

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Seventy-Third Session
April 7, 2005**

The Committee on Growth and Infrastructure was called to order at 1:41 p.m., on Thursday, April 7, 2005. Chairman Richard Perkins presided in Room 4100 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. Richard Perkins, Chairman
Ms. Chris Giunchigliani, Vice Chairwoman
Ms. Francis Allen
Mr. Bernie Anderson
Mr. Tom Grady
Mr. Lynn Hettrick
Mrs. Marilyn Kirkpatrick
Ms. Sheila Leslie
Mr. Harry Mortenson
Mr. David Parks
Ms. Peggy Pierce
Mr. Scott Sibley
Ms. Valerie Weber

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Russell Guindon, Deputy Fiscal Analyst
Keith Norberg, Deputy Fiscal Analyst

Gregory Sharry, Committee Attaché

OTHERS PRESENT:

Maryanne Ingemanson, Private Citizen, Incline Village, Nevada
Terry Shea, Deputy District Attorney, Washoe County District
Attorney's Office
Chuck Chinnock, Executive Director, Nevada Department of
Taxation
Madelyn Shipman, Legislative Advocate, representing the Nevada
District Attorneys Association
Dave Dawley, Assessor, Clark County, Nevada; and Nevada
Assessors Association
Dr. John Yacenda, Legislative Advocate, representing Capital City
Investments and Global Contract Buyers

Chairman Perkins:

[Meeting called to order. Roll called.] We have two bills on our agenda today: Assembly Bill 392 and Assembly Bill 393, both belonging to Mr. Hettrick. We will open the hearing on Assembly Bill 392.

Assembly Bill 392: Makes various changes concerning regulation of property tax assessment by Nevada Tax Commission. (BDR 32-275)

Assemblyman Lynn Hettrick, Assembly District No. 39, Douglas, Carson City (Part), Washoe (Part):

Incline Village is in my district and is one of the areas of the state that has experienced significant problems with assessed evaluation and the process that comes along with it. It is a very unique place, and it justifies some unique methods to do evaluation. The concern is that we need a bit more uniformity and a bit more stability within that process.

In my district, all at Lake Tahoe, I have looked at the tax bills for two different properties. Both of the properties are essentially equal in value, in terms of the market value applied by the assessor. One of those properties had a tax bill of \$77,000 a year, and one of the properties had a tax bill of \$18,000 a year. Those discrepancies seem to be larger than assessed evaluation issues. It seems that there is more to what is driving the difference between those two numbers. Assembly Bill 392 is proposing to clarify where the regulations will come from and that must be used by the folks doing assessed evaluation. If you look at page 1, Section 1, we have said that the Nevada Tax Commission shall adopt

general and uniform regulations governing the assessment of property. That is to be used by the various counties, county boards, State Board of Equalization, and the Department of Taxation. They must include standards for appraisal and reappraisal of land. If you look down further in subsection 2, paragraph (b), you will see that the current practice allows the commission to confer and help establish general and uniform regulations. We are saying it needs to be the same for everybody. This way, we know we are working on the same basis.

[Assemblyman Hettrick, continued.] If you turn to page 2, subsection 5, I believe this is causing some heartburn for Chuck Chinnock and others, and they were kind enough to tell me they had some issues with it and I appreciate that. It says, "If the Commission finds a complaint or a problem with an evaluation where the assessor has knowingly violated a regulation." Above, you see the exact same language in the new number 4, "A county assessor or county officer who has knowingly falsified," is guilty if the Nevada Tax Commission finds that the assessor has "knowingly violated." We are just saying the same thing here about a known violation of the regulations that were adopted. I do not think we have changed the standard. I do not think we have asked them to do anything they do not already do. No, I do not think we have changed the standard.

If you go back to the bill, it is pretty simple. The only change on page 4 is the word "regulated," because we have now told them that they must write the regulation. If you go to page 5, Section 3, subsection 7, it says the assessor, instead of establishing standards, must now use the standards adopted as required in Section 1 of the amended bill. We are saying those standards are what you must use to assess property. This way is equal, fair, and done appropriately.

On page 7, subsection 10, we have changed the language to say, the "county board of equalization will comply with any applicable regulation." The board of equalization must comply and use the exact same standards. We are trying to standardize how it is viewed, how you use it, and what it means. Right now, when a taxpayer goes in, it seems that the standard could be anywhere; the county can choose whatever they want. There is no regulation that is "uniform and equal." We need to have "uniform and equal" in the property tax evaluation methods.

Page 8 says it is not necessary that the valuation of a class or piece of property has been the subject of a complaint for a board, whether it is the county or state board. You need to look at a property and equalize a tax. Unfortunately for these taxpayers, if they have a problem, it is an administrative nightmare. They end up going through various hearings and filings. We are saying that if one of

these boards has seen that evaluations need to be changed, it is not necessary that every person who was subject to the same valuation file everything and go through every administrative step. They could make that adjustment as a class. They could say everyone subject to that should have a change. I think that is a reasonable request. If we are going to tax the citizens, we need to tax them fairly and evenly.

[Assemblyman Hettrick, continued.] In Section 7, it says, "Except as otherwise provided in this section, all actions be for redress from the findings." Basically, this is cleanup language. I think the other one that bothers people immensely is line 32, page 8, paragraph (b): "An action of declaratory judgment pursuant to subsection 4." We are concerned with the fact that the administrative process becomes such a nightmare that it is impossible for people to get things done. There were hundreds of complaints about the tax valuations in Incline Village. Hundreds of those complaints went to the county board, the state board, and so on. Unfortunately, many of those hearings were set with 200 to 300 people having to be heard in a day. It was impossible. They knew it was impossible when they set the hearings. Many people gave up. It was noticed in a relatively short time and people who were not at home couldn't even get to the hearings. As I recall, and Ms. Ingemanson can clarify, the law says if you are not at the hearing, your complaint will be dropped. It was a situation where the administrative side of the process eliminated people from an opportunity to be heard. I do not think that should happen. In cases like that, there needs to be some other method of action.

Finally, Section 7, subsection 4, you can apply for declaratory relief in district court. I think we need to remember, and I know that causes some heartburn because it includes costs, that the taxpayer is paying for the attorney for the taxing entity. Every year, every day, every time we pay taxes, we are paying for the attorney of the taxing entity. That taxing entity is the one that is forcing us to go to court to fight for our right. If we win, we get to pay our own attorney also. We pay the attorneys for both sides. I think if you win you should be able to get your attorney's fees back. I am not saying that you get the taxing entity's attorney's fees back, although we might also consider that, but you should at least get back your own attorney's fees if you prevail. I do not think you are asking too much when you have to fight for a year to get relief from somebody. This is only in a declaratory action that you could get back your attorney's fees if you prevail. I believe this is a fairness issue. I think it's trying to establish a system that is "uniform and equal" as to how an evaluation should be done. And if it is knowingly violated, there are remedies. You can get something back if you can prove it and win.

Chairman Perkins:

The example you used of the two properties, one \$18,000 and the other \$70,000, how did that occur?

