SENATE TAXATION COMMITTEE

MARCH 17, 1975

The regular meeting of the Senate Taxation Committee was held on Monday, March 17, 1975, in Room 231. Senator Brown called the meeting to order at 3:10 p.m.

COMMITTEE MEMBERS PRESENT: Chairman Mahlon Brown
Senator Close
Senator Echols
Senator Raggio
Senator Wilson
Senator Hilbrecht

SENATE BILL NO. 167: Provides for separate appraisal, valuation and partial deferred taxation of agricultural and open space real property.

Opening the discussion was Mr. Norm Glaser, one of the sponsors of AJR 23*, adopted at the previous session and approved by the electorate at the last election. Messrs. Glaser and Cappurro were co-sponsors of that measure during their tenure in office, which is similar to those presently used by 34 other states. Mr. Glaser stated that the philosophy behind this was to solve a problem that we had, particularly in this part of the state; taxation on use value has been declared unconstitutional by the Supreme Court and cannot continue in Nevada. The bill drafters felt we should approach it from a deferred tax standpoint, rather than 'preferential assessment' law. It was felt by the proponents of the bill that a tax recapture was essential in order to eliminate the speculators in land from reaping the benefit. The number of years has been in question. Some had advocated 5, 7, or 10 years; however, it was adopted by the voters for at least a 7-year rollback. Introducers' thought was to have seven years, no interest or penalty, and as much local control as possible.

Senator Brown asked Mr. Glaser what he predicted would happen if nothing was adopted by the legislature. Mr. Glaser explained that if this measure or one similar was not passed, the farm land would be in danger of being assessed at a higher value in order to conform to the Constitution. He estimated, however, that 99% of the agricultural land in the state will never be involved as they would not qualify under the provisions of the bill, i.e. land being used for other than its highest and best potential use.

Senator Raggio agreed with this statement, explaining that those who would be affected would be those individuals owning property on the urban fringe that is capable of two values: use value versus potential use value. A lot of people don't realize that if we don't pass some type of bill, they will very likely be assessed at the full market value. The committee is trying to help people realize that this type of effort is not to impose something new, but to give them some relief.

* of the 56th Session.

The assessors, or assessing authorities, have certain factors available for making an assessment as to market value; 60 'comparable sales,' not just 'random sales,' is one of the factors. Also, the bill he supports does not require a tax recapture upon the sale of the property, but only upon conversion of the use of the property.

This committee has been concerned with two specific areas: the amendment (AJR No. 23)* allowed the legislature to deal with two types of land: agriculture and open space. The bill introduced attempted to give some recognition to dealing with both of these concepts. The committee has heard differing opinions about each of these. However, they are equally important.

Senator Dodge: Appearing primarily because he represent a highly agricultural constituency. He axplained that he has worked on some type of legislative program for a tax recapture plan since 1963, and has long been a supporter of this concept. He has had considerable concern about the constitutionality and feels this bill is a good approach to solving the dilemma we are facing. There are a couple of things that should be written in or changed, in his opinion.

1. The committee should spell out that from the effective date of the act, people should apply for deferred assessment to be in effect the following tax year. Make clear that each year thereafter, they must continue to apply, unless the provision is changed.
2. It should be clearly understood that eligibility is for any portion of the property, and that by selling or changing one portion or parcel of your land does not invalidate you. Senator Raggio explained that that was one of the reasons for the annual filing, because the applicant would be required to declare his area ech year. It should be clear, as well, that the recapture is only paid on 'conversion' of use rather than 'conveyance.'
3. Some problem exists with Section 4 at the top of page 2, having to do with 'primary occupation.' Senator Raggio explained that they have discussed appropriate amendments to that section. Trying to include verbiage to indicate that they are more interested in the land than the owner. Rather than using 'primary occupation' they will be using a requirement of $2,500 gross income per year, or perhaps five or ten acre parcel requirements, or which business is the primary utilization of the land.
4. Considerable discussion ensued on the open space concept. It was determined that this area of the bill would take further study to adapt a definition properly fitting what they have in mind. Senator Dodge suggested that this might include another bill, or perhaps be deferred for another session, giving drafters two additional years to come up with a proper definition. It was the general consensus that this could be tied into public enjoyment and use, but it was not certain that that was the only criteria that should be used.

* of the 56th Session.

5. Section 12 having to do with application filing, was opened for discussion. It was agreed that the process should be kept as simple as possible. Senator Dodge doesn't agree that the owner should have to reapply every year.

He feels this is covered and protected by the 20% penalty of the deferred tax. The penalty should be retained as heavy as possible and the property owner should be on notice that if he changes use and doesn't report it, he is subject to the penalty payment.

Raggio stated he feels the measure should be as effective in all areas as we can make it. The application must be made by all property owners involved and not by just one representative. The idea of making an annual application necessary is simply a matter of maintaining a current record. There is no application filing fee.

The other alternative is having the owner complete an application and require a report to the assessor's office when any change, either through sale or conversion of use, occurs. When the assessor finds out a change has taken place, the penalty provision would come into effect.

6. In discussion of Section 13, it was brought out that some counties would have the county commission make the determination of land value and qualification rather than the assessor's office. If the county is zoned and has established zoning patterns under open space and agriculture then the bill could be left as it is, where the assessor makes the determination. If the county is not zoned, it might be better to bring the county commissioners into picture than leaving the burden on the assessors to making the decision.

7. Page 8, Section 25, and line 36, page 4, "appeals" should be changed to "appeal" to the board of equalization rather than the district court.

8. Section 28, Senator Dodge suggested the days required to notify the county assessor should be set at 30 days rather than ten. He feels ten is not enough.

9. Page 9, Section 29, Senator Dodge explained he feels the amount of years should be 7 rather than 10. Senator Raggio asked whether he would make a different determination for agriculture as opposed to open space use or did he feel 7 years was adequate for open space use as well.

10. Senator Dodge also expressed a desire to see a provision in the bill as to who has the responsibility for paying the recaptured tax in the event of sale; the purchasor or the seller. He feels this could open the door for a lot of problems inasmuch as this amount would be a lein against the property. He feels it should be spelled out in the law that the person who has enjoyed the benefit of the deferred tax should be the person primarily responsible for the payment.

The members of the Committee were not in agreement with that suggestion, saying instead the lien attaches to the property and not the individual. This would have to be a part of the escrow agreement and would be something to be negotiated between the two parties.

Senator Brown distributed some literature that has been received from various sources relative to this measure. Senator Raggio asked that the documents distributed be made a part of the permanent record and attached hereto.

Mr. Mario Belli testified in opposition to the bill.

Mr. Bob Wright, First Vice President of the Cattlemen's Association, testified in support of the measure and distributed a printed statement from his Association.* He offered assistance of the Cattlemen's Association in getting information out to the ranchers on this issue, when it is adopted.

Mr. Caesar Caspary from Washoe Valley testified in opposition to some portions of the bill. In particular, he was concerned about the penalty, the interest, and felt seven years for the rollback period was enough.

Mr. B. A. Johnson testified in opposition to the bill insofar as the interest payment was concerned.

Mr. Gene Milligan of the Nevada Association of Realtors spoke on the measure in was of clarification of some portions of the bill. Mr. Milligan, speaking in behalf of his Association, expressed agreement with the suggestions of deleting 'primary occupation'. He also proposed revision of ten day notification period increasing to 20 or 30 days, and would suggest deleting requirement for payment of interest on deferred tax. He wanted to go on record as supporting the other comments made by Senator Dodge.

Mr. Bob Hendricks, Nevada Farm Bureau, testified on several issues:

1. Wants to see qualification for program the same as used by the Tax Commjission, i.e., $2500.00 gross income. They would, however, have no objection if a minimum acreage figure were used.
2. Would like to see the maximum number of years for program at 7, rather than 10.
3. Does not like the provision for annual application requirement; he feels one time is enough unless change occurs. He feels the 20% penalty payment is enough of an incentive to see that this is taken care of.
4. He doesn't feel the interest should be charged.

He stated his Bureau is knowledgable about the bill and knows it is something in which the Legislature has no choice.

Mrs. Pat Lewis, Councilwoman from the City of Reno, spoke on the bill as it relates to open space use. She is concerned about the 'agriculture use' definition and questions the five acre

* See attached.

acre limitation as being too small. She did not have any recommended amount.

She does agree with the payment of interest requirement on deferred tax payment. She feels in the event of a sale, the question of who pays the deferred tax is something that should be negotiated between the two parties involved.

She is primarily concerned about the retention of open space use provision; she would not want to see any bill put forth without that protection.

Senator Raggio asked if she believes that a requirement should be for public access to be included in open space use. Mrs. Lewis agreed with that suggestion.

Mr. James Lien, Nevada Tax Commission, testified on the time frame as to filing of application, dual assessment, and when taxes would be due. The bill, being effective July 1, 1975, then October 1975 would have filing of first application. In December, the assessments would be taking place for the following fall. If an appeal procedure is invoked, it would be July 1977 before any taxes on that portion of the program would be become due. You are talking about a time frame of July 1975 to July 1977.

There being no further business, the meeting was adjourned.

Respectfully submitted,

Nykki I. Kinsley

Nykki I. Kinsley, Secretary

APPROVED:

B. Mahlon Brown

B. Mahlon Brown, Chairman

SENATE HEARING

AGENDA FOR COMMITTEE ON TAXATION



MONDAY Date MARCH 17, 1975 Time pm adj. Room 231

| Bills or Resolutions to be considered | Subject | Counsel requested* |
|---|---|---|
| SB 167 | Provides for separate appraisal, valuation and partial deferred taxation of agricultural and open space real property. | |

*Please do not ask for counsel unless necessary.

Thurs 3/27/75

PROPOSED AMENDMENTS TO SB 167



1) Page 1, line 2 delete "29" and substitute 28

2) Page 1, line 3 delete "29" and substitute 28

3) Page 2, line 4, delete language after "which business" through line 5 and substitute is situated on not less than five acres and grossed a minimum of $2500 from agricultural pursuits during the immediately preceding calendar year by:

4) Page 2, insert between lines 19 and 20 3. Persons with less than 5 acres operating a farming unit for profit may make application to the Nevada Tax Commission by the 1st Monday in October. The Commission shall notify by certified mail the applicant and applicable county assessor of its determination by December 15.

5) Page 2, delete lines 22 & 23 and substitute (a) Located within an area classified pursuant to NRS 278.250 and subject to regulations designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(b) Devoted exclusively to open space use; and

(c) Having a greater value for another use than for open space use.

6) Page 2, line 28, add conserve and enhance natural or scenic resources, protect streams and water supplies or preserve sites designated as historic pursuant to law.

7) Page 2, delete lines 29 through 36.

8) Page 3, line 5, delete "29" and substitute 28

9) Page 3, line 6, after "2." delete language through line 17 and substitute The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate agricultural and open space lands and the vegetation thereon to assure continued public health and the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

10) Page 3, line 17, insert new Section 10.1 1. The governing body of each city or county shall not later than September 1, 1975, specify by resolution the designations or classifications under its master plan designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

2. The board of county commissioners shall not later than December 30, 1975, adopt by ordinance procedures and criteria which shall be used in considering applications for an open space use assessment. Such criteria may include requirements respecting public access to and the minimum size of the property.

11) Page 3, line 18, delete "1." and "agricultural"

12) Page 3, line 21, delete "29" and substitute 28

13) Page 3, delete lines 22 through 26.

14) Page 3, line 28, delete "October 1" and substitute 1st Monday in October

15) Page 3, line 29, after "if approved" delete language through line 31 and substitute need not be resubmitted until the property or some portion thereof is sold ~~or converted to a higher use~~ or there is any change in ownership.

16) Page 3, line 48, after "unless" delete language through line 50 and substitute that application reflects the approval of all owners of record and he is satisfied the signator has authority to file such application. The assessor may require such additional information of the applicant as is necessary to evaluate his application.

17) Page 4, delete lines 1 and 2

18) Page 4, line 31, add and 361.260.

19) Page 4, line 41, add Such factors shall be expressed either as tons of crops per acre, board feet, or other unit, or the amount of forage which is necessary for the complete sustenance of one animal unit for a period of one month. One animal unit is defined as one cow and calf, or its equivalent, and the amount of forage necessary to sustain one animal unit for one month is defined as ~~meaning~~ 900 pounds of dry weight forage per month.

20) Page 4, line 47, delete "Upon approval of an application" and capitalize The
line 48, delete entire line
line 49, delete "15 of this act and"

21) Page 5, line 1, after "potential use", insert , if greater,

22) Page 5, line 22, add in the manner provided in this chapter for complaints of overvaluation, excessive valuation or undervaluation.

23) Page 5, delete lines 23 through 28 and insert. 2. Any person desiring to have his property assessed for agricultural use who fails to file a timely application may petition the County Board of Equalization ~~and~~ which, upon good cause shown, ~~that Board~~ shall accept an application, and, if appropriate, allow that application. The assessor shall then assess the property consistent with the decision of the County Board of Equalization on the following assessment rolls.

24) Page 5, line 29, delete "open space"

25) Page 5, line 31, delete "29" and substitute 28

26) Page 5, line 33, delete "October 1" and substitute 1st Monday in October

27) Page 5, line 35, delete "next October 1 following a" and insert 1st Monday in October next following any.

28) Page 5, line 40, delete "and" and substitute , and delete ", a designation of"
line 41, delete entire line
line 42, delete "such use falls,"

29) Page 6, line 7, delete "there is" through line 11 and substitute that application reflects the approval of all owners of record and he is satisfied the signator has authority to file such application. The assessor may require such additional information of the applicant as is necessary to evaluate his application.

30) Page 6, line 13, delete language after "the" through line 43 and substitute board of county commissioners, and if any part of the property is located within an incorporated city, to the city council within 10 days after its filing.
2. The City Council shall consider such application in a public hearing after sufficient notice of the hearing using the applicable procedures and criteria adopted pursuant to section 10.1 of this act and recommend its approval or denial to the board of county commissioners no later than 90 days after receipt of the application
3. In considering such applications in a public hearing after sufficient notice of the hearing, the board of county commissioners shall weigh the benefits to the general welfare of preserving the current use of the property against the potential loss in revenue which may result from approving the application.
4. The board may set such conditions as it reasonably may require upon its approval of the application.

31) Page 6, line 44, delete "3." and substitute 4. and correct spelling of "application"

32) Page 6, line 47, delete "4." and substitute 5.

33) Page 7, line 1, delete "When" and substitute Within 10 days after

34) Page 7, line 3, delete lines 3 through 5

35) Page 7, line 6, change (1) to (a) and after "order" insert of approval
line 7, change (2) to (b)

36) Page 7, line 9, delete "notice" and substitute order

37) Page 7, line 15, add and 361.260.

