

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session
May 10, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 1:52 p.m. on Tuesday, May 10, 2011, in Room 2134 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 Sheila Leslie, Chair
Senator Steven A. Horsford, Vice Chair
Senator Moises (Mo) Denis
Senator Mike McGinness
Senator Joseph (Joe) P. Hardy
Senator Elizabeth Halseth

COMMITTEE MEMBERS ABSENT:

Senator Michael A. Schneider (Excused)

GUEST LEGISLATORS PRESENT:

Assemblywoman Debbie Smith, Assembly District No. 30

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Joe Reel, Deputy Fiscal Analyst
Mike Wiley, Committee Secretary

OTHERS PRESENT:

Jason King, P.E., State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources
P. Michael Murphy, Clark County
Christopher G. Nielsen, Interim Executive Director, Department of Taxation
Carole Vilardo, President, Nevada Taxpayers Association
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities
Lisa Foster, Nevada League of Cities and Municipalities

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Tray Abney, Director, Government Relations, Reno Sparks Chamber of Commerce
David Bowers, City of Las Vegas
Samuel P. McMullen, Las Vegas Chamber of Commerce
Joshua G. Wilson, Washoe County Assessor
Tom Young, Brewmaster, Great Basin Brewing Company
Alfredo Alonso, Southern Wine and Spirits; Nevada Beer Wholesalers Association
Rebecca Gasca

CHAIR LESLIE:

I will open the hearing on Assembly Bill (A.B.) 46.

ASSEMBLY BILL 46 (1st Reprint): Clarifies the inapplicability of certain partial tax abatements to various assessments relating to the adjudication of water rights and management of water resources. (BDR 32-468)

JASON KING, P.E. (State Engineer, Division of Water Resources, State Department of Conservation and Natural Resources):

Assembly Bill 46 resolves the conflict in the interpretation of the special assessment provided under *Nevada Revised Statute* (NRS) 534.040. This section provides that the board of county commissioners must levy a special assessment annually upon all taxable property if the Division of Water Resources, within an area, needs to pay for the salary of a well supervisor and any needed assistance in order to provide supervision. The conflict is the interpretation of NRS 534.040. Clark County has interpreted the special assessment to be an ad valorem tax subject to abatement under NRS 361.4722 through NRS 361.4724. In 2008, the amount to be levied was abated in the amount of \$191,392, and the budget for the Las Vegas artesian groundwater basin has run a deficit every year since 2008. Our office, as well as every other county that levies the special assessment, interprets the assessment to be a special assessment.

It is not an ad valorem tax subject to abatement. Clark County's conclusion that the special assessment is an ad valorem tax is based on the 1973 Attorney General's Opinion, No. 125. We do not believe this opinion reflects the Legislature's intent because of amendments made to NRS 534.040 in 1995 which changed all references from "tax" to "assessment." In addition, NRS 534.040, subsection 2, requires the assessment to be an amount necessary to pay salaries and expenses for the well supervisor and any assistants. Abatement of this assessment is inconsistent with the requirement to be sufficient to pay the salaries and fees. Clark County levies the special assessment according to the assessed value of the parcels within the Las Vegas artesian groundwater basin, which gives the appearance of an ad valorem tax. This method of levying the special assessment is

not required by NRS 534.040 subsection 2, and not all counties levy in this manner. Attempts to resolve the conflict in the interpretation in NRS 534.040 have been unsuccessful.

The only alternative would be to litigate the question in court with the possible outcome of abating the assessment throughout the entire State, leaving our office unable to fulfill the mandates of NRS 534.040. My point in testifying today is not to argue for one interpretation of NRS 534.040 or another but to resolve the ambiguity in statute. Regardless of which interpretation is correct, it is clear that the assessment collected under the statute must be excluded from the abatement and the provision of NRS 361. Assembly Bill 46 will resolve the issue and will clarify this Legislature's intention in passing NRS 534.040.

CHAIR LESLIE:
This is just in Clark County?

MR. KING:
That is correct.

CHAIR LESLIE:
Is it the Assessor who has ruled or the District Attorney?

MR. KING:
It is the District Attorney's reading of the statute.

CHAIR LESLIE:
Have there been amendments to the statute after the Attorney General's opinion?

MR. KING:
The opinion was in 1973. The language included the word "tax," and in 1995, it was changed to "assessment."

CHAIR LESLIE:
Why is it so critical that the money should be going where it is not going?

MR. KING:
We use these fees in a variety of basins throughout the State that we have deemed critical. The water right holders in the basins pay for services that we provide: reading water levels, conducting inventories, looking over the well drillers and a wide variety of work that we carry out in the basins.

CHAIR LESLIE:

Do you know how much money you are losing through the abatements?

