

**City of Carson City
Agenda Report**

Date Submitted: February 11, 2014

Agenda Date Requested: February 20, 2014

Time Requested: 30 minutes

To: Mayor and Supervisors

From: City Manager

Subject Title: For Possible Action: To introduce, on first reading, Bill No. ____, an ordinance amending Title 21-Taxation of the Carson City Municipal Code by adding a new chapter 21.08-Infrastructure Sales Tax for the purpose of imposing a sales tax in Carson City of one-eighth of one-percent on retail sales; by adding a new section 21.08.010-Definitions; by adding a new section 21.08.020-Imposition Of Tax, refunds, effective date of tax, repeal of tax; by adding a new section 21.08.030-Use Of Proceeds Of Tax; by adding a new section 21.08.040-Payment Of Proceeds Of Tax To Department, Contract With Department; by adding a new section 21.08.050-Incorporation Of Provisions Of Chapter 374 Of NRS; by adding a new section 21.08.060-Creation Of Infrastructure Fund; by adding a new section 21.08.070-Issuance Of Bonds, Notes And Other Securities; by adding a new section 21.08.080-Impairment Of Obligations Prohibited; to create an infrastructure fund for the accounting of the tax; to provide for payment of the proceeds of the tax to the Nevada Department Of Taxation; to authorize a contract with the Nevada Department Of Taxation related to the administration and operation of the tax; to incorporate certain provisions of chapter 374 of NRS; to provide for the issuance of bonds and other securities; and other matters properly related thereto; and repealing in its entirety Ordinance No. 2014-5 adopted by the Board of Supervisors on March 6, 2014 (Marena Works)

Summary: An ordinance must be adopted to implement a sales tax pursuant to NRS 377B to fund certain public infrastructure projects. The sales tax may only be used to fund projects that are included within the Plan of Expenditure. The Plan of Expenditure includes funding (i) street and pedestrian improvements in the downtown area and Carson Street and William Street/Highway 50 East commercial corridors; (ii) the construction, expansion, improvement, and/or equipping of a new animal services facility; (iii) the construction, expansion, improvement, and/or equipping of a multi-purpose athletic center; (iv) and the construction of improvements to, remodeling, and/or equipping of the existing Community Center.

Approval of the ordinance imposing a sales tax pursuant to NRS 377B.100 required an affirmative vote of two-thirds majority of the members of the Board of Supervisors, at least four members of the five-member Board.

Type of Action Requested:

- Resolution
 Formal Action/Motion

- Ordinance—First Reading
 Other (No Action)

Does This Action Require A Business Impact Statement: () Yes (X) No

Recommended Board Action: I move to introduce, on first reading, Bill No. ____, an ordinance amending Title 21-Taxation of the Carson City Municipal Code by adding a new chapter 21.08-Infrastructure Sales Tax for the purpose of imposing a sales tax in Carson City of one-eighth of one-percent on retail sales; by adding a new section 21.08.010-Definitions; by adding a new section 21.08.020-Imposition Of Tax, refunds, effective date of tax, repeal of tax; by adding a new section 21.08.030-Use Of Proceeds Of Tax; by adding a new section 21.08.040-Payment Of Proceeds Of Tax To Department, Contract With Department; by adding a new section 21.08.050-Incorporation Of Provisions Of Chapter 374 Of NRS; by adding a new section 21.08.060-Creation Of Infrastructure Fund; by adding a new section 21.08.070-Issuance Of Bonds, Notes And Other Securities; by adding a new section 21.08.080-Impairment Of Obligations Prohibited; to create an infrastructure fund for the accounting of the tax; to provide for payment of the proceeds of the tax to the Nevada Department Of Taxation; to authorize a contract with the Nevada Department Of Taxation related to the administration and operation of the tax; to incorporate certain provisions of chapter 374 of NRS; to provide for the issuance of bonds and other securities; and other matters properly related thereto; and repealing in its entirety Ordinance No. 2014-5 adopted by the Board of Supervisors on March 6, 2014.

Explanation for Recommended Board Action: Refer to the prior Agenda Report and supporting materials for the Public Hearing regarding the Plan of Expenditure for more information and background on the proposed Plan.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 377B

Fiscal Impact: One-eighth of one percent sales tax on all taxable sales in Carson City.

Explanation of Impact: The proposed sales tax would be used only to fund the projects listed in the adopted Plan of Expenditure.

Funding Source: One-eighth of one percent sales tax on all taxable sales in Carson City.

