

CHAPTER.....

AN ACT relating to local governmental financial administration; prohibiting a local government from requiring the licensure of, or imposing a license tax upon, certain professionals; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a local government, such as a county, city or town, to regulate and collect a license fee or tax on businesses, trades, professions and occupations. (NRS 244.335, 266.355, 266.600, 268.095, 269.170) Existing law also provides for the regulation and licensing of various professions and occupations in this State. (Title 54 of NRS; Nevada Supreme Court Rules)

This bill prohibits a local government from requiring a person to obtain a license or pay a license tax on the sole basis that the person is a professional. This bill defines a “professional” as a person who: (1) holds a license, certificate, registration, permit or similar type of authorization issued by any of the bodies that regulate certain professions and occupations; and (2) practices his profession for any type of compensation as an employee.

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

Section 1. NRS 244.335 is hereby amended to read as follows:
244.335 1. Except as otherwise provided in ~~subsection 2,~~
subsections 2 and 3, the board of county commissioners may:

(a) Except as otherwise provided in NRS 598D.150, regulate all character of lawful trades, callings, industries, occupations, professions and business conducted in its county outside of the limits of incorporated cities and towns.

(b) Except as otherwise provided in NRS 244.3359 and 576.128, fix, impose and collect a license tax for revenue or for regulation, or for both revenue and regulation, on such trades, callings, industries, occupations, professions and business.

2. The county license boards have the exclusive power in their respective counties to regulate entertainers employed by an entertainment by referral service and the business of conducting a dancing hall, escort service, entertainment by referral service or gambling game or device permitted by law, outside of an incorporated city. The county license boards may fix, impose and collect license taxes for revenue or for regulation, or for both revenue and regulation, on such employment and businesses.

3. *The board of county commissioners or county license board shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional.* No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the

business has complied with the provisions of NRS 360.780. The county license board shall provide upon request an application for a business license pursuant to NRS 360.780. *As used in this subsection, "professional" means a person who:*

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

4. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

5. Any license tax levied for the purposes of NRS 244.3358 or 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced in the following manner:

(a) By recording in the office of the county recorder, within 6 months after the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

- (1) The amount of tax due and the appropriate year;
- (2) The name of the record owner of the property;
- (3) A description of the property sufficient for identification;

and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against the property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

6. The board of county commissioners may delegate the authority to enforce liens from taxes levied for the purposes of NRS 244A.597 to 244A.655, inclusive, to the county fair and recreation board. If the authority is so delegated, the board of county commissioners shall revoke or suspend the license of a business upon certification by the county fair and recreation board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 244.3357, all information concerning license taxes levied by an ordinance

authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of such license taxes or as the result of any audit or examination of the books by any authorized employee of a county fair and recreation board of the county for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, officer or employee of the county fair and recreation board or the county imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation for the exchange of information concerning taxpayers.

Sec. 2. NRS 266.355 is hereby amended to read as follows:

266.355 1. Except as otherwise provided in ~~subsection 3,~~ **subsections 3 and 4**, the city council may:

(a) Except as otherwise provided in NRS 598D.150, regulate all businesses, trades and professions.

(b) Except as otherwise provided in NRS 576.128, fix, impose and collect a license tax for revenue upon all businesses, trades and professions.

2. The city council may establish any equitable standard to be used in fixing license taxes required to be collected pursuant to this section.

3. The city council may license insurance agents, brokers, analysts, adjusters and managing general agents within the limitations and under the conditions prescribed in NRS 680B.020.

4. The city council shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

Sec. 3. NRS 266.600 is hereby amended to read as follows:

266.600 The city council may:

1. Control the finances of the corporation.

2. Appropriate money for corporate purposes only, and provide for payment of debts and expenses of the corporation.

3. Levy and collect taxes within the city for general and special purposes on real and personal property, as provided by law.

