

**MINUTES OF THE  
SENATE COMMITTEE ON TAXATION**

**Seventy-third Session  
April 28, 2005**

The Senate Committee on Taxation was called to order by Vice Chair Sandra J. Tiffany at 2:11 p.m. on Thursday, April 28, 2005, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Sandra J. Tiffany, Vice Chair  
Senator Randolph J. Townsend  
Senator Dean A. Rhoads  
Senator Bob Coffin  
Senator Terry Care

**COMMITTEE MEMBERS ABSENT:**

Senator Mike McGinness, Chair (Excused)  
Senator John Lee (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman Pete Goicoechea, Assembly District No. 35

**STAFF MEMBERS PRESENT:**

Chris Janzen, Deputy Fiscal Analyst  
Tanya Morrison, Committee Secretary  
Ardyss Johns, Committee Secretary

**OTHERS PRESENT:**

Carole Vilardo, Nevada Taxpayers Association  
Alexis Miller, Nevada Mining Association  
Dino DiCianno, Deputy Executive Director, Department of Taxation



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VICE CHAIR TIFFANY:

We will open the hearing with Assembly Bill (A.B.) 292.

**ASSEMBLY BILL 292**: Requires earlier filing of statements of estimated gross yield, net proceeds and royalties by persons extracting minerals. (BDR 32-1278)

ASSEMBLYMAN PETE GOICOECHEA (Assembly District No. 35):

Assembly Bill 292 changes the filing date for the estimates on net proceeds and royalties from April 1 to March 1. This estimate is for all net proceeds and royalties to be paid in the current year.

The bill also changes the date from April 25 to March 15 for the Department of Taxation to prepare and submit the estimate to local governments. The March 15 deadline for the Department of Taxation will give local governments the opportunity to have the estimate in hand before filing their tentative budgets with Taxation. This change is supported by the industry and local governments as well as the taxpayers.

CAROLE VILARDO (Nevada Taxpayers Association):

I am in support of A.B. 292. This bill will improve communications between the mining companies and local governments. By moving the date up, you are giving the local governments, in those communities where mining exists, the opportunity to talk to those companies in order to get an understanding of the estimates they receive. Currently, that happens after the fact. For the last three years, the mining companies have been trying to communicate even before the Department of Taxation gets the estimates to them. This is a good bill to allow better communication and better budget development.

ALEXIS MILLER (Nevada Mining Association):

We are also in support of this bill. It is a deal we worked out with the Department of Taxation to make it easier for them to get the estimates to the local governments. It will help the local governments, as well.

SENATOR RHOADS:

Will it cost the mining companies any more money?

MS. MILLER:

No, it will not.



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VICE CHAIR TIFFANY:

We will close the hearing on A.B. 292 and open the hearing on A.B. 67.

**ASSEMBLY BILL 67**: Authorizes Department of Taxation to suspend or revoke business licenses. (BDR 32-392)

DINO DiCIANNO (Deputy Executive Director, Department of Taxation):

Assembly Bill 67 is here for your consideration on behalf of the Department of Taxation. Basically, the bill grants the Department the ability to deny or revoke a business license for noncompliance with the business license statutes. I want to be very clear, the Department is only afforded a discretionary role here. In other words, the Department may revoke or suspend the business license of a person if they violate the statutes or the regulations associated with the business license. If we make that determination, the business is afforded due process, through a hearing, to determine whether or not they are in compliance. This would become effective on July 1.

VICE CHAIR TIFFANY:

What currently happens if a business fails to comply?

MR. DiCIANNO:

Nothing in the statutes prohibits the Department from renewing or to revoking the license. We simply issue another license.

VICE CHAIR TIFFANY:

My understanding is you have to wait until the anniversary date, and then you just do not issue a new license.

MR. DiCIANNO:

That is correct.

VICE CHAIR TIFFANY:

Are there a number of cases you could, or would, revoke due to violation?

MR. DiCIANNO:

Yes, we do have those.



VICE CHAIR TIFFANY:

Do you have any data on those? Obviously, there must be some reason for bringing this bill forward.

MR. DiCIANNO:

Conducting business in this State is a privilege. It is not a right. A business has the responsibility to comply with the rules and regulations this body adopts and the Governor signs. We constantly get calls by competitors saying they know for a fact an individual is not in compliance and want to know what we are going to do about it. Basically, we cannot do anything. Our goal is not to shut businesses down, but to educate and bring these businesses back into compliance with the statutes and regulations.

We are not just going to falsely accuse a business of not being in compliance. If we have made an error, it will come out in a hearing. If the hearing officer is in agreement with the business, it gets its license back.

VICE CHAIR TIFFANY:

Do you have a compliance division?

MR. DiCIANNO:

Yes, as a matter of fact, I am the head of the compliance division.

VICE CHAIR TIFFANY:

Would you have to add staff to do this?

MR. DiCIANNO:

No, absolutely not.

SENATOR CARE:

Allow me to make a rough analogy. The Secretary of State is empowered to revoke the charter of a corporation if it does not make its annual filings, or if it does not completely fill out its annual filings. The Secretary can do so, not because of any conduct engaged in by the business, but simply because it has not complied with the statute. Is that what you are talking about here? You are not looking at the way the business is conducting itself. You are talking about the licensing requirement under *Nevada Revised Statute* (NRS) 360.780.



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MR. DiCIANNO:  
That is correct.

SENATOR CARE:

If it is a corporation, you can revoke the license, but it might still exist as a corporation because it has complied with the Secretary of the State. It still exists, but now you have a dispute whether or not the corporation complied.

MR. DiCIANNO:  
That is correct.

