

**MINUTES OF THE MEETING  
OF THE  
ASSEMBLY COMMITTEE ON TAXATION**

**Seventy-Fourth Session  
April 12, 2007**

The Committee on Taxation was called to order by Chair Kathy McClain at 1:52 p.m., on Thursday, April 12, 2007, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at [www.leg.state.nv.us/74th/committees/](http://www.leg.state.nv.us/74th/committees/). In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblywoman Kathy McClain, Chair  
Assemblyman David R. Parks, Vice Chair  
Assemblywoman Francis Allen  
Assemblyman Mo Denis  
Assemblyman Tom Grady  
Assemblyman William Horne  
Assemblyman John W. Marvel  
Assemblyman Harry Mortenson  
Assemblyman James Ohrenschall  
Assemblywoman Peggy Pierce  
Assemblywoman Valerie E. Weber

**COMMITTEE MEMBERS ABSENT:**

Assemblyman Morse Arberry Jr. (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblywoman Barbara E. Buckley, Clark County Assembly District No. 8  
Assemblyman John C. Carpenter, Assembly District No. 33  
Assemblyman Pete Goicoechea, Assembly District No. 35



**STAFF MEMBERS PRESENT:**

Russell J. Guindon, Senior Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Mary Garcia, Committee Secretary  
Gillis Colgan, Committee Assistant  
Brenda Erdoes, Legislative Counsel

**OTHERS PRESENT:**

Dave Dawley, Assessor, Carson City  
Andy Belanger, representing Las Vegas Valley Water District and  
Southern Nevada Water Authority  
Steve Walker, representing Truckee Meadows Water Authority  
Shaun Jillions, representing City of Henderson  
Seth Floyd, representing City of Las Vegas  
Al Kramer, Treasurer, Carson City, and representing Association of  
County Treasurers of Nevada

**Chair McClain:**

[Meeting was called to order at 1:52 p.m. Roll was called.] We will go ahead and get started with a work session first.

**Michael Nakamoto, Deputy Fiscal Analyst:**

The first bill today is Assembly Bill (A.B.) 209.

**Assembly Bill 209: Makes various changes regarding the imposition and administration of property taxes. (BDR 32-469)**

This is the county assessors' bill. The bill allows county assessors to disseminate information to taxpayers via regular mail or the Internet. It also revises the method by which qualified heating and cooling systems are assessed with respect to the property tax exemptions granted to those systems and revises the calculation method by which inflation changes are made for the purposes of certain property tax exemptions granted under Chapter 361 of *Nevada Revised Statutes* (NRS). Assembly Bill 209 increases the amount of property owned by certain fraternal organizations that may be exempted from the property tax and revises certain dates by which tax exemptions may be applied for during a fiscal year.

Assembly Bill 209 makes various changes regarding the filing of appeals of abatements and revises the allowable jurisdictions where judicial review of State Board of Equalization cases may be heard. The bill also revises the

method of collection of abated property tax that has been recaptured and allows the prospective expiration of the 2 percent commission that county assessors are allowed to keep to finance technology needs within the assessors' offices.

The Committee received testimony in support of A.B. 209 from Doug Sonnemann, the Douglas County assessor, and Dave Dawley, the Carson City assessor. Their testimony focused on the technical changes being made in A.B. 209 to various chapters within Chapter 361 of NRS. With respect to Sections 11 and 12, which revise the jurisdiction in which judicial appeals of State Board cases may be filed, Mr. Dawley noted that this change would provide for financial savings for the counties, as they could handle these cases within their own county rather than traveling to Carson City. Mr. Dawley also provided information about how the 2 percent technology commission has been used by the counties and indicated that the counties would like to continue receiving the commission in order to maintain the technology that has already been purchased.

Carole Vilardo of the Nevada Taxpayers Association also testified in support and proposed an amendment that would revise the appeal date for the application for abatements to January 15. That will be discussed later with the amendments. Frank Holzhauer from the Nevada State Council of the Knights of Columbus also spoke in support of Section 8 of the bill, which would remove the \$5,000 exemption limit on property owned by fraternal organizations.

Testifying in opposition to Sections 11 and 12 were Wayne Fischer and Jason Guinasso from Incline Village and the League to Protect Incline Assets. They had noted that limiting appeals to only the county in which the property is located would restrict the ability for taxpayers to appeal decisions made by the State Board of Equalization. The Committee also received a letter from Maryanne Ingemanson of the Village League, who also opposed those sections of A.B. 209.

There was also testimony from Anne Loring of the Washoe County School District and Jim Wells of the Nevada Department of Education raising concerns regarding the extension of the technology commission and its effect on the property tax revenues dedicated to K-12 education. Mr. Wells specifically noted that the technology commission reduces collections to each school district and estimated that the additional 2 percent commission would require the State to make up at least \$325,000 a year through the Distributive School Account (DSA). Ms. Loring requested that the sunset of that technology commission not be repealed.

Several amendments to A.B. 209 have been submitted. The first two are from the Nevada Assessor's Association. The first would amend Section 10, subsection 5, on page 11, to add the word "however" between the two sentences in that subsection. The Nevada Taxpayers Association had requested this amendment to clarify that the assessor may use the results of an appeal to adjust the assessed value in subsequent years when appropriate.

The second amendment was to amend Section 14, subsection 1(a) to revise the date by which appeals for the applicability of partial abatements must be filed. The request was to change that date from 30 days after the taxpayer receives notification to January 15 of the year in which the abatement was made.

Assemblyman Mortenson submitted an amendment that would provide a tax exemption to real property owned by the Archaeological Conservancy, a nonprofit group that purchases property for the purpose of conserving historical and archaeological items on that property. Jason Guinasso from the Village League submitted a proposed amendment that would strike Sections 11 and 12 from the bill and, as proposed in A.B. 209, these sections would revise the jurisdictions where judicial review of appeals to the State Board of Equalization may be heard.

