

SENATE TAXATION COMMITTEE
MARCH 20, 1975

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The regular meeting of the Senate Taxation Committee was called to order at 5:00 pm by Chairman B. Mahlon Brown with the following members present:

PRESENT Senators Mahlon Brown, Mel Close, Gene Echols,
Wm. Raggio, Thomas Wilson, and Norman Hilbrecht

Senator Brown opened the meeting with a discussion on SB 311.

SB 311: Expands class of recipients under Senior Citizens' Property Tax Assistance Act.

A discussion was held on the proposed amendment introduced at the previous meeting under Section 11, (Amendment #5881). It was determined that the phrase, "or make appropriate deduction for the next tax year", should be included in the amendment. Mr. Sheehan of the Tax Commission explained that the proposal was to put the economic burden on the person who committed the error.

Also under discussion were proposed amendments to Section 30.5 following Section 30, and Section 31, by deleting lines 25 through 29 and by inserting the effective date, "Upon passage and approval".

Considerable discussion was held on various sections under the Nevada Revised Statutes having to do with the Senior Citizens Act. Mr. Sheehan was asked to contact the Bill Drafter with the proposed amendments. A motion was then introduced by Senator Close, seconded by Senator Raggio, to amend and recommend "do pass" on the bill. Motion carried unanimously.

SB 167: Provides for separate appraisal, valuation and partial deferred taxation of agricultural and open space real property.

A list of suggested changes prepared by the Nevada Tax Commission was distributed to the members and attached hereto.

Senator Brown opened the discussion by stating he did not want to pass any bill that will create problems for us in the future. He asked what the appetite of the Committee was for adopting some measure on agricultural land use, but deferring action on the open space for the next session, thereby allowing an additional two years for further study.

Senator Hilbrecht objected to this suggestion. He stated he would oppose any bill that gives any differential treatment to agriculture over open space. Rather than taking any more testimony, he suggested we sit down and have a comprehensive discussion on the measure before us.

Senator Raggio stated he felt some obligation to covering both areas and he doubted very much if you can legally deal with one without the other. Additionally, he felt some moral obligation to the proponents of open space inasmuch as many of these people did a great deal

of work on this measure and are entitled to some recognition. He was very much in favor of passing a bill this session dealing with both problems, even though he recognizes the real difficulty with coming up with an acceptable definition of open space.

Senator Wilson explained he was not in favor of separating the two areas into two bills as the public didn't vote for this resolution as an agricultural relief bill without giving equal benefit to the open space proposition. He did agree with Senator Raggio regarding the difficulties in defining 'open space' as it is more susceptible to abuse.

If improperly handled by the Legislature, this could create serious problems for the state. He suggested we may want to predicate this by establishment of certain zones, but feels very strongly we should spend some time talking about this and what we are going to do. However, he was not prepared at that time to move the bill out of committee.

Senator Close advised the Committee he was not opposed to the measure as it is now, but he does not agree with specific definitions under Section 6 "Open Space Use"; In particular, sub-paragraphs nos. 3,4,5, and 7. He feels the definition of open space should include: 1. Conserve and enhance natural or scenic resources; 2. Protect air, or streams or water supplies; and 3. Preserve sites designated as historic pursuant to law.

Although he did not agree with the concept of "air" being included, he would not withhold agreement with the measure because of this phrase being retained in the bill. He would suggest that we strike the remaining definitions under open space use.

Senator Hilbrecht agreed with Senator Close, adding his idea of what the bill really speaks to as being included in one definition, in sub-paragraph 1 of Section 6. That, in his opinion, is the main thrust of this section of the bill.

Senator Wilson made the following statement: "I feel the open space classification fills a gap where land doesn't satisfy any particular classification, yet you want to encourage its nondevelopment for a period of time by the deferment of a tax for higher potential use. What would be wrong with granting to the county, or city commissions, the authority to grant a deferment on open space use and giving them the option to determine what would qualify.

By establishing zones, at their option, with respect to which the deferment would be available to develop all open space (which is really non-agricultural land such as hillsides, etc., that you can grow anything on), you are taking out the risk of the 'boondoggle' problem. We would be talking about granting a discretionary power with respect to open space land. Rather than trying to wrestle with a general recitation of the principles that we are trying to preserve, we could say, 'deferment for open space in accordance with the plan adopted by the governing body'.

