of the estimated *State portion of the* tax paid in the prior calendar year pursuant to paragraph (a) of subsection 1 of NRS 362.115 and any additional payments made pursuant to paragraph (b) of subsection 1 of that section, ~~[and]~~ the balance of the *State portion of the* tax *which is* due, if any, *and the amount of the local portion of the tax which is due;* and ~~[send]~~

(b) *Send* a copy of the certificate to the owner or operator of the mine.

2. The certificate must be prepared and mailed not later than:

(a) April 20 immediately following the month of February during which the annual statement was filed; or

(b) April 30 immediately thereafter if an amended statement is filed in a timely manner.

3. The *balance of the State portion of the* tax *which is* due *and the local portion of the tax which is due,* as indicated in the certificate, and any penalty must be paid on or before May 10 of the year in which the certificate is received.

4. If the amount *of the State portion of the tax which was* paid pursuant to paragraph (a) of subsection 1 of NRS 362.115 in the prior calendar year is less than 90 percent of the amount *of the total amount of the State portion of the tax, as* certified pursuant to this section, the ~~[amount]~~ *balance of the State portion of the tax which is* due must include a penalty of 10 percent of the amount by which the tax was underpaid unless:

(a) The amount paid pursuant to paragraph (a) of subsection 1 of NRS 362.115 in the prior calendar year is equal to or greater than the total liability *for the State portion of the tax* of the operation for the preceding calendar year; or



(b) The person files quarterly reports pursuant to paragraph (b) of subsection 1 of NRS 362.115 in a timely manner for that year and the total of all payments *of the State portion of the tax* exceeds 90 percent of the amount certified ~~{}~~ *for that portion of the tax.*

5. If an overpayment was made ~~{}~~ *of the State portion of the tax*, the overpayment must be credited toward the payment due on March 1 of the next calendar year. *If an overpayment was made of the local portion of the tax, the overpayment must be credited toward the payment due on May 10 of the next calendar year.* If the certificate shows a net loss for the year covered by the certificate or an amount of tax due for that year which is less than an overpayment made for the preceding year, the amount or remaining amount of the overpayment must, after being credited against any amount then due from the taxpayer in accordance with NRS 360.236, be refunded to the taxpayer within 30 days after the certification was sent to the taxpayer.

Sec. 4. NRS 362.170 is hereby amended to read as follows:

362.170 1. There is hereby appropriated to each county the total of the amounts obtained by multiplying, for each extractive operation situated within the county, the net proceeds of that operation and any royalties paid by that operation, by the combined rate of tax ad valorem, excluding any rate levied by the State of Nevada, for property at that site, plus ~~{a pro rata share of}~~ any penalties and interest collected by the Department for the late payment of taxes distributed to the county. The Department shall report to the State Controller on or before May 25 of each year the amount appropriated to each county, as calculated for each operation from the final statement made in February of that year for the preceding calendar year. The State Controller shall distribute all money due to a county on or before May 30 of each year.

2. The county treasurer shall apportion to each local government or other local entity an amount calculated by:

(a) Determining the total of the amounts obtained by multiplying, for each extractive operation situated within its jurisdiction, the net proceeds of that operation and any royalty payments paid by that operation, by the rate levied on behalf of that local government or other local entity;

(b) Adding to the amount determined pursuant to paragraph (a) a pro rata share of any penalties and interest collected by the Department for the late payment of taxes distributed to that local government or local entity; and

(c) Subtracting from the amount determined pursuant to paragraph (b) a commission of 5 percent, of which 3 percent must be deposited in the county general fund and 2 percent must be accounted for separately in the account for the acquisition and



1 improvement of technology in the office of the county assessor
2 created pursuant to NRS 250.085.

3 3. The amounts apportioned pursuant to subsection 2,
4 including, without limitation, the amount retained by the county and
5 excluding the percentage commission, must be applied to the uses
6 for which each levy was authorized in the same proportion as the
7 rate of each levy bears to the total rate.

8 4. The Department shall report to the State Controller on or
9 before May 25 of each year the amount received as tax upon the net
10 proceeds of geothermal resources which equals the product of those
11 net proceeds multiplied by the rate of tax levied ad valorem by the
12 State of Nevada.

13 **Sec. 5.** Section 16 of chapter 4, Statutes of Nevada 2008, 25th
14 Special Session, as last amended by chapter 518, Statutes of Nevada
15 2013, at page 3425, is hereby amended to read as follows:

16 Sec. 16. 1. This section and sections 2, 4, 14 and 15 of
17 this act become effective upon passage and approval.

18 2. Sections 6 to 12, inclusive, of this act become
19 effective on January 1, 2009.

20 3. Sections 4 and 6 to 12, inclusive, of this act expire by
21 limitation on June 30, 2009.

22 4. Sections 1, 3, 5 and 13 of this act become effective on
23 July 1, 2009.

24 5. Sections 1 ~~[2, 3]~~ and 5 of this act expire by limitation
25 on June 30, 2015.

