

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

**Seventy-Third Session
May 19, 2005**

The Committee on Growth and Infrastructure was called to order at 1:49 p.m., on Thursday, May 19, 2005. Chairman Richard Perkins presided in Room 4100 of the Legislative Building, Carson City, Nevada, and, via simultaneous videoconference, in Room 4406 of the Grant Sawyer State Office Building, Las Vegas, 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:

Mike Sullivan, Legislative Advocate, representing the Nevada Golf Course Owners' Association

Michael Luce, Legislative Advocate, representing the Nevada Golf Course Owners' Association

Dino DiCianno, Deputy Director for Compliance, Nevada Department of Taxation

Aaron West-Guillen, Rural Coordinator, Nevada Golf Course Owners' Association

Chairman Perkins:

[Meeting called to order. Roll called.] We have three bills on our Work Session Document today ([Exhibit B](#)). Let's start with S.B. 170.

Senate Bill 170 (1st Reprint): Authorizes certain smaller counties to impose additional local sales and use tax under certain circumstances. (BDR 32-853)

Susan Scholley, Committee Policy Analyst:

Senate Bill 170, in its first reprint, was sponsored by Senator McGinness and heard in this Committee on April 28, 2005. The bill enables counties with a population of less than 100,000, which would include all counties, except Clark and Washoe Counties, to impose a one-quarter cent sales tax, upon a vote of the people, to support libraries, parks, recreational facilities, and programs and services for senior citizens. Testifying in support of the bill were representatives from Douglas and Lyon Counties and Carson City.

Several Committee members did have questions regarding some of the definitions in the bill. There is a mockup with proposed amendments (pages 3 through 10 of [Exhibit B](#)). There was also a conceptual amendment proposed by Assemblyman Hettrick for your consideration to add the "protection and preservation of agriculture," which is also attached in conceptual form. The measure passed unanimously in the Senate with one member excused, and there is no identified fiscal impact.

Assemblyman Hettrick's conceptual amendment has three components. It would add to the list of items on which the sales tax funds could be used: "the protection and preservation of agriculture." First of all, the bill would need to

add a definition of "agriculture." I used the existing definition of "agricultural use" in NRS 361A.030 [*Nevada Revised Statutes*], so this will give you a general idea. The Legal Division will make this look better. Secondly, there would be references added throughout the bill, as appropriate, to allow the proceeds to be used for the "protection and preservation" of agriculture. And finally, there is a provision in NRS Chapter 547 that relates to a \$1,500 cap on funds being given to certain agricultural districts. There would be a clarification that the funds that might be allotted under S.B. 170 would not be included in the \$1,500 cap.

[Susan Scholley, continued.] In the mockup (page 4 of [Exhibit B](#)), on page 1, line 15, there would be a clarification that golf courses are not included within the definition of a park or recreational facility. Also, somewhere in here would be the definition of "agriculture" if you accept Mr. Hettrick's amendment. I tried to show where the "protection and preservation of agriculture" would be included. On line 26 (page 5 of [Exhibit B](#)), at the request of Assemblywoman Giunchigliani, Mary Walker [Lobbyist, City of Carson City, Douglas County, and Lyon County] has proposed an amendment to delete "programs," and this would take programs out of the services for which the sales tax could be used to bond. I believe the rest of the amendments are simply inserting "protection and preservation of agriculture" in a number of places.

Assemblyman Grady:

Under the definition of "agriculture," and it is in the NRS somewhere, it states that you have to make at least \$5,000 a year. It gets away from the person that has five acres and a riding lawnmower.

Assemblyman Anderson:

I support the original bill, and while I appreciate the need for a combination for agriculture, I am not sure that the placement of the amendment relates to the original intent of the bill. I am not sure that I can support the expansion to "agriculture" if we are not going to include golf courses and driving ranges. I appreciate the need for clarifying that, but I am not as convinced about the agricultural question.

Assemblyman Hettrick:

This is Senator McGinness' bill. Senator McGinness and I met together with a group from agriculture. I have also talked to Douglas County, Mary Walker, and Dan Holler [County Manager, Douglas County], and they support the amendment. Senator McGinness also supported the amendment, and it was approved by him prior to putting it on to his bill. I would assure this Committee that this is not expanding this beyond what Senator McGinness wants it to do. He represents a part of Douglas County and agreed with this amendment.