38) Page 7, delete lines 21 through 29

39) Page 7, line 30, delete "24" and substitute 23

40) Page 7, line 30, delete "upon approval of an application," and capitalize The
line 31, delete entire line
line 32, delete "of this act and"
line 33, after potential use insert ", if greater,"

41) Page 7, line 39, after "assessor" insert , with the concurrence of the board,
line 40, delete "an" and substitute the

42) Page 7, line 47, delete "an" and substitute the

43) Page 8, line 3, delete "25" and substitute 24

44) Page 8, line 6, delete "use"

45) Page 8, line 9, add as provided for in NRS 278.027.

46) Page 8, line 11, after "assessment" delete language and add in the manner provided in this chapter for complaints of overvaluation, excessive evaluation or undervaluation.

47) Page 8, line 12, delete "26" and substitute 25

48) Page 8, line 13, delete "an" and substitute the

49) Page 8, line 15, delete "The notice shall include"
line 16, delete entire line
line 17, delete language through "act."

50) Page 8, line 21, delete language after "property"

51) Page 8, delete lines 22 through 25

52) Page 8, line 28, delete language after "person" and insert .
line 29, delete "than March 31"

53) Page 8, line 33, delete "29" and substitute 28

54) Page 8, line 35, delete "29" and substitute 28

55) Page 8, line 38, delete "25" and substitute 24

56) Page 8, line 44, delete "29" and substitute 28

57) Page 8, line 45, delete "28" and substitute 27

58) Page 8, line 47, delete "an" and substitute the

59) Page 9, line 1, delete "29" and substitute 28

60) Page 9, line 3, delete "29" and substitute 28

61) Page 9, line 12, delete "120 months" and substitute the 84 months immediately

62) Page 9, line 13, add The 84 month period shall include the most recent year of dual assessment but cannot be applied to any year preceding the initial year of dual assessment.

63) Page 9, line 17, delete "28" and substitute 27

64) Page 9, delete lines 19 through 22 and substitute 4. Each year the deferred tax and interest shown on the tax statement is a lien against the subject property until paid or more than 84 months has lapsed since its attachment.

65) Page 9, between lines 24 and 25 insert 6. Each year a statement of liens prescribed pursuant to subsections 4 and 5 shall be recorded with the county recorder by the tax receiver in a form prescribed by the Nevada Tax Commission upon completion of the tax statement in accordance with section 26 of this act.

66) Page 9, line 25, delete "6" and substitute 7

67) Page 9, line 35, delete "30" and substitute 29

68) Page 10, line 3, delete "29" and substitute 28

69) Page 10, line 25, delete "31" and substitute 30

70) Page 10, line 32, add Failure to receive such notice shall not relieve the taxpayer from the responsibility of filing an application pursuant to this act for agricultural use assessment.

71) Page 10, line 33, delete "32" and substitute 31

SECTION 12 of

STATEMENT ON S.B. 167

Submitted by: Bob Wright
1st Vice-President
Nevada Cattlemens Association

Distinquished members of the Senate Taxation Committee and Assembly Taxation Committee:

I congratulate you upon your sincerity and co-operation to implement Proposition No. 3 that was passed by the voters in the general election last fall. This proposition amended section 1 of Article 10 of the Nevada Constitution, authorizing the Legislature to classify agricultural and open-space real property separately for taxation purposes and to provide for reto-active re-assessment of at least 7 years of such property when converted to a higher use.

The Nevada Cattlemen's Ass'n supported and worked for the passage of Prop. No. 3

This concept on agricultural and open space land taxation is a new approach and quite naturally causes some concern. However, the voters have spoken, the Constitution has been changed and our thoughts now should be toward finalizing the will of the voters.

To accomplish this purpose S.B. 167 was introduced and referred to the Senate Committee on Taxation. This hearing is being held to allow for interested people to provide input and make comments upon the bill.

S.B. 167, as I am told, was put together by the staff of the Tax Commission. No comments or input was asked for from the people who were interested in it and who were most affected by it. Numerous changes and modifications are needed in the bill to make it acceptable.

The Senate Taxation Committee has been given by previous testimony some thirty-five or forty proposed changes. The Cattlemen's Association of Nevada is in agreement with these changes.

In reviewing history of the 31 states which have some form of deferred taxation it is apparent that the laws were not found to be completely desirable when first implemented. Most have been amended at later sessions of the Legislature.

I feel that in Nevada a simple, easily understood statutory plan should be the intitial goal. This would not tend to cause as much concern with everyone involved whether it be the land owner, assessor or prospective buyer. Later sessions of the Legislature could then analyze the results, as I am sure they will anyway, and propose adjustments.

The points in S.B. 167 which give us the most concern is in Sec. 29, Page 9. Line 12 provides for 120 months of roll back taxes. The constitutional amendment as passed by the voters provided for at least seven years of roll back taxes when land is converted to a higher use. The fact that the seven years was mentioned on the ballot lead most everyone to the assumption that seven years would be the roll back period. As a matter of interest, the most used roll back period in the 31 states that have deferred taxation was three years. Nevada would, in any event, have a much longer period than average. Line 14 provides for interest on the deferred tax. In the 31 other states it is divided as to interest being paid or not paid. We do not feel that the language on the ballot, as passed by the voters, requires interest to be paid. The only penalty for deferred taxation is the at least seven years roll back provision. Perhaps the language on the ballot should have been more explicit in this area, so the voters could have decided the issue.

In Sec. 26, page 8, this section could possibly be removed in its entirety as Sec. 20 page 6 provides for planning commission and County Commissioner approval for open space taxation. These boards usually require public hearings. It is easily conceiveable that Sec. 26 could be abused.

Sec. 30 page 9 line 46 should not be bracketed for removable. This bracket extends to page 10 line 2. This is a very important and well researched basis for defining land classifications. This section has nothing at all to do with the changes in the Constitution that was approved by the voters last November. I am totally at a loss to understand why this is being considered in this Bill.

In Sec. 28 line 45, ten days is allowed for the owner to notify the county Assessor in writing of the date of cessation of agricultural or open-space use. Usually attorneys and accountants are involved in these transactions. A 30 day period would be more realistic.

I do not see in this bill any provision which allows for a roll back prior to the effective date of this bill. This should be clarified. It would probably be difficult to justify roll back assessments prior to the date of enactment of this bill.

The Nevada Cattlemen's Association is vitally interested in legislation to implement the constitutional amendment. We would be willing to assist the Legislature in securing an act that is acceptable to everyone concerned.

Thank you.

**WILLIAM T. LLOYD**
Lincoln County Assessor
PHONE 962-3765
**PIOCHE, NEVADA 89043**
March 12, 1975

Senator Mahlon B. Brown
Legislative Building
Carson City, Nevada 89701

Dear Senator Brown:

In studying SB 167 I find the part of the Bill dealing with Agricultural Land and It's definitions in Sec.#4 page 2 very satisfactory. However in Sec.#6 page 2 (Open Space Use) or Open Space Land description as very Ambiguous. Looking at the Descriptions all land other than in cities could fall into one of the seven catagories.

In my opinion as an Assessor this could cause a very big headache trying to decide actually what was open space land. My very humble opinion would be that the part of the Bill doing with Land used for Open Space purposes be deleted untill a more thorough study could be made of and better descriptions made of Open Space Land. Maybe this could be added to N.R.S in the next upcoming Legislature in Two Years after a more indepth study could be undertaken.

On page 4 Sec.16 I see know use what so ever of entering two assessments on our Tax Roll, We could keep a record of the Potential Use in our files each year but to enter this on the Assessment Roll would serve no need whatsoever. In fact in the Counties where the Tax Roll is typed this would add a great burden to type all of this extra data for no use in the Treasurers Office in collecting the Taxes what so ever.

Other than the above suggestions the Bill seems to be fairly well written other than maybe some clarification throughout the Bill.

I was very happy to see the Senate Bill on the Releif for Elderly Taxpayers it was a much better Bill than the one which came out of the Assembly which in my opinion would still not give the relief needed. The Senate Bill in my own opinion is just what we need.

Thank you very much for your consideration to the above suggestions made.

Sincerely

William T. Lloyd
Lincoln County Assessor

S.B. 167

# Office of the County Assessor

JEAN E. DUTTON
*County Assessor*

CLARK COUNTY COURT HOUSE
LAS VEGAS, NEVADA 89101
PHONE 386-4011

WILLIAM B. BYRNE
*Assistant County Assessor*


March 13, 1975

Honorable Senator Mahlon Brown
State Senate Chambers
Legislative Building
Carson City, NV 89701

RE: SENATE BILL 167

Dear Mahlon:

May I preface my following remarks by saying that I am certainly in accord with the intent to provide separate appraisal and valuation and deferred taxation for agricultural property, but in my judgment the provisions of Senate Bill 167, as they refer to "open space", merit much more study before being enacted into law.

1. I can already visualize many thousands of acres in our Clark county alone where the owners of it might immediately apply for open space classification within any one or more of the definitions of open space classification as may be established by the State Tax Commission under Section 23 of the Bill, and certainly under the designations stipulated in the Bill in Section 20.2, for consideration by the Boards of County Commissioners. For example, what would be meant by "Promote orderly urban or suburban development", in this instance?

2. Section 29.4 provides that the lien occasioned by the deferred tax would expire after 120 months, and we were certainly concerned about the adverse effects of that in many ways; however, I have talked to Jim Lien of the tax commission staff and he assures me the language of this Section is in error and will be changed to provide that the lien will continue, but not to exceed 120 months of deferred taxes, etc. That's okay.

3. Section 14 and Section 24, of the Bill ought to be clarified. The language would seem to indicate that the county assessor would have to make the separate determination of the <u>potential</u> use

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value of the agricultural or open space property each year. Property is only required to be re-appraised each five years; hence, the words "and NRS 361.260" should be added following the words "NRS 361.227", in these two Sections. This would be sufficient to establish the record of the potential value of the property for the calculation of the deferred taxes.

These are but a few of the deficiencies I find in the Bill. Most important, I believe that the provision affecting open space deferral of taxation, as so broadly defined in the Bill, is fraught with danger of inequity and opportunity of abuse. My very best regards,

Very truly yours,

WILLIAM B. BYRNE
Assistant County Assessor

WBB:et

JOHN W. MOSCHETTI
Assessor

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# Office of COUNTY ASSESSOR

P.O. Box 8
ELKO, NEVADA 89801

March 19, 1975

Mr. Roy Young
Member of Assembly
Legislative Building
Carson City, Nv 89701

Dear Roy: In Re: SB 167

I have been reviewing the amendments to SB 167 that you gave me last week and will forward my comments on these and other items as you requested.

Recently there has been some comment on the possibility of enacting legislation this session to cover the agricultural use and to postpone legislation on the open space land, pending an interim study by a legislative committee. I strongly support this idea.

In your amendment it is suggested that the ten year roll back be changed to a seven year period as suggested in the constitutional amendment. This provision makes sense to me inasmuch as the average rollback in other states is only three years, and surely seven years would be ample and comply with the law. I also feel as you do that the interest portion should be deleted.

Par. 4, Section 12, Page 3 should be deleted. The requirement that true copy of deed, etc. be filed is not necessary as these are on file in the county records and would serve no useful purpose, but cause a lot of work for the applicant. The same condition exists in Par. 4, Section 19, Page 6 concerning open space lands.

I believe the following should be added at the end of Par. 1, Sec. 14, Page 4 - "and NRS 361.260". This would insure that the assessors would not have to reappraise the property on use value and potential value each year. The same appears on open space land in Par. 1, Sec. 22, Page 7.

In your amendments you endorse the principal that annual applications are not necessary and I agree with this. If there are areas where it appears that annual applications are necessary, then perhaps we should entertain the thought that this could be a local option issue. Surely we do not need it in Elko County or many of the small counties. You know we send an annual affidavit to all agricultural operators each year and we could incorporate a statement on this affidavit asking "Do you wish this property to continue to be assessed on its use value basis?"

In Par. 4, Sec. 29, Page 9 some clarification is needed to explain what lien expires. It appears that the whole lien expires

but in talking with staff members, this is not the intent.

I feel some clarification is needed as to what happens if a small portion of a property is converted to a potential use; surely you would not recapture on the whole property.

In Sec. 30, Par. 2 (b) SB 167 is eliminating a useful tool in determining what constitutes an animal unit month which in turn is used in the classification of land for agricultural purposes. This wording should be retained.

Par. 1, Sec. 4, Page 2, the following wording should be eliminated "which business is the primary occupation and source of income of the owner ". If left in the bill, this could cause trouble to many legitimate operators including the S P Railroad, the largest land owner in the state.

I believe thought should be given in the description of agricultural land to cover some dollar value in income (gross) such as we now have in Property Tax Regulation No. 5 so that this would become part of the statutes and not subject to change by the department.

It is hoped that my suggestions will be of help to you in this legislation. Kind personal regards.

Sincerely yours,

John W. Moschetti

JOHN W. MOSCHETTI
Elko County Assessor.

cc -Warren Monroe
-Paul May
-Virgil Getto
-Mahlon Brown
-William Raggio

NRS 360.200

PROPERTY TAX REGULATION NO. 5

DEFINITION OF AGRICULTURAL LAND

NRS 360.250; 361.325

Only land which is herein defined as agricultural land shall be so classified, appraised and assessed for taxation purposes by county assessors pursuant to NRS 361.325, by application of the classifications and values determined by the tax commission.

Agricultural land is land used by the owner or tenant primarily with the major purpose and intent of the furtherance of the science or art of cultivating the soil and its fruits, the harvesting of the same, or the rearing, feeding and management of livestock, poultry and dairying thereon, including every process and step necessary and incident to the preparation of products therefrom for consumption or market but not including actual marketing locations; and if not inconsistent with the above definition of agricultural land, the Assessor may utilize any of the following guideline criteria to aid in the classification of such lands:

(a) The parcel produced a minimum of $3,000 ($2,500) gross income from agricultural pursuits during the immediately preceding calendar year, or,

(b) The parcel is actually and primarily utilized in the furtherance of agricultural pursuits and produced an average gross income from such pursuits of $3,000 ($2,500) for the immediately preceding three (3) years.

(c) The parcel is one which the Assessor determines has as its highest and best economic use that of agricultural land as defined herein, but which produced insufficient gross income during the immediately preceding calendar year to satisfy either paragraph (a) or (b).

For the purpose of classification of real property as agricultural land for taxation, the burden shall be on the taxpayer to produce upon request such certified agricultural income data and documentation as the Assessor deems in his discretion to be required.

