

DISCLAIMER

Electronic versions of the exhibits in these minutes may not be complete.

This information is supplied as an informational service only and should not be relied upon as an official record.

Original exhibits are on file at the Legislative Counsel Bureau Research Library in Carson City.

Contact the Library at (775) 684-6827 or library@lcb.state.nv.us.

BILL EXPLANATION

SENATE BILL 489 Assembly Committee on Taxation Hearing: May 7, 2003

Summary: **Makes various changes to provisions governing exemption from local school support tax for systems that use renewable energy to generate electricity.**

Section 1: Allows an exemption from the Local School Support Tax, the City-County Relief Tax and optional local sales taxes for a solar thermal energy system for heating water and a solar lighting system that reduce the consumption of electricity or natural gas and the integral components of such systems.

Section 2: Delays the prospective expiration of the exemption for products or systems designed or adapted to use renewable energy to generate electricity and all of its integral components to June 30, 2005. The exemption is currently set to expire on June 30, 2003.

Section 3: Provides that the new exemption for a solar thermal energy system and a solar lighting system becomes effective on July 1, 2003, and expires by limitation on June 30, 2005. Provides that extension of existing exemption becomes effective upon passage and approval.

BILL EXPLANATION

SENATE BILL 490 Assembly Committee on Taxation Hearing: May 7, 2003

EXPLANATION – **Section 1** authorizes the board of county commissioners in a county whose population is 100,000 or more, but less than 400,000 (Washoe County), to expend the money in the infrastructure fund for the ongoing expenses to operate and maintain projects for the management of floodplains or the prevention of floods. To qualify for such expenditure, the projects must have been included in a plan adopted by the county commission before January 1, 2003. Currently, Washoe County is authorized to use the money in the infrastructure for the acquisition, establishment, construction or expansion of such projects, but not for the operation and maintenance of such projects. If approved, **Section 3** makes the act effective upon passage and approval.

Section 2: Requires the Washoe County Commission to submit a report to the 73rd Session of the Legislature regarding the progress of flood control projects and detailed information regarding the money spent on the operation and maintenance of such projects.

BILL EXPLANATION

SENATE BILL 466
Assembly Committee on Taxation
Hearing: May 7, 2003

Summary: **Authorizes disclosure of certain information from records and files of Department of Taxation concerning administration of business tax.** If approved, **Section 2** makes the act effective upon passage and approval.

Section 1: Authorizes the Department of Taxation to disclose information from its records and files concerning whether a person conducting a business in this state has a business license issued by the department pursuant to NRS 364A.130.

BILL EXPLANATION

SENATE BILL NO. 440 Assembly Committee on Taxation Hearing: May 7, 2003

- Summary:** Provides for postponement of payment of property taxes in cases of severe economic hardship under certain circumstances. If approved, Section 24 makes the act effective on July 1, 2003.
- Section 1:** Adds sections 2 to 21, inclusive, of the bill to chapter 361 of NRS.
- Section 2:** Provides that the terms defined in section 3 to 8, inclusive, of the bill apply to sections 2 to 21, inclusive of the bill.
- Section 3:** Defines "claim" to mean a claim for the postponement of the payment of property taxes.
- Section 4:** Defines "household" for the purposes of the bill to include a claimant and a spouse, parent, child or sibling or any combination thereof.
- Section 5:** Defines "income" for the purposes of the bill to mean adjusted gross income as defined by the IRS.
- Section 6:** Defines "occupied by the owner" for the purposes of the bill to mean held for the exclusive use of an owner and not rented, leased or made available to someone else for exclusive occupancy by that person.
- Section 7:** Defines "property tax accrued" for the purposes of the bill to mean property taxes only and not assessments, delinquent taxes or interest.
- Section 8:** Defines "single-family residence" for the purposes of the bill to include a single dwelling unit and land and individually owned unit in larger complex.
- Section 9:** Authorizes the owner of a single-family residence to file a claim to postpone the payment of property taxes under certain conditions. The assessed value of the residence cannot be more than \$175,000, the owner cannot own other property with an assessed value of more than \$30,000 and the owner must have occupied the residence for at least 6 months. The owner cannot be the subject of bankruptcy proceedings and cannot owe delinquent taxes on the residence for a year other than the year the postponement is requested. The owner must have suffered a severe economic hardship that is expected to last for at least a year and the total annual income of the family cannot exceed the federally designated level signifying poverty. Taxes may not be postponed for a period longer than 3 years.
- Section 10:** Provides that only one claim may be filed for any household and provides that the Nevada Tax Commission will resolve any disputes regarding household members who both wish to file a claim.
- Section 11:** Establishes requirements for filing a claim for postponement of property taxes with the county assessor.

