

ASSEMBLY BILL NO. 392—ASSEMBLYMAN HETTRICK

MARCH 24, 2005

Referred to Committee on Growth and Infrastructure

SUMMARY—Makes various changes concerning regulation of property tax assessment by Nevada Tax Commission. (BDR 32-275)

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

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

AN ACT relating to taxation; requiring the Nevada Tax Commission to adopt regulations governing the assessment of property for the purposes of taxation; authorizing the Commission to award a property owner the amount of reasonable attorney's fees and costs incurred by the property owner by reason of a knowing violation of such regulations by a county assessor; requiring county boards of equalization and the State Board of Equalization to comply with such regulations; authorizing a taxpayer who reasonably believes that a county assessor, county board of equalization, the State Board of Equalization or the Department of Taxation has violated such a regulation to obtain declaratory relief without first exhausting his administrative remedies; requiring the award of attorney's fees and costs to taxpayers who obtain such relief; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 360.250 is hereby amended to read as follows:
2 360.250 1. The Nevada Tax Commission *shall adopt general*
3 *and uniform regulations governing the assessment of property by*
4 *the county assessors of the various counties, county boards of*



equalization, the State Board of Equalization and the Department. The regulations must include, without limitation, standards for the appraisal and reappraisal of land to determine its taxable value.

2. The Nevada Tax Commission may:

(a) Confer with, advise and direct county assessors, sheriffs as ex officio collectors of licenses and all other county officers having to do with the preparation of the assessment roll or collection of taxes or other revenues as to their duties.

~~(b) Establish and prescribe general and uniform regulations governing the assessment of property by the county assessors of the various counties, not in conflict with law.~~

~~(c)~~ Prescribe the form and manner in which assessment rolls or tax lists must be kept by county assessors.

~~(d)~~ (c) Prescribe the form of the statements of property owners in making returns of their property.

~~(e)~~ (d) Require county assessors, sheriffs as ex officio collectors of licenses and all other county officers having to do with the preparation of the assessment roll or collection of taxes or other revenues, to furnish such information in relation to assessments, licenses or the equalization of property valuations, and in such form as the Nevada Tax Commission may demand.

~~(f)~~ (e) Except as otherwise provided in this title, share information in its records with agencies of local governments which are responsible for the collection of debts or obligations if the confidentiality of the information is otherwise maintained under the terms and conditions required by law.

~~2~~ 3. Each assessor and any other such officer shall certify under penalty of perjury that in assessing property or furnishing other information required pursuant to this section he has complied with the regulations of the Nevada Tax Commission. This certificate must be appended to each assessment roll and any other information furnished.

~~3~~ 4. A county assessor or other county officer whose certificate is knowingly falsified is guilty of a misdemeanor. If the Nevada Tax Commission finds that a county assessor or other county officer has knowingly violated its regulations and thereby has caused less revenue to be collected from taxes, it shall deduct the amount of the undercollection from the money otherwise payable to the county from the proceeds of the supplemental city-county relief tax.

5. If the Nevada Tax Commission finds that a county assessor has knowingly violated a regulation adopted by the Commission governing the assessment of property, the Commission may award to a property owner the amount of reasonable attorney's fees and



costs incurred by the property owner by reason of the assessor's violation.

Sec. 2. NRS 360.291 is hereby amended to read as follows:

360.291 1. The Legislature hereby declares that each taxpayer has the right:

(a) To be treated by officers and employees of the Department with courtesy, fairness, uniformity, consistency and common sense.

(b) To a prompt response from the Department to each communication from the taxpayer.

(c) To provide the minimum documentation and other information as may reasonably be required by the Department to carry out its duties.

(d) To written explanations of common errors, oversights and violations that taxpayers experience and instructions on how to avoid such problems.

(e) To be notified, in writing, by the Department whenever its officer, employee or agent determines that the taxpayer is entitled to an exemption or has been taxed or assessed more than is required by law.

(f) To written instructions indicating how the taxpayer may petition for:

(1) An adjustment of an assessment;

(2) A refund or credit for overpayment of taxes, interest or penalties; or

(3) A reduction in or the release of a bond or other form of security required to be furnished pursuant to the provisions of this title that are administered by the Department.

(g) Except as otherwise provided in NRS 361.485, to recover an overpayment of taxes promptly upon the final determination of such an overpayment.

(h) To obtain specific advice from the Department concerning taxes imposed by the State.