Adopted: February 26, 1974

Effective: March 29, 1974

FILED
ELKO COUNTY ASSESSOR
SEP 19 9 37 AM '74
JOHN W. MOSCHETTI
ELKO COUNTY ASSESSOR

65 | U 35

Sec. 4. 1. "Agricultural use" means the current employment of real property as a business venture for profit, which business is:

(a) Raising, harvesting and selling crops, fruit, flowers, timber and other products of the soil;

(b) Feeding, breeding, management and sale of livestock, poultry, fur-bearing animals or honeybees, or the produce thereof; or

(c) Dairying and the sale of dairy products.

The term includes every process and step necessary and incident to the preparation and storage of the products raised on such property for human or animal consumption or for marketing except actual market locations.

2. As used in this section, "current employment"of real property in agricultural use includes:

(a) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry; and

(b) Land planted in orchards or other perennials prior to maturity.

Sec. 5. "Open space real property" means:

1. Land:

(a) Devoted exclusively to open space use; and

(b) Having a greater value for another use than for open space use.

2. The improvements on such land used primarily to support the open space use and not primarily to increase the value of surrounding developed property or secure an immediate monetary return.

Sec. 6. "Open space use" means the current employment of land, the preservation of which use would:

1. Conserve and enhance natural or scenic resources;

2. Protect air or streams or water supplies;

3. Promote conservation of soils, wetlands, beaches or marshes;

4. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries;

5. Enhance recreation opportunities;

6. Preserve sites designated as historic pursuant to law; or

7. Promote orderly urban or suburban development.

Sec. 7. "Owner" means any person having the legal or equitable fee interest in agricultural or open space real property or who is a contract vendee of a land sales contract respecting such property.

Sec. 8. "Person" means a natural person or partnership, corporation, association or any form of business organization.

Sec. 9. "Potential use" means any use of:

1. Agricultural real property higher than agricultural use; or

2. Open space real property higher than open space use, conforming to the use for which other nearby property is used.

Sec. 10. 1. It is the intent of the legislature to:

(a) Constitute agricultural and open space real property as a separate class for taxation purposes; and

(b)

(b) Provide a separate plan for:

(1) Appraisal and valuation of such property for assessment purposes; and

(2) Partial deferred taxation of such property with tax recapture as provided in section 29 of this act.

2. The purpose of sections 2 to 29, inclusive, of this act is to encourage the preservation of agricultural and open space real property in order to:

(a) Maintain a readily available source of food.

(b) Conserve natural or scenic resources.

(c) Protect air, stream and water supplies.

(d) Promote conservation of soils, wetlands, beaches and marshes.

(e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries.

(f) Enhance recreation opportunities for the public.

(g) Preserve sites designated as historic pursuant to law.

(h) Promote orderly urban or suburban development.

Sec. 11. Any owner of agricultural real property may apply to the county assessor for agricultural use assessment and the payment of taxes on such property as provided in sections 12 to 17, inclusive, and sections 27 to 29, inclusive, of this act.

Sec. 12. 1. Any application for agricultural use assessment shall be filed on or before October 1 of any year with the county assessor of each county in which the property is located.

2. The application shall be made on forms prepared by the Nevada tax commission and supplied by the county assessor.

3. The application may be signed by any one of the following:

(a) The owner of the agricultural real property, including any one of tenants in common or joint tenants, holding an estate therein in fee simple or for life.

(b) Any person, of lawful age, duly authorized in writing to sign an application on behalf of any person described in paragraph (a).

(c) The guardian or conservator of an owner or the executor or administrator of an owner's estate.

(d) The purchaser of the fee simple or life estate of an owner under a contract of sale.

4. The county assessor shall not approve an application unless there is filed with him a copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the applicant's interest or

authority. When filed with the assessor only, such instrument shall not constitute a public record.

Sec. 13. 1. Upon receipt of the application, the county assessor shall make an independent determination of the use of the owner's real property. The assessor shall consider the use of the property by its owner or occupant together with any other real property that is a part of one agricultural unit being operated by the owner or occupant. The assessor may inspect the property and request such evidence of use. The assessor may deny the application when the owner or occupant refuses to permit such inspection or furnish such evidence.

2. The Nevada tax commission shall provide by regulation for detailed definition of agricultural use, consistent with the general definition given in section 4 of this act, for use by county assessors in determining entitlement to agricultural use assessment.

3. The county assessor shall approve or deny an application no later than December 15 of each year. An application on which action by the assessor is not completed by December 15 is approved.

4. The county assessor shall send to the applicant a written notice of his determination within 10 days after determining his entitlement to agricultural use assessment. If an applicant seeking agricultural use assessment on property located in more than one county is refused such assessment in any one county, he may withdraw his application for such assessment in all other counties.

5. The county assessor shall record the application with the county recorder within 10 days after its approval.

Sec. 14. 1. If the property is found to be agricultural real property, the county assessor shall determine its full cash value for agricultural use and assess it at 35 percent of that value. At the same time the assessor shall make a separate determination of the full cash value of the property's potential use pursuant to NRS 361.227.

2. The entitlement of agricultural real property to agricultural use assessment shall be determined as of the first Monday in September of each year. If the property becomes disqualified for such assessment prior to the first Monday in September in the same year, it shall be assessed as all other real property is assessed.

Sec. 15. 1. On or before the first Monday in June in each year, the Nevada tax commission shall:

(a) Define the classifications of agricultural real property.

(b) Determine the valuations for each classification on the basis of crop, timber, forage, or animal production resulting from agricultural use.

(c) Prepare a bulletin listing all classifications and values thereof for the following assessment year.

2. The county assessors shall classify agricultural real property utilizing the definitions and applying the appropriate values published in the tax commission's bulletin.

Sec. 16. 1. Upon approval of an application, the county assessor shall assess the agricultural real property as provided in sections 14 and 15 of this act and shall enter on the assessment roll both the valuation

based on agricultural use and the valuation based on potential use until the property becomes disqualified for agricultural use assessment by:

(a) Notification by the applicant to the assessor to remove agricultural use assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation; or

(c) Removal of the agricultural use assessment by the assessor upon discovery that the property is no longer in agricultural use.

2. Except as provided in paragraph (b) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner shall not operate to disqualify agricultural real property from agricultural use assessment so long as the property continues to be used exclusively for agricultural use. The new owner is required to reapply for agricultural use assessment except as provided in section 12 of this act.

3. Whenever agricultural real property is disqualified under subsection 1, the county assessor shall send a written notice of such disqualification by certified mail with return receipt requested to each owner of record.

Sec. 17. 1. The determination of use, the agricultural use assessment and the potential use assessment in each year are final unless appealed.

2. The applicant for agricultural use assessment is entitled to:

(a) Appeal the use determination made by the county assessor in the manner provided in this chapter for complaints of overvaluation or excessive valuation; and

(b) Equalization of both the agricultural use assessment and the potential use assessment as provided in this chapter.

Sec. 18. Any owner of open space real property may apply to the county assessor for open space use assessment and the payment of taxes on such property as provided in sections 19 to 29, inclusive, of this act.

Sec. 19. 1. Any application for open space use assessment shall be filed on or before October 1 of any year with the county assessor of each county in which the property is located.

2. The application shall be made on forms prepared by the Nevada tax commission and supplied by the county assessor a nd shall include a description of the property and its current use or uses, a designation of the paragraphs of subsection 1 of section 6 of this act under which each such use falls, and such other information as may be required to determine the entitlement of the applicant to open space use assessment.

3. The application may be signed by any one of the following:

(a) The owner of the open space real property, including any one of tenants in common or joint tenants, holding an estate therein in fee simple or for life.

*(b) Any person, of lawful age, duly authorized in writing to sign an application on behalf of any person described in paragraph (a).*

*(c) The guardian or conservator of an owner or the executor or administrator of an owner's estate.*

*(d) The purchaser of the fee simple or life estate of an owner under a contract of sale.*

*4. The county assessor shall not accept an application unless there is filed with him a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the applicant's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.*

SEC. 20. *1. The county assessor shall refer each application for open space use assessment to the regional planning commission, if any, and to the board of county commissioners within 10 days after its filing.*

*(a) An application shall be acted upon in a county with a comprehensive plan in the same manner in which an amendment to the comprehensive plan is processed by the county.*

*(b) In a county without a comprehensive plan, the application shall be acted upon after a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in the county once a week for the 2 consecutive weeks immediately preceding the hearing. The second notice shall be published no less than 5 days before the hearing. Each notice for one or more hearings shall be a display advertisement no smaller than two columns by five inches in size.*

*2. In determining whether the property described in the application is within the open space uses designated, the board of county commissioners shall weigh the benefits to the general welfare of preserving the current use of the property against the potential loss in revenue which may result from approving the application. The board may approve the application if it determines that preservation of the current use of the property will:*

*(a) Conserve or enhance natural or scenic resources;*

*(b) Protect air or streams or water supplies;*

*(c) Promote conservation of soils, wetlands, beaches or marshes;*

*(d) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries;*

*(e) Enhance recreation opportunities;*

*(f) Preserve a site designated as historic pursuant to law; or*

*(g) Promote orderly urban or suburban development.*

*The board shall consider each open space use designated in the application and shall approve each designation for which the applicant qualifies without regard to how it rules on any other open space use designated. The board shall not deny the application solely because of the potential loss in revenue which may result from approving the application.*

*3. The board may approve the applicatiion with respect to only part of the property, but if any part of the application is denied, the applicant may withdraw the entire application.*

*4. The board shall approve or deny an application no later than March 31 of each year. An application on which action by the board is not completed by March 31 is approved.*

Sec. 21. 1. When the board approves an application for open space use assessment, it shall:

(a) Enter on record an order listing each designated open space use approved; and

(b) Within 10 days after approval:

(1) Send copies of the order to the county assessor and the applicant.

(2) Record the order with the county recorder.

2. When the board denies an application, it shall, within 10 days after denial, send a written notice to the applicant listing its reasons for denial.

Sec. 22. 1. If the property is found by the board of county commissioners to be open space real property, the county assessor shall determine its full cash value for open space use and assess it at 35 percent of that value. At the same time, the assessor shall make a separate determination of the full cash value of the property's potential use pursuant to NRS 361.227.

2. The entitlement of open space real property to open space use assessment shall be determined as of the first Monday in September in each year. If the property becomes disqualified for such assessment prior to the first Monday in September in the same year, it shall be assessed as all other real property is assessed.

Sec. 23. 1. On or before the first Monday in June in each year, the Nevada tax commission shall:

(a) Define the classifications of open space real property.

(b) Determine the valuations for each classification.

(c) Prepare a bulletin listing all classifications and values thereof for the following assessment year.

2. The county assessors shall classify open space real property utilizing the definitions and applying the appropriate values published in the tax commissions's bulletin.

Sec. 24. Upon approval of an application, the county assessor shall assess the open space real property as provided in sections 22 and 23 of this act and shall enter on the assessment roll both the valuation based on open space use and the valuation based on potential use until the property becomes disqualified for open space use assessment by:

(a) Notification by the applicant to the assessor to remove open space use assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation; or

(c) Removal of the open space use assessment by the assessor upon discovery that the property is no longer in an approved open space use.

2. Except as provided in paragraph (b) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner shall not operate to disqualify open space real property from open space use assessment so long as the property continues to be used exclusively for an approved open space use and the new owner reapplies for open space use assessment as provided in section 19 of this act.

3. Whenever open space real property is disqualified under subsection

*1, the county assessor shall send a written notice of such disqualification by certified mail with return receipt requested to each owner of record.*

SEC. 25. *1. The determination of use, the open space use assessment and the potential use assessment in each year are final unless appealed.*

*2. The applicant for open space assessment is entitled to:*

*(a) Appeal the use determination made by the board of county commissioners to the district court in the county where the property is located, or if located in more than one county, in the county in which the major portion of the property is located.*

*(b) Equalization of both the open space use assessment and the potential use assessment as provided in this chapter.*

SEC. 26. *1. Any person claiming that any open space real property is no longer in an approved open space use may file a complaint and proof of his claim with the board of county commissioners of the county or counties in which the property is located no later than December 1 of any year in which a new application has not been filed as required by section 19 of this act. The complaint and proof shall show the name of each owner of record of the property, its location, description and the use in which it is claimed to be.*

*2. The board shall hear the complaint after reasonable notice to the complainant and each owner of the property. The notice shall include:*

*(a) The time, place and nature of the hearing;*

*(b) A reference to the particular provisions of law and regulations involved; and*

*(c) A copy of the complaint.*

*3. The board shall examine the proof and all data and evidence submitted by the complainant, together with any evidence submitted by the county assessor or any other person, and make its determination no later than March 31. The board shall notify the complainant, each owner of the property and the county assessor of its determination within 10 days after the hearing. It shall direct the county assessor to appraise, value and tax the property in the following assessment period in a manner consistent with its determination and the provisions of sections 2 to 29, inclusive, of this act and, in appropriate cases, order the tax receiver to collect any amounts due under section 29 of this act.*

*4. The determination of the board may be appealed to the district court by the complainant or the owner of the property as provided in section 25 of this act.*

SEC. 27. *Each year the tax statement for property receiving agricultural or open space use assessment shall contain:*

*1. The annual valuations based on agricultural or open space use and on potential use; and*

*2. The deferred tax ~~entitlement~~ accrued for that tax year and the cumulative amounts potentially due under section 29 of this act.*

SEC. 28. *1. Within 10 days after any property which has received agricultural or open space use assessment ceases to be used exclusively for agricultural use or an approved open space use, the owner shall notify the county assessor in writing of the date of cessation of such use.*

*2. If the owner fails to file the notice as required by subsection 1, he*

shall be liable for the penalty provided in section 29 of this act in addition to the deferred taxes.

Sec. 29. Whenever agricultural or open space real property which has received agricultural or open space use assessment is converted thereafter to a potential use, there shall be added to the tax extended against the property on the next property tax roll, an amount equal to the sum of the following:

1. The deferred tax, which shall be the difference between the taxes paid or payable on the basis of the agricultural or open use assessment and the taxes which would have been paid or payable on the basis of the potential use assessment for each year in which agricultural or open space use assessment was in effect for the property, up to 84 months preceding the date of conversion from agricultural to open space use.

2. The deferred tax added to the assessment roll each year is a perpetual lien until paid as provided in NRS 361.450; but if the property is not converted to a potential use within 84 months after the date of attachment, the lien then expires.

