



Washoe County District Attorney

RICHARD A. GAMMICK
DISTRICT ATTORNEY

MEMORANDUM

TO: Board of County Commissioners

FROM: Paul Lipparelli
Assistant District Attorney

RE: AB 46—school district capital funding legislation

DATE: July 23, 2013

AB 46 is the bill from the 2013 Nevada Legislature which authorizes the Washoe County Board of County Commissioners to enact ordinances imposing sales and property taxes for the benefit of the Washoe County School District (“WCSD”) and its fund for capital projects. This memorandum highlights the provisions of the bill, the process for the possible enactment of the ordinances necessary to impose the authorized taxes and related legal issues.

1. The Basics of AB 46.

AB 46 authorizes the Washoe County Board of County Commissioners (the “Board”) to enact an ordinance imposing a tax on the gross receipts of retail sales of personal property of one-quarter of one percent of the sale—a sales tax. Like other existing sales taxes a new AB 46 sales tax would be collected at the state level. The bill requires the county to enter into a contract with the state to administer the new tax prior to its imposition. The new sales tax cannot be imposed before the state has time to arrange for the collection of the tax from retailers in the county. AB 46 provides the state with at least 120 days from the effective date of the ordinance imposing the tax to begin to collect.

AB 46 authorizes the Board to enact an ordinance levying an ad valorem tax of 5 cents on each \$100 of assessed valuation of taxable property in the county—a property tax. Any such property tax is exempt from the statutory statewide limitation on property taxes within counties of \$3.64 on each \$100 of assessed valuation imposed by NRS 361.453. Such a new tax is also exempt from partial tax abatement provisions of NRS 361.4722, 361.4723 and 361.4724.

Neither tax is mandatory and the Board may impose either, both or neither. The proceeds of any such new taxes are required to be deposited into the school district’s capital projects fund. Under NRS 387.328 and 387.335 the money in that capital projects fund must be used for construction, design or purchase of new buildings for schools; enlarging, remodeling or repairing existing buildings or grounds; acquiring sites for building schools, or additional real property for necessary purposes related to schools; paying expenses relating to the acquisition of school facilities which have been leased by a school district; and purchasing necessary furniture and

equipment for schools.

Proposed ordinances to enact the taxes must be introduced at one Board meeting, adopted at another meeting within 35 days and published for a period of two weeks before they go into effect. NRS 244.095 through 244.105. The legislature gave the Board the authority to impose the new sales tax or the new property tax only if the ordinances required to impose the taxes are enacted before January 1, 2014. Thus, first reading, second reading and publications must all be completed prior to January 1, 2014. After that date, the authority for the new taxes expires if it is not used.

AB 46 requires approval of either the new sales tax or the property tax by a two-thirds majority of the members of the Board—4 affirmative votes.

The fiscal note with AB 46 says in the first 5 years of the taxes (if they were both imposed), the sales tax produces about \$14M and the property tax produces about \$6. By the 10th year, sales is \$16.7 and property is \$6.6 for a total of about \$23.3M.

2. The Legislative Counsel's Opinion.

The Nevada Legislative Counsel provided an opinion dated June 14, 2013 on several questions relating to AB 46. Here is a summary of the conclusions of that opinion.

- The Board's ordinances enacting the taxes cannot impose conditions such as restrictions on the use of the proceeds or a requirement for periodic reports from the WCSD on the expenditure of the new tax proceeds
- The Board can enact either the sales tax or the property tax, can enact both taxes or neither of them.
- The Board can include sunset provisions in the ordinances enacting the taxes. However such provisions could hamper the district's ability to issue debt (bonds) based on those tax revenues. If the taxes were enacted without sunsets or with sunsets that take effect far in the future and bonds were issued with a pledge of those revenues, the Board could not later add a sunset or attempt to repeal the taxes until the WCSD extinguished the debt.
- The Board could impose the taxes at levels below, but not above, the amounts authorized by the AB 46.
- The Board lacks the legislative authority to create exemptions from the taxes for certain taxpayers or groups of taxpayers.

