

Assembly

MINUTES OF MEETING - TAXATION COMMITTEE - 55TH NEVADA ASSEMBLY
SESSION - MARCH 4, 1969

Present: T. Hafen, Hilbrecht, Smith, Young, Swackhamer, Tyson,
Espinoza and Getto

Absent: Schouweiler

Also Present: Roy Nickson, Nevada Tax Commission;
Ernest Newton, Nevada Taxpayers Association

Meeting was convened at 8:00 a.m. by Chairman Hafen who requested Mrs. Tyson to explain A.B. 312, providing deduction from gross receipts for debts owed retailer by persons adjudicated bankrupt. It was noted that A.B. 423 was a similar proposal permitting deduction from gross receipts of a retailer on bad debts for purposes of sales and use tax.

Mrs. Tyson noted that there is a situation in southern Nevada and most likely similar ones in the north. A material supplier, such as a block manufacturer, will put his materials into certain types of development and the purchaser will go bankrupt. There is no way for this supplier to get any relief on the collection of the sales tax even though he cannot get a dime from the person adjudicated bankrupt.

Mr. Nickson stated that this tax is considered to come first. It is believed that the down payment covers the tax and if he later goes bankrupt, the only recourse is against the man. It is considered that he has in fact paid the tax to the supplier.

Mr. Getto asked what sort of problems would be encountered here if the bills were passed. Nickson stated that there would be some small problems in the administrative field but none that would be insurmountable. Mr. Hafen asked what method is used now for the credit on bad debts. Mr. Nickson said there is a place on the federal tax return whereby bad debts may be deducted from his gross receipts. He noted however, that these are very subject to audit.

Smith said in his opinion the headaches caused by an audit of the books would not be worth the small amount of money that would be gained.

Espinoza said the retailer has the right to extend credit on his own behalf but not on behalf of the State of Nevada. If he extends this credit, it is his own responsibility and has no recourse to the State. Nickson agreed that this tax is imposed and collected by the retailer and the burden is automatically placed on him.

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Smith noted that through our legislative process, we have made it very easy to have bad checks or bad debts put upon us. He said in his opinion the merchant is now at the mercy of the people.

Hilbrecht cited the example when buying a car. They put the sales tax on in addition to the other charges. This is usually the biggest charge of all and is not even written into the contract. It is collected in cash. If the guy then goes under, what do you do? Do you deduct the pro-rata share of the sales price or what?

Nickson said it is assumed that the tax comes out first. If the retailer extends this credit to the purchaser, he does so with the understanding that the tax has been taken out first.

Young noted that this would not hold true in the case of the building block supplier cited by Mrs. Tyson. Swackhamer said he believed our tax collection set up is ridiculous. The businessmen support the state through their offices. They do the work of collecting the money, sending in the tax and then most likely will get into all kinds of hot water for a 12¢ error in their books. He said he believed it was time to help the unpaid tax collectors a little more.

A.B. 377, requiring state licensing and taxation of distillers of intoxicating liquor.

Mr. Nickson said that when Mr. Newton was with the tax commission, there had been an inquiry from someone who indicated they would like to start a distillery in Nevada. There were no tax provisions for this type of business and no statute to cover same. It resulted that the deal fell through and at the present time there are no distilleries operating within the state. This bill, however, would cover the matter should the possibility ever arise again.

Mr. Hafen said he thought a Mr. Frank Buell had a license for this type of operation and Nickson said he did have at one time but there are no licensees in this field now.

Hafen noted that the way the bill reads, it refers to "distillers" and he did not believe that wineries are considered in this category. They are known as "vintners". He wondered too if wine is a liquor.

Hilbrecht noted in Section 5 that we were back to trying to tell them what they can label as whiskey and he did not think this had anything to do with taxation.

Nickson said it was the intention in this bill to cover anything which might be considered as an intoxicating beverage. However, without this bill, or an amended bill, the tax commission would be left without regulation of this field. He noted also that this bill permits the retailer to buy direct from the distiller rather than through a wholesaler.

Hilbrecht asked why we were trying to regulate this field. Why should taxation be checking to be sure they are not putting peat moss in their whiskey rather than letting it ferment. Swackhamer said in his opinion no one was going to start a distillery in Nevada anyway.