3. Any penalty added to the tax roll pursuant to subsection 2 is a perpetual lien until paid as provided in NRS 361.450.

4. If agricultural or open space real property receiving agricultural or open space use assessment is sold or transferred to an ownership making it exempt from ad valorem property taxation between July 1 and the first Monday in September, inclusive, in any year, a lien for a proportional share of the deferred taxes or interest that would otherwise have been placed on the tax roll prepared in the following year, attaches on the day preceding such sale or transfer. The lien may be enforced against the property when it is converted to a potential use, notwithstanding any exemption of the property from property taxation under state law existing on the date of conversion.

Sec. 30. NRS 361.325 is hereby amended to read as follows:

361.325 1. The Nevada tax commission may continue in session from day to day after the session of the state board of equalization for the purpose of considering the tax affairs of the state.

2. After the adjournment of the state board of equalization and on or before the 1st Monday in June of each year, the Nevada tax commission shall:

(a) Fix and establish the valuation for assessment purposes of all livestock and mobile homes in the state; and

(b) Classify land and fix and establish the valuation thereof for assessment purposes. The classification of agricultural land shall be made on the basis of crop or forage production, either in tons of crops per acre or other unit, or animal unit months of forage. An animal unit month is the amount of forage which is necessary for the complete sustenance of one animal unit for a period of 1 month. One animal unit is defined as one cow and calf, or its equivalent, and the

AGRICULTURAL EXTENSION
UNIVERSITY OF CALIFORNIA

RIVERSIDE, CALIFORNIA 92502

February 14, 1975

The Honorable B. Mahlon Brown
Nevada State Legislature
Carson City, Nevada 89701

Dear Senator:

In accordance with our conversation, I am enclosing copies of several short papers which you may find interesting. While these do not deal specifically with taxation, they do relate to the general issue of land use and its valuation.

Sincerely,

William W. Wood, Jr.
Economist

WWW:gt

Encl.

# Experience With The Land Conservation Act

by

William W. Wood, Jr., [1/] Economist

University of California, Riverside

The California Land Conservation Act of 1965, as amended (also known as the Williamson Act), is being implemented by 38 California counties. An additional 4 or 5 counties have either recently passed implementing measures or are actively considering doing so. As of the 1970 lien date, just over 6.25 million acres were under contract with approximately 1.6 million acres of that total being classified as prime land.

Experience among the 38 counties varies widely because the Act is subject to a considerable amount of local interpretation. Most counties are using a fairly standard contract form with provisions being substantially the minimum to qualify as an enforceable restrictive use instrument. Two counties, Monterey and San Luis Obispo, require a minimum 20 year contract, which subsequently reverts to a renewable ten year contract. The principal variations center on procedures to establish agricultural preserves and enter into contracts, and on the data used to determine capitalized income. In a few instances agricultural preserves are coordinated quite well with master land use plans. More often than not, however, individual preserves have been established for each

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[1/] Prepared for the California State Board of Agriculture - January 7, 1971.

applicant on a checker-board approach. Fees required of applicants for both preserves and contracts vary quite widely.

While the Act supplies the general method of capitalizing income, including the three components of an appropriate capitalization rate actual income estimates and total capitalization rates vary widely. Some counties are using cash rental figures as an estimate of projected income, while others have developed rather intricate measures of land productivity with provisions as to expected gross and net returns.

While land owners are interested in further implementing the Land Conservation Act in some counties, there is no great evidence to suggest a further large increase in acreage this year. I would hazard a guess that as of the lien date 1971, the acreage under contract may be slightly over 7 million acres. There are efforts in one or two counties to establish preserves and negotiate contracts for substantial acreage. To date however, these efforts are being resisted on the part of local governments because of a concern over the tax base.

Implementation of the Land Conservation Act, in most instances, necessitates a tax shift. Without becoming embroiled in equity considerations, use of the Act has certainly focused attention on a basic problem in local governmental finance: an increasing demand for funds to provide local governmental services from a resource base through constitutional requirements, which resource has not been able to generate sufficient income to provide that tax revenue. Perhaps the single most important consideration in proposed use of the Land Conservation Act is loss of tax revenue, particularly to school districts.

In my judgement, the Land Conservation Act is not the cause of financial difficulties currently faced by some school districts but rather the Act simply magnifies a more basic problem. Here again, one must look very closely at the financial structure of each school district to determine how legitimate complaints of financial ruin may be. Some districts, already having unified and operating at maximum legal tax rate, have serious financial problems. On the other hand, there are districts with very minimal ADA's and tax rates far below average which have not been hurt financially to the extent one would be lead to believe simply by looking at percentage loss of tax base.

Since the California Land Conservation Act is enabling, it requires explicit action and agreement on the part of both local government and property owners. Therefore, while the Act has had success in preserving a productive land resource base for food and fiber production, it obviously has not been a complete success. It probably cannot be completely successful until the following two general problems are solved:

(1) Alternative source of the funds, to the property tax, are found to pay a portion of the cost of the local governmental services, particularly education, and

(2) The development of more specific standardized guide lines by which procedures, contract terms, and capitalization methods are equalized among all counties.

Whether the Act in its enabling form can assist effective land use planning remains to be seen. One or two counties are attempting on their own to so utilize it. However, many other counties seem still to

use the Act as a means of quieting some tax payer complaints.

From the standpoint of the agricultural sector, the Land Conservation Act at present offers the only alternative to producers who anticipate continued production on their land but are faced with appraisals of land not bearing on its potential in agricultural use. If the land owner is permitted by local government and is willing to restrict his options with respect to land by signing a contract, some of the financial stress is alleviated. Unfortunately a considerable amount of California's most productive land is not being so retained.

# THE CALIFORNIA LAND CONSERVATION ACT OF 1965, AS AMENDED

## COMMENTS ON ITS USE AND EFFECTIVENESS

by

Dr. William W. Wood, Jr., Economist
University of California, Riverside

Since the CLCA is enabling and not mandatory, one must analyze the incentives available to the interested parties in order that it be initially utilized. The land owner's incentive is clearly and simply an expectation of lowering the incidence of property taxation through adjustments to the basis upon which real property is appraised. The real incentives to local government seem to be primarily a method or procedure whereby relief can be afforded individual taxpayers and secondarily some possibility of effectively implementing elements to local government's general land use plans. Disincentives to use on the part of the land owner are summed up in a limitation of alternatives available to the land owner and the possible expectation of asset loss. The disincentive to local government in utilizing the CLCA is a loss of revenue to various taxing jurisdictions and the political implications of a redistribution of the incidence of taxation among all taxpayers.

The CLCA does not so much create problems with respect to very important issues as it spotlights or emphasizes the significance of these issues. The issues are basically a matter of public and private rights in various types of real property and the basis upon which local governmental revenue is generated to meet demands for services. Much of the public criticism of the use and implementation of the CLCA has also focused upon the size and organizational structure of the land owners permitted to use the Act. In this context, the fact that large land holdings, particularly of a corporate structure, have availed themselves of the Williamson Act and therefore received some benefits in terms of lowered property tax bills, suggests that there remains a basic conflict in terms of our land tenure system. The CLCA, no matter how it might be amended or completely revised, can not adequately come to grips with this more basic issue. Therefore, much of the public criticism of the Act is, in fact, a questioning of some more basic types of conflicts in public policy.

At the heart of the CLCA issue seems to be a growing awareness and demand for either preserving or more effectively and efficiently utilizing our land resource in terms of the production of food and fiber, preservation of open space, provision for recreational areas and the production of timber and wildlife on the one hand, while on the other maintaining a revenue base in order to generate sufficient funds at the local level to meet the expanding demand for local governmental services. The availability of state subvention funds to offset some losses in tax revenue is a

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partial palliative to this concern, but does not overcome the major objection to either initial or expanded use of the CLCA in many counties. This suggests that potential amendments to the CLCA cannot effectively function without simultaneously considering rather substantial changes in the Revenue and Taxation Code as well as perhaps basic reconsideration of the method of land appraisal calling for fair market or full cash value given the traditional interpretation of economic "highest and best use" for land. While this is a very large and serious issue and perhaps beyond the jurisdiction of the Select Committee, the issue cannot be completely ignored in trying to make the CLCA a more effective legislation.

There are a number of more specific and perhaps more comfortable issues which might be addressed in a review of the CLCA as currently functioning. One issue is its enabling status which permits local government to utilize the Act if it so desires or to completely ignore it. Some consideration, for example, might be given to making implementation of the Act at least partially mandatory in terms of minimum acreages since each local government, particularly at the county level, must adopt fairly explicit elements to its general plan in terms of open space and recreation. In this context, it might be appropriate to require that counties utilize the CLCA for some portion of the land they indicate will be included in the appropriate elements of their general plan.

While the CLCA has been tailored in such a way as to provide a maximum amount of determination at the local level, there seems to be a need for some statewide guidelines or standards on various aspects of implementing the Act. Among those that need some statewide guidance are the procedures whereby agricultural preserves might be established under provisions of the governmental code, questions as to what constitutes eligibility, and perhaps greater attention to the contract terms and particularly the conditions under which contracts and agricultural preserves can be terminated. One of the public concerns frequently expressed is the fear that certain types of contractees may in fact over time be able to exert sufficient pressure to persuade a local governing body to cancel contracts and either waive entirely or impose very minimal penalty fees.

A more closely tied relationship between the CLCA and the planning functions and elements of the general plan seems to be very much needed. Although one of the justifications for the CLCA was to be supportive of effective land use planning, in many instances the actual use of the Act seems to be more a case of circumventing prohibitions on spot zoning. Thus, the spotty appearance of agricultural preserve establishment in a number of counties suggests that it has not been coordinated in an effective manner with the land use planning function for which the county has responsibility.

Perhaps of a more serious nature, in terms of willingness to utilize the Act, are monetary issues. Whether through the use of CLCA contracts or imposed restrictions by such agencies as Coastal Zone Commissions, some alternative revenue source is apparently vital to provide local government with sufficient funds to either continue to meet expanding demand for services or at least maintain services at a reasonable level. Without a constitutional and R and T Code revision, the only way that this particular aspect of the problem can be resolved seems to be with additional state

funds to be used for subvention payments. In addition, there appears to be a very serious need for additional statewide guidance and standards with respect to appraisal methodology when land does in fact meet the restrictions of Article XXVIII of the Constitution. Although the capitalized income approach is fairly well specified, there is a tremendous amount of variation as to what factors will be included in the formula by which land value is determined. In a few counties, assessors are apparently using factors in the capitalized income formula that result in values far beyond the ability of realistic enterprises to generate income streams that would support such values and, in some instances, are purported to exceed the full cash or fair market value that would have been used had the restriction not been in existence. This may in fact require both statewide standards and an intensive educational program with both local appraisers and the State Board of Equalization.

The final financial hurdle with respect to contracts under the CLCA has to do with inheritance tax appraisal. Both state and federal appraisers are currently inclined to ignore the restrictions of a contract under the CLCA when attempting to establish value for estate settlement. Under these circumstances, the individual entrepreneur who does not have a legal organizational structure (such as incorporation) appropriate to either the state or federal appraisal methods, is at an extreme financial disadvantage and in fact in a position which suggests he should never enter into a contract lest not only all equity be lost, but that the terms of the contract itself must be violated in order to settle estate taxes. In this situation, some standards are necessary and further, some better understanding among the various public agencies that are involved one way or another with the question of how land can or cannot be utilized.

To reiterate, the basic issue with respect to the CLCA seems to be that it is an attempt to more effectively use our limited land resource on a longrun basis but by the very nature of the problem, has not found a way to adequately overcome the monetary implications of land use. The whole issue of attempting to retain a mixmum number of alternatives with respect to the use of various types of land must be adequately reconciled to the nature and source of local governmental revenue. The issue of individual property owners' rights to asset value is obviously difficult and depends upon one's value system and whether or not he is a land owner. However, that issue is not nearly as difficult as the one of finding sources of revenue adequate to the task of having income streams to support whatever taxing system is utilized. In the final analysis, all taxes are dependent upon either a past or present income stream. As a result, the current real property taxation system argues that either you convert land to those economic uses which will generate higher income streams and therefore destroy the objectives of retaining agricultural, open space, and recreational land or you leave it in that category and eventually erode the asset value. This latter alternative is analogous to killing the goose that lays the golden egg.

# THE CALIFORNIA LAND CONSERVATION ACT OF 1965
# (Williamson Act)

Statement for the U. S. Senate SubCommittee
on Migratory Labor

by

Dr. William W. Wood, Jr., Economist
University of California

An evaluation of the Williamson Act must consider many facets of this public policy. There are a number of objectives, either stated explicitly in the original Act or inferred by program observers during its existence. These objectives and the degree to which they seem to have been achieved are as follows:

1) To save for future use California's prime productive agricultural land. Of the nearly 9.5 million acres currently under contract, slightly over one-quarter is prime land and this rarely in the choice alluvial flood plains. As a result, one would conclude that the Act has had only minimal success in achieving this objective.

2) To facilitate more effective local land use planning. With minor exceptions, such as the County of Napa, this Act has not succeeded in achieving this objective.

3) To retain open space. With a substantial acreage under contract, one might attribute partial success in achieving this objective except that open space remains a vague concept, particularly with respect to potential use and geographic location.

4) To correlate appraised property valuations with potential income generating ability. With respect to the land under contract this inferred objective has been substantially achieved.

5) To avoid "leapfrog" urban development. This objective has not been achieved.

In addition to achieving objectives, another aspect of evaluation is the fact the statute is enabling and not mandatory. As a result, only 42 of California's 58 counties have made the Act available. Among those declining to utilize the Act are some major agricultural counties such as Los Angeles, Merced, and Sutter. By the same token, implementation of the Act by local government does not insure full acceptance since land owners have the option of signing contracts. In some areas agricultural preserves have been established, but contracts not initiated by land owners.

Another facet of evaluation has to do with incentives offered for implementation. The strongest incentive to land owners, that of reduced property taxation, has had the strongest economic appeal to the least productive agricultural land in the state, primarily because that land (range land) has the least number of use alternatives. For the very prime productive land, which is generally in close proximity to urban development, there are many more alternatives. With respect to local government the financial incentive has been entirely lacking since there is no prospect for either replacement revenue or state subvention funds.

EXPERIENCE WITH THE ACT

Three major observations seem appropriate with respect to the Williamson Act in California.

1) The Act has intensified and actually focused attention on problems of school district financing. Thus, critics of the Act suggest that its use is responsible for the financial distress of some school

districts. However, they are addressing themselves to symptoms rather than the basic problem. As the State Supreme Court has recognized, the basic problem continues to be a financing system for school districts based upon a frequently inadequate and often inappropriate asset base.

2) The Act has been used by a number of agricultural operations characterized by significant size. One might observe that use of contracts under the Williamson Act have been very strongly related to the size and planning horizon of the land unit operators. This is a function of many factors, including economic scale of operation and business continuity.