VICE CHAIR TIFFANY:

We will close the hearing on A.B. 67 and open the hearing on A.B. 68.

**ASSEMBLY BILL 68**: Authorizes Department of Taxation to deny licenses or permits to persons liable to Department for payment of money. (BDR 32-390)

MR. DiCIANNO:

Assembly Bill 68 is before you for consideration on behalf of the Department of Taxation. Assembly Bill 67 flows with A.B. 68, however, this has a little different angle. Assembly Bill 68 provides an additional collection tool for the Department to refuse to issue a permit or license if a business is found delinquent with liabilities owed to the State. It requires us to provide the business a full, written explanation of the liability and the procedures for collection. If a business is aggrieved by any decision of the Department, it has appeal rights, whether it is with relation to A.B. 67 or A.B. 68. A business can go before a hearing officer and if it is not satisfied with his or her determination, it can appeal to the Nevada Tax Commission. If it is not satisfied with the decision of the Commission, it can then go up for judicial review. The Taxpayers' Bill of Rights flows through both of these bills.

VICE CHAIR TIFFANY:

Can you give us an example of the kind of delinquency owed to the State?

MR. DiCIANNO:

A delinquency could be the business license, the modified business tax, sales and use tax, tire tax or insurance premium tax. I could go on and on, because there are a number of potential liabilities.



VICE CHAIR TIFFANY:

How would you know if a business was delinquent?

MR. DiCIANNO:

In some cases, we receive what we refer to as no money returns on a monthly or quarterly basis from these businesses. In other words, they file their return, but then do not pay the liability. It could also be a circumstance coming out of a revenue deficiency determination or an audit.

VICE CHAIR TIFFANY:

You do not necessarily have all information available to you on a monthly basis. Would it even say, if you do not have workers' compensation coverage?

MR. DiCIANNO:

No, workers' compensation would not be in our purview. Assembly Bill 68 is specific only to taxes under the administration of the Department of Taxation.

VICE CHAIR TIFFANY:

Where in the bill does it say it is strictly under the Department of Taxation?

MR. DiCIANNO:

If you look at section 1 on page 1, it says "Chapter 360 of NRS is hereby amended by adding thereto a new section ...," which is what we are trying to get to here in the bill. That is to either refuse to issue or renew a license if those liabilities are not paid. *Nevada Revised Statutes* chapter 360 is the administrative chapter for the Department of Taxation and specifies the specific taxes we administer. It also contains the administrative provisions for the Nevada Tax Commission.

SENATOR CARE:

Is there any conceivable scenario in which a business could say it did pay those taxes? Could it become a factual dispute, and in the meantime, before it is resolved, you go ahead and revoke the license?

MR. DiCIANNO:

During the process, we would not shut down the business. It would be allowed to continue operating. We get complaints where we may issue a billing to a business and the owner of the business claims to have sent us a check. It then becomes a factual issue. It happens quite often.



SENATOR COFFIN:

Is it implied or do we have to specify that the Tax Commission would do the revocations? I am inclined to give this authority to the Department of Taxation. People who are in business and the professions see the hoops that people might have to jump through. I am inclined to see a list of these businesses submitted on a monthly basis to the Tax Commission so a person who feels aggrieved could contact a member of the Tax Commission and make a case.

MR. DiCIANNO:

It is important to understand the Department of Taxation is the staff of the Nevada Tax Commission. The Commission is the head of the agency. It establishes the policy we follow. Clearly, if you feel strongly about it, you could make that change. I will not argue against it, because I work for the Commission. We are the staff of the Tax Commission, which is a part-time board. It relies on us to carry out its policy, and we do. With respect to A.B. 68, if a business is not compliant as far as the collection of outstanding debts, the Commission requires we do our homework before we make any kind of decisions. If a business is aggrieved, it will be afforded a hearing. It will also be afforded a hearing in front of the Commission. We would want to move those as quickly as possible because businesses are trying to conduct their business on a daily basis. They are not going to wait for months on end for us to make a decision. That is not the case. What I do not want to see is an additional burden to the Commission. We would have to go to the Commission first, have the Commission make the decision and then go back. It makes more sense to me to start at the Department level and move up. However, it is a policy decision for this body.

SENATOR COFFIN:

I do not understand what you mean. You are implying there is an extra step in the process by going to the Commission, then back down to staff. It seems you prepare the document and lists of the month's expirations and/or lapses, and nobody has heard anything, so it is probably approved. Everything they do in the other aspects of the job is either in the form of an appeal or a final review of what the Department does.

MR. DiCIANNO:

That is absolutely correct. If this body feels more comfortable replacing the word Department with Tax Commission, it is in your purview.



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VICE CHAIR TIFFANY:

We will close the hearing on A.B. 68 and open the hearing on A.B. 163.

**ASSEMBLY BILL 163**: Revises provisions governing reporting and certification of gross yield and claimed net proceeds of minerals extracted for purposes of taxing such proceeds. (BDR 32-640)

MR. DiCIANNO:

Assembly Bill 163 is here for your consideration on behalf of the Department of Taxation. It speaks directly to NRS chapter 362, which has to do with the net proceeds of minerals tax. Basically, we are trying to remove an administrative hurdle for mine operators. The existing language within the statute requires a mine operator to request an extension to file an amended return. This change would remove that hurdle. In other words, if mine operators wish to file an amended return 30 days after February 16, they can do so without having to request it.

VICE CHAIR TIFFANY:

We will close the hearing on S.B. 163. We are adjourned at 2:34 p.m.

RESPECTFULLY SUBMITTED:

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Ardyss Johns,  
Committee Secretary

APPROVED BY:

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Senator Sandra J. Tiffany, Vice Chair

DATE: \_\_\_\_\_