

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session
April 28, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 1:47 p.m. on Tuesday, April 28, 2009, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412, 555 East Washington Avenue, Las Vegas, 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 Bob Coffin, Chair
Senator Terry Care, Vice Chair
Senator Michael A. Schneider
Senator Maggie Carlton
Senator Randolph Townsend
Senator Mike McGinness

COMMITTEE MEMBERS ABSENT:

Senator Maurice E. Washington (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Marilyn Kirkpatrick, Assembly District No. 1
Assemblyman Harry Mortenson, Assembly District No. 42
Assemblyman Tick Segerblom, Assembly District No. 9

STAFF MEMBERS PRESENT:

Joe Reel, Deputy Fiscal Analyst
Kyle Casci, Committee Secretary

OTHERS PRESENT:

Sabra Smith-Newby, Director, Department of Administrative Services,
Clark County

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Don Hendricks, Archaeological Conservancy
Bruce Holloway, Vice President, Archaeo-Nevada Society

CHAIR COFFIN:

I would like to open the hearing on Assembly Bill (A.B.) 267.

ASSEMBLY BILL 267 (1st Reprint): Requires certain golf courses assessed as open-space real property to be designated as open-space real property under applicable zoning ordinances. (BDR 32-640)

ASSEMBLYMAN TICK SEGERBLOM (Assembly District No. 9):

Assembly Bill 267 is designed to take care of an issue in my District, where a golf course has taken advantage of its open space designation. This particular golf course is zoned R-1, and it is intending to build houses on the golf course. Most golf courses have arrangements with homes on the golf course so there is a mutual beneficial relationship. This particular golf course, Las Vegas National, has no corresponding relationship with the houses on the course and the course itself. People who bought houses on the course now do not have a course next to them; instead, they could have a subdivision house. The proposal is that if a golf course intends to take advantage of the open space designation for property tax purposes, the county will have to zone the course so it conforms to that use. In this particular case, the property is zoned R-1, has been used as a golf course and has been taking advantage of the golf course exemption. If this law were passed, Clark County would have to bring individuals in from the golf course and have a hearing to determine whether they should be zoned as a golf course instead of R-1.

CHAIR COFFIN:

Is this particular golf course paying the open-space property taxes, but it is zoned R-1?

ASSEMBLYMAN SEGERBLOM:

Yes, that is correct. They pay \$50,000 a year in property taxes, and if they were paying taxes on their zoning, they would pay several thousand dollars more than that in property taxes each year. It is cheaper for them to have a golf course—until they build houses—than to have open space. Golf courses pay little in property taxes. They pay taxes for their clubhouse and other facilities, but for the land itself, there is a cap per acre.

CHAIR COFFIN:

Will there be a permission to claw back the proper amount of property tax?

ASSEMBLYMAN SEGERBLOM:

The written law is unclear. If you change to a different zoning, you claw back for a few years, but it is not clear what amount of time or money you claw back to.

SENATOR TOWNSEND:

It is always disturbing when someone purchases something and hopes it will never change. However, if someone purchased a home on that particular golf course and with a little bit of research found that it is zoned R-1, I do not know how you solve that problem. We all have an obligation to find out what land around us can and cannot be built on. When we did the golf course open space relationship, there was a claw-back provision of seven years. If you develop inside the seven years, the county can capture up to seven years' worth of property taxes if the land is used for another purpose. I am not aware that a change in zoning was addressed.

If you look at a number of golf courses across the State as growth occurred, then changes might come about. Property values go up, and it could be used for something else. All businesses are suffering with the downturn of the economy, and in southern Nevada, golf course operations are no longer profitable. A claw back provision prevents the system from manipulation because there should be a repayment on the property if it is converted to another use. I am not sure we addressed the zoning issue in the bill, I think we only addressed the tax issue which was declaring golf courses open spaces. It did not include any improvements to club houses or cart barns. Hopefully, the provision is in place, so the county could recapture the property taxes for the benefit of the public.

ASSEMBLYMAN SEGERBLOM:

Normally, when a golf course is built, it is zoned as a golf course. If the owners want to change the use, they have to get approval to rezone it.

SENATOR CARE:

In the 2005 Session, we did not get into the issue of zoning because everything that happened in regard to the bill happened on the floor.

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SENATOR SCHNEIDER:

The golf course was zoned R-1, but it was not used for R-1?

ASSEMBLYMAN SEGERBLOM:

Correct. It has never been used for R-1.

SENATOR SCHNEIDER:

Does that zoning fall away after so many months? If you do not use that zoning, you lose it?

ASSEMBLYMAN SEGERBLOM:

No, that is not the way the zoning law works. It is there until the county comes in and changes it. All this time, nobody noticed it was R-1.

SENATOR SCHNEIDER:

It seems like the developers would have to buy all the homes surrounding the golf course in order to proceed.

ASSEMBLYMAN SEGERBLOM:

If that were the case, it would be some satisfaction for these homeowners, but that is not the way the county interprets the law.

SENATOR MCGINNESS:

The folks who got this zoning exemption have played it well.

SABRA SMITH-NEWBY (Director, Department of Administrative Services, Clark County):

Clark County was in support of A.B. 267 on the Assembly side. As amended, this bill would require the County to rezone the particular golf course in question from R-1 to open space. There is no doubt the company bought the property with an intention of developing it into residential units. Our concern is one of a fiscal impact on Clark County resulting from a takings claim against Clark County as it takes this property, which the developer thought was being purchased for residential development, and then rezones it as a result of this bill to open space. This wipes out the development possibility for them.