4. Borrow money on the credit of the city for corporate purposes, in the manner and to the extent allowed by the

constitution and the laws, and issue general obligations therefor, but no city may issue or have outstanding at any time bonds in an amount in excess of 30 percent of the total assessed valuation of the taxable property within such city as shown by the last preceding tax list or assessment roll, nor warrants, certificates, scrip or other evidences of indebtedness, excepting the bonded indebtedness, in excess of 20 percent of the assessed valuation. This subsection does not restrict the power of cities as to taxation, assessment, borrowing money, contracting debts or loaning their credit for procuring supplies of water.

5. Secure additionally the payment of any general obligation securities by a pledge of any revenues, other than tax proceeds, legally available therefor.

6. Divide the city into districts for the purpose of local taxation, or create districts for that purpose, as occasion may require.

7. Except as otherwise provided in NRS 576.128 ~~§~~ and *subsection 4 of NRS 266.355*, raise revenue by levying and collecting a license fee or tax on any private corporation or business within the limits of the city, and regulate it by ordinance. All such license fees and taxes must be uniform with respect to the class upon which they are imposed.

8. Fix the amount of licenses and the terms and manner of their issuance.

Sec. 4. NRS 268.095 is hereby amended to read as follows:

268.095 1. ~~The~~ *Except as otherwise provided in subsection 3, the* city council or other governing body of each incorporated city in this State, whether organized under general law or special charter, may:

(a) Except as otherwise provided in NRS 268.0968 and 576.128, fix, impose and collect for revenues or for regulation, or both, a license tax on all character of lawful trades, callings, industries, occupations, professions and businesses conducted within its corporate limits.

(b) Assign the proceeds of any one or more of such license taxes to the county within which the city is situated for the purpose or purposes of making the proceeds available to the county:

(1) As a pledge as additional security for the payment of any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(2) For redeeming any general obligation bonds issued pursuant to NRS 244A.597 to 244A.655, inclusive;

(3) For defraying the costs of collecting or otherwise administering any such license tax so assigned, of the county fair and recreation board and of officers, agents and employees hired thereby, and of incidentals incurred thereby;

(4) For operating and maintaining recreational facilities under the jurisdiction of the county fair and recreation board;

(5) For improving, extending and bettering recreational facilities authorized by NRS 244A.597 to 244A.655, inclusive; and

(6) For constructing, purchasing or otherwise acquiring such recreational facilities.

(c) Pledge the proceeds of any tax imposed on the revenues from the rental of transient lodging pursuant to this section for the payment of any general or special obligations issued by the city for a purpose authorized by the laws of this State.

(d) Use the proceeds of any tax imposed pursuant to this section on the revenues from the rental of transient lodging:

(1) To pay the principal, interest or any other indebtedness on any general or special obligations issued by the city pursuant to the laws of this State;

(2) For the expense of operating or maintaining, or both, any facilities of the city; and

(3) For any other purpose for which other money of the city may be used.

2. The proceeds of any tax imposed pursuant to this section that are pledged for the repayment of general obligations may be treated as "pledged revenues" for the purposes of NRS 350.020.

3. *The city council or other governing body of an incorporated city shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional.*

No license to engage in any type of business may be granted unless the applicant for the license signs an affidavit affirming that the business has complied with the provisions of NRS 360.780. The city licensing agency shall provide upon request an application for a business license pursuant to NRS 360.780. *As used in this subsection, "professional" means a person who:*

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

4. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

5. Any license tax levied under the provisions of this section constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien has the same priority as a lien for general taxes. The lien must be enforced in the following manner:

(a) By recording in the office of the county recorder, within 6 months following the date on which the tax became delinquent or was otherwise determined to be due and owing, a notice of the tax lien containing the following:

- (1) The amount of tax due and the appropriate year;
- (2) The name of the record owner of the property;
- (3) A description of the property sufficient for identification;

and

(4) A verification by the oath of any member of the board of county commissioners or the county fair and recreation board; and

(b) By an action for foreclosure against such property in the same manner as an action for foreclosure of any other lien, commenced within 2 years after the date of recording of the notice of the tax lien, and accompanied by appropriate notice to other lienholders.