Assemblyman Hettrick:

Both were at the Lake and essentially like parcels. One was in Washoe County and one was in Douglas County. Both were valued at approximately \$6 million, including total land and improvements. In Washoe County, the bill was \$77,000 a year, and, in Douglas County, it was \$18,000 a year.

Chairman Perkins:

Is it just a difference in the methodology of how they were appraised? Was it the application of tax rate? It is hard for me to understand how you can have such disparity.

Assemblyman Hettrick:

Maybe I should have Ms. Ingemanson discuss that, because one of those properties belongs to her.

Chairman Perkins:

The only other question I have is on page 2, subsection 5. It creates a civil remedy that could possibly be in conflict with the criminal remedy in Section 4. Did you give any thought to that?

Assemblyman Hettrick:

I am not an attorney and I cannot honestly answer the question. All I can say is that Legal drafted it. I believe if there was a conflict, they would have addressed it.

Chairman Perkins:

Sometimes in the law when there is a civil and a criminal remedy, one will choose the civil remedy to avoid criminal prosecution and then the double jeopardy standards come in. I did not know if there was any discussion or concern with the conflict there. I am not even sure there is one.

Assemblyman Hettrick:

I understand the question, but I cannot answer it.

Maryanne Ingemanson, Private Citizen, Incline Village, Nevada:

One of the properties used in the example was mine, from Douglas County. Doug Solomon, the Douglas County assessor, gave me a list of the sales that Douglas County had used in coming up with their land factors. I picked the nearest value comparable to my home, because he was so gracious in allowing

me to have all the detail I needed. Actually, the Douglas County property was a \$7 million cash transaction. It was on the Lake, in an expensive gated community area. It was 2,000 square feet larger than my home; it was 10 years younger than my home. It had over an acre of land; mine is less than half an acre. The bottom line was that the taxes I paid on my property were more than four times the taxes of the other property, and it was the same type of property in Douglas County. Both were on Lake Tahoe and in the same state. I think Douglas County, from reading all of the Commission meeting, did not intend that disparity. I remember a different hearing, where Speaker Perkins was also present, and one of the gentlemen on my board did an incredibly good job of how taxable value should have been pursued and implemented. I think Douglas County has implemented it correctly, but I do not think it has been implemented correctly in the rest of Washoe County, Incline Village particularly. The end result is an enormous disparity. There is no equalization between the two counties. We have brought that to the attention of the boards, and frankly, it is not my problem. We have been working on it. I know the Department of Taxation is currently trying to come up with some ground rules, but I think one of the main things we were talking about was the fact that the Nevada Tax Commission is the ultimate authority on taxes in the entire state. That is in the statutes.

[Maryanne Ingemanson, continued.] This particular bill has received the most votes in favor of all of the bills that have been presented. That is on the first page of your packet ([Exhibit B](#)). This is where people read the synopsis of the bill, vote "for" or "against," and put comments as to why they voted in that particular way. If you go to the comments section of the packet, you will see that the first one says the bill "will even the playing field." This is exactly what Mr. Hettrick just said. It is interesting how many people had the same reaction to the bill. They felt that the bill was fair and that it did level the playing field.

The next thing was that all the members of the public need the opportunity for justice. In the last legislative session, it says "Attorney's Fees and Costs." Two bills were passed: NRS [*Nevada Revised Statutes*] 622.400 and NRS 622.410. Both of those bills give the regulatory bodies the right to recover the costs from the person. It is a litany of things that go on in court. However, there is no reciprocity. There is nothing that says whoever is having legal action taken against them by the regulatory body, will pay no attorney fees if they win. That, in itself, seems to be an unfair bill that this can correct.

The Nevada Tax Commission worked with us at the Lake with the assessors and the Department of Taxation; we did this diligently for almost a year and a half. It was extremely well done and we worked hard to get a consensus. I think it had been 20 years since the rules and regulations had been addressed or

changed. They were adopted by the Nevada Tax Commission on June 25, 2004 and they became law on August 4, 2004; however, there is no enforcement provision in any of those rules. There had been rules 20 years before that were not followed. At that point, I spoke with Mr. Hettrick and asked him if it would be possible to put something forward that would give the public some consequential reasoning if these bills were not followed. I think the comparison between Douglas County and Washoe County gives you an idea that there are no consequences. Washoe County taxes are completely out of control. Properties that lie directly next to each other are taxed differently. The Nevada Taxpayers Association indicated their support "to allow attorney's fees and costs to the taxpayer who prevails in the court case, since the taxpayer is subject to attorney fees and costs, if they lose in court." It levels the playing field.

[Maryanne Ingemanson, continued.] The taxpayers are just seeking fairness in this bill, and that is what A.B. 392 is all about. It is an important citizen's right to be afforded the same remedies that are provided to the regulatory bodies.

As far as the declaratory relief that Mr. Hettrick said the Nevada Department of Taxation had been concerned about, it is addressed on the last page of your packet ([Exhibit B](#)). If the taxpayer feels unhappy with their assessment, they have to request rulings from the same agencies with whom the original disputes may have arisen. If you go through the list, it is a circle of people who are all intertwined. The Washoe County District Attorney's Office represents the Washoe County Assessor, the Washoe County Board of Equalization, and the Washoe County Commissioners.

The Attorney General's Office represents the State Department of Taxation, the State Board of Equalization, and the Nevada Tax Commission. The Department of Taxation is the staff of the State Board of Equalization. The Executive Director of the State Department of Taxation, Chuck Chinnock, is the Secretary of the State Board of Equalization. The State Department of Taxation also sits with the State Board of Equalization in all hearings. The Nevada Tax Commission has provided testimony from the head of the Department of Assessment Standards and the State Department of Taxation's chief executive, both of whom act as officers and staff for the State Board of Equalization. The information for the testimony they give is provided by the office of the Washoe County Assessor.

The Washoe County District Attorney has stated that the Washoe County Board of Equalization cannot overturn a directive made by the Nevada Tax Commission. However, the District Attorney also states that a public citizen must first exhaust "all administrative remedies before being allowed to file for a

decision in the court of law." As the pursuit of administrative remedies begins at the Washoe County Board of Equalization, with the Washoe County District Attorney taking the position that the County Board of Equalization has no jurisdiction to invalidate a directive of the Nevada Tax Commission, therein exists a catch-22. There is no way to get from here to there.

[Maryanne Ingemanson, continued.] In one of the documents written by the District Attorney's Office, they were saying there should be a plain, speedy, and complete remedy of law. There is no plain, speedy, or complete remedy of the law. The citizen has no adequate remedy to foreclose this prejudicial cycle because all of these agencies are intertwined. In 1971, Assemblyman Dini stated, "An elected official should have the power to appeal to a higher authority without the consent of the same people who have turned down one of his decisions." It seems to me that the public should have the same right.

Chairman Perkins:

The bill brings up a point that was brought up in our more global property tax discussion that culminated in Assembly Bill 489. When we heard testimony, there were a number of concerns from citizens who felt uncertain as to how property was appraised from one jurisdiction to the next, and within one jurisdiction by an appraising authority. It is time for us to be discussing this.

