

# TAXTOPICS

*A publication of the Nevada Taxpayers Association, serving the citizens of Nevada since 1922.*

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## Legislative Enactments Continued

In addition to the tax bills reported in the last session of Tax Topics, the legislature dealt with bills that ranged from A (appropriations) to Z (zoning). In this issue we summarize legislation dealing with fees and the State budget. While each session has a different flavor, coloring how the issues are viewed and treated, one constant between each session is the letter - "P" - politics, political palatability and public perception.

Continuing with impressions of the 2013 session from the last issue of Tax Topics, there were a few bright spots for the business community regarding the administrative procedures act and the open meeting laws. One was the passage of AB 508 introduced by Assemblywoman Dina Neal. This bill clarifies and provides specificity to the Administrative Procedures Act and Local Government Business Requirements regarding small business impact statements by State agencies and departments and business impact statements by local governments. Most important, it requires the statement to be available at the same time a workshop on a regulation is to be held, or a meeting is held at which an ordinance will be introduced.

Assembly Bill 252 provides simplified access to regulatory workshops relating to the adoption of a proposed regulation by requiring an agency at the same time it provides notice of a meeting or workshop to submit to it to the Legislative Counsel Bureau (LCB) for the purpose of posting it on the LCB website. Further, the bill places a maximum time frame of two years for enacting the regulation, and requires the agency to provide a clear and concise explanation of the need for the adopted regulation which is to be included in the submission to LCB and filing with the Secretary of State.

Simplifying the ability to check the schedule of a public meeting, AB 445 requires state and local government public bodies to post the notice of any meeting on the official Nevada website ([www.nv.gov](http://www.nv.gov)) not later than 9:00 a.m. of the third working day before the meeting is to be held. The location and manner of the postings must be clear and conspicuous. The Department of Administration must establish the website and procedures for posting as well as establishing a directory of all public bodies to be published on the site, which is to be up and running on January 1, 2014.

The reporting of tax expenditures as required by AB 466 should provide the means to evaluate the effectiveness of tax abatements - something that is long overdue.

Unfortunately, there were a number of missed opportunities on a wide range of issues of concern to the business community. These issues range from reforms to education to local government collective bargaining, to the Public Employee Retirement System (PERS). Issues specific to business ranged from the calculation of overtime hours to construction defects. Even modest changes proposed to Nevada's 24 hour overtime law (AB 63, AB 318 and AB 339) were rejected, leaving Nevada out of conformity with the federal overtime law of 40 hours a week.

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### **CORRECTION**

*On page 9, in the June issue of TAX TOPICS, under the heading Unemployment Insurance, the correct bill number is SB 515 not AB 515.*

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# Fee Enactments

## Business, Trade and Industry Fees

### **AB 20 - Pest Control**

Extends the testing fee, which is set by regulation, for pest control agents, operators for examination or reexaminations to the primary principals or principals and deletes the fee for a pilot employed by the company or person.

Effective: June 1, 2013.

### **AB 73 - Chiropractic**

Increases the fee from \$25 to \$50 for the Chiropractic Physicians' Board of Nevada to review a course of continuing education.

Effective: October 1, 2013.

### **AB 153 - Craft Distillery Licensing**

Sets a \$75 licensing fee and defines the scope of activities and volume limitations for craft distilleries.

Effective: July 1, 2013.

### **AB 192 - Notary Bond Fee**

Repeals the expiration of authority for county clerks to charge an additional fee of up to \$5 for filing and recording a bond for a notary public.

Effective: May 10, 2013.

### **AB 200 - Farm to Fork Permits**

Farms wishing to hold farm-to-fork events must register with the health authority and pay a fee. The fee is to be set according to the costs of establishing and maintaining the registry.

Effective: July 1, 2013.

### **AB 404 - Time Share Sales: Licensing and Registration Fees**

For filing an amended statement of record for a material change to a time share plan the developer is required to pay a filing fee equal to one-half of the filing fee for the amendment. For failing to correct all deficiencies after a second notice issued, the Administrator may deny the application and require the developer to pay a filing fee equal to one-half of the initial permit. Increases all existing fees and adds two new fees of \$500 and \$750 respectively for each amendment to a statement of record where one or more new component sites are added, and for each annual renewal of a permit to sell time shares with only one component site.