We agree with the Nevada Legislative Counsel on those points. However, nothing prevents the Board and the WCSD from voluntarily entering into an agreement by which the WCSD would agree provide information to the county. It is possible the WCSD would also agree to a certain manner in which the tax revenues could be spent or bonded. However, such an agreement may ultimately be unenforceable as an improper contractual restriction on the

WCSD's legislative discretion over budgeting. In addition, the statutory mandates that govern the WCSD's use of its capital project fund cannot be trumped by contractual promises.

3. Voter Approval.

Questions have been asked about whether county voters could be consulted prior to the Board's actions on the new taxes. In short, there is no practical way for voter approval of the new sales or property taxes prior to the Board's need to act because of the January 1, 2014 expiration of the authority to enact the taxes. The next regularly occurring election is the one to be held in November of 2014. That is long after January 1, 2014—the date by which the BCC must act to impose the taxes. While there may be time enough for a special election to be held prior to that deadline, advisory questions can be asked only at general elections. NRS 293.482. Likewise, the citizens' power of an initiative petition to enact new county laws is limited to general elections. NRS 295.085. Since the authority to enact the AB 46 taxes was given expressly to the Board, it is questionable that an initiative petition could be employed for these new taxes.

NRS 354.5982 provides that the statutory property tax cap of \$3.64 per \$100 of assessed valuation can be exceeded in a county if "approved by a majority of the voters voting on the question at a general election, a general city election or a special election called for that purpose." To some that may provide a basis for a special election on the property tax piece of AB 46. However, that bill expressly provides that a property tax imposed by the Board prior to January 1, 2014 is already outside the tax cap. There is thus no basis for asking for voter approval.

Very truly yours,

RICHARD A. GAMMICK
District Attorney

By


PAUL A. LIPPARELLI

Assistant District Attorney

Cc: John Berkich, Count Manager
John Slaughter, Assistant County Manager



WASHOE COUNTY

"Dedicated To Excellence in Public Service"

www.washoecounty.us

CM/ACM JB

Finance N/A

DA

Risk Mgt. N/A

HR N/A

Other N/A

STAFF REPORT BOARD MEETING DATE: July 23, 2013

DATE: July 16, 2013
TO: Board of County Commissioners
FROM: John Slaughter
jslaughter@washoecounty.us 775-328-3607
THROUGH: John Berkich, Interim County Manager
SUBJECT: Discussion and possible direction to staff on AB 46 of the 2013 Nevada Legislative Session, including but not limited to a review of AB 46, discussion regarding implementation process requirements, public input, and timelines; (AB 46 authorizes the imposition of a new sales and use tax, and ad valorem tax in Washoe County for capital projects of the Washoe County School District)--Management Services. (All Commission Districts.)

SUMMARY

This agenda item asks the Board of County Commissioners to discuss and possibly provide direction to staff on legislation approved during the 2013 Legislative Session (AB 46) that authorizes the Board to impose certain taxes to fund capital projects of the Washoe County School District.

PREVIOUS ACTION

No previous action on this item.

BACKGROUND

AB 46 of the 2013 Nevada was introduced by the Assembly Committee on Taxation at the request of the Washoe County School District. As approved, AB 46 authorizes the Washoe County Board of County Commissioners to impose, by a two-thirds vote (four board members), additional taxes (one-quarter of 1 percent sales tax and property tax of 5 cents on each \$100 of assessed valuation) for deposit in the Washoe County School District's fund for capital projects. A Legislative History, including a bill summary, bill history, estimated revenue and a copy of AB 46 is attached. At the Board Meeting on July 23, 2013, staff will provide an overview, and legal counsel will provide an analysis of possible options related to implementation of the various provisions of AB 46.

FISCAL IMPACT

There is no fiscal impact related to this agenda item.

RECOMMENDATION

It is recommended that the Board discuss and provide direction to staff on AB 46 of the 2013 Nevada Legislative Session, including but not limited to a review of AB 46, discussion regarding implementation process requirements, public input, and timelines.

POSSIBLE MOTION

A possible motion would be "I move to provide the following direction to staff regarding AB 46....."



