

**MINUTES OF THE  
SENATE COMMITTEE ON REVENUE AND ECONOMIC DEVELOPMENT**

**Eighty-first Session  
May 6, 2021**

The Senate Committee on Revenue and Economic Development was called to order by Chair Dina Neal at 2:02 p.m. on Thursday, May 6, 2021, Online and in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Dina Neal, Chair  
Senator Julia Ratti, Vice Chair  
Senator Moises Denis  
Senator Ben Kieckhefer

**COMMITTEE MEMBERS ABSENT:**

Senator Heidi Seevers Gansert (Excused)

**GUEST LEGISLATORS PRESENT:**

Assemblyman P.K. O'Neill, Assembly District No. 40

**STAFF MEMBERS PRESENT:**

Russell Guindon, Principal Deputy Fiscal Analyst  
Joe Reel, Deputy Fiscal Analyst  
Michael Nakamoto, Deputy Fiscal Analyst  
Alex Polley, Committee Secretary

**OTHERS PRESENT:**

Mike Pavlakis  
Richard Staub  
Tiffany Lewis, Administrative Services Officer, Division of Health Care Financing  
and Policy, Department of Health and Human Services  
Melanie Young, Executive Director, Department of Taxation

Senate Committee on Revenue and Economic Development  
May 6, 2021  
Page 2

Jeffrey Mitchell, Deputy Director, Local Government Services Division,  
Department of Taxation  
Dagny Stapleton, Nevada Association of Counties  
Warren Hardy, Urban Consortium

CHAIR NEAL:

I will open the hearing on Assembly Bill (A.B.) 414.

**ASSEMBLY BILL 414 (1st Reprint)**: Revises provisions governing the transfer of real property pursuant to a deed becoming effective upon the death of the grantor. (BDR 32-648)

ASSEMBLYMAN P.K. O'NEILL (Assembly District No. 40):

Assembly Bill 414 deals with Nevada probate statutes. It cleans up inconsistencies related to the transfer upon death of real property of small estates.

Section 1 of A.B. 414 cleans up issues with the necessary mechanism to file a deed upon death, which is a tax-exempt action. Currently, the procedure is to file a Death of Grantor Affidavit with the appropriate county recorder's office after the death of the grantor. A deed upon death is then filed, which is taxed in some counties and not in others. This is the confusion. The tax on a deed upon death is unfair to the grantees.

Section 2 of A.B. 414 decreases the 18-month waiting period in *Nevada Revised Statutes* (NRS) 111.689, subsection 3 that is required before the beneficiaries can attain a clear title to sell their real property and bring it into accordance with other probate timelines. During the 18-month waiting period, claims are allowed to be filed by creditors. A challenge for grantees is they have to continue to pay taxes, utility bills, mortgage and maintenance to maintain the property value. Insurance companies will not provide homeowners insurance on a house that is left vacant after 60 days.

Assembly Bill 414 cleans up language to bring the deed upon death transfer into conformity with other estate transfer mechanisms within NRS.

MIKE PAVLAKIS:

I asked Assemblyman O'Neill to bring A.B. 414 forward when I had a family come to me whose grandfather passed away. The grandfather availed himself of

a deed upon death. The deed upon death was recorded during his lifetime. He wanted to transfer his home that was valued at \$200,000 to his two children and one grandchild. The grandchild was in college and under 21 years old and over 18 years old.

The family thought they needed to probate. The grandfather had a local bank account with \$20,000. The grandfather was living off social security and retirement benefits, which ended when he died. He did not have a large estate. He had a \$200,000 house and \$20,000 in a bank account. The family did not need to probate.

By doing a deed upon death, a lawyer, trust or will were not needed. When the grandfather recorded the deed upon death, he paid a \$43 recording fee to the county recorder. There was no transfer tax due to subsection 10 of NRS 375.090, which exempts a deed upon death from paying a transfer tax.

I helped the family with preparing the Death of Grantor Affidavit, which is provided in NRS 111.699. We took the Death of Grantor Affidavit and the death certificate to the county recorder whose position was that the entire value was subject to a transfer tax. Since there was a transfer from a father to children, there was no tax due on that portion. There was no tax exemption for the transfer to the grandchild, however. The county recorder held the recording of a Death of Grantor Affidavit required a transfer tax. The grandchild had little ability to pay the tax. If the grandfather had paid a lawyer \$3,500 to \$4,500 to prepare a trust, there would have been no transfer tax due. If a will was prepared that went through probate and the probate order was recorded with the county recorder's office, there would be no transfer tax due. The grandchild was in effect penalized by the grandfather using a Death of Grantor Affidavit because he did not have the means to hire a lawyer to establish a trust or will. This is wrong.

I reached out to the district attorney who agreed with me, but he had to support the position of the county recorder.

