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Nevada Taxpayers Association

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Sent: Wednesday, April 09, 2003 1:59 PM
Subject: RE: Corrected Comments to Amendment to SB 449

Below are my corrected comments are to the Proposed amendments to S.B. 449 prepared by Carole and attached to your e-mail:

Section 1: No comment.

Section 2. The new language in paragraphs (a), (b), (c) and (d) should say [my additions are underlined]:

and in the case of an advisory question that proposes a bond, tax or expense, a fiscal note prepared in accordance with subsection 4 of NRS 293.482.

Reason:

(i) Non-advisory questions (bond and tax override questions) already have legislatively proscribed fiscal information required. It will only confuse the voters to add an additional fiscal note for these non-advisory bond and tax override questions.

(ii) questions that do not propose a tax, bond or expense--e.g., Douglas County's growth limit ordinance and the Clark and Washoe questions requesting enabling legislation for local regulation of smoking do not involve a bond, tax or expense and should not need a fiscal note.

(iii) "Subsection 4 of NRS 293.482" is just a form change from "Section AAA or Section XXX"--I have put the substance of sections AAA and XXX into Subsection 4 of NRS 293.482.

Section 3, Subsection 2: The new language in paragraph (a) and (b) should be changed to read [my additions are underlined]:

(a) Adopt a resolution [which:

(a) Except as otherwise provided in NRS 295.121 and 295.217, sets] that:

(1) Sets forth the [advisory question, including] question in language clearly indicating it is advisory only, an explanation of [and] the question, arguments for and against the question except as otherwise provided in NRS 295.121 and 295.217 [, to be

submitted to the voters; and

(b)] and in the case of an advisory question that proposes a bond, tax or expense, a fiscal note prepared by the governing body that

~~describes any anticipated financial effects on state government;~~ in accordance with

Subsection 4

~~local government and taxpayers;~~ and

(2) States that the result of the voting on the question does not place any legal requirement on the governing body, any member of the governing body or any officer of the political subdivision[.

2.] ; and

(b) Comply with the requirements of paragraph (a) or (d) of subsection 1 of NRS 293.482.

Reasons:

(i) the "except as otherwise provided in NRS 295.121 and 295.217" is deleted in Carole's language and needs to be added back in. These sections are the ones that require that a committee prepare arguments for and against in larger Counties and Cities. Without adding this exception back in, Carole's provision would require that the governing body prepare the arguments.

(ii) questions that do not propose a tax, bond or expense—see comment (ii) above should not need a fiscal note.

(iii) "Subsection 4" is just a form change from "Section AAA or Section XXX". I have put the substance of sections AAA and XXX into Subsection 4.

(iv) Paragraph (b) above deals with the timing requirements of submitting an advisory question, by reference to NRS 293.481. Subsection 1 of NRS 293.482 allows advisory questions on the general city election ballots. If an advisory question is on that ballot, the time to submit it to the County Clerk or Registrar of voters is specified in paragraph (d) of subsection 1 of NRS 293.481 not paragraph (a); consequently, a reference to paragraph (d) is added to paragraph (b) above.

Section 3, Subsections 4-8: The new language in subsections 4-8 should be changed to read as follows, which includes the proposed Sections AAA and XXX [my additions are underlined]:

4. Fiscal notes for advisory questions must contain the following information:

(a) If, in the advisory question, the governing body seeks advice on whether bonds should be issued, the fiscal note must include the information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern the procedure for issuance of the applicable type of bond.

(b) If, in the advisory question, the governing body seeks advice on whether a property tax override should be imposed, the fiscal note must include the information that is required by law to be included on the sample ballot pursuant to the provisions of law that govern property tax overrides.

(c) If, in the advisory question, a tax other than property is proposed, the fiscal note must:

(1) identify the average annual cost to the taxpayer if the tax is imposed;

(2) the duration of the levy; and

(3) if revenue bonds are to be sold, which will be backed by the full faith and credit of the assessed value of the local government; and

(4) if additional expense is expected to be incurred for operation or maintenance.

(d) If, in the advisory question, an expense is proposed, the fiscal note must:

(1) identify the revenue source which will be used to pay for the expense;

(2) identify if the expense will require an increase or the imposition of a tax

(3) If a tax is proposed pursuant to clause (2) of this paragraph (b), contain the information required in paragraph (c) of this subsection 4.

