

**MINUTES OF THE
SENATE COMMITTEE ON REVENUE**

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

The Senate Committee on Revenue was called to order by Chair Sheila Leslie at 1:07 p.m. on Tuesday, March 29, 2011, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 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 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

GUEST LEGISLATORS PRESENT:

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

STAFF MEMBERS PRESENT:

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

OTHERS PRESENT:

Joshua G. Wilson, Washoe County Assessor
Jeffrey Payson, Clark County Assessor's Office; Nevada Assessors Association
Michele W. Shafe, Clark County Assessor
William J. McKean

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CHAIR LESLIE:

We will open the hearing on Senate Bill (S.B.) 249

[SENATE BILL 249](#): Makes various changes relating to administration of taxes on property. (BDR 32-793)

SENATOR DAVID R. PARKS (Clark County Senatorial District No. 7):
I am here to introduce S.B. 249, the biennial assessor's bill.

JOSHUA G. WILSON (Washoe County Assessor):

Jeff Payson from Clark County will provide most testimony today with Clark County Assessor Michele Shafe testifying from Clark County. Douglas County Assessor Doug Sonnemann and Eric Ow-Wing from the Lyon County Assessor's Office are also in attendance today.

JEFFREY PAYSON (Clark County Assessor's Office; Nevada Assessors Association):

This is our biennial omnibus bill, which is an attempt to clean up the language in Nevada law relating to taxation of property. Section 1 of the bill clarifies that a seasonal resident identification card does not establish someone as a bona fide resident. The seasonal identification card issued by the Department of Motor Vehicles (DMV) does not meet the test.

CHAIR LESLIE:

Explain what that means. Do they want you to be a resident to receive the exemptions?

MR. PAYSON:

A variety of exemptions are available to a bona fide resident, but they have to be verified by the test in section 1 of S.B. 249. The test is to have an established residence in the State, to have resided in the State for at least six months and to have a valid driver's license or identification card issued by DMV.

SENATOR HARDY:

What is the difference between getting a driver's license, registering your vehicle or registering to vote?

MR. PAYSON:

I do not know the answer to your question.

SENATOR HARDY:

We have a law in the State concerning the registering of your vehicle, obtaining your license plates and driver's license, and registering to vote within 30 days.

MR. PAYSON:

This bill is specific to the assessment laws that govern the exemptions for property tax purposes.

SENATOR HARDY:

Are we getting into a potential conflict in law concerning what is a State resident? We need a legal opinion.

CHAIR LESLIE:

We will ask Legislative Counsel to review and see if there is a conflict with other residency laws. If a person lives in Nevada for six months and California for six months, would a person be eligible for the exemptions?

MR. PAYSON:

We would be looking at the test in Nevada based on the criteria.

CHAIR LESLIE:

The question has come up because it has not been this way. Do most states have the six-month test? Where do you come up with the six months?

MR. PAYSON:

Six months has always been in statute; we are removing the seasonal identification card qualification for residency.

CHAIR LESLIE:

The six months is in statute, but a person could have qualified with the seasonal identification card.

MR. PAYSON:

The six months is in existing statutes, but people have attempted to qualify with the seasonal identification.

CHAIR LESLIE:

Are you trying to clarify the practice so you can reject the applicants with the seasonal card?

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MR. PAYSON:
Correct.

CHAIR LESLIE:
Do all the assessors deal with this in the same manner?

MR. PAYSON:
I do not know if this is specific to Clark County.

MR. WILSON:
This is not an issue in Washoe County because we do not have as many seasonal visitors as Clark County. A seasonal card does not deem a bona fide resident; if presented, I would assume it would be rejected. If people are here for six months, they would have driver's licenses and it would not be an issue.

SENATOR HARDY:
The bill explanation states that if a person has "resided in Nevada for at least six months," he or she could have a seasonal resident card. But the bill states "other than such an identification card which indicates that the person is a seasonal resident." It seems to preclude the seasonal resident identification card, but I think you can acquire a driver's license because section 1, subsection 2, paragraphs (a) and (b) read "actually resided in this state for at least 6 months; or a valid driver's license or identification card issued by the Department of Motor Vehicle" This bill just takes out the use of the seasonal card as proof of residency?

MR. PAYSON:
That is correct.

CHAIR LESLIE:
That is the intent, but we will have Counsel take a look at the bill.

SENATOR HALSETH:
A person who owns a home in Nevada year-round but does not physically reside in the home for six months would not qualify for the tax exemptions?

MR. PAYSON:
The law has existed for many years; we are just eliminating the seasonal card as a reason for establishing a bona fide residence.