E 4 of 11

Bill Explanation

SENATE BILL 373
Assembly Committee on Taxation
Hearing: May 7, 2003

Summary: **Revises certain provisions governing importation of liquor by common or contract carrier.** If approved, the act is effective on October 1, 2003.

Section 1: Requires every common carrier and regularly operating contract carrier to make available to the Department of Taxation a statement or freight bill for every shipment of liquor into Nevada. The statement or freight bill must include:

- The names of the consignor, consignee and carrier;
- The date when and place where the shipment was received; and
- The destination of the shipment.

Authorizes the department to adopt regulations requiring the carrier to have someone at least 21 years of age to sign a document confirming receipt of the shipment and to forward the signed document to the consignor, who is to forward the confirmation to the department.

Defines "common carrier" for purposes of the section as someone who undertakes as a business the transportation of liquor from place to place and who offers the services to all who choose to employ such services. Defines "regularly operating contract carrier" as someone who transports liquor from place to place pursuant to continuing contractual obligations.

Section 2: Revises statutory reference due to the renumbering of subsections by section 1.

BILL EXPLANATION

SENATE BILL 473 Assembly Committee on Taxation Hearing: May 7, 2003

Summary: **Makes various changes to provisions governing abatement of taxes for new or expanded businesses.** If approved, **Section 7** makes the act effective on July 1, 2003.

Section 1: Reduces the number of full-time employees a new business is required to have on its payroll by the fourth quarter that it is in operation for the purposes of obtaining a partial abatement from property taxes, business license taxes or the Local School Support Tax. For new businesses in a county with a population of 100,000 or more or a city with a population of 60,000 or more, the number of required full-time employees is reduced from 75 to 30. For new businesses in a county with a population of less than 100,000 or a city with a population of less than 60,000, the number of required full-time employees is reduced from 25 to 10.

Provides that if a business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business can be provided a partial abatement on taxes if it meets two of the following requirements:

- Will have 10 or more employees by the fourth quarter of operations;
- Will make a capital investment of at least \$500,000 in this state; or
- Will pay an average hourly wage that is at least 100 percent of the statewide average, the business will provide health insurance coverage and the benefits provided by the business will meet the Commission's minimum requirements.

Section 2: Revises the additional requirements for a partial property tax abatement for new businesses by reducing the amount of the capital investment that is required from \$50 million to \$5 million in a county whose population is 100,000 or more and from \$5 million under certain circumstances to \$500,000 in all circumstances in a county whose population is less than 100,000 or a city whose population is less than 60,000.

Provides that if a partial abatement from property taxes is approved for an energy storage device, the abatement shall last for a period of 10 years and equal 50 percent of the taxes payable, except for the partial abatement.

Section 3: Eliminates the graduated scale of exemption percentages for a partial exemption from the Business License tax and provides that the exemption is 50 percent of the amount of tax otherwise due during the first four years of operation.

Section 4: Provides that an abatement from the Local School Support Tax on the gross receipts from the sale and the storage, use or other consumption of eligible machinery or equipment lasts for the duration of the lease if the machinery or equipment is leased

E7 of 11

and not more than two years if the machinery or equipment is purchased. Provides that the lessee is the taxpayer eligible for an abatement when the machinery or equipment is leased.

