

ASSEMBLY

TAXATION SUBCOMMITTEE MINUTES

March 7, 1973 Wednesday

1:40 p.m.

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Members Present: Messrs. Smalley  
Craddock  
McNeel  
Bremner

Guests Present: Messrs. Glen Taylor, Basic Management Inc.  
Gary Gray, CCCTA  
Richard Morgan, Nevada State Education  
Association  
W. Howard Gray, Nevada Mining Assoc.  
John J. Sheehan, Nevada Tax Commission  
E.L. Newton, Nevada Tax Commission  
Daisy J. Talvitie, League of Women  
Voters of Nevada  
Paul Gemmill, Nevada Mining Ass'n, Inc.

Chairman Smalley called the meeting to order at 1:40 p.m. and stated the purpose of the meeting was to hear additional testimony on AB 297.

AB 297 Discussion:

This bill would exempt from property tax any property used for air or water pollution control devices.

Mr. Richard Morgan, Nevada State Education Association, expressed concern with school budgets and stated that public schools are very dependent on property taxation. Speaking for his organization they recognize the conflict in assessment of property at a high level and the necessity of cleaning up the air and water problem.

He feels that the problem of the bill is that it is too open and needs to be narrowed. Primarily, he is concerned with the idea of retroactive relief that might be asked for under this bill for pollution devices that were installed prior to this legislation. Amendments might be made to limit the exemption.

Daisy Talvitie, League of Women Voters of Nevada, wished to clear up some points relative to her testimony at the March 6th meeting, i.e., that Clark County had a better record of the clean up process simply because it was started earlier in that county as far as air pollution control, but Clark will have to make further expenditures for water pollution control devices. She wanted to make the distinction between the air and water pollution control which might not have been clear in her previous testimony.

Questions:

Mr. Craddock directed a question to Mr. Morgan on the retroactive exemption. Any improvement that has been made could be tax exempt as of the date of effectiveness.

Ms. Talvitie pointed out that in the federal law the tax

break goes to a plant that was in existence because there is a bigger problem in remodeling an old plant. It is not applicable to new plants under the assumption that the new plant, in its construction should be automatically expected to include this in the plant construction.

Mr. Morgan did not see any way that the assessor could go back and pick up the expenditures, Mr. McNeel pointed out that perhaps the intent of the bill was not clear. For example, a plant that has pollution equipment already installed and serves no other useful purpose except to control pollution that it would not be exempt under Mr. Morgan's suggestion. Mr. McNeel also pointed out that this suggestion might lead to unfair competition between plants that were constructed before the effective date of this proposed legislation.

Mr. Smalley commented that if a plant had a certain amount of pollution control equipment that the plant would be taxed on the value excluding the control equipment. As long as the value of the equipment could be shown, then they would receive the exemption, but they would not be paid for tax money that had already been paid.

Mr. Morgan stated that no precautions had been placed in the bill to prevent this from happening, and Mr. McNeel thought that something should be done to do so.

Mr. Bremner inquired if anyone had the dollar amount that has been spent by corporations on air and water pollution controls since the first State bill was enacted in 1971, but no one had the figure available.

I was pointed out by Mr. Sheehan that there are two kinds of property involved, the centrally assessed which is done by the Tax Commission which is inter-state or inter-county, and the locally assessed. The bulk of the pollution control devices will be property that is handled by the Tax Commission. He believes that the larger companies that would fall within this property have anticipated the cost of acquisition of these devices and would not have too big a burden. If a limitation were to be put on as "X" amount of dollars it could eliminate probably 90% of the problems at the local assessing level because this property would be that of the bigger companies which the Tax Commission would handle.

Mr. Smalley inquired as to what should be used as a basis for exempting people from the air pollution devices to get away from things such as the family automobile, and Mr. Sheehan suggested that a dollar amount limitation be placed on it. It mustn't be designated by class differences, i.e., commercial vs non-commercial, because this might run into a constitutional problem. The tax exemption can not be determined by the acquisition cost of the item and should be on the depreciable basis.

Mr. Newton made some proposals to the bill as follows:

- (1) Pollution control facilities with a value of less than a \$1,000 not be eligible for the exemption.
- (2) Pollution control facilities for the handling of human waste not be eligible.
- (3) Those facilities that are installed that are or become and profitable adjunct of a plant not be eligible.
- (4) Those facilities that are installed not be eligible at the time they become profitable.
- (5) Property eligible for exemption be assessed at its salvage value.
- (6) The exemption apply to control facilities acquired or installed after January 1, 1965.
- (7) The method for claiming the exemption be copied after Indiana's method.

In Indiana the applicant files his exemption claim with the appropriate assessor. In Nevada it would be either the local assessor or the Tax Commission. They would review and allows or denies it in whole or in part. If the taxpayer can demonstrate that the equipment was installed at the demand of an environmental protection agency enforcement division then he will receive the exemption. For anything else, it would become a matter of judgement by the assessing officer, and the assessing officer's actions are reviewable by the county or state board of equalization.

Ms. Talvitie added that under law, they do not prescribe any equipment but prescribe the regulation and its up to the company to design it. She feels that it should be incumbent upon them to show that there has actually been a reduction in pollution before they receive a reduction.

Mr. Gary Owen, of Legislative Counsel Bureau, gave his opinion on the understanding of bill. He believed that a reasonable interpretation of the bill is that the claim could only be for property paid for, installed, etc., subsequent to the effective date of the act. He thought that if it would be well within the committee's discretion to insert any protective language that "this shall not apply to any equipment installed or purchased prior to the effective date of the act, July 1, 1973." He did not feel that this would do any violence to the bill, but a reasonable interpretation would be to disallow a retroactive application.

Mr. McNeel's intent would be to allow on all pollution control equipment no matter when it was installed an exemption, and that part of the equipment be allowed for exemption from the total assessment value. Mr. Owen stated that this might create some problem. The act was drafted very generally and it was probably purposely done so to bring out the potential problems in committee. He did feel that a reasonable interpretation could be arrived at either way, and some specifics could be warranted.

Mr. Newton questioned if a person could go back for 1970 and claim a rebate on taxes paid on pollution control devices. Mr. Owen stated that he did not believe that this could be done.

Mr. Bremner explained that his idea of the intent of the bill was that it was provided as an incentive to the industries to start cleaning up their plants and not for claiming retro-active taxes.

Mr. Morgan indicated that he thought the \$1,000 limitation was too low. The committee was in agreement in trying to eliminate the small devices like air conditioners and automobiles.

Mr. Sheehan suggested that a penalty be placed for persons who submit fraudulent claims as a deterrent.

Mr. McNeel was interested in the amendments proposed by Mr. Newton and suggested that he prepare them for submission to the full committee.

Mr. Warren felt that industries that make unsuccessful attempts at pollution control should be allowed the exemption on the devices even if they were not successful because they are making an effort.

Mr. McNeel stated that he did intend to make one amendment, i.e., making those devices installed after January 1, 1965, as the only ones eligible for the exemption

There was discussion on salvage value and it was decided to write an amendment concerning it for presentation to committee.

Mr. Smalley indicated that another subcommittee meeting will be held on Monday, March 12, 1973. The meeting was adjourned at 1:20 p.m.

Respectfully submitted,

*Cindy Benjamin*  
Cindy Benjamin  
Assembly Attache