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BILL NO. 5-5-09-1 (A)

SUMMARY – An ordinance imposing a tax on transient lodging for the State General Fund and the State Supplemental School Support Fund.

ORDINANCE NO. 3774
(of Clark County, Nevada)

AN ORDINANCE TO AMEND TITLE 4, CHAPTER 4.08, OF THE CLARK COUNTY CODE BY AMENDING SECTION 4.08.010 TO REFLECT THE IMPACT OF AN ADDITIONAL TAX ON THE COMBINED TRANSIENT LODGING TAX RATES; ADDING SECTION 4.08.031 TO IMPOSE AN ADDITIONAL TAX ON TRANSIENT LODGING FOR THE STATE GENERAL FUND AND THE STATE SUPPLEMENTAL SCHOOL SUPPORT FUND; AMENDING SECTIONS 4.08.040, 4.08.060 AND 4.08.075 TO CLARIFY DISCOUNT, LATE CHARGES AND REFUNDS OF ADDITIONAL TAX IMPOSED BY THIS ORDINANCE; ADDING SECTIONS 4.08.120 AND 4.08.125 TO PROVIDE A SCHEDULE OF TRANSIENT LODGING TAX RATES AND LATE CHARGES; AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO.

WHEREAS, at the General Election on November 4, 2008, the electors of Clark County were presented the following question:

“Do you support the imposition of an additional hotel and motels room tax of not more than 3 percent to be used in the first 2 years after imposition to avoid large cuts in the funding of education and other state programs and to be used thereafter to increase the funding of K-12 Education, specifically to improve student achievement and for salaries of non-administrative educational personnel?”

herein “Question 5;” and

WHEREAS, the explanation to Question 5 stated in part that revenues outlined in the question would include an additional tax on transient lodging; and

WHEREAS, Question 5 was approved by a majority of the voters voting on the question at the General Election on November 4, 2008; and

WHEREAS, in order to implement Question 5, the Legislature of the State of Nevada has

enacted Initiative Petition 1 of the Nevada State Legislature 2009 Session (hereafter referred to as “IP1”) and pursuant to Nevada Constitution Article 4, Section 35 became law on March 18, 2009; and

WHEREAS, Section 3 of IP1 provides that the County shall impose a tax at the rate of 3 percent of the gross receipts, as applied by the provisions of IP1, from the rental of transient lodging upon all persons in the business of providing lodging within the County, including the incorporated cities; and

WHEREAS, in order to implement the vote of its electors on Question 5 and the authority provided by the Legislature in IP1, Clark County hereby imposes a tax on transient lodging pursuant to this ordinance.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF CLARK, STATE OF NEVADA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Title 4, Chapter 4.08, Subsection 4.08.010 of the Clark County Code is hereby amended as follows:

4.08.010 Combined transient lodging tax.

(a) All transient lodging taxes set forth in Sections 4.08.015 through 4.08.031 ~~4.08.030~~ of this chapter shall be collected from every operator in Clark County and shall henceforth be collectively known as the “combined transient lodging tax.”

(b) The tax, when due, constitutes a debt owed by the operator to the county which is extinguished only by payment thereof to the Clark County department of business license.

(c) The combined transient lodging tax imposed may be collected from the paying transient guests and may be shown as an addition to the rent charged by the transient lodging establishment. The operator is liable to Clark County for the tax whether or not it is actually collected from the paying transient guest.

(d) The combined transient lodging tax rates for transient lodging establishments located within the unincorporated areas of Clark County shall be as follows:

	Code Section/Title of Transient Lodging Tax Section					Combined Transient Lodging Tax Rate
	4.08.015 Convention & Visitors Authority	4.08.020 Tourism/ School District Fund	4.08.025 Transportation District	4.08.030 County	4.08.031 <u>State Education</u>	
Resort Hotel	5%	2%	1%	1%	3%	12% 9%
Other transient lodging establishment within 35 miles of the <u>Las Vegas Convention Center LVCC</u>	4%	2%	1%	2%	3%	12% 9%
Other Transient lodging establishment more than 35 miles from the <u>Las Vegas Convention Center LVCC</u>	2%	2%	1%	2%	3%	10% 7%

SECTION 2. Title 4, Chapter 4.08, of the Clark County Code is hereby amended by adding a new Section 4.08.031 to read as follows:

4.08.031 State education transient lodging tax. (a) Every operator, in addition to all other fees and taxes of every kind now or hereafter imposed by law upon operators, shall also pay a transient lodging tax levied pursuant to the provisions of Initiative Petition 1 enacted by the Legislature of the State of Nevada in the 2009 Legislative Session and became law pursuant to Article 4, Section 35 of the Nevada Constitution, in an amount of three percent of the gross

receipts defined at 4.08.005, as applied by the provisions of Initiative Petition 1. Gross receipts may be adjusted for exemptions pursuant to 4.08.050 prior to calculation of the combined transient lodging tax.