Alternatives:

1. Do not introduce the ordinance.

Supporting Material: Draft Ordinance

(Refer to the prior Agenda Report and supporting materials for the Public Hearing regarding the Plan of Expenditure for more information and background on the proposed ordinance.)

Prepared By: Lee Plemel, AICP, Community Development Director
Nick Providenti, Finance Director

Reviewed By: MARINA WORKS
(City Manager)

Date: 4/8/14

[Signature]
(District Attorney's Office)

Date: 4/8/14

[Signature]
(Finance Director)

Date: 4/8/14

Board Action Taken:

Motion: _____

- 1) _____
- 2) _____

Aye/Nay

(Vote Recorded By)

BILL NO. _____

ORDINANCE NO. 2014-_____

AN ORDINANCE AMENDING TITLE 21-TAXATION OF THE CARSON CITY MUNICIPAL CODE BY ADDING A NEW CHAPTER 21.08-INFRASTRUCTURE SALES TAX FOR THE PURPOSE OF IMPOSING A SALES TAX IN CARSON CITY OF ONE-EIGHTH OF ONE-PERCENT ON RETAIL SALES; BY ADDING A NEW SECTION 21.08.010-DEFINITIONS; BY ADDING A NEW SECTION 21.08.020-IMPOSITION OF TAX, REFUNDS, EFFECTIVE DATE OF TAX, REPEAL OF TAX; BY ADDING A NEW SECTION 21.08.030-USE OF PROCEEDS OF TAX; BY ADDING A NEW SECTION 21.08.040-PAYMENT OF PROCEEDS OF TAX TO DEPARTMENT, CONTRACT WITH DEPARTMENT; BY ADDING A NEW SECTION 21.08.050-INCORPORATION OF PROVISIONS OF CHAPTER 374 OF NRS; BY ADDING A NEW SECTION 21.08.060-CREATION OF INFRASTRUCTURE FUND; BY ADDING A NEW SECTION 21.08.070-ISSUANCE OF BONDS, NOTES AND OTHER SECURITIES; BY ADDING A NEW SECTION 21.08.080-IMPAIRMENT OF OBLIGATIONS PROHIBITED; TO CREATE AN INFRASTRUCTURE FUND FOR THE ACCOUNTING OF THE TAX; TO PROVIDE FOR PAYMENT OF THE PROCEEDS OF THE TAX TO THE NEVADA DEPARTMENT OF TAXATION; TO AUTHORIZE A CONTRACT WITH THE NEVADA DEPARTMENT OF TAXATION RELATED TO THE ADMINISTRATION AND OPERATION OF THE TAX; TO INCORPORATE CERTAIN PROVISIONS OF CHAPTER 374 OF NRS; TO PROVIDE FOR THE ISSUANCE OF BONDS AND OTHER SECURITIES; AND OTHER MATTERS PROPERLY RELATED THERETO; AND REPEALING IN ITS ENTIRETY ORDINANCE NO. 2014-5 ADOPTED BY THE BOARD OF SUPERVISORS ON MARCH 6, 2014.

Fiscal Effect: Yes

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

SECTION I:

That the index to Title 21-TAXATION of the Carson City Municipal Code is hereby amended as follows:

Chapters:

21.02	Open-Space Use Assessment
21.03	Relief Tax
21.04	Public Road Maintenance (Sales and Use) Tax
21.05	Public Road Repair and Restoration (Motor Vehicle Fuel Excise) Tax
21.06	V&T Railroad Sales Tax
21.07	Quality of Life (Sales and Use) Tax
<u>21.08</u>	<u>Infrastructure Sales Tax</u>

SECTION II:

That Title 21 of the Carson City Municipal Code is hereby amended by adding new Sections as follows:

Sections:

21.08.010 – Definitions.

21.08.020 – Imposition of Tax; refunds; effective date of Tax; repeal of Tax.

21.08.030 – Use of proceeds of Tax.

21.08.040 – Payment of proceeds of Tax to Department; contract with Department.

21.08.050 – Incorporation of provisions of Chapter 374 of NRS.

21.08.060 – Creation of Infrastructure Fund.

21.08.070 – Issuance of bonds, notes, and other securities.

21.08.080 – Impairment of obligations prohibited.

21.08.010 – Definitions.

As used in this chapter, unless the context otherwise requires:

“Board” means the Board of Supervisors of Carson City.

“Department” means the Nevada Department of Taxation.

“Plan” means the plan of expenditure originally adopted by the Board on April 17, 2014 pursuant to subsection (7) of NRS 377B.100, as the same may be amended from time to time in accordance with law.