Effective: July 1, 2013.

### **AB 425 - Fees for Exchange Enrollment Facilitators\***

In addition to existing statutory fees requires a person who wants to engage in the business of an exchange enrollment facilitator to pay an additional fee of not more than \$15 for processing the application and a fee of not more than \$15 for deposit in the Insurance Recovery Account to be paid prior to the expiration date of the certificate. Other exchange facilitator fees are: \$125 for application and certificate, and triennial renewal of each certificate, a temporary certificate \$10 and \$50 for modification of an existing certificate. Additionally an initial and triennial fee of \$60 is imposed for the fund for insurance administration and enforcement.

Effective: For fees, January 1, 2014.

\*Exchange enrollment facilitators are required as part of the Silver State Health Insurance Exchange pursuant to the federal Patient Protection and Affordable Care Act.

**Business, Trade and Industry Fees Continued****SB 206 - Cottage Food Operation**

Each natural person who wishes to conduct a cottage food operation must register with the health authority. The health authority may charge a fee for the registration of a cottage food operation in an amount not to exceed the actual cost of the health authority to establish and maintain a registry of cottage food operations. A cottage food operation is one in which a natural person manufacturers or prepares a food item who also sells the food item.

Effective: July 1, 2013

**SB 468 - Water Fees**

Raises and adds fees charged by the State Engineer for services related to water issues, as follows: For a proof of water used for watering livestock or wildlife purposes, the fee is raised to \$60 from \$50, and for any other character of claim to water the fee is raised to \$120 from \$100. On the schedule of fees for applications, permits, recordation and other services, most fees are raised approximately 20 percent and several new fees are added.

Effective: July 1, 2013.

**SB 210 - Charter Bus: Driver Permits**

An applicant for a driver of a charter bus, a regulated carrier of passengers or a taxicab, with certain exceptions, must obtain a driver's permit from the Transportation Authority for an initial and renewal fee not to exceed \$50 plus fingerprinting charges, which may not exceed the fees charged by the Central Repository of Nevada Records of Criminal History and the Federal Bureau of Investigation.

Effective: For fees, January 1, 2014.

**SB 430 - Taxicabs: Technology Fee**

Requires taxicabs in Clark County, and other counties under the jurisdiction of the Taxicab Authority, to charge a technology fee for each paid trip. The fee, to be determined by the Transportation Authority, is to be used for creation and support of a real-time data system by the Authority. The system is to include cooperative dispatch and hailing services for the public. Limousine operators in Clark County which use the data system must also collect the per trip fee.

Effective: July 1, 2013.

**SB 441 - Business Entity Changes**

For service of process on a registered agent or other representative of record that fail because a filing of change of address or change of a registered agent was not done, the service maybe accomplished registering a copy with the Secretary of State for a \$10 filing fee.

Effective: October 1, 2013.

**SB 452 - Hospitals**

If the Board of the Fund for Hospital Care to Indigent Persons enters an agreement with the DHHS Division of Health Care Financing and Policy to help provide enhanced rates of reimbursement for hospital care provided to Medicaid recipients and for other support reasons, certain hospitals are required to pay an annual assessment into the Hospital Assessment Account. The assessment amount will be determined annually by the Board. Any uncommitted money at the end of each year is to be proportionately refunded to the hospitals paying assessments.

Effective: June 11, 2013.

**Consumer Fees****AB 494 - Funeral Fees**

Imposes a regulatory fee of \$10 per written and signed agreement for funeral services. The fee may only be charged once per deceased person regardless of number of services provided or number of providers involved. Fees go to support the revised responsibilities of the Funeral Board.

Effective: October 1, 2013.

