

SENATE TAXATION COMMITTEE
MEETING OF MARCH 24, 1977

The meeting of the Senate Taxation Committee was called to order by Chairman Bryan at 2:15 p.m. The following members were present:

Senators Norman Ty Hilbrecht, Gary Sheerin, Carl Dodge, Floyd Lamb, Norman Glaser and Richard Bryan.

The following items were considered and action taken:

SB 303 Prohibits cities from imposing license taxes on certain utilities.

Senator Bryan explained that Senator Hernstadt had requested an opportunity to offer testimony on SB 303. He was not available when the first hearing was held.

Senator Hernstadt stated the purpose of SB 303 was to cancel the five per cent franchise tax, which is in reality a sales tax, on power bills in the cities of Las Vegas, Sparks and a couple other jurisdictions. The City of Las Vegas now collects approximately \$2.2 million on this tax. The city officials protest the increase in power rates, yet tax the very item they say is so bad. The tax on power bills in this day and age is like blood money. The cities cry, and rightly so, about what to do because of the lost revenue. Senator Hernstadt suggested they pull in their belts.

Senator Hernstadt advised the committee that he has in drafting a bill similar to SB 303, which the committee might want to see before taking action on SB 303. The new bill, which would be referred to this committee, would cancel this franchise tax and would cancel the \$3.5 million levy which finances the public service commission. It would also assess a 1.5 per cent tax on jet fuel sold in this state. This tax would finance both the cities, which would lose revenue from deleting the franchise tax, and the public service commission. Any additional revenue would go into the general fund. In this way, this indirect \$1.2 million taxed on utilities and this direct sales tax, which is approximately \$3 million, could be taken off the people.

Senator Hernstadt asked the committee to amend SB 303 if there was a problem getting his new bill out of drafting.

He stated that city officials tell a different story to the citizens than when they offered testimony about simply lost revenue at the previous hearing. Senator Hernstadt said he brought Mr. Dick DeWitt, a private citizen, to testify because he was given a conflicting story by the City of Sparks attorney.

Mr. DeWitt testified he approached Sparks City Attorney Jim Brook about the franchise tax after he moved to Sparks from California in 1969. Mr. DeWitt was told that the fee was an unconstitutional tax. Mr. DeWitt asked Mr. Brook why a suit was not filed. He was told because the attorney worked for the city and the city wanted the revenue from the utility. Mr. DeWitt said he has an all-electric home and is now paying \$2.75 a month in franchise tax. He approached the present City Attorney last year and was told again it was an unconstitutional tax; but, because the City of Sparks taxed Sierra Pacific to do business, Sierra Pacific was entitled to recoup the tax it paid to the City of Sparks. Mr. DeWitt said he felt citizens are being asked to bear the brunt of all the pass-alongs and to absorb all the extra taxations and costs. A point is going to be reached where that won't be possible anymore. If the City of Sparks needs the revenue from taxing a utility, why doesn't it go straight to the people and tax directly.

Senator Sheerin asked Mr. DeWitt if he was told why the tax was unconstitutional. Mr. DeWitt answered he was not told although there was mention that the problem was with the way it was handled.

Senator Hilbrecht questioned whether someone challenged the franchise tax in North Las Vegas several years ago. He recalled the Supreme Court sustained it. He wondered why these city attorneys would say the tax was unconstitutional.

Senator Dodge asked if you call this tax by another name-- a business license tax--and based it on volume, would that be unconstitutional? He stated in the last hearing, the committee discussed a freeze by some type of formula so that the dollar amount could not be any higher than it is presently. There was no objection by representatives from the cities on this proposal.

Senator Hernstadt gave the rationale behind his idea of taxing the airlines 1.5 per cent. He explained that California charges two per cent, so the state wouldn't lose business by taxing airlines. The airlines pollute the air, use our services when they are in the state and we love them because they bring tourists. For this we can put a 1.5 tax on that and use the money to take the direct and indirect taxes off of power and, therefore, help the rate payers. He felt this was good rationale. The franchise tax is a regressive tax and to free it is not a satisfactory solution.