This gives the governing body two possibilities; they, themselves can determine how much tax they want to defer, they can determine which open space, not agricultural land, really ought to be preserved in the public interest for some other purpose.

This doesn't put the option on the developer and allow them to put a hold on some parcel for future development; we would then have come up with a 'land holding' bill. This really puts it on the county commission or their recognized planning agencies, such as the regional or state planning councils.

By putting this up to the governing body, they will, in essence be eroding their own tax base and would, therefore, be looking at each request with a critical eye."

Some discussion followed relative to "access to the public". This may create some difficulties inasmuch as there would be areas in which the public should not have unlimited use. Senator Wilson suggested that this determination should be made by the planning commission, or agency, responsible for making the ultimate decision, i.e., they should grant access according to the criteria established for that particular area.

Senator Hilbrecht suggested we establish some defined zones as we should avoid 'defacto' spot zoning. This would have to be in conjunction with comprehensive master planning of the area involved.

Additionally, he felt we should be particularly mindful of the penalty and interest payments. When you want to put open space back to use, someone should pay for it. If it is costly, we are not going to be pushed into some of this unless it really is beneficial.

Mr. James Lien interjected his understanding of what is wanted for the bill, a general type of language; that is, a general statement of intent, providing certain discretionary powers to local governing bodies to develop their own guidelines. The members of the committee verified this analysis.

Senator Raggio suggested, however, that we develop some proper language of what we are talking about. He feels we can't just leave it open, but we should leave the definite criteria such as public access, size, location, or whatever might be necessary, up to the local planning boards to use during their deliberations.

Senator Close agreed with that proposal to give the county or city commissioners the authority to designate zones, etc., and attach to that a proviso whereby the commissioners can impose certain restrictions on public use, but he does not feel we should go beyond that point at this time.

A discussion was next held on the possibility of allowing a seven year roll back on agricultural land and ten years on open space land. There were various suggestions submitted on both concepts.

VOTE: An informal vote was taken with the majority being in favor of a seven year limit on both agricultural and open space use.

A discussion was then held on the amount of interest to be charged when the deferred tax was paid.

VOTE: A motion was introduced by Senator Hilbrecht, seconded by Senator Close to maintain the 6% interest rate, as proposed in the bill. The vote was 5 ayes, Senator Raggio voting "nay".

There were no objections posed on the proposed penalty for failure to notify the assessor's office of conversion of use. It was generally agreed to retain the 20% contained in the bill.

The requirement for an annual application filing was deleted.

Section 4, having to do with definition of "agricultural use" was discussed. After reviewing the testimony received during hearings, it was agreed to use the Tax Commission regulations for qualifying as \$2,500.00 gross income received from the property per year, and/or 5 acres minimum. This was to replace the provision ". . . which business is the primary occupation and source of income of the owner, by: . . .".

Senator Hilbrecht was opposed to this idea, stating it should be determined more by whether it is a residence as opposed to a business or commercial use. He feels we should go one step further and specify something such as, "primary use is not as residential". Senator Close suggested that the 'gentleman farmer' concept would still cause problems even with such wording.

Senator Wilson suggested we go with a minimum requirement of five acres and block in an exception. Senator Raggio pointed out that Section 13, notwithstanding the definition, the commission may grant exceptions to a smaller parcel if it meets specific criteria, and perhaps, does not join the person's residence.

Mr. Lien, Nevada Tax Commission, inquired as to whom will be making the final determination as far as open space is concerned.

Senator Wilson explained that would vary depending on the county or city planning commission. He suggested we may need some enabling legislation to allow the cities or counties to do this. Some bodies might want to obtain some of the open space land for 'forgiveness' of tax, etc.

He asked Mr. Lien to prepare some enabling language that can address the situations they are talking about. There was discussion as to how far they should go in their drafting; do they want to include only the cities and counties, or do they want included the regional divisions of the planning boards, and golf courses, recreational facilities, etc.

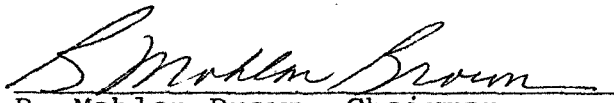
Senator Wilson suggested they research the Land Planning Act. Senator Raggio recommended the golf courses might be run on a non-profit basis more as a recreational activity; that was covered under the one definition of open space (sub-section 5).

The discussion was ended and will be taken up, in informal session, on March 27th at 3:30 pm.