I would like to go back to the difference in your property and the comparable property. It is not clear to me how that occurred. If I did not misunderstand, your property and the comparable property did have similar value. How did the rate of tax differ so significantly? Certainly there can be some difference in the tax rates, but it is not that large of a disparity.

Maryanne Ingemanson:

It occurred because Washoe County and the assessors of Washoe County adopted a lot of rules that had never been approved by the Nevada Tax Commission. One of the more interesting rules was the size of the sand and stones on the beach. This is not a rule that has even been presented to the Nevada Tax Commission, much less adopted. In Crystal Bay, there are enormous boulders, some of which are half the size of this room, and I guess the assessor just glances at the beach. There are five different categories: sandy, sandy/rocky, rocky/pebble, pebble/stony, and it is ridiculous. None of this has ever been approved. There are view categories.

Chairman Perkins:

While those are probably disparities that need to be addressed, if you have a \$6 million property here, and you have a \$6 million property here, you do your

35 percent calculation, and you attach the rate to that, the property taxes should be similar.

Maryanne Ingemanson:

The difference is in the taxable value.

Assemblywoman Giunchigliani:

Are all the county assessors using the same formulas and procedures? If not, that is part of "uniform and equal." Regardless of what bill we use, that has to be a place where we have to go to from this Committee. Either you all do it every three years or five years: This is the program and this is what will be administered. That is the crux of the whole issue. This is a discussion I do not want us to forget about just because we did A.B. 489. We still have some other things to fix. Is this where people were complaining about how a view increased the value of their property? They were cutting trees down, and there was an argument about who owns a lake view property.

Chairman Perkins:

I think someone had a tree that was dying because of pine beetles, and the owner was doing everything to keep it alive because once the tree fell, their value would increase so dramatically. I think we asked the question a number of times before passing A.B. 489, but I don't think we had a full grasp as to what methodologies are used and how uniform they are. I think this is an important bill for us to address. We will take those in opposition to A.B. 392.

Terry Shea, Deputy District Attorney, Washoe County District Attorney's Office:

One of my assignments at that office is to advise the county assessor. I reviewed this proposed legislation and I do have some concerns about it. The underlying argument in favor of it is that the administrative process has become too cumbersome and expensive for the average taxpayer. Instead of having a single administrative process that seems to have worked in the past, we now have a three-tiered remedy being offered to the taxpayers in addition to the administrative remedy through the county and State Board of Equalization, and on to the district court and the Supreme Court. I feel this bill creates a direct action to the district court for declaratory relief. I believe it also creates what is arguably declaratory relief to the Nevada Tax Commission.

The language I am thinking of is on page 2 of the proposed legislation, near line 41. It gives the Commission the authority—in a decision where the assessor knowingly violated a regulation—to assess attorney's fees and costs against the assessor, I am assuming. What is presumed in that language is a new administrative process. If you award attorney's fees and costs to a taxpayer, as these state, you are presuming that the taxpayer is in front of the board and

they have jurisdiction over this person. In order to get in front of the Commission, the taxpayer must be able to petition the Commission for a determination that the assessor has violated a regulation.

[Terry Shea, continued.] Since this is a state agency, the taxpayer would, for the third time, have access to the district court and the Supreme Court. Instead of making the administrative process easier, as is the stated purpose of the legislation, I think we have tripled the problem. You have given the taxpayer more due process than any other type of litigant in the judicial system. They have the administrative process, they will go through two boards, then the district court, and then the Supreme Court. For most litigants, you get one bite at the apple, but for a taxpayer, they will also get the right to go to the district court for declaratory relief, and if they are not happy with that decision, they get to go to the Supreme Court. I would assume the assessor would get to go to the Supreme Court also. You have two tracks to the Supreme Court, and one does not eliminate the other. I think this language for the Tax Commission creates a third and second administrative procedure, which would then fall under the Administrative Procedures Act, and also find its way to the Supreme Court. I guess all of this would not be a problem if they all reach the same conclusion, but what happens if all three reach different conclusions?

The other problem in the language on page 2, line 41, is that if the Tax Commission does make a ruling that the assessor has to pay attorney's fees and costs, how does it get enforced? That would be a decision and order to the county commission to cut a check to an attorney. I do not see how that is going to happen. I understand that the court could enforce that, but I do not know about the Tax Commission.

If this language is adopted, it seems to me that you will be creating a boutique industry for plaintiff lawyers. I can almost see their television commercials now: "If you do not like your tax bill, come see us. If you don't win, you don't pay." I think all three of these procedures can be followed at the same time, and that is not creating a system that would be less burdensome to both litigants. It is creating a process that is going to be three times as burdensome. To that extent, I would urge this Committee to not create these extra two remedies for the taxpayer, because the present system allows the taxpayer to get into court after two groups of experts have looked at the case and decides whether the taxpayer has a legitimate grievance. Then it does go to the district court and eventually the Supreme Court. Every issue that could possibly be raised by declaratory relief will get to the Supreme Court. You have due process, and just like every other litigant, you get one bite at the apple.

Chairman Perkins:

It is my belief that this would not be the only multi-track system that exists in the state. Currently, an employee can go to the Employee/Management Relations Board on issues relating to their relationship with their employer, or they can go directly to the district court, depending on what the alleged violation is. Ultimately, both of those end up with the Supreme Court on different tracks. I am not sure that is not something this state has already embraced. How would the Tax Commission order costs? This bill gives them the authority, and they create something resembling all of the other administrative boards that exist in this state.

On page 2, subsection 5 addresses not the appeal but the representation of attorney fees if the Tax Commission finds the assessor has knowingly violated a regulation. There needs to be an authority that brings that assessor into compliance. To me, that is not so much of an extra track as it just holds the assessor accountable, aside from the voters. I think Mr. Chinnock's integrity is of the highest, and I think our assessors and others conduct themselves with that kind of integrity as well, so I think it is the appearance that everybody is working in the same loop. As Maryanne Ingemanson said, how do we create that appeal for the taxpayer in accomplishing the equalization that she has not been able to find? If the current system is not working, how do we fix it?

Terry Shea:

I believe the current system is working. This is my first view of the system. I rejoined the DA's office after 20 years of private practice, and I think the system in place now affords a lot of due process to taxpayers, and it does so economically. You do not need to hire a lawyer to go to the county or State Boards of Equalization. You will want a lawyer to file a complaint for a tax refund, but then you are more serious about your case.

I think the system we have now will wither and die if there is access to the courts immediately. Two good things that the system we have accomplishes are that you have two boards of experts who are acting as a jury, and the judge, after that, has to rely on that record. The judge gets the benefit of expert testimony when he reviews the law to decide whether or not the law was followed. The other benefit is that it acts as a filter. It will cut down the number of cases that actually get to the district court, and that is a good thing. If you go directly to the district court, you are asking the judge to become the fact finder. With all due respect to the district judges, this is a highly technical area, and there is a real benefit to having the county and State Boards make those factual determinations.