Assemblywoman Giunchigliani:

At first, I did not think it was appropriate either, but with further thought, this is simply enabling legislation to allow them to assess the sales tax additionally. I would prefer doing the "agriculture" this way so it is a vote of the people, rather than going around what was voted down at the polls regarding the issue of the sales tax. I felt that was a reasonable compromise in that manner.

Assemblyman Hettrick:

In the past, Douglas County has put on the ballot a request to raise sales tax. Because the ranchers have not been farmers, they have opposed it every time. They put signs up saying "vote down the tax," and nothing passes for anybody. When we talked to them, they said they would support the tax if it would benefit them. I think it is a fair compromise, and that is what we were trying to do.

Assemblywoman Kirkpatrick:

What are some examples of how the tax could apply for agriculture?

Assemblyman Hettrick:

They pointed out to us that many years ago, when the CCRT [City-County Relief Tax] was established, it says in law that it was for the promotion of agriculture. In Douglas County, according to the folks that checked for us, none of that tax has gone to anything for agriculture. They are requesting an opportunity to fund somebody who can represent agriculture at the Douglas County Commission meetings to make sure proposed ordinances do not have a negative impact on them. At the same time, perhaps they could do some proactive things to help their situation in Douglas County. They are not looking to fund programs or buy ranches. They are looking for some money to make sure they get a fair shake in the process.

Assemblyman Anderson:

Douglas County has a relatively large agricultural area. If we exclude the agricultural holdings from the taxing increment, will that not increase the cost to the rest of the taxpayers in the county for the development of parks, even though the people living on agricultural land will still benefit from the parks and libraries also?

Assemblyman Hettrick:

The way I read S.B. 170, the county commissioners would have to put a request to increase the tax on the ballot and tell the voter what they were voting for. The voter would have to decide whether or not to do that. If they did not want to include money for agriculture, they could vote it down. If they did

want it, they could include it. This is merely enabling, allowing them to add agriculture to the list of things they could ask voters to approve.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO PASS SENATE BILL 170 WITH THE AMENDMENT TO CLARIFY THE \$5,000 THRESHOLD FOR INCOME LEVEL.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN ANDERSON VOTING NO.

Chairman Perkins:

We will move to S.B. 358.

Senate Bill 358 (1st Reprint): Revises provisions governing assessment of ad valorem taxes and special assessments upon property in common-interest community. (BDR 32-225)

Russell Guindon, Deputy Fiscal Analyst:

Senate Bill 358 (page 11 of [Exhibit B](#)) revises provisions governing the assessment of ad valorem taxes and special assessments upon property in common-interest community. The bill was sponsored by Senator Beers and heard in this Committee on May 3, 2005. The bill provides that, in the assessment and valuation of units within common-interest communities, the value of the common area or facilities must not be included in the assessed value. Testimony in support of the bill came from Senator Bob Beers, Marilyn Brainard, and Gary Milliken, representing the Community Association Institute. Dave Dawley, the Carson City Assessor, testified as neutral but raised several questions regarding current assessment practices with respect to common-interest communities and the assessments. There were no proposed amendments. The measure passed in the Senate with 18 votes in favor, 2 votes against, and 1 member was excused. There is no identified fiscal impact.

ASSEMBLYMAN HETTRICK MOVED TO DO PASS SENATE BILL 358.

ASSEMBLYWOMAN ALLEN SECONDED THE MOTION.

THE MOTION CARRIED WITH ASSEMBLYMAN ANDERSON,
ASSEMBLYWOMAN LESLIE, AND ASSEMBLYWOMAN PIERCE
VOTING NO.

Chairman Perkins:

We have Senate Bill 394.

Senate Bill 394 (1st Reprint): Makes various changes to provisions governing conveyance, subdivision and taxation of property. (BDR 32-258)

Russell Guindon, Deputy Fiscal Analyst:

Senate Bill 394 (page 12 of [Exhibit B](#)) makes various changes to provisions governing conveyance, subdivision, and taxation of property. This bill was sponsored by the Senate Committee on Taxation on behalf of the Nevada Assessors Association. The bill was heard in this Committee on May 10, 2005.