“Tax” means the tax imposed pursuant to this chapter.

21.08.020 – Imposition of Tax; refunds; effective date of Tax; repeal of Tax.

1. There is hereby imposed a Tax of one-eighth of one percent (0.125%) 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 Carson City. This Tax is imposed pursuant to the authority granted by chapter 377B of NRS.

2. A purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 373.720, 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 Carson City of, tangible personal property used for the performance of a written contract:

A. Entered into on or before the effective date of the Tax; or

B. 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.

3. The effective date of the Tax shall be the first day of the first month of the next calendar quarter that is at least one hundred twenty (120) days after the date on which a two-thirds (2/3) majority of the Board approves, on second reading, the ordinance imposing the Tax.
4. Subject to the provisions of Section 21.08.080 of this chapter, on or before the date on which a Plan expires, the Board shall determine whether a necessity exists for the continued imposition of the Tax. If the Board determines that such a necessity does not exist, the Board shall repeal the ordinance that enacted the Tax. If the Board determines that the Tax must be continued for a purpose set forth in NRS 377B.160, the Board shall adopt, in the manner prescribed in chapter 377B of NRS, a new Plan for the expenditure of the proceeds of the Tax for such a purpose.

21.08.030 – Use of proceeds of Tax.

The proceeds of the Tax must be expended for the purposes set forth in the Plan, which purposes include, without limitation, the payment of principal and interest on notes, bonds, or other securities issued to provide money for the cost of the projects, facilities and activities described in the Plan and otherwise permitted by subsections (a) through (f) of NRS 377B.160(3).

21.08.040 – Payment of proceeds of Tax to Department; contract with Department.

1. All fees, taxes, interest, and penalties imposed and all amounts of Tax required to be paid to Carson City pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.
2. Carson City shall permit the State of Nevada to transfer from the State Sales and Use Tax Account to the appropriate account in the State General Fund such percentage of all fees, taxes, interest, and penalties collected pursuant to this chapter during the preceding month as is described in NRS 377B.130(3)(a), as amended, as compensation to the State of Nevada for the cost of collecting the Tax.
3. Before the effective date of the Tax, Carson City shall contract with the Department for the performance of all of the functions incident to the administration or operation of the Tax. Any ordinance amending or repealing this chapter must include a provision in substance that Carson City shall amend its contract with the Department before the effective date of the amendatory taxing ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is necessary or desirable.

21.08.050 – Incorporation of provisions of Chapter 374 of NRS.

The provisions of chapter 374 of NRS are hereby incorporated into this chapter insofar as applicable. All amendments to chapter 374 of NRS after the date of the enactment of the ordinance imposing the Tax, not inconsistent with chapter 377B of NRS, shall automatically become a part of the ordinance imposing the Tax and any ordinance amending it.

21.08.060 – Creation of Infrastructure Fund.

The Carson City Treasurer shall create a fund to be known as the “Infrastructure Fund” into which all the proceeds of the Tax received from the State Controller shall be deposited. The Infrastructure Fund must be accounted for as a separate fund and not as a part of any other fund of Carson City. The money for each project included in the Plan must be accounted for separately in the Infrastructure Fund.

21.08.070 – Issuance of bonds, notes, and other securities.

Money for the acquisition, development, construction, equipping, and improvement of the projects described in the Plan may be obtained as authorized by chapter 377B of NRS through the issuance of bonds, notes, and other securities as the Board may deem appropriate. The bonds, notes or other securities may be general or special obligations of Carson City. Such bonds, notes or other securities may be payable from the receipts of the Tax or the revenue generated by one or more of the projects described in the Plan or may be secured as to principal and interest by a pledge of and lien on the receipts of the Tax or the revenue generated by one or more of the projects described in the Plan. Any ordinance authorizing the issuance of such a bond, note, or other security must describe the purpose for which the bond, note or other security is issued.

21.08.080 – Impairment of obligations prohibited.

The Board shall not repeal or amend or otherwise directly or indirectly modify the ordinance imposing the Tax in such a manner as to impair any outstanding bonds or other obligations issued pursuant to this chapter, or other obligations incurred pursuant to this chapter, until all obligations for which revenue from an ordinance have been pledged or otherwise made payable from such revenue pursuant to this chapter have been discharged in full or provision for full payment and redemption has been made.

SECTION III:

If any clause, sentence, section, provision or part of Chapter 21.08 of the Carson City Municipal Code shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not invalidate, impair or affect the remainder of such chapter.

