

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

**Seventy-Ninth Session
May 9, 2017**

The Committee on Taxation was called to order by Chair Dina Neal at 5:11 p.m. on Tuesday, May 9, 2017, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 www.leg.state.nv.us/App/NELIS/REL/79th2017.

COMMITTEE MEMBERS PRESENT:

Assemblywoman Dina Neal, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblywoman Lesley E. Cohen
Assemblyman Edgar Flores
Assemblyman Al Kramer
Assemblyman Jim Marchant
Assemblywoman Ellen B. Spiegel

COMMITTEE MEMBERS ABSENT:

Assemblyman Paul Anderson (excused)
Assemblywoman Teresa Benitez-Thompson (excused)
Assemblyman Jason Frierson (excused)
Assemblyman Keith Pickard (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Russell Guindon, Principal Deputy Fiscal Analyst
Michael Nakamoto, Deputy Fiscal Analyst
Bryan Fernley, Committee Counsel
Gina Hall, Committee Secretary
Olivia Lloyd, Committee Assistant



OTHERS PRESENT:

Steven D. Hill, Executive Director, Office of Economic Development, Office of the Governor

Connor Cain, representing Las Vegas Global Economic Alliance

Ryann Juden, Assistant City Manager, City of North Las Vegas

Chair Neal:

[Roll was taken and Committee rules and protocol were reviewed.] We only have one bill today, Senate Bill 442 (1st Reprint). I will open the hearing on S.B. 442 (R1) and call Mr. Hill to the table.

Senate Bill 442 (1st Reprint): Revises provisions relating to economic development. (BDR 32-1001)

Steven D. Hill, Executive Director, Office of Economic Development, Office of the Governor:

I appreciate the opportunity to be here today to present Senate Bill 442 (1st Reprint) on behalf of the Office of Economic Development, Office of the Governor (GOED). This bill basically does four things. It clarifies several provisions in statute that through our experience over the last couple of years we felt additional clarity was needed in some language. It strengthens, or makes more difficult, the criteria for companies to receive partial or full abatements from the state. It provides a different and more secure path for infrastructure for qualified projects—projects that meet either the \$1 billion or \$3.5 billion thresholds—from what are generally considered the Tesla and Faraday special sessions [28th (2014) Special Session and 29th (2015) Special Session]. It provides for an alternative path to that \$1 billion investment threshold. In doing so, it provides tighter restrictions on companies using that alternative path, making it a little more difficult for them to achieve that, and provides somewhat less in terms of the incentives that are associated with that. I will go through each of these issues and then pause for questions.

From a clarification standpoint [slide 3, ([Exhibit C](#))], the first is to make clear that commercial airlines are not able to qualify for aviation abatements. We testified to that numerous times during the 2015 Session. There has been some concern expressed that the language in the law itself was not clear enough so we are clarifying that. That has been the intent since the beginning.

The next three bullet points relate only to those provisions related to qualified projects—\$1 billion or more. In the calculation for the percentage of Nevadans to be employed in the construction of those projects, there is a 50 percent requirement. The way the language is in both of those areas now is a calculation of those who have been employed or are anticipated to be employed. We think that provides a loophole for that calculation so it should be eliminated. It clarifies that a qualified project must be for a common business purpose or a common industry. There has been some conversation that a common purpose could be economic development, so virtually anything would qualify. We are trying to make

sure that is not the case. The next bullet point is related to the bonding of infrastructure. In order to bond infrastructure you have to know what the infrastructure is going to cost. To do that you need an engineer to design the project and provide an estimate. There is a certain amount of cost—usually around 10 percent of the total cost of the project—that is required to be expended in anticipation of that infrastructure being built. We do not think it is right to ask the public agencies to front that engineering cost when it is not a project they have been proposing. In the case of Faraday Future, which is the only instance so far where this process has been started, we requested that Faraday Future advance that engineering cost, which to date has been a little more than \$10 million, in order to allow those projects to move forward. Faraday Future has done that, but it is not clear in the law that it is a requirement for that infrastructure so we are asking that it be made clear.

The next two bullet points [slide 3, ([Exhibit C](#))] are related to some inconsistency in rail projects that are referred to somewhat differently in different parts of statute. We are trying to make the definition in that terminology a standard provision throughout the law. We are clarifying that counties or cities have the ability to institute these rail projects.

The last bullet point pertains to the United States Department of Agriculture (USDA) rural designation. Currently the criteria for seeking abatements are divided between counties with fewer than 100,000 people and counties with more than 100,000 people. We refer to them as urban and rural counties. The two urban counties in Nevada are obviously very large—Clark County and Washoe County—and have a lot of geography in them. There are certainly areas in those counties that one would typically consider to be rural, and the USDA actually does. They classify areas of both Clark and Washoe Counties as rural areas—for example, Laughlin in Clark County or Gerlach in Washoe County. Under our proposed change in this legislation, they would be considered rural rather than urban, and the criteria for qualifying for abatements, particularly the size of the businesses that would qualify, would be lessened and would potentially allow for more economic development in these rural areas. That is a summary of the clarifications that have been proposed. I will pause for anyone who has questions.

