

**MINUTES OF THE JOINT MEETING OF THE  
SENATE COMMITTEE ON TAXATION  
AND THE ASSEMBLY COMMITTEE ON GROWTH AND INFRASTRUCTURE**

**Seventy-third Session  
May 3, 2005**

The joint meeting of the Senate Committee on Taxation and the Assembly Committee on Growth and Infrastructure was called to order by Chair Mike McGinness at 3:51 p.m. on Tuesday, May 3, 2005, in Room 4100 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.

**SENATE COMMITTEE MEMBERS PRESENT:**

Senator Mike McGinness, Chair  
Senator Dean A. Rhoads  
Senator Bob Coffin  
Senator Terry Care  
Senator John J. Lee

**ASSEMBLY COMMITTEE MEMBERS PRESENT:**

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

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 2

**SENATE COMMITTEE MEMBERS ABSENT:**

Senator Sandra J. Tiffany, Vice Chair (Excused)  
Senator Randolph J. Townsend (Excused)

**STAFF MEMBERS PRESENT:**

Brenda J. Erdoes, Legislative Counsel  
Chris Janzen, Deputy Fiscal Analyst  
Susan E. Scholley, Committee Policy Analyst  
Ardyss Johns, Committee Secretary

**OTHERS PRESENT:**

Dave Dawley, Assessor's Office, Carson City  
Katie Hartig, Assistant Treasurer, Treasurer, Clark County  
Charles Chinnock, Executive Director, Department of Taxation

CHAIR MCGINNESS:

We will call this joint meeting to order. We are here in an attempt to make technical corrections to Assembly Bill (A.B.) 489, which was passed earlier in this Session.

**ASSEMBLY Bill 489 (4th Reprint)**: Provides for partial abatement of ad valorem taxes imposed on property. (BDR 32-1383)

BRENDA J. ERDOES (Legislative Counsel):

Starting on page 1 of your handout ([Exhibit C](#), original is on file at the Research Library), section 2 provides a procedure for a taxpayer to appeal a determination of whether a partial abatement from taxation applies to a parcel of property. This is something we did not have in the original bill. Section 3 authorizes tax assessors to allow partial abatement of the taxes on a single family residence when the taxpayer, for a good cause, fails to claim the abatement in a timely manner. This also sets out the time frame. Section 4 provides for the imposition of a penalty against a person who falsely claims a partial abatement from

taxation to evade payment of the tax. The penalty would amount to three times the tax deficiency. This is the same penalty currently provided in the statute for the sales tax where fraud is involved.

Section 5 specifies the order of applicability of partial abatements and exemptions from ad valorem taxes. This is to prevent confusion because, in some cases, it could result in a different amount of taxes due. Section 6 requires the Nevada Tax Commission to adopt regulations regarding the application for a partial abatement for single family residences when a parcel is used for multiple purposes. It also defines the primary residence of the owner for purposes of the partial abatement for single family residences.

Section 7 contains technical revisions. Section 8 clarifies the portion of the consumer price index intended to be used for determining the general property tax abatements. We thought we had it set out in A.B. 489, but several people said they were not clear as to which one we were using. Section 9 provides for the continuing administration of the recapture provision after the next biennium. Currently, it is tied to the 2 years with the July 1 date. Section 10 clarifies when a taxing entity may increase its tax rate when an increase is determined necessary to satisfy obligations secured by the proceeds of ad valorem taxes. It is for the purpose of not impairing bond contracts. It allows such an increase without the approval of the Nevada Tax Commission. Section 10 also exempts certain increases from the partial abatements from taxation in a manner not intended to jeopardize the amount of those partial abatements.

Section 11, under certain circumstances, prohibits a question submitted for voter approval of a tax exempt from partial abatements from indicating that no additional tax levy will result from the approval of the question. It also authorizes the combination of such a question with certain questions regarding the issuance of bonds and certain tax overrides. In addition, it allows the tax approved by the voters to be levied without the approval of the Nevada Tax Commission.

Section 12 revises the requirements regarding the provision of certain assistance and information for determining the value of the property using the income approach. Section 13 contains technical revisions. Section 14 contains

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 4

technical revisions as well, but it also clarifies that tax levies imposed pursuant to certain elections occurring before the enactment of A.B. 489 are not subject to the partial abatement from taxation. That section was meant to help Eureka County because it had imposed bonds not yet implemented before A.B. 489 was passed. This works for them. Finally, section 15 just refers to the effective date of these proposed corrections to A.B. 489.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Was it section 11 that clarified if the voters had ever done a rollover vote or a voter override, they would not be subject to the partial abatement regardless of when that occurred? I thought A.B. 489 said if the voters had approved an override, we were not going to go back now and reduce that amount.