(b) The tax imposed pursuant to Subsection (a) applies throughout the County, including incorporated cities in the County. It shall be collected together with the taxes imposed pursuant to NRS 244.3352 and NRS 268.096 by the governmental entities collecting those taxes. The governmental entities collecting the tax shall transfer all collections of the tax imposed by Subsection (a), including any applicable penalty or interest, to the County and may not retain any part of the tax, penalty or interest as a collection or administrative fee.

(c) The proceeds of the tax imposed pursuant to this section and any applicable penalty or interest shall be remitted by the County to the State Treasurer pursuant to the provisions of Initiative Petition 1.

SECTION 3. Title 4, Chapter 4.08, Section 4.08.040 is hereby amended to read as follows:

4.08.040 Discount. (a) There shall be a discount allowed for operators described in this chapter.

(b) Such discount shall be an amount equal to two percent of the transient lodging tax collected by operators pursuant to section 4.08.015 of this chapter. No discounts shall be available for any portion of the combined transient lodging tax collected pursuant to sections 4.08.020, 4.08.025, ~~or 4.08.030~~, or 4.08.031 of this chapter.

(c) The discount privilege is for payment being made on or before the fifteenth day of the month following the month for which the tax is due and not allowed thereafter.

SECTION 4. Title 4, Chapter 4.08, Subsection 4.08.060 (a) is hereby amended to read as follows:

4.08.060 Delinquency, license suspension, license revocation, license reinstatement, and collection. (a) If the combined transient lodging tax imposed pursuant to this chapter on transient lodging establishments located within the unincorporated areas of Clark County is not received within fifteen days of the due date, the operator shall pay, in addition to the combined transient lodging tax: (1) interest on said tax due at the rate of one and one-half percent per month or fraction thereof from the date on which the combined transient lodging tax became due until the date payment is received; and (2) an administrative fee of eleven percent of the combined transient lodging tax due, exclusive of interest.

SECTION 5. Title 4, Chapter 4.08, Section 4.08.075 is hereby amended to read as follows:

4.08.075 Refunds. (a) Refunds of transient lodging tax collected by operators pursuant to Section 4.08.015 of this code must be requested from the Department in writing no later than two years after the last day of the month following the close of the period for which the claimed overpayment was made.

(b) Refunds of transient lodging tax collected by operators pursuant to Sections 4.08.020, 4.08.025, ~~and~~ 4.08.030, and 4.08.031 of this code must be requested from the Department in writing no later than three years after the last day of the month following the close of the period for which the claimed overpayment was made.

(c) No transient lodging tax may be refunded to an operator who collected it unless the operator has refunded the transient lodging tax to the occupant who paid it.

SECTION 6. Title 4, Chapter 4.08, of the Clark County Code is hereby amended by adding a new Section 4.08.120 to read as follows:

4.08.120 Schedule of State Education Transient Lodging Tax. (a) The effect, as of July 1, 2009, of the transient lodging tax imposed by Section 4.08.031 of this Chapter on the combined transient lodging tax rates for transient lodging establishments located within Clark County, including the incorporated cities, shall be as follows:

