

Amendment No. 459

Assembly Amendment to Assembly Bill No. 433	(BDR 19-892)
Proposed by: Assembly Committee on Taxation	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION		Initial and Date		SENATE ACTION		Initial and Date			
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

LJM/BJE



Date: 4/20/2007

A.B. No. 433—Further limits the authority of public bodies to close meetings.
(BDR 19-892)



ASSEMBLY BILL NO. 433—ASSEMBLYMEN BUCKLEY, PARKS, LESLIE, HARDY, SMITH, ARBERRY, ATKINSON, CONKLIN, DENIS, HOGAN, KIRKPATRICK, KOIVISTO AND MCCLAIN

MARCH 19, 2007

Referred to Committee on Taxation

SUMMARY—Further limits the authority of public bodies to close meetings. (BDR 19-892)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to meetings of public bodies; providing additional limitations on the authority of public bodies to close meetings; limiting the authority of the Nevada Tax Commission to close certain hearings; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires that meetings of public bodies be open to the public. (Chapter 241
2 of NRS) Exceptions to the general rule are allowed by specific statute. (NRS 241.020) **Section**
3 **1** of this bill provides that if an exception is allowed by specific statute, the meeting may be
4 closed only to the extent specified in the statute and requires that all other portions of the
5 meeting be open and public. ~~[Section 2]~~ **Sections 2 and 3** of this bill ~~[limits]~~ **limit and clarify**
6 a specific exception for the Nevada Tax Commission that allows closed hearings on appeals
7 by taxpayers under certain circumstances. (NRS 360.247 ~~+~~, **372.750**)

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

Section 1. NRS 241.020 is hereby amended to read as follows:

241.020 1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. *A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute.* Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate physically handicapped persons desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

1 (a) The time, place and location of the meeting.

2 (b) A list of the locations where the notice has been posted.

3 (c) An agenda consisting of:

4 (1) A clear and complete statement of the topics scheduled to be
5 considered during the meeting.

6 (2) A list describing the items on which action may be taken and clearly
7 denoting that action may be taken on those items.

8 (3) A period devoted to comments by the general public, if any, and
9 discussion of those comments. No action may be taken upon a matter raised under
10 this item of the agenda until the matter itself has been specifically included on an
11 agenda as an item upon which action may be taken pursuant to subparagraph (2).

12 (4) If any portion of the meeting will be closed to consider the character,
13 alleged misconduct or professional competence of a person, the name of the person
14 whose character, alleged misconduct or professional competence will be
15 considered.

16 (5) If, during any portion of the meeting, the public body will consider
17 whether to take administrative action against a person, the name of the person
18 against whom administrative action may be taken.

19 3. Minimum public notice is:

20 (a) Posting a copy of the notice at the principal office of the public body or, if
21 there is no principal office, at the building in which the meeting is to be held, and at
22 not less than three other separate, prominent places within the jurisdiction of the
23 public body not later than 9 a.m. of the third working day before the meeting; and

24 (b) Providing a copy of the notice to any person who has requested notice of
25 the meetings of the public body. A request for notice lapses 6 months after it is
26 made. The public body shall inform the requester of this fact by enclosure with,
27 notation upon or text included within the first notice sent. The notice must be:

28 (1) Delivered to the postal service used by the public body not later than 9
29 a.m. of the third working day before the meeting for transmittal to the requester by
30 regular mail; or

31 (2) If feasible for the public body and the requester has agreed to receive
32 the public notice by electronic mail, transmitted to the requester by electronic mail
33 sent not later than 9 a.m. of the third working day before the meeting.

34 4. If a public body maintains a website on the Internet or its successor, the
35 public body shall post notice of each of its meetings on its website unless the public
36 body is unable to do so because of technical problems relating to the operation or
37 maintenance of its website. Notice posted pursuant to this subsection is
38 supplemental to and is not a substitute for the minimum public notice required
39 pursuant to subsection 3. The inability of a public body to post notice of a meeting
40 pursuant to this subsection as a result of technical problems with its website shall
41 not be deemed to be a violation of the provisions of this chapter.