Senator Bryan requested that Senator Hilbrecht estimate how much revenue would be generated when the new bill is introduced so the committee will have an idea of the figures involved.

Senator Hernstadt replied he is in the process of doing that. But, unfortunately, the airline companies don't tell what they pay or how much they use because they have secret agreements with their suppliers due to the competitive factor. But they are

using \$440 million in aviation gasoline now and much more jet fuel is used than aviation gasoline.

Senator Hilbrecht stated that when California enacted the Energy Commission, it put a state-wide levy tax on electric utilities. The agency is entirely funded out of this revenue. He felt it may not be accurate to say that California has relieved the taxpayers of this tax.

Senator Hernstadt replied he did not make that representation. He contended that any tax on power, gas or water or any public utility, being a necessity of life, is regressive. He didn't think these taxes should be placed on the consumer directly or indirectly.

Senator Bryan stated he felt the committee agrees, but it is concerned that the budget of local governments would be impacted unless some alternative is provided.

Senator Hilbrecht said he was not sure he agreed that a tax on utilities is any more pristinene than a tax on clothing. He said it seems when a tax is not liked, it is called regressive. He stated too much electricity is consumed and a counter-incentive must be applied in the rate structure. He was not sure this was the way to do it. It's not systematic enough and is not progressive, but he stated he felt a tax on electrical energy as a counter-incentive would be needed in the near future.

Senator Hernstadt replied that one disincentive to use would be if the PSC approves Nevada Power's \$20 million rate increase. But, besides being a disincentive, the City of Las Vegas may pick up one-third or 40 per cent of that. That means five per cent on \$7-8 million or an additional \$350,000-\$400,000 to the City of Las Vegas. Whether the tax is called regressive or progressive, there is a basic problem with power rates in the Las Vegas area in that they were so low initially as to encourage waste. Also, this tax is levied only on certain residents of Clark County--those within the City of Las Vegas limits. The people in Henderson, North Las Vegas, Boulder City and unincorporated Clark County are not paying it. Only those 175,000-180,000 people are paying it. Therefore, a certain class of people are induced to use less energy because they happen to live across a certain line. If a person is paying \$100 a month, that's \$5 a month just for the tax. If the state wanted to assess a 10 per cent state-wide sales tax on electricity to reduce consumption, that's a different issue. The airline fuel tax proposal is a good way of raising revenue without impacting Nevada residents and without hurting the tourism industry because the airlines will still take fuel in Las Vegas or Reno because it is cheaper than in California.

Senator Bryan stated Senator Hernstadt's new bill will be scheduled and processed as quickly as possible when the Committee receives it.

Mr. Jim Lien, Deputy Directory of the Department of Taxation, said there is tremendous confusion about this bill. Really what Senator Hernstadt's proposal wants to effect is city license taxes. The chapter he is actually amending is the county license tax, and not the city license tax (.266). It does not hit the franchise taxes at all. Franchise tax is under .709. The bill doesn't get rid of the license fee or the license tax which is tacked on in several cities. By amending Chapter 364, the part affected is the metropolitan incorporation city section which is no longer valid anyway. The franchise taxes are in .709.

Senator Hernstadt requested Mr. Lien to consult with Janet Wilson because he double-checked after initially getting the bill to see if it affected the areas he intended it to. There is some confusion in that office.

Mr. DeWitt stated that the people are trying to conserve, but still the prices continue to rise.

He was asked by Senator Hilbrecht if an add-on tax was also being paid. The committee was informed that the tax was repealed last Tuesday.

SJR 13 Proposes constitutional amendment to permit tax exemptions for property used to produce, distribute or conserve energy or natural resources or to reduce pollution.