(i) In any meeting with the Department, including an audit, conference, interview or hearing:

(1) To an explanation by an officer, agent or employee of the Department that describes the procedures to be followed and the taxpayer's rights thereunder;

(2) To be represented by himself or anyone who is otherwise authorized by law to represent him before the Department;

(3) To make an audio recording using the taxpayer's own equipment and at the taxpayer's own expense; and

(4) To receive a copy of any document or audio recording made by or in the possession of the Department relating to the determination or collection of any tax for which the taxpayer is



1 assessed, upon payment of the actual cost to the Department of
2 making the copy.

3 (j) To a full explanation of the Department's authority to assess
4 a tax or to collect delinquent taxes, including the procedures and
5 notices for review and appeal that are required for the protection of
6 the taxpayer. An explanation which meets the requirements of this
7 section must also be included with each notice to a taxpayer that an
8 audit will be conducted by the Department.

9 (k) To the immediate release of any lien which the Department
10 has placed on real or personal property for the nonpayment of any
11 tax when:

12 (1) The tax is paid;

13 (2) The period of limitation for collecting the tax expires;

14 (3) The lien is the result of an error by the Department;

15 (4) The Department determines that the taxes, interest and
16 penalties are secured sufficiently by a lien on other property;

17 (5) The release or subordination of the lien will not
18 jeopardize the collection of the taxes, interest and penalties;

19 (6) The release of the lien will facilitate the collection of the
20 taxes, interest and penalties; or

21 (7) The Department determines that the lien is creating an
22 economic hardship.

23 (l) To the release or reduction of a bond or other form of
24 security required to be furnished pursuant to the provisions of this
25 title by the Department in accordance with applicable statutes and
26 regulations.

27 (m) To be free from investigation and surveillance by an officer,
28 agent or employee of the Department for any purpose that is not
29 directly related to the administration of the provisions of this title
30 that are administered by the Department.

31 (n) To be free from harassment and intimidation by an officer,
32 agent or employee of the Department for any reason.

33 (o) To have statutes imposing taxes and any regulations adopted
34 pursuant thereto construed in favor of the taxpayer if those statutes
35 or regulations are of doubtful validity or effect, unless there is a
36 specific statutory provision that is applicable.

37 2. The provisions of this title governing the administration and
38 collection of taxes by the Department must not be construed in such
39 a manner as to interfere or conflict with the provisions of this
40 section or any applicable regulations.

41 3. The provisions of this section apply to any tax administered,
42 **regulated** and collected pursuant to the provisions of this title or any
43 applicable regulations by the Department.



Sec. 3. NRS 361.260 is hereby amended to read as follows:

361.260 1. Each year, the county assessor, except as otherwise required by a particular statute, shall ascertain by diligent inquiry and examination all real and secured personal property that is in his county on July 1 which is subject to taxation, and also the names of all persons, corporations, associations, companies or firms owning the property. He shall then determine the taxable value of all such property, and he shall then list and assess it to the person, firm, corporation, association or company owning it on July 1 of that fiscal year. He shall take the same action at any time between May 1 and the following April 30, with respect to personal property which is to be placed on the unsecured tax roll.

2. At any time before the lien date for the following fiscal year, the county assessor may include additional personal property and mobile and manufactured homes on the secured tax roll if the owner of the personal property or mobile or manufactured home owns real property within the same taxing district which has an assessed value that is equal to or greater than the taxes for 3 years on both the real property and the personal property or mobile or manufactured home, plus penalties. Personal property and mobile and manufactured homes in the county on July 1, but not on the secured tax roll for the current year, must be placed on the unsecured tax roll for the current year.

3. An improvement on real property in existence on July 1 whose existence was not ascertained in time to be placed on the secured roll for that tax year and which is not governed by subsection 4 must be placed on the unsecured tax roll.

4. The value of any property apportioned among counties pursuant to NRS 361.320, 361.321 and 361.323 must be added to the central assessment roll at the assessed value established by the Nevada Tax Commission or as established pursuant to an appeal to the State Board of Equalization.

5. In addition to the inquiry and examination required in subsection 1, for any property not reappraised in the current assessment year, the county assessor shall determine its assessed value for that year by:

(a) Determining the replacement cost, subtracting all applicable depreciation and obsolescence, applying the assessment ratio for improvements, if any, and applying a factor for land to the assessed value for the preceding year; or

(b) Applying a factor for improvements, if any, and a factor for land to the assessed value for the preceding year. The factor for improvements must reasonably represent the change, if any, in the taxable value of typical improvements in the area since the preceding year, and must take into account all applicable



1 depreciation and obsolescence. The factor for improvements must
2 be adopted by the Nevada Tax Commission in the manner required
3 in NRS 361.261.