SECTION IV:

That except as otherwise as provided in Section V, no other provisions of Title 21- Taxation of the Carson City Municipal Code or any other portion of the Carson City Municipal Code is affected by this ordinance.

SECTION V:

Ordinance No. 2014-5, adopted by the Board of Supervisors on March 6, 2014, is hereby repealed in its entirety as shown below:

ORDINANCE NO. 2014-5

~~AN ORDINANCE AMENDING TITLE 21 TAXATION OF THE CARSON CITY MUNICIPAL CODE BY ADDING A NEW CHAPTER 21.08 INFRASTRUCTURE SALES TAX FOR THE PURPOSE OF IMPOSING A SALES TAX IN CARSON CITY OF ONE EIGHTH OF ONE PERCENT ON RETAIL SALES; BY ADDING A NEW SECTION 21.08.010 DEFINITIONS; BY ADDING A NEW SECTION 21.08.020 IMPOSITION OF TAX, REFUNDS, EFFECTIVE DATE OF TAX, REPEAL OF TAX; IMPOSING A ONE EIGHTH OF ONE PERCENT (0.125%) SALES TAX BY ADDING A NEW SECTION 21.08.030 USE OF PROCEEDS OF TAX; BY ADDING A NEW SECTION 21.08.040 PAYMENT OF PROCEEDS OF TAX TO DEPARTMENT, CONTRACT WITH DEPARTMENT; BY ADDING A NEW SECTION 21.08.050 INCORPORATION OF PROVISIONS OF CHAPTER 374 OF NRS; BY ADDING A NEW SECTION 21.08.060 CREATION OF INFRASTRUCTURE FUND; BY ADDING A NEW SECTION 21.08.070 ISSUANCE OF BONDS, NOTES AND OTHER SECURITIES; BY ADDING A NEW SECTION 21.08.080 IMPAIRMENT OF OBLIGATIONS PROHIBITED; TO CREATE AN INFRASTRUCTURE FUND FOR THE ACCOUNTING OF THE TAX; TO PROVIDE FOR PAYMENT OF THE PROCEEDS OF THE TAX TO THE NEVADA DEPARTMENT OF TAXATION; TO AUTHORIZE A CONTRACT WITH THE NEVADA DEPARTMENT OF TAXATION RELATED TO THE ADMINISTRATION AND OPERATION OF THE TAX; TO INCORPORATE CERTAIN PROVISIONS OF CHAPTER 374 OF NRS; TO PROVIDE FOR THE ISSUANCE OF BONDS AND OTHER SECURITIES; AND OTHER MATTERS PROPERLY RELATED THERETO.~~

~~Fiscal Effect: Yes~~

~~THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:~~

SECTION I:

That the index to Title 21 TAXATION of the Carson City Municipal Code is hereby amended as follows:

Chapters:

- ~~21.02 ——— Open Space Use Assessment~~
- ~~21.03 ——— Relief Tax~~
- ~~21.04 ——— Public Road Maintenance (Sales and Use) Tax~~
- ~~21.05 ——— Public Road Repair and Restoration (Motor Vehicle Fuel Excise) Tax~~
- ~~21.06 ——— V&T Railroad Sales Tax~~
- ~~21.07 ——— Quality of Life (Sales and Use) Tax~~
- ~~21.08 ——— Infrastructure Sales Tax~~

SECTION II:

That Title 21 of the Carson City Municipal Code is hereby amended by adding new Sections as follows:

Sections:

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21.08.050 – Incorporation of provisions of Chapter 374 of NRS.

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21.08.080 – Impairment of obligations prohibited.

21.08.010 – Definitions.

As used in this chapter, unless the context otherwise requires:

“Board” means the Board of Supervisors of Carson City.

“Department” means the Nevada Department of Taxation.

“Plan” means the plan of expenditure originally adopted by the Board on February 20, 2014, pursuant to subsection (7) of NRS 377B.100, as may be amended in accordance with the law.

“Tax” means the tax imposed pursuant to this chapter.

21.08.020 – Imposition of Tax; refunds; effective date of Tax; repeal of Tax.

1. There is hereby imposed a Tax of one eighth of one percent (0.125%) 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 Carson City. This Tax is imposed pursuant to the authority granted by chapter 377B of NRS.

