

ASSEMBLY BILL NO. 9—COMMITTEE ON REVENUE

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Revenue

SUMMARY—Revises provisions governing the disclosure of certain confidential information by the Department of Taxation. (BDR 32-270)

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; authorizing the Department of Taxation to disclose certain confidential information to the Budget Division of the Office of Finance under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law creates the Department of Taxation, which has various powers and duties related to the administration and collection of certain taxes, fees, assessments and other amounts of money or the imposition of disciplinary action. (Chapter 360 of NRS) Existing law makes confidential and privileged the records and files of the Department of Taxation concerning the administration and collection of those taxes, fees, assessments and other amounts and the imposition of disciplinary action, but authorizes the disclosure of such records and files under certain circumstances. (NRS 360.255) Existing law creates the Office of Finance in the Office of the Governor, consisting of the Budget Division and the Division of Internal Audits. (NRS 223.400) Under existing law, the Budget Division has various powers and duties relating to preparation of the budget for the Executive Department of the State Government, the fiscal management of the Executive Department and the projection of revenue, including the provision of technical assistance to the Economic Forum. (Chapter 353 of NRS) This bill authorizes the disclosure of the records and files of the Department concerning the administration and collection of certain taxes, fees, assessments and other amounts and the imposition of disciplinary action to the Budget Division of the Office of Finance for use in the projection of revenue.



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

Section 1. NRS 360.255 is hereby amended to read as follows:

360.255 1. Except as otherwise provided in this section and NRS 239.0115 and 360.250, the records and files of the Department concerning the administration or collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action are confidential and privileged. The Department, an employee of the Department and any other person engaged in the administration or collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action or charged with the custody of any such records or files:

(a) Shall not disclose any information obtained from those records or files; and

(b) May not be required to produce any of the records or files for the inspection of any person or governmental entity or for use in any action or proceeding.

2. The records and files of the Department concerning the administration and collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action are not confidential and privileged in the following cases:

(a) Testimony by a member or employee of the Department and production of records, files and information on behalf of the Department or a person in any action or proceeding before the Nevada Tax Commission, the State Board of Equalization, the Department, a grand jury or any court in this State if that testimony or the records, files or information, or the facts shown thereby, are directly involved in the action or proceeding.

(b) Delivery to a person or his or her authorized representative of a copy of any document filed by the person pursuant to the provisions of any law of this State.

(c) Publication of statistics so classified as to prevent the identification of a particular business or document.

(d) Exchanges of information with the Internal Revenue Service in accordance with compacts made and provided for in such cases, or disclosure to any federal agency, state or local law enforcement agency, including, without limitation, the Cannabis Compliance Board, or local regulatory agency that requests the information for the use of the agency in a federal, state or local prosecution or criminal, civil or regulatory investigation.

(e) Disclosure in confidence to ~~the~~:



(1) *The* Governor or his or her agent in the exercise of the Governor's general supervisory powers ~~to or to any~~ ;

(2) *The Budget Division of the Office of Finance for use in the projection of revenue;*

(3) *Any* person authorized to audit the accounts of the Department in pursuance of an audit ~~to or to the~~ ;

(4) *The* Attorney General or other legal representative of the State in connection with an action or proceeding relating to a taxpayer or licensee ; ~~to~~ or ~~to any~~

(5) *Any* agency of this or any other state charged with the administration or enforcement of laws relating to workers' compensation, unemployment compensation, public assistance, taxation, labor or gaming.

(f) Exchanges of information pursuant to an agreement between the Nevada Tax Commission and any county fair and recreation board or the governing body of any county, city or town.

(g) Upon written request made by a public officer of a local government, disclosure of the name and address of a taxpayer or licensee who must file a return with the Department. The request must set forth the social security number of the taxpayer or licensee about which the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and privileged and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Executive Director may charge a reasonable fee for the cost of providing the requested information.

(h) Disclosure of information as to amounts of any unpaid tax or amounts of tax required to be collected, interest and penalties to successors, receivers, trustees, executors, administrators, assignees and guarantors, if directly interested.