	<u>Current Combined Transient Lodging Tax</u>	<u>State Education Transient Lodging Tax</u>	<u>New Combined Transient Lodging Tax (Effective July 1, 2009)</u>
<u>UNINCORPORATED CLARK COUNTY</u>			
<u>Resort Hotel</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>Other transient lodging establishment within 35 miles of the LVCC</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>Other Transient lodging establishment more than 35 miles from the LVCC</u>	<u>7%</u>	<u>3%</u>	<u>10%</u>
<u>BOULDER CITY</u>			
<u>Transient lodging establishments with 100 rooms or more</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>Transient lodging establishments with less than 100 rooms</u>	<u>7%</u>	<u>3%</u>	<u>10%</u>
<u>HENDERSON</u>			
<u>Resort Hotel</u>	<u>10%</u>	<u>3%</u>	<u>13%</u>
<u>Transient lodging establishments other than resort hotels</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>LAS VEGAS</u>			
<u>Transient lodging establishments in Area A</u>	<u>11%</u>	<u>2%</u>	<u>13%</u>
<u>Transient lodging establishments in Area B</u>	<u>10%</u>	<u>3%</u>	<u>13%</u>
<u>Transient lodging establishments outside improvement district</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>MESQUITE</u>			
<u>Resort Hotel</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>Motels, hotels, apartments, timeshare projects, apartment hotels and hotels other than resort hotels</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>Vacation trailer parks</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>NORTH LAS VEGAS</u>			
<u>Resort Hotel</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>
<u>Transient lodging establishments other than resort hotels</u>	<u>9%</u>	<u>3%</u>	<u>12%</u>

The Current Combined Transient Lodging Tax rates stated above were in effect on July 31, 2008. The New Combined Transient Lodging Tax rates stated above are effective as of July 1, 2009, as stated in the applicable sections of the Clark County Code and the Municipal Codes of the Cities of Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas and may be subject to change by the applicable jurisdictions. However, the tax rates cannot exceed the limits set forth in Initiative Petition 1. The terms "Area A", "Area B" and "improvement district" are as defined in the City of Las Vegas Municipal Code.

SECTION 7. Title 4, Chapter 4.08, of the Clark County Code is hereby amended by adding a new Section 4.08.125 to read as follows:

4.08.125 Schedule of State Education Transient Lodging Late Payment Charges. (a) The following schedule shows the applicable administrative fee, penalty and interest charge for delinquent payments of the transient lodging tax imposed by Section 4.08.031 of this Chapter for each governmental entity in Clark County, as of July 1, 2009:

	<u>Unincorporated Clark County</u>	<u>Boulder City</u>	<u>Henderson</u>	<u>Las Vegas</u>	<u>Mesquite</u>	<u>North Las Vegas</u>
<u>Maximum number of days after calendar month before late charges are assessed</u>	<u>15</u>	<u>10</u>	<u>15</u>	<u>15</u>	<u>10</u>	<u>15</u>
<u>Penalty or Administrative Fee</u>	<u>11%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>	<u>10%</u>
<u>Interest on amount due, per month or fraction thereof</u>	<u>1.5%</u>	<u>1%</u>	<u>1.5%</u>	<u>1.5%</u>	<u>1%</u>	<u>1%</u>

(b) The late payment charges stated above are effective as of July 1, 2009, as stated in the applicable sections of the Clark County Code and the Municipal Codes of the Cities of Boulder City, Henderson, Las Vegas, Mesquite and North Las Vegas and may be subject to change by the applicable jurisdictions. However, the late charges cannot exceed the limits set forth in Initiative

Petition 1.

SECTION 8. The officers of the county are hereby authorized and directed to take all action necessary and appropriate to implement the provisions of this ordinance including, but not limited to, the preparation of all necessary documents and other items necessary and desirable for the imposition, administration and collection of the tax imposed by this ordinance.

SECTION 9. If any section of this ordinance or portion thereof is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not invalidate the remaining parts of this ordinance.

SECTION 10. All ordinances, parts of ordinances, chapters, sections, subsections, clauses, phrases or sentences contained in the Clark County Code in conflict herewith are hereby repealed.

SECTION 11. This ordinance shall take effect and be in force from and after July 1, 2009, and the publication thereof by title only, together with the names of the County Commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Clark County, Nevada, at least once a week for a period of two (2) weeks.

PROPOSED on the 5th day of May, 2009.

PROPOSED BY: Commissioner Rory Reid

PASSED on the 2nd day of June, 2009.

AYES: Susan Brager

Lawrence L. Brown III
Chris Giunchigliani
Rory Reid
Steve Sisolak
Lawrence Weekly

NAYS: None

ABSTAINING: None

ABSENT: Tom Collins

BOARD OF COUNTY COMMISSIONERS
CLARK COUNTY, NEVADA

BY 
RORY REID, Chairman

ATTEST:


SHIRLEY B. PARRAGUIRRE, County Clerk

APPROVED AS TO FORM:


JEFFREY TROLL
Deputy District Attorney