Chair Neal:

I do not want to take you from your presentation ([Exhibit C](#)) but could we take sections 1 through 12 of the bill and just ask questions?

Steve Hill:

I would be happy to handle it any way you like.

Assemblywoman Spiegel:

Section 12 talks about rail projects, and so does section 14. These sections make me think of Yucca Mountain, and if it were to come back and move forward as a public-private partnership there probably would be over \$1 billion worth of investment. We know they would need rail to be shipping these hazardous materials through our state. As much as I really do not want Yucca Mountain to be here, you can multiply that by as big of a number

as you want, and that is how much less I would want us to have tax abatements that people who are doing this would be eligible for. I was just wondering if we could clarify on the record that this is not your intent.

Steve Hill:

I am happy to declare that it is not my intent. Not only that, the abatements that are available, regardless of whether it is a public-private partnership, if it is funded from public funds then the abatements would not be applicable. I do not think it would be possible and it would certainly not be our intent.

Assemblywoman Spiegel:

Thank you.

Assemblywoman Bustamante Adams:

On the aviation abatements, I thought we made it perfectly clear last session that it was not for commercial, but if it needs further clarification I am grateful we are including it in here. I have a question on section 3, subsection 2, paragraph (d) regarding the average hourly wage. It has always been very troublesome to me how we calculate that. I understand we are providing clarity, but for the new legislators on the Assembly Committee on Taxation, could you take a deeper dive into the hourly wage portion?

Steve Hill:

I would be happy to. It is also outlined on slide 5 ([Exhibit C](#)), which hopefully is helpful in understanding this. One of the criteria for abatements is the average hourly wage of the employees who would be a part of the new company or an expansion. This bill takes away the discretion from the GOED Board—who has had discretion over these four criteria. It takes away the discretion for the average hourly wage and for the provision of health care, and leaves the Board with the discretion for the number of jobs and the amount of investment. If this bill would become law, for a company to be eligible for those abatements, they would have to meet the hourly wage requirements, would have to provide health care, and may have to meet the certain number of jobs and a certain level of investment. They have to meet one of those two.

From an hourly wage standpoint, in the 2015 Session we implemented what was basically in this table. We divided the criteria based on whether unemployment in a county was above or below 6 percent. The average wage and the amount of abatements were then tied to that unemployment rate in each county. Currently, if unemployment is above 6 percent, you get full abatements if you are paying 80 percent or more of the state average wage. If it is less than 6 percent, you do not get the full abatements unless you are paying 100 percent of the state average wage. You can hopefully see that in the graph [slide 5, ([Exhibit C](#))].

Assemblywoman Bustamante Adams:

In the GOED meetings, I remember the baseline was 5 percent. When did it change to 7 percent?

Steve Hill:

Currently, it is actually 6 percent, not 5 percent. In this bill we are proposing to move that up to 7 percent, which would make it a little tougher for companies applying for abatements between that 6 percent and 7 percent unemployment range. We are also proposing that the percentages of the state average wage each be moved up 5 percentage points. It would go from 80 percent to 85 percent, and 65 percent to 70 percent. In virtually all cases in Nevada now, that 70 percent number would no longer apply because all counties would be below the 7 percent threshold if this bill does pass.

Assemblywoman Bustamante Adams:

We are making it harder to get the abatement because you have to meet the criteria for hourly wage, whereas before, the GOED Board had the discretion that you could meet two out of the three and sometimes the hourly wage was not there. We are also making it harder because they have to meet the benefits requirement. Is that what you are saying?

Steve Hill:

Yes, that is correct.

Assemblywoman Cohen:

Sticking with the Nevada hourly wage, I was concerned because a couple of particularly well-paid employees could pull up the average wage of everyone at the facility. Can you address that? Why are we not looking at the mean wage?

Steve Hill:

That is certainly mathematically possible. We do look at each of the jobs that are created. The idea that one or two people make a significant amount more than the rest of the workforce has happened once or twice, but the median wage and the average hourly wage tracks pretty closely together. The median wage is about \$4 less than the state average wage, and they tend to move pretty closely in tandem.

Chair Neal:

Are there any additional questions? [There were none.] In section 6, subsection 2, paragraph (d), you struck out "business endeavor" and inserted "industry." You also have "project site or sites" in paragraph (e). Why the word change from "business endeavor" to "industry"? Is that more specific?