There are also amendments proposed ([Exhibit C](#)) that would provide for the methodology of determining the taxable value of parcels in common interest communities that contain a community unit. These amendments clarify the definitions of "common element" and "community unit" for this purpose.

Finally, there are technical amendments proposed ([Exhibit D](#)) regarding partial abatement of property taxes established in A.B. No. 489 of the 73rd Legislative Session and Senate Bill (S.B.) No. 509 of the 73rd Legislative Session.

**Brenda Erdoes, Legislative Counsel:**

I would first like to explain the proposal that would change NRS 361.233 ([Exhibit C](#)). As Michael pointed out, it specifies a methodology for determining the taxable value of a parcel that includes a community unit: the value of the unit itself plus a proportionate value of the common element based on the total number of units. It is essentially the same as what is currently in the statute. It does provide that the total value of the common element be divided by the number of community units, with the resulting amount being placed on the units. However, this appears to be clearer, more specific, and easier to use.

This proposal also provides a clarification of the definitions of "community unit" and "common element" to make it easier to tell the difference between the two. This is an interesting area because you are not talking anymore just about

homeowners' associations and separate residences. You are also talking about the condominium units that are also common elements. There are many variations of this, and this language probably makes the whole statute work a bit better.

We also included a provision that states that the Nevada Tax Commission will adopt regulations to carry out this section in such a way as to avoid double taxation. That common interest community part has been the point of contention with this portion of the statute. Senator Beers had a bill a couple of years ago that worked on the double taxation angle of this, and we think this helps as well.

**Russell Guindon, Senior Deputy Fiscal Analyst:**

This technical amendment ([Exhibit D](#)) amends the section of statute regarding the alternative partial abatement from property taxes to ensure the partial abatement percentage cannot be less than zero nor greater than 8 percent. A two-part formula was approved under A.B. No. 489 of the 73rd Legislative Session. This was established by a two-part rule. It came to our attention that the way the rule is currently structured in statute, if the consumer price index (CPI) increases more than 4 percent, the alternative abatement percentage could be greater than 8 percent, which would not be in line with the intent and understanding of the Legislature as A.B. No. 489 of the 73rd Legislative Session was approved. Also, that current statutory two-part formula could result in a negative partial abatement if the CPI change would ever be negative. That is highly unlikely, but we wanted to make sure the statute would account for that, so in the event the CPI change would ever be negative, the abatement would be set at zero.

**Assemblyman Marvel:**

Have the assessors looked this amendment over?

**Dave Dawley, Assessor, Carson City:**

We have been in constant touch with Mr. Guindon about this amendment, so we are fine with it.

**Chair McClain:**

Are there any other questions? [There was no response.] I would like to process this bill. I would like to accept the amendments as written in the explanation, with the exception of taking out Sections 11 and 12; I think those need to stay in.

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 209 WITH THE AMENDMENTS TO ADD THE

WORD "HOWEVER" TO SECTION 10, SUBSECTION 5, OF THE BILL; TO CHANGE THE DATE BY WHICH APPEALS FOR THE APPLICABILITY OF PARTIAL ABATEMENTS MUST BE FILED FROM 30 DAYS AFTER THE TAXPAYER RECEIVES NOTIFICATION TO JANUARY 15 OF THE YEAR IN WHICH THE ABATEMENT WAS MADE; TO PROVIDE A TAX EXEMPTION TO REAL PROPERTY OWNED BY THE ARCHAEOLOGICAL CONSERVANCY; TO PROVIDE FOR THE METHODOLOGY OF DETERMINING THE TAXABLE VALUE OF PARCELS IN COMMON INTEREST COMMUNITIES THAT CONTAIN A COMMUNITY UNIT AND TO CLARIFY THE DEFINITIONS OF "COMMON ELEMENT" AND "COMMUNITY UNIT" FOR THIS PURPOSE; AND TO ENSURE THE PARTIAL ABATEMENT PERCENTAGE CANNOT BE LESS THAN ZERO NOR GREATER THAN 8 PERCENT.

ASSEMBLYMAN DENIS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY AND ASSEMBLYWOMAN ALLEN WERE ABSENT FOR THE VOTE.)

**Chair McClain:**

We are going to go back to the regular Committee now, and we will hear Assembly Bill 441.

**Assembly Bill 441:** Requires a local government to make payments in lieu of property taxes and real property transfer taxes on property it owns or acquires outside of its boundaries. (BDR 32-1299)

**Assemblyman Pete Goicoechea, Assembly District No. 35:**

[Distributed prepared testimony, a mock-up of amendment 3648 to A.B. 441, and map of Spring Valley Ranches in White Pine County ([Exhibit E](#)). Read from prepared testimony ([Exhibit E](#)).] I have here a mock-up of an amendment. As we moved into the bill, we realized it would impact entities we really did not want it to affect: existing infrastructure that was either out of a city into a county or out of one county into another county. Realistically, the concept here is that for properties that have been acquired after July 1, 2006, which is fiscal year (FY) 2006–2007, all that is required to avoid having to pay these taxes is an inter-local agreement or a simple resolution between the two Bodies.

White Pine County is really struggling. They submitted a letter ([Exhibit F](#)), but they could not afford to be here.

**Assemblyman John C. Carpenter, Assembly District No. 33:**

The purchase of those ranches ([Exhibit E](#)) concerns me because I do not think there is any question that the reason they are buying the ranches is that the pumping will most certainly impact that area. If they have the ranches, there will be nobody to file protests and complaints when they do not have the water. In their present situation, \$49,000 means a lot to White Pine County. They do not have money to buy police cars or a lot of other things, so this money would help. The transfer tax mainly goes to the State. A small percentage of it goes to the county. As Mr. Goicoechea said, this is a problem of equity. If the Nevada Department of Wildlife (NDOW) purchases a property, they are required to pay the ad valorem taxes, and we are in about the same situation here.

**Assemblyman Marvel:**

I am glad you brought that up because this has been required of NDOW for a long time, and they pay the county in lieu of tax. Is this what you are driving at?

**Assemblyman Goicoechea:**

No. The Nevada Department of Wildlife has to pay the tax at the same rate it was on the date they purchased the property, and that was 20 years ago. I am saying that in lieu of having an agreement in place, the taxes are paid at the current rate.

**Assemblyman Marvel:**

Are they going to maintain agricultural use of this land, or will it go into a special land category?

**Assemblyman Goicoechea:**

I believe they fully intend to manage them as ranch properties.

**Assemblyman Marvel:**

Then they will be assessed as agricultural.

**Assemblyman Goicoechea:**

If you look at the values here ([Exhibit E](#)), the assessed value on Nevada Land and Resource Company, LLC, is \$314,000, yet they paid \$22 million for it.

**Assemblyman Marvel:**

We do, by statute, have certain classifications for agricultural lands: second, third, and fourth class, pasture, cultivated, et cetera.

**Assemblyman Goicoechea:**

Right, and they will be maintained. Also, the \$49,000 loss is at the agriculture deferred rate. It is not truly what the property brought.

**Assemblyman Horne:**

You mentioned that the Nevada Land and Resource area, the red portion of the map ([Exhibit E](#)), was purchased by Vidler Water Company, Inc.?

**Assemblyman Goicoechea:**

That is right. That used to be the old Robison place. Vidler Water, which is the parent company of Nevada Land and Resource, bought it. At one point that ranch, the D. H. Robison Ranch, was the second largest tax-base property in White Pine County. Nevada Land and Resource or Vidler purchased that four or five years ago.

**Assemblyman Horne:**

I remember that. Vidler Water wanted to be able to purchase water. When they came to us with the request for Vidler to be able to purchase water, it was rather controversial. I was on the fence, and I was asked by you and Mr. Sherer if I would I support them doing that to give you some needed revenue, and I did. Now it seems like you are here saying you are not getting the tax money for it.

**Assemblyman Goicoechea:**

That was the Lincoln County Water District bill, which created a water district in Lincoln County. That has worked very well for Lincoln County. This is a different set of properties. I imagine this was anticipated to go the same way, but it did not happen in White Pine County, probably because White Pine County was so adamantly opposed to the exportation of water from Spring Valley. Vidler then, in fact, sold these properties to the Southern Nevada Water Authority (SNWA) for about a 500 percent profit.

**Assemblywoman Weber:**

On that \$49,000 property tax loss, do you know what percentage of the total property tax base that would represent?

**Assemblyman Goicoechea:**

No, I do not have those numbers. I had hoped somebody from the White Pine Assessor's office would be here. Clearly, when you couple it with the transfer tax loss, it is significant for White Pine County. As I testified in another committee, 30 percent of White Pine's revenue is now net proceeds, and they cannot survive on that either. Their total assessed valuation is around \$150 million, so I would say that amounts to approximately a \$450 million



ad valorem tax base. Because this is assessed, this would be significantly less, but we are talking about over \$100 million in cash paid for these properties.

**Assemblywoman Weber:**

And there is no offset to that loss?

**Assemblyman Goicoechea:**

No. At this point, without this bill, SNWA will tell you they are willing to sit down at the table and negotiate. However, I have a hard time making a county entity go down on its knees to negotiate. That is not fair. I say impose the taxes and then allow them to negotiate. At least that way there is a fallback position. White Pine County does not have a chance otherwise.

**Assemblyman Marvel:**

Would SNWA be regarded as a governmental entity that would be exempt from any type of property tax?

**Assemblyman Goicoechea:**

That is how they are being treated in White Pine County, as tax exempt. They pay no taxes on anything.

**Assemblyman Marvel:**

But they would be willing to sit down and pay something in lieu of tax?

**Assemblyman Goicoechea:**

Yes, I think clearly they are willing to sit down, but the concessions in that agreement are . . .

**Assemblyman Marvel:**

We have people from there. Maybe we can get them on record to see if they would do it.

**Assemblyman Goicoechea:**

I can go to my office and get the first settlement agreement. The bottom line is one of the conditions in the agreement was that the county withdraw its protests and not protest in the future.

**Chair McClain:**

We have a couple of other people who want to testify on this.

**Assemblyman Grady:**

Just to make sure I understand this, if an entity were to make an inter-local agreement, that would not be precluded in your bill. For example, two entities

could still make an inter-local agreement if they wanted to put a water tank on a hill?

**Assemblyman Goicoechea:**

That is correct. They could have an inter-local agreement or even a simple resolution between both parties.

Now back to Mr. Marvel's question. At the point where they reach a negotiated settlement, they do a resolution or an inter-local agreement and it is all over with. In the absence of that, though, let us talk about taxes.

**Chair McClain:**

How would this impact anybody else besides White Pine County and SNWA? This is a state law we are looking at.

**Assemblyman Goicoechea:**

That is exactly why the amendment is in place. It is only prospective, so anything that is in place today is grandfathered, and anything that was going to be built into the future would require a resolution between the two entities. Hopefully, you are not going to go into another jurisdiction. This could be as simple as a city moving into county or one city into another city, but at least you would hope they would have the blessings of both entities before they did that.

**Chair McClain:**

We have other people who want to testify on this, but personally I have heartburn with specialized legislation.

**Assemblyman Goicoechea:**

I do, too, and I would prefer that we did not have to bring it forward, but realistically this is probably just the start as we see acquisitions of private properties into other counties. It is something that is going to have to be addressed as we see the movement of more and more water.