5. On the sample ballot for the general election or general city election, each advisory question must appear:

(a) With a title in substantially the following form: "Advisory Ballot Question No."; and

(b) With its explanation, arguments and fiscal note if required.

Reason: Form only--this moves all of the fiscal note contents requirements for advisory questions into NRS 293.482, instead of having some of it in NRS 293.482 and some of it in Sections AAA and XXX. (I do not believe the above change the contents of Carole's Sections AAA and XXX, only its placement).

Section 4-6: No Comment.

Section 7, Subsections 1 and 5: This would apply the "for/against" committees, and the county clerk rulemaking and calendaring requirements for the committee to rural Counties. I wonder if there really is a need to have our smaller counties go through these procedures for the few elections they have. Given the few elections, this is a significant set of requirements that could be missed, or misapplied. I wonder if it would be better to just expand the counties subject to the requirement to the larger counties--say, counties with a population above 40,000 (this picks up Carson City, Elko and Douglas Counties). A 30,000 threshold would also include Lyon and Nye Counties, I think.

Section 7, Subsections 6 to 8. I would suggest that no change be made from the existing language in NRS 295.121 subsections 6 to 8, and would delete all of Carole's and LCB's changes in these subsections.

The substance of the changes made in subsections 6 to 8 of section 7 by Carole and I think also in the LCE version of SB 449 is to have the "for/against" committees prepared fiscal notes, for all questions that appear on the ballot. I do not think this is a good idea for the following reasons:

(i) With respect to Bond and Tax Override Questions: As stated above, bond questions and tax override questions already require certain specified fiscal information. I think requiring two additional possibly inconsistent "fiscal notes" (one prepared by the "for" committee and one prepared by the "against" committee) will add to confusion rather than assist the voter in making an intelligent choice. (I would also note that the "for/against" committees are free to include in their argument whatever factual matters they desire to include, and if they think a particular fiscal factor is important they could include it in their argument.)

(ii) With respect to Advisory Questions that do not Involve Money: As stated above, it seems to me that fiscal notes are not necessary for advisory questions that do not have a tax, bond or expense implication, such advisory questions on whether counties should be allowed to regulate smoking, etc.

(iii) With respect to Advisory Questions that do have Fiscal Implications: The proposed language seems inconsistent with the language suggested in Section 3 of Carol's draft, which requires the governing body draft the fiscal note. It seems to me that having the governing body draft the fiscal note, as is provided in Section 3 of Carol's draft this Bill, is better than what is provided here, having the two committees draft what likely will be two different fiscal notes for each question. It seems to me that competing "for" and "against" fiscal information is not helpful to voters. Also, generally governing bodies (through their finance directors and other experts) do a good job with providing this type of information. I am not sure the "for" and "against" committees will have the same expertise. Further, if the "for" and "against" committee determines that a particular fiscal fact with respect to an advisory question is important, they have the option to include that in their argument "for" and "against" under existing law.

Section 8, Subsections 1 and 5: This would apply the "for/against" committees and the City Clerk Rulemaking and Calendaring Requirements smaller cities. As with rural counties, I wonder if there is really a need to have our smaller cities go through this procedure for the few elections they have. Given the few elections this is a significant set of requirements that could be missed or misapplied. Here, I think the 60,000 population requirement of existing law is probably the right number. The 60,000 threshold includes Las Vegas, North Las Vegas, Henderson, Reno and Sparks. Lowering the threshold to 10,000 picks up Boulder City, Mesquite, Elko and Fernley, but these cities are not ones that frequently have bond, tax override or advisory questions on the ballot, and anything lower than 10,000 picks up many cities with quite small populations and as stated above, I wonder if this procedure is worth it for a city that might have an election only once every 5-20 years.

Section 8, subsection 6-8. I would suggest no change be made from the existing language in NRS 295.217, subsection 6-8. As in Section 7, above, the substance of the changes made in subsections 6 to 8 of section 8 by Carole and I think also in the LCB version of SB 449 is to have the "for/against" committees prepared fiscal note for all questions that appear on the ballot. I do not think this is a good idea for the same reasons as stated above.

Sections AAA and XXX are incorporated into Section 3 above.

4