Respectfully submitted,


Nykki Kinsley, Secretary

APPROVED:


B. Mahlon Brown, Chairman

S. B. 167

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:

1 SECTION 1. Chapter 361 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 28, inclusive, of this act.

3 SEC. 2. *As used in sections 2 to 28, inclusive, of this act, the terms*
4 *defined in sections 3 to 9, inclusive, of this act have the meanings ascribed*
5 *to them in such sections except where the context otherwise requires.*

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

7 (a) Land:

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

10 (I) Agricultural use; or

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

12 (2) Having a greater value for another use than for agricultural use.

13 (b) The improvements on such land which support accepted agricul-
14 tural practices except any structures or any portion of a structure used
15 primarily as a human dwelling.

16 The term does not apply to any land with respect to which the owner has
17 granted and has outstanding any lease or option to buy the surface rights
18 for other than agricultural use, except leases for the exploration of geo-
19 thermal resources as defined in NRS 361.027, mineral resources or other
20 subsurface resources, or options to purchase such resources, if such explo-
21 ration does not interfere with the agricultural use of the land.

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

1 necessary for the operation of such farms or ranches to obtain a profit
 2 in money and customarily utilized in conjunction with agricultural use.
 3 SEC. 4. 1. "Agricultural use" means the current employment of real
 4 property as a business venture for profit, which business is the primary
 5 ~~occupation and source of income of the owner, by:~~

→ situated on not less than five acres and grossed a minimum of \$2500 from agricultural pursuits during the immediately preceding calendar year by:

- 6 (a) Raising, harvesting and selling crops, fruit, flowers, timber and
- 7 other products of the soil;
- 8 (b) Feeding, breeding, management and sale of livestock, poultry, fur-
- 9 bearing animals or honeybees, or the produce thereof; or
- 10 (c) Dairying and the sale of dairy products.
- 11 The term includes every process and step necessary and incident to the
- 12 preparation and storage of the products raised on such property for
- 13 human or animal consumption or for marketing except actual market
- 14 locations.
- 15 2. As used in this section, "current employment" of real property in
- 16 agricultural use includes:
- 17 (a) Land lying fallow for 1 year as a normal and regular requirement
- 18 of good agricultural husbandry; and
- 19 (b) Land planted in orchards or other perennials prior to maturity.
- 20 SEC. 5. "Open space real property" means:
- 21 1. Land:
- 22 ~~(a) Devoted exclusively to open space use; and~~
- 23 ~~(b) Having a greater value for another use than for open space use.~~

3

→ (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.

24 2. The improvements on such land used primarily to support the open
 25 space use and not primarily to increase the value of surrounding devel-
 26 oped property or secure an immediate monetary return.
 27 SEC. 6. "Open space use" means the current employment of land, the
 28 preservation of which use would

→ conserve and enhance natural or scenic resources, protect streams and water supplies or preserve sites designated as historic pursuant to law.

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

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

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

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

43 1. Agricultural real property higher than agricultural use; or

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

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

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

- 1 (b) Provide a separate plan for:
- 2 (1) Appraisal and valuation of such property for assessment pur-
- 3 poses; and
- 4 (2) Partial deferred taxation of such property with tax recapture as
- 5 provided in section 28 of this act.
- 6 2. The purpose of sections 2 to 29, inclusive, of this act is to encour-
- 7 age the preservation of agricultural and open space real property in order
- 8 to:
- 9 (a) Maintain a readily available source of food.
- 10 (b) Conserve natural or scenic resources.
- 11 (c) Protect air, stream and water supplies.
- 12 (d) Promote conservation of soils, wetlands, beaches and marshes.
- 13 (e) Enhance the value to the public of abutting or neighboring parks,
- 14 forests, wildlife preserves, nature reservations or sanctuaries.
- 15 (f) Enhance recreation opportunities for the public.
- 16 (g) Preserve sites designated as historic pursuant to law.
- 17 (h) Promote orderly urban or suburban development.

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.

Sec. 10.

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.

18 SEC. 11. ~~Any~~ Any owner of agricultural real property may apply to the
 19 county assessor for agricultural use assessment and the payment of taxes
 20 on such property as provided in sections 12 to 17, inclusive, and sections
 21 27 to 29, inclusive, of this act.