Provides that if an abatement from the Local School Support Tax is approved for an energy storage device, the abatement shall last for a period of two years.

Includes leased or purchased machinery or equipment within the definition of "eligible machinery and equipment" and specifies that aircraft is not included within the definition of the term for the purposes of the abatement from the Local School Support Tax.

Section 5: Delays to June 30, 2009, the prospective expiration of the provisions that authorize an abatement of taxes for facilities for the generation of electricity from renewable energy that are currently set to expire on June 30, 2005.

Section 6: Provides that the amendatory provisions only apply to abatements for which applicants apply on or after the effective date of the act.

Section 7: Provides that sections 2 and 4 of the act expire by limitation on June 30, 2009.

SB 298

Overview presented by the Nevada Resident Agent Association

FEES: SB 298 represents an estimated \$46-\$50 million increase in commercial recording fees over a biennium.

1. **NRAA Approach to Fee Change Recommendations** - The Nevada Resident Agent Association (NRAA) has conducted a comprehensive analysis of the commercial recordings fee structure as provided in NRS and the industry recommendations are contained in SB 298. It is the intent of this proposal that we accomplish the following:
 - a. Nevada's fee structure must allow our state to remain competitive with other states in three specific competitive sectors:
 - i. *Western Region States (AZ, CA, HI, ID, OR, UT, WA)*
 1. Minimum Incorporation Fee (Avg) = \$122.14
 2. Minimum Annual Fees (Avg) = \$159.29
 - ii. *Incorporation Center States (CO, DE, FL, WY)*
 1. Minimum Incorporation Fee (Avg) = \$ 82.00
 2. Minimum Annual Fees (Avg) = \$ 61.25
 - iii. *States with No Corporate Tax (SD, WY)*
 1. Minimum Incorporation Fee (Avg) = \$105.00
 2. Minimum Annual Fees (Avg) = \$ 37.50
 - b. Nevada's fee structure must have a consistent pricing theory basis which will ensure that the state revenues are maximized in a manner that has a minimal negative impact on commercial recordings.
2. **Reduce Fees on Elective Filing**
 - a. Elective commercial recording filings are those in which the user can choose:
 - i. Whether or not to file, or
 - ii. Whether to file in Nevada or in another state.
 - b. Reducing the fee on elective commercial recordings - which are primarily the initial filing fees - results in the following:
 - i. Nevada, where the minimum initial incorporation fees are \$365 (incorporation fee + initial list fee + state business license fee), will be better able to compete within our competitive sectors for new filings.
 - ii. The barrier to entry for Nevada commercial recordings will be lowered, which will result in a higher number of corporate filings that will be attracted to the state.
 - iii. A larger base of Nevada entities makes it possible to raise significantly more revenue over time with a moderate increase in mandatory filing fees.
 - c. SB 298 would decrease the following elective fees:
 - i. The minimum initial incorporation fee from \$175 to \$75.
 - ii. The fee for filing the Initial List of Officers, Directors and Agent from \$165 to \$125.