3) With minor exceptions, implementations of the Williamson Act has tended to be politically motivated rather than integrated with appropriate land use planning functions. Thus, establishments of agricultural preserves and the signing of contracts has been more a function of taxpayer difficulties than concern with the resource base.

PUBLIC POLICY ISSUES

An evaluation of experience with the Williamson Act suggests a number of public policy issues which may be very controversial and for which accurate information may be lacking. Among these policy issues are the following:

1) A long-run public interest in saving a productive land base in order to insure a future food supply. This particular issue has several components. Among the components of the food supply issue are:

A) The political reality of concern over a potential future famine in the face of current surplus agricultural production.

B) The real importance of maintaining a maximum number of consumer choices among commodities in the face of a market system which may not transmit value back to producers with sufficient speed to insure continued production of a given specialty crop.

C) The possibility of technological developments which might provide alternative future nutrient supplies, and

D) The magnitude of land requirements which might be necessitated by other public policies motivated by environmental concerns which could drastically alter current production methods.

2) The land tenure system is a matter of concern to some observers. Critics of the Williamson Act have attacked it on the basis of large corporate entities utilizing contracts to gain property tax reductions. As indicated above, within the framework of decision-making, this should be an expected result. Concern over the size and distribution of land ownership patterns is a separate policy issue and in all probability should not be confused with an evaluation of the functioning of the Williamson Act. In addition, there is a growing concern over conflict between public and private interests in land use. The basic issue in this facet of land tenure is whether real property is a private asset over which the public asserts minimal influence on use or is principally a matter of public interest in which certain use rights are delegated to individual citizens. Still another facet related indirectly to the land tenure system and to public interest is a matter of public access on privately held real property.

3) A very critical issue previously mentioned is a matter of alternative revenue sources through which local governmental services are financed. This issue is particularly critical with respect to education and human welfare.

4) In attempting to plan resource use, a critical policy conflict develops between adherence to local governmental control and a more regional state or Federal approach.

5) The issue of open space, except in terms of a philosophical background, has not been resolved with respect to what constitutes open space, what kinds should be available, how much of each kind of open space and most difficult, who will pay for the availability of open space.

CONCLUSION

The California Land Conservation Act of 1965 as amended is in no way an ideal bit of legislation. By trying to achieve numerous objectives which are at time incompatible, the Act tends to be inadequate; however, the Act has achieved some measure of success and in addition has provided the opportunity to focus adequately on the basic problems of resource planning. Critics of the Williamson Act tend to demand its repeal on various grounds such as inequity or inadequacy. However, with all its faults it is at least a start towards achieving an effective land use policy. Rather than abolish the Act, one would hope that public policy makers would address themselves to both improving the efficiency of the Act and to rectifying the more basic problems on which the Act has focused attention.

# LAND USE PLANNING

## CONFLICTS IN POLICY FORMATION AND IMPLEMENTATION

By

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Land, measured solely in terms of quantity of surface space, is relatively abundant. However, when locational as well as qualitative considerations such as topography and soil characteristics are considered, scarcity rather than abundance becomes the overriding factor. As scarcity leads to competing uses for a given land classification, economic conflict increases. Since scarcity also creates an exchange value or a price system, it provides a means whereby economic conflict can be resolved. Two types of influences, however, tend to complicate the economic resolution of conflict. The first type of influence occurs when individual goals and objectives do not coincide with those of society in general, or when individuals have multiple goals and objectives that are in conflict. The second type of influence is the direct and/or indirect impact of institutional pressures.

### Real Property Ownership

Use planning involves predominantly privately owned land. Among the dearly held tenets of the American democratic free enterprise system is the right of the individual property owner to use or dispose of property as he deems best within rather wide limits. As long as most types of land remained relatively abundant, the limits on self-determination with respect to land use and disposition were not noticeably restrictive. At that time even urban centers - in which land for very specific uses became scarce at an early stage in economic development - were not completely committed to society's overriding the individual's rights of self-determinations since alternative locations were still relatively available.

### Private vs. Public Interests

Increasing population, affluence and pollution coupled with an increasing demand for recreational facilities, open space and the more varied and exotic food basket, have intensified conflicts between the individual's right to determine the use for specific parcels of land and the increasingly clarified social goals and objectives. This conflict centers on private vs. public interest in land - whether there is an overriding public interest in a limited land supply which should be protected before private use decisions are allowed.

In the abstract, the concept of land-use planning is probably well and widely accepted. Proposals to "save and protect" open-space land, scenic land or prime agricultural land meet with widespread support. It is only upon application of use-restrictive planning to specific parcels of land that conflict arises. The individual land owner may fully support land-use planning -- as long as it does not preempt his options.

The impact of differing individual and social goals and objectives on land-use planning is significant. The individual land owner has as his principal goal or objective the ability to capture the maximum appreciation in value from his land assets. However, the individual land owner frequently is faced with some ambivalence toward restrictions on the use of his land. While he may honestly desire to devote his land to its present use for the remainder of his productive life, he also may not wish to divest himself of full interest in appreciated value. In any event, the individual land owner's primary objective has to do with his own welfare either in terms of continuing use of land or capturing appreciated value.

Society's goals and objectives tend to be diverse. As reflected through local government, the principal goal may simply be to provide public service at a minimum cost. The objective, again, may be to provide the sort of attractive environment that will invite additional entries into its economic life, or simply to have a minimum of friction with individual voters. On a more aggregated level the goal or objective, although perhaps not explicitly understood, is to protect the continued supply of certain types of goods and service or to continue a certain level of economic activity.

Distribution of Ownership

Another point of conflict between individual and social goals relates to size of land ownership parcels. The desire for land ownership on the part of an increasing population combined with a philosophical concern over bigness, per se, has led to increasing criticism of large land holdings, despite any economic, historic or legal basis for such ownership holdings. Value judgements that extensive acreage under one ownership, ownership by corporations rather than individuals, and particularly extensive acreage under corporate ownership may not be in the public interest lead to conflict. This becomes particularly true when public policies toward land, designed either to prohibit or promote specific objectives, produce results not envisioned. As an example the California Land Conservation Act has been utilized extensively for large land holdings and particularly corporate entities, a result not satisfactory to some who want to save both prime land and open space.

Centralized vs. Local Control

Still another area of conflict derives from the fact that, traditionally, land-use planning authority has been delegated to cities and counties. Not only is power once exercised likely to be defended against usurpation, thus causing efforts by local government to retain authority, but existing local control is frequently viewed as a necessary protection of citizens against their governments.

Since land-use planning is traditionally a prerogative of local government, conflicting goals and objectives--however well-stated--that prevail at an aggregated level above county government are generally of little consequence. This is one of the telling arguments in favor of regional approaches to resource planning.

## Institutional Pressure

### Property Taxes

The institutional factors which have an impact upon land-use planning and the conflicts that arise are external to the use-planning process itself. The two principal factors are the property tax and income tax. As a principal means of generating local revenue, the property tax can have both a beneficial and a detrimental impact upon land-use planning. Since it is generally computed on some estimate of market value, the property tax can assist in use planning--to the extent to which the estimate of market value accurately reflects immediately effective demand for land. However, if the estimate of market value tends to overstate effective demand or reflects a noncoordinated use for available land supply, the property tax can be detrimental to use planning since it can cause or at least contribute to premature use transfers. A very limited local supply of land area combined with ever increasing need for local revenue tends to intensify problems associated with land-use planning that arise from the system of land assessment and taxation.

### Income Taxes

Income tax, particularly as reflected through the Internal Revenue Code of the United States, can likewise have tremendous impact upon land-use planning. Provisions in that code for application of capital gains rates on reinvested capital from land sales and various types of write-off provisions tend to intensify the demand for land which is not entirely related to the rent-producing capabilities of that land. If, through the application of Internal Revenue Code provisions, the actual tax paid by an individual is lowered through land transactions, a portion of the demand for that land would actually be attributable to government policy rather than to the demand factors that would exist for the individual without external influence. In effect, the provisions of the IRC tend to create an artificial demand function for land. Land may have an appreciated value not as a result of increased or shifted demand as far as the owners are concerned but, rather, as a result of external influence. The direction of this influence in terms of conflicts is not completely clear although it does tend to intensify conflicts as they may be reflected through land-use planning. The intensified conflict may relate primarily to the absolute level of asset value rather than to the concern over concepts of land-use planning per se.

## Open Space

Open space, to enhance environmental quality, is increasingly included as an objective in land-use planning. However, conflicts between public and private goals are significant hurdles to effective planning of open space. Providing open space can be viewed as either a means of protecting a maximum number of future options or as a conservation concept in which rate of use may vary anywhere between 0 and 100. The retention of open space, whether for future development decision or permanently undeveloped land, raises conflict over who will bear the costs, and receive the benefits. Retaining open space is

always a cost to some and provides a benefit to others; it is never neutral with respect to costs and benefits. Public acquisition of land, either in total or partial title, tends to be costly. Maintaining land in private ownership, but imposing significant restrictions on use, tends to require individual property owners to bear the costs.

## Public Policy Conflict

Public policies tend to be developed in fragments and implemented by governmental agencies functioning largely in substantial isolation. Thus, the legislative process develops policies for land use as well as for development, parks and recreation, highways, public facilities, water quality, and implementation are single purpose arms of government. While the executive branch of government has the responsibility for coordination, the many levels of government and the necessity of agencies to discharge their specific responsibilities combines to produce policy conflict.

Among the public agencies in California which are either directly or indirectly involved in land use are city and county planning departments, water quality control boards, road and/or public works departments, State Division of Highways, air pollution control districts, State Division of Parks and Beaches, local park and recreation departments, State Office of Planning and Research, and school districts. Many more could be cited. The need for coordination of efforts is critical.

## Resolution of Conflict

The first step in attempting to reconcile conflict over land-use planning is to clearly enunciate the various goals and objectives held by the respective parties to use planning. Thus, the goals and objectives of the individual, the local citizens' committee, local government, and society as reflected through state legislatures or congress, may be quite different. A clear understanding of goals and objectives may, hopefully, assist in finding areas of common interest.

The individual property owner wants to take advantage of any and all appreciation in the value of his land and likewise wishes to utilize that land or dispose of it in whatever way and at whatever time he thinks appropriate. If his land is to be included in a land-use planning category, he either wants his asset value protected or wishes to be reimbursed for any reduction in value. He wants to be protected from external tax impacts that are not related to use.

A local citizens' committee, depending upon its composition, may be concerned with the total land area available and its distribution among alternative uses for total welfare. Likewise, it may simply be concerned with retaining open space for recreational facilities; or it may simply be concerned with equalized treatment, however ill-defined.

Local government may have a number of different goals and objectives. An underlying one, undoubtedly, is to follow a policy which will insure re-election for those who are so subject. Likewise, the goal or objective may

simply be to minimize the number of complaints or objections raised or received. Other goals or objectives could include minimizing the cost of providing local governmental services or increasing the level or variety of economic activity.

The goals and objectives of society as reflected through legislatures will, undoubtedly, concern themselves with more general items. Among these will be the recognition of providing open space and recreational facilities, protecting scenic beauty and historical areas, insuring the ability to provide adequate food supplies, and attempting to equalize the impact of various pressures brought to bear because of individual or group goals and objectives. Most of society's goals and objectives are aggregative and, therefore, not specifically related to given parcels of land except in isolated instances.

As goals and objectives are elaborated, it becomes evident that some are very strongly held by many individuals whereas others may simply be the concern of a limited number of people; some may be very specific, others more philosophical in nature. The political process is designed to resolve, or at least decide among, these conflicting goals and objectives. A clear understanding of the many goals with respect to land and its planned use over time should facilitate political decision-making.

Beyond clear enunciation of goals, many potential conflicts might well be more easily resolved if all implications or proposed policies and programs were identified. For example, a proposal to retain open space may have implications both with respect to the tax base and to other land not specifically involved in open space. In the latter instance, the uniform application of public policy restricting development impinges upon development of areas not directly involved. Policies affirming public interest in and access to ocean beaches, for instance, also imply a potential public interest and access consideration for a multitude of other land areas.

Resolution of conflict is usually accomplished through compromise. While parties to a conflict over goals and objectives may be convinced their individual positions are completely justified, any resolution of conflict suggests each party receives somewhat less than an optimum solution from his point of view. Optomistically in a pluralistic society, pressure for compromise solutions to conflicts provides a reasonably satisfactory land-use system.

April, 1973

# LOCAL GOVERNMENT'S RESPONSIBILITY IN RESOURCE MANAGEMENT

by

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Land use planning is a responsibility specifically delegated to local government by the state. However, state government, either on its own or through specifically mandated regional bodies, is looking ever more closely at the planning of land use. As a result it seems incumbent upon boards of supervisors particularly to take a very critical look at their land use planning function and evaluate how effectively it has been accomplished and what further might be done in the years ahead.

Land use planning as a means of managing this limited resource is a process designed to do two things: 1) permit better management of economic growth and 2) retain for future decisions a maximum number of alternatives. In this context then, planning is not a process of inhibiting economic growth, but finding ways to better manage and/or cope with such growth. Likewise, land use planning is not an attempt to museumize certain types of land masses, but rather simply keeping land in an undeveloped category for as long as necessary to maintain or retain a maximum number of alternatives.

Land use planning is essentially a matter of political decision making. While land can be described technically and obviously land has economic impacts both with respect to individuals and to society, the planning of land use remains essentially political. In this context then, a board of supervisors must, in the final analysis, make a political decision both with respect to the total land area within a county as well as to individual parcels.

Various types of tools are available to county governments for planning land use and for actual implementation. In terms of their effectiveness and specificity, these tools range from master or general plans to outright purchase. Each of the tools has advantages and each has disadvantages and no one tool is adequate for the entire process. However, it may be helpful to treat each of these planning tools briefly in order to put them in some sort of perspective.

A master plan or general plan and the elements contained therein is an overall statement of what the local county intends to do in the long run with the land mass included within that county. It generally is not specific with respect to parcels and likewise is subject to short run changes. However, as a guide it is an effective first step in determining what sorts of growth are to be accomodated and, at least in general terms, where that growth may occur.

Zoning ordinances are the traditional tool used in land use planning and are more specific than is the general or master plan. However, one observation with respect to zoning ordinances: they are not permanent restrictions on the use of land, but are subject to zone change as well as to the granting of use variances. As a result, zoning ordinances have had little impact in the long run with respect to land use. Local governments that rely upon zoning ordinances have found them to be ineffective in large measure because the market place has tended to ignore the imposition of zoning restrictions and as a result, economic pressures have brought about zoning changes.