WASHOE COUNTY GOVERNMENT AFFAIRS

2013 Legislative Summary

AB 46

Funding for Capital Projects of the Washoe County School District

AB 46 of the 2013 Nevada was introduced by the Assembly Committee on Taxation at the request of the Washoe County School District. As enrolled, AB 46 authorizes the Washoe County Board of County Commissioners to impose, by a two-thirds vote (four board members), additional taxes (one-quarter of 1 percent sales tax and property tax of 5 cents on each \$100 of assessed valuation) for deposit in the Washoe County School District's fund for capital projects. The original version of AB 46 (prior to amendment) would have required the Washoe County Commission to impose these taxes.

Bill Summary (as Enrolled): Existing statute requires the board of trustees of the Washoe County School District is required to establish a fund for capital projects. (NRS 387.328). AB 46 authorizes the Washoe County Commission to impose, by a two-thirds vote, additional taxes for deposit in the school district's fund for capital projects.

In particular, section 2 authorizes the imposition in Washoe County of a new sales and use tax at the rate of one-quarter of 1 percent of the gross receipts of retailers and section 10 authorizes the imposition in the county of a new property tax at the rate of 5 cents on each \$100 of assessed valuation.

Sections 2-8 of AB 46 require the administration of any new sales and use tax in the same manner as the sales and use tax imposed by the Local School Support Tax Law, as set forth in chapter 374 of NRS. Existing law generally limits the total amount of property taxes which may be imposed to \$3.64 on each \$100 of assessed valuation. (NRS 361.453) Sections 9 and 10 of the bill exempt the new property tax authorized by section 10 from this limitation.

Existing law provides a partial abatement of the property taxes levied on property for which an assessed valuation has previously been established, a remainder parcel of real property, certain single-family residences and certain residential rental dwellings. (NRS 361.4722, 361.4723, 361.4724) Section 9.5 of the bill exempts the new property tax authorized by section 10 of this bill from those partial tax abatements.

Section 11 authorizes the school district to pledge the proceeds of these taxes, and the portion of the governmental services tax whose allocation to the school district is based on the amount of the property tax levy attributable to its debt service, to the payment of any bonds or other obligations the school district issues for capital projects.

Any action to impose the taxes authorized by AB 46 must be completed by the Board of County Commissioners on or before January 1, 2014.

AB 46 Bill History

Dec 20, 2012

- Prefiled. Referred to Committee on Taxation. To printer.

Dec 27, 2012

- From printer.

Feb 04, 2013

- Read first time. To committee.

Mar 06, 2013

- Notice of eligibility for exemption.

Apr 10, 2013

- From committee: Do pass.

Apr 12, 2013

- Taken from Second Reading File.
- Placed on Second Reading File for next legislative day.

Apr 15, 2013

- Read second time.
- Taken from General File.
- Rereferred to Committee on Ways and Means. Exemption effective. To committee.

May 23, 2013

- From committee: Do pass.
- Placed on General File.
- Taken from General File. Placed on General File for next legislative day.

May 24, 2013

- Taken from General File.
- Placed on Chief Clerk's desk.

May 27, 2013

- Taken from Chief Clerk's desk.
- Placed on General File.
- Read third time. Amended. (Amend. No. 881.) To printer.

May 28, 2013

- From printer. To engrossment. Engrossed. First reprint .
- Read third time. Passed, as amended. Title approved, as amended. (Yeas: 32, Nays: 8, Excused: 2.)_To Senate.

May 29, 2013

- In Senate.
- Read first time. Referred to Committee on Revenue and Economic Development. To committee.

Jun 03, 2013

- From committee: Do pass.
- Declared an emergency measure under the Constitution.
- Read third time. Passed. Title approved. (Yeas: 16, Nays: 4, Excused: 1.)_To Assembly.
- In Assembly.

Jun 05, 2013

- To enrollment.

Jun 06, 2013

- Enrolled and delivered to Governor.

Jun 11, 2013

- Approved by the Governor. Chapter 470.
Effective June 11, 2013.