CHAIR COFFIN:

Are you aware of the initial plans submitted to the county? Would you describe them as residential R-1 or something other?

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MS. SMITH-NEWBY:

I am not aware of that particular information. I will retrieve that information from our planning department and submit it to you.

CHAIR COFFIN:

I close the hearing on A.B. 267 and open the hearing on A.B. 369.

ASSEMBLY BILL 369 (1st Reprint): Revises provisions relating to the property tax exemption for the property of certain nonprofit organizations. (BDR 32-916)

ASSEMBLYMAN HARRY MORTENSON (Assembly District No. 42):

Assembly Bill 369 was requested by the conservancies. These groups find land that is scientifically and culturally sensitive, such as land that contains Native American pictographs—all things they believe should be preserved indefinitely. The Archaeological Conservancy has wanted to pick up privately owned land in what they call Little Red Rock. This land has a lot of important cultural things, including pictographs, petroglyphs, agave pits, and burials, they would like to preserve. They went through the usual procedures, where they go to local government and extract an agreement saying they will buy the land, hold it, take care of it, maintain it and protect it until such time Clark County decides to take it over. In this particular case, the County said it is not something we will ever take over or care to own. The Archaeology Conservancy decided it was so important they would hold the land indefinitely, but under the law they cannot. Under this law, instead of the property being acquired by the State, the property can be held indefinitely and vested in certain conservancies for the purpose of education, environmental protection or conservation. In other words, the bill says these groups can hold the land perpetually instead of having to turn it over to a government that may not want it.

CHAIR COFFIN:

Is there a benefit or tax advantage for someone to sell their property to a conservancy?

ASSEMBLYMAN MORTENSON:

I do not know.

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CHAIR COFFIN:

To clarify, for long-term purposes, the State needs to pass legislation to make this process easier.

ASSEMBLYMAN MORTENSON:

The law needs to be changed so that conservancies can hold land indefinitely instead of having to extract an agreement from a government to eventually acquire it.

SENATOR MCGINNESS:

This would give them a tax exemption on land indefinitely based on an acquisition of the property given serious consideration. There is no commitment to buy the property. This could have a serious fiscal impact on rural Nevada and tax implications for any county.

ASSEMBLYMAN MORTENSON:

Clark County supports this bill. The land to be acquired in Little Red Rock is about 100 acres. It will not make a dent on the tax rolls, but it will protect extremely sensitive and valuable cultural resources.

CHAIR COFFIN:

Were the changes from the original bill to the first reprint technical in nature or a fiscal note question?

ASSEMBLYMAN MORTENSON:

The original bill said any nonprofit, 501(c)(3) entity that is formed to acquire land can do so. The Assembly committee felt uncomfortable with that, so they took that out of the bill. I have given you a letter ([Exhibit C](#)) from the organization Outside Las Vegas Foundation.

DON HENDRICKS (Archaeological Conservancy):

We are a national nonprofit organization that identifies, acquires and preserves significant archaeological sites all over the United States. Since our organization was formed in 1980, we have preserved more than 375 sites nationwide. We do not have a large budget, and we have a limited staff. The sites we acquire usually deal with a few acres at a time. The problem with a limited budget is that the tax situation can wipe out our budget. The changes proposed by A.B. 369, which we support, would allow us to hold onto some of these sites

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indefinitely. Some of our sites come on behalf of donations from the landowner, but most times, we have to purchase the area.

CHAIR COFFIN:
What is the local name for the area called Little Red Rock?

MR. HENDRICKS:
It is referred to as Village 29. There are a number of names for the individual sites.

BRUCE HOLLOWAY (Vice President, Archaeo-Nevada Society):
We are in support of A.B. 369.

MS. SMITH-NEWBY:
Clark County is in support of A.B. 369.

SENATOR MCGINNESS:
How is it documented that the federal government has given serious consideration to the area?

MS. SMITH-NEWBY:
My understanding is we have been given assurance they are interested at some point, but I am unaware of the particular method by which that was given, whether in a letter, meetings or during conversations. I will look into the method and documentation and bring that information back to you.

CHAIR COFFIN:
Are you aware of any other sites in Clark County that may be subject to this?

MS. SMITH-NEWBY:
We are not aware of any other sites at the moment.

CHAIR COFFIN:
I close the hearing on A.B. 369 and open the hearing on A.B. 193.

ASSEMBLY BILL 193 (1st Reprint): Provides for reporting by certain governmental entities concerning the collection of fees and taxes.
(BDR S-243)

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ASSEMBLYWOMAN MARILYN KIRKPATRICK (Assembly District No. 1):

In my second special session, I asked if there was a way to retrieve documentation to know where the State stands on tax collections at all times. I have worked with Dino DiCianno of the Department of Taxation and Carole Vilardo of the Nevada Taxpayers Association to bring accountability to our State. This bill is still not exactly where I want it to be, but I will tell you where I am trying to go with it. I have taken the seven largest agencies within our State which contribute to our General Fund, and I requested they report to the Legislative Commission what they collect and what they should have collected. I have asked that we have the ability through the Legislative Counsel Bureau to create forms to collect that information and report it to the Legislative Commission. I am working on an amendment to this bill, and I request the opportunity to finish the amendment and bring it and the bill back to your Committee for more input.

CHAIR COFFIN:

I understand what you are trying to do with this bill. You are trying to find the answer to the question, how do we find out what we do not know? I close the hearing on A.B. 193 and adjourn this meeting at 2:40 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Bob Coffin, Chair

DATE: _____