MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TAXATION

Seventy-Fifth Session
April 9, 2009

The Committee on Taxation was called to order by Chair Kathy McClain at 2:21 p.m. on Thursday, April 9, 2009, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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/75th2009/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; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Kathy McClain, Chair
Assemblywoman Marilyn Kirkpatrick, Vice Chair
Assemblyman Paul Aizley
Assemblyman Bernie Anderson
Assemblyman Morse Arberry Jr.
Assemblyman Ed A. Goedhart
Assemblyman Tom Grady
Assemblyman Don Gustavson
Assemblywoman Ellen Koivisto
Assemblywoman Sheila Leslie
Assemblyman Richard McArthur
Assemblyman Harry Mortenson
Assemblywoman Peggy Pierce

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Michael Nakamoto, Deputy Fiscal Analyst
Mary Garcia, Committee Secretary
Sally Stoner, Committee Assistant

OTHERS PRESENT:

Brody Leiser, Deputy Executive Director, Department of Taxation

Chair McClain:
[Roll was called.] We have two bills on work session today. We will go through those and, I hope, get them off of our plate. We also had two more amendments show up today on two other bills that may or may not make it. We will recess after we get the two bills on work session done, and, if their sponsors happen to get it together, we might hear one or two more. That will be in work sessions, because we have already heard the bills.

Michael Nakamoto, Deputy Fiscal Analyst:
The first bill on today's work session is Assembly Bill 345.

Assembly Bill 345: Makes various changes concerning the veterans' exemptions from property taxes and governmental services taxes. (BDR 32-101)

Assembly Bill 345 was sponsored by the Assembly Committee on Taxation on behalf of the Legislative Commission's Subcommittee to Study Issues Relating to Senior Citizens and Veterans. It was heard by this Committee on April 2. The bill makes several changes to the exemptions granted from property taxes and the Governmental Services Tax (GST) for certain eligible veterans, as well as to the exemptions granted from these taxes for veterans with service-connected disabilities and their surviving spouses.

Specifically with regard to the property tax exemptions, the amount of the property tax exemption given to eligible veterans pursuant to *Nevada Revised Statutes* (NRS) 361.090 is increased from $2,000 of assessed value, adjusted for inflation, to $2,500 of assessed value, adjusted for inflation. The amount of the property tax exemption for veterans for a 100 percent service-connected disability would be increased from $20,000 of assessed value, adjusted for inflation, to 100 percent of the assessed value of the property. A veteran whose disability, regardless of the percentage, renders him unemployable would also be eligible to receive an exemption of 100 percent of the assessed value of the property.

The amount of the property tax exemption for veterans whose service-connected disability is between 80 percent and 99 percent would increase from $15,000 of assessed value, adjusted for inflation, to $17,820 of assessed value, adjusted for inflation. The amount of the property tax exemption for veterans whose service-connected disability is between 60 percent and 79 percent would increase from $10,000 of assessed value, adjusted for inflation, to $11,880 of assessed value, adjusted for inflation. Veterans with a service-connected disability of between 40 percent and 59 percent would be eligible for a new exemption of $5,000 of assessed value, adjusted for inflation.

Regarding property tax exemptions, the bill also changes the inflation calculation to be based on the change in the Consumer Price Index (CPI) from July 2008 to the July preceding the fiscal year (FY) for which the adjustment is calculated, beginning in FY 2010–11. It also specifies that the specific CPI that must be used for the adjustment is the CPI for All Urban Consumers, West Urban Area (All Items, Not Seasonally Adjusted).

With regard to the GST, the exemptions are largely the same. The only difference in the bill is that the annual adjustment for inflation used for the GST for these exemptions, beginning in FY 2010–11, is the changes in the CPI from December 2008 to the December preceding the fiscal year for which the adjustment is calculated. The bill also provides that the 100 percent exemptions granted for a veteran whose service-connected disabilities render him unemployable and the $5,000 exemption, adjusted for inflation, that is granted for veterans with 40 percent to 59 percent service-connected disabilities expire, by limitation, on June 30, 2049.