AB 46 Estimated Revenue

<u>Year</u>	<u>1/4% Sales Tax</u>	<u>\$0.05 Property Tax</u>
2013	\$14,049,322	\$6,145,055
2014	\$14,330,309	\$6,145,055
2015	\$14,616,915	\$6,206,505
2016	\$14,909,253	\$6,268,570
2017	\$15,207,438	\$6,331,256
2018	\$15,511,587	\$6,394,569
2019	\$15,821,819	\$6,458,514
2020	\$16,138,255	\$6,523,099
2021	\$16,461,020	\$6,588,330
2022	\$16,790,241	\$6,654,214

Assumptions:

Sales Tax

FY11 Taxable Sales \$5,282,395,192

FY12 Estimated Taxable Sales \$5,509,538,185

FY13 Estimated Taxable Sales \$5,619,728,949

Future Growth Estimated at 2%

Property Tax

FY13 Assessed Value \$12,290,109,448

Growth of 0% thru FY 14, 1% thereafter

Source: Washoe County School District

Assembly Bill No. 46-Committee on Taxation

CHAPTER.....

AN ACT relating to the funding of capital projects of school districts; authorizing the imposition and providing for the administration of a new sales and use tax and ad valorem tax in certain counties for the capital projects of the school districts in those counties; exempting that ad valorem tax from certain partial tax abatements and the statutory limitation on the total ad valorem tax levy; authorizing those school districts to use the proceeds of those taxes and certain proceeds from the governmental services tax to finance capital projects; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The board of trustees of each school district is required to establish a fund for capital projects. (NRS 387.328) **Sections 2 and 10** of this bill authorize the board of county commissioners of each county whose population is 100,000 or more but less than 700,000 (currently only Washoe County) to impose, by a two-thirds vote, additional taxes for deposit in the county school district's fund for capital projects. In particular, **section 2** authorizes the imposition in the county of a new sales and use tax at the rate of one-quarter of 1 percent of the gross receipts of retailers and **section 10** authorizes the imposition in the county of a new property tax at the rate of 5 cents on each \$100 of assessed valuation.

Sections 2-8 of this bill require the administration of any new sales and use tax in the same manner as the sales and use tax imposed by the Local School Support Tax Law, as set forth in chapter 374 of NRS.

Existing law generally limits the total amount of property taxes which may be imposed to \$3.64 on each \$100 of assessed valuation. (NRS 361.453) **Sections 9 and 10** of this bill exempt the new property tax authorized by **section 10** from this limitation.

Existing law provides a partial abatement of the property taxes levied on property for which an assessed valuation has previously been established, a remainder parcel of real property, certain single-family residences and certain residential rental dwellings. (NRS 361.4722, 361.4723, 361.4724) **Section 9.5** of this bill exempts the new property tax authorized by **section 10** of this bill from those partial tax abatements.

Section 11 of this bill authorizes the school district in each county where these new taxes are imposed to pledge the proceeds of these taxes, and the portion of the governmental services tax whose allocation to the school district is based on the amount of the property tax levy attributable to its debt service, to the payment of any bonds or other obligations the school district issues for capital projects.



EXPLANATION - Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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

Section 1. Title 32 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *On or before January 1, 2014, the board of county commissioners of each county whose population is 100,000 or more but less than 700,000 may enact an ordinance imposing a tax at the rate of 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. An ordinance adopted pursuant to this section must be approved by a two-thirds majority of the members of the board.*

2. Any tax imposed pursuant to this section applies throughout the county, including incorporated cities in the county.

3. An ordinance enacted pursuant to this section must include provisions in substance as follows:

(a) Provisions substantially identical to those contained in chapter 374 of NRS, insofar as applicable.

(b) A provision that all amendments to chapter 374 of NRS after the date of enactment of the ordinance, not inconsistent with this chapter, automatically become a part of the ordinance.

(c) A provision that the county shall contract before the effective date of the ordinance with the Department to perform all functions incident to the administration or operation of the tax in the county.

(d) A provision that a purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 374.720, inclusive, of the amount of the tax required to be paid that is attributable to the tax imposed upon the sale of, and the storage, use or other consumption in the county of, tangible personal property used for the performance of a written contract:

(1) Entered into on or before the effective date of the tax;
or

(2) For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the tax if the bid was afterward accepted,

↳ if, under the terms of the contract or bid, the contract price or bid amount cannot be adjusted to reflect the imposition of the tax.



