

**MINUTES OF THE
SENATE COMMITTEE ON TAXATION**

**Seventy-fifth Session
March 24, 2009**

The Senate Committee on Taxation was called to order by Chair Bob Coffin at 2:35 p.m. on Tuesday, March 24, 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 Maggie Carlton
Senator Randolph Townsend
Senator Maurice E. Washington

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider (Excused)
Senator Mike McGinness (Excused)

GUEST LEGISLATORS PRESENT:

Senator David R. Parks, Clark County Senatorial District No. 7

STAFF MEMBERS PRESENT:

Russell J. Guindon, Senior Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Kyle Casci, Committee Secretary

OTHERS PRESENT:

Bobby G. Gronauer, Constable, Las Vegas Township
Steve Kilgore, Constable, City of Henderson
Edgar J. Roberts, Director, Department of Motor Vehicles

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Jeanette Belz, Associated General Contractors, Nevada Chapter
Tom Roberts, Director, Office of Intergovernmental Services, Las Vegas
Metropolitan Police Department
Wes Henderson, Government Affairs Coordinator, Nevada Association of
Counties
Laura K. Granier, Fronteer Development
Ted J. Olivas, Director, Government and Community Affairs, City of Las Vegas
Lisa Corrado, Redevelopment Project Manager, City of Henderson
Alan Glover, Clerk/Recorder, Carson City
John P. Sande, III, Reno-Tahoe Airport Authority
Marily M. Mora, Executive Vice President, Reno-Tahoe International Airport
Chuck Alvey, President/Chief Executive Officer, Economic Development
Authority of Western Nevada
Dino DiCianno, Executive Director, Department of Taxation
Carole Vilardo, President, Nevada Taxpayers Association
Les Lee Shell, Clark County

CHAIR COFFIN:

We are going to start today's meeting with a presentation from Senator Parks on Senate Bill 218. This bill in concept might be an answer to the issues we addressed on our Committee meeting on February 24.

SENATE BILL 218: Revises provisions governing certain fees charged by and certain duties performed by constables. (BDR 20-846)

SENATOR DAVID R. PARKS (Clark County Senatorial District No. 7):

This bill not only revises a bill passed two years ago that identified the duties of a constable, but the main function of S.B. 218 is to hopefully reduce the number of unregistered vehicles in Nevada. A news story from Channel 3 in Las Vegas identified the numerous unregistered vehicles that people have and the potential revenue the State misses out on from those individuals.

BOBBY G. GRONAUER (Constable, Las Vegas Township):

I will read from my testimony ([Exhibit C](#)) in support of S.B. 218. First, I would like to mention that the intent of this bill is not to make car stops to address failure to register but to contact people door to door and ensure they are complying with State registration of their vehicles.

CHAIR COFFIN:

Can you please give us an explanation of what S.B. 218 will do?

SENATOR PARKS:

The issue of out-of-state registration is addressed in section 3 of the bill, and constables are added to the list of individuals to whom a motor vehicle operator must surrender the certificate of registration. It will permit a constable to make registration inquiry.

SENATOR CARLTON:

What is the capacity of the constable's office? Are we going to be ticketing parked cars or the owners of the car in person?

MR. GRONAUER:

First, Nevada Revised Statute (NRS) 289.150 gives the constables peace officer status. Then, NRS 258.070 lists a constable as having status of a peace officer. The constables tend to handle the issues of civil law. Assembly Bill No. 552 of the 74th Session allows constables to deal with abandoned-vehicle issues. The constable's office handles issues that you tend to never hear about, such as evictions and acts of garnishment.

SENATOR CARLTON:

Will the citations that you write support your office, or will they go to the municipality?

MR. GRONAUER:

In early discussions about this bill, we discussed a fee, attached to the citation, that would go to the constable office, and the citation would go to the municipalities.

SENATOR CARLTON:

Do constables currently write citations?

MR. GRONAUER:

Yes, we do.

SENATOR CARLTON:

Does any law enforcement in the State write citations on private property or is it usually on public thoroughfares?

MR. GRONAUER:

Law enforcement usually only writes citations on private property if they are in pursuit. We only write citations on parked cars as a violation of abandonment. The bill intent is to not write citations on parked cars but to address people in person and make sure they are complying with the law. We will cite them if after discussion, we notice they are not in compliance with the law.