E 9 of 11

3. Moderate Increases to Mandatory Filing Fees

- a. Mandatory commercial recording fees are those which are required by an entity once it has registered as a Nevada entity, or qualified to conduct business in Nevada as a foreign entity. Following are examples, with changes as provided by SB 298:
- i. Annual List fee, currently \$85. Proposed \$125 minimum. (SEE SUBSECTION b. BELOW FOR FURTHER EXPLANATION.)
 - ii. Late Filing Penalty, currently \$50. Proposed \$75.
 - iii. Reinstatement Fee, currently \$200. Proposed \$300.
 - iv. Amendment Fee, currently \$150. Proposed \$175.
 - v. Dissolution Fee, currently \$60. Proposed \$75.
 - vi. Resident Agent Change Fee, currently \$30. Proposed \$60.
 - vii. Certification Fee, currently \$20. Proposed \$30.
 - viii. Name Reservation Fee, currently \$20. Proposed \$25.
 - ix. Certificate of Good Standing, currently \$40. Proposed \$50.
 - x. Copy Fee, currently \$1. Proposed \$2.
 - xi. Resident Agent Registration Fee, currently \$250. Proposed \$500.
 - xii. 24 Hour Expedite Fee, currently \$100. Proposed \$125.
 - xiii. Non-profit and Corporation Sole fees increased modestly
- b. Tiered Renewal Fees
- i. Currently, Nevada imposes a tiered fee structure for new corporate filings on the basis of the total aggregate value of stock as provided in the articles of incorporation. This idea is based on the theory that a corporation should pay for additional value as provided by the state.
 1. As the result of this practice, the Secretary of State's office has available the data necessary to implement a tiered annual renewal fee, which would allow the State charge additional annual fees on the basis of total aggregate value of stock as provided in the articles of incorporation.
 2. This fee increase only impacts companies which have already demonstrated an ability to pay a higher fee, as evidenced by the tiered incorporation fee structure.
 - ii. The annual renewal fee proposed by SB 298 is as follows:
 1. For companies with up to \$75,000 in aggregate stock, a proposed \$125 fee.
 2. For companies with value over \$75,000, but not more than \$200,000, a proposed \$175 fee.
 3. For companies with value over \$200,000, but not more than \$500,000, a proposed \$275 fee.
 4. For companies with value over \$500,000, but not more than \$1,000,000, a proposed \$375 fee.
 5. For companies with value over \$1,000,000, a proposed fee of \$375 for the 1st \$1 million in value, plus \$275 for each additional \$500,000 value, or fraction thereof.

E 10 of 11

6. The maximum annual filing fee is set at \$11,100, which caps for companies with a total aggregate value over \$20.5 million.

4. Annual Business License Fee

- a. SB 298 proposes changes to the business license registration provided for in NRS364A.130(5). Currently, there is a one-time application fee of \$25 for a Nevada business license. SB298 makes the state business license an annual requirement for all persons or entities conducting business in the state, with an application/annual fee of \$50.
- b. SB298 also provides for late penalties and provisions that may be applied by the Department of Taxation in order to increase enforceability and collections of the business license tax, including a procedure for issuing a Cease and Desist Order to a person or company engaged in business in Nevada who has not complied with this requirement.

CHARGING ORDER: SB298 makes corrections to Nevada law dealing with "charging order" limitations as they apply to limited partnerships and limited liability companies.

1. **What is a charging order?** Charging order protection provides that a creditor may only receive from the partnership (or LLC as the case may be) distributions in satisfaction of a creditors claim.
 - a. The charging order exists to protect other members of an LLC from having involuntarily to share governance responsibilities with someone they did not choose, or from having to accept a creditor of another member as a co-manager. A charging order protects the autonomy of the original members, and their ability to manage their own enterprises.
 - b. In a single-member entity, there are no non-debtor members to protect. The charging order serves no purpose in a single-member LLC, because there are no other parties' interests effected.
 - c. A charging order does not apply when the judgment creditor has a judgment against the partnership (or LLC) itself. In such a case, the assets of the partnership (of LLC) could be sold.
2. Currently, best state laws in the area of charging order protections are Alaska, Arizona, Oklahoma, and Wyoming. Each of these states statutes provide that the charging order is the exclusive remedy for a creditor by statutory language for both limited partnerships and LLC's. In addition to these four states, seven states LLC language provides that the charging order is the exclusive remedy of a creditor, but remain silent with regard to limited partnership statutes.
3. Nevada attorney Steve Oshins testified earlier before the Assembly Judiciary Committee that the charging order language previously changed by the 2001 legislature was language that he had provided to the Nevada Bar Association. He further testified that the existing language has generated confusion among legal practitioners as to whether Nevada statutes provide for the charging order as the creditor's sole remedy. SB298 clarifies that confusion by making the charging order the sole remedy of a creditor.
4. The impact of this change will be to place Nevada among the most favorable jurisdictions for both limited partnerships and LLC's with regard to the charging order protection.

11
E ~~10~~ of 11