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

27 SEC. 12. 1. Any application for agricultural use assessment shall be
28 filed on or before ~~October 1~~ of any year with the county assessor of each
29 county in which the property is located and, if approved, shall be resub-
30 mitted thereafter on or before ~~October 1~~ of each year agricultural use
31 assessment is desired.

the 1st Monday in October

Insert new language

→ 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.

no line

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

- 38 3. The application may be signed by any one of the following:
- 39 (a) The owner of the agricultural real property, including any one of
- 40 tenants in common or joint tenants, holding an estate therein in fee simple
- 41 or for life.
- 42 (b) Any person, of lawful age, duly authorized in writing to sign an
- 43 application on behalf of any person described in paragraph (a).
- 44 (c) The guardian or conservator of an owner or the executor or admin-
- 45 istrator of an owner's estate.
- 46 (d) The purchaser of the fee simple or life estate of an owner under a
- 47 contract of sale.

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

— 4 —

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

→ 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.

3 SEC. 13. 1. Upon receipt of the application, the county assessor shall
4 make an independent determination of the use of the owner's real prop-
5 erty. The assessor shall consider the use of the property by its owner or
6 occupant together with any other real property that is a part of one agri-
7 cultural unit being operated by the owner or occupant. The assessor may
8 inspect the property and request such evidence of use and sources of
9 income as is necessary to make an accurate determination of use. The
10 assessor may deny the application when the owner or occupant refuses to
11 permit such inspection or furnish such evidence.

12 2. The Nevada tax commission shall provide by regulation for a more
13 detailed definition of agricultural use, consistent with the general def-
14 inition given in section 4 of this act, for use by county assessors in deter-
15 mining entitlement to agricultural use assessment.

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

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

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

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

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

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

39 (a) Define the classifications of agricultural real property.
40 (b) Determine the valuations for each classification on the basis of crop,
41 timber, forage or animal production resulting from agricultural use.

→ and NRS
361.260.

(5 year cycle)

→ 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.

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

44 2. The county assessors shall classify agricultural real property uti-
45 lizing the definitions and applying the appropriate values published in the
46 tax commission's bulletin.

47 SEC. 16. 1. ~~Upon approval of an application, the county assessor~~
48 ~~shall assess the agricultural real property as provided in sections 14 and~~
49 ~~15 of this act and shall enter on the assessment roll both the valuation~~

The

if greater,

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

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

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

7 (c) Removal of the agricultural use assessment by the assessor upon dis-
8 covery that the property is no longer in agricultural use; or

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

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

does

applies

in the manner

17 3. Whenever agricultural real property is disqualified under subsec-
18 tion 1, the county assessor shall send a written notice of such disqualifica-
19 tion by certified mail with return receipt requested to each owner of
20 record.

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

in the manner provided in this chapter for
complaints of overvaluation, excessive valuation or undervaluation.

23 2. The applicant for agricultural use assessment is entitled to:
24 (a) Appeal the use determination made by the county assessor in the
25 manner provided in this chapter for complaints of overvaluation or exces-
26 sive valuation; and
27 (b) Equalization of both the agricultural use assessment and the poten-
28 tial use assessment as provided in this chapter.

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~~ may
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~~ new
assessment rolls.

Add

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

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

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

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

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

→ the 1st Monday in
October

→ any

*conform
to above
articles*

?

by power of attorney

- 1 (b) Any person, of lawful age, duly authorized ~~in writing~~ to sign an
- 2 application on behalf of any person described in paragraph (a).
- 3 (c) The guardian or conservator of an owner or the executor or admin-
- 4 istrator of an owner's estate.
- 5 (d) The purchaser of the fee simple or life estate of an owner under a
- 6 contract of sale.
- 7 4. The county assessor shall not accept an application unless ~~there is~~
- 8 ~~filed with him a true copy of the deed, contract of sale, power of attorney~~
- 9 ~~or other appropriate instrument evidencing the applicant's interest or~~
- 10 ~~authority. When filed with the assessor only, such instrument shall not~~
- 11 ~~constitute a public record.~~

off:
the application
is made by
all the seller
of the property
under the power
of attorney in the 3(B).

of record or similar

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.

See P. 61
1-42

Emphasize other
sections the
same.