The California Land Conservation Act of 1965, as amended, also known as the Williamson Act, is a more restrictive tool for land use planning. It requires a legal instrument signed by both the property owner of record and the local governmental body--city council or board of supervisors. As such, it is much more legally restricting in terms of use than is a zoning ordinance and has a longer life. The contract under the Williamson Act is essentially a legally recorded and enforceable restriction against certain types of use on specific parcels of land. As such an instrument, the contract is perhaps the most restrictive of the tools available to local government that do not involve some permanent transfer of title. A contract under the Williamson Act can be viewed as a public lease of developmental rights to the land for a minimum of 10 years. The lease fee is the amount by which property taxes are reduced.

Easements are a form of restriction that have been used in various situations such as utilities and roadways. Easements are, in effect, a transfer of partial title and as such, are restrictive with respect to use insofar as the conditions of the easement specify what can and cannot be done. To date easements have been used for scenic areas to a very limited extent in California, but have not been used as a device to regulate various types of development on the surface of the land.

The most restrictive of all tools available is outright purchase. In this circumstance local government acquires title to land and therefore can specifically dictate use. Under the present legal system, purchase is an expensive operation and as a result is not a procedure or tool used extensively because of the excessive cost.

The basic conflict frequently faced in land use planning is that between the tools of planning and the revenue and taxation codes of the State of California. Because of the constitutional requirement that full cash or fair market value be attached to real property when appraising it for property tax purposes, the effective planning of land use over the past decades has in fact been accomplished by the staff of the county assessor.

The fact that conflict between land use planning and local governmental revenue exists is not sufficient to ignore the necessity for some sort of resolution. On the one hand local government has a responsibility for planning the land use within its jurisdiction and likewise, it has a responsibility for developing adequate financing for services demanded at the local level. At present only restrictive use contracts under the Williamson Act and outright purchase address themselves to the matter of

equating real property value with uses planned. Since the cost of purchase is prohibitive, and likewise public purchase removes real property from tax rolls, this particular alternative is not generally viewed favorably. Therefore one of the major tools presently available to deal with the conflict between land use planning and the requirements of property taxation is the agriculture preserve and contract concept under the Williamson Act.

The cost of using restrictive use contracts within agricultural preserves is frequently viewed as a reduction in the tax base. In some instances this is in fact the case and in others it may not be. However, assuming that there is such a cost, the offsetting advantages seem to be the expectation of a reduction in the cost of providing local governmental services and a contribution to the ultimate development of the area under consideration either in terms of environmental quality or in terms of economic rationale. The contract under the Williamson Act can be viewed as a term lease on the part of the public in which, in return for having land appraised and therefore assessed at its value in productive use, the land owner leases to the public for a minimum period of ten years all development rights to that land. In this context then, the contract can be used as an effective planning device, if it is combined with the county general plan concept.

The agricultural preserve and contract possibilities under the Williamson Act in many counties have been used on a spot rather than planning basis. In order to appropriately use these tools, however, county government must begin to view the agricultural preserve and contract as tools with which to implement their County General Plans. In this context agricultural preserves should, in all probability, be established in conjunction with open space and agricultural elements of the County's General Plan. Once this is accomplished, the contract which is made available to the land owner within an established agricultural preserve is a means of guaranteeing that the elements of the general plan will in fact be observed at least for the life of the contract.

Perhaps the most difficult aspect of using the Williamson Act as a planning tool in most counties is that it addresses the public interest in long run land use planning rather than in short run distribution of fiscal costs. As a result considerable opposition is generated to the use of restrictive contracts or other legal instruments when the immediate impact upon the tax base is potentially depressing and at the same time the rights of certain individuals to convert land into other uses at their discretion is limited. The long run public interest in this perspective is that while development will continue to take place, it will take place in as economically a rational manner as local officials can determine. Thus, such problems as scattered development, leapfrogging and non-conforming uses over time can be avoided with the use of effective tools for implementing land use plans.

As indicated earlier, land use planning decisions are primarily political decisions rather than economic. While nearly every decision that an elected body makes has some impact upon shifting the relative tax loads and benefits to be received from public expenditures, none are perhaps more direct than those involving the effective planning of land use. As a result of this direct involvement in the distribution of costs of government,

a great deal of public attention is focused upon land use planning and particularly upon the use of legal use restrictions such as Williamson Act contracts. This may make political decision making more difficult or perhaps more dangerous, but it should likewise afford all interested parties at the local level an opportunity to clearly understand the alternatives.

The nature of the democratic process is such that elected officials operate rationally when they make decisions that better guarantee their re-election. Given this decision making framework, the public needs to better understand the implications of various alternatives with respect to land use as faced by local government. An obvious shift in tax load is not apt to be a popular decision; on the other hand local land use decisions frequently result in an even greater shift in tax load although perhaps not on such an obvious or immediate basis. The usual result of added development is that previous residents tend in the long run to pay an added share of local governmental costs to help defray the added costs of new development, since new development rarely generates sufficient local revenue to offset the costs of services demanded. These are the sorts of alternative trade-offs that must be understood and resolved.

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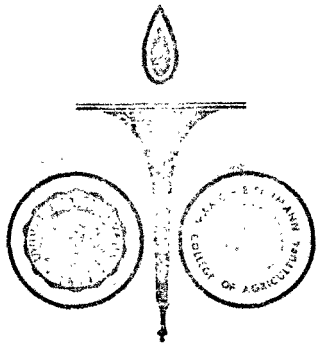


RESIDENT INSTRUCTION
COOPERATIVE EXTENSION SERVICE
AGRICULTURAL EXPERIMENT STATION

February 24, 1975

Senator B. Mahlon Brown
Nevada State Senate
Carson City, Nevada 89701

Dear Senator Brown:

Enclosed are comments on SB No. 167 from Jim Barron. I hope they prove to be useful.

I have also talked to Bill Wood from the California Extension Program. He would be willing to come to Carson City once more at the Nevada Cooperative Extension's invitation and expense to help you work on this bill if you feel you could use his experience and training.

Please let me know if we can be of any more assistance to you.

Sincerely,

/Hans Radtke

Hans D. Radtke
CRD Program Leader

HDR:vc
Encl.

# SENATE BILL NO. 167—SENATOR RAGGIO

FEBRUARY 10, 1975

Referred to Committee on Taxation

SUMMARY—Provides for separate appraisal, valuation and partial deferred taxation of agricultural and open space real property. Fiscal Note: Yes. (BDR 32-683)

EXPLANATION—Matter *in italics* is new; matter in brackets [ ] is material to be omitted.

AN ACT relating to property taxation; providing for separate appraisal and valuation of agricultural and open space real property for assessment purposes; providing for partial deferred taxation with tax recapture for not more than 10 years preceding certain changes from agricultural or open space use; providing a civil penalty; and providing other matters properly relating thereto.

*The People of the State of Nevada, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 29, inclusive, of this act.

SEC. 2. *As used in sections 2 to 29, inclusive, of this act, the terms defined in sections 3 to 9, inclusive, of this act have the meanings ascribed to them in such sections except where the context otherwise requires.*

SEC. 3. *1. "Agricultural real property" means:*

*(a) Land:*

*(1) Devoted exclusively for at least 3 consecutive years immediately preceding the assessment date to:*

*(I) Agricultural use; or*

*(II) Activities which prepare the land for agricultural use; and*

*(2) Having a greater value for another use than for agricultural use;*

*(b) The improvements on such land which support accepted agricultural practices except any structures or any portion of a structure used primarily as a human dwelling.*

*The term does not apply to any land with respect to which the owner has granted and has outstanding any lease or option to buy the surface rights for other than agricultural use, except leases for the exploration of geothermal resources as defined in NRS 361.027, mineral resources or other subsurface resources, or options to purchase such resources, if such exploration does not interfere with the agricultural use of the land.*

*2. As used in this section, "accepted agricultural practices" means a mode of operation that is common to farms or ranches of a similar nature,*

(3) lines 35-37 This leaves a wide open field for the bureaucracy to gather much irrelevant info. We got in a hassle in Wa. on this. The landowners objected to all the stuff they had to provide.

(1) lines 3-4-5 what about non resident owner who has primary income from other source, i.e., business. If his land is not allowed under the act it will be unequal treatment of similar property. Issue is do you want to discriminate against absentee owners?

(2) lines 35-36 This is a real can of worms. This is a policy decision which the legislature is kicking on to a bureaucracy not directly accountable to the voters. This is a crucial decision. ~~[redacted]~~ I raise another question. On the edge of Reno it might be desirable to preserve a piece of ag. land even though it's not a commercially viable unit. The language would preclude it getting a tax break. So the main objective to preserve open space or just give farmers a tax break? These are quite different.

necessary for the operation of such farms or ranches to obtain a profit in money and customarily utilized in conjunction with agricultural use.

SEC. 4. 1. "Agricultural use" means the current employment of real property as a business venture for profit, which business is the primary occupation and source of income of the owner, by:

(a) Raising, harvesting and selling crops, fruit, flowers, timber and other products of the soil;

(b) Feeding, breeding, management and sale of livestock, poultry, fur-bearing animals or honeybees, or the produce thereof; or

(c) Dairying and the sale of dairy products.

The term includes every process and step necessary and incident to the preparation and storage of the products raised on such property for human or animal consumption or for marketing except actual market locations.

2. As used in this section, "current employment" of real property in agricultural use includes:

(a) Land lying fallow for 1 year as a normal and regular requirement of good agricultural husbandry; and

(b) Land planted in orchards or other perennials prior to maturity.

SEC. 5. "Open space real property" means:

1. Land:

(a) Devoted exclusively to open space use; and

(b) Having a greater value for another use than for open space use.

2. The improvements on such land used primarily to support the open space use and not primarily to increase the value of surrounding developed property or secure an immediate monetary return.

SEC. 6. "Open space use" means the current employment of land, the preservation of which use would:

1. Conserve and enhance natural or scenic resources;
2. Protect air or streams or water supplies;
3. Promote conservation of soils, wetlands, beaches or marshes;
4. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries;
5. Enhance recreation opportunities;
6. Preserve sites designated as historic pursuant to law; or
7. Promote orderly urban or suburban development.

SEC. 7. "Owner" means any person having the legal or equitable fee interest in agricultural or open space real property or who is a contract vendee of a land sales contract respecting such property.

SEC. 8. "Person" means a natural person or partnership, corporation, association or any form of business organization.

SEC. 9. "Potential use" means any use of:

1. Agricultural real property higher than agricultural use; or
2. Open space real property higher than open space use,

conforming to the use for which other nearby property is used.

SEC. 10. 1. It is the intent of the legislature to:

(a) Constitute agricultural and open space real property as a separate class for taxation purposes; and

(b) Provide a separate plan for:

(1) Appraisal and valuation of such property for assessment purposes; and

(2) Partial deferred taxation of such property with tax recapture as provided in section 29 of this act.

2. The purpose of sections 2 to 29, inclusive, of this act is to encourage the preservation of agricultural and open space real property in order to:

(a) Maintain a readily available source of food.

(b) Conserve natural or scenic resources.

(c) Protect air, stream and water supplies.

(d) Promote conservation of soils, wetlands, beaches and marshes.

(e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries.

(f) Enhance recreation opportunities for the public.

(g) Preserve sites designated as historic pursuant to law.

(h) Promote orderly urban or suburban development.

SEC. 11. 1. Any owner of agricultural real property may apply to the county assessor for agricultural use assessment and the payment of taxes on such property as provided in sections 12 to 17, inclusive, and sections 27 to 29, inclusive, of this act.

2. The minimum acreage of agricultural real property which may be included in an application shall be an amount sufficient to constitute such property a viable agricultural unit. The tax commission may by regulation prescribe standards for determining the viability of an agricultural unit for purposes of this subsection.

SEC. 12. 1. Any application for agricultural use assessment shall be filed on or before October 1 of any year with the county assessor of each county in which the property is located and, if approved, shall be resubmitted thereafter on or before October 1 of each year agricultural use assessment is desired.

2. The application shall be made on forms prepared by the Nevada tax commission and supplied by the county assessor and shall include such information as may be required to determine the entitlement of the applicant to agricultural use assessment. Each application shall contain an affidavit or affirmation by the applicant that the statements contained therein are true.

3. The application may be signed by any one of the following:

(a) The owner of the agricultural real property, including any one of tenants in common or joint tenants, holding an estate therein in fee simple or for life.

(b) Any person, of lawful age, duly authorized in writing to sign an application on behalf of any person described in paragraph (a).

(c) The guardian or conservator of an owner or the executor or administrator of an owner's estate.

(d) The purchaser of the fee simple or life estate of an owner under a contract of sale.

4. The county assessor shall not approve an application unless there is filed with him a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the applicant's interest or

(4) This may be OK, but be sure you want the assessor to be making these kinds of decisions. The authority providing for Co. assessors does not give him a policy role in local Govt, but this gets close to it. If that's what you want fine, but be sure what you are doing.

(5) I see no appeal procedure open to the landowner if the assessor denies his application in the first place. Here it only talks about values.

authority. When filed with the assessor only, such instrument shall not constitute a public record.

SEC. 13. 1. Upon receipt of the application, the county assessor shall make an independent determination of the use of the owner's real property. The assessor shall consider the use of the property by its owner or occupant together with any other real property that is a part of one agricultural unit being operated by the owner or occupant. The assessor may inspect the property and request such evidence of use and sources of income as is necessary to make an accurate determination of use. The assessor may deny the application when the owner or occupant refuses to permit such inspection or furnish such evidence.

2. The Nevada tax commission shall provide by regulation for a more detailed definition of agricultural use, consistent with the general definition given in section 4 of this act, for use by county assessors in determining entitlement to agricultural use assessment.

3. The county assessor shall approve or deny an application no later than December 15 of each year. An application on which action by the assessor is not completed by December 15 is approved.

4. The county assessor shall send to the applicant a written notice of his determination within 10 days after determining his entitlement to agricultural use assessment. If an applicant seeking agricultural use assessment on property located in more than one county is refused such assessment in any one county, he may withdraw his application for such assessment in all other counties.

5. The county assessor shall record the application with the county recorder within 10 days after its approval.

SEC. 14. 1. If the property is found to be agricultural real property, the county assessor shall determine its full cash value for agricultural use and assess it at 35 percent of that value. At the same time the assessor shall make a separate determination of the full cash value of the property's potential use pursuant to NRS 361.227.

2. The entitlement of agricultural real property to agricultural use assessment shall be determined as of the first Monday in September of each year. If the property becomes disqualified for such assessment prior to the first Monday in September in the same year, it shall be assessed as all other real property is assessed.

SEC. 15. 1. On or before the first Monday in June in each year, the Nevada tax commission shall:

(a) Define the classifications of agricultural real property.