MR. KING:

Since 2008, it is about \$300,000 to 400,000.

P. MICHAEL MURPHY (Clark County):

The interpretation is the opinion of one group, and Clark County has a different opinion, which has been rendered by the Clark County Treasurer's Office and the District Attorney's Office. The changes in the regulations are assessments based on property value and not on taxable property. Our concern was this should be prospective rather than retrospective. An amendment that stated this would be effective July 2011 is our concern. We are neutral on the bill.

CHAIR LESLIE:

I will close the hearing on A.B. 46 and open the hearing on Assembly Bill 504.

[ASSEMBLY BILL 504](#): Revises provisions governing delinquent taxes. (BDR 32-922)

CHRISTOPHER G. NIELSEN (Interim Executive Director, Department of Taxation):

We have submitted a proposed amendment ([Exhibit C](#)), which addresses the interest rates on refunds and on monies owed to the State or the taxpayer. The rates are set at 12 percent and 6 percent. We are proposing lowering them by 3 percentage points to 9 percent and 3 percent. Assembly Bill 504 affects the Department of Taxation because of the outstanding accounts receivable, of which many are old and uncollectable. The Department reports this information to the Legislative Counsel Bureau and the State Controller's Office on a quarterly basis. The bill would require additional reporting to the Nevada Tax Commission. The procedure would also change how uncollectable debt would be written off. Annually, the Department goes before the Tax Commission in a public hearing, and the Commission has the authority to write off debt that exceeds five years. It is still a debt to the State because if there is a lien on property and it is sold, the Department will collect the proceeds. The term "write off" means the Department is not legally obligated to collect the debt.

CHAIR LESLIE:

Are there any questions on A.B. 504 as far as what the bill does on the bad debt provisions? Is the amendment reducing the amount of interest the State would pay the taxpayers, which is now at 6 percent, by reducing it to 3 percent?

MR. NIELSEN:

The references in NRS Title 32—Revenue and Taxation, Chapter 360—include the many tax types the Department administers. This bill addresses each section for consistency throughout Title 32. The intent is if there is a refund at 6 percent, the proposal is to reduce it to 3 percent. Additional statutes may need to be added to this amendment.

CHAIR LESLIE:

Your intent is wherever statute refers to 6 percent interest, it would be changed to 3 percent interest.

MR. NIELSEN:

That is correct. When a taxpayer files a late return or an audit determines the taxpayer underreported, interest and penalties are applied at 12 percent. The provision would reduce it to 9 percent. This is not a revenue-generating bill, but it adjusts rates that are more germane to the times.

SENATOR MCGINNESS:

Would this be better in regulation, so if a change is needed as interest rates fluctuate, it would not be so difficult?

MR. NIELSEN:

That is an option because the Internal Revenue Service does it on a quarterly basis, but cost is a concern and under this proposal, cost would not be an issue.

CAROLE VILARDO (President, Nevada Taxpayers Association):

If the Committee chooses to process this amendment, I would suggest going to 7 percent instead of 9 percent. That would put it roughly 4 percent over prime.

CHAIR LESLIE:

What about the policy?

MS. VILARDO:

We previously suggested looking at it yearly to adjust against prime and set a spread between the two rates, which is done in other places in statute. The cost of doing it quarterly would create an administrative and printing nightmare.

CHAIR LESLIE:

I will close the hearing on S.B. 504 and open the hearing on Assembly Joint Resolution (A.J.R.) 1.

ASSEMBLY JOINT RESOLUTION 1 (1st Reprint): Proposes to amend certain provisions of the Nevada Constitution related to the assessment and collection of property taxes to authorize the Legislature to provide by law for the calculation of the taxable value of improvements to real property upon the transfer, sale or conveyance of the property. (BDR C-402)

J. DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities): The bill in its first version addressed the depreciation of property, but with concerns from the assessors and the Nevada Taxpayers Association, we amended the bill into its current form. Section 1, subsection 11 allows the Legislature to deal statutorily with the taxing methodology by placing it into the Constitution. This bill will allow the Legislature to take steps statutorily to deal with the unintended consequences.

CHAIR LESLIE:
Why is a constitutional amendment needed?

MR. FRASER:
If this amendment becomes part of the Constitution in five years, it would be our intention to bring forward a bill to address the depreciation of property. Property is depreciated at a rate of 1.5 percent per year for up to 50 years, which is 75 percent of the value of the property. Older home properties are disproportionately taxed because within the same community, a newer home valued at \$200,000 would be taxed at a different rate than an older home at the same value. This bill would have initially reset the tax rate on the sale of the property.

CHAIR LESLIE:
You would ask the Legislature to reset upon sale of the property?