RICHARD STAUB:

I prepare deeds upon death, which is a simple process that is established by NRS 111.689. People with small estates are allowed to transfer a house upon the death of the grantor by filing a Death of Grantor Affidavit. Subsection 3 of

NRS 111.689 has an 18-month waiting period where claims can be filed against estates that do not have enough assets to pay those claims.

When a grantor dies, a title company has the grantee wait 18 months before the grantee can dispose of a property. Some title companies will have people wait 24 months. This is a long time for beneficiaries to wait and maintain a property. This defeats the purpose of a deed upon death.

Section 2, subsections 3 through 7 of A.B. 414 make a deed upon death comport with other probate statutes in NRS. A standard probate under NRS 147.040 has a notice to creditors for a 90-day period. The summary administration in NRS 145.060 has a 60-day notice. Trusts have a 90-day notice to creditors.

Assembly Bill 414, section 2, subsection 3 requires beneficiaries under a deed upon death to file a notice to creditors by mailing a notice to known creditors and to publish the notice publicly once a week for three weeks. The public notice indicates to any person with a claim against the grantor of the estate to come forward within 90 days to file a claim.

Section 2, subsection 3, paragraph (b) of A.B. 414 requires the beneficiaries to provide a notice to the Department of Health and Human Services (DHHS) to determine if the grantor received public assistance. If the grantor received public assistance, a claim could be filed and the beneficiaries will have to recognize the payment of the claim to DHHS. This provision does not exist in NRS. The Department of Health and Human Services has to learn about deaths from vital statistics or county recorders. The Department of Health and Human Services is neutral to A.B. 414 since it knows it will get some sort of notice.

Section 2, subsection 4 of A.B. 414 provides the format for the notice to creditors. Section 2, subsection 5 provides that anyone who has a claim has 90 days after the first day of publication or mailing to file a claim, or it is forever barred. Section 2, subsection 6 states that DHHS has 45 days to advise the beneficiaries if the grantor received public assistance. If the grantor did not receive public assistance, DHHS shall provide a waiver of claim that allows the beneficiaries to dispose of the real property. This all happens between 45 and 90 days after the death of the grantor.

Section 2, subsection 8 of A.B. 414 allows title companies to look at a deed upon death and recognize the notice is reliable under NRS. Title companies will not be liable to claims that they are not made aware of by the beneficiaries. Section 2, subsection 9 of A.B. 414 was included for the Nevada Land Title Association. It allows title companies to deal with the beneficiaries in deeds upon death as if it was dealing with a distributee in a normally probated estate, so long as it is done in good faith and the Death of Grantor Affidavit is filed.

CHAIR NEAL:

I have a question regarding section 2, subsection 6. How would this subsection affect a beneficiary where there may be debts associated with a property?

MR. STAUB:

A person prepares a deed upon death which states upon their death, a property will transfer to another person or persons. The deed of death is filed with a county recorder, and a filing fee is paid. The deed upon death sits dormant until the grantor passes away. A grantor can sell or mortgage a property, and the deed upon death will not prohibit a person from doing this.

Once the grantor dies, the beneficiaries can, under the deed upon death, file a Death of Grantor Affidavit and dispose of the property. The 18-month waiting period is a roadblock to dispose of real property because title companies will not issue a title insurance policy for the transfer.

Assembly Bill 414 cleans up this situation and makes it consistent with general probate and trust statutes. The bill requires the beneficiaries to provide a published notice to creditors. The beneficiaries can then dispose of or use the property. They own the property in perpetuity and could then go through the same deed upon death process if they desire.

SENATOR RATTI:

Can you provide examples of who the creditors would be interested in with a probate? What benefits will DHHS be trying to recover?

MR. STAUB:

The Department of Health and Human Services will try to recover Medicare, Medicaid or public assistance benefits that the grantor received. If the grantor was in an assisted living home, DHHS could file a claim to recoup the benefits public assistance paid on behalf of the grantor out of the assets transferred to

the beneficiaries. Credit card debt, medical expenses, home mortgages could be claimed. Assembly Bill 414 requires a public notice to creditors so beneficiaries cannot dispose of property and avoid the liabilities of the grantor.

SENATOR RATTI:

That is clarifying. For Medicaid eligibility, a person has to have a lower income and lower assets but can retain one's home. Once a grantor passes away, do benefits have to be paid back?

MR. STAUB:

The liability DHHS claims would have to be negotiated. The Department of Health and Human Services tries to collect 100 percent of liabilities, but some people do not have the full amount. The Department then negotiates the liability with the beneficiaries.

SENATOR RATTI:

Would a family that uses more robust trust tools escape debt recapture, and the tool in A.B. 414 is simpler?

MR. STAUB:

That is correct.