Senate Bill 394 makes various changes relating to county assessors. A summary of the bill's provisions and major intents was submitted by the county assessors and attached in the Work Session binder (pages 13 through 18 of [Exhibit B](#)). Testimony in support of the bill was given by Norma Green, Nevada Assessors Association, and representatives for the Carson City and Clark County Assessor's Offices. Representatives from Washoe County and the Washoe and Clark County School Districts testified with concerns about certain sections of the bill. Testifying on assessment procedures for golf courses were Bob Ostrovsky and others representing the Nevada Golf Course Owners Association, representatives or owners of golf courses, and the Las Vegas Convention and Visitors Authority.

Several amendments were proposed, and some additional amendments have been proposed since the meeting. One of the proposed amendments was from Washoe County with regard to the tax-deferred agricultural or open-space land to the local government and is in the binder (page 19 of [Exhibit B](#)).

The second amendment was made by the Nevada Golf Course Owners Association (pages 20 through 25 of [Exhibit B](#)) with regard to the provisions for assessment and valuation of golf courses.

The third amendment is the Clark County and Washoe County School Districts proposal (page 26 of [Exhibit B](#)) regarding the assessors' request for a 2 percent commission increase to be used for technology projects. The last amendment (page 28 of [Exhibit B](#)) was the Nevada Taxpayers Association in regard to the

assessment practices of golf courses, directing the Tax Commission to set golf course assessment standards and procedures.

[Russell Guindon, continued.] The measure passed in the Senate with 19 yeas, Senator Raggio not voting, and one member excused. The local government is the misdemeanor impact, and there was no fiscal impact for the State government.

Chairman Perkins:

As we deal with the first amendment, the Washoe County transfer of tax-deferred agricultural or open-space land to local government, are there any thoughts on that particular amendment? It is the amendment proposed by John Slaughter of Washoe County.

The second amendment (page 20 of [Exhibit B](#)) from the Nevada Golf Course Owners Association should be addressed by Mr. Sullivan, who can describe to us the discussions he has had since we heard this bill. Since this is an add-on at this part of the session, we want it to be explained fully.

Mike Sullivan, Legislative Advocate, representing the Nevada Golf Course Owners Association:

The amendment (page 20 of [Exhibit B](#)) you have today is more of a cleanup from your Committee and technical people. They took our amendment and made some changes based on Nevada law. I do not have anything technical to add, other than I think this does what we want the bill to do. We have some other thoughts, but this is the basic premise we wanted to get at.

Chairman Perkins:

When we first heard this amendment, there was concern about the value of golf courses because of the methodologies that are currently used. I think you proposed \$500 per acre, and this amendment shows \$2,860 per acre taxable. It also puts in an indexing figure so that we do not have to deal with this on an ongoing basis. I think that answers one of the concerns that the Committee had. Is it fair to say that your group is in agreement with this amendment?

Mike Sullivan:

There are some things that were in our amendment that are not in this amendment. It is something we can talk about and work with the Committee on. There were just some technical things that are not in this amendment.

Chairman Perkins:

Could you let us know what those things are? If there is a Floor amendment to come, I do not want the Committee to be blindsided by that.

Michael Luce, Legislative Advocate, representing the Nevada Golf Course Owners Association:

The first thing that was removed from this bill was the obsolescence factor, where we had a measure for determining the optimal use of a golf course and adjusting the value based on the amount of actual usage in different areas. The second thing that causes me some concern is that the reference to *Marshall & Swift* has been completely taken out. We suggested that *Marshall & Swift* should continue to be used when valuing the golf course improvements, but it was important that it be consistently applied throughout the State. It is not today. Sometimes it is three times as much in one area compared to another. As it stands, there is really no method in this amendment for valuing golf course improvements. I think there is a huge danger of having many inconsistencies within the valuation process.

Chairman Perkins:

I do not think the Committee would have a problem with maintaining the obsolescence approach; we do this for all commercial properties. I do not recall *Marshall & Swift* being mentioned in the original amendment, but I think it is certainly something that we could move forward with. Just because we adopt a concept does not mean that it will be the exact amendment the Committee adopts on the Floor.

Assemblywoman Giunchigliani:

I think the issue regarding the obsolescence was that it seemed to be an additional approach to what they were originally trying to get to, which was fair and equitable taxation. I think they have been able to make the case that this would not treat them any differently, and that is what we are trying to get to. Secondly, there has been a misapplication or an inconsistency of the application with the obsolescence approach. There was a variation from what we heard from the northern assessors and southern assessors. If the understanding is that the properties will be treated equitably, and it will help with the uniformity of the application, I think it will alleviate the concerns of some of the Committee members.

