

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE**

**Seventy-sixth Session
March 8, 2011**

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 1:11 p.m. on Tuesday, March 8, 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 Michael A. Schneider
Senator Moises (Mo) Denis
Senator Mike McGinness
Senator Joseph (Joe) P. Hardy
Senator Elizabeth Halseth

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Dino DiCianno, Executive Director, Department of Taxation
Christopher G. Nielsen, Deputy Executive Director, Department of Taxation

CHAIR LESLIE:

We will open the work session with Senate Bill (S.B.) 31.

SENATE BILL 31: Extends the period for the Department of Taxation or a county to take certain actions relating to delinquent taxes. (BDR 32-434)

JOE REEL (Deputy Fiscal Analyst):

The work session document ([Exhibit C](#)) is a summary with proposed amendments on S.B. 31, heard on February 15, and authored by the Department of Taxation. The bill extends the period of time, from three to four years, allowing the Department to take various actions on the collection of delinquent taxes or fees. The bill is intended to provide consistency with the provisions in statute governing the State Controller's Office which allow four years. In Senate Bill 81 the Controller, proposes to change the period of time from four to six years; however, the bill has not had a hearing.

SENATE BILL 81: Makes various changes relating to state financial administration. (BDR 31-396)

There was no testimony in opposition to S.B. 31, and the support of the bill came from the Nevada Taxpayers Association.

We have three amendments on the bill; the first is in section 4 of proposed amendment 5719, [Exhibit C](#). The Department testified the word "willfully" was taken out of *Nevada Revised Statute* (NRS) 360.297 inadvertently; because of problems with prior cases, it needs to be restored. This will allow the Department to determine whether a taxpayer is liable for payment of taxes. Assembly Bill 78 is intended to remove the word "willfully" from provisions in statutes; however, the Secretary of State's Office offered an amendment restoring the provisions to statute.

ASSEMBLY BILL 78: Makes various changes relating to business. (BDR 7-403)

Sections 4 and 5 of the proposed amendment allow the Department's Executive Director or a designated hearing officer to waive penalties and interest in certain cases where good cause is shown. The original language in the amendment submitted by the Department was to grant authority to waive the penalties and interest on the Governmental Services Tax associated with short-term car rentals and the Live Entertainment Tax, if good cause is shown. Language prepared by legal counsel will give the Department this authority to apply to any taxes administered by the Department.

Sections 1, 2 and 3 of the proposed amendment would require the State Demographer to produce 5- and 20-year population projections to be used by

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numerous State agencies helping with budget development and caseload estimates. The bill would be effective on July 1.

CHAIR LESLIE:
Any questions on S.B. 31?

SENATOR MCGINNESS:
As for the change from three to four years, matching that of the Controller—is the Controller planning on moving to six years? What is preventing the Controller from going back to three years? Will this add retroactivity to the collection of taxes because of the Department's problems mentioned earlier? Will the State Demographer's added responsibilities create a need for a fiscal note?

DINO DICIANNO (Executive Director, Department of Taxation):
I have not spoken to Controller Kim Wallin, so I am not aware of her view for changing back to three years. There would be no retroactivity.

CHAIR LESLIE:
What about the fiscal note?

MR. DICIANNO:
Jeff Hardcastle, the State Demographer, informed me that no additional costs would be associated with this change. He is already doing the 20-year projection, and we are asking him to make a 5-year projection by March 1.

SENATOR HALSETH:
The intent of the bill is to move from three to four years to be consistent with the Controller. If the bill is approved and the Controller moves to six years, will we have to change it again? We need to know why the Controller is moving to six years.

MR. DICIANNO:
As far as the Department's bill is concerned, four years are sufficient in establishing a lien. The liens have to be renewed every five years.

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SENATOR HALSETH:

Why was the Department not at four years before, if three years are not sufficient? Is the reason to be consistent with the State Controller's Office?

MR. DICIANNO:

We should have changed from three to four years, but in my mind four years is sufficient.

SENATOR HALSETH:

If the Controller changes to six years, will you want to go to six years, or are you confident you will be staying at four years?

MR. DICIANNO:

In my experience dealing with delinquent taxes, four years is more than enough time. It is up to the Legislature to make the dates consistent. My recommendation is four years.

CHAIR LESLIE:

It is up to us, not the Controller. The Committee needs to decide the right number. The Nevada Taxpayers Association testified four years was the right number.

SENATOR HARDY:

I approve four years.

CHAIR LESLIE:

Any other comments?

SENATOR HALSETH:

I think four years is fine; my concern is why there was no discussion with the Controller prior to the bills being heard.

MR. DICIANNO:

I was not aware of the Controller's bill when we submitted our bill. The Department's intent was to make it consistent with statutes.

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CHAIR LESLIE:
Do I have a motion?