Chairman Perkins:

Does your office advise the various agencies within Washoe County that are supposed to provide the checks and balances? Do you advise them all?

Terry Shea:

Yes.

Chairman Perkins:

How does that provide the due process that you are speaking of?

Terry Shea:

The Nevada Supreme Court found that this does not present a conflict of interest. Just because one member of my office represents the Board of Equalization and I represent the Assessor does not show a conflict of interest.

Chairman Perkins:

I do not want to get down to what the law is, because the Supreme Court does not make the law, they just interpret it. The current law provides for that; otherwise, they would have invalidated it. For the person who cannot find the relief, it is certainly suspect for them. We have a separation of powers for a reason. Now, we do not seem to have a separation of powers as it relates to somebody's appeal for taxes.

Chuck Chinnock, Executive Director, Nevada Department of Taxation:

As Assemblyman Hettrick indicated, normally, the Department of Taxation takes a neutral stance and talks about the administration of legislation. In this case, we are taking a stance against certain portions of it, and if I can go through the bill, I will talk about some of the concerns that we have as the Department of Taxation.

First of all, on page 1, with respect to "adopting general and uniform regulations," the Tax Commission has always done that. I know that with respect to NRS 361.227, it does not specify that they will adopt regulations with respect to land. This kind of says that. I guess I do not have a problem with it, but a better spot for it is in NRS 361.227, where it also says that the Nevada Tax Commission will adopt regulations concerning improvements, depreciation, and some other things. I will note that it focuses on the county and State Boards of Equalization. I want to let people know that, although people think the Department of Taxation conducts valuations, we do not. It is the Nevada Tax Commission who actually conducts the valuations by statute, except with respect to net proceeds. That is probably an area where the Department of Taxation actually does that.

[Chuck Chinnock, continued.] At the bottom of page 2, I do have a concern about the Nevada Tax Commission finding a county assessor has “knowingly violated,” because from the standpoint of court cases, there has been much litigation on what “knowingly” means. I have some concern that the Nevada Tax Commission would be entering a legal fray with respect to an elected official. There are several provisions of statute on the books where the Nevada Tax Commission finds that the assessor may have violated something—that is in NRS 360.250, NRS 360.330, and NRS 361.333—but at that point, it is out of their hands. They identify that there is a potential problem, and it is up to the DA [district attorney] or a grand jury to decide where to go from there.

I also have concerns, which the DA from Washoe County expressed, about what provisions will be there. Where is the money coming from? Is it assessed off the general fund or the operating fund of the county? There needs to be some additional language there if that is how it is going to be.

On page 6, it says, “The county assessor is going to use standards or regulations that were adopted by the Commission,” as opposed to adopting their own. When you start talking about standards for appraising and reappraising, you might consider that those are the regulations adopted by the Nevada Tax Commission, but they’re a general overview of what needs to be done, and it’s still a responsibility of our 17 county assessors to go out there and gather market information, data, and other information. Those, in themselves, are standards. When they establish a valuation scheme for a city or neighborhood, these are certain standards that they are adopting. One of the goals of the participants, the public that participated in the regulations, was that they should be able to get these standards that the county assessor has used. There has been regulatory language that says, “Within 15 days, a property owner, upon request of the county assessor, should be able to see how his valuation was conducted and how it was arrived at.” To me that also means coming up and showing the standards of the county assessor. I see two groups of standards; I see the standards that are ordered by the Nevada Tax Commission and by regulation. Then I see the individual standards that the assessor creates when he does his valuations within his own county.

As far as the provisions of pages 7 and 8, where the board “shall comply with any regulation,” I have no problem with that. If the Nevada Tax Commission creates a regulation and it is over Title 32 and NRS 361, whoever falls under that is supposed to follow those regulations. I was concerned about page 9. It might be because of how I read this section. In the case of what has happened this year where Incline Village received relief from the 8 percent factor applied on their property, only those who complained received the 8 percent factor. Only 6,000 parcels gained the relief given by the County Board of Equalization. I

see this saying it is okay without having equalization in your county. If the county board does not apply the change uniformly, it is okay. I have a problem with that, because from the standpoint of "uniform and equal," that is not the intent of the statutes.

[Chuck Chinnock, continued.] I also have a problem with the declaratory language. First of all, it says, "Whenever a taxpayer reasonably believes." I have a problem with "reasonably believes," with respect to declaratory judgment. I am not an attorney, but as I understand declaratory judgment, it is when there are two issues, there is justification for going in there and getting a judgment. To me, that does not mean "reasonably believes." There is definitely rationale to seek the declaratory judgment. I think that because of the nature of the arguments here, with respect to property valuations, a taxpayer could probably make a good-faith argument that the assessor, Department, or Nevada Tax Commission was not following the rules. The reason for that is that real property appraisal is highly subjective by nature. That is why we have what is considered a complex administrative process. That complex administrative process establishes those facts and that evidence, so that at some point, when it gets to court, they can make the necessary judgments. Basically, by putting this provision in, we will eviscerate the administrative process that is currently in place with the tax assessments.

There is another way to do that. When going to court after the existing administrative process, they are required to show "clear and satisfactory" evidence. Ultimately, if there is a concern that the courts haven't been considering that, then they could change the statutory specification of clear and satisfactory evidence and reducing that amount.

Chairman Perkins:

On page 2, you referred to the new subsection 5. You voiced a concern about the Commission creating a finding of "knowingly violated." It is the same finding that they are currently charged with in subsection 4. Why would there be a concern for one and not the other?

Chuck Chinnock:

I think my concern is, when there is a determination of "knowingly violating," it goes further than that. Who is going to decide what the penalty is going to be? I do not see the Commission as deciding what the penalty is.

Chairman Perkins:

It is still similar to me. In subsection 4, "If the Tax Commission finds that the county assessor or other county officer has knowingly violated its regulations and thereby has caused less revenue to be collected, it shall deduct." There is a

finding and a penalty that is already in place. This is just extending that to a different activity of the Commission. What is the process? If the taxpayer goes to the assessor and State Board of Equalization without satisfaction for the remedy, do they still not have the ability to seek relief in the courts?

Chuck Chinnock:

They do. They have the ability to go to district court at that time. I know it was stated before that the assessor could go, and that is not the case now, but I know there is current legislation to permit that.

Chairman Perkins:

How, on page 10, subsection 4, is it different from that? This is saying that if they believe that they have not complied with the regulations, they can file a complaint with the district court. Can they not do that now?

Chuck Chinnock:

They are attempting to do that now, and we will see where that argument ends. That is what the current situation is now. We are being sued now.

Chairman Perkins:

How do we address how Washoe County measures its land and Douglas County measures it differently? It creates a disparity in two properties that seem comparable.