MS. ERDOES:

Yes, the current section 11 says if you have a tax override in the future, it would be outside the caps. The past ones stay within it. The only ones you might consider different are those already passed, but not yet implemented.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Maybe I misunderstood. You are saying in A.B. 489, any previous voter override, regardless of implementation, was not subject to the partial abatement.

MS. ERDOES:

That was not what I intended to say. The existing voter overrides, currently being collected, are within the abatement. They are within the cap. This authorizes you to get outside the cap with a voter override of the cap. You would be overriding the cap. We only know of one exception, which is Eureka County, where the override had been authorized but is not yet in place because Eureka County cannot start imposing it until July 1.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Just to clarify, if, for example, the school districts in Clark and Washoe Counties already did their overrides, they are not subject to the 3 percent?

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 5

MS. ERDOES:

Yes. They are within that cap. All those currently collected are within the abated amount or the cap.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Does it impact what they are collecting?

MS. ERDOES:

Yes it does.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Even though the voters voted on an override projected out for a 10- or 20-year collection, we have now negatively impacted that vote?

MS. ERDOES:

You have, indeed. That is one way to look at it.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I do not know if that was our intent. Is that why we said we are going to have to bail them out? If that is the case, we need to be up front about budget shortfalls, but if the voters voted to do those rollovers, those should have been contained within the cap.

MS. ERDOES:

I might point out one exception, but it probably does not address what you are talking about because it does not go to the total amount of money you get. There is a bailout provision, so to speak, in that you provide it if the bond contractor or the bond service would be compromised. If you cannot pay the bond, there is an exception for the local government to raise the tax rate to pay the existing debt service. However, that is not the same thing because it does not go to protecting the amount agreed upon by the voters.

SENATOR CARE:

In defining "primary residence of the owner" in section 6, subsection 6 of [Exhibit C](#), it says, "Is designated by the owner as the primary residence of the owner in this State, exclusive of any other residence of the owner in this State ...." What would we do if somebody said they have a primary residence in Nevada and they have a primary residence in another state? I read this to mean

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 6

you, arguably, could do that, although I do not think that is what is intended. How would we ever know if somebody has a so-called primary residence in another state but declares a primary residence in Nevada?

MS. ERDOES:

The way this provision is stated, and what we thought was your intent, any person could have a primary residence in this State, so you would not be looking to whether there was a primary residence in another state. If you did choose to say you can only have a primary residence in one state, we would have to word it carefully. You would, in a sense, limit the application of the abatement to residents in the State, which I am not sure you can do, constitutionally.

ASSEMBLYMAN PERKINS:

There was a lot of discussion in both committees when we drafted A.B. 489 addressing putting together a fund, if needed, for implementation of the bill. I do not see it housed in this proposal. Are we still anticipating doing something like that?

MS. ERDOES:

You are correct. It is not in this proposal, and I am not exactly sure what you are asking. Two funds were discussed. One was somewhat of a bailout fund for local governments if they were adversely affected in a way you did not anticipate. The other was, perhaps, just seeking an appropriation to pay expenses local governments might incur to implement this, such as the reprogramming of the advanced data system. Neither of those is in this proposal. It was thought the appropriation could be in a separate bill that would go either through this Committee and then to the money committees or go separately to the money committees.

ASSEMBLYMAN PERKINS:

I am assuming this proposed bill draft request is going to require a joint waiver to get it introduced.

MS. ERDOES:

Yes, it would.

ASSEMBLYMAN MORTENSON:

Page 2, section 3 of [Exhibit C](#) says, "If the tax receiver of a county determines that a taxpayer has claimed and is entitled to a partial abatement ...." Is a taxpayer going to have to submit a claim for the abatement, or will it be automatic when it exceeds 3 percent?

MS. ERDOES:

The contemplated manner of carrying this out would be to send a card to each taxpayer. Just because a person's tax liability increased more than 3 percent, does not mean that person is entitled to the abatement. One of the requirements for abatement is to be in an owner-occupied, single family residence or eligible for the low-income rental abatement. The current plan is to send out a card, which you would sign, asking if you are in an owner-occupied, single family residence.

ASSEMBLYMAN MORTENSON:

I bet that is going to be a huge headache.