*continued next page*

## Consumer Fees Continued

### **SB 278 - Abandoned Residential Property**

Allows an agency or contractor designated by a local authority to charge a fee of up to \$300 for certification of abandoned property status. If the trustee's sale is not conducted within six months after the beneficiary received the certification, the notice is considered withdrawn and the beneficiary is liable to the grantor for a civil penalty of not more than \$500.

Effective: July 1, 2013 and expires by limitation on June 30, 2017.

### **SB 419 - Marriage Fees**

A certificate of permission from the county clerk to perform marriages or a specific marriage requires payment of a \$25 application fee. The fee for performance of a marriage by a justice of the peace or commissioner or deputy of civil marriage is increased to \$75 and a notary public may charge not more than \$75.

Effective: October 1, 2013.

## **Government Fees**

### Local

#### **AB 54 - Justice Court Fees**

Allows county commissions, by ordinance, to impose a filing fee of not more than \$8 for actions and proceedings in the justice court. The filing fee is to be used to offset the costs of operating a county law library. Increases the existing schedule of fees, and adds a new fee category collected by justices of the peace. Twenty-five percent of the fees will benefit justice courts in each county.

Effective: July 1, 2013.

#### **SB 224 - DUI Fees**

Imposes an additional fee of up to \$100 on persons guilty of driving under the influence. Fees collected are to benefit specialty court programs.

Effective: July 1, 2013 and expires by limitation on June 30, 2015.

#### **SB 243 - DNA Specimen Fees**

Adds a \$3 administrative assessment on anyone found or pleading guilty of a misdemeanor, gross misdemeanor, felony or violation of a municipal ordinance. The fee is to be paid into the respective county fund for genetic marker analysis. Imposes a \$150 fee, to the extent of the person's ability to pay, for obtaining and analyzing the DNA specimen of a person found guilty of the offense for which the DNA specimen was obtained.

Effective: July 1, 2013.

### State

#### **SB 21 - Controller Debt Collection Fees**

On debts more than \$300, the State Controller may collect costs and fees related to collection of the debt by an outside contractor or the office. Overpayments of \$10 or less require a written request for refund. Direct deposit of paychecks is to be established by the Controller for state employees.

Effective: July 1, 2013 and January 1, 2014.

#### **SB 470 - Postsecondary Education**

The fees are raised for most applications and licenses collected by the Commission on Postsecondary Education from certain private postsecondary educational institutions and adds a new fee of \$500 for approval of an alcohol awareness program to the schedule.

Effective: July 1, 2013.

#### **SB 502 - Health Division Background Checks**

The Health Division of Department of Health and Human Services is to charge a fee, to be set by regulation of the Division, for clients using the background check website to be developed by the Division for required investigations of employees and temporary and prospective employees.

Effective: July 1, 2013.

# Funding State Government

Every session numerous bills are passed that impact Nevada's budget. However, in the legislatively approved executive budget there are five budget bills that direct the majority of spending: the appropriations bill, which authorizes general fund spending; the authorization bill, which identifies the authorized spending for self-generated funds (fees, assessments, etc.) and federal funds; the K-12 education funding bill; the capital improvements bill, which identifies specific building projects and sets the amount of general obligation bonds that may be issued, and the amount that may be spent from the bond interest and redemption fund; and the employee pay bill. Total spending for the biennium both appropriated and authorized is \$20.2 billion (includes inter fund transfers).

Funding for the general fund portion of the budget is primarily from taxes and fees. Funding for this biennium includes existing tax revenue, the extension of sunsets on various taxes for this biennium (see the June 2013 issue of Tax Topics for those taxes) and approximately \$43 million in increased and new fees. Note, some of the changes and increases in fees are not in specific legislation (as identified on pages 2-4 of this issue), but rather are contained in the budget document.

## The Major Budget Bills

### **AB 505 - Capital Improvements**

Provides for the issuance of \$55,505,257 of general obligation bonds to fund capital improvement projects. Most of the projects are for rehabilitation, reconditioning, replacement, renovation and planning due to the limited amount of funds available for this biennium. Other capital projects identified in this legislation are funded from the bond interest and redemption fund.