4 ➡ The factor for land must be developed by the county assessor and
5 approved by the Commission. The factor for land must be so chosen
6 that the median ratio of the assessed value of the land to the taxable
7 value of the land in each area subject to the factor is not less than 30
8 percent nor more than 35 percent.

9 6. The county assessor shall reappraise all real property at least
10 once every 5 years.

11 7. The county assessor shall ~~establish~~ *use the* standards for
12 appraising and reappraising land *adopted by the Nevada Tax*
13 *Commission* pursuant to ~~{this section. In establishing}~~ *NRS*
14 *360.250. In using* the standards, the county assessor shall consider
15 comparable sales of land before July 1 of the year before the lien
16 date.

17 8. Each county assessor shall submit a written request to the
18 board of county commissioners and the governing body of each of
19 the local governments located in the county which maintain a unit of
20 government that issues building permits for a copy of each building
21 permit that is issued. Upon receipt of such a request, the governing
22 body shall direct the unit which issues the permits to provide a copy
23 of each permit to the county assessor within a reasonable time after
24 issuance.

25 **Sec. 4.** NRS 361.340 is hereby amended to read as follows:

26 361.340 1. Except as otherwise provided in subsection 2, the
27 board of equalization of each county consists of:

28 (a) Five members, only two of whom may be elected public
29 officers, in counties having a population of 15,000 or more; and

30 (b) Three members, only one of whom may be an elected public
31 officer, in counties having a population of less than 15,000.

32 2. The board of county commissioners may by resolution
33 provide for an additional panel of like composition to be added to
34 the board of equalization to serve for a designated fiscal year. The
35 board of county commissioners may also appoint alternate members
36 to either panel.

37 3. A district attorney, county treasurer or county assessor or
38 any of their deputies or employees may not be appointed to the
39 county board of equalization.

40 4. The chairman of the board of county commissioners shall
41 nominate persons to serve on the county board of equalization who
42 are sufficiently experienced in business generally to be able to bring
43 knowledge and sound judgment to the deliberations of the board or
44 who are elected public officers. The nominees must be appointed
45 upon a majority vote of the board of county commissioners. The



1 chairman of the board of county commissioners shall designate one
2 of the appointees to serve as chairman of the county board of
3 equalization.

4 5. Except as otherwise provided in this subsection, the term of
5 each member is 4 years and any vacancy must be filled by
6 appointment for the unexpired term. The term of any elected public
7 officer expires upon the expiration of the term of his elected office.

8 6. The county clerk or his designated deputy is the clerk of
9 each panel of the county board of equalization.

10 7. Any member of the county board of equalization may be
11 removed by the board of county commissioners if, in its opinion, the
12 member is guilty of malfeasance in office or neglect of duty.

13 8. The members of the county board of equalization are entitled
14 to receive per diem allowance and travel expenses as provided for
15 state officers and employees. The board of county commissioners of
16 any county may by resolution provide for compensation to members
17 of the board of equalization in their county who are not elected
18 public officers as they deem adequate for time actually spent on the
19 work of the board of equalization. In no event may the rate of
20 compensation established by a board of county commissioners
21 exceed \$40 per day.

22 9. A majority of the members of the county board of
23 equalization constitutes a quorum, and a majority of the board
24 determines the action of the board.

25 10. *A county board of equalization shall comply with any*
26 *applicable regulation adopted by the Nevada Tax Commission.*

27 11. The county board of equalization of each county shall hold
28 such number of meetings as may be necessary to care for the
29 business of equalization presented to it. Every appeal to the county
30 board of equalization must be filed not later than January 15. Each
31 county board shall cause to be published, in a newspaper of general
32 circulation published in that county, a schedule of dates, times and
33 places of the board meetings at least 5 days before the first meeting.
34 The county board of equalization shall conclude the business of
35 equalization on or before the last day of February of each year
36 except as to matters remanded by the State Board of Equalization.
37 The State Board of Equalization may establish procedures for the
38 county boards, including setting the period for hearing appeals and
39 for setting aside time to allow the county board to review and make
40 final determinations. The district attorney or his deputy shall be
41 present at all meetings of the county board of equalization to explain
42 the law and the board's authority.

43 ~~11.1~~ 12. The county assessor or his deputy shall attend all
44 meetings of each panel of the county board of equalization.



Sec. 5. NRS 361.375 is hereby amended to read as follows:

361.375 1. The State Board of Equalization, consisting of five members appointed by the Governor, is hereby created. The Governor shall designate one of the members to serve as Chairman of the Board.

