

QUESTION NO.

Amendment to the *Nevada Constitution*

Assembly Joint Resolution No. 16 of the 73rd Session

CONDENSATION (ballot question)

Shall the *Nevada Constitution* be amended to require that, before it can enact an exemption from property tax or from sales and use tax, the Nevada Legislature must: (1) make certain findings regarding the social or economic purpose and benefits of the exemption; (2) ensure that similar classes of taxpayers must meet similar requirements for claiming exemptions; and (3) provide a specific date on which the exemption will expire?

Yes ☐ No ☐

EXPLANATION

The proposed amendment to the *Nevada Constitution* would require the Nevada Legislature, before enacting an exemption from State and local government property tax or from sales and use tax, to find that: (1) the exemption will achieve a bona fide social or economic purpose; (2) the exemption's benefits are expected to exceed any adverse effect on the provision of services to the public by the State or a local government; and (3) the exemption will not impair the State or a local government's ability to make payments on outstanding bonds or other obligations for which revenue from the property tax or sales and use tax was pledged. The Legislature must also ensure that the requirements for claiming the exemption are as similar as practicable for similar classes of taxpayers and must establish a specific expiration date for the exemption.

Currently, there is no constitutional or statutory language establishing specific provisions the Legislature must consider when granting an exemption from property tax or sales and use tax, nor is the Legislature required to include a specific expiration date for an exemption.

A "Yes" vote would amend the *Nevada Constitution* to require the Nevada Legislature, before enacting an exemption from the property tax or sales and use tax, to determine that the exemption will achieve a genuine social or economic purpose, the exemption's benefits are expected to exceed its costs, the requirements for claiming the exemption will treat similarly situated taxpayers in a similar fashion, and the exemption will expire on a specific date.

A "No" vote would retain the current constitutional language which does not require the Legislature to make these findings or establish an expiration date before enacting an exemption from the property tax or sales and use tax.

ARGUMENTS FOR PASSAGE

Exemptions granted by the Nevada Legislature are generally designed to provide a benefit to a particular group of taxpayers while potentially reducing the revenue received by the State or local governments. At present, the Legislature is not constitutionally required to make a formal finding or to undertake any particular deliberative process regarding the purpose, costs, and benefits of granting an exemption from the property tax or sales and use tax. This amendment to the *Nevada Constitution* will require the Legislature to determine that a proposed exemption from the property tax or sales and use tax will achieve a bona fide social or economic purpose, and that the expected benefits from the exemption will exceed any adverse effects on the provision of government services due to the potential reduction in State or local government revenue from the exemption.

This proposed amendment also requires the Legislature to establish an expiration or “sunset” date on which an exemption will cease to be effective. Under current law, the Legislature is not required to establish an exemption sunset date. Requiring the Legislature to formally consider an appropriate period for which the exemption should provide a taxpayer benefit or for which the State or local governments must give up the exempted tax revenues will help ensure that exemptions do not outlive their usefulness or reduce revenues unnecessarily. Sunset dates for exemptions will require the Legislature to periodically review exemptions that have been enacted to determine whether the original social or economic purpose is still served and the benefits will continue to exceed the costs from maintaining the original exemption.

ARGUMENTS AGAINST PASSAGE

Constitutional language should not be added simply to place requirements on the Nevada Legislature with regard to approving exemptions from property taxes or sales and use taxes. This proposed amendment assumes that the Legislature does not consider whether a proposed property or sales and use tax exemption provides a bona fide social or economic purpose or whether the benefits of the exemption will exceed its costs. As part of the legislative process, the Legislature considers testimony and other information provided to it by proponents and opponents of the proposed exemption to help address these questions.

The proposed amendment does not establish standards for determining whether an exemption achieves a bona fide social or economic purpose, nor does it establish standards for determining whether the benefits of an exemption exceed the costs. The Legislature can establish its own standards and guidelines for implementing the provisions of this amendment. Thus, adding these provisions to the *Nevada Constitution* may have no effect on the Legislature with regard to enacting property tax or sales and use tax exemptions.

The provisions of the amendment requiring the Legislature to set a date on which an exemption expires do not establish a specific time period, nor do they establish standards for the

Legislature to follow when considering the effective period for an exemption. This amendment does not prohibit the Legislature from allowing an exemption to be effective for a very long period of time. Additionally, current constitutional and statutory language does not prohibit the Legislature from establishing an expiration date for an exemption. In fact, prior Legislatures have established sunset dates when enacting property tax or sales and use tax exemptions.

FISCAL NOTE

Financial Impact – Cannot Be Determined

If this proposal to amend the *Nevada Constitution* is approved by voters, the Legislature would be required to establish certain findings before enacting exemptions from the property tax and sales and use tax, which may impact the number or types of exemptions enacted by the Legislature. However, it cannot be determined with any degree of certainty whether the provisions of this proposed constitutional amendment would cause the Legislature to reduce the number or type of exemptions enacted relative to those enacted under the current framework for granting exemptions from the property tax and sales and use tax.

Given that the number or type of exemptions that may or may not be enacted based on the requirements established in this proposed constitutional amendment cannot be determined, the financial impact on the State or local governments due to the potential loss of revenue attributed to exemptions from property tax and sales and use tax cannot be estimated. Additionally, the potential financial impact on certain taxpayers or classes of taxpayers cannot be determined.