**Chair McClain:**

I think you have to understand, too, that we are looking at the perspective that this is one state.

**Assemblyman Goicoechea:**

Again, we are just talking about the property tax from one jurisdiction to another.

**Chair McClain:**

Exactly. That is what I mean.

**Assemblyman Marvel:**

The Nevada Department of Wildlife does the same thing. They pay that in lieu of tax when they buy ranches for preserves.

**Chair McClain:**

We have six people here who have signed in to speak in opposition to the bill. We have SNWA, city of Las Vegas, Virgin Valley Water District, city of Henderson, Truckee Meadows Water Authority, and city of North Las Vegas.

**Andy Belanger, representing Las Vegas Valley Water District and Southern Nevada Water Authority:**

We appreciate the reason why Mr. Goicoechea brought this bill forward. We understand the concerns of White Pine County regarding their tax base. We understand they are in a severe financial emergency and that they are doing their part to get out of that financial emergency.

Our concern with this legislation primarily is that it is not necessary. From SNWA's standpoint, if this bill is designed to get SNWA to the table, then my testimony today is that we are at the table. We want to be at the table. We have spent the better part of the last four years trying to reach agreements with White Pine County—agreements that identify the areas of concern that White Pine County has and address those concerns. We have had two opportunities over the last four years where we have gotten together and come close, or at least closer than we used to be, to an understanding of how we can build this project in a way that protects some of those concerns of White Pine County.

From a payment in lieu of taxes standpoint, SNWA is on record as of February 21, 2007, when Patricia Mulroy testified before the Assembly Committee on Government Affairs that we will make payments in lieu of taxes as part of an agreement with White Pine County. I want to be clear that we have a record on that. We reached an agreement with Lincoln County in 2003, and we had an amendment to that agreement in 2006. Part of that amendment specifically required SNWA to make payments in lieu of taxes for property purchased in Lincoln County.

We at SNWA would like to approach all of these issues holistically. We do not want to use the Legislature as the mediator of the discussions between SNWA and White Pine County. We want to be at the table. We want to understand the concerns they want to address. In fact, on April 28, 2006, we provided a

proposal on how to address some of these issues. We offered White Pine County \$12 million for some water rights applications that they had in Spring Valley. Part of that was \$5 million for a mitigation fund that they would control completely. Of the remaining \$7 million, \$1 million would be paid up front and the other \$6 million would be paid over the next 20 years. We want to help White Pine County. We understand the concerns that they have. The one condition we had related to that agreement was that we want White Pine County to partner with us and to stop fighting against us so that we, as a state, can move forward with these issues in a productive way. We need to use the limited resources of both agencies not to fight against each other but to find common solutions that meet everybody's needs.

That is really the sum and substance of my testimony. We support, in concept, the idea that Mr. Goicoechea has. We want to make payments in lieu of taxes. We believe this bill is unnecessary to get us to the table.

**Assemblyman Mortenson:**

You are willing to pay in lieu of taxes, but you are insisting that White Pine County stop their protests, withdraw their protests, and not have any future protests against what you are doing.

**Andy Belanger:**

Yes. The intent of SNWA is to find a way that both sides can understand and figure out how this can work out for everybody. We understand their position. We would just like them to understand our position as well.

**Assemblyman Marvel:**

Do you have to get the approval of the State Engineer if you pump this water from these areas? If you change the use of the water from an existing water right, do you have to get a permit for the change or diversion?

**Andy Belanger:**

Yes, we would have to get a change in the manner of use for the water. We would potentially not have to change the point of diversion.

Let me make a point related to that. The reason we purchased ranches was not because we wanted to become the Southern Nevada Water and Ranching Authority. We purchased the ranches because we heard from the White Pine County citizens that one of their concerns was the environmental protection of that valley. They wanted to ensure that the rural lifestyle and ranching continued there.

That was also our concern and our wish. We purchased these ranches, and we intend to use them to ensure that we can comply with any environmental requirements that the federal government or the State Engineer might place upon our permits for the unused groundwater, and so we could maintain a ranching presence in that valley. We are not doing this to compete with other ranchers within the county or in rural Nevada as a whole. We are using ranching as an environmental tool to make sure we can do this the right way.

Our intent is to build this project in a way that protects those valleys. We believe the ranches help us provide the tools. We have communicated in open letters to White Pine County that the purpose for these ranches is to ensure that we have surface water rights that remain in those valleys. They are not intended for export out.

**Assemblyman Marvel:**

What assurance do the people of White Pine County have that this will not become another Owens Valley?

**Andy Belanger:**

The greatest assurance that White Pine County could have that this does not become an Owens Valley is to enter into an agreement that prevents it from ever becoming one. An agreement can contractually obligate SNWA to ensure their concerns are mitigated. We believe that is the only way. Legislatures might change, the general manager of SNWA might change, but contract law can be the only way that White Pine County can receive the assurances it needs.

**Assemblyman Grady:**

Mr. Goicoechea brought up a question on the appraisals. Were any of these ranches appraised?

**Andy Belanger:**

Our approach to how we came up with the prices for these ranches was that we looked at comparable ranch sales and recent purchases in the area. We also looked at the value of water for environmental purposes and municipal purposes. We did not look at this as a strict ranching operation, so we looked at the prices of water rights in the Las Vegas Valley and prices of water and land in the area.

We developed a formula that we have applied uniformly to all the ranch purchases. We pay a certain amount per acre of land. We pay a certain amount per acre for surface water rights. We pay a certain amount per

acre foot of groundwater rights. We pay a portion for supplemental rights. The formula dictates primarily what the purchase price will be. Then we also negotiate on farm equipment, infrastructure on the ranch, et cetera.

That is the approach we have used. I am not sure what Mr. Goicoechea was referencing when he mentioned the 20 percent appraisal. We would like to look into that. Obviously, our attorneys believe we did this the right way.

**Assemblyman Grady:**

Is there anything in statute that allows you to do it the way you are doing it?

**Andy Belanger:**

We believe there is. I cannot point to that specifically today, but our attorneys looked. We have been approached to purchase ranches ever since we filed the applications in 1989, and we have resisted those applications in the hopes that we could find some sort of common agreement with White Pine County. Absent that, we have purchased these ranches. We have looked at this issue considerably over the last several years as we have worked on this issue. We believe we did this within the bounds of the law.

**Assemblyman Grady:**

If you would share that with me, I would appreciate it.

**Steve Walker, representing Truckee Meadows Water Authority:**

The board of directors of the Truckee Meadows Water Authority, in their meeting of March 21, 2007, asked that I oppose this bill and represent that opinion.

**Shaun Jillions, representing City of Henderson:**

We have heard a lot about White Pine County and the SNWA today. We are concerned with how broad this language is and concerned for any future purchases we might have for right of way within the county that would not be within our jurisdiction.

**Seth Floyd, representing City of Las Vegas:**

I do not want to belabor the point, but simply to echo the concerns of the city of Henderson about the broad language in this bill.

**Assemblywoman McClain:**

Are there any questions? [There was no response.] Do we have anyone else?

**Assemblyman Goicoechea:**

I do hope the concerns of the Truckee Meadows Water Authority and the cities of Henderson and Las Vegas are satisfied by the amendment. We realized after we drafted the bill that it was rather far reaching. I think the amendment should address their concerns into the future. I am only asking that you pass this bill so the property tax does become the baseline—and the amount of money paid in the interim—until a negotiated settlement is reached.

As it pertains to appraisals, it is my understanding that any public entity, before it acquires or sells property, must have two appraisals in place or, in lieu of two appraisals, one appraisal with a public hearing. You cannot exceed that amount by 20 percent. I am assuming, because they are tax exempt, they are bound by the rest of state law.

**Chair McClain:**

Thank you, Mr. Goicoechea. I will officially close the hearing now on A.B. 441. We will open a work session and take Assembly Bill 433.

**Assembly Bill 433: Further limits the authority of public bodies to close meetings. (BDR 19-892)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

Assembly Bill 433 is one of the bills staff was working on up to the last minute in an attempt to get it moved out of our Committee today. This bill makes changes to the Open Meeting Law with regard to appeals heard by the Nevada Tax Commission. It was sponsored by the Speaker and was heard on March 27. The bill would allow the Tax Commission to close an appeal hearing to receive proprietary and confidential information upon request of the taxpayer and for good cause shown. Deliberations must be conducted, and all decisions regarding the appeal must be made, in an open meeting. The Commission must provide, at the public hearing, sufficient information for the public to understand the basis and rationale for the Commission's decision.

Testimony in support of A.B. 433 was presented by Speaker Barbara Buckley, who indicated that balance was needed between the right of the taxpayer to protect confidential information and the obligation of government to have open deliberations. The Speaker stated that exceptions to the Open Meeting Law should be narrowly drawn. She also raised concerns regarding the increasing historical trend of closed meetings by the Nevada Tax Commission.

The Committee also received testimony in support of A.B. 433 from Barry Smith of the Nevada Press Association; Joseph Turco from the American Civil Liberties Union of Nevada; and Neil Rombardo, the Carson City District Attorney.

Sam McMullen also testified in support of the bill, but suggested the Tax Commission be allowed to determine what parts of the meeting should be closed or open. Mr. McMullen also suggested clarifying the bill to state that confidential or proprietary information could not be discussed during the open portion of the meeting.

Thomas "Spike" Wilson, representing the Nevada Tax Commission, noted that he respected the motives and intent of A.B. 433, but voiced concerns regarding the bill. Specifically, he noted it would be difficult to deliberate in an open meeting, using confidential and proprietary information received in the closed meeting, without potentially violating the provisions of *Nevada Revised Statutes* (NRS) 372.750, which makes it a crime for a member of the Tax Commission to disclose confidential taxpayer information. Mr. Wilson also suggested an additional step be added to determine whether information should be deemed proprietary and confidential so the justifications for that request could be weighed along with the type of information being considered.

The Committee also received written testimony from Ray Bacon of the Nevada Manufacturers Association, who raised concerns that the definition of proprietary and confidential information applied only to financial information and not technological or process issues. He also stated that regulations had been developed by the Tax Commission that were reasonable, and that any law enacted by the Legislature should only codify these regulations.

The Committee also received written testimony from Carole Vilardo, President of the Nevada Taxpayers Association, raising concerns with the deliberation of confidential information within the open meeting. Ms. Vilardo also questioned whether the determination of good cause should, itself, be made within the open meeting.

A proposed amendment to A.B. 433 has been developed between the Speaker and the interested parties. The amendment would add certain requirements to the Tax Commission as part of this determination: that they would decide as soon as possible after closing the hearing whether the information was properly classified as proprietary or confidential. If it was, the Commission would proceed and gather the information at the closed meeting. If it were not determined to be proprietary or confidential, they would immediately reopen the meeting. After the information was gathered, the Commission would be required to open the meeting to the public and begin deliberating in a manner that would not make public any of the confidential information. The Commission would also be required to adopt regulations establishing procedures for this that must be followed.



**Assemblyman Horne:**

I cannot tell what is the new amended language in the mock-up of this bill.