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SENATOR HALSETH:

The summary says the purpose for determining eligibility for various property tax exemptions. I understand taking out the seasonal identification, but the summary says for various property tax exemptions. It appears to be two separate issues in one section.

SENATOR DENIS:

What is a seasonal card?

MR. PAYSON:

The card is issued by DMV.

SENATOR DENIS:

Can we get some clarification on the DMV seasonal card?

CHAIR LESLIE:

We will ask DMV for clarification.

MR. PAYSON:

The language in sections 2 through 5 and 12 through 15 is identical, so we can cover them together. This allows the assessor to accept and return certain exemption forms by electronic means instead of mail. Clark County would save \$23,000 if we did them digitally. Clark County has 62,000 personal exemption cards mailed annually, and Washoe County has 15,000.

CHAIR LESLIE:

These are exemptions mailed annually?

MR. WILSON:

This would be for the exemption renewal because certain exemptions have to be verified annually. This would be for the verification based on the renewal. For the initial exemption, the taxpayer has to come in and file the affidavit.

CHAIR LESLIE:

I would give you my e-mail address, complete the form and have my renewal e-mailed to me. If I change my e-mail, how do I receive a renewal form?

MR. WILSON:

It would be my assumption that the taxpayer would be responsible for notifying the assessor's office. We would need to include the information on the renewal form.

CHAIR LESLIE:

What about e-mails returned as undeliverable?

MR. WILSON:

It is a policy issue, but it would be logical to follow up with a hard copy renewal form.

CHAIR LESLIE:

Would you distinguish between sections 2 through 5, which are the exemptions returned to the assessor's office, and sections 12 through 15, which are the exemptions for the Governmental Services Tax that go to DMV? Can the taxpayer return it electronically?

MR. WILSON:

The taxpayer has the ability to utilize these exemptions on vehicle registration, property tax or a combination of both.

CHAIR LESLIE:

If requested through the assessor, is the taxpayer allowed to return the form electronically?

MR. WILSON:

We notify DMV on how much usage is available on the exemption.

CHAIR LESLIE:

We will move on to section 6.

MR. PAYSON:

This legislation has to do with common elements of a common-interest community. The law provides for equal allocation of common elements in a common-interest community between the community units. It is contrary to the legal documents recorded in the transfer of a community unit. Senate Bill 249 changes the statute by dividing the common element values on an equal basis for each community unit. The language we are proposing would allow for the

allocation to be based on the existing ownership documents, such as the covenants conditions and restrictions (CC&Rs) or deeds, if they state something other than straight-line allocation. In the CC&Rs or deeds, commercial condominiums will allocate the common elements based on the square footage of the unit owned. The law does not allow that type of allocation, and it has caused equity discussions at the assessment level.

SENATOR SCHNEIDER:
How do you treat a golf course?

MR. PAYSON:
A golf course is not a common element. The Sun City Summerlin developments allow for outside play, so they are a community unit and not a common element. The clubhouse is a common element divided out by the number of individual units to the homeowners.

SENATOR SCHNEIDER:
What about the Las Vegas Country Club or Spanish Trail? Not everyone has to be a member to live in the community. The golf course is owned by the club, so how do you parcel it out? For people living on the golf course and others living off the course, how do you assess in that situation?

MR. PAYSON:
The courses are private, not common elements. These properties can be appealed based on an economic unit as a golf course. None of the golf course value gets allocated to the individual units as a common element. If you live on the fairway, we would look at the higher market value because you are adjacent to the golf course.

SENATOR SCHNEIDER:
In the Tower apartment building, the common elements assessed are the gym and pool, but what about the penthouse floor? Is there a different designation?

MR. PAYSON:
In statute, we can only assign those common elements on a straight-line assessment—if there are a 100 units, every tenant would receive an assessment on a 0.01 share of common elements. The change to S.B. 249 would allow us to look at the governing documents to assign the appropriate share.

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CHAIR LESLIE:

My understanding is if there is a formula in the governing documents, S.B. 249 would allow an adjustment according to that formula. Statute does not allow such an adjustment.

MR. PAYSON:

That is correct, Senator.

CHAIR LESLIE:

What other examples are there beyond a clubhouse or pools?

MR. PAYSON:

Many of the master planned communities have gated guard buildings, parks and community pool areas.

CHAIR LESLIE:

Is that addressed in the deed?

MR. PAYSON:

In a condominium ownership, these typically get addressed in the deed, plus a 0.01 share of the common elements. We would tax a house that is part of an association based on the one parcel which had the community pool. Because of statute, this house would not have an overriding document. Different allocations are more likely in condominium or time-share developments.

CHAIR LESLIE:

Move on to section 7.