TIFFANY LEWIS (Administrative Services Officer, Division of Health Care Financing and Policy, Department of Health and Human Services):

The Division of Health Care Financing and Policy is neutral to A.B. 414. The Division removed the fiscal note associated with the original draft of A.B. 414, and it does not have a negative impact on Medicaid or the Estate Recovery Program.

ASSEMBLYMAN O'NEILL:

Assembly Bill 414 addresses smaller estates and people with limited incomes to more easily pass real property to their beneficiaries.

CHAIR NEAL:

I will open the hearing on Senate Bill (S.B.) 423.

**SENATE BILL 423**: Requires the Department of Taxation to retain a commission as compensation for the costs of collecting taxes on certain centrally assessed property. (BDR 32-1078)

MELANIE YOUNG (Executive Director, Department of Taxation):

Senate Bill 423 is a result of the Department of Taxation experiencing budget reductions and looking at alternative solutions. Our budget is funded primarily through the General Fund, and our largest expenditure is for personnel. The Department has three revenue proposals that are being introduced this Session. Senate Bill 423 proposes a commission to compensate the State for providing the valuation, billing and collection in relation to centrally assessed property. This service is provided by our Local Government Services Division.

JEFFREY MITCHELL (Deputy Director, Local Government Services Division, Department of Taxation):

Centrally assessed properties are companies that owe property taxes to the entities they reside in but are of an interstate or intercounty nature. The type of companies this includes are railroad companies, airline companies or utilities that cross county or state lines. Under NRS 361.320, NRS 361.321 and NRS 361.3205, the State values and develops the assessed value for these companies. The Department bills, collects and apportions the taxes on centrally assessed property for the benefit of local entities.

Section 1 of S.B. 423 would allow the Department of Taxation to retain a commission as compensation of certain costs of administering the centrally assessed property tax. This commission would be in the amount that the Legislature specifies, but the Department is proposing a commission equal to the cost of administering the valuation, billing, collection and disbursement of the tax on unsecured property.

Ms. YOUNG:

Senate Bill 423 is similar to the way the Department of Taxation handles tobacco taxes and license fees, which are found in NRS 370.260. During the biennial budget process, the Department would review the costs for the valuation, billing and collection of taxes. We create a spreadsheet, which is included during the budget process, that calculates personnel and operating costs. These costs are included in the agency request budget and reviewed by the Governor's Office of Finance and the Legislative Counsel Bureau fiscal staff to validate cost calculations. The amount the Department would collect as a commission would be approved through the budgetary process. The legislatively approved amount would be applied to the taxes collected on a proportionate share of the revenue.

The commission proposed is \$135,992 for fiscal year (FY) 2021-2022 and \$137,928 for FY 2022-2023. These services provided by the Department on behalf of the counties is 100 percent funded by the General Fund.

If in future biennium a change to the allocation includes an increase of positions or costs other than the normal fringe benefit rates calculated, those amounts would be placed in an enhancement decision unit that provides for a decision point for the Legislature. Section 3 of S.B. 423 has the effective date of July 1.

SENATOR KIECKHEFER:

Is the commission amount that is set through the budget restricted to the centrally assessed property tax? Will it not bleed into other work the Local Government Services Division does?

Ms. YOUNG:

That is correct. We did a time study on the positions that do this work, and that is how we determined the cost estimates.

SENATOR KIECKHEFER:

Is this consistent with how the Department of Taxation's budget was closed?

Ms. YOUNG:

That is correct.

CHAIR NEAL:

It appears the Department of Taxation would no longer have to submit an enhancement request. Will the Department still have to provide information to the Interim Finance Committee or Legislature about how much of the allocation was used? If the Legislature decided to allocate 5 percent, and the Department only used 3 percent, how will the Department inform the Legislature of a disparity?

Ms. YOUNG:

The enhancement decision is made in the budgetary process. Any additional allocation would require the Department of Taxation to put it in the enhancement decision unit, which would give the Senate Committee on Finance and the Assembly Committee on Ways and Means the ability to approve an increase. Any fringe costs or costs outside the Department's control would be maintained by the Department's base budget.



At the end of a fiscal year, the Department of Taxation looks at actual cost. If the budget is \$100,000, and actual cost is \$90,000, the Department only accepts the \$90,000. This is how we handle tobacco taxes.

CHAIR NEAL:

Have you had conversations with the counties on what the effect would be and what the counties would lose by the Department of Taxation taking a commission?

MS. YOUNG:

We have met with the Nevada Association of Counties (NACO) and provided a breakdown of costs. The cost could change over time because the assessments could change each budget.

CHAIR NEAL:

What is the estimated loss for the counties?

MR. MITCHELL:

The total loss would be \$135,992 for FY 2021-2022, which would be spread out to every entity that has a property captured by the centrally assessed property tax rate.