12 SEC. 20. 1. The county assessor shall refer each application for open
 13 space use assessment to the regional planning commission, if any, and to
 14 the board of county commissioners within 10 days after its filing.
 15 (a) An application shall be acted upon in a county with a comprehen-
 16 sive plan in the same manner in which an amendment to the comprehen-
 17 sive plan is processed by the county.
 18 (b) In a county without a comprehensive plan, the application shall be
 19 acted upon after a public hearing. Notice of the hearing shall be pub-
 20 lished in a newspaper of general circulation in the county once a week for
 21 the 2 consecutive weeks immediately preceding the hearing. The second
 22 notice shall be published no less than 5 days before the hearing. Each
 23 notice for one or more hearings shall be a display advertisement no
 24 smaller than two columns by five inches in size.
 25 2. In determining whether the property described in the application is
 26 within the open space uses designated, the board of county commissioners
 27 shall weigh the benefits to the general welfare of preserving the current
 28 use of the property against the potential loss in revenue which may result
 29 from approving the application. The board may approve the application if
 30 it determines that preservation of the current use of the property will:
 31 (a) Conserve or enhance natural or scenic resources;
 32 (b) Protect air or streams or water supplies;
 33 (c) Promote conservation of soils, wetlands, beaches or marshes;
 34 (d) Enhance the value to the public of abutting or neighboring parks,
 35 forests, wildlife preserves, nature reservations or sanctuaries;
 36 (e) Enhance recreation opportunities;
 37 (f) Preserve a site designated as historic pursuant to law; or
 38 (g) Promote orderly urban or suburban development.
 39 The board shall consider each open space use designated in the applica-
 40 tion and shall approve each designation for which the applicant qualifies
 41 without regard to how it rules on any other open space use designated.
 42 The board shall not deny the application solely because of the potential
 43 loss in revenue which may result from approving the application.



→ 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.

Noted in with Chapter 266

5. application

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

6. The board shall approve or deny an application no later than
47 March 31 of each year. An application on which action by the board is
48 not completed by March 31 is approved.
49

1 SEC. 21. 1. ^{Within 10 days after} When the board approves an application for open space
2 use assessment, it shall:

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

5 ~~(b) Within 10 days after approval~~ of approval

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

7 ~~(a) (2) Record the order with the county recorder.~~

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

10 SEC. 22. 1. If the property is found by the board of county commis-
11 sioners to be open space real property, the county assessor shall determine
12 its full cash value for open space use and assess it at 35 percent of that
13 value. At the same time, the assessor shall make a separate determination
14 of the full cash value of the property's potential use pursuant to NRS
15 361.227 and NRS 361.260. (5 year)

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

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

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

24 ~~(b) Determine the valuations for each classification.~~

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

27 2. The county assessors shall classify open space real property utiliz-
28 ing the definitions and applying the appropriate values published in the
29 tax commission's bulletin.

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

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

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

39 (c) Removal of the open space use assessment by the assessor upon dis-
40 covery that the property is no longer in an approved open space use; or

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

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

50 3. Whenever open space real property is disqualified under subsection

order of
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1 1, the county assessor shall send a written notice of such disqualification
 2 by certified mail with return receipt requested to each owner of record.
 3 SEC. ~~2524~~²⁵²⁵ 1. The determination of use, the open space use assessment
 4 and the potential use assessment in each year are final unless appealed.
 5 2. The applicant for open space assessment is entitled to:
 6 (a) Appeal the ~~■~~ determination made by the board of county com-
 7 missioners to the district court in the county where the property is located,
 8 or if located in more than one county, in the county in which the major
 9 portion of the property is located → as provided for in NRS 278.027. ?
 10 (b) Equalization of both the open space use assessment and the poten-
 11 tial use assessment ~~as provided in this chapter.~~

→ in the manner provided in this chapter for complaints of overvaluation, excessive evaluation or undervaluation.

12 SEC. ~~26~~²⁵ 1. Any person claiming that any open space real property
 13 is no longer in ~~an~~ approved open space use may file a complaint and proof
 14 of his claim with the board of county commissioners of the county or
 15 counties in which the property is located, ~~no later than December 1 of any~~
 16 ~~year in which a new applicataion has not been filed as required by section~~
 17 ~~19 of this act.~~ The complaint and proof shall show the name of each
 18 owner of record of the property, its location, description and the use in
 19 which it is claimed to be.
 20 2. The board shall hear the complaint after reasonable notice ^{to} the
 21 complainant and each owner of the property. ~~The notice shall include:~~
 22 ~~(a) The time, place and nature of the hearing;~~
 23 ~~(b) A reference to the particular provisions of law and regulations~~
 24 ~~involved; and~~
 25 ~~(c) A copy of the complaint.~~
 26 3. The board shall examine the proof and all data and evidence sub-
 27 mitted by the complainant, together with any evidence submitted by the
 28 county assessor or any other person; ~~and make its determination no later~~
 29 ~~than March 31.~~ The board shall notify the complainant, each owner of the
 30 property and the county assessor of its determination within 10 days after
 31 the hearing. It shall direct the county assessor to appraise, value and tax
 32 the property in the following assessment period in a manner consistent
 33 with its determination and the provisions of sections 2 to 2~~9~~, inclusive, of
 34 this act and, in appropriate cases, order the tax receiver to collect any
 35 amounts due under section 2~~9~~ of this act.
 36 4. The determination of the board may be appealed to the district
 37 court by the complainant or the owner of the property as provided in sec-
 38 tion 2~~9~~ of this act.