Steve Hill:

Yes. There had been some discussion about an area being designated as a qualified project based on a variety of different industries investing in that area and aggregating that amount in order to qualify for the abatements. We do not believe that is the intent of the legislation, so we were attempting to clarify that this is for a specific business—a specific company in their supply chain—that is investing in this area, not just a broad variety of different businesses that are investing in the area.

With respect to the "site or sites," one of the proposals in our bill is that there be an alternative path to that \$1 billion investment threshold, whereby a company would not be required to meet that \$1 billion based on a single site but could do so in a couple of different sites, and aggregate that together. The way the language is in this bill, the threshold to kick that off would be higher than it is currently. They would have to create at least 500 jobs and would have to pay at least 120 percent of the state average wage to those 500-plus employees. Additionally, if they used that alternative path the benefits they would receive would not be as great. They would have to pay the local school support tax portion of the sales tax, and their suppliers and other participants on a site would not be eligible for those abatements.

Chair Neal:

I understand it is an alternative pathway, and it is also an expansion. The new language in section 5, subsection 2 includes "... services related to the common business purpose ...". When we talk about "services," it is a little different than the supply chain. You have "or" in this subsection a lot, so when I read it I look at it as these separate categories of activity. When we talk about services related to the "common business purpose," who do we pick up? Are we actually allowed to pick up more types of businesses because their relationship is different?

Steve Hill:

We believe this actually narrows what is available, or maybe just clarifies the intent of what has been available. It confines it to a single industry and their suppliers who locate on that site. For example, with the Tesla project, we have a lead participant, which is Tesla, and then we have other participants. They have to be located on that site and they have to be a part of that Gigafactory project. They cannot be in a different industry and qualify. That is the intent of the legislation. The wording in the law has caused some to feel it could be broadened. What we are doing with this language is making sure it is confined to the participants that are in that single project—in that single industry.

Chair Neal:

Thank you for that explanation. In section 6, subsection 2, paragraph (n), subparagraph (2), is this new language speaking to an existing Tesla or Faraday Future type of project? It now looks like a lead participant can seek reimbursement for any cost they paid from the proceeds of the bonds that were pursuant to *Nevada Revised Statutes* (NRS) 360.991. The whole purpose was that there would be some type of capital investment that gets you in the door. Now we have language in here that you get paid back, or reimbursed, for your investment. This shows up several places in the bill.

Steve Hill:

This works the same way for every public infrastructure project. For example, if the Regional Transportation Commission (RTC) would look to build a road, they would invest the money upfront to pay for the engineering that it takes in order to design the project and get an engineer's estimate on the cost of that project. If the road project was \$10 million and the engineering was an additional \$1 million, they could then go out and issue a bond

for a total of \$11 million. They would bond for that entire \$11 million and receive their investment and that engineering work back. In the case of Faraday Future, as they are the only project that has moved forward in this area, the agreement we made with Faraday Future, and that was passed into law [Senate Bill 3 of the 28th (2014) Special Session], was that we would provide a certain amount of infrastructure for them in order to attract them to Nevada and allow them to build their facility in North Las Vegas. As a part of putting that infrastructure in, though, engineering work has to be done. Instead of asking the Southern Nevada Water Authority (SNWA)—the entity that would be building the water infrastructure—to pay for that engineering, we asked Faraday Future to pay for that engineering upfront. Otherwise, in the event that the project does not move forward, SNWA would never receive the money back that they had invested in that engineering. Faraday Future has done this. If the project then actually moves forward and those bonds are issued, Faraday Future would be paid back for their engineering fees just as if SNWA had done the same thing.

Chair Neal:

That is why it is confusing. Is that not part of the risk? You wanted to come here. We gave you the carrot. We gave you some kind of benefit for coming here—because this is the transferable tax credit section. Why are we paying them back? It is an investment. You got an investment to be here. We gave you all these benefits to turn the corner, to show up in Nevada, and now you are going to get some of your money back. That is part of the risk of you showing up here and signing the deal, right?

Steve Hill:

No, that is not correct. This was a part of the benefits we provided to Faraday Future. We are asking them to front some of the costs of that benefit, but they should rightfully be able to have the money they are fronting returned to them. It was a part of the benefits we provided. They are just providing a cash flow bridge in order to facilitate that infrastructure being put in for them.

Assemblywoman Bustamante Adams:

Staying on that subject, where does it say that? You keep mentioning design, but what Chair Neal pointed out on page 29, line 3, it says ". . . seek reimbursement for any costs paid by the lead participant" I know in your presentation [slide 3, ([Exhibit C](#))] you are talking about design, but is it broader than that? Where does it say it is only reimbursable cost for things that were in the agreement? Does it say that?

