

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fourth Session
May 3, 2007**

The Senate Committee on Taxation was called to order by Chair Mike McGinness at 1:30 p.m. on Thursday, May 3, 2007, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mike McGinness, Chair
Senator Randolph J. Townsend, Vice Chair
Senator Dean A. Rhoads
Senator Bob Coffin
Senator Michael A. Schneider
Senator Terry Care

COMMITTEE MEMBERS ABSENT:

Senator Mark E. Amodei (Excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Harry Mortenson, Assembly District No. 42
Assemblyman James Settelmeyer, Assembly District No. 39

STAFF MEMBERS PRESENT:

Tina Calilung, Deputy Fiscal Analyst
Russell J. Guindon, Senior Deputy Fiscal Analyst
Julie Birnberg, Committee Secretary

OTHERS PRESENT:

Dino DiCianno, Executive Director, Department of Taxation
Carol A. Vilardo, Nevada Taxpayers Association
Michael R. Alastuey, Clark County
Vinson W. Guthreau, Nevada Association of Counties

Senate Committee on Taxation
May 3, 2007
Page 2

CHAIR MCGINNESS:

We will open the hearing on Assembly Bill (A.B.) 236.

ASSEMBLY BILL 236 (2nd Reprint): Makes certain changes regarding the reporting, payment and collection of sales and use taxes. (BDR 32-1096)

ASSEMBLYMAN JAMES SETTELMAYER (Assembly District No. 39):

When this bill first came about, I was selling garlic at a farmers' market. I had to get a State Business License to do that and then file taxes. In Nevada, you either file monthly or quarterly. I was not making that much revenue so I filed quarterly. I gave you an example of a sales and use tax return ([Exhibit C](#)). If you look at the envelope, you see we send it to Arizona. On average, we pay anywhere from \$20 to \$25 to process the paperwork to get zero return. My concept was simply to allow those individuals who are not making money for the state to switch to an annual system rather than the traditional monthly or quarterly. The bill sets forth the concept that it costs \$20 to \$25 to process paperwork for about \$100 a year. Individuals who do not generate more than \$100 revenue for the state would switch to annual filing after filing three consecutive quarters of zero. For an 11-month period, 22,423 people were zero for the entire year; at \$25 dollars for each filing, the state will save about \$1 million a year.

CHAIR MCGINNESS:

Several of my constituents gave me a bad time about these envelopes going to Phoenix, Arizona.

DINO DICIANNO (Executive Director, Department of Taxation):

The Department is neutral with respect to this bill; however, it is not too often I can testify on a bill that assists us from an administrative standpoint and provides a benefit to the taxpayer. The existing law did not provide the Department much latitude with respect to the collection and the submission of smaller, minor bills. It does not make sense to chase after zero filers. As an administrator, I had no choice with the current law. This bill would assist us and the taxpayers.

SENATOR COFFIN:

We talked about minimal tax bills sent to people on personal property and property tax before on these committees. For some reason, we never get to the point where we can actually get a combined invoice for the year. Phoenix does

not surprise me because you have a lockbox situation; you have a better rate of return on the money there. Is that an accurate statement?

MR. DiCIANNO:

We switched the lockbox four years ago from Bank of America, an in-state bank. We tried diligently along with the State Treasurer to get a Nevada bank to handle our lockbox. We were unsuccessful, even though Nevada banks filed an intention on the request for proposal put out four years ago. When we investigated further, they told us they were going to outsource it out of state. This would not have been a benefit to us, the taxpayers or the float on the money. With the lockbox, when they receive that payment, it instantaneously goes into the State's bank account. The whole point is to collect the float on that money. Unfortunately, it is out of state, but that is the best we could do at that point in time.

SENATOR COFFIN:

Are you bidding it out again?

MR. DiCIANNO:

I am not aware of that.

SENATOR COFFIN:

We used to do it in-house. We used to open every envelope. We had employees slicing those envelopes, taking the checks out, recording them and depositing them in the bank. The process now is much more efficient. Visiting Taxation 15 or 20 years ago, I saw stacks of checks in the corner of an office. I like this concept, except you want to make sure that you have people on record for truthfully filing. Would you consider the same penalty to apply in a person who was a real scofflaw and decided not to file?

MR. DiCIANNO:

If the taxpayer's liability is zero, there is no penalty or interest; there is nothing from which to calculate a liability. If someone owes us money, our audit program takes care of that.

SENATOR COFFIN:

I thought we needed a method of finding people for our business license program. This was one of the ways we cross-filed and had everybody in that.

Senate Committee on Taxation
May 3, 2007
Page 4

MR. DiCIANNO:

That is correct; Phase 3 of our new computer system has a discovery piece module that will go live in June and greatly assist us in finding those not in compliance.

SENATOR COFFIN:

Would that enable this as a workable measure?

MR. DiCIANNO:

Yes, absolutely.

CAROL A. VILARDO (Nevada Taxpayers Association):

We strongly support A.B. 236.

ASSEMBLYMAN HARRY MORTENSON (Assembly District No. 42):

I have turned in 120 of those forms in a row with zeroes; this is a great bill.

VICE CHAIR TOWNSEND:

We will close the hearing on A.B. 236 and open the hearing on Assembly Joint Resolution (A.J.R.) 16 of the 73rd Session.

ASSEMBLY JOINT RESOLUTION 16 of the 73rd Session: Proposes to amend Nevada Constitution to provide requirements for enactment of property and sales tax exemptions. (BDR C-422)

ASSEMBLYMAN MORTENSON:

Assembly Joint Resolution 16 of the 73rd Session is back for a second time. If it is passed this time, it goes to a vote of the people as a constitutional amendment. It is a common-sense bill that says we do not give tax breaks on sales or property tax unless a social or financial benefit is greater than what we give away. It will provide some guidelines when people are throwing our money away.

SENATOR COFFIN:

This will not address abatements or economic incentive-type bills versus exemptions from existing.

MICHAEL R. ALASTUEY (Clark County):

This bill would not affect any abatement or exemption now in place. It would only act prospectively and provide the guidelines that Assemblyman Harry Mortenson pointed out. In recent sessions, considerable hours were spent treating exemptions point by point, line by line and attempting to wrestle each issue individually. This provides a framework for future findings and legislative actions.

SENATOR COFFIN:

I wanted to make sure we understood an exemption. The terms exemption and abatement have the same meaning, is that correct?

MR. ALASTUEY:

This says exemptions only. The technical terms between exemption and abatement, I leave to counsel. An exemption is an absence of an obligation, and an abatement is a recognition there could be a tax; however, circumstances that qualify an individual situation provide that the tax under certain circumstances need not be paid.

SENATOR COFFIN:

We will need some guidance since we are getting close to passage of this bill.

SENATOR RHOADS:

What would be a good example of a social or economic purpose?

MR. ALASTUEY:

At the time the exemption is considered, the social or economic benefit is what you deem relevant.

VICE CHAIR TOWNSEND:

The economic part is much easier to define than the social part. If we reduce the tax which reduces the cost, does it stimulate it enough to increase the amount of incoming revenue? When you talk about the social part, what is beneficial in a social context for one group may detriment another group.

MR. ALASTUEY:

If, for example, an exemption for veterans or widowed persons were considered, that might draw attention to the potential social benefit less than the economic benefit in some scenarios.

SENATOR RHOADS:

We heard that bill on exemptions for airplane maintenance, etc. All our neighboring states exempt that type of business, but we do not. Some of them are ready to move out of Nevada because the tax would probably qualify them. It brings in more money than it loses.

MR. ALASTUEY:

Perhaps, the economic effects of that regard competitive issues with the location of those particular facilities and businesses.

ASSEMBLYMAN MORTENSON:

This is the second time around; it passed this House once and the other House twice. We are coming back for the second time to the Senate; if the Senate passes it again, it goes to the voters as a constitutional amendment. If you give a property or sales tax break, you must either have a well-defined social reason or an economic benefit.

CHAIR MCGINNESS:

People have a hard time reading these things on the ballot and sometimes do not understand them. Will there be any effort to make sure this passes?

MS. VILARDO:

We are in support of the resolution. We will issue information to our members and other associations that belong to us. You do want to know of an economic or social benefit to these exemptions or abatements because when you do them willy-nilly, sooner or later that clashes with an economic downturn and the business community is usually attacked for taxes. The more thought put into an exemption abatement, the better off we are.

