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SB 495 EXPLANATION

This is a brief summary of SB 495, which authorizes sales tax increment financing in connection with assessment districts in certain circumstances.

This bill is an amendment to Ch. 271 which authorizes the issuance of bonds secured by special assessments, and the authority in this bill can only be used if a special assessment district is created, and if special assessments are levied to pay for the costs of the project against the property benefitted from the project. If these procedures are followed and successfully completed, and the other requirements of the bill are met, the sales tax increment can also be pledged as the bonds, however, if for any reason the sales tax increment was insufficient to pay principal and interest on the bonds, the property assessed would remain liable for the assessments.

1. Sections 1-3 define an "art project" and a "tourism and entertainment project" and allow special assessments for these types of projects in special assessment districts to which sales and use tax revenues are pledged as described below.

The other projects already authorized in CH 271 of NRS, which are primarily infrastructure type projects, such as streets, sewer and water projects and e.g., highway overpass and intersections, could also be done with this new type of financing. Art Projects and Tourism and Entertainment Projects, however could only be financed if all of the requirements of the bill for pledging the sale tax increment are met.

2. Section 4 would authorize, in certain circumstances, a municipality to pledge the proceeds of certain sales tax increments derived from up to 75% of the State sales tax (2%), the basic and supplemental City/County relief sales tax (2.25%) and the basic school support sales tax (2.25%) to special assessments which secure bonds issued for projects for which assessment district bonds can be issued under existing law (generally, infrastructure related projects such as roads, sewer, water, etc. mentioned above and the new art and tourism and entertainment projects).

Sales tax increment is defined as the difference between (i) the sales tax from the above three taxes collected in the assessment district in a particular year less (ii) the sales tax from the above three taxes collected in the year the ordinance levying assessments is adopted.

This section provides some limits on the authority to pledge sales tax increments to assessments. In particular, this authority can be used only if:

(i) the Board of County Commissioners of each county in which the district is located has found after a hearing (following at least 15 days published notice) that (a) construction of the project will result in retailers locating their businesses in the District, (b) as a result, there will be a substantial increase in sales tax revenues in the District; and (c) a preponderance of the increase in sales tax

revenues in the district will be the result of transactions with tourists who are not residents of Nevada;

(ii) the Nevada Commission on Tourism approves the finding made by the Board of County Commissioners that a preponderance of the increase in sales tax will be from sales to tourists who are not residents of Nevada.

(iii) the Governor has determined that the project and the pledge of sales tax increment to the assessment bonds will significantly contribute to economic development and tourism in the State.

3. Section 5 is a procedural section which provides that a governing body that establishes the district to which that sales tax increment is pledged must enter into an agreement with the Department of Taxation which establishes the base year for taxes (that is, the part of the sales taxes that cannot be pledged to the assessment bonds), and the dates and procedures for distribution of the pledged sales tax increment to the municipality.

4. Section 6 is a section which allows a municipality to enter into certain agreements with the property owners in the District. Specifically, if the governing body makes a finding that, taking into account

(i) the local government services (including, without limitation, police protection and fire protection) needed as a result of the project and the development of land within the District,

(ii) the taxes and other governmental revenues generated by the property located in the district, and

(iii) the use of sales tax revenues as authorized by the bill and the assessment ordinance,

the project will not have a positive fiscal impact on the provision of local governmental services, the governing body may enter into an agreement with one or more owners of property in the District, under which those property owners agree to make payments to the municipality and/or other governmental entities providing local governmental services during the term of the pledge of sales tax authorized by the assessment ordinance for the purpose of assisting local governments in providing those local governmental services.

5. Section 7. It is contemplated that bonds secured by these assessments will be issued under the typical assessment district procedure in Chapter 271 of NRS. Under this procedure, if the sales tax increment were insufficient to make payments on the assessments, the owners of the property assessed would have to make payments (which must be sufficient to make payments due on the assessments bonds). If the owners fail to pay assessments on time, the governing body is authorized to institute foreclosure proceedings against the property assessed and use proceeds of the foreclosure to pay the bonds. Section 7 prohibits the governing body from pledging its general fund and taxing power to the payment of the assessment bonds to which the sales tax increment is pledged.

6. Section 10 adds sales tax increment revenues to the revenues that may be pledged to assessments bonds. The effect of this addition is to provide that sales tax increment from the three taxes mentioned above during the term of the assessments is to be applied as a credit for assessments levied against property in the assessment district as follows:

If, in a particular year, there is enough sales tax increment to pay the assessment installment for that year in the district, the owners of the property assessed will not need to pay the assessment installment.

To the extent the sales tax increment is insufficient to pay the assessment installment due in a particular year, the owners of the property assessed must make up the difference.

To the extent there is more sales tax increment than there are assessment installments due, the excess sales tax increment can be applied to paying subsequent installments of assessments or to a prepayment of the assessments, at the option of the governing body.

Finally, to the extent the sales tax increment is not needed for the purpose of paying assessment installments at all (i.e., all assessments are paid or prepaid), the sales tax increment must be returned to the entities that would have receive the sales taxes without this bill. That is, the increment cannot be used for any purpose other than as a credit towards the unpaid assessments levied in the District. Once the assessments in the District have all been paid in full, all of the sales tax increment returns to the entities that would have received the tax without this legislation.

7. The balance of the sections of the bill make conforming changes to NRS.