Steve Hill:

I believe you are reading in section 6, subsection 2, paragraph (n), subparagraph (2) where it says, "Requires the lead participant to seek reimbursement for any costs paid by the lead participant pursuant to subparagraph (1) . . . ," where subparagraph (1) is at the bottom of page 28. What this language is doing is requiring the lead participant to front the money for that engineering work. We want to make it clear that if we are providing the infrastructure for them through this process, they have to front that money. It is already in law that if they front the money for the engineering, they could get repaid through the

bond process. We are just tying those two together. They can only seek reimbursement for the cost paid for the work done from section 6, subsection 2, paragraph (n), subparagraph (1), and it requires the lead participant to pay the costs of any engineering or design work necessary to determine the cost of the infrastructure.

Assemblywoman Bustamante Adams:

I think the impression was that it was not agreed upon in this project and we were going to be repaying them money for things that are at their risk. Because it is already part of the agreement, we are specifying that the engineering design has already been agreed upon so they have an opportunity to get their money back.

Steve Hill:

Yes, that is correct. We worked with Faraday Future to provide the funding through the engineering work. It is going to be somewhere between \$10 million and \$13 million, and they have paid all that has been necessary to date. It was not clear in the law when we passed that. They agreed to do it. We want to make sure if this type of project moves forward for a different company in the future that it is clear they are going to have to provide that funding. Faraday Future agreed to do that.

Chair Neal:

If you are putting in new language here but already have an agreement with Faraday Future, can this language be applied retroactively to them to then change some terms in the contract?

Steve Hill:

No. We are not asking that it be applied retroactively. This section is available to other companies in the future. We were just trying to make that part of the process more clear.

Chair Neal:

Okay. Members, do you have any additional questions? [There were none.] In section 6, subsection 3, paragraph (c), subparagraph (2), this pertains to aviation and data centers. The data center language is defined as " . . . any capital investment . . . must not be counted in determining whether the participants in the project collectively will make a total new capital investment" We have an exclusion here. That means something else will make up the \$1 billion, but it will not be data.

Steve Hill:

Yes, that is correct. Our thought there was that over 10 years a large data center, but not necessarily some of the largest we have in the state, will spend \$1 billion within that 10-year period. It is not our intention that every major company that builds a data center in Nevada would qualify for this program.

Chair Neal:

Under this "each participant" language, when we talk about what makes up the \$1 billion, what is going to make up the \$1 billion? We have aviation, excluding data, so what else is there? Is it the services? What are the entities or parts of the company that are going to make up the \$1 billion—that are part of the investment?

Steve Hill:

Any investment a company would make that would be eligible for the abatements would be okay. It is not prescriptive to any specific type of investment. There are exclusions. It has to be a business that exports. It has to meet the other requirements that are there for abatements, but there is no prescription of what they have to invest in, in order to qualify.

Chair Neal:

How did you arrive at this very creative way of pooling together activities to create an alternative pathway for folks who want to pool together what they do so they can then meet the threshold of the \$1 billion? It is interesting. As we have been here through the last three special sessions, each process has found different ways to help someone walk in the door. This is the most unique, and to me the scariest, because so many things could be pooled together. It could be one entity with three different business purposes that could access three different types of abatements on the surface. You are a creative genius in economic development. How did you arrive at this?

Steve Hill:

We have been working with a couple of companies we think over the course of the next couple of years may be able to take advantage of this. We are certainly not looking to create a situation where we might ask for another special session, so we would like to address this now.

Assemblywoman Bustamante Adams:

I understand that with the Faraday Future project, if they are on the same location but part of the supply chain, then collectively they could qualify for the abatement—collectively—like the way we do it now for Tesla. Is that correct?

Steve Hill:

For the multiple-site projects, the answer to that would be no. It is just the company. The supply chains and other participants would not be eligible.

Assemblywoman Bustamante Adams:

Could they not apply it together aggregately? Would they not be able to count the other partners in the supply chain? They cannot count their money towards the capital investment in the other requirements? Is that what you are saying?

Steve Hill:

Yes, that is correct.

Chair Neal:

Members, are there any other questions? [There were none.] I would like to move on to section 7. I had a question here about the qualified project. This is where the property tax will be abated. You have subsidiary language so that means there is a parent company. Would the parent company or the subsidiary be able to build onto an existing structure and then abate the property taxes? Technically it is new, they are just adding on, but they are in the category legally as a lead participant, subsidiary, or service-related common purpose business.

Steve Hill:

All of our abatements, including these, are only for new things and new people. There is no retroactivity. If they add on to something, the add-on would count, but what was there prior to that would not.

Chair Neal:

If they have an old building and decide to add on to that existing building, we are going to abate 75 percent of the value of the add-on.

Steve Hill:

Yes, that is correct.

Chair Neal:

Section 9, subsection 2, paragraph (n), subparagraph (2) contains the same payback provision but is a different category—\$3.5 billion. Is this the Tesla section?