Hafen asked if the committee was satisfied with the definitions as they stand and Hilbrecht said he felt it should be changed with regards to the term "distillery" to make it apply to all fields. Maybe "manufacture of intoxicating liquors - or beverages". He said he knows that the wineries in California do not call themselves "breweries" or "distilleries".

A.B. 455, making technical amendments to motor vehicle fuel tax collection and distribution provisions.

Mr. Young noted that another bill, A.B. 548 would be coming in very soon which had been introduced by the committee and referred to this same proposal. A.B. 548 would transfer the tax from the Tax Commission to the Motor Vehicle Department. He wondered if they should wait to discuss A.B. 455 at another time. Hafen said the committee had decided between two BDR's wherein the tax was transferred from one department to the other. It was decided to put just one of the bills in and they could amend it as was necessary.

Mr. Nickson said the transfer could be done either way, however, the bill was needed because of a duplication of reports now being made. Hafen stated that he personally was in full agreement with the idea of the bill. Persons applying for a refund can find himself in a real nightmare the way it is set up now. If a person does not keep close track of his receipts it is almost impossible to get the refund.

Nickson said also that he would hope the bill drafter would incorporate the changes in A.B. 455 to the other bill. Nickson said A.B. 455 changes the period for the refund and makes for a more manageable operation. It cuts out some of the paper work required.

Young inquired as to the purpose of the refund and Hafen said that non-highway use is refundable. Gas burned in tractors in the fields and on farms is subject to a certain refund from the tax commission.

A.B. 440, provides for fluctuation of veterans' exemption in proportion to assessed valuation.

Mr. Hafen noted that the only change in this bill is addition of paragraph 8 of Section 1, "After the effective date of this act the amount of the exemption provided for in this section shall be raised or lowered in proportion to the valuation of the property to which the exemption applies as compared with the valuation of the property to which such exemption applied as shown on the last assessment roll." He said in his opinion the language was very ambiguous. He said he had spoken with representatives of the

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Veterans Administration and that they were opposed to this bill.

Hilbrecht moved for indefinite postponement of A.B. 440;
motion seconded by Getto;
unanimously carried.

A.B. 418, modifies veterans' exemption from property tax.

Mr. Hafen noted that there was not much of a change to the bill, however the Veterans Administration is opposed to this one also.

Young moved for indefinite postponement of A.B. 418;
motion seconded by Tyson;
unanimously carried.

A.B. 529, defers filing dates for tax commission assessment certificates of net proceeds of mines.

Nickson stated that the bill was submitted by his office through recommendation of Mr. Newton. He noted that this bill would allow the mine operators time for a hearing before being presented to the tax commission. It merely changes the date for the filing of the certificate.

Young moved A.B. 529 be given a Do Pass;
Motion seconded by Smith;
unanimously carried.

A.B. 530, provides procedure for recordation and reporting of tax payments.

Mr. Nickson stated that the bill was for the purpose of allowing "paid" notations on the roll to be accomplished by machine as well as by hand.

Young moved A.B. 530 be given a Do Pass;
motion seconded by Tyson;
unanimously carried.

A.B. 531, requires payment of sales and use taxes on motorboats before issuance of number or certificate of number for motorboat.

Mr. Nickson said this bill was submitted by Mr. Schouweiler at the request of the Tax Commission. The bill gives the commission control over sales and use tax to be paid by owners of boats. He said in Clark County people will often go to Los Angeles to purchase a boat and thereafter go to the Fish and Game Department for their registration sticker. Therefore, the Tax Commission has no chance to have use tax assessed. The commission would like to have this set up the same as automobiles and require that they obtain the sales and use tax receipt prior to obtaining their registration. He noted that there were no problems with the Department of Motor Vehicles in the procedures and there should be no

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problem with the Fish and Game Department. Hilbrecht asked if it would be necessary to have another individual hired for this control in the Fish and Game Department and Mr. Nickson said no. All the boat owner would have to do is to obtain clearance from the Tax Commission showing that the Sales and Use Tax has been paid and then they can go to the Fish and Game Department for their registration.

Young noted that at the present time you are only required to have the registration sticker on the boat. Hafen asked if this bill would give them the authority they needed in this regard and Mr. Nickson replied "yes."

Young moved that A.B. 531 be given a Do Pass; motion seconded by Hilbrecht; unanimously carried.