Effective: June 10, 2013

### **AB 507 - General Fund Appropriations**

This legislation provides the \$6.6 billion for general government spending (the General Fund) for FY 2013-2015 and includes \$10 million for the Knowledge Fund. Defers from July 1, 2013 to July 1, 2015 the transfer to the Rainy Day Fund of 1 percent of the total anticipated revenue for the fiscal year in which the transfer will be made, as projected by the Economic Forum for that fiscal year. The revenue to fund these appropriations is from taxes and fees.

Effective: Most sections July 1, 2013.

### **AB 511 - State Employee Pay**

Establishes the maximum salary for employees in classified and unclassified positions in state government. Restores the 2.5 percent pay cut, and continues employee furloughs of 48 hours of unpaid leave for full-time employees, and for less than full-time employees furlough hours are equal to the average number of hours worked per working day multiplied by six for FY 2013-14 and 2014-15. Limited exemptions may be granted for services necessary to protect public health, safety and welfare. Longevity pay and merit pay are restored in FY 2014-15.

Effective: Most sections July 1, 2013.

### **SB 521 - Authorization Act**

Authorizes the expenditure of funds for FY 2013-2015 for various officers, departments, boards, agencies, commissions and institutions of state government and provides for the distribution of funds from tobacco settlement money. Includes the authorization of expenditures by the State Gaming Control Board, and by the Nevada System of Higher Education from fees and tuition collected from the registration of students. Provides for the payment of the services of the State Public Defender from certain counties. Other agency and department distributions or advances range from fuel used in watercraft to the Department of Taxation.

Effective: July 1, 2013.

*Need more information about a bill reported in this issue?*

Call us, or go to the Legislative website, [www.leg.state.nv.us](http://www.leg.state.nv.us), and click on "Session Information - 2013."

**Major Budget BillsContinued****SB 522 - K-12 Funding**

Establishes the basic support weighted average per pupil at \$5,590 per student for FY 2013-14, \$5,676 for FY 2014-15 and \$5,679 for FY 2015 - 2016. Also establishes the basic support guarantee for each special education program unit and provides funding for reduced classroom size ①, adult education, early childhood education, programs for innovation and prevention of remediation and a lower teacher-student ratio in at-risk kindergarten classes. Additionally, the transfer of room tax ② from the Distributive School Account (DSA) to the State Supplemental School Support Fund is delayed until July 1, 2015.

Effective: July 1, 2013 and July 1, 2014.

Notes:

① AB 2 from the 2013 special session requires quarterly reporting to the Department of Education of the average daily attendance and the ratio of pupils per licensed teachers and provides provisions for requesting a variance.

② The room tax referred to in this legislation is the result of an initiative petition circulated by the teachers' union in 2008 and approved by the voters at the 2008 general election. The initiative provided for an increase in the room tax rate of up to 3 percent in Clark and Washoe counties. The initiative qualified and was approved by the 2009 Legislature. Under the terms of the initiative, for the first two years of imposition, FY 2010-11, the revenue was deposited to the State General Fund. Effective July 1, 2011 the revenue collected was to be distributed to the State Supplemental School Support (4S) Fund to be used to "improve student achievement" and increase teachers' salaries. In the 2011 session the Legislature diverted the funds from going to the 4S fund to the DSA. That diversion is continued again for this biennium.

**Other Bills Impacting the Budget**

*(Ed. Note: Only those bills with a substantial dollar impact are reported below.)*

**Public Employees****AB 303 - Public Employee Benefit Program (PEBP): Retirees' Subsidy**

Provides, if there are available funds, the PEBP board may approve an additional amount in excess of the amount proscribed by statute to state retirees who had initially been hired before January 1, 2012 who have retired from state service.

Effective: July 1, 2013

**SB 518 - Public Employee Benefit Program (PEBP): Active Employees and Retired Officers Subsidy**

The state share of the cost of premiums or contributions for each active state officers and employees in the PEBP program is \$688.37 per month for FY 2013-2014 and \$695.35 per month for FY 2014-15. For retired officers and employees the subsidy for FY 2103-14 is \$452.26 per month and for 2014-15 \$462.20 per month. Reduced subsidy amounts are set for state and local government retirees and public officers that are on a qualified Medicare insurance plan through the Program.