Chairman Perkins:

The *Marshall & Swift* piece was purely for the improvement and not for the land values. I am not sure that there will be an opportunity to argue obsolescence based on the land value, but who knows.

Assemblyman Anderson:

We did talk about *Marshall & Swift* in regard to developing standard criteria of statewide valuation. It would be the best way to approach golf courses, because there would be a level of consistency between the various assessors. I

thought that was one of the more positive approaches. I know the assessment of golf courses was excluded, and I was surprised when this one came forward. I do not want us to see another Floor amendment, but I am not sure we are willing to dictate the standards for assessment more than we already have to the Taxation Department.

Dino DiCianno, Deputy Director for Compliance, Nevada Department of Taxation:

That is something we already do on agricultural bulletins, rural bulletins, and personal property bulletins. That would not be an additional burden to us.

Assemblyman Anderson:

Maybe that's why it isn't in the bill. The question then is, why aren't the assessors doing that?

Assemblywoman Leslie:

Will there be a fiscal note on this bill? I got letters from the School Board and the Washoe County School District. One letter says it would cost the school districts \$2.5 million. Are we going to do anything about that?

Russell Guindon, Deputy Fiscal Analyst:

At this point in time, the Fiscal Division has not tried to do anything. I have seen some of the letters that Assemblywoman Leslie has referenced, and it is difficult to determine a value. We could probably get the assessors to tell us what the value of the golf courses are now, but it would be difficult and time consuming to do so with the presented amendment. I could talk to the county assessors and see if we could do something on that issue.

Assemblywoman Leslie:

I do not need an exact number, but is there going to be a fiscal impact?

Russell Guindon:

I have not had a chance to review this enough. I think the answer is yes, there will be a fiscal impact in terms of reducing the value, thus reducing the property tax revenues, but quantifying it would be difficult at this time.

Assemblywoman Giunchigliani:

That was going to be one of my questions. It leads back to the discussion that I don't want to lose sight of in this Committee. With the passage of A.B. 489, we also made a commitment that we would hold schools—or create a fund—to hold schools healthier with the capping of a voter override. I do not want us to lose sight of that. We may need to have a discussion about creating that fund, even if it is a small amount.

Chairman Perkins:

I think it is also important for the Committee to look at the proposed amendment by the Nevada Taxpayers Association, because the two amendments are in conflict. You have to use one methodology or the other. The Taxpayers Association wants to have the Tax Commission address this by regulation. It establishes that they shall do it by defining the various classifications, determining the valuations for each classification, establishing standards, and establishing schedules of depreciation. We cannot do both; we would have to do one or the other.

Assemblywoman Giunchigliani:

In Section 31 of the proposed amendment, it references the percentage change in the CPI [Consumer Price Index]. I believe that was from the Arizona law. Is that correct?

Brenda Erdoes, Legislative Counsel:

That was from the request to include inflation. That is the way we generally do inflation in Nevada law, so that was converted.

Chairman Perkins:

There are other issues that have been pointed out, and those are the 2 percent commission increase for the assessors, and Clark and Washoe Counties' suggestion on time limitations. Do we want to entertain the 2 percent increase or the time limitation? I don't remember hearing much testimony on the need for the 2 percent commission increase. The additional dollars would go to the assessor's office, but it will also have impacts on the various entities that rely on property tax.

Assemblywoman Kirkpatrick:

There are only two commercial driving ranges in the state of Nevada that are not connected with a golf course. In Section 30, subsection 2(a), why would we make those two entities separate from everybody else?

Brenda Erdoes, Legislative Counsel:

That was taken from Arizona law and the definition they used for "golf course."

Aaron West-Guillen, Rural Coordinator, Nevada Golf Course Owners Association:

The reason that the commercial driving ranges are specifically omitted from this is that typically you do not have the aesthetic value associated with just the driving range portion of it. You do not benefit from the open space and beauty associated with the golf course when you have just a commercial driving range.

Assemblywoman Giunchigliani:

There is a section on timeshares in the six-page section-by-section analysis (page 13 of [Exhibit B](#)). I want to make sure that it is not exempting them from paying the sales tax if they are in a dwelling or a unit. They should be subject to the sales tax. The expert to my left said that the language in the bill is more accurate and does require them to pay the sales tax.