A.B. 545, providing for taxation of campers in same manner as mobile homes and exempts certain mobile homes from taxation.

Nickson said this was also submitted at the request of the Tax Commission. Swackhamer noted that it had just recently been introduced and suggested a deferment until they could research a little more.

Mrs. Tyson said that a meeting held in Las Vegas last weekend which affected campers indicated that they were definitely opposed. She said she was certain they would come out against this bill in force.

A.B. 545 was deferred for further consideration by the committee.

A.B. 379, authorizes Nevada tax commission summarily to suspend intoxicating liquor licenses.

This bill also recommended by the tax commission. He noted that counties now have no control over the suspension of a liquor license and related the story of a licensee in direct violation. He was contacted to this effect and there was still no action. 45 days later they wrote him a letter; and 30 days after that another letter was written. Thereafter the county administrator took over and got results. But in the meantime, the man had operated for 3 or 4 months in violation. Mr. Nickson was asked what the violation was and he said the licensee had failed to send in the required tax reports or to pay the taxes due.

Swackhamer said he assumed this applied only the wholesale liquor dealers and Nickson said "yes". The commission has no control over the retailers. This bill only provides for suspension and thereafter due process within the county.

Getto asked if this was the only instance they had run into this and Nickson said it has happened before, but this was the most blatant example. Swackhamer said he preferred to talk to with the counsel bureau on this because he thought there was a possibility that the

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Tax Commission would be entering into the field of the retailers through this bill. Mr. Nickson assured the committee it was not the intention to do this. He said he believed there was a separate statute for retailers.

Chairman Hafen requested Swackhamer to research the bill and to report back to the committee. A.B. 379 was deferred.

A.B. 381, establishes year to which state tax levy rate applies.

Mr. Nickson said this was a technical change requested by Mr. Newton due to the changing of the ad valorem rate from 28¢ to 25¢.

Hilbrecht questioned the wording and thought they should insert at the beginning "After the effective date of this act" so that there would be no question as to when it goes into effect.

Nickson noted that that had been the intention. They did not mean to have this retroactive. Young inquired whether or not an amendment would be necessary and Mr. Newton said the explanation and background was as follows:

In 1967 session, the tax rate was set at 25¢ and that was about all it said. The situation now is that the assessment year is one year prior to the collection year. In 1968 the matter was cleared up when the statute of 1967 was amended to spell out the year. This could only cause difficulties if the state rate had been increased in 1967 or special session of 1968 rather than decreased. That would have thrown all other off the budgets of all others participating in the ad valorem rate because they would not have known whether they were operating under the new rate or the old rate. Therefore, no problems could arise from the wording of the A.B. 381.

Young moved that A.B. 381 be moved out with a Do Pass; Motion seconded by Getto; Unanimously carried.

A.B. 378, provides for closing premises of seller who operates without local school support tax permit.

Recommended by the tax commission also. Nickson said in view of the fact that the sales and use tax cannot be amended except by referendum this bill was necessary to conform. He noted that there had been two instances with camper companies in Las Vegas wherein the taxes were not paid on the school support tax portion.

Hilbrecht asked why this only applied to the 1¢ tax and Nickson said if they locked the doors on the 1¢ tax, it would automatically lock the doors on the 2¢ tax. Hilbrecht suggested that the operator may faithfully collect the 1¢ tax and neglect to pay the 2¢ tax. Nickson said they had never run into this experience, however it could be a possibility.

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Hafen asked how this situation would come about and Nickson said the instances would be few. A person failing to submit a report to the commission would be subject. A field representative from the commission would go to see him. He may be told that the guy is short of cash and will send it in about a week. Ten days later the representative will go back and that time will issue a ten day notice. Within those 10 days, the individual can clean out the store before it is locked.

Newton noted that usually the field representative gives this 10 day notice the first time he goes there, then on his second visit he has the right to close the doors.

A.B. 378 would allow the commission to lock the doors immediately if the operator continues to carry on business after the notice has been given.

Swackhamer moved that A.B. 378 be given a Do Pass;
Motion seconded by Tyson
Unanimously carried.

Chairman Hafen noted that there would be a meeting at 7:30 a.m. on March 5 for committee members and 8:00 a.m. with the county assessors. Meeting was adjourned.