SENATOR CARLTON:

What is the amount of the citation?

MR. GRONAUER:

I am unaware of the amount.

CHAIR COFFIN:

The fees will be in late registration.

MR. GRONAUER:

We have asked for the increase from \$50 to \$100 for the citation of an abandoned car to deal with the costs for handling abandoned vehicles. I am going to have Steve Kilgore explain our proposed amendment to S.B. 218 ([Exhibit D](#)).

STEVE KILGORE (Constable, City of Henderson):

We are proposing to raise the monetary cap for a 2-percent fee that the constable office would recover as part of their expenses. The constable office acts as the enforcement for the justice court. In the 1990s, the justice court could hear cases up to \$3,500, and constables could collect a 2-percent fee up to \$3,500, but beyond \$3,500, the collectable fee dropped to one half of one percent. Then in 1999, the justice courts increased their range in case hearings from \$3,500 to \$5,000, and the constable's office cap amount remained unchanged. In 2001, the justice courts again raised their cap, this time from \$5,000 to \$7,500, yet again the constable's office remained unchanged. Then in 2003, the justice court raised their cap from \$7,500 to \$10,000, and that is what it stands today. Therefore, the constable's monetary cap is still set at the rate it was in the 1990s. We are trying to make up for lost time and to get us on an equal playing field with the justice courts. Our proposal puts the monetary cap for both at \$10,000. The constable's office will collect 2 percent of \$10,000 and for amounts above that, we will collect at the rate of one half of one percent.

SENATOR CARE:

Section 1 says a constable is a peace officer in his township, so the issuing of these citations would be within the confines of a constable's township. What triggers approaching the driver or owner of the car?

MR. GRONAUER:

Yes, we serve in our own township, and we do have authority in our own county. We are too busy to search around for unregistered cars, but we will respond to calls to our office about unregistered motorists.

SENATOR PARKS:

The fines of failure to register are normally considerably less than the cost of registration, which probably tempts individuals to wait to get caught to register their vehicles.

CHAIR COFFIN:

Would you be willing to have a phone line set up primarily to take phone calls regarding registration violations?

MR. GRONAUER:

Yes, we would be happy to set up and operate a separate phone line for this issue. Also, to clarify on page 5, section 4, subsection 3 of the bill needs to be clarified more as to the additional fees our office would receive for writing the citations.

EDGAR J. ROBERTS (Director, Department of Motor Vehicles):

On a monthly basis at the Department of Motor Vehicles (DMV), we create a list of people who receive a driver's license and after the grace period of 60 days do not register a vehicle. That report is then sent to the Nevada Highway Patrol. We are also submitting that report to the local law enforcement Website, Nevada Share. This allows local law enforcement to see and take action on the list. There is approximately an average of 2,000 people on the list each month. The list contains the person's name, address, Nevada driver's license number, the date their license was issued, their previous state and driver's license number.

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CHAIR COFFIN:

That is the same testimony you gave us in February, but we are happy that since then, you have made the progress to get the list onto Nevada Share. Are the constables' offices a part of Nevada Share?

MR. E. ROBERTS:

I do not know.

MR. GRONAUER:

Yes, we do have access to Nevada Share.

JEANETTE BELZ (Associated General Contractors, Nevada Chapter):

Every vehicle registration includes \$33 that goes toward the Highway Fund.

TOM ROBERTS (Director, Office of Intergovernmental Services, Las Vegas Metropolitan Police Department):

The Police Department only issues citations on private property for red zone and handicap violations. In Clark County, the fine for failure to register a vehicle in 30 days is \$190.

SENATOR CARLTON:

Is it \$190 for the ticket, but the failure to register is a \$250 fine?

MR. T. ROBERTS:

The information I received from our office said it is a \$190 fine for failure to register a vehicle in the 60-day requirement.

SENATOR CARLTON:

I was curious if you cited them for that, whether when they went to DMV, they were hit with an additional fine.

MR. T. ROBERTS:

The DMV will clarify that for you; we use a fine schedule that is printed on our citation guide.

SENATOR CARLTON:

Would school police be able to write these citations?

