SUMMARY—Revises provisions relating to open-space land. (BDR S-542)

FISCAL NOTE: Effect on Local Government: No.

Effect on the State: No.

Effect on the State Highway Fund: No.

AN ACT relating to taxation; removing the prospective expiration of the authority of the board of county commissioners of certain counties to adopt an open-space plan and impose certain taxes for uses related to such a plan; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the board of county commissioners of a county whose population is less than 700,000 (currently all counties except Clark County) to adopt an open-space plan that provides for the development and use of open-space land for a period of 20 years, the financing for the acquisition of open-space land and the maintenance of open-space land in the county. (NRS 376A.020) Under existing law, the board of county commissioners of a county that has adopted such an open-space plan is authorized to impose certain additional sales and use taxes and a property tax following the approval of any such tax by the voters in the county. The proceeds of such taxes are required to be used for certain purposes related to the acquisition, development, operation and maintenance of open-space land in accordance with the open-space plan adopted for the county. (NRS 376A.040, 376A.050, 376A.070)

COMMITTEE INTRODUCTION REQUIRED

Under existing law, the provisions authorizing a county whose population is less than 100,000 (currently all counties except Clark and Washoe Counties) to impose such taxes following voter approval will expire on September 30, 2029. (Section 6 of chapter 458, Statutes of Nevada 1999, at page 2133, as amended by chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 232) **Section 2** of this bill eliminates the expiration date of these provisions of existing law, thereby permanently authorizing a county whose population is less than 100,000 to impose such taxes following voter approval. **Sections 1 and 2** of this bill also make conforming changes to: (1) eliminate provisions that had excluded counties whose population is less than 100,000 from the authority to impose sales and use taxes for the purposes of open-space land; and (2) maintain the existing collection allowance retained by the State from the proceeds of such a tax to offset the cost of collecting the tax. (NRS 376A.040, 376A.050; sections 8 and 10 of chapter 387, Statutes of Nevada 2009, at pages 2088 and 2090, respectively)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN

SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 28 of chapter 387, Statutes of Nevada 2009, at page 2104, is hereby amended to read as follows:

Sec. 28. 1. This section and sections 4, 18 and 27 of this act become effective upon passage and approval.

2. Sections 2, 3, 5, 6, 7, 9, 11 to 16, inclusive, and 19 to 26, inclusive, of this act become effective on July 1, 2009.

3. Section 17 of this act becomes effective on July 1, 2011.

4. Section 20 of this act expires by limitation on September 30, 2025.

5. Section 25 of this act expires by limitation on September 30, 2027.

~~[6. Sections 7 and 9 of this act expire by limitation on September 30, 2029.~~

~~7. Sections 8 and 10 of this act become effective on October 1, 2029.]~~

Sec. 2. Section 6 of chapter 458, Statutes of Nevada 1999, at page 2133, as amended by chapter 5, Statutes of Nevada 2003, 20th Special Session, at page 232, and sections 8 and 10 of chapter 387, Statutes of Nevada 2009, at pages 2088 and 2090, respectively, are hereby repealed.

Sec. 3. This act becomes effective on passage and approval.

TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA

Section 6 of chapter 458, Statutes of Nevada 1999, as amended by chapter 5, Statutes of Nevada 2003, 20th Special Session:

Sec. 6. The amendatory provisions of sections 2 to 5, inclusive, of this act expire by limitation on October 1, 2029.

Section 8 of chapter 387, Statutes of Nevada 2009:

Sec. 8. NRS 376A.040 is hereby amended to read as follows:

376A.040 1. In addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners of a county whose population is 100,000 or more but less than 400,000, may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.050 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.050, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election may occur, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city within the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund.

5. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~[transfer]~~ monthly ***:***

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the ***appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.***

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.

~~[5.]~~ ***6.*** The money received from the tax imposed pursuant to subsection ~~[4]~~ ***5*** must be retained by the county, or remitted to a city or general improvement district in the county. The money received by a county, city or general improvement district pursuant to this section must only be used to pay the cost of:

(a) The acquisition of land in fee simple for development and use as open-space land;

(b) The acquisition of the development rights of land identified as open-space land;

(c) The creation of a trust fund for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b);

(d) The principal and interest on notes, bonds or other obligations issued by the county, city or general improvement district for the acquisition of land or development rights of land pursuant to paragraphs (a) and (b); or

(e) Any combination of the uses set forth in paragraphs (a) to (d), inclusive.

~~[6.]~~ ***7.*** The money received from the tax imposed pursuant to this section and any applicable penalty or interest must not be used for any neighborhood or community park or facility.

~~[7.]~~ ***8.*** Any money used for the purposes described in this section must be used in a manner:

(a) That is consistent with the provisions of the open-space plan adopted pursuant to NRS 376A.020; and

(b) That provides an equitable allocation of the money among the county and the incorporated cities within the county.

Section 10 of chapter 387, Statutes of Nevada 2009:

Sec. 10. NRS 376A.050 is hereby amended to read as follows:

376A.050 1. Except as otherwise provided in subsection 2, in addition to all other taxes imposed on the revenues from retail sales, a board of county commissioners in each county whose population is 100,000 or more but less than 400,000, may by ordinance, but not as in a case of emergency, impose a tax at the rate of up to one-quarter of 1 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed, in the county, after receiving the approval of a majority of the registered voters of the county voting on the question at a primary, general or special election. The question may be combined with questions submitted pursuant to NRS 376A.040 or 376A.070, or both.

2. If a county imposes a sales tax pursuant to this section and NRS 376A.040, the combined additional sales tax must not exceed one-quarter of 1 percent. A tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. Before the election occurs, an open-space plan must be adopted by the board of county commissioners pursuant to NRS 376A.020 and the adopted open-space plan must be endorsed by resolution by the city council of each incorporated city in the county.

4. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this section must be paid to the Department of Taxation in the form of remittances payable to the Department of Taxation. The Department of Taxation shall deposit the payments with the State Treasurer for credit to the Sales and Use Tax Account in the State General Fund. The State Controller, acting upon the collection data furnished by the Department of Taxation, shall ~~[transfer]~~ monthly ***:***

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected during the preceding month to the ***appropriate account in the State General Fund as compensation to the State for the cost of collecting the tax.***

(b) Determine for each county an amount of money equal to any fees, taxes, interest and penalties collected in or for that county pursuant to this section during the preceding month, less the amount transferred to the State General Fund pursuant to paragraph (a).

(c) Transfer the amount determined for each county to the Intergovernmental Fund and remit the money to the county treasurer.