

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

**Seventy-Sixth Session
March 29, 2011**

The Committee on Taxation was called to order by Chair Marilyn K. Kirkpatrick at 9:01 a.m. on Tuesday, March 29, 2011, 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/76th2011/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 Marilyn K. Kirkpatrick, Chair
Assemblyman Harvey J. Munford, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblywoman Irene Bustamante Adams
Assemblyman John Ellison
Assemblywoman Lucy Flores
Assemblyman Ed A. Goedhart
Assemblyman Pete Livermore
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Cyndie Carter, Committee Manager
Mary Garcia, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Ray Lummus, Tax Manager, Department of Taxation
Carole Vilardo, President, Nevada Taxpayers Association
Ted Olivas, Director, Office of Administrative Services, City of Las Vegas
Michael Cathcart, representing City of Henderson
Bryan Wachter, Director, Government Affairs, Retail Association of Nevada
Randy Robison, representing City of Mesquite
P. Michael Murphy, representing Clark County

Chair Kirkpatrick:

[Roll was called.] Good morning. I know we started a little late this morning, but we are still trying to go through bills and evaluate things. We are going to hear just one bill this morning, Senate Bill 31 (1st Reprint).

Senate Bill 31 (1st Reprint): Makes various changes to provisions governing administration of taxes. (BDR 32-434)

Ray Lummus, Tax Manager, Department of Taxation:

Unfortunately, Department of Taxation Interim Executive Director Chris Nielsen cannot be here this morning. He is in the process of presenting the Department's budget, so he asked me to step in. I beg the Chair's indulgence, as this is my first time testifying before the Committee.

Senate Bill 31 (R1) was submitted by the Department of Taxation. It was passed out of the Senate with some amendments that had also been submitted by the Department. With the Chair's permission, I would like to provide an overview of the bill and then answer any questions you might have.

Basically, sections 1, 2, and 3 of the bill address some issues regarding demographics. The intent was to lay out who would do what and when they would do it. It also adds some new information to be gathered. My understanding is that the State Demographer has sent a bit of new language to

the Legislative Counsel Bureau (LCB), which the Department has reviewed, and we have no issues with that new language.

Section 4 of S.B. 31 (R1) addresses responsible person determinations. The primary issue is that it adds "willfully" back into the definition. My understanding is that "willful" used to be in statute but, for some reason, it was removed at one point. The Department has concluded that it needs to be back in statute. Section 4, subsection 2, also ensures that the responsible person determination applies to all taxes in Title 32 of the *Nevada Revised Statutes* (NRS).

Section 5 of the bill addresses the Department's ability to waive penalties and interest for taxes or fees pursuant to all of Title 32 of NRS plus a couple of other statutes having to do with the Governmental Services Tax and Live Entertainment Tax.

Sections 6 through 11 are the areas that deal with extending the statute of limitations for various purposes from three years to four years.

Section 12 has to do with fees that are collected by the justice of the peace, which are returned, in some cases, to the Department, and, in other cases, will apparently help pay for the new requirements in section 1 having to do with demographics.

That is my overview. I will answer any questions I can.

Chair Kirkpatrick:

Are there any questions from the Committee? [There were none.] Are you aware, Mr. Lummus, that we spoke to the State Demographer this morning and there is a bit of an issue with language in section 1 on lines 5 and 10 that he wanted to amend out?

Ray Lummus:

Yes, I am aware that there are going to be some changes, including removal of references to townships and cities. Mr. Nielsen has assured me the Department is fine with those changes.

Chair Kirkpatrick:

So, for the Committee, that would be in section 1, lines 5 and 10, where it refers to "town," "township," and "city." The amendment would ask us to remove that language. That section deals with the Office of the State Demographer. Mr. Guindon, perhaps you could elaborate on that.

**Russell Guindon, Principal Deputy Fiscal Analyst, Fiscal Analysis Division,
Legislative Counsel Bureau:**

To give the Committee members a little background, the amendment to this bill when it was in the Senate Committee on Revenue was based on interactions between the State Demographer and two or three executive branch agencies and your own Fiscal staff. Under current law, the Demographer is required to produce population estimates that are certified by the Governor and are used in various places in statute for determining the Consolidated Tax Distribution (CTX) and other such things.