6. The city council or other governing body of each incorporated city may delegate the power and authority to enforce such liens to the county fair and recreation board. If the authority is so delegated, the governing body shall revoke or suspend the license of a business upon certification by the board that the license tax has become delinquent, and shall not reinstate the license until the tax is paid. Except as otherwise provided in NRS 268.0966, all information concerning license taxes levied by an ordinance authorized by this section or other information concerning the business affairs or operation of any licensee obtained as a result of the payment of those license taxes or as the result of any audit or examination of the books of the city by any authorized employee of a county fair and recreation board for any license tax levied for the purpose of NRS 244A.597 to 244A.655, inclusive, is confidential and must not be disclosed by any member, official or employee of the county fair and recreation board or the city imposing the license tax unless the disclosure is authorized by the affirmative action of a majority of the members of the appropriate county fair and recreation board. Continuing disclosure may be so authorized under an agreement with the Department of Taxation for the exchange of information concerning taxpayers.

7. The powers conferred by this section are in addition and supplemental to, and not in substitution for, and the limitations imposed by this section do not affect the powers conferred by, any other law. No part of this section repeals or affects any other law or any part thereof, it being intended that this section provide a

separate method of accomplishing its objectives, and not an exclusive one.

Sec. 5. NRS 269.170 is hereby amended to read as follows:

269.170 1. Except as otherwise provided in *subsection 5 and* NRS 576.128 and 598D.150, the town board or board of county commissioners may, in any unincorporated town:

(a) Fix and collect a license tax on, and regulate, having due regard to the amount of business done by each person so licensed, and all places of business and amusement so licensed, as follows:

(1) Artisans, artists, assayers, auctioneers, bakers, banks and bankers, barbers, boilermakers, cellars and places where soft drinks are kept or sold, clothes cleaners, foundries, laundries, lumberyards, manufacturers of soap, soda, borax or glue, markets, newspaper publishers, pawnbrokers, funeral directors and wood and coal dealers.

(2) Bootmakers, cobblers, dressmakers, milliners, shoemakers and tailors.

(3) Boardinghouses, hotels, lodginghouses, restaurants and refreshment saloons.

(4) Barrooms, gaming, manufacturers of liquors and other beverages, and saloons.

(5) Billiard tables, bowling alleys, caravans, circuses, concerts and other exhibitions, dance houses, melodeons, menageries, shooting galleries, skating rinks and theaters.

(6) Corrals, hay yards, livery and sale stables and wagon yards.

(7) Electric light companies, illuminating gas companies, power companies, telegraph companies, telephone companies and water companies.

(8) Carts, drays, express companies, freight companies, job wagons, omnibuses and stages.

(9) Brokers, commission merchants, factors, general agents, mercantile agents, merchants, traders and stockbrokers.

(10) Drummers, hawkers, peddlers and solicitors.

(11) Insurance agents, brokers, analysts, adjusters and managing general agents within the limitations and under the conditions prescribed in NRS 680B.020.

(b) Fix and collect a license tax upon all professions, trades or business within the town not specified in paragraph (a).

2. No license to engage in business as a seller of tangible personal property may be granted unless the applicant for the license presents written evidence that:

(a) The Department of Taxation has issued or will issue a permit for this activity, and this evidence clearly identifies the business by name; or

(b) Another regulatory agency of the State has issued or will issue a license required for this activity.

3. Any license tax levied for the purposes of NRS 244A.597 to 244A.655, inclusive, constitutes a lien upon the real and personal property of the business upon which the tax was levied until the tax is paid. The lien must be enforced in the same manner as liens for ad valorem taxes on real and personal property. The town board or other governing body of the unincorporated town may delegate the power to enforce such liens to the county fair and recreation board.

4. The governing body or the county fair and recreation board may agree with the Department of Taxation for the continuing exchange of information concerning taxpayers.

5. The town board or board of county commissioners shall not require a person to obtain a license or pay a license tax on the sole basis that the person is a professional. As used in this subsection, "professional" means a person who:

(a) Holds a license, certificate, registration, permit or similar type of authorization issued by a regulatory body as defined in NRS 622.060, or who is regulated pursuant to the Nevada Supreme Court Rules; and

(b) Practices his profession for any type of compensation as an employee.

Sec. 6. This act becomes effective on July 1, 2005.