

REQUIRES TWO-THIRDS MAJORITY VOTE

(§§ 2, 3)

(Reprinted with amendments adopted on April 19, 2019)

FIRST REPRINT

S.B. 461

SENATE BILL NO. 461—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 25, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the Tahoe-Douglas Visitor's Authority. (BDR S-733)

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 taxation; imposing a surcharge on lodging within the Tahoe Township in Douglas County; authorizing the Tahoe-Douglas Visitor's Authority to take certain actions respecting the establishment and operation of recreational facilities; authorizing the Authority to issue certain municipal securities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Tahoe-Douglas Visitor's Authority to use a portion of the proceeds of the occupancy tax on the rental of lodgings in the Tahoe Township of Douglas County exclusively for: (1) the advertising, publicizing and promotion of tourism and recreation; and (2) the planning, construction and operation of a convention center in the Township. (Section 26 of chapter 496, Statutes of Nevada 1997, at p. 2378)

Section 2 of this bill establishes a \$5 tourism surcharge on the per-night charge for the rental of lodgings in the Township. **Sections 1 and 4-12** of this bill make conforming changes.

Section 3 of this bill enacts provisions to govern the issuance of municipal securities by the Authority, which are based on the provisions of existing law governing the issuance of bonds by county fair and recreation boards. **Section 3** authorizes the Authority to take certain actions in connection with the acquisition, improvement and operation of recreational facilities in the Township. **Sections 3 and 13** of this bill authorize the Authority to issue municipal securities for the acquisition of such recreational facilities, to be payable from the net revenues of such recreational facilities, the occupancy tax, the tourism surcharge and any other revenue which may be legally made available for the payment of such bonds. **Section 13** also authorizes a portion of the proceeds of the occupancy tax and the tourism surcharge to be allocated to pay the costs to administer and collect the



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tourism surcharge, with the remaining proceeds to be used exclusively to pay the principal and interest on the municipal securities issued by the Authority.

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

Section 1. The Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended by adding thereto a new section to be designated as section 15.5, immediately following section 15, to read as follows:

Sec. 15.5. "Tourism surcharge" means the surcharge on lodging imposed by section 19.5 of this act.

Sec. 2. The Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended by adding thereto a new section to be designated as section 19.5, immediately following section 19, to read as follows:

Sec. 19.5. 1. There is hereby imposed a tourism surcharge of \$5 on the per night charge for the rental of lodgings in the Township. The tourism surcharge must not be applied for any time during which the lodgings are provided to a guest free of charge. The governing body shall administer the tourism surcharge.

2. Every vendor who furnishes any lodgings within the Township is exercising a taxable privilege.

3. A vendor is not exempt from the tourism surcharge because the taxable premises are at any time located in a political subdivision other than the municipality.

Sec. 3. The Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended by adding thereto new sections to be designated as sections 27, 28, 29, 30, 31 and 32 immediately following section 26, to read as follows:

Sec. 27. In addition to powers elsewhere conferred, the Authority is authorized and empowered:

1. To establish, construct, purchase, lease, enter into a lease purchase agreement respecting, rent, acquire by gift, grant, bequest, devise, or otherwise acquire, reconstruct, improve, extend, better, alter, repair, equip, furnish, regulate, maintain, operate and manage recreational facilities in the Township, including personal property, real property, lands, improvements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years.



2. To insure or provide for the insurance of any recreational facility against such risks and hazards as the Authority may deem advisable.

3. To arrange or contract for the furnishing by any person, agency, association or corporation, public or private, of services, privileges, works or facilities for, or in connection with, a recreational facility and to hire and retain officers, agents and employees, including a fiscal adviser, engineers, attorneys or other professional or specialized personnel.

4. To sell, lease, exchange, transfer, assign or otherwise dispose of any real or personal property, or any interest therein acquired for the purpose of this act, including the lease of any recreational facility acquired by the Authority pursuant to this act, which is to be operated and maintained as a public project and recreational facility.

5. To fix, and from time to time increase or decrease, rates, tolls or charges for services or facilities furnished in connection with any recreational facility, and to take such action as necessary or desirable to effect their collection, and, with the consent of the governing body, to provide for the levy by the governing body of ad valorem taxes, the proceeds thereof to be used in connection with the recreational facilities.

6. To receive, control, invest and order the expenditure of any and all moneys and funds pertaining to any recreational facility or related properties, including, but not limited to, annual grants to the State, the county and incorporated cities in the county for capital improvements for recreational facilities.

7. To enter into contracts, leases or other arrangements for commercial advertising purposes with any person, partnership or corporation.

8. To exercise all or any part or combination of the powers herein granted to the Authority, except as herein otherwise provided.

9. To sue and be sued.

10. To do and perform any and all other acts and things necessary, convenient, desirable or appropriate to carry out the provisions of this act.