SENATOR HALSETH MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 31.

SENATOR DENIS SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LESLIE:
We will move on to Senate Bill 32.

SENATE BILL 32: Makes various changes relating to the meetings of the State Board of Equalization. (BDR 32-433)

MR. REEL:
Senate Bill 32 ([Exhibit D](#)) proposes to extend the deadline for the State Board of Equalization to perform its duties in regard to equalizations and actions brought forward to the county boards of equalization. The Department of Taxation needs this extended deadline because of the increased caseloads. Provisions in the bill allow the State Board, if an equalization action is anticipated to have a significant impact on property revenues, to notify any affected local governments by April 30 so the entities can address budget impacts. The bill would remove requirements for the State Board to publish notices of meetings in newspapers for meetings held outside of Carson City. Notices will be posted on the Department's Website. Opposition came from the Nevada Press Association with respect to the elimination of publishing notices of meetings outside Carson City.

The first amendment, section 3, [Exhibit D](#), allows the Department to clarify its intent by making a distinction between appeals filed by individuals versus more broad-based appeals that impact more than one county. The second amendment is a technical amendment concerning the provisions regarding county boards. If the January 15 deadline for filing falls on a Saturday, Sunday or legal holiday, the appeal may be filed on the next business day. It provides consistency with existing statute. The bill would become effective on passage and approval.

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CHAIR LESLIE:

What about the posting of meetings outside of Carson City and Las Vegas?

SENATOR MCGINNESS:

My concern is the public notices on the Website will leave out some taxpayers.

CHAIR LESLIE:

The fiscal note seems to be fiscally neutral by saving money on the newspaper advertising, but the cost would be placing it on the Website?

MR. DICIANNO:

The additional cost has to do with mailing notifications that we would provide. We would continue with certified mail to the parties affected. The main point is that we no longer notify on the Tax Commission meetings, the Committee on Local Government Finance or for other matters of public notification. People without Internet access can contact the Department and be placed on our mailing list.

SENATOR DENIS:

To be clear, on the issue of taxpayers in a hearing, you will be mailing information to them.

SENATOR MCGINNESS:

How often do you meet outside Carson City?

MR. DICIANNO:

We use videoconferencing between Carson City, Reno and Las Vegas. If necessary, we can videoconference in other places with the technological capability

SENATOR MCGINNESS:

Do you issue a press release on your regular meeting?

MR. DICIANNO:

We do provide the information. It is posted publicly in libraries and public buildings. The newspapers are on the mailing list.

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CHAIR LESLIE:
Do I have a motion?

SENATOR DENIS MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 32.

SENATOR HARDY SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

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CHAIR LESLIE:
We will move to Senate Bill 33.

SENATE BILL 33: Consolidates provisions requiring confidentiality of certain taxpayer-specific records. (BDR 32-435)

MR. REEL:
Senate Bill 33 ([Exhibit E](#)) repeals several sections of NRS that govern the confidentiality of records and files related to taxes administrated by the Department of Taxation. These provisions go into chapter 360 of NRS, which governs taxes administrated by the Department. The bill also places into statute provisions governing closed hearings of the Nevada Tax Commission. The testimony pointed out situations where confidential information could be provided to the Tax Commission and then made public prior to the taxpayer having the opportunity to ask for the information to be made confidential.

The provisions of this bill would prevent the confidential information from being made public until after the taxpayer can request a closed hearing. Opposition to the bill was from the American Civil Liberties Union of Nevada, arguing the bill would reverse presumption created by NRS 239, which indicates public records need to be open to the public. The Nevada Press Association opposes the bill because of the broad exemption to the Open Meeting Law. There are two amendments, [Exhibit E](#). Section 1 provides the Department the ability to exchange confidential information with federal agencies in a federal prosecution or criminal investigation. Section 3 would not repeal NRS 361.044, 361.7384 or 368A.180 because these provisions also govern confidentiality with respect

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to county assessors and the Gaming Control Board. This bill would become effective on passage and approval.

CHAIR LESLIE:

The reference to "any other person" is where?

MR. REEL:

Under terms of information that is not confidential, section 1 specifies information could be exchanged with federal agencies. The Department does not initially make records available to "any other person." The examination of records would be for a specific purpose before allowing someone to access the records. These provisions would ensure anyone having access to the records would be bound by the same confidentiality provisions as the Department.

SENATOR HORSFORD:

Would you explain the rationale for expanding beyond the exchange of information with the Internal Revenue Service (IRS) to include any other federal agency? It seems overly broad to me.

MR. DICIANNO:

That is not the intent. There are specific reasons for a federal agency to request the information. Most of these deal with criminal investigations through the U.S. Department of Justice requesting information from our records on individuals with taxes owed.