Effective: July 1, 2013.

**Education****SB 487 - Appropriation for Millennium Scholarship**

Appropriates from the general fund \$5million for the Governor Guinn Millennium Scholarship Program (Trust Fund).

Effective: June 12, 2013

**SB 2 (2013 Special Session) - Appropriation for Millennium Scholarship**

Appropriates \$2 million from the general fund to the Governor Kenny Guinn Millennium Scholarship Trust Fund.

Effective: July 1, 2013.

*continued next page*

## Education Continued

### **SB 486 - Appropriation for Pilot Program for Assessment of School Readiness**

Makes an appropriation from the State General Fund to the Administration (\$1.5 million ) for a pilot program for an assessment of school readiness in prekindergarten and kindergarten and to the Interim Finance Committee (\$1 million) for allocation to the Department of Administration for projects and programs identified for the coordination of early childhood education programs, local school districts, the Nevada System of Higher Education and the Department of Employment Training and Rehabilitation for the support of the State's education and workforce development needs.

Effective: June 12, 2013

### **SB 504 - English Language Learning (ELL)**

Appropriates from the State general fund \$44.9 million for the 2013-2015 biennium to the Account for Programs for Innovation and the Prevention of Remediation to be used for ELL students. The majority of funds, \$39,420,00 will go to Clark County where the student population of ELLs is the largest in the State. The legislation also creates an English Mastery Council to make recommendations concerning criteria and teaching of English to pupils who are limited English proficient. The information required in current accountability reports is expanded to include information about the achievement and proficiency of ELL students.

Effective: June 12, 2013 and July 1, 2013. The English Mastery Council expires by limitation on June 30, 2019.

## Miscellaneous

### **SB 459 - Supplemental Appropriation for Increase in Medical Caseloads**

Appropriates \$26,912,908, from the State General Fund to the Division of Health Care Financing and Policy for unanticipated increase in caseloads for medical services and unanticipated retroactive payments for Upper Payment Limit and Graduate Medical Education costs. Also, authorizes the expenditure of \$47,048,179 not appropriated from the State General Fund or Highway fund for the same purposes as the appropriation.

Effective: May 28, 2013.

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## Continued from page 1

The reform of PERS, as proposed by Assemblyman Kirner in AB 342, and the promised hearing to discuss the reforms never happened. Instead, there will be another study to be conducted under the auspices of PERS. As has been proved in numerous jurisdictions around the county, most public employee retirement plans are not sustainable.

There were six bills that sought modifications to the prevailing wage law from increasing the threshold to exempting projects for the construction of educational facilities. The bills were: AB 37, AB 211, AB 258, AB 318 and SB 146 and SB 336. With the exception of AB 318 the others were not even heard. And, once again attempts to modify prevailing laws went nowhere.

Revising construction defects, the guaranteed full employment law for attorneys that specialize in those cases, was once again derailed by the trial attorneys and their allies. Of the nine bills introduced, seven (AB 107,

AB 184, AB 504, SB 161, SB 231, SB 368, and SB 411) were supported by the construction industry; and two (AB 367 and SB 417) were opposed by the industry. By the end of the session, the construction industry had agreed to forego reform to guaranteed attorney's fees in exchange for other reforms, such as clarification on what constitutes a construction defect (which currently includes almost anything). Opponents of the construction industry ignored these concessions and attempted to pass a last-minute bill that would have been extremely harmful to the entire industry while ensuring lucrative times for trial attorneys. Construction industry proponents were again put in the position of working to kill that bill in the 11<sup>th</sup> hour, fortunately they were successful.

The result of not addressing these and other reform issues negatively impacts both individuals and businesses. It can potentially lead (and in some case already has led) to less service being provided or less money in their pockets if. So once again, the cans are kicked down the road for another two years.

*Tax Topics*  
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