(b) Determine the valuations for each classification on the basis of crop, timber, forage or animal production resulting from agricultural use.

(c) Prepare a bulletin listing all classifications and values thereof for the following assessment year.

2. The county assessors shall classify agricultural real property utilizing the definitions and applying the appropriate values published in the tax commission's bulletin.

SEC. 16. 1. Upon approval of an application, the county assessor shall assess the agricultural real property as provided in sections 14 and 15 of this act and shall enter on the assessment roll both the valuation



based on agricultural use and the valuation based on potential use until the property becomes disqualified for agricultural use assessment by:

(a) Notification by the applicant to the assessor to remove agricultural use assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(c) Removal of the agricultural use assessment by the assessor upon discovery that the property is no longer in agricultural use; or

(d) Failure to file an application as provided in section 12 of this act.

2. Except as provided in paragraph (b) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner shall not operate to disqualify agricultural real property from agricultural use assessment so long as the property continues to be used exclusively for agricultural use. The new owner is not required to reapply for agricultural use assessment except as provided in section 12 of this act.

3. Whenever agricultural real property is disqualified under subsection 1, the county assessor shall send a written notice of such disqualification by certified mail with return receipt requested to each owner of record.

SEC. 17. 1. The determination of use, the agricultural use assessment and the potential use assessment in each year are final unless appealed.

2. The applicant for agricultural use assessment is entitled to:

(a) Appeal the use determination made by the county assessor in the manner provided in this chapter for complaints of overvaluation or excessive valuation; and

(b) Equalization of both the agricultural use assessment and the potential use assessment as provided in this chapter.

SEC. 18. Any owner of open space real property may apply to the county assessor for open space use assessment and the payment of taxes on such property as provided in sections 19 to 29, inclusive, of this act.

SEC. 19. 1. Any application for open space use assessment shall be filed on or before October 1 of any year with the county assessor of each county in which the property is located. A new application to continue such assessment is required on or before the next October 1 following a change in ownership or from approved open space uses of any portion of the property.

2. The application shall be made on forms prepared by the Nevada tax commission and supplied by the county assessor and shall include a description of the property and its current use or uses, a designation of the paragraphs of subsection 1 of section 6 of this act under which each such use falls, and such other information as may be required to determine the entitlement of the applicant to open space use assessment. Each application shall contain an affidavit or affirmation by the applicant that the statements contained therein are true.

3. The application may be signed by any one of the following:

(a) The owner of the open space real property, including any one of tenants in common or joint tenants, holding an estate therein in fee simple or for life.

(b) Any person, of lawful age, duly authorized in writing to sign an application on behalf of any person described in paragraph (a).

(c) The guardian or conservator of an owner or the executor or administrator of an owner's estate.

(d) The purchaser of the fee simple or life estate of an owner under a contract of sale.

4. The county assessor shall not accept an application unless there is filed with him a true copy of the deed, contract of sale, power of attorney or other appropriate instrument evidencing the applicant's interest or authority. When filed with the assessor only, such instrument shall not constitute a public record.

SEC. 20. 1. The county assessor shall refer each application for open space use assessment to the regional planning commission, if any, and to the board of county commissioners within 10 days after its filing.

(a) An application shall be acted upon in a county with a comprehensive plan in the same manner in which an amendment to the comprehensive plan is processed by the county.

(b) In a county without a comprehensive plan, the application shall be acted upon after a public hearing. Notice of the hearing shall be published in a newspaper of general circulation in the county once a week for the 2 consecutive weeks immediately preceding the hearing. The second notice shall be published no less than 5 days before the hearing. Each notice for one or more hearings shall be a display advertisement no smaller than two columns by five inches in size.

2. In determining whether the property described in the application is within the open space uses designated, the board of county commissioners shall weigh the benefits to the general welfare of preserving the current use of the property against the potential loss in revenue which may result from approving the application. The board may approve the application if it determines that preservation of the current use of the property will:

(a) Conserve or enhance natural or scenic resources;

(b) Protect air or streams or water supplies;

(c) Promote conservation of soils, wetlands, beaches or marshes;

(d) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries;

(e) Enhance recreation opportunities;

(f) Preserve a site designated as historic pursuant to law; or

(g) Promote orderly urban or suburban development.

The board shall consider each open space use designated in the application and shall approve each designation for which the applicant qualifies without regard to how it rules on any other open space use designated. The board shall not deny the application solely because of the potential loss in revenue which may result from approving the application.

3. The board may approve the application with respect to only part of the property, but if any part of the application is denied, the applicant may withdraw the entire application.

4. The board shall approve or deny an application no later than March 31 of each year. An application on which action by the board is not completed by March 31 is approved.



SEC. 21. 1. When the board approves an application for open space use assessment, it shall:

(a) Enter on record an order listing each designated open space use approved; and

(b) Within 10 days after approval:

(1) Send copies of the order to the county assessor and the applicant.

(2) Record the order with the county recorder.

2. When the board denies an application, it shall, within 10 days after denial, send a written notice to the applicant listing its reasons for denial.

SEC. 22. 1. If the property is found by the board of county commissioners to be open space real property, the county assessor shall determine its full cash value for open space use and assess it at 35 percent of that value. At the same time, the assessor shall make a separate determination of the full cash value of the property's potential use pursuant to NRS 361.227.

2. The entitlement of open space real property to open space use assessment shall be determined as of the first Monday in September in each year. If the property becomes disqualified for such assessment prior to the first Monday in September in the same year, it shall be assessed as all other real property is assessed.

SEC. 23. 1. On or before the first Monday in June in each year, the Nevada tax commission shall:

(a) Define the classifications of open space real property.

(b) Determine the valuations for each classification.

(c) Prepare a bulletin listing all classifications and values thereof for the following assessment year.

2. The county assessors shall classify open space real property utilizing the definitions and applying the appropriate values published in the tax commission's bulletin.

SEC. 24. 1. Upon approval of an application, the county assessor shall assess the open space real property as provided in sections 22 and 23 of this act and shall enter on the assessment roll both the valuation based on open space use and the valuation based on potential use until the property becomes disqualified for open space use assessment by:

(a) Notification by the applicant to the assessor to remove open space use assessment;

(b) Sale or transfer to an ownership making it exempt from ad valorem property taxation;

(c) Removal of the open space use assessment by the assessor upon discovery that the property is no longer in an approved open space use; or

(d) Failure to file a new application as provided in section 19 of this act.

2. Except as provided in paragraph (b) of subsection 1, the sale or transfer to a new owner or transfer by reason of death of a former owner to a new owner shall not operate to disqualify open space real property from open space use assessment so long as the property continues to be used exclusively for an approved open space use and the new owner reapplies for open space use assessment as provided in section 19 of this act.

3. Whenever open space real property is disqualified under subsection

*1, the county assessor shall send a written notice of such disqualification by certified mail with return receipt requested to each owner of record.*

SEC. 25. *1. The determination of use, the open space use assessment and the potential use assessment in each year are final unless appealed.*

*2. The applicant for open space assessment is entitled to:*

*(a) Appeal the use determination made by the board of county commissioners to the district court in the county where the property is located, or if located in more than one county, in the county in which the major portion of the property is located.*

*(b) Equalization of both the open space use assessment and the potential use assessment as provided in this chapter.*

SEC. 26. *1. Any person claiming that any open space real property is no longer in an approved open space use may file a complaint and proof of his claim with the board of county commissioners of the county or counties in which the property is located no later than December 1 of any year in which a new applicataion has not been filed as required by section 19 of this act. The complaint and proof shall show the name of each owner of record of the property, its location, description and the use in which it is claimed to be.*

*2. The board shall hear the complaint after reasonable notice to the complainant and each owner of the property. The notice shall include:*

*(a) The time, place and nature of the hearing;*

*(b) A reference to the particular provisions of law and regulations involved; and*

*(c) A copy of the complaint.*

*3. The board shall examine the proof and all data and evidence submitted by the complainant, together with any evidence submitted by the county assessor or any other person, and make its determination no later than March 31. The board shall notify the complainant, each owner of the property and the county assessor of its determination within 10 days after the hearing. It shall direct the county assessor to appraise, value and tax the property in the following assessment period in a manner consistent with its determination and the provisions of sections 2 to 29, inclusive, of this act and, in appropriate cases, order the tax receiver to collect any amounts due under section 29 of this act.*

*4. The determination of the board may be appealed to the district court by the complainant or the owner of the property as provided in section 25 of this act.*

SEC. 27. *Each year the tax statement for property receiving agricultural or open space use assessment shall contain:*

*1. The annual valuations based on agricultural or open space use and on potential use; and*

*2. The deferred tax and interest accrued for that tax year and the cumulative amounts potentially due under section 29 of this act.*

SEC. 28. *1. Within 10 days after any property which has received agricultural or open space use assessment ceases to be used exclusively for agricultural use or an approved open space use, the owner shall notify the county assessor in writing of the date of cessation of such use.*

*2. If the owner fails to file the notice as required by subsection 1, he*

10 days might be pretty quick. 30 would be more to my liking, but I don't feel too strongly.



*shall be liable for the penalty provided in section 29 of this act in addition to the deferred taxes and interest.*

SEC. 29. *Whenever agricultural or open space real property which has received agricultural or open space use assessment is converted thereafter to a potential use, there shall be added to the tax extended against the property on the next property tax roll, an amount equal to the sum of the following:*

*1. The deferred tax, which shall be the difference between the taxes paid or payable on the basis of the agricultural or open use assessment and the taxes which would have been paid or payable on the basis of the potential use assessment for each year in which agricultural or open space use assessment was in effect for the property, up to 120 months preceding the date of conversion from agricultural or open space use.*

*2. Interest upon the amounts of deferred tax from each year included in subsection 1 at the rate of 6 percent per annum.*

*3. A penalty equal to 20 percent of the deferred tax during any year in which an applicant failed to give the notice required by section 28 of this act.*

*4. The deferred tax and interest added to the assessment roll each year is a perpetual lien until paid as provided in NRS 361.450; but if the property is not converted to a potential use within 120 months after the date of attachment, the lien then expires.*

*5. Any penalty added to the tax roll pursuant to subsection 3 is a perpetual lien until paid as provided in NRS 361.450.*

*6. If agricultural or open space real property receiving agricultural or open space use assessment is sold or transferred to an ownership making it exempt from ad valorem property taxation between July 1 and the first Monday in September, inclusive, in any year, a lien for a proportional share of the deferred taxes or interest that would otherwise have been placed on the tax roll prepared in the following year, attaches on the day preceding such sale or transfer. The lien may be enforced against the property when it is converted to a potential use, notwithstanding any exemption of the property from property taxation under state law existing on the date of conversion.*

SEC. 30. NRS 361.325 is hereby amended to read as follows:

361.325 1. The Nevada tax commission may continue in session from day to day after the session of the state board of equalization for the purpose of considering the tax affairs of the state.

2. After the adjournment of the state board of equalization and on or before the 1st Monday in June of each year, the Nevada tax commission shall:

(a) Fix and establish the valuation for assessment purposes of all livestock and mobile homes in the state; and

(b) Classify land and fix and establish the valuation thereof for assessment purposes. The classification of agricultural [land] *and open space real property* shall be made [on the basis of crop or forage production, either in tons of crops per acre or other unit, or animal unit months of forage. An animal unit month is the amount of forage which is necessary for the complete sustenance of one animal unit for a period of 1 month. One animal unit is defined as one cow and calf, or its equivalent, and the

amount of forage necessary to sustain one animal unit for 1 month is defined as meaning 900 pounds of dry weight forage per month.] *as provided in sections 2 to 29, inclusive, of this act.*

3. The valuation of livestock, mobile homes and land so fixed and established [shall be] *is* for the next succeeding year and [shall be] *is* subject to equalization by the state board of equalization at the February meeting thereof for such year.

4. The Nevada tax commission shall [have the power to] cause to be placed on the assessment roll of any county property found to be escaping taxation coming to its knowledge after the adjournment of the state board of equalization. Such property shall be placed upon the assessment roll prior to the delivery thereof to the ex officio tax receiver. If such property cannot be placed upon the assessment roll of the proper county within the proper time, it shall thereafter be placed upon the tax roll for the next ensuing year, in addition to the assessment for the current year, if any, and taxes thereon shall be collected for the prior year in the same amount as though collected upon the prior year's assessment roll.

5. The Nevada tax commission shall not raise or lower any valuations established at the session of the state board of equalization unless, by the addition to any assessment roll of property found to be escaping taxation, it [shall be found necessary so to do.] *is necessary to do so.*

6. Nothing in this section [shall be construed as providing] *provides* an appeal from the acts of the state board of equalization to the Nevada tax commission.

SEC. 31. On or before August 1, 1975, each county assessor shall mail to each owner of agricultural land listed on his 1974–75 tax roll a notice prepared by the Nevada tax commission which explains that lands classified and assessed as agricultural lands as of June 30, 1976, will be valued in the following assessment period and thereafter at full cash value pursuant to NRS 361.227 unless an application is filed and approved for assessment and taxation as agricultural or open space real property pursuant to this act.

SEC. 32. Notwithstanding any provision of this act to the contrary, agricultural land on the 1975–76 assessment roll shall be assessed as provided in Bulletin No. 135 adopted by the Nevada tax commission and effective July 1, 1975.

PROPOSED AMENDMENTS TO SB 167



1) Page 2, line 4, delete language after "which business" through line 5 and substitute is situated on not less than five acres and grossed a minimum of $2500 from agricultural pursuits during the immediately preceding calendar year by:

2) Page 2, delete lines 22 & 23 and substitute (a) Located within an area classified pursuant to NRS 278.250 and subject to regulations designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(b) Devoted exclusively to open space use; and

(c) Having a greater value for another use than for open space use.

3) Page 2, line 28, add conserve and enhance natural or scenic resources, protect streams and water supplies or preserve sites designated as historic pursuant to law.

4) Page 2, delete lines 29 through 36.

5) Page 3, line 6, after "2." delete language through line 17 and substitute The legislature hereby declares that it is in the best interest of the state to maintain, preserve, conserve and otherwise continue in existence adequate agricultural and open space lands and the vegetation thereon to assure continued public health and the use and enjoyment of natural resources and scenic beauty for the economic and social well-being of the state and its citizens.

6) Page 3, line 17, insert new Section 10a 1. The governing body of each city or county shall not later than September 1, 1975, specify by resolution the designations or classifications under its master plan designed to promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

2. The board of county commissioners shall not later than December 30, 1975, adopt by ordinance procedures and criteria which shall be used in considering application of an open space use assessment. Such criteria may include requirements respecting public access to and the minimum size of the property.

7) Page 3, line 18, delete "1." and "agricultural"

8) Page 3, delete lines 22 through 26.