2. The Governor shall appoint:

(a) One member who is a certified public accountant or a registered public accountant.

(b) One member who is a property appraiser with a professional designation.

(c) One member who is versed in the valuation of centrally assessed properties.

(d) Two members who are versed in business generally.

3. Only three of the members may be of the same political party and no more than two may be from the same county.

4. An elected public officer or his deputy, employee or any person appointed by him to serve in another position must not be appointed to serve as a member of the State Board of Equalization.

5. After the initial terms, members serve terms of 4 years, except when appointed to fill unexpired terms. No member may serve more than two full terms consecutively.

6. Any member of the Board may be removed by the Governor if, in his opinion, that member is guilty of malfeasance in office or neglect of duty.

7. Each member of the Board is entitled to receive a salary of not more than \$80, as fixed by the Board, for each day actually employed on the work of the Board.

8. While engaged in the business of the Board, each member and employee of the Board is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

9. A majority of the members of the Board constitutes a quorum, and a majority of the Board shall determine the action of the Board. The Board may adopt regulations governing the conduct of its business.

10. *The Board shall comply with any applicable regulation adopted by the Nevada Tax Commission.*

11. The staff of the State Board of Equalization must be provided by the Department and the Executive Director is the Secretary of the Board.

Sec. 6. NRS 361.395 is hereby amended to read as follows:

361.395 1. During the annual session of the State Board of Equalization beginning on the fourth Monday in March of each year, the State Board of Equalization shall:

(a) Equalize property valuations in the State.



(b) Review the tax rolls of the various counties as corrected by the county boards of equalization thereof and raise or lower, equalizing and establishing the taxable value of the property, for the purpose of the valuations therein established by all the county assessors and county boards of equalization and the Nevada Tax Commission, of any class or piece of property in whole or in part in any county, including those classes of property enumerated in NRS 361.320.

It is not necessary that the valuation of a class or piece of property has been the subject of a complaint or an appeal to a county board of equalization or the State Board of Equalization for the valuation of the property to be equalized pursuant to this section.

2. If the State Board of Equalization proposes to increase the valuation of any property on the assessment roll, it shall give 10 days' notice to interested persons by registered or certified mail or by personal service. The notice must state the time when and place where the person may appear and submit proof concerning the valuation of the property. A person waives the notice requirement if he personally appears before the Board and is notified of the proposed increase in valuation.

Sec. 7. NRS 361.410 is hereby amended to read as follows:

361.410 1. No taxpayer may be deprived of any remedy or redress in a court of law relating to the payment of taxes, but , *except as otherwise provided in this section*, all such actions must be for redress from the findings of the State Board of Equalization, and no action may be instituted upon the act of a county assessor or of a county board of equalization or the Nevada Tax Commission until the State Board of Equalization has denied complainant relief. This subsection ~~{must not be construed to prevent a}~~ *does not prevent:*

(a) A proceeding in mandamus to compel the placing of nonassessed property on the assessment roll ~~{ }~~; or

(b) *An action for a declaratory judgment pursuant to subsection 4.*

2. The Nevada Tax Commission or the Department, in that name and in proper cases, may sue and be sued, and the Attorney General shall prosecute and defend all such cases, but the burden of proof is upon the complainant to show by clear and satisfactory evidence that any valuation established by the Nevada Tax Commission or the Department or equalized by the State Board of Equalization is unjust and inequitable.

3. The Executive Director or any other employee or representative of the Department shall not seek judicial review of a decision made by the Nevada Tax Commission or the State Board of



Equalization, except in those cases where the State Board of Equalization has original jurisdiction.

4. A taxpayer who reasonably believes that a county assessor, county board of equalization, the State Board of Equalization or the Department in appraising or reappraising his property has not complied with the regulations governing such appraisal or reappraisal adopted by the Nevada Tax Commission may file a complaint in district court seeking declaratory relief. If the taxpayer prevails, the court shall, in addition to any other relief, award the taxpayer his reasonable attorney's fees and costs. As used in this section, "costs" include, without limitation:

(a) Costs for photocopies, facsimiles, long distance telephone calls and postage and delivery.

(b) Fees for court reporters at any depositions or hearings.

(c) Fees for expert witnesses and other witnesses at any depositions or hearings.

(d) Fees for necessary interpreters at any depositions or hearings.

(e) Fees for service and delivery of process and subpoenas.

(f) Expenses for research, including, without limitation, reasonable and necessary expenses for computerized services for legal research.