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

The most common agency we deal with is the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). We receive requests from ATF when conducting investigations; because we administer the excise taxes on liquor, it would be beneficial for us to have an agreement for exchange of information—it benefits the State. The language was added so it is not limited to the IRS.

SENATOR HORSFORD:

Your justification for adding ATF makes sense, but it is overly broad with the word "or" between each of the three areas. Is there another approach that could be taken to narrow the language?

MR. DICIANNO:

We need to keep in mind that this is done through a Governor's order if the request is appropriate. The Governor can refuse the allowance of releasing the information. There are checks and balances. The Department is comfortable with the language from legal staff.

CHAIR LESLIE:

Let us have staff offer opinions.

RUSSELL GUINDON (Principal Deputy Fiscal Analyst):

We reviewed this with Mr. DiCianno, Department of Taxation, Legislative Counsel Brenda Erdoes and their staffs to make the issue more understandable. We used IRS language which was originally brought forward to the proposed amendment in section 1, subsection 2, line 16, that states "any other federal agency" and lines 17 and 18 that state "any federal agency," which would include the IRS. Mr. DiCianno could have listed the agencies he deals with on a regular basis, but there could be agencies he deals with on an occasional basis. If we get too specific on the agencies and something comes up during the off-session, then he would have to amend the law again. We wanted to keep it general enough so the Executive Director of the Department would have the flexibility to work with the agencies. As pointed out, the checks and balances are in place as to whether it will occur.

SENATOR HORSFORD:

I appreciate the difficulty, but what other agencies do you deal with beyond IRS and ATF? I do not like approving overly broad legislation around confidentiality of public records.

MR. NIELSEN:

Even though IRS reports to the U.S. Department of Treasury, sometimes we receive requests directly from the Treasury. We also receive requests from ATF and the U.S. Department of Homeland Security. We are not giving these agencies everything; it is done on a case-by-case basis when we receive their requests. We either tell them no or go through hurdles to give them the information.

CHAIR LESLIE:

How many times a year does it happen?

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MR. DICIANNO:
Less than ten cases per year.

SENATOR HARDY:
Are we precluded from cooperating with the agencies?

MR. NIELSEN:
We are precluded because the law requires the Department to go to the Governor for the release of specific information. This bill would allow the Department to streamline the process to assist the federal agencies.

SENATOR HALSETH:
Section 1 indicates all materials within the Department would be confidential?

CHAIR LESLIE:
What line are you reading?

SENATOR HALSETH:
Section 1, line 4 states "the records and files of the Department concerning the administration" My concern is it does not clarify which records and files; to me, it reads all records and files.

MR. NIELSEN:
This is a consolidation bill. The confidentiality statutes are contained within several chapters of NRS, which is how we are administering it. The Legislative Counsel Bureau determined it is much easier to start out with all taxpayers' specific records being confidential, and then create the exceptions, which are in section 1, subsection 2, paragraphs (a) through (j).

SENATOR HALSETH:
I do not like the bill as written and will not support it. People use the expression "because that is the way it is written in legislation"; I do not like that argument.

MR. DICIANNO:
The language you are concerned about already exists in statute and that is how the Department has been applying those standards; the attempt was to put the language all in one place. The change is to place all the language on confidentiality in NRS 360.

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CHAIR LESLIE:

Good point. It is a consolidation bill. The phrase, "'Records' or 'files'" in section 1, subsection 5, paragraph (a) is the existing definition of "records" or "files" in statute.

MR. NIELSEN:

The language differs among the various chapters, but we are dealing with individual tax returns and correspondence received by the Department. The records are deemed confidential under the various chapters and would remain confidential under this legislation.

CHAIR LESLIE:

The exceptions have not changed; the only changes were in the section Senator Horsford pointed out with the federal agencies and the inconsistencies concerning public meetings.

SENATOR HARDY:

This bill pertains to the information we have, so it does not allow agencies to get confidential information that is referenced in other places.

MR. DICIANNO:

That is correct.

CHAIR LESLIE:

Do we have a motion?

SENATOR HARDY MOVED TO AMEND AND DO PASS AS
AMENDED S.B. 33.

SENATOR DENIS SECONDED THE MOTION.

SENATOR HORSFORD:

I am going to vote no because the language in the amendment is overly broad.

SENATOR HALSETH:

I also vote no on this bill.

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THE MOTION CARRIED. (SENATORS HALSETH AND HORSFORD
VOTED NO.)

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CHAIR LESLIE:
The Senate Committee on Revenue is adjourned at 1:55 p.m.

RESPECTFULLY SUBMITTED:

Mike Wiley,
Committee Secretary

APPROVED BY:

Senator Sheila Leslie, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 31	C	Joe Reel	Work Session Document
S.B. 32	D	Joe Reel	Work Session Document
S.B. 33	E	Joe Reel	Work Session Document