Sec. 28. The Authority, in addition to the other powers conferred upon the Authority pursuant to this act, may:

1. Set aside a fund in an amount that it considers necessary and which may be expended in the discretion of the Authority to promote or attract conventions, meetings



1 *and like gatherings that will utilize the recreational facilities*
2 *authorized by section 27 of this act. The expenditure is*
3 *hereby declared to be an expenditure made for a public*
4 *purpose.*

5 2. *Solicit and promote tourism and gaming generally,*
6 *both individually and through annual grants in cash or in*
7 *kind, including lease of its facilities to nonprofit groups or*
8 *associations, and further promote generally the use of its*
9 *facilities, pursuant to lease agreements, by organized groups*
10 *or by the general public for the holding of conventions,*
11 *expositions, trade shows, entertainment, sporting events,*
12 *cultural activities or similar uses reasonably calculated to*
13 *produce revenue for the Authority and to enhance the*
14 *general economy. The promotion of tourism, gaming or the*
15 *use of facilities may include advertising the facilities under*
16 *control of the Authority and the resources of the community*
17 *or area, including tourist accommodations, transportation,*
18 *entertainment, gaming and climate. The advertising may be*
19 *done jointly with a private enterprise.*

20 3. *Enter into contracts for advertising pursuant to this*
21 *act and pay the cost of the advertising, including a*
22 *reasonable commission.*

23 4. *Borrow money or accept contributions, grants or*
24 *other financial assistance from the Federal Government*
25 *or any agency or instrumentality thereof, corporate or*
26 *otherwise, for or in aid of any recreational facility within*
27 *the Township, and to comply with such conditions, trust*
28 *indentures, leases or agreements as may be necessary,*
29 *convenient or desirable. The purpose and intent of this*
30 *section is to authorize the Authority to do any and all things*
31 *necessary, convenient or desirable to secure the financial*
32 *aid or cooperation of the Federal Government in the*
33 *undertaking, acquisition, construction, maintenance or*
34 *operation of any recreational facility within the Township.*

35 *Sec. 29. 1. For the acquisition of any recreational*
36 *facilities authorized in section 27 of this act, the Authority,*
37 *at any time or from time to time may in the name of and on*
38 *behalf of the Authority, issue municipal securities:*

39 (a) *Payable from the net revenues to be derived from the*
40 *operation of such recreational facilities;*

41 (b) *Secured by a pledge of revenues from the occupancy*
42 *tax;*

43 (c) *Secured by a pledge of revenues from the tourism*
44 *surcharge;*



(d) Secured by revenue to be received by the Authority from any political subdivision of the State pursuant to a loan, note, agreement or any other obligation;

(e) Secured by any other revenue that may be legally made available for their payment; or

(f) Payable or secured by any combination of paragraph (a), (b), (c), (d) or (e), and any or all of such revenues shall be deemed pledged revenues as that term is defined in NRS 350.550.

2. Municipal securities issued pursuant to this act must be authorized by resolution of the Authority, and no further approval by any person, board or commission is required.

3. All determinations of the Authority under this act shall be deemed to be conclusive, absent fraud or a gross abuse of discretion.

Sec. 30. The provisions of the Local Government Securities Law shall apply to the issuance by the Authority of any municipal securities pursuant to this act. Any such municipal securities must be executed in the manner provided in the Local Government Securities Law, but the securities must also bear the manual or facsimile signature of an officer of the Authority, or some other person specifically authorized by the Authority to sign the securities.

Sec. 31. The Authority is authorized to sell such municipal securities from time to time in the manner prescribed in NRS 350.105 to 350.195, inclusive, and may employ legal, fiscal, engineering or other expert services in connection with the acquisition, improvement, extension or betterment of the improvements or facilities and with the authorization, issuance and sale of the municipal securities.

Sec. 32. In order to insure the payment of the municipal securities of the Authority, the payment of which is secured or is additionally secured, as the case may be, by a pledge of the revenues of the recreational facilities, of any such other income-producing project and of any such excise taxes, as provided in section 29 of this act, or other such special obligation securities so secured, the Authority may establish and maintain, and from time to time revise, a schedule or schedules of fees, rates and charges for services, facilities and commodities rendered by or through the recreational facilities, and any such other income-producing project and a schedule or schedules of any such excise taxes, as the case may be, in an amount sufficient for that purpose and also sufficient to discharge any covenant



in the proceedings of the Authority or governing body authorizing the issuances of any of the municipal securities, including any covenant for the establishment of reasonable reserve funds.

Sec. 4. Section 3 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2375, is hereby amended to read as follows:

Sec. 3. Except as otherwise provided in this act or unless the context otherwise requires, terms used or referred to in this act have the meanings ascribed to them in the Local Government Securities Law, but the definitions in sections 4 to 18, inclusive, *and section 15.5* of this act, unless the context otherwise requires, govern the construction of this act and of the Local Government Securities Law as applied to the Township.

Sec. 5. Section 7 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2376, is hereby amended to read as follows:

Sec. 7. "Gross taxable rent" means the total amount of rent paid for lodging, including any associated charges that are normally included in the rent ~~+~~, *including, without limitation, resort fees or similar mandatory fees or charges directly related to the occupancy of transient lodgings, but not including the tourism surcharge.*

Sec. 6. Section 11 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2376, is hereby amended to read as follows:

Sec. 11. "Occupancy tax" means the tax on lodging imposed by *section 19 of* this act.

Sec. 7. Section 14 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2376, is hereby amended to read as follows:

Sec. 14. "Rent" means the consideration received by a vendor in money, credits, property or other consideration valued in money for lodgings subject to ~~and~~ *the* occupancy tax *and tourism surcharge* authorized in this act.

Sec. 7.5. Section 20 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2377, is hereby amended to read as follows:

Sec. 20. 1. The Tahoe-Douglas Visitor's Authority, consisting of five members, is hereby created.

2. The Authority consists of:

(a) One member appointed by the Board of County Commissioners from among their number; and



(b) Four members who are representatives of the Association of Gaming Establishments whose members collectively paid the largest amount of license fees to the State pursuant to NRS 463.370 in the County in the preceding year, chosen by the board from a list of nominees submitted by the Association. If there is no such association, the four members so appointed must be representatives of gaming licensees.

↪ Each member of the Authority must be a resident of the County.

3. The terms of members appointed pursuant to paragraph (b) of subsection 1 are 4 years. Each member appointed pursuant to paragraph (b) of subsection 1 may succeed himself or herself only twice.

4. If a member ceases to be engaged in the business or occupation which the member was appointed to represent, he or she ceases to be a member, and another person engaged in that business or occupation must be appointed for the unexpired term.

5. Members of the Authority may enter into contracts, leases, franchises and other transactions extending beyond their terms of office as members of the Authority.

Sec. 8. Section 21 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2377, is hereby amended to read as follows:

Sec. 21. 1. The municipality may provide that the occupancy tax *or tourism surcharge* does not apply:

(a) If a vendee:

(1) Has been a permanent resident of the taxable premises for a period of at least 28 consecutive days; or

(2) Enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least 28 consecutive days;

(b) If the rent paid by a vendee is less than \$2 a day;

(c) To lodgings at religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;

(d) To clinics, hospitals or other medical facilities;

(e) To privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill;

(f) ~~If the taxable premises does not have at least three rooms or three other units of accommodations for lodging; or~~
~~(g)}~~ To all or any combination of events or conditions provided in paragraphs (a) to ~~(f)}~~ (e), inclusive.



2. The occupancy tax ~~does~~ *and tourism surcharge do* not apply to:

(a) Lodgings at institutions of the Federal Government, the State, the municipality or any other public body.

(b) The rental of any lodgings by an employee of the Federal Government, the State or a political subdivision of the State, if the transaction is conducted directly with the governmental entity pursuant to a governmental credit card or a contract, purchase order or similar document executed or authorized by an appropriate official of the governmental entity.

3. Any ordinance adopted pursuant to this act by the municipality before July 1, 2019, relating to the occupancy tax shall, by operation of law, apply to the tourism surcharge in the same manner as it applies to the occupancy tax.

Sec. 9. Section 22 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 22. 1. Every vendor providing lodging in the Township shall collect the *occupancy tax and tourism surcharge* and shall act as a trustee therefor.

2. Every vendor providing lodging in the Township shall remit the proceeds of the occupancy tax *and tourism surcharge* to the governing body.

3. The *occupancy tax and tourism surcharge* must be charged separately from the rent fixed by the vendor for the lodgings.

Sec. 10. Section 23 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 23. 1. The governing body may provide by ordinance that:

(a) The payment of the occupancy tax *or tourism surcharge* pertaining to any lodgings is secured by a lien on the real property at the taxable premises where the lodgings are located;

(b) Any such lien securing the payment of a delinquent occupancy tax *or tourism surcharge* may be enforced in the same manner as liens for general taxes ad valorem on real property; and

(c) A vendor is liable for the payment of the proceeds of any occupancy tax *and tourism surcharge* which pertains to the vendor's taxable premises and which the vendor failed to remit to the municipality, because of the vendor's failure



to collect the *occupancy tax and tourism surcharge* or otherwise.

2. The governing body may provide for a civil penalty for any such failure in an amount of not more than 10 percent of the amount which was not remitted to the municipality but not less than \$10.

3. The municipality may bring an action in the district court for the collection of any amounts due, including, without limitation, penalties thereon, interest on the unpaid principal at a rate not exceeding 1 percent per month, the costs of collection and reasonable attorney's fees incurred in connection therewith, except for any tax *or surcharge* being collected by the enforcement of a lien pursuant to subsection 1.

Sec. 11. Section 24 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 24. The governing body may provide by ordinance for penalties not to exceed 90 days' imprisonment or a \$300 fine for a failure by any person to pay the *occupancy tax and tourism surcharge*, to remit the proceeds thereof to the municipality or to account properly for any lodging and the *occupancy tax and tourism surcharge* proceeds pertaining thereto.

Sec. 12. Section 25 of the Tahoe-Douglas Visitor's Authority Act, being chapter 496, Statutes of Nevada 1997, at page 2378, is hereby amended to read as follows:

Sec. 25. The governing body may provide by ordinance, except as limited by or otherwise provided in this act:

1. A procedure for licensing each vendor and for refusing to license a vendor after an opportunity has been given to the vendor for a public hearing by the governing body concerning the issuance of the license;

2. The times, place and method for the payment of the *occupancy tax and tourism surcharge* to the municipality, the account and other records to be maintained in connection therewith, a procedure for making refunds and resolving disputes relating to the *occupancy tax and tourism surcharge*, including exemptions pertaining thereto, the preservation and destruction of records and their inspection and investigation, and, subject to the provisions of subsection 1 of section 23 of this act, a procedure of liens and sales to satisfy such liens; and

3. Other rights, privileges, powers and immunities and other details relating to any licenses, the collection of the



occupancy tax *and tourism surcharge* and the remittance of the proceeds thereof to the municipality.

Sec. 13. Section 26 of the Tahoe-Douglas Visitors' Authority Act, being chapter 496, Statutes of Nevada 1997, as amended by chapter 496, Statutes of Nevada 1997, at page 2379, is hereby amended to read as follows:

Sec. 26. 1. From the proceeds of the occupancy tax *and the tourism surcharge* paid by vendors located in the township, the governing body shall:

(a) Pay the principal of, interest on and any prior redemption premiums due in connection with any securities issued by the county pursuant to the Douglas County Lodgers Tax Law which were secured with the proceeds of the occupancy tax collected pursuant to the Douglas County Lodgers Tax Law.

(b) After allocation of those proceeds pursuant to paragraph (a), pay any obligations incurred before July 1, 1997, pursuant to any contractual agreements between the governing body and the Lake Tahoe Visitor's Authority.

2. A portion of the proceeds of the occupancy tax *and the tourism surcharge* paid by vendors located in the Township, not to exceed 1 percent of the amount collected, may be used to collect and administer the *occupancy tax and the tourism surcharge*.

3. One-eighth of the proceeds of the occupancy tax paid by vendors located in the Township must be remitted to the Authority.

4. After allocation pursuant to subsections 1, 2 and 3 of the proceeds of the occupancy tax paid by vendors located in the Township, the remaining proceeds must be allocated as follows:

(a) Except as otherwise provided in paragraph (b), for each Fiscal Year beginning on or after July 1, 1999, 50 percent of those proceeds must be retained by the governing body for expenditure in any manner authorized for the expenditure of the proceeds of a tax imposed pursuant to the Douglas County Lodgers Tax Law and 50 percent of those proceeds must be remitted to the Authority.

(b) Except as otherwise provided in paragraph (c), for each Fiscal Year beginning on or after July 1, 2000, the governing body shall revise the allocation required pursuant to this subsection in such a manner that the amount of those proceeds retained by the governing body is reduced, and the amount remitted to the Authority is increased, from the amounts for the prior fiscal year by not less than 2 percent



1 and not more than 5 percent of the total amount of the
2 proceeds allocated pursuant to this subsection, until the
3 amount retained by the governing body for each fiscal year
4 equals 35 percent of those proceeds and the amount remitted
5 to the Authority for each fiscal year equals 65 percent of
6 those proceeds.

7 (c) The governing body may, for not more than one of the
8 Fiscal Years beginning on or after July 1, 2000, elect not to
9 make a revision otherwise required pursuant to paragraph (b).

10 5. *After allocation pursuant to subsections 1 and 2 of*
11 *the proceeds of the tourism surcharge paid by vendors*
12 *located in the Township, the remaining proceeds must be*
13 *remitted to the Authority.*

14 6. The proceeds remitted to the Authority pursuant to
15 subsections 3, ~~and~~ 4 *and* 5 must be used exclusively for:

16 (a) The advertising, publicizing and promotion of tourism
17 and recreation; ~~and~~

18 (b) The planning, construction and operation of a
19 convention center in the Township ~~;~~ *and*

20 (c) *The payment of principal and interest on the*
21 *municipal securities issued pursuant to section 29 of this*
22 *act.*

23 **Sec. 14.** This act becomes effective on July 1, 2019.