(e) A provision that specifies the date on which the tax must first be imposed, which must be the first day of the first calendar quarter that begins at least 120 days after the effective date of the ordinance.

Sec. 3. 1. All fees, taxes, interest and penalties imposed and all amounts of tax required to be paid pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.

2. The Department shall deposit the payments in the State Treasury to the credit of the Sales and Use Tax Account in the State General Fund.

3. The State Controller, acting upon the collection data furnished by the Department, shall monthly:

(a) Transfer from the Sales and Use Tax Account 1.75 percent of all fees, taxes, interest and penalties collected pursuant to this chapter 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 chapter 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 for deposit in the county school district's fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.

Sec. 4. The Department may redistribute any proceeds from any tax, interest or penalty collected pursuant to this chapter which is determined to be improperly distributed, but no such redistribution may be made as to amounts originally distributed more than 6 months before the date on which the Department obtains knowledge of the improper distribution.

Sec. 5. NRS 360.2937 is hereby amended to read as follows:

360.2937 1. Except as otherwise provided in this section, NRS 360.320 or any other specific statute, and notwithstanding the provisions of NRS 360.2935, interest must be paid upon an overpayment of any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377 or 377A of NRS, or sections 2, 3 and 4 of this act, any fee provided for in NRS 444A.090 or 482.313, or any assessment provided for in NRS 585.497, at the rate of 0.25 percent



per month from the last day of the calendar month following the period for which the overpayment was made.

2. No refund or credit may be made of any interest imposed on the person making the overpayment with respect to the amount being refunded or credited.

3. The interest must be paid:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if the person has not already filed a claim, is notified by the Department that a claim may be filed or the date upon which the claim is certified to the State Board of Examiners, whichever is earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or the amount against which the credit is applied.

Sec. 6. NRS 360.300 is hereby amended to read as follows:

360.300 1. If a person fails to file a return or the Department is not satisfied with the return or returns of any tax, contribution or premium or amount of tax, contribution or premium required to be paid to the State by any person, in accordance with the applicable provisions of this chapter, chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or sections 2, 3 and 4 of this act*, as administered or audited by the Department, it may compute and determine the amount required to be paid upon the basis of:

(a) The facts contained in the return;

(b) Any information within its possession or that may come into its possession; or

(c) Reasonable estimates of the amount.

2. One or more deficiency determinations may be made with respect to the amount due for one or for more than one period.

3. In making its determination of the amount required to be paid, the Department shall impose interest on the amount of tax determined to be due, calculated at the rate and in the manner set forth in NRS 360.417, unless a different rate of interest is specifically provided by statute.

4. The Department shall impose a penalty of 10 percent in addition to the amount of a determination that is made in the case of the failure of a person to file a return with the Department.

5. When a business is discontinued, a determination may be made at any time thereafter within the time prescribed in NRS 360.355 as to liability arising out of that business, irrespective of



whether the determination is issued before the due date of the liability.

Sec. 7. NRS 360.417 is hereby amended to read as follows:

360.417 Except as otherwise provided in NRS 360.232 and 360.320, and unless a different penalty or rate of interest is specifically provided by statute, any person who fails to pay any tax provided for in chapter 362, 363A, 363B, 369, 370, 372, 374, 377, 377A, 444A or 585 of NRS, *or sections 2, 3 and 4 of this act*, or any fee provided for in NRS 482.313, and any person or governmental entity that fails to pay any fee provided for in NRS 360.787, to the State or a county within the time required, shall pay a penalty of not more than 10 percent of the amount of the tax or fee which is owed, as determined by the Department, in addition to the tax or fee, plus interest at the rate of 0.75 percent per month, or fraction of a month, from the last day of the month following the period for which the amount or any portion of the amount should have been reported until the date of payment. The amount of any penalty imposed must be based on a graduated schedule adopted by the Nevada Tax Commission which takes into consideration the length of time the tax or fee remained unpaid.