**Michael Nakamoto:**

I believe the bulk of the amended language is in Section 2, subsection 2, beginning on page 4, line 6. That is, "as soon as practical after closing a hearing pursuant to subsection 1: The Commission shall make a determination as to whether the material to be presented in the hearing is properly classified as proprietary or confidential information." It goes on to state that if it is not found to be proprietary or confidential, the Commission will immediately open the hearing again. Then it goes through, in subsections 3 and 4, to further describe the requirements. Within subsection 5 are additional requirements that the Commission has with regard to what information must be given when they explain the rationale for their decision in the open hearing. They must give the name of the taxpayer, the amount of the liability including interest and penalties, and so on.

**Assemblywoman Barbara E. Buckley, Clark County Assembly District No. 8:**

My office worked very long hours with some of the interested parties in trying to address the concerns that were raised at the hearing. I think the mock-up you have before you is clear, which is one thing this process needs. We do not need more Open Meeting Law violations. We do not need more lawsuits. The basic framework of this was outlined very well by Michael Nakamoto. If there is a concern about proprietary or financial information, the Tax Commission goes behind closed doors to hear that offer of proof. If it is not deemed confidential in nature, they go back to an open hearing. If it is, they receive that information and they can ask questions about it. Then they are required to go back into a public meeting, to deliberate in public, and to issue information including the name, the amount of the liability, and the type and general nature of the tax.

I do not know that all the interested parties are happy. My sense is that the Tax Commission wants to write the law instead of allowing the Legislature to do it. Also, there is still a sense of the Commission wanting to keep things more closed to the public. However, it is my strong opinion that a government that operates behind closed doors is a government that is not to be trusted.

What we did in this amendment was establish a process whereby the Tax Commission can consider confidential or proprietary information behind closed doors without getting sued. We think the taxpayer is entitled to that, but the general discussion of why a tax break is being granted must be done in public.

**Chair McClain:**

Thank you. Are there any questions? [There was no response.]

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS ASSEMBLY BILL 433 WITH THE AMENDMENT TO REQUIRE THE NEVADA TAX COMMISSION TO DETERMINE WHETHER TAXPAYER INFORMATION IS PROPRIETARY OR CONFIDENTIAL AND TO CONDUCT DELIBERATIONS AND MAKE DECISIONS IN OPEN MEETING.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

**Assemblyman Marvel:**

I want the record to show that I am abstaining from voting. I have a conflict of interest.

THE MOTION PASSED. (ASSEMBLYMAN MARVEL ABSTAINED FROM THE VOTE. ASSEMBLYMAN ARBERRY WAS ABSENT FOR THE VOTE.)

**Chair McClain:**

Now let us go back to the hearing and take Assembly Bill 585.

**Assembly Bill 585: Makes various changes to provisions governing public financial administration. (BDR 32-336)**

**Al Kramer, Treasurer, Carson City, and representing Association of County Treasurers of Nevada:**

This bill is basically a cleanup of many little issues, and I do not think any of them are particularly controversial. Section 1 changes the interest rate on overpayments of taxes. It actually falls right in line with something done by the Department of Taxation for several other chapters dealing with overpayments of taxes, bringing the interest rate to 0.5 percent a month or 6 percent a year. Does anybody want me to go through each of the several sections?

**Chair McClain:**

Has anybody read this enough yet to be able to ask questions? We will let you go through it quickly. Could you especially point out why a two-thirds majority vote is required on this bill?

**Al Kramer:**

I was surprised when I saw that two-thirds majority vote requirement for Section 1, which changes the interest rate. Section 2 says if there is a question

from the taxpayer on the abatement of the decision made by the assessor, it shall go to the treasurer for review. We treasurers do not really feel we are in a position to be second-guessing the assessors, and we feel it ought to be the assessor or the Tax Commission itself that does that. We changed it back to tax assessor.

Section 3 basically talks about overpayments. If an overpayment is less than the cost of collecting taxes, it brings in some of that language for collecting very small amounts that just are not worth it. The same chapter talks about personal property and not collecting the taxes when they very small. We want to bring in that language. Sometimes there is a de minimis amount when a taxpayer winds up owing us \$5 or \$3 at the end of the year. Sometimes they pay \$2 or \$3 extra.

We would like to be able to use common sense and not have to collect that extra \$3 or necessarily refund the \$3. If they come in and ask for it, we have it on the record and we can give it to them, but to process a check from the county for \$3 really defies business sense. There is really a lot of controversy among the treasurers about setting a \$5 limit because how many people are automatically going to send their checks in for \$5 short? We hope there will be none because this is not meant to give somebody a break; it is meant to clean up the action at the end. That is one of the items noticed as requiring a two-thirds vote.

Section 4 says that there is interest applied at the rate of 10 percent per annum on prior year taxes owed from the date due until paid. The reference to a monthly rate was not in there before, and it was not clear if the interest was to be compounded daily or what. We wanted to get a number out there that worked—10 percent calculated monthly at the beginning of the month—and go forward with it.

Regarding Section 4, paragraph 6, when we get a property ready for sale for nonpayment of taxes we will typically go to a title company to have a preliminary title search done to find all the people with an interest in that property. Then we send out certified letters based on that list. We would like to say that if we have done that and we have neglected someone, we are not liable for having missed that person. If we go to a licensed title company and they give us a list of names, and if we respond to all those names, we do not want to be held liable because they missed a name.

In Section 5, in addition to adding cleanup language on delinquent taxes, penalties, interest, and costs, there is reference to interest being assessed monthly. Section 6 moves the language specifying the criteria for anybody who

is a finder for excess proceeds of a sale from NRS 361.585 to NRS 361.610. Senate Bill 375 deals with that language, and compromise was made on how we do that. That language will change. I am sure that as the two bills interact, we will be willing to accept the S.B. 375 language. That bill has passed out of committee and is up for a floor vote in the Senate.

Section 7 clarifies a question about the deed that conveys to the county treasurers a trust deed for the State. This was in answer to advice given to us to specify what the deed is instead of just saying "the deed." There are specific rules in statutes having to do with irrigation rights and such that, though arcane, somewhat contradict what we are dealing with here, and we want to acknowledge that there are some other rules that may apply.