Testimony in support of the bill was given by the Chair of this Committee, who noted that the provisions of the bill were among the top priorities of the Legislative Commission's Subcommittee to Study Issues Relating to Senior Citizens and Veterans. She pointed out that there was a fairly expensive fiscal note attached to the bill, which then drove the discussion of the bill and the priorities attached to the bill from that point forward.

Tim Tetz, Executive Director of the Nevada Office of Veterans' Services, also testified in support of the bill. He noted that the bill came as a result of suggestions and priorities brought forth during the Veterans Summit held during the prior interim. He also indicated there were approximately eight different suggestions brought forward regarding tax exemptions for veterans but that many of them had been eliminated due to the state's current financial condition.

He indicated that four different priorities were part of this bill:

1. Allow for the veterans who are classified as 100 percent individually unemployable to have the same property tax exemption as those veterans with 100 percent service-connected disabilities.

2. Increase the property tax and GST exemption from $2,000 to $2,500.

3. Increase the exemption for veterans with 100 percent service-connected disabilities from $20,000 of value to 100 percent of value.

4. Add a $5,000 exemption for veterans with service-connected disabilities between 40 percent and 59 percent.

There was discussion of those four priorities among the Committee members, including which of the priorities were most palatable to the Committee if only a certain number of them could go forward. As a result of their discussion, the Committee members indicated they would wish the first two priorities to go forward. Based on those recommendations, Fiscal Division staff put together a mock-up of a proposed amendment (Exhibit C) for consideration by the Committee.

The proposed amendment does several things. First, it adds a new section, section 1.3, that increases the amount of the property tax exemption for surviving spouses from $1,000 of assessed valuation to $1,190 of assessed valuation.

On page 2 of the mock-up, in subsection 6 of section 1.3, beginning on line 20, the CPI calculation is adjusted to reflect the same CPI change that is made for the veteran's exemption and the disabled veteran's exemption to specify the particular CPI that must be used. It also bases the calculations on the period from July 2008 to the July preceding the fiscal year for which the adjustment is calculated rather than from July 2003 to the July preceding the fiscal year for which the adjustment is being calculated.

You also have a chart entitled "Current and Estimated Exemption Amounts Based on Current Statutory Structure" (Exhibit D). This chart was put together by Fiscal Analysis Division staff, based on discussions with the Chair, showing the amounts of the various exemptions that are granted for veterans, surviving spouses, blind persons, and disabled veterans since these particular exemptions were put into law and how that has progressed based on the inflation calculation currently in statute.

The yellow-highlighted line on the chart indicates FY 2009–10. The amounts of the exemptions shown there are what each particular category's exemption is for the upcoming fiscal year based on the growth in the CPI between the original index point and the CPI adjustment year of 2008. In creating this particular mock-up, Fiscal staff has attempted to line up all of the inflation calculations for all of the exemptions, not just those dealing with veterans and disabled veterans, so the Department of Taxation, the Department of Motor Vehicles, and the county assessors are working with the same amount.

These particular proposed amendments put into statute the amount of the exemption as it should be, based on the current CPI, and then project it going forward with the new calculation methods beginning in FY 2010–11. There is very little, if any, change to the amount of the exemption that would be granted. That is shown in the second table on that page, "Estimated Exemption Amounts Based on Proposed Amendments in Assembly Bill 345." It just resets the base and allows the CPI to grow from that point. If there are any differences in the calculation between the two, they are relatively minor as a result of rounding, but, at the very most, since the amount of the exemption is rounded to the nearest $10, the difference between the two might be, at most, $10.

Chair McClain:
Does anybody have any questions on the tables? You can see we are going into somewhat of a deflationary period.

Assemblyman Grady:
At the last meeting, Dino DiCianno, Executive Director of the Department of Taxation, was going to bring in some revised figures. Also, it seems that the Nevada Association of Counties (NACO) and someone else were going to bring in revised figures. I was wondering if we had received those.