Sec. 8. NRS 360.510 is hereby amended to read as follows:

360.510 1. If any person is delinquent in the payment of any tax or fee administered by the Department or if a determination has been made against the person which remains unpaid, the Department may:

(a) Not later than 3 years after the payment became delinquent or the determination became final; or

(b) Not later than 6 years after the last recording of an abstract of judgment or of a certificate constituting a lien for tax owed,
↳ give a notice of the delinquency and a demand to transmit personally or by registered or certified mail to any person, including, without limitation, any officer or department of this State or any political subdivision or agency of this State, who has in his or her possession or under his or her control any credits or other personal property belonging to the delinquent, or owing any debts to the delinquent or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or that person. In the case of any state officer, department or agency, the notice must be given to the officer, department or agency before the Department presents the claim of the delinquent taxpayer to the State Controller.



2. A state officer, department or agency which receives such a notice may satisfy any debt owed to it by that person before it honors the notice of the Department.

3. After receiving the demand to transmit, the person notified by the demand may not transfer or otherwise dispose of the credits, other personal property, or debts in his or her possession or under his or her control at the time the person received the notice until the Department consents to a transfer or other disposition.

4. Every person notified by a demand to transmit shall, within 10 days after receipt of the demand to transmit, inform the Department of and transmit to the Department all such credits, other personal property or debts in his or her possession, under his or her control or owing by that person within the time and in the manner requested by the Department. Except as otherwise provided in subsection 5, no further notice is required to be served to that person.

5. If the property of the delinquent taxpayer consists of a series of payments owed to him or her, the person who owes or controls the payments shall transmit the payments to the Department until otherwise notified by the Department. If the debt of the delinquent taxpayer is not paid within 1 year after the Department issued the original demand to transmit, the Department shall issue another demand to transmit to the person responsible for making the payments informing him or her to continue to transmit payments to the Department or that his or her duty to transmit the payments to the Department has ceased.

6. If the notice of the delinquency seeks to prevent the transfer or other disposition of a deposit in a bank or credit union or other credits or personal property in the possession or under the control of a bank, credit union or other depository institution, the notice must be delivered or mailed to any branch or office of the bank, credit union or other depository institution at which the deposit is carried or at which the credits or personal property is held.

7. If any person notified by the notice of the delinquency makes any transfer or other disposition of the property or debts required to be withheld or transmitted, to the extent of the value of the property or the amount of the debts thus transferred or paid, that person is liable to the State for any indebtedness due pursuant to this chapter, ~~for~~ chapter 360B, 362, 363A, 363B, 369, 370, 372, 372A, 374, 377, 377A or 444A of NRS, NRS 482.313, or chapter 585 or 680B of NRS *or sections 2, 3 and 4 of this act* from the person with respect to whose obligation the notice was given if solely by reason of the transfer or other disposition the State is unable to recover the



indebtedness of the person with respect to whose obligation the notice was given.

Sec. 9. NRS 361.453 is hereby amended to read as follows:

361.453 1. Except as otherwise provided in this section and NRS 354.705, 354.723 and 450.760, *and section 10 of this act*, the total ad valorem tax levy for all public purposes must not exceed \$3.64 on each \$100 of assessed valuation, or a lesser or greater amount fixed by the State Board of Examiners if the State Board of Examiners is directed by law to fix a lesser or greater amount for that fiscal year.

2. Any levy imposed by the Legislature for the repayment of bonded indebtedness or the operating expenses of the State of Nevada and any levy imposed by the board of county commissioners pursuant to NRS 387.195 that is in excess of 50 cents on each \$100 of assessed valuation of taxable property within the county must not be included in calculating the limitation set forth in subsection 1 on the total ad valorem tax levied within the boundaries of the county, city or unincorporated town, if, in a county whose population is less than 45,000, or in a city or unincorporated town located within that county:

(a) The combined tax rate certified by the Nevada Tax Commission was at least \$3.50 on each \$100 of assessed valuation on June 25, 1998;

(b) The governing body of that county, city or unincorporated town proposes to its registered voters an additional levy ad valorem above the total ad valorem tax levy for all public purposes set forth in subsection 1;

(c) The proposal specifies the amount of money to be derived, the purpose for which it is to be expended and the duration of the levy; and

(d) The proposal is approved by a majority of the voters voting on the question at a general election or a special election called for that purpose.