Senator Hernstadt testified there are two other AJR bills which amend the constitution in a similar respect. The differences between these bills and SJR 13 is that he has added natural resources, which includes water, and has added exclusions which reduce pollution. Pollution was added because he understood that NRS 361.077 is an unconstitutional act. This excluded certain anti-pollution abatement equipment from the tax. Obviously, people need to be encouraged to install such equipment to reduce water and air pollution. Past legislatures made this provision. But this is not an educational or a charitable use. If anyone were to bring a taxpayers suit challenging the abatements granted under 361.077, they would probably be sustained. This particular SJR would correct that error and also enable people to have tax abatements in future years. The bill basically is permissive in that it amends the constitution to allow those kind of things to take place. The only way to cut down on power bills is to get the people to use their power more efficiently. If it was legislative intent to give some kind of incentive for people to install this equipment, it couldn't be done without this kind of language.

Senator Bryan asked Mr. Lien if the Assembly was aware of the unconstitutionality of the AJR bills. Mr. Lien replied the Assembly was made aware of the unconstitutionality of 361.077. AJR 9 is the bill primarily being worked on and that, plus the two solar energy bills (277 and 292), are going to come out of sub-committee Tuesday, March 29, 1977.

Mr. Lien was asked if the bills address the area of Senator Hernstadt's bill. He stated he didn't believe AJR 9 would. It appears the bill will now say something like, "for the conservation of energy or the production of energy for non-fossil natural resources." It does not fully take into consideration the unconstitutionality Senator Hernstadt pointed out. It is substantially narrower than Senator Hernstadt's proposal.

Senator Dodge stated he was troubled by the term "natural resources." That term covers a bundle--minerals, timber and, presumably, may cover the production of the land. It would, admittedly, be limited to the extent as exempted by law, in which legislative authority is granted to determine exemptions. The problem will arise in future legislatures. Everyone would whack away at the exemptions. That is the case now with charity exemptions. He asked Senator Hernstadt if there was anyway to narrow the definition of natural resources and to satisfy the objectives of the wording of natural resources as well.

Senator Hernstadt replied he would have no objections to de-limiting language such as air, water, natural gas, coal, fuel or fossil fuels. The purpose of this bill was to be permissive to allow the legislature, in its wisdom, to make selective kinds of inducements. That's why as broad of language as possible was used, but it was not intended to allow copper mines or other substances to be exempted.

Mr. Wally Carson and Mr. Allen Buell, of the International Marketing and Management Company, showed the committee several types of energy-saving equipment they hoped would be included as exemptions in this legislation. If certain things are determined to help the environment and lessen the energy drain, they have great merit. Mr. Carson suggested people not be charged sales tax for purchasing equipment of this type. He felt it is imperative to have some sort of exemption for these items. He stated that Salt Lake City and Colorado have just started programs of this type.

Senator Glaser asked what the tax savings would be to the people. Mr. Carson answered the tax savings would be minimal, but conversly their rate bills would go down.

Senator Dodge stated this amendment addresses itself to only personal property taxation, not to sales tax. Mr. Carson replied he understood this and is requesting the committee to amend the bill to include sales tax or any other taxation. The objective is to provide an incentive for conservation.

Mr. Lien was asked if the courts had held 361.077 unconstitutional. He replied that the courts have not, but lawyers agree it is unconstitutional. It is an exemption which it is felt is not allowable under the constitution. A rebate situation has been held constitutional.

Senator Hilbrecht stated he found the language in SJR 13 very dangerous. The language has to be limited.

Senator Bryan said the committee may wish to hold SJR 13 to see what is happening with the Assembly bills, which are more narrowly defined. It was so moved by Senator Dodge to defer action until the other bills have been considered. It was seconded by Senator Hilbrecht and passed unanimously with Senator Lamb absent.

AB 364 Renames and expands duties of certification advisory board in Department of Taxation and alters certification and training requirements for certain appraisers.

The committee questioned Mr. Lien extensively on each section of the bill.