Assemblyman Parks:

The writing in blue is a little confusing. The way the section is written, it says the same thing that it did before, but it revises the placement of that particular meaning. With regard to timeshares, it is based on the interval of time that the owner occupies the property. It seems appropriate.

Assemblyman Anderson:

If the owner sublets the timeshare, is it subject to tax because it is still in his name?

Assemblyman Parks:

It would not be taxed as long as the owner of the timeshare is occupying the unit. On the other hand, it would be a proportional taxable asset for the portion of time it is rented if the timeshare turns out to be a rental.

Chairman Perkins:

Let's move back through the proposed amendments. We have the Washoe County transfer of tax-deferred agricultural/open-space land to a local government. That does not seem to have any concern from the Committee members. Do we want to go over the Nevada Golf Course Owners Association amendment? We will use this with the changes as opposed to the Taxpayers Association having to use the Tax Commission. What do we want to do with the 2 percent commission increase for the assessors?

Assemblyman Hettrick:

This Body passed A.B. 392, which says the Tax Commission should write the regulations for uniformity and equality. I think that is an appropriate way to follow on this bill. I would say that we should have the Tax Commission determine the valuation as proposed by the Taxpayers Association.

Chairman Perkins:

My concern is that we have already burdened the Tax Commission with a variety of things this session, and this seems to be a tried and true approach that states have already used.

Assemblywoman Giunchigliani:

I would tend to lean towards Mr. Hettrick's idea, but I think the reason we are dealing with this is because the Carson assessor seems to be doing it according to *Marshall & Swift*, while the rest of Nevada is not. This would actually not impact them; it would make sure that everybody was on the same plane.

Chairman Perkins:

The *Marshall & Swift* only has to do with the improvements, and not the land value.

Assemblywoman Giunchigliani:

I think we want both, but I think we would be better off not going with the amendment by the Nevada Taxpayers Association, but the other amendment; it makes it pretty clear.

Chairman Perkins:

For the sake of clarity and time, the Chair will accept a motion that includes the Washoe County amendment (page 19 of [Exhibit B](#)) as referred to as (1) in your Work Session Document. We will also include the obsolescence and *Marshall & Swift* referral in the amendment (page 13 of [Exhibit B](#)) from the Nevada Golf Course Owners' Association. The amendment will be reworded to include those two items and come back to the members as we get it on the Floor. We will not include the commission increase of 2 percent.

ASSEMBLYWOMAN GIUNCHIGLIANI MOVED TO AMEND AND DO
PASS SENATE BILL 394.

ASSEMBLYMAN SIBLEY SECONDED THE MOTION.

Assemblyman Anderson:

I am sensitive to the issue of our expectations of the Tax Commission to set standards and procedures. *Marshall & Swift* is only one example of that, but we could direct them to use that. I understand that they are currently using that as their standard, even if not all assessors are following it. I want the reassurance that this is the case.

Chairman Perkins:

Mr. DiCianno, will we let *Marshall & Swift* be used for the improvements and that sort of thing? [Mr. DiCianno answered in the affirmative.]

Assemblyman Anderson:

I want to make sure that we are not precluding the Tax Commission from setting up the assessment standards and procedures by not including the fourth amendment in our act.

Chairman Perkins:

All we are doing with the amendment being adopted today is addressing the land value. All of the improvements should be done with the same procedures they used in the past.

Assemblywoman Leslie:

I am going to vote against the bill. I do not like the golf course amendment. I am concerned about its impact on the schools. I think it should have come forward as its own bill.

THE MOTION CARRIED WITH ASSEMBLYWOMAN LESLIE VOTING
NO.

Chairman Perkins:

Is there anything else to come before the Committee before our deadline?

Seeing none, we are adjourned. [Meeting adjourned at 2:33 p.m.].

RESPECTFULLY SUBMITTED:

RESPECTFULLY SUBMITTED:

Gregory Sharry
Recording Attaché

James S. Cassimus
Transcribing Attaché

APPROVED BY:

Assemblyman Richard Perkins, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Growth and Infrastructure

Date: May 19, 2005

Time of Meeting: 1:49 p.m.

| Bill | Exhibit | Witness / Agency | Description |
|---|----------------|--|--|
| | A | | Agenda |
| S.B. 170 S.B. 358 S.B. 394 | B | Susan Scholley, Committee Policy Analyst, and Russell Guindon, Deputy Fiscal Analyst | Work Session Document for S.B. 170, S.B. 358, and S.B. 394 |