2. A purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 373.720, 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 Carson City of, tangible personal property used for the performance of a written contract:

A. Entered into on or before the effective date of the Tax; or

B. 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.

3. The effective date of the Tax shall be the first day of the first month of the next calendar quarter that is at least one hundred twenty (120) days after the date on which a two-thirds (2/3) majority of the Board approves, on second reading, the ordinance imposing the Tax.
4. Subject to the provisions of Section 21.08.080 of this chapter, on or before the date on which a Plan expires, the Board shall determine whether a necessity exists for the continued imposition of the Tax. If the Board determines that such a necessity does not exist, the Board shall repeal the ordinance that enacted the Tax. If the Board determines that the Tax must be continued for a purpose set forth in NRS 377B.160, the Board shall adopt, in the manner prescribed in chapter 377B of NRS, a new Plan for the expenditure of the proceeds of the Tax for such a purpose.

21.08.030 — Use of proceeds of Tax.

The proceeds of the Tax must be expended for the purposes set forth in the Plan, which purposes include, without limitation, the payment of principal and interest on notes, bonds, or other securities issued to provide money for the cost of the projects, facilities and activities described in the Plan and otherwise permitted by subsections (a) through (f) of NRS 377B.160(3).

21.08.040 — Payment of proceeds of Tax to Department; contract with Department.

1. All fees, taxes, interest, and penalties imposed and all amounts of Tax required to be paid to Carson City pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.
2. Carson City shall permit the State of Nevada to transfer from the State Sales and Use Tax Account to the appropriate account in the State General Fund such percentage of all fees, taxes, interest, and penalties collected pursuant to this chapter during the preceding month as is described in NRS 377B.130(3)(a), as amended, as compensation to the State of Nevada for the cost of collecting the Tax.
3. Before the effective date of the Tax, Carson City shall contract with the Department for the performance of all of the functions incident to the administration or operation of the Tax. Any ordinance amending or repealing this chapter must include a provision in substance that Carson City shall amend its contract with the Department before the effective date of the amendatory taxing ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is necessary or desirable.

21.08.050 — Incorporation of provisions of Chapter 374 of NRS.

The provisions of chapter 374 of NRS are hereby incorporated into this chapter insofar as applicable. All amendments to chapter 374 of NRS after the date of the enactment of the ordinance imposing the Tax, not inconsistent with chapter 377B of NRS, shall automatically become a part of the ordinance imposing the Tax and any ordinance amending it.

21.08.060 — Creation of Infrastructure Fund.

~~_____ The Carson City Treasurer shall create a fund to be known as the "Infrastructure Fund" into which all the proceeds of the Tax received from the State Controller shall be deposited. The Infrastructure Fund must be accounted for as a separate fund and not as a part of any other fund of Carson City. The money for each project included in the Plan must be accounted for separately in the Infrastructure Fund.~~

21.08.070 — Issuance of bonds, notes, and other securities.

~~_____ Money for the acquisition, development, construction, equipping, and improvement of the projects described in the Plan may be obtained as authorized by chapter 377B of NRS through the issuance of bonds, notes, and other securities as the Board may deem appropriate. The bonds, notes or other securities may be general or special obligations of Carson City. Such bonds, notes or other securities may be payable from the receipts of the Tax or the revenue generated by one or more of the projects described in the Plan or may be secured as to principal and interest by a pledge of and lien on the receipts of the Tax or the revenue generated by one or more of the projects described in the Plan. Any ordinance authorizing the issuance of such a bond, note, or other security must describe the purpose for which the bond, note or other security is issued.~~

21.08.080 — Impairment of obligations prohibited.

~~_____ The Board shall not repeal or amend or otherwise directly or indirectly modify the ordinance imposing the Tax in such a manner as to impair any outstanding bonds or other obligations issued pursuant to this chapter, or other obligations incurred pursuant to this chapter, until all obligations for which revenue from an ordinance have been pledged or otherwise made payable from such revenue pursuant to this chapter have been discharged in full or provision for full payment and redemption has been made.~~

SECTION III:

~~_____ If any clause, sentence, section, provision or part of Chapter 21.08 of the Carson City Municipal Code shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not invalidate, impair or affect the remainder of such chapter.~~

SECTION IV:

~~_____ That no other provisions of Title 21 Taxation of the Carson City Municipal Code or any other portion of the Carson City Municipal Code is affected by this ordinance.]~~

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PROPOSED on _____ (month) _____ (day), 2014.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2014.

VOTE: AYES: SUPERVISORS: _____

 NAYS: SUPERVISORS: _____

 ABSENT: SUPERVISORS: _____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/TREASURER

This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2014.