CHAIR NEAL:

I want to see the effect on smaller counties because the \$135,000 could be the cost of a service. I understand the reason the Department of Taxation wants S.B. 423, but I need to know the effect on counties.

MR. MITCHELL:

Eureka County would be affected by \$683.71 for FY 2021-2022 and \$693.45 for FY 2022-2023. This would be covered by the different entities within Eureka County, such as the cities that have the centrally assessed property tax.

CHAIR NEAL:

In regard to intercounty discussions and NRS 361.320, S.B. 423 appears to be interstate.

MR. MITCHELL:

The properties on the centrally assessed roll encompass those that are intercounty, such as utilities solely in Nevada. There can be larger companies

that are nationwide. Part of the valuation process is to figure out the amount of property tax that is first due to Nevada, and then due to each entity within the state the properties or companies operate in.

CHAIR NEAL:

What is the interstate effect? What conversations have you had regarding the interstate dynamic? What are the interstate locations that will be affected by S.B. 423?

MR. MITCHELL:

There are railroad companies that operate nationwide. We will value a company as a whole unitarily. We then determine the operating property in Nevada. There is not much correlation with other states and the taxes that are due. These companies have to interact with each state it operates in. We apportion the value amount of the entire company that is attributable to Nevada. That is broken down to each entity that has a property tax rate the company operates in.

CHAIR NEAL:

The valuation of the whole is an important component of S.B. 423. What is the apportioned value of a railroad company to Nevada since the Department of Taxation values it as an entire company?

MR. MITCHELL:

Valuating companies is a matter of public record like any property tax. For the FY 2021-2022 centrally assessed roll, the Statewide value of the Union Pacific Railroad Company is approximately \$410 million. That is apportioned out based on the counties the company operates in. This is the assessed value for the different counties. This information is available on the Department's secured roll bulletin that is published on the Department website.

CHAIR NEAL:

How is the \$410 million apportioned? What is the dollar amount?

MR. MITCHELL:

I will have to determine the dollar amount later. For example, \$22.8 million is the assessed valuation owed to Churchill County of the \$410 million. That would be applied against the County's property tax rate in the areas the railroad operates in.

Senate Bill 423 is a bill for accounting which is apportioned out to entities from county treasurers.

CHAIR NEAL:

I wanted that on the record because there is significant money in play; people want to know how the mechanics work, how the commission piece will take away from entities involved and how the Department of Taxation intends to keep it.

DAGNY STAPLETON (Nevada Association of Counties):

Nevada Association of Counties (NACO) opposes S.B. 423. We have discussed potential changes to S.B. 423 with the Department of Taxation. Our concern is that the bill does not specify how the commission, or assessment, will be calculated. There could be a formula or a limit to how much the rate can increase. There are a number of assessments counties are subject to, and many of these have details or formulas. These are for predictability. We requested to add a cap or a more specific formula for more certainty on the amount. Without a cap or formula, NACO is opposed to S.B. 423.

SENATOR KIECKHEFER:

Has NACO done a potential cost analysis for each county government? What is the largest cost to local government?

MS. STAPLETON:

The Department of Taxation provided a cost breakdown. There is roughly \$130,000 distributed across all counties, and the costs would be small amounts. The largest cost would be to Clark County, and it would be under \$100,000. The main reason for opposition to S.B. 423 is the lack of cap or formula.

WARREN HARDY (Urban Consortium):

We share the sentiments of NACO, and we are concerned about the lack of cap on expenditures. This is the only reason for opposition to S.B. 423. We have no objection to the Department of Taxation retaining a commission for administering these services.

MS. YOUNG:

I have concerns about adding a cap to S.B. 423. A cap might cause a budgetary burden on the Department of Taxation. If the cap is percentage-based, the State

budget is set two years in advance and before the full assessed value is determined. If the assessed value were to decrease, and a cap is in place, the Department may not be able to accept the full commission that is budgeted by the Legislature. When S.B. 423 was proposed, we based the example on an 8 percent commission, which the counties are able to retain for doing similar work. The budgetary process would allow the Department to determine an amount that is over what is calculated or proposed in an enhancement decisions unit. The enhancement decisions unit would hold the Department of Taxation accountable for any amount over what it is asking for. The Department would have to come to the Legislature and defend the costs.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Revenue and Economic Development  
May 6, 2021  
Page 13

CHAIR NEAL:

Seeing no public comment, the meeting is adjourned at 2:57 p.m.

RESPECTFULLY SUBMITTED:

---

Alex Polley,  
Committee Secretary

APPROVED BY:

---

Senator Dina Neal, Chair

DATE: \_\_\_\_\_

| EXHIBIT SUMMARY |                |                |                  |             |
|-----------------|----------------|----------------|------------------|-------------|
| Bill            | Exhibit Letter | Begins on Page | Witness / Entity | Description |
|                 | A              | 1              |                  | Agenda      |