I referenced this legislation when I was testifying on the apprenticeship bill, this is the basis for something we have looked at as policy. Most of you know we have consistently asked for these sunsets when these bills came up. When they are for new exemptions, we try to get some policy indication or understanding of the trade-offs. This is important. It is in the Constitution because when the discussion of a statutory change comes about with the impacts of exemptions, the legal counsel to the Committee on Local Government Finance said you cannot bind one Legislature over another. If you want this part of a policy statement, it has to be a constitutional change. That is why it is before you as a resolution and not a statute.

Senate Committee on Taxation
May 3, 2007
Page 7

CHAIR MCGINNESS:

Will this push the Legislature to look at future requests for exemptions deeper than before?

MS. VILARDO:

Absolutely.

SENATOR COFFIN:

If a court has to look at this later, do they care about the legislative record, if it is a resolution passed by the voters? Do they care about intent or is the plain language of the ballot resolution all that they consider?

MS. VILARDO:

I have found courts react both ways. Court decisions from a number of years ago said it is not the intent but the plain meaning of the statute, although legislative intent and history were looked at in other court cases.

SENATOR COFFIN:

I want to make sure we have a clear understanding about an exemption and an abatement.

MS. VILARDO:

When these discussions started back in 1997 and 1998, there was no bill or resolution from that interim committee. We were dealing with exemptions. When we cleaned up all the economic development exemptions, we used the term abatement to distinguish a partial abatement of a tax for a time certain versus an exemption, which is usually open-ended and the full extent allowed by law. Prior to the Streamlined Sales Tax, it was only 5.75 percent for an indefinite period of time. Since I have been with the Association, our argument has been that the exemption, because it is open-ended, be subject to a sunset after a review to make sure the original need still exists. When the discussion started, the Legislature chose to distinguish the open-ended exemptions as fully exempt from the tax for an unlimited period of time whereas the abatement does not extend past a specific time period. Seventy percent of the cases involve property tax. Those are all partial. Nothing left in statute is 100 percent against personal property or property tax. They are generally 50 percent for up to 10 years.

SENATE BILL 321 (1st Reprint): Provides certain economic incentives for certain motion picture companies. (BDR 18-1182)

SENATOR COFFIN:

I sponsored Senate Bill 321 for film company incentives which was supported by the Commission on Economic Development and other groups all over the state. Section 12 basically says *Nevada Revised Statute* (NRS) chapter 374 is hereby amended by adding a motion picture company that holds a certificate of eligibility and engages in the making of a motion picture is entitled to an abatement of some taxes imposed on the gross receipts, etc. In section 10 addressing NRS 366.220, that same motion picture company is exempt from the imposition of certain fees. We may need to straighten out a problem here.

MS. VILARDO:

That is a question for your Legal Division and how they distinguish it.

SENATOR COFFIN:

Abatement means it is not automatic unless an action occurs, and it expires when the action has occurred.

ASSEMBLYMAN MORTENSON:

The very last provision on this bill requires a specific date on which any exemption ceases to be effective. These exemptions will also be time certain.

CHAIR MCGINNESS:

We talked about the Legislature looking at these exemptions more closely, and Senator Coffin even said trying to predict a specific date on which the exemption ceases effectivity is a tough chore for future Legislators.

ASSEMBLYMAN MORTENSON:

In most cases, the economic one can be easily calculated, and if it does not add up, then the pressure would be not to award an exemption. The tough one will be the social. There will be a difference of opinion on what is socially worthwhile.

VINSON W. GUTHREAU (Nevada Association of Counties):

We support A.J.R. 16 of the 73rd Session and, although we appreciate the efforts by the Legislature to provide or promote incentives through these sales

Senate Committee on Taxation
May 3, 2007
Page 9

and property tax or exemptions, there needs to be some direction and this resolution does that.

MR. DiCIANNO:

While the Department is neutral with respect to A.J.R. 16 of the 73rd Session, it will provide the Department some clarity with respect to the administration of exemption and abatements. It will also provide some limitations to the applicability and time certainness of those exemptions. This benefit goes hand in hand with the bill passed out of here regarding the Streamlined Sales and Use Tax Agreement. This will assist in that also.

CHAIR MCGINNESS:

We are adjourned at 2:13 p.m.

RESPECTFULLY SUBMITTED:

Julie Birnberg,
Committee Secretary

APPROVED BY:

Senator Mike McGinness, Chair

DATE: _____