3. The duration of the additional levy ad valorem levied pursuant to subsection 2 must not exceed 5 years. The governing body of the county, city or unincorporated town may discontinue the levy before it expires and may not thereafter reimpose it in whole or in part without following the procedure required for its original imposition set forth in subsection 2.

4. A special election may be held pursuant to subsection 2 only if the governing body of the county, city or unincorporated town determines, by a unanimous vote, that an emergency exists. The determination made by the governing body is conclusive unless it is



shown that the governing body acted with fraud or a gross abuse of discretion. An action to challenge the determination made by the governing body must be commenced within 15 days after the governing body's determination is final. As used in this subsection, "emergency" means any unexpected occurrence or combination of occurrences which requires immediate action by the governing body of the county, city or unincorporated town to prevent or mitigate a substantial financial loss to the county, city or unincorporated town or to enable the governing body to provide an essential service to the residents of the county, city or unincorporated town.

Sec. 9.5. NRS 361.4726 is hereby amended to read as follows:

361.4726 1. Except as otherwise provided by specific statute, if any legislative act which becomes effective after April 6, 2005, imposes a duty on a taxing entity to levy a new ad valorem tax or to increase the rate of an existing ad valorem tax, the amount of the new tax or increase in the rate of the existing tax is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.

2. *The amount of any tax imposed pursuant to section 10 of this act is exempt from each partial abatement from taxation provided pursuant to NRS 361.4722, 361.4723 and 361.4724.*

3. For the purposes of this section, "taxing entity" does not include the State.

Sec. 10. Chapter 387 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *On or before January 1, 2014, the board of county commissioners of each county whose population is 100,000 or more but less than 700,000 may, in addition to any other taxes levied in accordance with this chapter, levy an ad valorem tax of 5 cents on each \$100 of assessed valuation of taxable property within the county for the capital projects of the school district. Any such levy must be approved by a two-thirds majority of the members of the board.*

2. *Any money collected pursuant to this section must be deposited in the county treasury to the credit of the fund for capital projects established pursuant to NRS 387.328, to be held and expended in the same manner as other money deposited in that fund.*

3. *The rate of any tax levied pursuant to subsection 1 must not be included in the total ad valorem tax levy for the purposes of the application of the limitation in NRS 361.453.*



Sec. 11. NRS 387.328 is hereby amended to read as follows:

387.328 1. The board of trustees of each school district shall establish a fund for capital projects for the purposes set forth in subsection 1 of NRS 387.335. The money in the fund for capital projects may be transferred to the debt service fund to pay the cost of the school district's debt service.

2. The board of trustees may accumulate money in the fund for capital projects for a period not to exceed 20 years.

3. That portion of the governmental services tax whose allocation to the school district pursuant to NRS 482.181 is based on the amount of the property tax levy attributable to its debt service must be deposited in the county treasury to the credit of the fund established under subsection 1 or the school district's debt service fund.

4. No money in the fund for capital projects at the end of the fiscal year may revert to the county school district fund, nor may the money be a surplus for any other purpose than those specified in subsection 1.

5. The proceeds of the taxes deposited in the fund for capital projects pursuant to NRS 244.3354, 268.0962 and 375.070 *and sections 3 and 10 of this act and, in a county whose population is 100,000 or more but less than 700,000, the portion of the governmental services tax whose allocation to the school district pursuant to NRS 482.181 is based on the amount of the property tax levy attributable to its debt service* may be pledged to the payment of the principal and interest on bonds or other obligations issued for one or more of the purposes set forth in NRS 387.335. The proceeds of such taxes so pledged may be treated as pledged revenues for the purposes of subsection 3 of NRS 350.020, and the board of trustees of a school district may issue bonds for those purposes in accordance with the provisions of chapter 350 of NRS.

Sec. 12. This act becomes effective upon passage and approval.