9) Page 3, line 28, delete "October 1" and substitute 1st Monday in October

10) Page 3, line 29, after "if approved" delete language through line 31 and substitute need not be resubmitted until the property or some portion thereof is sold or converted to a higher use or there is any change in ownership.

11) Page 3, line 48, after "unless" delete language through line 50 and substitute that application reflects the approval of all owners of record and he is satisfied the signator has authority to file such application. The assessor may require such additional information of the applicant as is necessary to evaluate his application.

12) Page 4, delete lines 1 and 2

13) Page 4, line 31, add and 361.260.

14) Page 4, line 41, add Such shall be expressed either as tons of crops per acre, board feet, or other unit, or the amount of forage which is necessary for the complete sustenance of one animal unit for a period of one month. One animal unit is defined as one cow and calf, or its equivalent, and the amount of forage necessary to sustain one animal unit for one month is defined as meaning 900 pounds of dry weight forage per month.

15) Page 4, line 47, delete "Upon approval of an application" and capitalize The
line 40, delete entire line
line 49, delete "15 of this act and"

16) Page 5, line 1, after "potential use", insert , if greater,

17) Page 5, line 22, add in the manner provided in this chapter for complaints of overvaluation, excessive valuation or undervaluation.

18) Page 5, delete lines 23 through 28 and insert. 2. Any person desiring to have his property assessed for agricultural use who fails to file a timely application may petition the County Board of Equalization and, upon good cause shown, that Board shall accept an application, and, if appropriate, allow that application. The assessor shall then assess the property consistent with the decision of the County Board of Equalization on the following assessment rolls.

19) Page 5, line 29, delete "open space"

20) Page 5, line 33, delete "October 1" and substitute 1st Monday in October

21) Page 5, line 35, delete "a" and substitute any

22) Page 3, line 40, delete "and" and substitute , and delete
", a designation of"
line 41, delete entire line
line 42, delete "such use falls"

23) Page 6, delete lines 7 through 11 and substitute that application reflects the approval of all owners of record and he is satisfied the signator has authority to file such application. The assessor may require such additional information of the applicant as is necessary to evaluate his application.

24) Page 6, line 13, delete language after "the" through line 43 and substitute board of county commissioners, and if any part of the property is located within an incorporated city, to the city council within 10 days after its filing.
2. The City Council shall consider such application in a public hearing after sufficient notice of the hearing using the applicable procedures and criteria adopted pursuant to section of this act and recommend its approval or denial to the board of county commissioners no later than 90 days after receipt of the application
3. In considering such applications in a public hearing after sufficient notice of the hearing, the board of county commissioners shall weigh the benefits to the general welfare of preserving the current use of the property against the potential loss in revenue which may result from approving the application.
4. The board may set such conditions as it reasonably may require upon its approval of the application.

25) Page 6, line 44, delete "3." and substitute 4. and correct spelling of "application"

26) Page 6, line 47, delete "4." and substitute 5.

27) Page 7, line 1, delete "When" and substitute Within 10 days after

28) Page 7, line 3, delete lines 3 through 5

29) Page 7, line 6, change (1) to (a) and after "order" insert of approval
line 7, change (2) to (b)

30) Page 7, line 9, delete "notice" and substitute order

31) Page 7, line 15, add and 361.260.

32) Page 7, delete lines 21 through 29

33) Page 7, line 30, delete "upon approval of an application" and capitalize The
line 31, delete entire line
line 32, delete "of this act and"

34) Page 7, line 39, after "assessor" insert , with the concurrence of the board,
line 40, delete "an" and substitute the

35) Page 7, line 47, delete "an" and substitute the

36) Page 8, line 6, delete "use"

37) Page 8, line 9, add as provided for in NRS 278.027.

38) Page 8, line 11, after "assessment" delete language and add in the manner provided in this chapter for complaints of overvaluation, excessive evaluation or undervaluation.

39) Page 8, line 13, delete "an" and substitute the

40) Page 8, line 15, delete "The notice shall include"
line 16, delete entire line
line 17, delete language through "act."

41) Page 8, line 21, delete language after "property"

42) Page 8, delete lines 22 through 25

43) Page 8, line 28, delete language after "person" and insert .
line 29, delete "than March 31"

44) Page 8, line 47, delete "an" and substitute the

45) Page 9, line 12, delete "120 months" and substitute the 84 months immediately

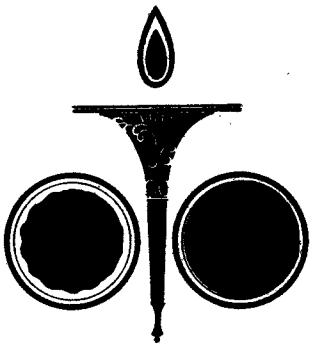
46) Page 9, line 13, add The 84 month period shall include the most recent year of dual assessment but cannot be applied to any year preceding the initial year of dual assessment.

47) Page 9, delete lines 19 through 22 and substitute Each year the deferred tax and interest shown on the tax statement is a lien against the subject property until paid or more than 84 months has lapsed since its attachment.

48) Page 9, between lines 24 and 25 insert 6. Each year a statement of liens prescribed pursuant to subsection 4 and 5 shall be recorded with the county recorder by the tax receiver in a form prescribed by the Nevada Tax Commission upon completion of the tax statement in accordance with section 27 of this act.

49) Page 10, line 32, add Failure to receive such notice shall not relieve the taxpayer from the responsibility of filing an application pursuant to this act for agricultural use assessment.

COOPERATIVE EXTENSION SERVICE
MAX C. FLEISCHMANN COLLEGE OF AGRICULTURE
UNIVERSITY OF NEVADA RENO 89507
DIVISION OF AGRICULTURAL & RESOURCE ECONOMICS





March 14, 1975

Senator B. Mahlon Brown
Nevada State Senate
Carson City, Nevada 89701

Dear Senator Brown:

Enclosed are remarks on SB 167 from Bill Woods, Agricultural Economist from California; from Dick Garrett and Bruce Mackey, Agricultural Economists from University of Nevada. I am also enclosing the comments from Jim Barron, Agricultural Economist from Washington State University, once more.

Some of the comments are duplicate. However, I decided to enclose all of their comments so that you may be able to review the opinions of various agricultural economists.

Please let me know if I can be of further assistance.

Sincerely,

Hans D. Radtke
CRD Program Leader

HDR:vc
Encl.

SB 167

AGRICULTURAL EXTENSION
UNIVERSITY OF CALIFORNIA

RIVERSIDE, CALIFORNIA 92502

March 10, 1975

Hans D. Radtke
CRD Program Leader
Cooperative Extension Service
University of Nevada
Reno, Nevada 89507

Dear Hans:

I have made a quick review of SB 167 and attach rather cryptic notes. Probably the most critical item is page 3, lines 22-26. However, I also have some difficulty with including improvements under the same appraisal system and the matter of primary occupation and source of income.

If I can be of further assistance, I would be happy to do whatever seems appropriate.

Sincerely,

William W. Wood, Jr.
Economist

WWW:gt

Encl.

SB 167

Page 1

Line 12: This is irrelevant given that this issue is method of appraisal.

Lines 13-14: Improvements should be identified on separability from land characteristics; trees not separable but farm buildings treated the same as any other structures.

Line 23: What about innovative practices such as might be suggested by University research?

Page 2

Lines 3-4: Primary occupation and source of income of owner seem irrelevant; rather something such as "principal (or perhaps primary or even only) economic activity intended for said real property, through the:"

Lines 11-12: Beyond normal "farm-gate" processing and storage may be too all-inclusive. Since the intent seems to be to deal with undeveloped land available for either food production or "open space", a processing plant or warehouse would seem beyond such intent. Suggest "those processes and steps under customary practices associated with preparation of products raised for sale outside the agricultural production sector."

Line 17: Do you have any low rainfall land in two years fallow, one year planted, for a three year rotation?

Line 23: This seems likewise irrelevant.

Line 24: Improvements, other than structures. Same separability comment.

Lines 43-44: "higher" is a subjective term; presumably this definition means "full cash or fair market value higher than would result from capitalizing projected income at current capitalization rates."

Page 3

Lines 22-26: "Viable Agricultural Unit" is a meaningless term. Since tax recapture is provided, minimum size is not particularly significant. If the legislature wants to shift responsibility for making a decision, suggest that the emphasis be changed so that each applicant must certify or otherwise prove that said parcel can and will be effectively utilized for purposes set forth in Section 4. Then the assessor's decision is whether to accept application with some right of administrative appeal.

Page 4

Lines 22-24: What purpose is served by permitting such withdrawal? Perhaps the emphasis should be on appeal from that assessor who denies the application.

Page 9

Lines 19-22: I am not familiar with Nevada law. Thus, I do not understand the intent of having the lien expire. This may be allright but at least check the intent.

Lines 25-34: Under Nevada Condemnation law, what real property price will apply--potential or agricultural/open space? If not potential, then the deferred taxes should be cancelled. Deferred taxes and interest as a lien assume the property owner received any difference in value at sale.

MAX C. FLEISCHMANN COLLEGE OF AGRICULTURE
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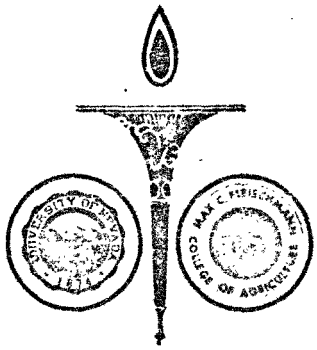

RESIDENT INSTRUCTION
COOPERATIVE EXTENSION SERVICE
AGRICULTURAL EXPERIMENT STATION

March 13, 1975

M E M O R A N D U M

TO: Hans Radtke, CRD Program Leader

FROM: J.R. Garrett, Acting Chairman

SUBJECT: Senate Bill No. 167

In reviewing the proposed Senate Bill No. 167; first, let me say I am in general agreement with the comments made by Jim Barron of Washington State. I would, however, like to elaborate on a couple of points.

It seems to me that one of the most critical issues lies in Section 11 of the proposed bill. There are several points about this Section that bother me. First, the word "viable" has a very nebulous meaning. If the intent of this section is to remain in the bill, the Tax Commission shall prescribe standards for determining the viability of agricultural use. However, I must agree with Dr. Barron's comment about the intent of this legislation. The voting public passed this bill at least partially with the idea that its purpose was to preserve open space. If this is true, whether or not an agricultural unit is viable is not the main issue. In this regard, I much prefer the concept adopted by Oregon: agricultural land is agriculture if it lies in an agricultural zone, and as such is automatically eligible for preferential taxation. Any other land must make applications, as we are suggesting in this bill. For this type of arrangement to be successful, of course, we must have comprehensive county plans. I would therefore recommend that as part of this bill, counties be required to set up agricultural plans in which they designate agricultural and open space zones.

Regarding Section 16 of the proposed act, I would prefer to see a more severe penalty for failure to notify the Tax Commission of a change in land use of these agricultural and open space lands. If such a provision is included in the act, then the annual application for agricultural use could be eliminated as provided in Section 12. Such annual application seems to be a very costly and largely unnecessary piece of red tape.

In Section 29, Part 2, interest at 6% is not a penalty in this day and age - but a benefit to the user. I would, therefore, suggest that the rate of interest as provided in this section, be variable according to some concept of the interest market. This might include a couple of percentage points above the Federal bond market, or possibly even something like the prime interest rates of Nevada banks.

Again, if the purpose of this act is to give the farmers a tax break, then it is basically a good bill. However, if the purpose is to preserve open space around urbanized areas, it will not work very successfully. I say this because experience in other states has indicated this to be true. It would seem to have a much better chance to meet this objective if it is tied to some land use planning by the state or counties involved.

I appreciate the opportunity to review this legislation, and would certainly welcome the opportunity to review future changes or comment on any parts contained in this bill.

JRG/cf

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COOPERATIVE EXTENSION SERVICE
AGRICULTURAL EXPERIMENT STATION

March 11, 1975

M E M O R A N D U M

TO: Hans Radtke, CRD Program Leader

FROM: Bruce Mackey, CRD Economist

SUBJECT: Senate Bill 167

Here are my comments on S.B. 167 as you requested:

Page 1, lines 6 - 15: Definition of agricultural land should be on "primary use".

lines 8 - 9: Land developed for agricultural use should be available for tax deferment immediately.

line 12: Mean land must have a higher use to qualify? (omit)

line 13: Why include buildings?

Page 2, lines 1 - 2: What about a non-profit agricultural venture? Are they excluded?

line 23: Again, is it necessary to have a competing higher use to qualify? (omit)

line 27 on: Definition and enforcement of "open space" may be difficult - might want to go with agricultural land at first and see how it works - especially when time and effort of assessment is considered.

Page 3, lines 10 - 17: Are not consistent with lines 22-26, i.e., a minimum average specification is consistent with giving agriculture a special interest, but what about land conversion, environment, historical sites, etc? These do not necessarily come in minimum 10 acre plots!

Page 3, lines 32 - 37: and lines 48+: Why not let the assessor handle the situation and eliminate another layer of red tape? But, make sure the assessor is accountable to local government policy makers.

Page 6, line 12: Does the county have an option or is the whole state under this plan?

How do you insure uniformity in applications for "open space" tax relief between counties?

I feel this is a sticky subject and perhaps should be treated lightly the first time around.

Page 7, line 23 - 25: This is going to be tough to do.

Page 9, line 15: 6% may be a low interest rate - 9-10% may be more realistic.

line 16 - 18: This penalty may not be high enough to make those who convert the land give notice within 10 days - e.g., a developer who does not want to disclose his action for some reason.

BM/cf

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COOPERATIVE EXTENSION SERVICE
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203 Ag. Phase II
February 19, 1975

Dr. Hans Radtke
Division of Agricultural and
Resource Economics
University of Nevada
Reno, NE 89507

Dear Hans:

Enclosed is the copy of SB 167 with my notes in the margins. In general it looks like all the bases have been covered, but you will pick up a few problems from my comments.

My fee for this complicated consultation is a beer next time we meet.

Cordially,

James C. Barron
Extension Economist

JCB:jmf

Enclosure

| Name | Representing |
|---|---|
| Fred Hagemeister | UNR |
| Jim Kerr | Nev Fish Comm |
| Mr Blondal | Nev. Ind Comm. |
| Robert Erickson | State Lands |
| John D Winters | Neighbor ranchers |
| Louis Morgado | Washoe Co Assessors office |
| Mary J. Wagner | Mineral County Assessor |
| Mabry Belli | 12005 B Moqul Rd Reno |
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| Jim Bergevin | Nevada Cattlemen's Ass |