Michael Nakamoto:
Mr. Leiser from the Department of Taxation is here to discuss the Department's revised fiscal note on this bill.

Brody Leiser, Deputy Executive Director, Department of Taxation:
I spoke with Mr. DiCianno prior to this meeting, and we did request some additional information. Based on that information, the Department did not feel a modification to the figures presented in the initial fiscal note was justified. That being said, we were working to obtain some more information from Mr. Tetz so we could rerun the numbers. I believe that information was going to be provided today. It may already have been provided, but we were still waiting for that information when I left the office.

Chair McClain:
I do not think there is a big hurry on the fiscal note.

Michael Nakamoto:
The original fiscal note submitted by the Department of Taxation indicated a fiscal effect of approximately $23.3 million in FY 2010 and $24.5 million in FY 2011. The amount of the fiscal effect would likely go down based on the mock-up and the changes that are to be further discussed as part of the work session.

Chair McClain:
Right, and I thought I saw a fiscal note from Clark County. Their fiscal note is only $8 million, so I cannot imagine it being $20 million statewide. We will get all these details worked out. The bill has to go to Ways and Means anyway. We are not going to worry about the fiscal note right now, because it obviously needs a lot of work.

Michael Nakamoto:
Section 1.6 on page 2 of the mock-up, section 4.3 on page 9, and section 4.6 on page 10 make similar adjustments for the CPI, rebasing the exemption for surviving spouses and the exemptions from the GST. This is to make sure that the CPI calculation is consistent for all of the exemptions provided using this statutory formula, both in Chapter 361 and Chapter 371 of NRS. Regarding sections 4.3 and 4.6 of the mock-up, under current law the Department of Motor Vehicles is required to make its CPI calculation from December 2003 to the December preceding the fiscal year for which the adjustment is calculated. This amendment would change the December calculation to a July calculation, which is exactly the same as the calculation in Chapter 361 of NRS for real and personal property.

It has come to Fiscal staff's attention that the Department of Motor Vehicles is using the calculation created by the Department of Taxation in creating the exemption for the GST. So, this is merely meant to align the statute with what appears to be the current practice of the Department of Motor Vehicles.

Chair McClain:
We took one of the high-ticket items, the 100 percent exemption, out of the bill. We are not doing that. The exemption is still at $20,000 if you are 100 percent disabled or unemployable, which cuts the fiscal note way down. Other than adding the exemption for the 40 percent to 59 percent disabled, which is a very low rate, most of these other number changes are just changes in statute so the calculations are all figured the same way. It is just readjusted to what the base would have been anyway. Is that right?

Michael Nakamoto:
That is correct. The intention of these particular amendments is merely to make the CPI calculations consistent for all the exemptions. There is no intention to increase the amount of the exemption, which would potentially create an additional fiscal impact. I see Mr. Dawley, the Carson City Assessor, in the audience. If he has any concerns with this language, perhaps he can address them.

The last changes in this mock-up are in section 3 on page 5 and section 6 on page 12. These are the exemptions for disabled veterans and surviving spouses. The original bill had the 100 percent exemption for persons with 100 percent service-connected disabilities or those whose disabilities rendered them unemployable. The decision of this Committee was to remove that particular portion, so you will see, in paragraph (a) of subsection 1 of section 3, that the amount of $23,770 of assessed value has been put in. That is an adjustment to keep the CPI adjustments consistent among all of the exemptions. You will also see that the 40 percent to 59 percent disability exemption has been stricken from both of these sections.

Chair McClain:
Are there any questions? There was that one little technical thing you had a problem with.

Michael Nakamoto:
A concern was raised, subsequent to the creation of this particular mock-up, about the language on page 13, in paragraph (a) of subsection 4 of section 6. It states that:

> Before allowing any exemption pursuant to the provisions of this section, the Department shall require proof of the applicant's status, and for that purpose shall require production of: (a) A certificate from the Department of Veterans Affairs that the veteran has incurred a permanent service-connected disability, which shows the percentage of the disability, or that the disability renders him unemployable. . . .