MR. T. ROBERTS:

Yes, that is correct. It would be difficult for a vehicle stop by them to obtain that information, though, because you cannot make vehicle registration a primary offense for a traffic stop.

SENATOR CARLTON:

The constable will not be doing traffic stops, so probable cause does not apply in their situation.

MR. E. ROBERTS:

According to NRS 482.385, there is an existing fine of no less than \$250 but no more than \$500 for failure to register. The DMV does not keep this fine; it goes directly to the State's General Fund.

SENATOR CARLTON:

Your fine is separate from the citation written by a city?

MR. E. ROBERTS:

Yes, that is correct.

WES HENDERSON (Government Affairs Coordinator, Nevada Association of Counties):

We are in support of any efforts to collect unpaid registration fees that should be paid to the counties.

CHAIR COFFIN:

I close the hearing on S.B. 218, and I open the hearing on Senate Bill 276.

SENATE BILL 276: Makes various changes concerning land sales agreements.
(BDR 32-724)

LAURA K. GRANIER (Fronteer Development):

I have provided a copy of my testimony and some attachments ([Exhibit E](#), original is on file in the Research Library) I accumulated on this subject through my own personal research. The origin of S.B. 276 is our personal experience in representing clients, including Fronteer Development, in land-use issues in rural Nevada counties. In our experience, conflicts have arisen on lands when purchasers buy land with preexisting conditions, uses or encumbrances that the sellers have not disclosed. These conflicts include claims by innocent and

unknowing persons victimized by real estate sellers who market and sell parcels of land through unrecorded land sale installment contracts. These purchasers often enter transactions through Internet solicitations without having any knowledge of material encumbrances on or conditions of the property. They have paid substantial sums of money for land only to find that significant disclosures were not made, and they have been left with virtually no effective remedy.

Land sellers in these transactions often use land sale installment contracts. The buyers have none of the protections provided under Nevada's foreclosure laws in NRS 40. If they miss a payment because their credit card is maxed out or through a processing error, they can lose both the payments made and any interest in the land without any of the traditional legal processes. There is no foreclosure or other due process mechanism as otherwise available under Nevada law. Instead, the seller simply retains all payments previously made, declares the buyer in breach of the installment contract, and takes the property back to turn around and sell it again.

These consumer issues are obviously alarming in isolation, but as we learned, they are just the tip of the iceberg. By using the land sale installment contract method, these real estate promoters are exploiting a loophole in Nevada's Real Property Transfer Tax and land ownership recording statutes. The result is Nevada and its counties lose real property transfer tax revenue because of the practice of selling lots or parcels of land through unrecorded land sale installment contracts.

In section 1 of S.B. 276, we provide the definition of a land sale installment contract. This type of contract is an agreement between a seller and a buyer of real property where the buyer makes and the seller receives the consideration paid in multiple payments during a specified time period, and the seller retains title to the subject real property until the full contract price is paid. Once paid in full, the seller is supposed to transfer title to the real property by giving a deed to the buyer. These types of installment land sale contracts are not typical under modern Nevada law. To avoid any confusion, we make clear in the definition that a land sale installment contract does not include the typical transactions of a deed of trust or common-law mortgage instrument that encumbers real property or an option to purchase real property.

As noted, a land sale installment contract provides that the seller does not deliver and record a deed until the purchase price is paid in full. Moreover, a notice of contract is similarly not provided by the seller to the buyer for recording purposes as evidence as to the transfer of the interest in such real property. The result is that no declaration of value is made by either the seller or the buyer, and thus no real property tax is paid to the county recorder of the county in which the land is located. These types of land sale transactions appear purposely structured to fly completely under the radar of the statutory schemes devised by the Nevada Legislature to collect real property transfer taxes, create an accurate and robust public record of real estate interests, and protect buyers of real estate.

Given the attributes of the land sale installment contract, it is likely that the collection of any tax and the recordation of the transaction will not occur for years, even decades, if at all. In the intervening time, the seller has created an unrecorded cloud on land title. The seller has also avoided the tax associated with selling the land even though the local governments may nevertheless be providing services to the buyer. Absent a recorded interest in the land, the local assessor also may be delayed or completely thwarted in imposing and collecting the appropriate real property tax.