26 ***6. Sections 2 and 3 of this act expire by limitation on***
27 ***June 30, 2017.***

28 **Sec. 6.** 1. When preparing its certificate of the tax due from a
29 taxpayer pursuant to NRS 362.130 during the calendar year 2016,
30 the Department of Taxation shall reduce the amount of the local
31 portion of the tax due from the taxpayer by the amount of:

32 (a) Any estimated payments attributable to the local portion of
33 the tax made by or on behalf of the taxpayer during the calendar
34 year 2015 pursuant to NRS 362.115, as that section read on
35 January 1, 2015; and

36 (b) A pro rata share of any unused credit to which the taxpayer
37 may be entitled as a result of any previous overpayment of the tax.

38 2. Notwithstanding any provision of NRS 362.170 to the
39 contrary:

40 (a) The amount appropriated to each county pursuant to that
41 section for distribution to the county during the calendar year 2016
42 must be reduced by the amount appropriated to the county pursuant
43 to that section for distribution to the county during calendar year
44 2015, excluding any portion of the amount appropriated to the
45 county pursuant to that section for distribution to the county during



1 the calendar year 2015 which is attributable to a pro rata share of
2 any penalties and interest collected by the Department of Taxation
3 for the late payment of taxes distributed to the county.

4 (b) In calculating the amount required to be apportioned to each
5 local government or other local entity pursuant to subsection 2 of
6 that section for the calendar year 2016, the county treasurer shall
7 reduce the amount required to be determined pursuant to paragraph
8 (a) of that subsection for that calendar year by the amount
9 determined pursuant to that paragraph for the calendar year 2015.

10 3. As used in this section:

11 (a) "Local portion of the tax" has the meaning ascribed to it in
12 NRS 362.105, as amended by section 1 of this act.

13 (b) "State portion of the tax" has the meaning ascribed to it in
14 NRS 362.105, as amended by section 1 of this act.

15 **Sec. 7.** 1. When preparing its certificate of the tax due from a
16 taxpayer pursuant to NRS 362.130 during the calendar year 2018,
17 the Department of Taxation shall reduce the amount of the State
18 portion of the tax due from the taxpayer by the amount of:

19 (a) Any estimated payments of the State portion of the tax made
20 by or on behalf of the taxpayer during the calendar year 2017
21 pursuant to NRS 362.115, as that section read on January 1, 2017;
22 and

23 (b) Any unused credit to which the taxpayer may be entitled as a
24 result of any previous overpayment of the State portion of the tax.

25 2. Notwithstanding any provision of NRS 362.170 to the
26 contrary, the amount appropriated to each county pursuant to that
27 section for distribution to the county during the calendar year 2018
28 must be equal to the local portion of the tax due on or before
29 May 10 of that year.

30 3. As used in this section:

31 (a) "Local portion of the tax" has the meaning ascribed to it in
32 NRS 362.105, as amended by section 1 of this act.

33 (b) "State portion of the tax" has the meaning ascribed to it in
34 NRS 362.105, as amended by section 1 of this act.

35 **Sec. 8.** Section 15 of chapter 476, Statutes of Nevada 2011, at
36 page 2898, amended by section 9 of chapter 518, Statutes of Nevada
37 2013, at page 3427, is hereby repealed.

38 **Sec. 9.** 1. This section and sections 5 to 8, inclusive, of this
39 act become effective upon passage and approval.

40 2. Sections 1 to 4, inclusive, of this act become effective:

41 (a) Upon passage and approval for the purpose of adopting any
42 regulations and performing any other preparatory administrative
43 tasks necessary to carry out the provisions of this act; and

44 (b) On July 1, 2015, for all other purposes.



1 3. Sections 1 to 4, inclusive, of this act expire by limitation on
2 June 30, 2017.

TEXT OF REPEALED SECTION

Section 15 of chapter 476, Statutes of Nevada 2011:

Sec. 15. 1. When preparing its certificate of the tax due from a taxpayer pursuant to NRS 362.130 during the calendar year 2016, the Department of Taxation shall reduce the amount of the tax due from the taxpayer by the amount of:

(a) Any estimated payments of the tax made by or on behalf of the taxpayer during the calendar year 2015 pursuant to NRS 362.115, as that section read on January 1, 2015; and

(b) Any unused credit to which the taxpayer may be entitled as a result of any previous overpayment of the tax.

2. Notwithstanding any provision of NRS 362.170 to the contrary:

(a) The amount appropriated to each county pursuant to that section for distribution to the county during the calendar year 2016 must be reduced by the amount appropriated to the county pursuant to that section for distribution to the county during the calendar year 2015, excluding any portion of the amount appropriated to the county pursuant to that section for distribution to the county during the calendar year 2015 which is attributable to a pro rata share of any penalties and interest collected by the Department of Taxation for the late payment of taxes distributed to the county.

(b) In calculating the amount required to be apportioned to each local government or other local entity pursuant to subsection 2 of that section for the calendar year 2016, the county treasurer shall reduce the amount required to be determined pursuant to paragraph (a) of that subsection for that calendar year by the amount determined pursuant to that paragraph for the calendar year 2015.