MR. FRASER:
Yes, which is why we changed it so you make changes statutorily.

SENATOR HALSETH:
Why do you think it is necessary for the Legislature to do this, and why was it not changed sooner?

MR. FRASER:
This is a constitutional issue because the way it is written in the Constitution, it can only be addressed in the Constitution. History on these issues goes back some 20

years and it is difficult to know what to do. The answer is to change the Constitution to allow the Legislature to address it.

SENATOR HALSETH:

I just do not understand why the Constitution needs to be amended so that this is in the power of the Legislature.

MR. FRASER:

It is a policy issue. It gives the Legislature more flexibility in case of unintended consequences. As it is in the Constitution, it would take five years to make changes.

CHAIR LESLIE:

It has to be passed twice by the Legislature and then a vote of the people. Is the League of Cities going to inform the public?

MR. FRASER:

We are committed to following through.

LISA FOSTER (Nevada League of Cities and Municipalities):

Mr. Fraser has explained the issue very well.

MS. VILARDO:

I want to testify on the change, not what the bill proposes to do. As it was originally drafted, the Nevada Taxpayers Association opposed it because of putting methodology in the Constitution. Our board feels if the Constitution is going to be amended, it should be as a policy statement. There are unintended consequences too many times. It is important the Constitution be a policy document, especially for taxes.

CHAIR LESLIE:

Are you in favor on how it was amended, and are you neutral on the bill?

MS. VILARDO:

I have not polled the board on the bill.

TRAY ABNEY (Director, Government Relations, Reno Sparks Chamber of Commerce):

The Chamber supports the concept behind this bill to deal with the depreciation issue. It is unfortunate the Constitution has to be changed because the Constitution provides for fair and equal taxation. It is not fair and equal currently.

CHAIR LESLIE:

How do you react if my neighbor and I have the same kind of house and when his house is sold, the new owner pays higher property tax rates?

MR. ABNEY:

I agree with the Chamber's official position, which is we would support going to market value at point of sale.

DAVID BOWERS (City of Las Vegas):

We are in support of the bill and the testimony from the League of Cities.

SAMUEL P. McMULLEN (Las Vegas Chamber of Commerce):

We are in support of the concept of the bill. A consistent market value should be applied uniformly and equally across all properties. The voters need to see the proposal and decide if it is an appropriate way to change the tax system.

JOSHUA G. WILSON (Washoe County Assessor):

The assessors are neutral on the bill. I do not see this putting us on market value. This bill would bypass section 1, subsection 1 of Article 10 of the Constitution, which says "The Legislature shall provide by law for a uniform and equal rate of assessment and taxation" Our system constitutional is because you are treating similar homes the same in terms of their valuation.

CHAIR LESLIE:

I will close the hearing on A.J.R. 1 and open the hearing on Assembly Bill 200.

ASSEMBLY BILL 200: Authorizes a brew pub to obtain a special permit to transport donated malt beverages under certain circumstances. (BDR 32-508)

ASSEMBLYWOMAN DEBBIE SMITH (Assembly District No. 30):

This bill will authorize local breweries to be granted a special permit to donate their products for charitable or nonprofit purposes and to transport the beer. Under existing law, only authorized carriers are allowed to transport alcoholic beverages around the State. Authorized carriers in the State are distributors who neither brew nor distill the alcohol nor sell it at retail. This will allow for parity between large manufacturers, small distilleries and breweries. This will allow the breweries to get a permit for events and transport their beer. They pay the taxes, which has never been an issue; it simply is the transport of the product.

TOM YOUNG (Brewmaster, Great Basin Brewing Company):

We are Nevada's oldest operating brewery. This State, like many, has a three-tier system that happened after Prohibition, requiring a retailer to be separated from a wholesaler and a manufacturer. When we were threatened with arrest at an event last year, I engaged an attorney who pointed out that it was illegal. He also told me where it could be legal. The law is very confusing, and this bill will clear it up.

CHAIR LESLIE:

We appreciate everything you do for our community.

ALFREDO ALONSO (Southern Wine and Spirits; Nevada Beer Wholesalers Association):

We are in support of this bill. Several sessions ago, we had a transport issue with out-of-state breweries moving liquor throughout the State in violation of their contracts. This bill will fix that situation.

REBECCA GASCA:

I am in support of this bill and appreciate all that Great Basin Brewery does for the community.

MR. NIELSEN:

The Department of Taxation is neutral in the bill.

CHAIR LESLIE:

I will close the hearing on A.B. 200 and adjourn the Senate Committee on Revenue at 2:40 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

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Senator Sheila Leslie, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 504	C	Christopher G. Nielsen	Proposed Amendment to Assembly Bill 504