ASSEMBLYMAN ANDERSON:

I have concern with regard to section 4 of [Exhibit C](#), where it refers to "Any person who falsely claims ...," and then it says, "with the intent to evade the payment of the amount of ad valorem taxes required by law ...." Everybody would like to get out of paying taxes. Given the difficulty in determining the proper rate, are we going to go after people for merely trying to make sure they have all the property tax advantages they possibly can because they are confused? The standard of "to evade the payment" causes me a little concern. I would appreciate it if you could clarify that for me.

MS. ERDOES:

This was a difficult one for us to draft because we wanted to make it clear if you sign for an abatement to which you are not entitled, a penalty would apply. On the other hand, if you simply did something mistakenly, we would not want the penalty to apply. You may want to put some "knowingly" language in if you are concerned about that, but our intent was to make sure the card system of claiming these exemptions actually worked for the assessors to enforce.

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 8

ASSEMBLYMAN ANDERSON:

The card system caused me concern, too. The "knowingly" language would be more comfortable for me.

MS. ERDOES:

You might want to ask the assessors what those cards look like. It is my understanding you would sign a statement, under penalty of perjury, that you are in an owner-occupied, single family residence, which would indicate the abatement applies to you.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Say you are a person who owns three homes and two are rentals. Will you get a card for each one separately, or would you have it all grouped on one where you must select which one is your primary, owner-occupied residence?

DAVE DAWLEY (Assessor's Office, Carson City):

This is how we envision it. We have designed the card, which will have a choice of blocks to check. You can choose "primary residence," "rental property" or "other." The card will have the address of the property preprinted. If you have three properties, you will receive three cards, one for each property. If you check the block that says rental, we will send you a paper to fill out, which will give the exact breakdown of the rental property. You will verify how many bedrooms you have and what rents are received for those properties. We can then determine whether or not they fall under the 3-percent cap or the alternative cap. We are trying to make it as easy as possible. We realize we are not going to get a 100-percent return rate when we send out these cards. A number of counties are planning on sending out at least two cards per year.

ASSEMBLYWOMAN GIUNCHIGLIANI:

If you are living in your own home and you also own a rental property, if in 5 years, you want to move into the rental property and change it to your primary residence, does the 3-percent abatement follow you to the new property?

MR. DAWLEY:

We will send out the cards every year. If it is initially a rental and the next year you actually occupy the property, we will change it and put it on the 3-percent cap.



Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 9

ASSEMBLYWOMAN GIUNCHIGLIANI:

You can also cross-check because you will already have the self-identified properties in your computer.

MR. DAWLEY:

One problem lies in the fact we are not going to know if an individual owns different properties in different counties. We do not have a central database to discover that information. Also, an individual may frequently have properties with different names. One might be Michael J. Smith and the other might be held as Mike Smith. We would not know if they were one and the same.

ASSEMBLYWOMAN GIUNCHIGLIANI:

Hypothetically, we could have people getting the benefit of the 3-percent cap under duplicitous means.

MR. DAWLEY:

Absolutely, and this is why the penalty is there. If a person intentionally misinforms us this is actually his or her primary residence, the penalty would come into effect.

ASSEMBLYWOMAN GIUNCHIGLIANI:

That makes better sense to me. Do we have a database to do a cross comparison?

MR. DAWLEY:

At this time, we do not.

SENATOR COFFIN:

The State Treasurer also sends out a card each year enumerating the line items on the property. Is that universal through all the counties?

MR. DAWLEY:

That is a Clark County issue. Clark County sends out an actual postcard. In all the other counties, the line items are included in the taxpayers' tax bills.

SENATOR COFFIN:

I would urge the Clark County people to combine their mailings at this point, because the postage cost is high. It is going to cost \$350,000 for this new

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 10

mailing to the Clark County residents, not counting the second mailing going out to people on the business front. There has to be a way to combine the mailings. I do not know whether the statutes require the Treasurer to do something like this. If we do have to statutorily order it, that can go in this bill, too.

MR. DAWLEY:

It is a requirement, and Assemblywoman Weber is trying to expand it to include more information for the line items. I am not sure as far as Clark County is concerned whether or not that can be combined with another mailing.

SENATOR COFFIN:

If the statute requires Clark County to do this, we will probably have to consider making a change in the statute.

ASSEMBLYWOMAN GIUNCHIGLIANI:

If you put your properties into a family trust, who would be notified?

MR. DAWLEY:

We would still send out the card. The bill says if it is in a trust, it still qualifies for the primary 3-percent cap as long as the property is still primarily owner-occupied.

KATIE HARTIG (Assistant Treasurer, Treasurer, Clark County):

I would like to address the postcard issue. We do send bills to taxpayers who do not impound their accounts. The postcard is sent to those people who do have impounds, and the mortgage company pays the taxes. We are extending the postcard information to meet the requirement of this bill. We will have the amount prior to the abatement, the abated amount and then less, so the taxpayer will have all of that breakout information.