That was compared to a similar subsection in the exemption for the real and personal property taxes on page 6, paragraph (c) of subsection 4 of section 3, starting on line 15. There it says, ". . . A certificate from the Department of Veterans Affairs or any other military document which shows that he has incurred a permanent service-connected disability. . . ." Because of the disparity in the language, it was suggested that an amendment be made to make the language consistent between the two sections and add the words "or any other military document" to the language for the GST.

Chair McClain:
The reason that came up was, for one exemption, the veteran could provide a document from the Department of Defense (DoD) to say he was disabled, but the other required a document from the Department of Veterans Affairs (VA). We are just making this consistent so both will accept a document from either the VA or the DoD. By making it consistent, we do not leave anybody out.

Are there any questions or concerns? [There were none.] Are there any motions?

> ASSEMBLYMAN ANDERSON MOVED TO AMEND AND DO PASS ASSEMBLY BILL 345 WITH THE PROPOSED AMENDMENT AND TO REREFER TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS.
>
> ASSEMBLYWOMAN KIRKPATRICK SECONDED THE MOTION.
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> THE MOTION PASSED UNANIMOUSLY.

Chair McClain:
We will get that fiscal note fixed based on the mock-up.

Michael Nakamoto, Deputy Fiscal Analyst:
The second bill on today's work session is Assembly Bill 432.

Assembly Bill 432: Revises provisions governing alcoholic beverage awareness programs. (BDR 32-526)

This bill, sponsored by Assemblywoman Smith, was heard by this Committee on March 26. The bill makes various changes to *Nevada Revised Statutes* (NRS) 369.630, which requires that certain employees of establishments that serve alcoholic beverages successfully complete a certified alcohol education program and hold a valid alcohol education card. The bill clarifies that a violation of these provisions is a civil infraction, sets forth provisions by which notices of infraction must be issued to establishments whose employees are in violation of these provisions, and provides for a mechanism by which the offender may deny liability for the infraction.

Assembly Bill 432 also revises the distribution of any fines received from violations of these provisions. It requires that 25 percent of these fines be remitted to the State Treasurer for credit to the Fund for the Compensation of Victims of Crime and 75 percent of the fines be remitted to the county treasury of the county in which the establishment is located. That 75 percent must be used for the purposes of law enforcement.

Testimony in support of the bill was given by Assemblywoman Smith, whose constituents had expressed their concerns that the Commission on Postsecondary Education was unable to provide refunds for the costs of completing alcohol education programs, as established in statute. Assemblywoman Smith noted that, in spite of the current requirements, no fines had ever been levied by the Department of Taxation. As a result, no money had ever been made available to the Commission to provide refunds.

Assemblywoman Smith had referred to an amendment (Exhibit E) that would further revise the distribution of the proceeds of the fines such that 25 percent of the fines would be credited to the Fund for the Compensation of Victims of Crime, 25 percent would be credited to the Account for Victims of Domestic Violence, and the remaining 50 percent would be remitted to law enforcement to help with the costs of enforcing these provisions. Assemblywoman Smith also read into the record a letter from her intern, Christopher Beucherie, in support of the bill.

The testimony that was given was primarily based on concerns raised by Assemblyman Anderson with regard to the provisions that would require a percentage of the fines be distributed to the county treasurer for purposes of defraying law enforcement costs. He noted that, to best of his knowledge, there are no other provisions in statute for similar distributions. Other legislators voiced similar concerns.

Testimony presented by Lisa Foster, speaking on behalf of Boulder City, indicated they were in support of the bill, but they had concerns about the distribution of the proceeds to county law enforcement. They wondered if that meant only Las Vegas Metropolitan Police Department or, in Washoe County, the Washoe County Sheriff's Department would receive money as opposed to the law enforcement agency at the local or city level, such as Reno, Henderson, or Boulder City.