MR. PAYSON:

Section 7 clarifies the language. Statute language states the assessor must certify taxes have been paid when a manufactured home is removed from real property. The assessor does not have anything to do with the taxes, so we cannot certify the removal. The language change states the "county tax receiver," which could be the treasurer or assessor.

CHAIR LESLIE:

Does anybody else receive the taxes?

MR. PAYSON:

No, this language is throughout statute.

SENATOR MCGINNESS:

Counties have eliminated the treasurer's office for a controller, so keeping the language as nondescript as possible makes sense.

CHAIR LESLIE:

We will move on to section 8.

MR. PAYSON:

Sections 8 and 9 speak to the same issue. These sections allow for appeal of the value added after the closing of the secured tax roll. The appeal of the property added after that closed roll cannot extend to the appeal of an existing closed roll value. In December, property owners receive their value notice cards, the secured closed roll. The taxpayer has until January 15 to file an appeal because of being in excess of full cash value or out of equity. The county board of equalization meets in late February, conducts reviews on the appeal process and certifies those as closed roll values. In May, the taxpayer adds a swimming pool, and the assessor values the swimming pool and adds it to the unsecured tax roll, which adds an additional value. The statutes do not clarify that only the added value is appealable. The new language will clarify that only the new added value is appealable. Section 9 changes language concerning the unsecured tax roll, allowing change in two areas after the roll closes. The first is in the reopened roll, which is section 8, and the second is section 9, the unsecured roll.

CHAIR LESLIE:

What is the difference between reopened and unsecured?

MR. PAYSON:

The reopened roll deals with changes in ownership, parceling and improvements. The unsecured supplemental roll adds real property, such as a swimming pool, as if it were personal property.

CHAIR LESLIE:

We will move on to section 10.

MR. PAYSON:

The intent of section 10 is to benefit more taxpayers by lowering the threshold to \$5,000 for taxes assessed upon property to be paid in four equal installments. Taxes assessed under \$10,000 are paid in one lump sum. The language in section 10, subsection 5, paragraph (e) defines when quarterly installments are due.

CHAIR LESLIE:

Why are you requesting this change?

MR. PAYSON:

We try to put changes in tax law to benefit the taxpayer.

SENATOR HARDY:

Do the quarterly payments have interest attached to them?

MR. PAYSON:

If we do not inform the taxpayer by July 1, there would be no penalty.

SENATOR HARDY:

Will you notify taxpayers on the due dates?

MR. PAYSON:

We send taxpayers coupon books.

CHAIR LESLIE:

Would they receive four coupons the following year?

MR. PAYSON:

The following year would be determined when taxpayers file their declarations. This is not an automatic process.

MR. WILSON:

I suggest taxpayers who choose to receive quarterly installments establish a work flow that allows assessments to be mailed earlier than later. The burden is on the taxpayer to return the declaration by the end of July, so we can bill it in the proper time frame.

SENATOR SCHNEIDER:

On the foreclosed homes in Nevada, are the banks paying their taxes on time?

MR. WILSON:

This is a treasurer issue. I understand the banks have a larger interest in the property than the tax burden because of the carrying costs, which include penalties and interest.

SENATOR SCHNEIDER:

Are the banks appealing the tax assessment?

MR. WILSON:

Some yes and some no.

SENATOR SCHNEIDER:

Regarding the comparables coming out on distressed properties, are you assessing them on the distressed comparables?

MR. PAYSON:

The distressed sales do come into play on the value. If the property is in poor condition, we can adjust the sale. The distressed properties are driving the values down.

SENATOR HORSFORD:

You said the banks that have foreclosed properties can appeal the assessed valuation of the properties. What percentages of the properties have been appealed?

MR. WILSON:

I cannot tell you the percentage, but it was relatively small. The larger, more valuable properties are the ones being appealed.

SENATOR HORSFORD:

Where can we get the information on the banks and the timeliness of their tax payments on foreclosures?

MR. WILSON:

I will follow up with the treasurer's office and furnish you with the information.

SENATOR HORSFORD:

I want to understand the process. Once the bank takes possession of the property after the foreclosure is approved, is the bank responsible for the payment of taxes?

MR. WILSON:

Once the courthouse auction is completed, if the property is not purchased, the bank keeps the property and becomes the taxpayer.

SENATOR HORSFORD:

What about the investor-owned groups?

MR. WILSON:

Anyone who purchases a property is responsible for taxes.

SENATOR HORSFORD:

This is an important discussion because it goes to the point of all of our property values. We need to get information on where the banks, service agents or investment groups are in their payment of taxes.

MR. PAYSON:

We will get you the information.