A related objective of the sellers can be to retain legal title to the property free from potential foreclosure rights of the buyer in the event the seller seeks to declare a forfeiture of the buyer's interest under the contract of sale for nonpayment or some other technical deficiency. Moreover, if there is no public record of the sale under the land sale installment contract, the seller may resell the same property rights to multiple innocent purchasers who have no way of discovering previous land sale installment contracts on the same property that may exist. Senate Bill 276 will be good public policy.

Legislation is needed to eliminate the loophole in the transfer tax statutes in NRS 375. State statute should require the recording of land sale installment contracts in all cases where a deed is not delivered and recorded at the time of the conveyance or transfer of any present interest in real property. The real property transfer tax will then be collected in all cases where a conveyance or transfer is made.

MS. GRANIER:

In addition to generating revenue, recording of land sale installment contracts will give local governments an accurate database of land owners, including those who have purchased land with installment sales contracts, so these owners can receive notice of land-use decisions that may affect their land. By requiring recording of installment sales contracts, there also will be an accurate and complete public record of persons with ownership claims in a particular parcel.

The legislation should also include measures to protect buyers in these transactions, requiring disclosures of encumbrances, known material or adverse property conditions, the nature of legal access and providing foreclosure-like forfeiture provisions. These can be implemented through a simple change to Nevada's deceptive trade practices act and parcel map approval statutes. These measures also will enhance Nevada's ability to protect the State's reputation in instances where Internet land sellers engage in misconduct.

Therefore, Senate Bill 276 will accomplish the following four things. It will ensure that the Real Property Transfer Tax is fully collected. It will protect consumers in land sale transactions that do not adhere to traditional commercial rules. It will provide for effective public records of interests in real property, and it will prevent injury to the business reputation of the State of Nevada.

I will take a moment to review with you the various sections of S.B. 276. As I already noted, in section 1 at page 2, lines 26 to 35 provide a definition of the term "land sale installment contract." Thereafter, in the definition of "value," also in section 1 at page 2, lines 41 and 42, as well as in sections 2 through 6 and sections 8 and 9, we propose amendments to various sections of NRS 375 governing the transfer tax. These amendments clarify that the transfer tax applies to a transaction completed through a land sale installment contract.

In section 7, page 6, lines 28 through 30, we provide a provision that makes clear that the real property tax is collected at the time the land sale installment contract is recorded by the buyer, which may be many years later. This avoids a danger of double taxation. Regarding section 7, we have received a good comment from the county recorders that we eliminate subsection 15 at page 6 and add this language to subsection 3 at page 5, lines 23 and 24. Accompanying my testimony and research, I provide you with a proposed amendment ([Exhibit F](#)) to achieve this change. As Alan Glover pointed out to us,

by moving the language into existing subsection 3, we retain the protection against double taxation while eliminating the need for the county recorders to expend the resources to change their various forms.

In sections 10 and 11, we amend the parcel map rules in NRS 278. These amendments allow the governing bodies of cities and counties to deny a tentative parcel map if the required transfer tax has not been paid, the transaction has not been properly recorded and the seller has not complied with the consumer protection requirements imposed in section 12.

Section 12 sets forth certain disclosure requirements that a seller must make to a buyer in a transaction completed by a land sale installment contract. This section also requires the seller to record the contract, pay the real property transfer tax and include terms in the contract that provide to the buyers rights and protections substantially similar to those available under NRS chapter 40 foreclosure rules. A seller's failure to comply with the requirements of section 12 is made a deceptive trade practice under Nevada law.

SENATOR CARE:

I had no idea these practices took place.

TED J. OLIVAS (Director, Government and Community Affairs, City of Las Vegas):
The City of Las Vegas is in support of S.B. 276. In sections 10 and 11, some provisions require the local governments to ensure payment of taxes in accordance with NRS 375. Our concern is that we are only tax collectors and not tax experts.

MR. HENDERSON:

I have provided my testimony ([Exhibit G](#)) in support of S.B. 276.

LISA CORRADO (Redevelopment Project Manager, City of Henderson):

I spoke to Ms. Granier and she ensured me our concern that the provisions that validate taxes have been paid would apply to all mapping applications, would be addressed.

ALAN GLOVER (Clerk/Recorder, Carson City):

I am in strong support of S.B. 276. Our only concern was regarding exemptions. However, that concern was addressed in the proposed amendment to the bill.