In Section 8, paragraph 4, the basic change says that most of us know what a quitclaim deed is, but an absolute deed is not quite as well known or understood. We tried to put in a word there to show that we understood what it was, using the word "quitclaim."

**Chair McClain:**

But it basically means the same thing?

**Al Kramer:**

As we understand it, yes, it means the same thing. Our intent is not to change the meaning.

To give you an example of Section 9, Carson City had a property that was delinquent in taxes to the third year, and the treasurer took a trustee's deed to it. It was an apartment building. According to Section 9, I was to go out and collect the rent on that apartment building until the taxes were paid. I went to the district attorney (DA) and asked how to do this. The DA said he was not going to let me do that. He told me to just process it, and if they did not pay their taxes, we would sell the property at auction. We found that NRS 361.605 had some language in it that really was not enforceable. This is an attempt to get rid of the bad language and save some that may actually be useful at some future time.

Section 10 brings language back in from NRS 361.585 that deals with those who find people who have excess proceeds coming to them. This will be modified, in my opinion, by what is being done in S.B. 375.

Section 11 talks about actual penalties and costs that go onto different bills to get the word "interest" in there. It must be paid to the General Fund for use to the county.

Section 12, NRS 361.635, we are changing “within three days after making the publication required” to the second Monday in June. The dates are piled on each other as they are, and we use the second Monday in June several times. If we say three days after something else, citizens may not know when that is, but they know what the first or second Monday in June is. We are trying to make it a little more straightforward and understandable.

Right now we have to prepare certain lists of delinquent taxpayers for the DA or the county board of commissioners to review so they can be sure and collect those taxes. The rules are based on taxes over \$1,000 and taxes over \$3,000. When this was written, I guess \$1,000 and \$3,000 were large amounts of money to worry about collecting. I would venture to say that a vast majority of the property parcels in Nevada that have taxes on them meet the \$1,000 mark for a year, while at the time this was written that was several years worth of taxes. However, having made that list for the DA to follow up on, the DA said I could write the letters and send them out if I liked, but he was not going to do anything with them.

Some counties actually want to follow up on it. We would like to make that an option. If we are going to do a follow-up and chase down those taxpayers who owe us, in addition to the regular process of going through an auction when they are really delinquent, then let it be a decision between the DA and the treasurer. Have it read “may” rather than “shall” and let the county commissioners tell us whether we will. That is what Section 12 does.

In Section 13, we have a couple places where we have a contractor bond, and the bond accrues interest. The interest is determined based on an interest rate equal to at least three financial institutions. Nowadays, with the Internet being the way it is, you could find financial institutions that are located who-knows-where and are who-knows-how stable, but we would like to tie it to something in the State of Nevada—an insured credit union or savings and loan in this State to determine that interest rate that is being paid, something that we can find ourselves and is not a fly-by-night institution.

Again, the bill that has NRS 361.575 being taken out has to do with holding a certificate for property. We just do not do that. It is in the language, and we use the other sections all around this, but none of the 17 county treasurers, at least one of whom has held the position for 16 years, has ever done this.

In review with our DA, we do not assess ourselves taxes on property. The property is assessed taxes, and the owner of record is assessed taxes, but after the three-year time we either sell the property or we continue to assess

that prior owner. We do not turn around and have the county pay the taxes on a piece of property.

These are small things, and there is nothing earth-shattering here. If you told me to go away and not bother you, it would not make my day that much worse, but these things should probably be cleaned up sometime.

**Chair McClain:**

I am assuming that since this bill came from your Association that you have all worked on this and everybody has pretty much the same concerns with all these little technical changes?

**Al Kramer:**

Yes. Our rule in the Association is that if it is not unanimous, it does not make it into our bill.

**Chair McClain:**

This looks like a lot of technical corrections. I just wonder where the requirement for a two-thirds vote comes from.

**Al Kramer:**

As I see this, it is Sections 1, 3, 5, 11, and 12. I do not know why.

**Chair McClain:**

Does it actually raise any revenues?

**Al Kramer:**

I would think that the interest rate going from the existing interest rate for an overpayment of taxes, which is prime rate plus 2, to 6 percent might be a justification. You have to go back and look at the section of time that the person had the overpayment in to determine what interest rate would apply, so it is a hard number to track. Six percent might be more than prime plus 2, so that affects what we are giving back to the public for overpayment of taxes. I guess you could say it influences money coming in or going out.

**Assemblyman Grady:**

I find it rather interesting that two cities have put in rather sizeable fiscal notes. Have you talked to them about why they put in fiscal notes on this for local governments?

**Al Kramer:**

I honestly did not know there were fiscal notes from different cities.

**Assemblyman Grady:**

They are from the cities of Reno and North Las Vegas.

**Al Kramer:**

Unfortunately, I was not aware.

**Chair McClain:**

We have a few from local governments that range all the way from zero to one that is actually \$500,000. It has to do with how they calculate the interest. Apparently they found a way to figure it out. Whether it is right or not, we do not know. Are there any other questions? Do we have anybody else who wants to testify on this bill? [There was no response.] Mr. Dawley, do you want to confirm that the change is all right with the assessors?

**Dave Dawley, Assessor, Carson City:**

We really do not have a problem with that change. If possible, though, since Mr. DiCianno is not here, we would like it to go to the Department of Taxation instead of the assessors. However, that is up to you people.

**Chair McClain:**

Does anyone have any other concerns?

**Assemblyman Parks:**

This is one of the typical bills we get every session for cleanup and adjustments. I am a little confused about the fiscal note. When we get an explanation that the bill has an impact, and then they are able to calculate specific amounts, it is rather baffling when they do not provide any in-depth explanation. We only have two cities out of all the local governments that have indicated any fiscal impact.

**Chair McClain:**

One of those cities put a fairly large price tag on this. I would think if it was going to be that onerous to them they would be here to oppose the bill.

**Assemblyman Parks:**

Basically, they have indicated they have talked to banks and found out what rates are. The impact is primarily in the fact that they are presuming the interest rates are going to be far lower than the going rates if this bill is passed. However, the other factor related to that is how much money they are able to invest. Needless to say, not all of it is invested at all times.

**Chair McClain:**

What is the pleasure of the Committee?

ASSEMBLYMAN GRADY MOVED TO DO PASS  
ASSEMBLY BILL 585.

ASSEMBLYMAN PARKS SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN ARBERRY AND HORNE  
WERE ABSENT FOR THE VOTE.)

**Chair McClain:**

Okay, that is the end of hearing bills. I have only got a couple of bills that I want to move out of this Committee. The first bill on this work session is Assembly Bill 210.

**Assembly Bill 210: Revises provisions governing certain exemptions from and refunds of property taxes and requirements for the assessment of common-interest communities. (BDR 32-470)**

**Michael Nakamoto, Deputy Fiscal Analyst:**

Assembly Bill 210 was the second Assessor's Association bill. This bill removes the restriction from the veteran's property tax exemption that requires the veteran to have been on active duty during certain dates in order to be eligible for the exemption. It also increases the maximum refund amount that may be given to eligible applicants of the Senior Citizen's Property Tax Rebate program from \$500 to \$750. This bill also clarifies the definition of common elements for the purpose of taxation of common interest communities. In addition, it removes the prospective expiration of the property tax exemption granted to eligible apprenticeship programs.

Testimony was received in support of the bill from Jeff Payson of the Clark County Assessor's office; Tim Tetz, Director of the Nevada Office of Veterans' Services; and Frank Holzhauer from the Nevada State Council of the Knights of Columbus, who supported the removal of the service dates from the veterans' exemption. Carol Sala and Carolyn Misumi from the Division for Aging Services of the Department of Health and Human Services testified with respect to the potential fiscal impact of increasing the maximum rebate amount that may be given for the Senior Citizens' Property Tax Rebate program.

Carole Vilardo from the Nevada Taxpayers Association recommended another sunset to the apprenticeship program exemption. This is the same exemption that was extended as a result of Assembly Bill 110, which was passed out of this Committee.



Testimony was received from Sam McMullen in opposition to the change in the definition of common elements. He stated that the change did not accurately reflect the intent of the legislation passed during the 2005 Legislative Session regarding the taxation of common interest communities. These changes were written into Assembly Bill 209 and were part of the amendments that were just passed.

The Assessor's Association submitted an amendment to change the proposed increase in the maximum for the Senior Citizens' Rebate program from \$750 to \$1,000. Assembly Bill 210 was declared eligible for exemption by the Fiscal Analysis Division on March 12, 2007.

**Assemblyman Marvel:**

Would this bill not have to go to Ways and Means? The State pays these refunds. There is an item in the state budget for the Senior Citizens' Rebate, and this is going to increase it. [Chair McClain confirmed that was the case.]

ASSEMBLYMAN PARKS MOVED TO AMEND AND DO PASS  
ASSEMBLY BILL 210 WITH THE AMENDMENTS TO CHANGE THE  
MAXIMUM FOR THE SENIOR CITIZENS' REBATE FROM \$750 TO  
\$1,000 AND TO REMOVE SECTION 2 PERTAINING TO COMMON  
INTEREST COMMUNITIES, AND TO REREFER THE BILL TO THE  
ASSEMBLY COMMITTEE ON WAYS AND MEANS.

ASSEMBLYMAN MARVEL SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT  
FOR THE VOTE.)

**Chair McClain:**

We are going to move Assembly Bill 586. I would like to move it out without recommendation if that is all right with the Committee.

**Assembly Bill 586:** Revises certain provisions governing the regulation and  
taxation of the sales and use of cigarettes and other tobacco products.  
(BDR 32-515)

ASSEMBLYMAN PARKS MOVED TO REREFER  
ASSEMBLY BILL 586 TO THE ASSEMBLY COMMITTEE ON WAYS  
AND MEANS WITHOUT RECOMMENDATION.

ASSEMBLYMAN OHRENSCHALL SECONDED THE MOTION.

**Assemblywoman Weber:**

Was the motion to amend, or to just rerefer the original bill?

**Chair McClain:**

Just rerefer the original bill. We will send it to Ways and Means and give that committee a little time to work on it. Is that all right with everybody?

THE MOTION PASSED. (ASSEMBLYMAN ARBERRY WAS ABSENT  
FOR THE VOTE.)

**Chair McClain:**

We are adjourned [at 3:11 p.m.].

RESPECTFULLY SUBMITTED:

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Mary Garcia  
Committee Secretary

APPROVED BY:

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Assemblywoman Kathy McClain, Chair

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

**EXHIBITS**

**Committee Name:** Committee on Taxation

**Date:** April 12, 2007

**Time of Meeting:** 1:00 p.m.

<b>Bill</b>	<b>Exhibit</b>	<b>Witness / Agency</b>	<b>Description</b>
	A		Agenda
	B		Attendance Roster
A.B. 209	C	Michael Nakamoto / Legislative Counsel Bureau	Proposed amendment
A.B. 209	D	Michael Nakamoto / Legislative Counsel Bureau	Proposed amendment
A.B. 441	E	Assemblyman Goicoechea / Assembly District No. 35	Prepared testimony, proposed amendment, and map of Spring Valley Ranches in White Pine County
A.B. 441	F	Assemblyman Goicoechea / Assembly District No. 35	Letter in support from Brent Eldridge, Chairman, White Pine County Board of County Commissioners