Chuck Chinnock:

From the standpoint of the Department of Taxation, the first thing I understand is that there is a delay in the process of valuation and in their process of oversight. We identified that disparity between those two counties, and there are a couple of ways that you can take care of that. Immediately, when you see that disparity, you can order a reappraisal. It takes additional money and time on the part of the county. If the county assessor has a plan in place to remedy that, then he can go ahead and follow through with that. That takes effect the following year, so for the last couple of years, we have been aware of that through the ratio study and the requirement for factoring land values. As a result of that, the county assessor approved and recommended a 60 percent increase on the land values. That would be an interim fix that would have gone on the current roll. In the meantime, we would have revalued it, which would have given it another increase to bring it up to the full 35 percent level.

Another problem with existing statute is that the standard for equalization is 35 percent of taxable value. Just because you have one county that is low, you are not allowed to reduce another county down to that level. You are required to bring up the county that was too low.

Chairman Perkins:

I think there has been a lot of discussion that could have drawn an inference that people are doing anything but the right thing. I do not think that is the case. I have extraordinary respect for the Nevada Tax Commission. Seeing what they have done in the interim, after what we did last session, gave me the highest respect for them.

Madelyn Shipman, Legislative Advocate, representing the District Attorney's Association:

I wanted to follow up on the question that was asked of Mr. Chinnock. You asked how paragraph 4 on page 10 differs from the process of administrative review through the Board of Equalization. I believe Mr. Chinnock's response was that they are doing that in district court, alleging that maybe the county assessor had not followed the rules. That is part of the administrative process. This bill separates another cause of action so they do not have to go through the administrative process. Paragraph 4 actually sets out a separate cause of action to go directly to district court on declaratory judgment. It is not exactly what they are doing now.

Chairman Perkins:

Usually in our various statutory schemes, somebody has to exhaust all of their administrative remedies before they seek remedies in the court. Perhaps that is something we will talk to the sponsor about.

Dave Dawley, Assessor, Clark County, Nevada; and Nevada Assessors Association:

Mr. Chinnock said it pretty well, and for clarification, there are many factors involved that may have made the disparity between the two counties. I am not aware of all of them; however, I do know that they are not on the same reappraisal cycle. Washoe County is reappraised one year and Douglas County may be reappraised the next year. That may be one of the disparities.

Chairman Perkins:

Wouldn't the factors keep it from being a 4-to-1 disparity?

Dave Dawley:

We are actually closer to market value for the land when we actually do the reappraisal on it. When you are doing factors, you are factoring a whole entire area and it may not be equal and fair for everybody in that area.

Chairman Perkins:

It just seems that \$77,000 for one and \$18,000 for another is hard to explain.

Dave Dawley:

We have a few concerns with the language in the bill. First, in Section 1, line 2, where it says "Nevada Tax Commission shall adopt." In the old bill, it said "may," and we believe that "may" will assist the assessor in doing his job. When you switch it over to "shall," you are telling the assessor what to do. We believe that all of the regulations are specified in the Code. It says in NRS 361.228 that attributes to real property may include views, locations, or geographic features. How that assessor determines those should be an office policy, and I believe that is how it currently is.

One of the big problems we have with this is the fact that there are 17 different counties, and not all of them are the same. You cannot compare the views from Incline to Humboldt or Winnemucca. They are just not the same, so how would you come up with the same statutes that would fit all 17 counties? My biggest concern is in Section 7. That implies that if the taxpayer believes the regulations are not complied with, he or she may have the right to go immediately to the district court. Currently, you do have the ability to go to the county and State Boards of Equalization. Those appeal processes should be in place. I am not aware of any other taxing entity where there are no appeal processes where it should go straight to the district court. We believe that is a good checks and balances system, and we feel it has worked in the past.

Chairman Perkins:

We will close the hearing on A.B. 392. We will now open the hearing on Assembly Bill 393.

Assembly Bill 393: Provides for sale of tax liens against parcels of real property. (BDR 32-196)

Assemblyman Lynn Hettrick, Assembly District No. 39, Douglas, Carson City (Part), Washoe (Part):

Assembly Bill 393 is a bill we actually heard last session. It managed to make it out of committee and got lost in the end. I have brought back a mock-up of the improved version ([Exhibit C](#)).

Assembly Bill 393, with the amendments, is an enabling bill that allows counties, at the county treasurer's discretion, the option to sell delinquent tax payments in a tax lien sale. The idea is that many of the counties have the opportunity to generate significant cash flow from this bill without losing any

revenue. I would like to give the Committee a basic description of how the tax lien system works today and how a tax lien sale is different.

[Assemblyman Hettrick, continued.] Under the current procedure regarding delinquent property taxes in the state of Nevada, it is typically about three years before action is taken against a party whose property tax is delinquent. At that time, three years after they first go delinquent, they are served notice and told that the property will be sold at auction. They are then given the opportunity to come in and pay the taxes along with penalties, interest, and any costs. Ninety-seven percent of the people who are involved in that situation do go in and pay their taxes with penalty. Only 3 percent of all the properties that go delinquent, nationally and in the state of Nevada, ever go to actual sale. I want to make sure that everybody understands that ultimately the taxes are paid.

During the time they are not paid, interest, penalties, and costs accrue, but schools, counties, and the State of Nevada do not get the use of the tax money. They lose that revenue. That money is out there for what can be up to three years. Twenty-eight states in the United States presently allow the sale of tax liens. Obviously, selling the tax lien, when it becomes due or when it is available for sale, increases the cash flow to the schools, counties, and the State. The lien is sold to an investor, who, for a guaranteed interest rate secured by a lien on real property, pays the taxes, the penalties, the interest, and the costs included in the delinquent property tax bill. The county will then get the money, as will the schools and the State. The bill is then considered current; however, the lien is applied to the property because it was not paid by the property owner. The purchaser of the lien is responsible for his own due diligence. The county does not guarantee anything. It simply puts the bill up as a lien sale if it chooses to do so; this is an enabling piece of legislation. You do not have to put it up, but if they choose to put it up, they may. They guarantee nothing to the purchaser and are not liable in any way to ensure the purchaser that the lien is even collectable.

With the proposed amendments, A.B. 393 is a viable tool to enhance cash flow for the counties, and so on. The county has many options in this bill. I want to give you a simplified example of how this works. One year after delinquency on a parcel, the county would assess interest, penalties, and costs just as they do now. They would then have a choice. They could decide to do nothing and go on like they do now. They could draw parcels at random because it is totally their choice. Or they could decide to sell the particular tax bill, with interest, penalties, and costs, at a lien sale. They could decide to hold that one back. It is totally their choice. If it were a senior citizen who said, "I do not want to sell," they would not have to. There is no requirement to sell anything. If they think it would enhance cash flow and decide on selling a tax lien, an investor would buy

the lien on the delinquent parcel for the amount of the taxes, interest, penalties, and costs. The taxing entities, if it were the first year of the delinquency, would have the full use of that money for two years, assuming it ran the three-year course that it does currently. Otherwise, the money would not be available.

[Assemblyman Hettrick, continued.] If the parcel remains delinquent at the end of the second year, the county would again assess all interest, penalties, and costs and decide whether to sell a lien on that property. If they decide to sell the lien the second time, they offer the option to the buyer of the first lien. We do that because we do not want to have two liens out there and we do not want to have any issues over priority. If the buyer of the first lien declines to purchase the lien and decides to sell it to someone else, they can. The buyer of the second lien must redeem the first and take over both liens. Therefore, you have one lien in the paperwork.

