

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

**Seventy-Seventh Session
June 3, 2013**

The Committee on Taxation was called to order by Chairwoman Irene Bustamante Adams at 12:47 p.m. on Monday, June 3, 2013, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, 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 nelis.leg.state.nv.us/77th2013. 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 Irene Bustamante Adams, Chairwoman
Assemblywoman Teresa Benitez-Thompson
Assemblyman Jason Frierson
Assemblyman Tom Grady
Assemblyman Cresent Hardy
Assemblyman Pat Hickey
Assemblywoman Marilyn K. Kirkpatrick
Assemblyman Randy Kirner
Assemblywoman Dina Neal
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblywoman Peggy Pierce, Vice Chairwoman (excused)
Assemblyman William C. Horne (excused)

GUEST LEGISLATORS PRESENT:

None



STAFF MEMBERS PRESENT:

Russell J. Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Kevin C. Powers, Chief Litigation Counsel
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Lesley Pittman, representing the Nevada Mineral Exploration Coalition

Chairwoman Bustamante Adams:

I will open the hearing on Senate Bill 400 (2nd Reprint). Our primary sponsor is delayed, so we are just going to go ahead and start with our legal counsel to give an overview of S.B. 400 (R2).

Senate Bill 400 (2nd Reprint): Revises provisions governing the taxation of mines, mining claims and the extraction of minerals. (BDR 32-620)

Kevin C. Powers, Chief Litigation Counsel:

As you know, we are nonpartisan legal staff and do not urge or oppose any particular piece of legislation; however, we do provide counsel and advice regarding legal effects and consequences of legislation.

Before you today is Senate Bill 400 (2nd Reprint). This is a complementary piece of legislation to Senate Joint Resolution 15 of the 76th Session. As you know, that joint resolution proposes to amend the *Nevada Constitution*, to remove provisions in the *Nevada Constitution* that govern the taxation of mines, mining claims, and the extraction of minerals. That will be on the ballot on November 4, 2014, and this legislation is complementary to it. If S.J.R. 15 of the 76th Session passes, this legislation will become effective on November 25, 2014, which is the fourth Tuesday in November, when the official canvass of the votes take place. So, if S.J.R. 15 of the 76th Session passes it will become effective on November 25, 2014, and this bill would become effective as well.

Just to give you a little background on the second reprint, in the Senate Finance Committee they were presented a mock-up. That mock-up was then reviewed by a working group, which involved interests and individuals who represented the counties, the Department of Taxation, the mining companies, and also the exploration companies. That mock-up was further refined, and that is the amendment that was adopted by the Senate Finance Committee and also by

the whole Senate. That is what is before you today, the second reprint of S.B. 400 (R2). I will provide a quick overview of the bill.

There are four major areas that S.B. 400 (R2) deals with. Those are real property taxes, personal property taxes, an excise tax on mineral extraction, and then conforming changes.

The overall objective of S.B. 400 (R2) is to ensure that if S.J.R. 15 of the 76th Session is passed by the voters and becomes effective, the current tax structures under those four different categories remains the same. That way during the next session the Legislature will have the ability to revisit all of these issues, to determine how to best tax mining, mining claims, and minerals as a matter of public policy.

Turning to those four major categories, first up are real property taxes. That involves the land, the mines, and also the mining claims, because that is a possessory interest in lands, so mining claims are also a form of real property.

There are three main sections that deal with real property. The first is section 2.7, on page 16 of the 2nd reprint. Under the *Nevada Constitution*, Article 10, Section 1, subsection 8, the Legislature may exempt from the property tax any property that is used to encourage the conservation of energy or the substitution of other sources of energy for fossil sources of energy. This provision in the bill, section 2.7, exempts real property that is used in a geothermal operation under this provision of the *Nevada Constitution*. However, I have to make clear that this exemption does not extend to improvements to the land, or any of the accessory property that is used in the mining operation. That property right now is subject to the property tax. It will continue to be subject to the property tax after S.B. 400 (R2), if it were to become effective. It is essentially just the land used in the geothermal operation. That is exempt now, and this will ensure that the exemption continues in the future.

The next section under the real property tax would be section 3.5. Existing law provides that if real property is exempt for a reason, and then it is leased, loaned, or used for a different reason, that extra use may be subject to the property tax. What section 3.5 provides is that if exempt property is possessed or used for a mining claim, the property does not lose its exemption. This will come into play for unpatented mining claims. They are on federal property. That federal property is exempt from taxation, so a person's possession or use of that property for an unpatented mining claim will remain exempt from the real property tax.

Section 4 deals with the valuation of property. Under the *Nevada Constitution*, Article 10, Section 1, subsection 1, the Legislature must adopt regulations that provide for a just valuation of taxation for all property subject to the property tax. What this provision provides is that when determining the taxable value of property, the value of any mineral deposit attached to the land is not included in that taxable value. The purpose of that is to provide that taxation of minerals will occur only when they are extracted or severed from the land. As long as the mineral sits in its natural state, in the land, then it is not included in the taxable value of the property for real property tax purposes.