Mr. Lien prefaced his section-by-section description by saying that the last session of the legislature passed a program in which appraisers in the county and state had to be certified by taking a certification examination. It also established an advisory board which outlined the content of that program. AB 364 gives that board more authority in developing the continuing education program which requires an appraiser to take 36 hours each year. This will give the board more authority to determine what professional certifications will be accepted in lieu of certain types of training and to review the certification process itself. It changes the makeup of the county assessors portion of that board. Now, rather than having a requirement that assessors have a professional designation, they can be certified by the state program. Also, a fee can now be charged for taking the examination. The temporary certificate is extended from being one year to being two years. The reason for that is that the examination is a journeyman examination. It is a very difficult exam. Often assessors are hired at a trainee level. For these assessors to be certified within that first year is unreasonable because they have not yet had the opportunity to take the courses that are necessary.

Senator Bryan said that line 7, which states "of an independent contractor" struck him as a substantial expansion of the existing law.

Mr. Lien explained there were several individuals in the state who have worked either for counties or for the state who serve as independent contractors. He illustrated that statement by saying that the appraisers in Elko County are hired by Lander County and Eureka County to work on vacation time, weekends, nights, etc. They are signed up as independent contractors. Therefore, the department assures that they are certified. We also have individuals who are professional appraisers and have a designation. These individuals, because they have designations, could also appraise property. We are trying to get away from the fact that any real estate operator could actually appraise property.

Senator Bryan asked Mr. Lien if this bill would change substantially the existing practices in the state. He replied it would not. Most of the independent contractors, which are now used by several county assessors, either are approved by the Department of Taxation or are professionally designated individuals.

Senator Hilbrecht asked if this was intended to apply to elected appraisers. Mr. Lien said it would not. He said it does apply to anyone who appraises property. The two elected assessors of Clark County and Washoe County are not certified nor will they every have to be certified because they do not appraise property.

Senator Hilbrecht stated that the duties, as he reads them, of the county assessor are contrary to Mr. Lien's statement. In practice, they may not appraise but they have the obligation to under the statute.

Mr. Lien explained these assessors supervise. They do not physically go into a field and appraise property.

Senator Hilbrecht asked by virtue of what law do they not appraise.

Mr. Lien answered by their own volition.

Senator Hilbrecht stated he understood what Mr. Lien was saying. He believes that few assessors get involved in field assessment very often.

Mr. Lien said that the majority of the assessors do get involved because they are one-to-two man offices.

Senator Hilbrecht stated that then raises the question he is asking about appraising.

Mr. Lien said they then have to become certified.

Senator Bryan asked if the assessors have to become certified.

Mr. Lien answered that they did. The law says that anyone who appraises property must be certified.

Senator Dodge stated that two years ago when he was on the interim committee which studied the equity of the property assessment system, the committee made the recommendation that the tax department offer this training program. Particularly in small counties, appraisers and assessors run for office without these backgrounds. There was a provision, which Senator Dodge said he did not think was burdensome, saying that the assessor could run without any qualifications but had to pass this training program in order to qualify to run for a next term. The assessors then

came to the committee and said they should be excluded even though their help wasn't.

Senator Hilbrecht stated maybe people shouldn't be allowed to become assessors unless they're qualified.

Senator Dodge replied that would not work in small communities. After all, they are elective offices.

Senator Hilbrecht stated it was satisfying to know that the direction headed was to get qualified people for the job.

Mr. Lien said the department has started in this direction with the passage of legislation last session. If an elected county assessor wishes to actually do field appraisal work, he has to be certified. If he does not do field appraisal work, he does not have to be certified.

Senator Bryan asked Mr. Lien if he was saying the existing law requires a county assessor to be certified if he was going to do field appraisal.

Mr. Lien answered anyone who appraises property must be certified.

Senator Bryan asked what provision of the law requires that.

Senator Hilbrecht stated attention must be paid to sub-section four which states "any person performing the duties of an appraiser for property tax purposes as a county employee may continue to perform such duties without a valid appraiser's certificate until July 1, 1978." He said he was alarmed that a county could be burdened with hiring a baker as a county assessor and, on top of that, have to contract the only service that the assessor is supposed to deliver to the county.

Senator Dodge stated that the baker can run. The courts have decided that.