The idea of doing this is to control and minimize the paperwork as much as possible for the county. The counties, the schools, and the state would have the revenue collected on the second lien sale for at least a full year more than if you do nothing under the present system. If the property tax on the parcel remains delinquent on the parcel at the end of the third year, a lien holder may commence an action, exactly as the county, and if you read the bill, under the exact same rules as the county. It says, "pursuant to the sections," and it lists the section numbers. It says they "may" commence a sale, but the county would have commenced a sale in the third year, anyway. That is the identical procedure to what we have now.

In the existing procedures today, counties go as long as three years without collecting the revenue. Under this procedure, the counties could collect two-thirds of the revenue before it went to sale, and they would have the use of the money. If the lien is not collectable in the end, it is the investors who lose the money, not the schools, counties, or State. This bill is enabling. It allows the treasurer to choose which delinquent parcels to sell, if any. If there is an auction sale, it transfers all equity remaining from the sale back to the delinquent taxpayer. This is exactly as it exists under the law pertaining to counties. If you had a parcel worth \$100,000 with a \$50,000 mortgage, and you have a \$2,000 delinquent tax bill, you had gone through the three years and sold the liens. At the end, the actions commenced and it went to auction. If it sells, the lien will be paid off with costs and interest. The mortgage holder will get paid off. The law specifies that the counties get a certain amount of money for having dealt with this. They get back some of their costs, and any remaining revenue, the net equity of the property, goes back to the property owner. This is exactly what happens if the county sells it. Nothing is changed in the way that this is handled.

[Assemblyman Hettrick, continued.] In regard to the bill, we will start with Section 2 and Section 5. Section 2 is describing what is going to happen; Section 5 is defining a tax lien. Section 6 addresses political subdivisions. This was amended and I may have my order slightly wrong. If I do, I apologize for that. Section 6 allows the county to sell the tax lien, but it says, "A government, governmental agency, or political subdivision cannot buy a tax lien." In this section, we have added a new provision in the law. Insurance companies like these because they get a guaranteed interest rate that is secured by a lien. It is a very secure, collateralized, monetary document. We have added in here that if you want to sell to an insurer, the insurer has to either have a home office in the state of Nevada or have a captive in the state of Nevada. Currently, Nevada's Captive Insurer Program is generating a great deal of revenue for this state. I think the people who have been willing to move their offices to Nevada and employ people here should get the right to buy these as any insurance company does.

Section 7 says that before a county can sell, they must adopt an ordinance determining how the sale will be done, the manner of the sale, and so forth. The National Tax Lien Association is very interested in this bill. They testified on it last time and indicated some of the things that the counties can do when they adopt the bill. They have a process to determine who is going to get to buy the lien. They have companies come in and make bids. They offer a premium to the county. They say, if you sell them this block of tax liens, they will give the county this amount of money as a premium. The county can use that money for the period of the lien, interest free. It is a benefit to the county to have the actual money in their hands. They would do that because maybe they can only invest money that day at 8 percent, and they could afford to buy the lien down from perhaps the 10 percent it was at. They would be able to make the 8 percent and collateralize the loan with a lien. It makes a lot of sense to get an interest rate that is better than they could plausibly get somewhere else, and the county gets the use of the money for free.

Section 8 says the "county treasurer may sell a tax lien against a parcel after the first Monday in June." There was some question about that in the past, but it appears to tie into the time when the rolls were determined who was delinquent and when it is available. It does not mandate the "have to." It does not say "on that date," it says, "After that day."

Section 9 says the "county treasurer shall issue a certificate of purchase to each purchaser of the tax lien." It describes what must be included. It says the interest rate will be established by the county board. It may not be less than 10 percent and no more than 20 percent. Some states have interest rates as

high as 36 percent allowed in tax liens to make it attractive for people to come and buy these things. We tried to hold that down so that it is reasonable.

[Assemblyman Hettrick, continued.] Section 10 says they must keep the information for each lien so they have it registered. Section 11 explains how a lost certificate would be replaced. The amended version of Section 12 says if the parcel sold with the tax lien is delinquent for the second year, the county treasurer shall collect the taxes using the existing procedures and notify the existing lien holder, who would then be allowed to purchase it. He could pick up the second lien, or it would be redeemed and resold if they chose to do that.

Section 13 details who may redeem a certificate, because some people may get an interest in the property. Section 14 requires the county treasurer to notify the lien holder that a lien has been redeemed, and to pay the lien holder upon presentation of the certificate of purchase. This says that the party who owes the taxes pays the county and not the lien holder. There should be no contact between the lien holder and the person who is delinquent on the taxes. This process is supposed to be identical to the existing process. The county has to collect the money, not the lien holder.

Section 15, as amended, allows the lien holder to commence an action for collection on the amount due on the certificate. That section says, pursuant to the existing statutes which determine how you can do that, how the notices are done, the time frames, et cetera. Everything is listed in NRS 361.5648 through 361.645.

Section 18 is cleanup language. Subsection 2 says this is proof for an action. You have to be able to say that if you need to commence action to collect money, the certificate will do that for you.

Section 19 limits the action of the persons who are delinquent, and/or the owners of the parcel. You cannot go around suing anybody else. The action is limited to the delinquent person or the owner of the parcel. The rest of this is procedural cleanup language. "Shall" was "must," and they have changed some language on page 10 of the mock-up ([Exhibit C](#)).

I would say again that this is enabling. Nothing requires that the counties have to do anything. I know the treasurers have concerns with this. I believe they will go to the county and say, "if you make me do lien sales, I am going to have to have four more people, more office space, and a variety of extra expenses." They are either going to get the people to do the job, or they are not. If they do not, they do not have to deal with it. The county commission can decide what it would like to do. If the county commission feels like it is worth it for them to

proceed, they can fund it appropriately and give the treasurers the appropriate money to get the job done. Beyond that, I would say it gives us an opportunity. I think there are a couple treasurers out there who think this is worth doing. Two years ago, the testimony was that Clark County had \$10 million outstanding in unpaid property tax. If you could collect just one-third of that, it would be significant in terms of cash flow.

Assemblyman Anderson:

In Section 12, I want to make sure I understand what is going to happen if there is a delinquency where the county makes a decision to not put the second tax lien up. Following this decision, there is a bankruptcy. Who gets paid first, the holder of the first lien, or the county?

Assemblyman Hettrick:

The delinquency, when it is created the second time, creates an automatic lien at the county level. You would have two liens. Somewhere in the statute it says in the case of tax liens, one lien does not have priority over another. I believe the two liens would be satisfied equally if there were enough equity in the property at sale to do so. Tax liens have priority over mortgages and other liens. I believe at the final auction, both liens would be paid in full.

Assemblyman Anderson:

Both liens would be treated as an official county lien for priority purposes on a bankruptcy sale. They would have to be satisfied with the assets, and that would be the advantage to the lien holder. He would not otherwise have that in a regular loan. Does he get to add any additional fees on his lien that have not already been prescribed by law?