Finally, I also want to emphasize that an earlier version of the bill was going to repeal existing statutory provisions that exempted unpatented and patented mining claims from the real property tax. Those statutes are not being repealed in the second reprint, so those statutes will remain in place. That covers the real property tax components of S.B. 400 (R2).

The personal property tax components are in section 2.5 of the bill, on page 16 of the 2nd reprint. That amends *Nevada Revised Statutes* (NRS) Chapter 361 to provide an exemption from the personal property tax for extracted minerals, and also for the mineral royalties paid by the extractive operation. Those are currently exempted from the personal property tax, and this bill will continue those exemptions, as long as those items, the extracted minerals and the mineral royalties, are subject to the excise tax upon mineral extraction. We will go to our next category.

Currently, as you know, there is a net proceeds tax on minerals extracted from the ground. This bill, in sections 10 to 32, changes that current net proceeds tax to an excise tax on mineral extraction and royalties, and that is for the privilege of engaging in mining in the state of Nevada. So several sections of the bill deal with that. Sections 10 and 12 add a statement of legislative intent, and a specific indication to explicitly convey the Legislature's intent that this bill is imposing an excise tax and not an ad valorem or property tax.

Another provision of note in sections 10 to 22, is section 21 that amends an existing statute, NRS 362.135, to provide that any person who wants to challenge the excise tax must pay the tax under protest while the challenge is pending. If they fail to pay their tax under protest, they would lose their ability to challenge the excise tax.

Section 22 amends NRS 362.140 to once again emphasize that there is hereby imposed an excise tax upon mineral extraction. And in section 22, the existing tax rates that are collected on the net proceeds stay the same under the excise tax. So, for each of the mining operations, what they are paying

now under the net proceeds tax will be the same as what they are paying under the excise tax.

One other important provision to emphasize is section 25 of the second reprint. That amends NRS 362.170. That is the statute under which a portion of the excise tax will be distributed to local governments. This statute is preserved and remains the same, so the amount of money that is distributed to the local governments now, under the net proceeds tax, will be the same amount that is going to be distributed under the excise tax. That will not change.

Finally, as to the conforming changes throughout the bill, other than those sections, you will see a lot of references to net proceeds for mineral extraction subject to the excise tax. All those conforming changes are done to ensure that how net proceeds are currently treated, when it comes to calculating taxes, spending, and revenue at the local level, that assessed valuation, will stay the same after the enactment of S.B. 400 (R2) and S.J.R. 15 of the 76th Session. For those calculations where net proceeds are used in assessed value, they will remain the same, even with the implementation of the excise tax. That will ensure that however the counties and other taxing districts do their business now, they will continue to do that same type of operation under S.B. 400 (R2).

As I mentioned before, the effective date again is November 25, 2014, and it is contingent on the passage of S.J.R. 15 of the 76th Session. That is an overview of the bill. I am open to any questions you may have.

Chairwoman Bustamante Adams:

Thank you, Mr. Powers. I know some of the Committee members had the opportunity to hear this in the Assembly Committee on Ways and Means, but there are some who did not. Assemblywoman Neal, I know when we were hearing S.J.R. 15 of the 76th Session you asked about this bill. These details are the companion piece to that portion. Are there any questions from the members of the Committee? [There were none.] We will transition to those in support of S.B. 400 (R2).

Lesley Pittman, representing the Nevada Mineral Exploration Coalition:

We are in full support of S.B. 400 (R2).

Chairwoman Bustamante Adams:

Are there any others in support? [There was no one]. Are there any in opposition to S.B. 400 (R2). [There was no one.] Are there any in neutral? [There was no one.]. I will close the hearing on S.B. 400 (R2) and go into a work session on S.B. 400 (R2). I will turn it over to our fiscal analyst, Mr. Nakamoto.

Senate Bill 400 (2nd Reprint): Revises provisions governing the taxation of mines, mining claims and the extraction of minerals. (BDR 32-620)

Michael Nakamoto, Deputy Fiscal Analyst:

The short response I could give is, whatever Mr. Powers just said about Senate Bill 400 (2nd Reprint). I would just note, like Mr. Powers said, that it amends various provisions of existing law governing the taxation of mines, and is contingent upon the passage of Senate Joint Resolution 15 of the 76th Session at the November 2014 ballot. If there are any questions, I will answer them at this time.

Chairwoman Bustamante Adams:

Are there any questions from the members of the Committee on the work session overview? [There were none.] I will entertain a motion to do pass S.B. 400 (R2).

ASSEMBLYWOMAN NEAL MOVED TO DO PASS
SENATE BILL 400 (R2).

ASSEMBLYMAN HARDY SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN HORNE AND PIERCE
WERE ABSENT FOR THE VOTE.)

Chairwoman Bustamante Adams:

Is there any public comment at this time? [There was none.] I will recess upon the call of the Chairwoman [at 12:59 p.m.].

[The meeting was adjourned at 11:59 p.m.]

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblywoman Irene Bustamante Adams
Chairwoman

DATE: _____

EXHIBITS

Committee Name: Committee on Taxation

Date: June 3, 2013

Time of Meeting: 12:47 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster