SENATE BILL NO. 478–COMMITTEE ON COMMERCE AND LABOR

MARCH 26, 2007

Referred to Committee on Taxation

SUMMARY—Makes various changes regarding the appeal of property assessments made for purposes of taxation. (BDR 32-1392)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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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; authorizing an appeal of the assessed valuation of property by any aggrieved property owner or by a group of persons on behalf of a class of similar property owners; revising the provisions governing actions for the recovery of property taxes paid under protest; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill authorizes any aggrieved property owner to appeal the assessed valuation of his property by the county assessor to the county board of equalization, sets forth the filing requirements for such an appeal, and authorizes a group of persons to file such an appeal on behalf of a class of owners of similarly situated property. **Section 3** of this bill requires such a group of persons to provide a written authorization from each of those property owners authorizing the filing of that appeal.

Existing law authorizes a property owner to pay under protest any property taxes levied in excess of the amount the owner believes to be due and to bring a legal suit to recover the excess amount paid. (NRS 361.420) **Section 4** of this bill expands the grounds for such a suit to include noncompliance with a specific statutory or regulatory requirement for determining the value of property, and requires the court, if the taxpayer wins the suit, to award the taxpayer the appropriate refund plus his costs of suit and reasonable attorney's fees. Under existing law, a county is required to budget and levy taxes for the payment of a judgment entered in favor of a taxpayer in such a suit. (NRS 361.425) **Section 5** of this bill requires a county to include in its budget and tax levy a sufficient amount to pay for the costs and attorney's fees included in such a judgment.

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

Section 1. Chapter 361 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any owner of property who is aggrieved by the assessed valuation of his property by the county assessor for the current year may, regardless of whether that value was changed from the preceding year, appeal that valuation to the county board of equalization. The appeal must be filed on or before January 15 of the fiscal year in which the assessment was made. If January 15 falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day.

2. The appeal must be submitted in writing and include:

(a) The parcel number or other identification number of the property that is the subject of the appeal;

(b) The assessed valuation that is the subject of the appeal; and

(c) An address for the provision of notice by the county board of equalization of the time and place of the hearing of the appeal.

3. An appeal may be filed pursuant to this section by a group of two or more persons acting on behalf of a class of owners of similarly situated property who have similar grievances.

4. Upon the hearing of an appeal pursuant to this section, the county board of equalization may take any action authorized by NRS 361.345.

Sec. 2. NRS 361.334 is hereby amended to read as follows:

361.334 As used in NRS 361.334 to 361.435, inclusive ~~[:]~~ ***, and section 1 of this act:***

1. The term “property” includes a leasehold interest, possessory interest, beneficial interest or beneficial use of a lessee or user of property which is taxable pursuant to NRS 361.157 or 361.159.

2. Where the term “property” is read to mean a taxable leasehold interest, possessory interest, beneficial interest or beneficial use of a lessee or user of property, the term “owner” used in conjunction therewith must be interpreted to mean the lessee or user of the property.

Sec. 3. NRS 361.362 is hereby amended to read as follows:

361.362 Except as otherwise provided in this section, at the time that a person files an appeal pursuant to NRS 361.356, 361.357 or 361.360 ***or section 1 of this act*** on behalf of ~~[the]~~ ***an*** owner of ~~[a]~~ property, the person shall provide to the county board of equalization or the State Board of Equalization, as appropriate, written authorization from the owner of the property that authorizes the person to file the appeal concerning the assessment that was made. If the person files the appeal in a timely manner without the written authorization required by this section, he may provide that written authorization within 48 hours after the last day allowed for filing the appeal.

Sec. 4. NRS 361.420 is hereby amended to read as follows:

361.420 1. Any property owner whose taxes are in excess of the amount which the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The protest must be in the form of a separate, signed statement from the property owner and filed with the tax receiver at the time of the payment of the installment of taxes.

2. The property owner, having protested the payment of taxes as provided in subsection 1 and having been denied relief by the State Board of Equalization, may commence a suit in any court of competent jurisdiction in the State of Nevada against the State and county in which the taxes were paid, and, in a proper case, both the Nevada Tax Commission and the Department may be joined as a defendant for a recovery of the difference between the amount of taxes paid and the amount which the owner claims justly to be due, and the owner may complain upon any of the grounds contained in subsection 4.

3. Every action commenced under the provisions of this section must be commenced within 3 months after the date of the payment of the last installment of taxes, and if not so commenced is forever barred. If the tax complained of is paid in full and under the written protest provided for in this section, at the time of the payment of the first installment of taxes, suit for the recovery of the difference between the amount paid and the amount claimed to be justly due must be commenced within 3 months after the date of the full payment of the tax or the issuance of the decision of the State Board of Equalization denying relief, whichever occurs later, and if not so commenced is forever barred.

4. In any suit brought under the provisions of this section, the person assessed may complain or defend upon any of the following grounds:

(a) That the taxes have been paid before the suit;

(b) That the property is exempt from taxation under the provisions of the revenue or tax laws of the State, specifying in detail the claim of exemption;

(c) That the person assessed was not the owner and had no right, title or interest in the property assessed at the time of assessment;

(d) That the property is situate in and has been assessed in another county, and the taxes thereon paid;

(e) That there was fraud in the assessment or that the assessment is out of proportion to and above the taxable cash value of the property assessed;

(f) That the assessment is out of proportion to and above the valuation fixed by the Nevada Tax Commission for the year in which the taxes were levied and the property assessed; ~~[or]~~

(g) That the assessment complained of is discriminatory in that it is not in accordance with a uniform and equal rate of assessment and taxation, but is at a higher rate of the taxable value of the property so assessed than that at which the other property in the State is assessed ~~[.]~~ ***; or***

(h) That the assessment complained of does not comply with a specific requirement of this chapter or of any regulation of the Nevada Tax Commission regarding the determination of the value of property.

5. In a suit based upon any one of the grounds mentioned in paragraphs (e), (f) ***,*** ~~[and]~~ (g) ***and (h)*** of subsection 4, the court shall conduct the trial without a jury and confine its review to the record before the State Board of Equalization. Where procedural irregularities by the Board are alleged and are not shown in the record, the court may take evidence respecting the allegation and, upon the request of either party, shall hear oral argument and receive written briefs on the matter.

6. In all cases mentioned in this section where the complaint is based upon any grounds mentioned in subsection 4, the entire assessment must not be declared void but is void only as to the excess in valuation.

7. In any judgment recovered by the taxpayer under this section, the court ***shall award the taxpayer:***

(a) Any refund to which the taxpayer is entitled, and may provide for interest thereon not to exceed 6 percent per annum from and after the date of payment of the tax complained of ~~[.]~~ ***; and***

(b) His costs of suit and reasonable attorney's fees.

Sec. 5. NRS 361.425 is hereby amended to read as follows:

361.425 1. Nothing in NRS 361.420 or in any remedy provided in that section prevents the distribution or apportionment of the taxes paid under the provisions of NRS 361.420 into the various funds of the State and county. In the event of judgment in favor of the person bringing the suit to recover taxes claimed to be paid unjustly pursuant to NRS 361.420, the amount of the judgment plus the interest thereon, as may be fixed and determined by the court, must be paid out of the general funds of the State and county by the proper officers thereof as the respective liability of the State and county may appear.

2. In making tax settlements with the State, the tax receiver shall notify the State Controller of the amount of state taxes paid under protest, and then an amount equivalent to the amount of taxes paid under protest plus a reasonable amount of interest thereon, not exceeding 6 percent per annum after the date of the payment to the tax receiver, shall be deemed to be and hereby is appropriated for the purpose of satisfying any judgment therefor recovered against the State in a suit under the provisions of NRS 361.420.

3. When a judgment is secured under the provisions of NRS 361.420 and there is not sufficient money in the general fund of the county affected by the judgment to satisfy the judgment, the board of county commissioners of the county shall immediately levy and provide for the collection of a sufficient tax upon all the taxable property within the county, exclusive of the property of the person securing the judgment, to satisfy the judgment and any ***costs, attorney's fees and*** interest on the judgment as may have been fixed and determined by the court.

4. Annually, the boards of county commissioners of the respective counties shall provide in their respective budgets a reasonable amount of money and shall levy a tax to provide for the payment of ***any costs, attorney's fees and*** interest required in NRS 361.420 with respect to judgments which may be secured against the counties.

5. The Governor shall include in the biennial proposed executive budget of the State a reasonable amount of money to provide for the payments of interest required in NRS 361.420 with respect to judgments which may be secured against the State. If at the time a final judgment secured against the State pursuant to NRS 361.420 is presented for satisfaction there is not sufficient money in the State Treasury set apart for the satisfaction of the judgment, the State Treasurer shall satisfy the judgment from money then in the General Fund of the State.

Sec. 6. This act becomes effective on July 1, 2007.