Steve Hill:

Yes. It is just repetitive because there are two different sections of the law that it would apply to.

Chair Neal:

Was it the same situation where there was no clarity around what Tesla was supposed to pay so we needed to put that in there?

Steve Hill:

This has not been implemented at that level—for the \$3.5 billion threshold—but we felt the clarity in the event this might present itself in the future was the right step.

Chair Neal:

The language added to section 10, subsection 1, this is the lien for the special assessments pursuant to Chapter 271 of NRS. Can you explain this section please?

Steve Hill:

We feel this is an improvement for the opportunity. I will talk about Faraday Future and the Apex Industrial Park because that is what this applies to now, but is obviously available for other areas in the state if there is a qualified project in that location.

When we came into the 29th (2015) Special Session, we had proposed a special improvement district for the infrastructure for other landowners and a tax increment area for Faraday Future itself [Senate Bill 1 of the 29th (2015) Special Session]. The special improvement district functions by a bond being issued, and then basically an invoice is delivered to landowners on a regular basis that they have to pay. Their land serves as collateral for that payment. If they do not make their payment, then the entity that issued those bonds has the ability to foreclose on that land and cause that payment to be made. In the tax increment area, the infrastructure is put in and the additional tax that is created in that area—a portion of that can be used to make those bond payments. Because of the somewhat slow start that Faraday Future has had, I think it becomes less reliable to rely on taxes being generated than we felt 18 months ago. Our proposal in this bill says that there would be a special improvement district for both the other landowners and for Faraday Future. Faraday Future would have to make the bond payment, and their land would also then be collateral for that bond payment. Because we had committed to put that infrastructure in at no cost to them, the tax increment area would also be created, and to the extent additional taxes were created it would offset the payments that Faraday Future would have to make. They would be taking the risk of the tax increment not generating enough revenue to make the bond payments rather than the state taking that risk—that the tax generated would not be enough to make the bond payments. The lien language in the bill would allow our office and the state to place a lien on the land that Faraday Future has purchased and graded, and that would serve as basically underlying collateral for those bonds.

Assemblywoman Bustamante Adams:

Who would the tax increment area be created by?

Steve Hill:

That tax increment area would be created by the City of North Las Vegas.

Assemblywoman Bustamante Adams:

So the city would have the authority to make that happen, not GOED?

Steve Hill:

Yes. The way the process works is if GOED receives an economic development financing proposal from the City of North Las Vegas prior to June 30, in that proposal they would have to explain how they will create the tax increment area and do all that work. If we receive that by June 30, our Board makes that determination. If that economic development financing proposal is received after June 30—from July 1 onward—the Interim Finance Committee would have to approve that financing proposal, which would include the creation of the tax increment area, as well as the special improvement district—everything that would have to go in to making this work.

Chair Neal:

Thank you for that information. Moving on to section 11, this particular part of the bill looks like it is doing three different things. It looks like one kind of project, and then a smaller project. In section 11, subsection 2, paragraph (b) you are capturing an area, which is kind of odd because it says "... in a county whose population is less than 100,000," but then it says "... in an area of a county whose population is 100,000 or more" Where would this area be? Whatever this area is, it is allowed to have a lower investment criteria to engage in economic development.

Steve Hill:

This is the area where the USDA defines rural areas in Washoe and Clark Counties. This would be for towns such as Laughlin, Searchlight, or Gerlach, that are farther than 20 miles away from an urban area. It puts those lines out far enough that there is no battle over which side of that line you would be located on. It allows the areas of towns like Mesquite, Laughlin, Alamo, and Gerlach to really be competitive for a business that is of a size that would look at a community of that size. It is difficult to find many businesses that have more than 50 employees at the beginning to look at remote rural areas. We want to give those communities a level playing field with the other rural communities in the state for businesses that have more than 10 employees.

Chair Neal:

Section 11, subsection 2, paragraph (b), subparagraphs (1) and (2) explains the lower investment threshold. It states, "At least \$1,000,000 . . ." and then, "At least \$250,000 if the business is not an industrial or manufacturing business," and then I believe you have the ability to still abate at least 50 percent. There is also a two-year time period. I am not sure if I am reading that right. Is something getting ready to happen in Laughlin?

Steve Hill:

The reasons for the language and the motivation behind the language are different and not really connected. The threshold numbers, the \$5 million and \$1 million in the larger areas, and the \$1 million and \$250,000 in the smaller areas, are currently the law. We asked that this change be made in 2013, and the Legislature agreed to that. The \$50 million and \$5 million thresholds were the law prior to the 2013 Session. The reason we asked for this change is we felt it was very discriminatory against small businesses if we required a business in a large county to invest \$50 million before they were eligible for an abatement. That is a very large investment. It was reduced down to a level we felt made sense at the time. At the same time, we had a conversation about a personal property tax abatement attached for a Foreign-Trade Zone. The idea that was discussed was that the personal property tax exemption attached to the Foreign-Trade Zone be tried for four years, to see how it worked. There was a four-year sunset put on that concept. As it turns out, both of these provisions were in that same section and so the sunset was applied to both of them. We have talked to your staff and feel that was really just a mistake in the way it was drafted. We are asking that the sunset inadvertently placed on these thresholds be eliminated and the law that has been in place for the last four years be allowed to continue.

Chair Neal:

Thank you for that explanation.

Assemblywoman Spiegel:

Could you please talk a little bit about caps and whether there are maximum amounts of dollars for abatements included in the bill? I see in section 7, subsection 3, we list out what the partial abatements would be, and in section 7, subsection 3, paragraph (a) it states, "For property taxes, be for a duration of not more than 10 years after the effective date of the partial abatement and in an amount that equals 75 percent of the amount of the property taxes that would otherwise be owed by each participant for the qualified project." Is that an unlimited amount only constrained by what the property tax would be, or are there dollars associated somewhere that are not to exceed a certain amount—exceed \$100 million or \$1 billion, or X dollars? I could not find that in the bill.

Steve Hill:

There are no caps on those amounts. The concept is that the more property taxes generated, the more a company buys. If they came to us and said they wanted to invest \$50 million instead of \$40 million, we would consider that a positive thing. The abatement is a partial abatement, so additional taxes would be generated if they bought more equipment. There is no cap because of that.

Assemblywoman Spiegel:

How would we budget for that appropriately then? I understood when we had the Tesla special session [28th (2014) Special Session] that we were abating taxes in an area where there was no tax base. We were not really giving anything up, we were just not collecting more. There are still needs that are associated with the development, and with all of the abatements—especially if they are unlimited—we do not necessarily have funds to be doing the infrastructure development that is necessary. For example, Washoe County is having problems with school capacity, but there is no money available for use to build schools. A concern with there being no cap is we would not have the money we need for infrastructure development, and we would not know how to budget.

Steve Hill:

The answer to that is a little broader than I may be able to consolidate here, but I will try. In every situation, the abatement is just a reduction in the amount of tax that is paid. The calculation on a cap would potentially be limiting the additional purchase of equipment needed to be producing more tax revenue rather than less. It is not a budgeting issue. The conversation is whether the project is generating enough tax revenue that it is worth doing. I think that is the conversation we will have due to Assemblywoman Bustamante Adams' bill [[Assembly Bill 143](#)]. I think that gets more to the core of your question, which I think is a good question, but limiting what a company's abatements are and diminishing the amount of equipment they would purchase actually turns out to have a negative effect.

Assemblywoman Cohen:

I want to go back to section 5 and the common business purpose. In today's Assembly Committee on Judiciary meeting we talked about blockchains. Is it possible we could be seeing these with changes in technology? We are talking about a lot of money. Is there any concern that some organizations could get together, create a blockchain, and say they have a common business purpose for the abatements?

Steve Hill:

The investment has to be in real or personal property. It has to be a tangible asset. A blockchain is not. Adding something that represents cash in a computer on a site would not qualify. Only the purchase of the computer would.

Assemblywoman Cohen:

I understand that, but if everything they have together—because these are real businesses and they have enough—it is just not all one common purpose, but they do have enough industry when you put it all together. It is just for different purposes.

Steve Hill:

I apologize. I misunderstood your question. That is what we are specifically trying to clarify would not be the case in this bill. That is why it is the same industry—the same lead participant and their project.

Assemblyman Flores:

Who are we trying to capture here? We have seen the Faraday Future and Tesla projects. Who are we going after? How are we going to lure people or businesses in? I am trying to get the big picture understanding of what we are doing here, as a state. Walk me through that please.

Steve Hill:

The specific answer to that is confidential. I cannot say that publicly. We have a couple of opportunities to attract some large companies, companies that have the ability to invest \$1 billion or more, but the projects they would have would not be on a single contiguous piece of land. In order to be competitive with other locations, we do not have a system in place right now that would allow those projects to take place on a couple of different parcels. There is a possibility one would be in northern Nevada and one would be in southern Nevada. We are attempting to bring a couple of those types of companies and provide them the path to the level of abatements that would be effective.

Chair Neal:

Members, are there any questions? [There were none.] I want to move on to section 12. Regarding the rail project, I thought it was not going forward. Is this for Faraday Future?

Steve Hill:

We saw some different terminology for rail projects, so we are cleaning up language with this. There is no other intent from that proposal, other than just to standardize the language throughout the law.

Chair Neal:

For clarity, because we are considering other projects, with Faraday Future there was a set-aside in the prior bill for infrastructure—\$175 million set aside to develop the Apex Industrial Park. What is the status of that money? Is it going to be reduced? How is it going to be used?

Steve Hill:

It was approximately \$175 million of infrastructure—about \$140 million of infrastructure and then there is a debt service reserve. We are setting some money aside, and that is why it moved from about \$140 million to \$175 million. The rail portion of that \$140 million was about \$32 million, and that will not be built. Our thought is that would be reduced. I do not want to speak for North Las Vegas, but they have some thoughts on alternative uses for that funding. I am not sure what those are, and we have certainly not approved anything along those lines. They can speak to that. You are correct, that was the amount at the time, and our view at this time is that would be less.

Chair Neal:

The money would still have the debt reserve allocation, subtracting the \$32 million that was set aside for the rail?

Steve Hill:

The total amount would be proportionally less. You would need less debt service reserve. It is basically two years of reserve payments. If you borrowed \$32 million less, proportionally you would need less reserve.

Chair Neal:

Do we know how much that is—how much less?

Steve Hill:

If we completely eliminated the rail, it would probably be in the \$137 million range.

Chair Neal:

That would be left?

Steve Hill:

It would be \$137 million rather than the \$175 million.

Chair Neal:

I understand. With the \$137 million that is now supposed to be allocated for the infrastructure and there still being a lot to be developed at the Apex Industrial Park, is \$137 million sufficient?

Steve Hill:

The City of North Las Vegas would provide us with an economic development financing proposal that would answer that question. We are working with the City of North Las Vegas, the companies, and the landowners out there to continue to help craft that financing proposal. That would either come to the GOED Board or the Interim Finance Committee.

Chair Neal:

Thank you for that information. Can we have a discussion around the language in section 15, regarding the bond requirements? That section contains the new language, "'Bond requirements' means the principal of, any prior redemption premiums due in connection with and the interest on, or other amounts due in connection with, the designated bonds or other securities, advances, loans or indebtedness." What are we trying to capture with this language?

Steve Hill:

I do not want to guess. I would appreciate being allowed to get back to you with this information.

Chair Neal:

Thank you. Section 16 describes the rail project but also says " . . . service provided by a regional transportation commission pursuant to NRS 277A.283" This is confusing to me. Are we thinking if a future agreement is created then the service will be done by the regional transportation commission (RTC), and these are the things that they may create as structures?

Steve Hill:

Yes, that is correct. Currently passenger rail facilities are authorized in the law. As a part of cleaning up this rail language, we want to clarify that freight, cargo, as well as passenger rail could be built by the RTC through this portion of the legislation.

Chair Neal:

In the new language in section 17, it is stated "The governing body of a municipality . . . may enter into a contract with any property owner in a tax increment area agreeing to pay tax increment revenues" What are we doing here?

Steve Hill:

Using the Faraday Future project as an example, this is the language that would allow North Las Vegas to enter into a contract with Faraday Future in which Faraday Future would make the payments on the bonds and, to the extent that the tax increment area generated tax revenue, would repay Faraday Future for making those payments.

Chair Neal:

Who is ultimately responsible for this?

Steve Hill:

If we would move forward with the infrastructure for Faraday Future, the tax increment is the primary source of repayment of those bonds. If there is not enough tax revenue available, and the City of North Las Vegas has "uncommitted funds" in their general fund, those funds would be used to make the bond payment. We think that is fairly unlikely. After that the state would be required to make the bond payment. The way this change would be made, Faraday Future would be the primary source of repayment for that bond, and the tax increment would repay Faraday Future if it was created. If Faraday Future does not make that payment, then their land serves as collateral. We could foreclose on the land and cause that payment to be made.

Chair Neal:

The last sentence section 17, subsection 1 states, "Such a contract constitutes an indebtedness of the municipality for the purposes of this chapter but is not a security for the purposes of NRS 278C.280." This threw me off. What are we trying to make sure does not happen?

Steve Hill:

In this particular example, I believe we are trying to make sure that North Las Vegas does not owe money to Faraday Future in the event that the tax revenue is not generated.

Chair Neal:

As Assemblywoman Benitez-Thompson could not be here today, she wanted me to ask a question on section 18, subsection 1, paragraph (d) regarding the tax increment districts you are creating through contracts. There was some concern that we are changing the manner in which we create tax increment districts. Are we basically allowing them to be created through a contract versus through statute?

Steve Hill:

This is certainly a different use of a tax increment area, but it does not change the method. The City of North Las Vegas, in this example, would still have to come to the Legislature or the Interim Finance Committee to get approval to create that tax increment area.

Chair Neal:

Would it be before or after the contract was made?

Steve Hill:

It is my understanding it would be before the contract is entered into.