Assemblyman Hettrick:

The lien certificate specifies what is included. He cannot come back and add other costs. He is entitled to get what is specified on the lien certificate by the treasurer, which says, whatever the amount of the tax due and any penalties and added costs. They can choose how to do that. If they want to sell the lien at the end of the year, they do not have to charge interest. They can decide to sell the lien on the tax bill itself because they are going to collect it if they sell it in a lien. While it has been delinquent for the year, they are going to get the money. You could argue whether they are entitled to penalties and interest. This says they will get them, so we are not taking any money away from the county. Obviously, it depends upon how you do it. It could be extra interest or it could be the same interest, depending upon how the county decides to handle it.

Assemblyman Anderson:

Yesterday, we heard extensive testimony in another meeting on how costs roll up relative to poor money management decisions. This priority may push out legitimate instrument holders against a property because of these types of roll-up costs.

Assemblyman Hettrick:

The lien holder may only collect the amount on the certificate. The interest, penalties, and costs are added by the county and would have been in the county lien anyway, whether they sold the certificate or not.

Assemblyman Anderson:

There is no administrative costing?

Assemblyman Hettrick:

No.

Assemblywoman Giunchigliani:

Is interest ever earned on the lien?

Assemblyman Hettrick:

Yes, interest is set by the county. They have the option to set it anywhere between 10 percent and 20 percent. That allows them to range within the market. The interest is charged in addition to the fees and what is in the contract.

Assemblywoman Giunchigliani:

So the person could wind up paying a lot more than they would have if they did not have the lien.

Assemblyman Hettrick:

Yes. If the county determined the lien was to be sold at 10 percent interest, they would pay 10 percent interest more. If the county is going to collect the money, theoretically, the county wouldn't have to charge their interest at 10 percent. If the lien holder bought it and charged 10 percent, it is the same interest they would have paid if they did leave it with the county. That could be done, but it is not what this bill demands. The county has the option to sell it however it wants to sell it.

Assemblywoman Giunchigliani:

There are businesses and companies that participate in this. What do they charge, and how do they get their fees?

Assemblyman Hettrick:

They buy the lien. They like the paper because it is fully collateralized by a lien. As Mr. Anderson pointed out, the lien has priority over most other debtors on property. They have a fully collateralized lien that is going to earn 10 percent interest, or whatever the county says. For people like banks, insurance companies, and large investors, a 10 percent, fully collateralized loan is better than a first deed of trust. It is a very good security document. The concern last time was that somebody buying these liens would go out and collect the money. This is incorrect. They do not want to collect the money because they would then have to go out and buy another lien. They want the lien to run its course. They will take the money when it finally goes to sale.

Assemblywoman Giunchigliani:

When it goes to sale, the interest must be paid based on what was negotiated by the county and added to the lien. What is the fundamental need for this?

Assemblyman Hettrick:

The idea is that we should be collecting the money. All of us are obligated to pay property taxes. Some people do not, for various reasons. This allows the county to have the ability to waive the right to sell a lien if it is a senior on a fixed income. They can do whatever they want. It changes nothing in that regard. Other people use this as a way to finance money, because it is a cheap way to finance money without doing anything. You just do not pay. You sit there for three years and hand them your check. Yes, you do pay penalties and interest, but if you cannot get a loan any other way, it is a cheap way to borrow money. You do not have to do anything. You do not need security, you don't need to fill out forms, and you don't have to guarantee anything. The rest of us pay our taxes. We should have the use of the money. I think the schools, the State, and the counties could use the money. It is interesting that with the property tax cap in A.B. 489, we all see the tax rate going down and one would assume fewer delinquencies. The interest will also be far less. There may actually be more delinquencies because you have now capped the bill. The bill is smaller compared to what it would have been. People may say that they want to borrow the money.

Assemblyman Sibley:

I have two examples in Clark County that have always bothered me, because I pay my taxes every year. One of them is a 16-acre property in Spanish Trails that was assessed at \$45 million last year. The guy owed \$576,000 in back taxes. He finally paid the taxes this year, but last year he filed a petition and had the assessment reduced to \$40 million because he felt the assessed value was too much. My next door neighbor owes \$53,000 in back taxes. The problem is that their taxes were \$22,000 and he tells his wife that he has three

years and that it is cheaper than putting it on his credit card. I like the idea of a way that the county can get their money. There are numerous examples with celebrities in Clark County, whereby they blame it on their bookkeeper and do not pay it for three years. I would like to see us get our money.

Assemblyman Parks:

Do we know what the amounts are by various counties? Are rural counties at a proportionally greater disadvantage? How many states employ this practice? Michigan and one other state opted out of this method.

Assemblyman Hettrick:

The number of parcels in the rural counties is higher by a number of parcels, but significantly lower in value. A lot of land got sold out there with somebody thinking it was a mining claim or something like that. Much of it has been abandoned and it is not worth a lot. On a proportional basis, I think there are a higher number in the rural counties, but I do not know that for a fact. At the time we did this, 28 states were selling tax liens. I believe one state opted out, but I do not know why. One state chose to do away with it. What we are doing is enabling, and if somebody does not want to do it, they do not have to.

Chairman Perkins:

I got an email from one of the treasurers that listed a couple of concerns. I think you have addressed most of them. Property owners would have to pay more if a tax lien certificate were sold because interest would be assessed on more than just the delinquent taxes. Is that the case with the bill?

Assemblyman Hettrick:

I saw that memo as well. It is true; they could pay more. If the county determines that the way it wants to sell is to charge its interest, penalties, and costs, it is their choice. We are going to collect, but this bill gives them the option. If they chose to charge all of that and then sell the lien with that included, they would collect all of their money up front and the taxpayer would have to pay the interest on the whole amount: taxes and their costs.

Chairman Perkins:

The person who bought the lien certificate cannot change the interest rate or charge additionally; it is all set by the county.

Assemblyman Hettrick:

Correct, but if the county chose to not charge the interest because they were going to get the money and the tax lien, the taxpayer would pay the exact same amount.

Chairman Perkins:

The other concern was that properties could be sold at a foreclosure sale initiated by the investor during a different time schedule than the county would.

Assemblyman Hettrick:

I tried to check with Legal because I had seen that question asked before, and I would be happy to confirm this to the Committee members and supply it to you as soon as I can. In Section 15, it says that the sale must be done pursuant to the terms of [NRS 361]. I believe that section determines when and how it can be sold. As such, I think it is pursuant to those provisions already in the law that must currently be followed by the county. I do not think it changes anything. I have heard the concern that somebody could sell it. I do not see why a company would come in, buy a tax lien to get a secured 10 percent return on investment, and then turn around and try to foreclose on it. It makes no sense. Why would you buy it in the first place? Why would you go through the trouble of spending the money to foreclose when you wanted to buy the tax lien to get the interest?

Dr. John Yacenda, Legislative Advocate, representing Capital City Investments and Global Contract Buyers:

These are entities that buy tax liens like people drink water when they are thirsty. As long as there is due diligence from the investor's point of view, there is an ease of transaction in almost every case, and it is a cash-rich environment. The reason I supported Assemblyman Hettrick in this bill is that the counties do hunger for the money.

There is something around \$7.6 billion to \$13 billion a year, nationwide, of taxes that are not paid. If you think about that revenue for counties and cities, you can understand the appeal. I think Mr. Hettrick explained it very well in his presentation. The important point to realize is that from the investor's point of view, this is a great deal. You spend \$100, and depending on the state or area, in six months that \$100 can become \$125. That is a pretty good deal. If you buy 100 properties and 100 tax liens, you are making a considerable amount of money at a very good, protected interest rate.

The small investor is the investor who looks for tax liens to convert to foreclosures. When a tax lien converts to foreclosure, that is an opportunity to actually purchase the property at a tax sale price. In some areas, there is actual bidding where the incentive to bid is to lower your interest rate. You are bidding for the property signal. You take 10 percent and someone else says they will take 9 percent. The award is going to go to the person with the lowest percentage. In other states the people will bid up. It varies, but the texture of this bill is that it enables counties to make some good decisions about

increasing revenues and allowing investors to make a fair return on their investments. Right now in this state we have tax sales. Was there an envisioned redemption period, Mr. Hettrick?

Assemblyman Hettrick:

The redemption period is identical to that of the counties. It is a three-year window before it goes to a sale.

John Yacenda:

The opportunity is to become rich off of the interest. If that is what it accomplishes, it is a benefit to the counties here in the state. That is how they make money. They do not make money any other way. They do not trade or buy the properties. For some hindsight, we just sent an investor with \$125,000 cash to a sale in New Mexico. When he arrived and bid, he was outbid substantially. We sent another one to Texas, and he ran, because what he was bidding on, when he did his due diligence, was land that is under water for half of the year. It is a rich environment and you will have to do some due diligence, but I think enabling it in our state would be beneficial to local economies and to the investor market.

Assemblyman Hettrick:

Anything that gets sold—if it sells in auction on the courthouse steps—anybody and everybody can bid. There are some provisions in some states that allow tax deeds, where the person who buys the tax deed ends up with the property. They can get it at a very inexpensive price. We did not do that. We left this to go to an auction and return the excess proceeds back to the owner who was delinquent in the tax. This is not intended to be a windfall for investors. They invested their money and they get a fair rate of return that can be set as low as 10 percent by the counties. One of the things we were told when we did this bill before is that when they come and do due diligence, they spend a great deal of money. They go out, travel, look at all the parcels, and have to be there for weeks at a time in order to attend the auction. It is great for the local economy because they are actually spending money while they are trying to invest money. It is a good deal.

Assemblywoman Giunchigliani:

Is it true that the county treasurers have to turn over the liens, after a certain amount of time, to the district attorney?

Assemblyman Hettrick:

In current state law, the window is three years. After three years, it is turned over to the county and then goes to auction or the tax lien sale. This would be the exact tax lien sale in the exact same time frame. The party will typically

come into the treasurer's office the day before or the morning of the sale. If the sale is at noon, they will walk in the door at 9:00 a.m. to redeem the whole thing so it all goes away. If they do not, it will go on to sale. The property is sold and you pay off all of the lien holders. If there is money left over, the equity will go to the property owner, just as it would in a county sale.

Assemblywoman Giunchigliani:

It is my understanding that they need to turn over a list of the delinquent to the DA in a much shorter time period—like 10 or 20 days—and then the DA may take action.

Assemblyman Hettrick:

The county turns it over to the DA, who must notice and do the things to make sure there is a sale. It then becomes a tax lien sale. They have to notice that it is going to take place on the courthouse steps. All of the property owners are notified in advance. You cannot just put it on the courthouse wall and say, "too bad."

Assemblywoman Giunchigliani:

That would be before the other lien came into play?

Assemblyman Hettrick:

No. If you do not pay your taxes at the end of the year, you automatically have a tax lien placed against your property by the county. This says, at that point, the county could sell the lien to an investor and collect the money just as if you paid your taxes. You are notified then because you are getting a delinquency notice after 10 days. You know immediately that you have a tax lien and you do not care that it is with an investor. The only difference is that if it goes to an investor, you may pay a bit more interest, depending on how the county decides to charge costs.

At the end of the second year, if you keep going, you will get the same notice: We have just placed another lien against your property for nonpayment of taxes. At the end of the third year, the notice you receive says, we are going to auction your property for the taxes. You have the option to either come in and pay or the property will be auctioned on the courthouse steps this day. That is exactly how it is handled by the county and it is exactly how it would be handled here.

Assemblywoman Giunchigliani:

Does the county negotiate individual contracts with both of these liens, or can they do one large one that says, if they enter into a bid and select some

company, you may charge 8 percent interest, which is then assessed on every lien?

Assemblyman Hettrick:

If the counties think this is going to be relatively expensive, the treasurers are concerned about this, and the due diligence issue is interesting because some properties are valuable, while others are half under water. The county has the ability to bundle a bunch of these together and sell the entire bundle. If you remember my example on the premium, they will say, whoever will give us the largest premium we will sell it to them as the sole buyer of this bundle. They bid for the right to buy the bundle. They are going to give the county a significant amount of cash, and the county is going to be able to sit on the money and earn interest in addition to getting the money. We have added wire transfer instructions because some of these can be millions of dollars. If Clark County decided to sell everything in one bundle, somebody would buy it.

Assemblyman Parks:

In NRS 361.635, it says that the treasurer shall prepare and deliver to the DA a list certified by the treasurer of all accumulated, delinquent taxes. It also says this is in excess of \$3,000. There is also permissive language for those over \$1,000 and under \$3,000. I am trying to understand the process. From the list, the DA will send notice of possible foreclosure if the amount is not paid within 20 days. Is it that list that a private party would seek to purchase collectively?

Assemblyman Hettrick:

No. When that list goes to the DA, the one that says you have 20 days, that list is the one going to the auction. The lien is automatically created at the end of the year by everyone when the bill is not paid. When that happens, that is the lien that they would sell. If you are delinquent one year and a lien is created, they will sell it right then. If you go another year, you could sell another lien. In the third year, it will go to the courthouse steps and be sold.

Assemblyman Grady:

Can you go over that one more time? I do not think the counties go to a tax sale at the end of the first year, if that is what I understood you saying.

Assemblyman Hettrick:

No, the county will not go to a sale at the end of the first year. It will create an automatic lien that the county can sell. In the third year, you actually go to the sale of the property.

Chairman Perkins:

Is there anything else to come before the Committee? [Meeting adjourned at 3:57 p.m.].

RESPECTFULLY SUBMITTED:

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblyman Richard Perkins, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Growth and Infrastructure

Date: April 7, 2005

Time of Meeting: 1:41 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
392	B	Maryanne Ingemanson	A.B. 392 information
393	C	Assemblyman Hettrick	A.B. 393 Mock-Up