It is also necessary for your Fiscal Analysis Division staff, as well as some of the executive branch agencies, to have projections out into the future. There was nothing in the law that mandated that. It was not that the Demographer was not doing projections. There just was no date specified in the law. From time to time, your Fiscal Analysis Division staff would be out of sequence with regard to the Demographer and an executive branch agency that uses population projections for such things as welfare caseload projections.

The Department of Taxation, the Office of the State Demographer, the Department of Health and Human Services, the Department of Administration, and the LCB Fiscal Analysis Division got together in the interim and talked about this. We all agreed it would be a good idea to have it in the law. That was the original amendment that occurred in the Senate Committee on Revenue.

It came to our attention just this morning, from talking to the State Demographer, that this town, township, and city language is identical to the language on page 2, section 2, line 3 [reference to NRS 360.283], for the Demographer to determine population estimates. The level of detail does not exist for doing projections out into the future for cities, towns, and townships, so the Demographer requested the requirement be changed to do it at the county level. The existing level of detail would be sufficient for the Fiscal Analysis Division staff, as well as the Department of Administration and the Department of Health and Human Services, to be able to do the projections.

In demographer "speak," an estimate is for March of each year, and the Governor certifies an estimate for the population of July 1 in the preceding year. That is an estimate.

A projection would be something looking forward into the future. The Demographer has the detail to be able to go out and get information necessary to produce that information and have it be certified by the Governor. The detail just does not exist to do it at the town, township, or city level, so the request is

to strike that language and just go with the county level. I can answer any questions on that.

Chair Kirkpatrick:

Are there any questions? [There were none.] Mr. Lummus, another issue also arose, and this happened to be the perfect avenue for an amendment. I wanted to direct it to you as well as the Committee.

There was an issue with the CTX that could possibly affect things in the future on how it comes about. I met with most of the local governments, at least from Clark and Washoe Counties. I do not want to open up the subject of the CTX, because that is a whole can of worms all by itself.

However, within the current statute, it says the local governments have to have already made their decision whether to adjust their interlocal agreements by December 31 of the previous year in order to give the county some extended time to decide if that was something they could do. I wanted to add an amendment to Section 9 that gave them until May 31 to work that out [[Exhibit C](#)]. We talked with Mr. Nielsen, and he was okay with that because he wanted them to have the date specified. I wanted to make sure that amendment was also okay with you.

Ray Lummus:

If the Director has approved it, then it certainly must be what we want.

Chair Kirkpatrick:

He approved the idea. Is that correct, Mr. Guindon?

Russell Guindon:

I spoke to the current acting Executive Director of the Department of Taxation, Mr. Nielsen. The Department's budget is currently being heard in the money committees [the Assembly Committee on Ways and Means and the Senate Committee on Finance], which is why he could not be here. He is agreeable to this. I also talked with Terry Rubald, Chief of the Division of Assessment Standards, Department of Taxation, and some of her staff to make sure this date would work for them to allow the local governments an additional opportunity to enter into an interlocal agreement. Then, we would immediately revert back to the December 31 date for next year.

Chair Kirkpatrick:

This is a perfect bill for amendments. I pulled all the local governments from Clark County into my office to tell them they still have to work this out on the

local level. I am not going to make a decision for them one way or another, but this gives them probably about eight weeks to figure it out.

Assemblyman Ellison:

Is this based on the names listed on this sheet?

Chair Kirkpatrick:

Mr. Ellison, that is one example, and those numbers could happen. It could look like that, but it also could affect Washoe County and Carson City at the same time. It is not for one specific place in the state. It allows the local governments to go back in and to revisit their agreements.

Assemblyman Ellison:

I am worried about the whole formula the way it is. I think it is working, but . . .

Chair Kirkpatrick:

The structure works. I agree with you. This is an unintended consequence. Maybe we could have Ms. Vilardo come up and give us some background. This is something that could happen based on the loss of any growth. All we at the Legislature are saying is we are not getting in the middle of a structure fight. We are just saying we will give them an extra couple of months to figure it out among themselves.

It is like putting a bunch of teenagers in a room to try to decide where they are going to eat on Friday night. Maybe they will eat at home, maybe they will all go to the same place, or maybe they will all go their separate ways.

Carole Vilardo, President, Nevada Taxpayers Association:

I think your staff probably knows this as well as or better than I do. What has happened is one of those unintended consequences. You have an anomaly because of the way the formula works and the way the growth in population is going.