Chair Neal:

In section 21, subsection 6, why did you add language so that subsection 6 now states, "For assessment bonds issued by a municipality under chapter 271 of NRS from assessments against real property"?

Steve Hill:

It is part of the language required to implement what we have talked about, but I will have to get back to you on the specific reason for it being there.

Chair Neal:

In section 22, subsection 1, paragraph (e), we have the same Laughlin-type area designation here. Why do you have it in another section? I understand that it can be conforming language but I want you to spell out what is happening in section 22, under NRS 701A.365. Does it relate to your economic development authority in another chapter?

Steve Hill:

That type of language is repeated in each area of the law it applies to—we repeat it in the sales tax area, property tax area, and in the modified business tax area. There are a number of areas where this type of language looks repetitive. It is simply because it applies to those different sections of the law.

Chair Neal:

This was just an effort for the smaller communities to be able to engage at the same level as the larger communities. They will also be able to do similar types of activity under renewable energy in section 22, and they have a qualifier there to engage in all aspects as the larger counties do. The smaller communities can do what the larger communities can do in the same area.

Steve Hill:

That is correct.

Chair Neal:

In section 25 you have unique expiration dates. Can we talk through those? Each one applies to something.

Steve Hill:

We have not changed expiration dates. The only point that I would make is that the alternative path to the \$1 billion threshold does sunset on June 30, 2019. The rest of these sections are periods of time that have been set in past sessions. We have not changed the expiration of any of the other portions of the law.

Chair Neal:

Section 25, subsection 6 states, "Section 22 of this act expires by limitation on June 30, 2049." If we go back and look at the other bills, do they all have the same expiration date of 2049?

Steve Hill:

I actually did not look. Obviously section 22 does expire on June 30, 2049.

Chair Neal:

Members, do you have any additional questions? [There were none.] I think we conquered your creativeness. I will now take testimony from those in support of S.B. 442 (R1).

Connor Cain, representing Las Vegas Global Economic Alliance:

We, and in particular Jonas Peterson, are in support of S.B. 442 (R1). Mr. Peterson was able to give testimony in the Senate [Senate Committee on Revenue and Economic Development, April 4, 2017]. He was unable to be here tonight, so my testimony will be far more brief and far less eloquent than his was. We would like to highlight our support for a few of the amendments in this bill that facilitate rural economic development and multisite projects. We would appreciate your support.

Ryann Juden, Assistant City Manager, City of North Las Vegas:

We, too, are in support of S.B. 442 (R1). We appreciate the work GOED has done on this. Our staff has worked with GOED on some of the specific changes in this that provide a little cleanup and clarity to the special session legislation that passed. In reference to a few of your questions, later this month our city council will in fact be voting on the infrastructure investment package that will be forwarded to GOED. That is something we worked closely with this body and GOED on. It is a very important piece to the future of North Las Vegas—having the Apex Industrial Park open for business. It is not really just significant for North Las Vegas, but to all of southern Nevada. We lack areas like this in southern Nevada, as far as an industrial park for heavy use. The Las Vegas Global Economic Alliance did a report on it, and there were 122 business identified that had to take a pass on southern Nevada between fiscal years 2014 and 2015. That represented over 18,000 different jobs because of the lack of what the report found was suitable industrial dirt for development. That is exactly what the Apex Industrial Park provides for the region. This bill and the other actions this institution have taken have gone a long way to making sure that the Apex Industrial Park is open. We intend to submit the infrastructure development plan to GOED in order to utilize all the funds that were provided during the 29th (2015) Special Session. Understanding that rail might not be going forward, there are opportunities to ensure those funds are used to open up larger swaths of the Apex Industrial Park for future development. We urge your support for this bill.

Assemblywoman Bustamante Adams:

My question involves North Las Vegas and the council. Does the city council have to take a vote to create the economic diversification district? If so, does that require a two-thirds majority?

Ryann Juden:

It does require a vote. The law does not specify what it is. It just says that the governing body shall create. I believe it is a majority vote, but it is something that the council will vote on to create the economic diversification district, which is kind of the geographical designated area.

Chair Neal:

Thank you for your testimony. I will now take testimony from anyone in opposition to S.B. 442 (R1). [There was no one.] I will now take testimony from anyone neutral on S.B. 442 (R1). [There was no one.] Mr. Hill, do you have any closing comments? [He indicated he had no closing comments.] I will close the hearing on S.B. 442 (R1). I will now open the meeting for public comment. [There was none.] I will close public comment. We are adjourned [at 6:30 p.m.].

RESPECTFULLY SUBMITTED:

Gina Hall
Committee Secretary

APPROVED BY:

Assemblywoman Dina Neal, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a PowerPoint presentation titled "SB 442," dated May 8, 2017, presented by Steven D. Hill, Executive Director, Office of Economic Development, Office of the Governor.