Frank Adams, Executive Director of the Nevada Sheriffs' and Chiefs' Association, indicated the bill provided comfort with regard to the duties and responsibilities of law enforcement in this area. However, he also raised concerns about law enforcement agencies actually receiving money from these fines. He stated there were, to the best of his knowledge, no other provisions in NRS where law enforcement received a portion of fines they collected in the course of doing their job. Lisa Gianoli from Washoe County and Constance Brooks from Clark County testified in support but raised similar concerns with regard to the distribution of the revenue among the counties and cities, especially to law enforcement.

Based on the testimony surrounding this particular issue of the amount going to law enforcement, Assemblywoman Smith submitted a substitute amendment (Exhibit F) that would give 50 percent of the revenue to the State Treasurer for credit to the Fund for Compensation of Victims of Crime and the other 50 percent to the Enforcing Underage Drinking Law Account within the Nevada Department of Health and Human Services, Division of Child and Family Services, Juvenile Justice Programs Office. That means, if this amendment were adopted, law enforcement would receive no money from these fines. It would go only to these particular funds.

The other portion of the amendment submitted by Assemblywoman Smith (Exhibit E), which may be considered by the Committee, adds an additional section for various reporting requirements. In her testimony during the hearing, Assemblywoman Smith indicated she wanted to add a new section requiring the recipients of the revenue, as well as law enforcement agencies and the Department of Taxation, to submit reports to the next Legislature regarding revenues that have been collected and any issues with the implementation or administration of these provisions.

Chair McClain:
Are there any questions? [There were none.] Does anybody want to make a motion?

> ASSEMBLYWOMAN KOIVISTO MOVED TO AMEND AND DO PASS ASSEMBLY BILL 432.
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> ASSEMBLYWOMAN LESLIE SECONDED THE MOTION.
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> THE MOTION PASSED UNANIMOUSLY.

[Michael Nakamoto also submitted two amendments to Assembly Bill 267 (Exhibit G), which was not discussed in this portion of the meeting.]

Chair McClain:
There are two more bills still in the Committee, so we are going to recess for now. If something happens, I will let you know. We are recessed to the call of the Chair [at 2:54 p.m.].

Chair McClain:
The meeting of the Committee on Taxation will come back to order [at 12:05 p.m., April 10, 2009, behind the bar of the Assembly]. There is one bill I want to move out of Committee today, and that is Assembly Bill 267.

Assembly Bill 267: Repeals the provisions that require the assessment for purposes of property taxation of property used as a golf course as an open-space use. (BDR 32-640)

We have all seen the amendments (Exhibit G). I think we want to go with the mock-up for Proposed Amendment 4258. Are there any questions or discussion? [There was no response.] Does anybody want to make a motion?

ASSEMBLYWOMAN KOIVISTO MOVED TO AMEND AND DO PASS ASSEMBLY BILL 267.

ASSEMBLYMAN MORTENSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY. (ASSEMBLYMEN GUSTAVSON AND KIRKPATRICK RESERVED THE RIGHT TO CHANGE THEIR VOTES ON THE FLOOR.)

Chair McClain:
All right, that is out of Committee. We are adjourned [at 12:07 p.m., April 10, 2009].

RESPECTFULLY SUBMITTED:

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Mary Garcia
Committee Secretary

APPROVED BY:

____
Assemblywoman Kathy McClain, Chair

DATE:____________________________________

EXHIBITS

Committee Name: Committee on Taxation

Date: April 9, 2009 **Time of Meeting: 2:21 p.m.**

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 345	C	Michael Nakamoto	Mock-up of proposed amendment
A.B. 345	D	Michael Nakamoto	Chart: "Current and Estimated Exemption Amounts Based on Current Statutory Structure"
A.B. 432	E	Michael Nakamoto	Proposed amendment from Assemblywoman Smith
A.B. 432	F	Michael Nakamoto	Proposed amendment from Assemblywoman Smith
A.B. 267	G	Michael Nakamoto	Mock-up Proposed Amendment 4258 and Mock-up Proposed Amendment 4177