42 5. Upon any request, a public body shall provide, at no charge, at least one
43 copy of:

44 (a) An agenda for a public meeting;

45 (b) A proposed ordinance or regulation which will be discussed at the public
46 meeting; and

47 (c) Subject to the provisions of subsection 6, any other supporting material
48 provided to the members of the public body for an item on the agenda, except
49 materials:

50 (1) Submitted to the public body pursuant to a nondisclosure or
51 confidentiality agreement which relates to proprietary information;

52 (2) Pertaining to the closed portion of such a meeting of the public body; or

1 (3) Declared confidential by law, unless otherwise agreed to by each
2 person whose interest is being protected under the order of confidentiality.

3 ↪ As used in this subsection, "proprietary information" has the meaning ascribed
4 to it in NRS 332.025.

5 6. A copy of supporting material required to be provided upon request
6 pursuant to paragraph (c) of subsection 5 must be:

7 (a) If the supporting material is provided to the members of the public body
8 before the meeting, made available to the requester at the time the material is
9 provided to the members of the public body; or

10 (b) If the supporting material is provided to the members of the public body at
11 the meeting, made available to the requester at the same time the
12 material is provided to the members of the public body.

13 ↪ If the requester has agreed to receive the information and material set forth in
14 subsection 5 by electronic mail, the public body shall, if feasible, provide the
15 information and material by electronic mail.

16 7. A public body may provide the public notice, information and material
17 required by this section by electronic mail. If a public body makes such notice,
18 information and material available by electronic mail, the public body shall inquire
19 of a person who requests the notice, information or material if the person will
20 accept receipt by electronic mail. The inability of a public body, as a result of
21 technical problems with its electronic mail system, to provide a public notice,
22 information or material required by this section to a person who has agreed to
23 receive such notice, information or material by electronic mail shall not be deemed
24 to be a violation of the provisions of this chapter.

25 8. As used in this section, "emergency" means an unforeseen circumstance
26 which requires immediate action and includes, but is not limited to:

27 (a) Disasters caused by fire, flood, earthquake or other natural causes; or

28 (b) Any impairment of the health and safety of the public.

29 **Sec. 2.** NRS 360.247 is hereby amended to read as follows:

30 360.247 **1.** Except as otherwise provided in this section, any appeal to the
31 Nevada Tax Commission which is taken by a taxpayer concerning his liability for
32 tax must be heard during a session of the Commission which is open to the public.
33 ~~[A] Upon request by the taxpayer, and for good cause shown, a hearing on such an~~
34 ~~appeal may be closed to the public if the taxpayer requests that it be closed. to~~
35 ~~receive proprietary or confidential information.~~

36 **2.** As soon as practicable after closing a hearing pursuant to subsection 1,
37 the Nevada Tax Commission shall make a determination as to whether the
38 material to be presented in the hearing is properly classified as proprietary or
39 confidential information. If the information is determined not to be proprietary or
40 confidential, the Commission shall immediately open the hearing to the public. If
41 the information is determined to be properly classified as proprietary or
42 confidential information, the Commission shall proceed to gather the information
43 in a manner that ensures that each member of the Commission has a reasonable
44 and adequate opportunity to make any inquiries the member believes to be
45 necessary and appropriate.

46 **3.** Upon completion of the information gathering portion of the hearing
47 pursuant to subsection 2, the Nevada Tax Commission shall open the hearing to
48 the public and begin deliberating in a manner that does not make public any
49 proprietary or confidential information.

50 **4.** The Nevada Tax Commission shall adopt regulations which establish
51 procedures:

52 (a) By which a taxpayer may request a closed hearing;

1 (b) By which the Commission may determine during a closed hearing
 2 whether information is appropriately classified as proprietary or confidential
 3 information; and

4 (c) For the manner in which the Commission may deliberate and vote on an
 5 appeal in an open meeting without making any proprietary or confidential
 6 information public.

7 5. If the Nevada Tax Commission closes ~~the~~ a hearing to receive ~~such~~
 8 information, all deliberations must be conducted and all decisions with respect to
 9 the appeal must be made in an open and public hearing. The Commission must
 10 at a minimum, provide at the public hearing sufficient information for the public
 11 to understand the basis and rationale for the decision of the Commission ~~to~~
 12 including, without limitation:

13 (a) The name of the taxpayer;

14 (b) The amount of the taxpayer's liability, including interest and penalties;

15 (c) The type of tax at issue; and

16 (d) The general nature of the evidence relied upon by the Commission in
 17 reaching its decision.