(i) Disclosure of relevant information as evidence in an appeal by the taxpayer from a determination of tax due if the Nevada Tax Commission has determined the information is not proprietary or confidential in a hearing conducted pursuant to NRS 360.247.

(j) Disclosure of the identity of a person and the amount of tax assessed and penalties imposed against the person at any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon the person a penalty for fraud or intent to evade a tax imposed by law becomes final or is affirmed by the Nevada Tax Commission.



(k) Disclosure of the identity of a licensee against whom disciplinary action has been taken and the type of disciplinary action imposed against the licensee at any time after a determination, decision or order of the Executive Director or other officer of the Department imposing upon the licensee disciplinary action becomes final or is affirmed by the Nevada Tax Commission.

(l) Disclosure of information pursuant to subsection 2 of NRS 370.257.

(m) With respect to an application for a registration certificate to operate a medical marijuana establishment pursuant to chapter 453A of NRS, as that chapter existed on June 30, 2020, or a license to operate a marijuana establishment pursuant to chapter 453D of NRS, as that chapter existed on June 30, 2020, which was submitted on or after May 1, 2017, and on or before June 30, 2020, and regardless of whether the application was ultimately approved, disclosure of the following information:

(1) The identity of an applicant, including, without limitation, any owner, officer or board member of an applicant;

(2) The contents of any tool used by the Department to evaluate an applicant;

(3) The methodology used by the Department to score and rank applicants and any documentation or other evidence showing how that methodology was applied; and

(4) The final ranking and scores of an applicant, including, without limitation, the score assigned to each criterion in the application that composes a part of the total score of an applicant.

(n) Disclosure of the name of a licensee and the jurisdiction of that licensee pursuant to chapter 453A or 453D of NRS, as those chapters existed on June 30, 2020, and any regulations adopted pursuant thereto.

3. The Executive Director shall periodically, as he or she deems appropriate, but not less often than annually, transmit to the Administrator of the Division of Industrial Relations of the Department of Business and Industry a list of the businesses of which the Executive Director has a record. The list must include the mailing address of the business as reported to the Department.

4. The Executive Director may request from any other governmental agency or officer such information as the Executive Director deems necessary to carry out his or her duties with respect to the administration or collection of any tax, fee, assessment or other amount required by law to be collected or the imposition of disciplinary action. If the Executive Director obtains any confidential information pursuant to such a request, he or she shall maintain the confidentiality of that information in the same manner



1 and to the same extent as provided by law for the agency or officer
2 from whom the information was obtained.

3 5. As used in this section:

4 (a) “Applicant” means any person listed on the application for a
5 registration certificate to operate a medical marijuana establishment
6 pursuant to chapter 453A of NRS, as that chapter existed on
7 June 30, 2020, or a license to operate a marijuana establishment
8 pursuant to chapter 453D of NRS, as that chapter existed on
9 June 30, 2020.

10 (b) “Disciplinary action” means any suspension or revocation of
11 a license, registration, permit or certificate issued by the Department
12 pursuant to this title or chapter 453A or 453D of NRS, as those
13 chapters existed on June 30, 2020, or any other disciplinary action
14 against the holder of such a license, registration, permit or
15 certificate.

16 (c) “Licensee” means a person to whom the Department has
17 issued a license, registration, permit or certificate pursuant to this
18 title or chapter 453A or 453D of NRS, as those chapters existed on
19 June 30, 2020. The term includes, without limitation, any owner,
20 officer or board member of an entity to whom the Department has
21 issued a license.

22 (d) “Records” or “files” means any records and files related to
23 an investigation or audit or a disciplinary action, financial
24 information, correspondence, advisory opinions, decisions of a
25 hearing officer in an administrative hearing and any other
26 information specifically related to a taxpayer or licensee.

27 (e) “Taxpayer” means a person who pays any tax, fee,
28 assessment or other amount required by law to the Department.

29 **Sec. 2.** This act becomes effective upon passage and approval.