SENATOR HORSFORD:

We need the information for the entire State.

MR. WILSON:

Do you want to know whether once the banks take ownership of the property, they maintain it and whether the expenses accrued during their ownership of the property are passed on to the buyer?

SENATOR HORSFORD:

I want to know if the taxes, fees or liens are paid during the period they have owned the property.

MR. WILSON:

I will verify if the banks are current on their water bills and if the taxes, penalties and interest have been paid.

MR. PAYSON:

We will get the information for Clark County. In section 11 the language changes to require the inclusion of the amount of any applicable penalties paid and any partial abatement of taxes when calculating the amount paid to determine the existence and amount of overpayment or deficiency.

Section 16 deals with the assessor's technology fund that was funded by the Seventy-third Legislative Session and extended by the Seventy-fourth Legislative Session. We are asking to extend it until June 30, 2013. We put together a listing by county ([Exhibit C](#)) showing how the money was used.

CHAIR LESLIE:

How much money are you talking about for the last two years?

MR. PAYSON:

I can get a more comprehensive listing showing the dollar amounts.

CHAIR LESLIE:

I would like to see dollar amounts by counties and what the future needs would be.

MR. PAYSON:

With the loss of positions, technology becomes more important, especially for assessors who are the data collectors for all properties.

CHAIR LESLIE:

I am concerned about funding other agencies.

MR. PAYSON:

Any funding left over goes into the county fund.

CHAIR LESLIE:

We just need more information.

MR. WILSON:

We help the Treasurer's Office in Washoe County with pro forma billings. We have been able to purchase more storage and server space and improve the services we provide to our stakeholders.

CHAIR LESLIE:

Do you have a budget planned?

MR. WILSON:

We have to go before the Washoe County Commissioners and report our spending plan. Washoe County has used this money to upgrade all of the computer systems.

CHAIR LESLIE:

We are not trying to micromanage, but we have to determine if this is the best use of tax money or would it be better to give it back to local governments.

SENATOR HORSFORD:

I appreciate your honesty. To the Chair's point, were we to allow funds for funding sake, there is no accountability. You need to be specific on the amount you request, and we will decide if it is a priority. Every public body in the State needs to prioritize. If this is important, tell us how much it is.

MR. PAYSON:

Section 17 repeals *Nevada Revised Statute* (NRS) 361.170 because business inventory is no longer taxed. The statute deals with taxing warehoused properties. Nevada Revised Statute 361.230 is also being repealed because the outdated language from 1911 sets a minimum value of \$1.25 an acre. We have statutes telling us that property has zero value. We have contradictory laws.

CHAIR LESLIE:

Any questions for Mr. Payson?

MICHELE W. SHAFE (Clark County Assessor):

We will get back as soon as possible with the information that as been requested.

WILLIAM J. MCKEAN:

I am an attorney who practices regularly before various county equalization boards and the State Board of Equalization, and I am opposed to sections 8 and 9 of the bill. As a property tax attorney, the concern under the assessor's description is that a homeowner with a construction project has the partial value in December and does not appeal because the improvement is not complete. That homeowner gets another piece in May, but now the assessor would not

allow an appeal on the whole picture. It seems like a trap for the ordinary taxpayer. Not having the completed valuation could be a problem for many taxpayers. The status quo gives the whole picture before they appeal.

MR. WILSON:

The boards of equalization have generally limited the appeal of the property to the added new value. If sections 8 and 9 are repealed, it will maintain the same effect as if the language is not changed. It is the practical application of the statute.

MR. MCKEAN:

Striking the provision allows for flexibility, but it is hard to describe all different circumstances. Zoning changes and things taxpayers do not think about will affect the supplemental valuations.

CHAIR LESLIE:

Is there no superappeal for a situation like you have described? What would the taxpayer be able to do?

MR. WILSON:

The superappeal is the appeal filed by January 15, which is heard before the county board of equalization in February. Mr. McKean is referencing when the value changes after the county board has concluded business but before the tax bill is issued in July. It only occurs on the parcels that have had a value change, which is a small percentage of the total parcels in any given jurisdiction.

CHAIR LESLIE:

Is there a chance to appeal the following year?

MR. WILSON:

You can appeal the valuation each and every year as long as the appeal is filed by January 15.

CHAIR LESLIE:

It would be for a four-month period.

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MR. WILSON:

Yes, we try to send assessment notices out as soon as possible.

CHAIR LESLIE:

We will have the work session on this bill next Tuesday. Any changes to this bill need to be submitted as soon as possible.

CHAIR LESLIE:

The hearing is closed and the meeting is adjourned at 2:14 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. 249	C	Jeffery Payson	Technology Fund County Uses