You can see that the City of Mesquite actually winds up getting one-third more than what it would normally get from its base. It has to do with the difference between "one plus" and not having "one plus," which is what created the current situation.

This bill is the easiest thing to do. If you try changing things one way or the other in the overall formula right now, you have no idea what will happen to the other entities—not without doing extensive work. Because the law allows for these interlocal agreements within a county, in my opinion, this is the most

efficient way to handle this particular issue. It is to be hoped that it will not occur again.

We can go five, six, or even seven years on something we did that seems to be working fine, but all of a sudden a circumstance comes up that you could not have dreamed of happening. That becomes your unintended consequence, and then you are asked to straighten it out. I think this is the cleanest way of doing it at this point.

Chair Kirkpatrick:

Thank you, Ms. Vilardo. Does anybody have any questions? Truth be told, Mesquite holds all the cards in this situation because it has to come to the table first. At least this gives them a little time. They currently cannot even have the conversation unless we extend that date.

Mr. Lummus, I know we threw a lot at you your first time here. Is there anything else?

Carole Vilardo:

I am speaking in support of S.B. 31 (R1). I just have a couple of points because I think they are worth repeating. One is on the “willful” being added. That was left out and was unintended. You will find that is back in. The Office of the Secretary of State had it in their bill relative to the business tax. That is being left in, and it is just to draw a bright line on when somebody has deliberately done something versus an unintended action that was taken—something that was beyond the control of the person remitting the taxes.

My second point is the four-year issue. That puts us consistent with other provisions in state statute, even though it extends it a year. There was no problem from anybody in the business community. You should know that these liens can be reinstated. Even though the bill says four years, it could go on for six years, eight years, or whatever.

I did notice something I had not picked up on, and I noticed it because of your discussion with the Demographer. I just throw this out as something to be aware of. When I served on the Nevada Spending and Government Efficiency (SAGE) Commission, one of the things we found, which was of much concern, was that we are spending money on multiple web platforms and on multiple email platforms. If you go through a lot of the state’s websites, you will see some inconsistencies in the way they are structured. That is because they are different platforms.

The other issue, which occurs with the emails, is that because there is no common database, you cannot email every employee in the state. We wanted to do a survey of all state employees to find out what their suggestions were and what they thought, and we could not do it because we have different email platforms that do not talk to one another.

I noticed that on page 3, lines 5 and 6, it talks about an Internet website maintained by the Demographer. Right now, that is sending up a red flag. As I say, I had not paid attention to it before when the bill was on the Senate side. Your conversation this morning about the Demographer alerted me because the way that is worded, it sounds like we are out of information technology again. Whether you can do anything about it or not, I do not know. However, for the future, if you would take a look at other bills and be cognizant of that, I would appreciate it. I am not recommending that you change it, but it is an issue I want to raise with everybody because I know, in your various committees, you see that. It is something that is problematic if we are ever going to attain consistency.

Chair Kirkpatrick:

Thank you. I think, because their website is on the university system, this gives us access to . . .

Carole Vilardo:

It allowed me to get a plug in for the other issues while I was sitting on another committee, so I thank you.

Chair Kirkpatrick:

Thank you.

Mr. Lummus, I know a lot of work was spent trying to clean this bill up while it was in the Senate. At this time I will see if anybody else wants to come up to testify. I am going to do this a bit differently this morning.

If you want to testify in support of both amendments we discussed as a Committee, please come up as neutral. If you support the bill as it is, you can come up now. If you are opposed to the bill as is, please come up. Those who would like to testify in support of the bill with the two amendments the Committee discussed this morning, please come up now.

Ted Olivas, Director, Office of Administrative Services, City of Las Vegas:

I want to thank the Committee and staff for working with us on this amendment. I think the Committee members have been given a good representation of what the problem was. It was not that we did not do our due

diligence; it was a timing issue. The interlocal or cooperative agreement was due by December. We did not have the data until February.

As Madam Chair mentioned, the cards are really in Mesquite's hand. I want you all to know that I talked to the City Manager of Mesquite, Tim Hacker, this morning about this. I talked to Randy Robison as well. They are in agreement that we support this and want to get it worked out. If it does not get worked out, it simply goes back to the December date and we will just go from there.

We are working diligently on that contract. We have a draft that has been done, and we have a lot of entities that we have to get to. We are thankful that you moved the date to May 31. Some of the boards involved in this only meet monthly, so we have somewhat of a timing issue. I would like to thank you for that, and I would be happy to answer any questions.

Chair Kirkpatrick:

Does anybody have any questions? [There was no response.]

Michael Cathcart, representing City of Henderson:

We just want to echo what Mr. Olivas said. We appreciate the opportunity to get the interlocal agreement in place. I would be happy to answer any questions.

Chair Kirkpatrick:

Okay, does anybody have any questions? [Again, there was no response.]

Bryan Wachter, Director, Government Affairs, Retail Association of Nevada:

As the state's largest industry that collects or remits the sales tax to Nevada, we are happy that you are taking a look to make sure the allocation is done on a fair basis. We look forward to the local governments working together to figure out that situation. We want to thank the Chair for her amendment and to show our support for the bill.

Chair Kirkpatrick:

Thank you. Does anybody have any questions? [No one did.]

Randy Robison, representing City of Mesquite:

I appreciate the work of the Committee, and the Chair specifically, for allowing us this opportunity to continue to work. I had a great speech prepared for today—an object lesson—but I think I will let that go. I am not sure it is as simple as some people may represent it to you. I am not sure there is another formula that you can just drop back into the existing formula.

Interestingly, a lot of people want to come to the table and work together now. In the past, when we have been disadvantaged, there has seemed to be no table. However, we are interested in coming together to work this out and coming to a resolution that is, if not fair and equitable to everyone, at least equally disappointing to everyone. Thank you very much.

Chair Kirkpatrick:

That was quite nicely put.

P. Michael Murphy, representing Clark County:

We first want to thank you for all your work on this, as well as your staff who brought all this together. We recognize the timing on this is important. I will echo the comments others have made. Again, thank you, and we would like to show our support.

Chair Kirkpatrick:

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

Assemblyman Ellison:

I want to thank you for spending a few minutes with me this morning because I did not get this information last night. I appreciate you coming down to spend a few minutes. That helped quite a bit.

Chair Kirkpatrick:

Does anybody else have any questions? [There still was no response.] Is there anybody else who would like to testify in support of this bill with the two amendments? Just to reiterate to the Committee, this does not give anybody anything more than the ability to have a longer conversation about the process.

Most of you know I typically do not like to move bills without a 24-hour notice, but I did speak to most of you yesterday so you could at least see my proposed amendment. I did call local governments late last night, and they were in the building this morning to make sure you understood that proposed amendment.

I would like to move this bill, because it has already been through the Senate. I have already spoken to the Chair of the Senate Committee on Revenue so that Committee can continue to have these conversations as well, as this bill is clean. We do not want to muddy the waters.

Assemblyman Stewart:

On behalf of my constituents, I appreciate the hard work you have done overnight in getting this thing together.

ASSEMBLYMAN STEWART MOVED TO AMEND AND DO PASS SENATE BILL 31 (1st REPRINT) WITH THE TWO AMENDMENTS. THE FIRST AMENDMENT WOULD REMOVE THE WORDS "TOWN," "TOWNSHIP," AND "CITY" FROM SECTION 1 OF THE BILL. THE SECOND AMENDMENT WOULD EXTEND THE DATE BY WHICH LOCAL GOVERNMENTS OR SPECIAL DISTRICTS MUST SUBMIT A COPY OF THEIR COOPERATIVE AGREEMENT TO THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF TAXATION FROM DECEMBER 31 TO MAY 31, SAID CHANGE TO BE EFFECTIVE UPON PASSAGE AND APPROVAL AND TO EXPIRE ON JUNE 30, 2011.

ASSEMBLYMAN ANDERSON SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chair Kirkpatrick:

That was easy. That was our only bill today, but it was a little complicated, so I wanted to make sure we could fully vet it.

Is there any public comment? [There was none.] We are going to adjourn until 8 a.m. on Thursday, at which time will hear a couple of different bills.

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Our other favorite Committee, the Assembly Committee on Government Affairs, starts at 7:30 a.m. tomorrow. Please do not be late; we have a full plate with the rest of committee deadlines.

We are adjourned [at 9:28 a.m.].

RESPECTFULLY SUBMITTED:

Mary Garcia
Committee Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: March 29, 2011

Time of Meeting: 9:01 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 31 (R1)	C	Chair Kirkpatrick	Mock-up of Proposed Amendment No. 5846 to Senate Bill No. 31, First Reprint