CHAIR COFFIN:

This bill will protect many people. Please rework the bill, adding in the amendments, and bring the bill back to this Committee so we process it along. I close the hearing on S.B. 276 and open the hearing on Senate Bill 285.

SENATE BILL 285: Provides for a partial abatement from the sales and use tax for services, labor and materials related to aviation. (BDR 32-688)

SENATOR RANDOLPH TOWNSEND (Washoe County Senatorial District No. 4):

This bill was brought to my attention by the Washoe County Airport Authority for purposes of economic development. It mentions tax abatements and requests the question on the ballot of tax exemptions from taxes imposed by the gross receipts from the sale, storage, use and other consumption in this State and any other matter used for services, labor and materials relating to aviation. There is an economic note discussing the company that will be affected by this bill.

JOHN P. SANDE, III (Reno-Tahoe Airport Authority):

We are in support of S.B. 285. However, changes need to be made to the bill. We do not want to exempt services because there are no taxes on services. The wording of the bill needs to be tightened since it will be Statewide and you will be joining the Streamlined Sales and Use Tax Agreement if it is approved by Congress. There is also a concern that it is for all aviation, and the question has to be asked, "Do we want to limit it from an economic development standpoint only to attract new businesses and not affect existing businesses that fall in the definition of aviation if perhaps they would receive these benefits?"

MARILY M. MORA (Executive Vice President, Reno-Tahoe International Airport):

I have provided you with a handout ([Exhibit H](#)) that explains the benefits S.B. 285 will have on Dassault Aviation and the Reno-Tahoe and Reno-Stead Airports. Dassault Aviation, an aircraft manufacturer of military, regional and business jets, is scheduled to open a Falcon jet service center at the Reno-Tahoe Airport in April of this year. This is incredible economic development for the Airport and the local community. Initially, there will be 23 high-tech jobs for this facility. We need these tax incentives to bring the company to the State for expansion in the future. The primary concern is the sales tax on airplane part sales. In three years with these tax incentives, Dassault plans to expand the operation, which would result in an additional 120 jobs. It will give other

economic development companies a good look at our community and State for possible interest in bringing their businesses here.

CHUCK ALVEY (President/Chief Executive Officer, Economic Development Authority of Western Nevada):

We are in support of S.B. 285 and the jobs it will bring to our area.

CHAIR COFFIN:

It will not be an easy area for abatement since it will have to be voted on by the people of the entire State whom it will affect entirely as well.

SENATOR CARE:

The fiscal note on this bill should be confined to getting it on the ballot for the people to see the economic impact when they vote on it.

MR. SANDE:

The way this is written, it applies to aviation and needs to be clarified if it will affect all aviation or just pertain to new economic development coming to the State.

CHAIR COFFIN:

We need to be careful about the differences between exemptions and abatements. Abatements are intended to attract economic activity that we will be able to tax.

DINO DICIANNO (Executive Director, Department of Taxation):

I have provided you a fiscal note ([Exhibit I](#)) regarding the bill as it is originally written. That is why you see a significant fiscal note. It not only discusses the one particular company, but it is looked at globally with respect to all types of sales relating to aviation. My concern with the language of the bill is how it goes beyond the sale of the tangible property and materials needed to repair aircraft. When the language is amended, we will provide a revised fiscal note reflecting the updated language of the bill. We call this an abatement, but the way the bill is written, it is an exemption.

CHAIR COFFIN:

You are absolutely correct. It needs to be written identifying it as an abatement. With the part about services, it ends up being an exemption.

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CAROLE VILARDO (President, Nevada Taxpayers Association):

Two issues with the bill are the labor and service charges which should be made narrower. Another problem is the 40-year length for the exemption. Other exemptions used for statute have had a 10-year exemption, so I suggest that you go with a 20-year time frame for the exemptions.

LES LEE SHELL (Clark County):

We agree that the broad language of S.B. 285 needs to be amended before the bill receives strong consideration.

CHAIR COFFIN:

I close the hearing on S.B. 285, and I adjourn this meeting at 4:13 p.m.

RESPECTFULLY SUBMITTED:

Kyle Casci,
Committee Secretary

APPROVED BY:

Senator Bob Coffin, Chair

DATE: _____