ASSEMBLYWOMAN KIRKPATRICK:

I want to go back to the 3-percent cap on the voter override. I am unclear where that falls outside the \$3.64 cap.

MS. ERDOES:

Assembly Bill 489, even with these changes, does not do anything with the \$3.64 cap. It does not authorize going above it, and it does not interfere with it.

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 11

The cap talked about here is really the abated amount. In other words, you are sort of capping it by capping at 3 percent. That is how the abatement works.

ASSEMBLYWOMAN KIRKPATRICK:

In layman's terms, are the voter overrides part of the \$3.64 cap?

Ms. ERDOES:

Yes, they are.

ASSEMBLYWOMAN KIRKPATRICK:

We are including the voter overrides in this 3-percent cap. We are not taking anything outside to move forward. We are leaving it as is. For instance, we are not taking the \$3.64 out. The amount in the City of Las Vegas is 33 cents. We are not taking that out and then doing the 3 percent. We are doing the 3 percent across-the-board.

Ms. ERDOES:

You are doing the 3 percent across-the-board for the existing voter overrides. Yes, they are included within that, so the 3-percent cap would apply to the whole tax rate. The exceptions are for those entities that previously had a voter override not yet implemented and therefore, that money is not currently collected. That exception is in the transitory provision at the end of A.B. 489. An additional exception is provided for in the bill, but modified here. In the future, if a local government wanted to put a voter override of this abatement cap on the ballot, that is provided for here. It also requires the ballot question to state to the voters that it would be outside the abated amount.

ASSEMBLYMAN ANDERSON:

All 17 counties will be treated the same, excepting Eureka?

Ms. ERDOES:

Eureka was the reason this was brought forward. We worded the provision so it would apply to any local government that had, by voter override, passed a bond issue or anything increasing a tax levy, but had not yet implemented it. The voter override passed in the last election will not be implemented until July 1.

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 12

ASSEMBLYMAN ANDERSON:

The reasoning behind this is the voters had approved this override in the last election cycle, and the implementation date was after this bill would have gone into effect.

MS. ERDOES:

That is correct. It had been approved by the voters, but the dollars were not being collected, yet. Thus, they were not included in the pool you are currently limiting.

ASSEMBLYMAN ANDERSON:

Does Eureka County happen to be the only one we know of falling under this category at this particular moment in time?

MS. ERDOES:

Eureka County is the only one I know about, but there may be others. You might want to check with bond counsel.

CHARLES CHINNOCK (Executive Director, Department of Taxation):

Two counties actually had a vote last year. One was Humboldt County and the other was Eureka County, so section 11 would apply to those two counties.

ASSEMBLYWOMAN GIUNCHIGLIANI:

We have two counties, and you are saying this is a transitory leg, which allows any future voter overrides to be outside, but not current ones. This possibly causes us to find a fiscal impact for the areas, at least for the school districts, because of the State obligation.

MS. ERDOES:

That is correct; however, the bill allows them to collect the amount of debt service currently obligated, even if it necessitates an increase in the tax rate. The ones impacted are the school districts allowed by a voter override for a specific amount of bonds in the future. The revenue would be less for those entities.

Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 13

ASSEMBLYWOMAN GIUNCHIGLIANI:

Is it those who could come forward and ask for funding assistance if bond counsel says so?

MS. ERDOES:

I do not know about that part.

ASSEMBLYWOMAN GIUNCHIGLIANI:

I am trying to remember back to the evening we did the conference committee. We discussed if the schools were impacted on their bonding or on their override, they could come back to the Legislature to ask for assistance to make sure they could cover the costs of the bonds. We talked about it, but we did not put any money into a fund.

CHAIR MCGINNESS:

The proper motion would be to ask for a waiver and make this proposal into a bill draft.

SENATOR CARE MOVED TO REQUEST A WAIVER FOR A NEW BILL DRAFT REQUEST THAT WILL BE A TRAILER BILL TO A.B. 489.

SENATOR RHOADS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TIFFANY AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Senate Committee on Taxation  
Assembly Committee on Growth and Infrastructure  
May 3, 2005  
Page 14

CHAIR MCGINNESS:

If there is nothing further to come before this Committee, we are adjourned at  
4:29 p.m.

RESPECTFULLY SUBMITTED:

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Ardyss Johns,  
Committee Secretary

APPROVED BY:

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Senator Mike McGinness, Chair

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

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Assemblyman Richard Perkins, Chair

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