→ the
 complainant
 "reasonable
 notice"

39 SEC. ~~27~~²⁸ Each year the tax statement for property receiving agricul-
 40 tural or open space use assessment shall contain:
 41 1. The annual valuations based on agricultural or open space use and
 42 on potential use; and
 43 2. The deferred tax and interest accrued for that tax year and the
 44 cumulative amounts potentially due under section 2~~9~~ of this act.
 45 SEC. ~~28~~²⁹ 1. Within 10 days after any property which has received
 46 agricultural or open space use assessment ceases to be used exclusively for
 47 agricultural use or ~~an~~ approved open space use, the owner shall notify the
 48 county assessor in writing of the date of cessation of such use.
 49 2. If the owner fails to file the notice as required by subsection 1, he

→ the

1 shall be liable for the penalty provided in section 27 of this act in addition to the deferred taxes and interest.

2
3 SEC. 29. Whenever agricultural or open space real property which
4 has received agricultural or open space use assessment is converted thereafter to a potential use, there shall be added to the tax extended against
5 the property on the next property tax roll, an amount equal to the sum of
6 the following:

7
8 1. The deferred tax, which shall be the difference between the taxes
9 paid or payable on the basis of the agricultural or open use assessment
10 and the taxes which would have been paid or payable on the basis of the
11 potential use assessment for each year in which agricultural or open space
12 use assessment was in effect for the property, up to ~~120 months~~ preceding
13 the date of conversion from agricultural or open space use.

84 months immediately

→ 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.

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

16 3. A penalty equal to 20 percent of the deferred tax during any year
17 in which an applicant failed to give the notice required by section 27 of
18 this act.

19 4. The deferred tax and interest added to the assessment roll each
20 year is a perpetual lien until paid as provided in NRS 361.450; but if the
21 property is not converted to a potential use within ~~120~~ 84 months after the
22 date of attachment, the lien then expires.

for that year

~~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.~~

23 5. Any penalty added to the tax roll pursuant to subsection 3 is a per-
24 petual lien until paid as provided in NRS 361.450.

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.

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

Noted

35 ~~SEC. 30~~²⁹ NRS 361.325 is hereby amended to read as follows:
36 361.325 1. The Nevada tax commission may continue in session
37 from day to day after the session of the state board of equalization for the
38 purpose of considering the tax affairs of the state.
39 2. After the adjournment of the state board of equalization and on or
40 before the 1st Monday in June of each year, the Nevada tax commission
41 shall:
42 (a) Fix and establish the valuation for assessment purposes of all live-
43 stock and mobile homes in the state; and
44 (b) Classify land and fix and establish the valuation thereof for assess-
45 ment purposes. The classification of agricultural [land] and open space
46 real property shall be made [on the basis of crop or forage production,
47 either in tons of crops per acre or other unit, or animal unit months of
48 forage. An animal unit month is the amount of forage which is necessary
49 for the complete sustenance of one animal unit for a period of 1 month.
50 One animal unit is defined as one cow and calf, or its equivalent, and the

— 10 —

1 amount of forage necessary to sustain one animal unit for 1 month is
 2 defined as meaning 900 pounds of dry weight forage per month.] *as pro-*
 3 *vided in sections 2 to 27, inclusive, of this act.*

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

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

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

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

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

the

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.

section 12 of

33 SEC. 31 Notwithstanding any provision of this act to the contrary,
 34 agricultural land on the 1975-76 assessment roll shall be assessed as pro-
 35 vided in Bulletin No. 135 adopted by the Nevada tax commission and
 36 effective July 1, 1975.