18 ~~2.1~~ 6. A member of the Nevada Tax Commission or an officer, agent or
 19 employee of the Department is not subject to any criminal penalty or civil liability
 20 for the inadvertent publication of proprietary or confidential information
 21 disclosed during a hearing conducted pursuant to this section.

22 7. ~~Except as otherwise provided in this subsection, as~~ As used in this
 23 section, "proprietary or confidential information" ~~means:~~

24 (a) Means:

25 (1) Any trade secret or confidential ~~business~~ economic information that
 26 is submitted to the Nevada Tax Commission by the taxpayer and designated as
 27 proprietary or confidential by the Commission; or

28 ~~(b)~~ (2) Any information declared by specific statute to be confidential or
 29 that the Commission is prohibited from making public by specific statute.

30 (b) Does not include any information that has been published for public
 31 distribution or is otherwise generally available to the public or in the public
 32 domain.

33 As used in this subsection, "confidential ~~business~~ economic information"
 34 means any information that is not generally known to the public, that confers an
 35 economic benefit to the holder specifically because it is not known and that is the
 36 subject of reasonable efforts to maintain its secrecy, including, without limitation,
 37 information relating to the amount or source of any income, profits, losses or
 38 expenditures of the taxpayer, including data relating to costs, prices or the
 39 customers of the taxpayer. ~~The term "proprietary or confidential information"~~
 40 does not include any information that is included on a website, has been
 41 published for public distribution or is otherwise available to the public or in the
 42 public domain.

43 Sec. 3. NRS 372.750 is hereby amended to read as follows:

44 372.750 1. Except as otherwise provided in this section ~~to~~ or NRS 360.247,
 45 it is a misdemeanor for any member of the Tax Commission or officer, agent or
 46 employee of the Department to make known in any manner whatever the business
 47 affairs, operations or information obtained by an investigation of records and
 48 equipment of any retailer or any other person visited or examined in the discharge
 49 of official duty, or the amount or source of income, profits, losses, expenditures or
 50 any particular of them, set forth or disclosed in any return, or to permit any return
 51 or copy of a return, or any book containing any abstract or particulars of it to be
 52 seen or examined by any person not connected with the Department.

1 2. The Tax Commission may agree with any county fair and recreation board
2 or the governing body of any county, city or town for the continuing exchange of
3 information concerning taxpayers.

4 3. The Governor may, by general or special order, authorize the examination
5 of the records maintained by the Department under this chapter by other state
6 officers, by tax officers of another state, by the Federal Government, if a reciprocal
7 arrangement exists, or by any other person. The information so obtained may not be
8 made public except to the extent and in the manner that the order may authorize
9 that it be made public.

10 4. Upon written request made by a public officer of a local government, the
11 Executive Director shall furnish from the records of the Department, the name and
12 address of the owner of any seller or retailer who must file a return with the
13 Department. The request must set forth the social security number of the owner of
14 the seller or retailer about which the request is made and contain a statement signed
15 by the proper authority of the local government certifying that the request is made
16 to allow the proper authority to enforce a law to recover a debt or obligation owed
17 to the local government. The information obtained by the local government is
18 confidential and may not be used or disclosed for any purpose other than the
19 collection of a debt or obligation owed to that local government. The Executive
20 Director may charge a reasonable fee for the cost of providing the requested
21 information.

22 5. Successors, receivers, trustees, executors, administrators, assignees and
23 guarantors, if directly interested, may be given information as to the items included
24 in the measure and amounts of any unpaid tax or amounts of tax required to be
25 collected, interest and penalties.

26 6. Relevant information that the Tax Commission has determined is not
27 proprietary or confidential information in a hearing conducted pursuant to NRS
28 360.247 may be disclosed as evidence in an appeal by the taxpayer from a
29 determination of tax due.

30 7. At any time after a determination, decision or order of the Executive
31 Director or other officer of the Department imposing upon a person a penalty for
32 fraud or intent to evade the tax imposed by this chapter on the sale, storage, use or
33 other consumption of any vehicle, vessel or aircraft becomes final or is affirmed by
34 the Commission, any member of the Commission or officer, agent or employee of
35 the Department may publicly disclose the identity of that person and the amount of
36 tax assessed and penalties imposed against him.

37 ~~[Sec. 3.]~~ **Sec. 4.** This act becomes effective on July 1, 2007.