Senator Hilbrecht said then the people can wind up paying two salaries. The law is mandating that someone has to be hired to do his duties.

Mr. Lien stated the assessor has two years in which to make himself certified.

Senator Hilbrecht said that there could be trouble if the law says he cannot appraise if he's elected as an assessor in a rural community where they don't have any person with this kind of certificate. What's happening is it is mandated for him to go out and hire someone with a certificate.

Mr. Lien said it is not that clear cut. He automatically, if he wishes to appraise property, has two years to get a certificate and he can appraise property during that period of time, just like

any new employee can. Mr. Lien was asked if that was on an on-going basis. He replied any newly hired employee has two years to be certified.

Senator Hilbrecht stated that was not the way he read this. It states "may" issue on line 12.

Mr. Lien stated the department had interpreted it to mean there are two options. The department may issue him a regular certificate because he has passed the examination or, if he has only applied for the examination, it can issue a temporary certificate until such time as he takes an examination.

Senator Bryan asked Mr. Lien to clarify what provision states that.

Mr. Lien said the first one. NRS 361.221, section one, which says, "a person shall not perform the duties of an appraiser for property tax purposes without being certified."

Senator Bryan asked if an assessor is being regarded as a state employee.

Mr. Lien stated he is regarded as an employee of the state or a political subdivision.

Senator Bryan asked if, in Mr. Lien's judgement, does that include an assessor.

Mr. Lien stated the department, from its understanding of the last session of the legislature, has interpreted it as meaning that. This is one subject there was tremendous amount of debate on and it was agreed that nothing prohibits an individual from being elected as an assessor. But it was also agreed that he is prohibited from appraising property unless he is certified. There was also agreement that there are assessors in this state who perform non-appraisal functions and, therefore, would never be certified.

Senator Hilbrecht said he felt the people had the right to expect a person to perform his statutory duties.

Senator Dodge indicated he agreed with that.

Senator Hilbrecht suggested amending the language to say "shall" instead of "may" issue a temporary appraiser's license.

Senator Bryan questioned whether sub-section one precludes an elected assessor from appraising property.

Senator Sheerin stated there is nothing which concerns an assessor.

Senator Hilbrecht and Mr. Lien indicated their interpretations were different. Mr. Lien stated an assessor can be an appraiser or he cannot be an appraiser. If he's going to be an appraiser, he has to be certified. Senator Hilbrecht quoted the bill where it says "any person performing the duties of an appraiser..."

Senator Bryan stated that, in his judgement, the elected official, at least for the purposes of that kind of a statute, is not a county employee in a strict sense. He said he realized an assessor is a county employee for some purposes but, as the statute contemplates an employee, he felt an elected official is in a different category. He is really the employer.

Senator Dodge asked how many assessors have become certified since the enactment two years ago. Mr. Lien said they all are in the process of becoming certified. Carson City, Elko County, Humboldt County, Lincoln County, Pershing County have assessors certified. There are a couple of others who have taken the examination but did not pass it. There are still others who are waiting to take it at a later date.

Mr. Lien was asked by Senator Glaser how many appraisers are certified. He answered there are 32 certified for the counties, 17 for the state and five temporaries for the state.

Mr. Lien explained the changes in paragraph two. It changes the name of the board. It also changes the qualifications of the membership to the board to those being selected from the county assessors as those who hold a valid appraisers certificate issued by the state rather than requiring appraisers to have a professional designation. That is severely limiting. It further states that one of the duties of the board shall be to advise the department on any matters pertaining to certification and continuing education. The certification program is a continuing process. Continuing education is a 36 hour a year requirement. The types of courses offered, number of times offered, the instructors, etc. would be under the purview of this board.

Senator Dodge stated he felt this type of training program is very good, particularly for small communities where there aren't these kind of trained people. He asked if these continuing education courses were primarily extension classes and how many days were involved in the 36-hour requirement.

Mr. Lien answered that normally a 36-hour session is a one-week course. Courses are usually held in Carson City although some have been held in Las Vegas. The courses are held in conjunction with the Society of Real Estate or the International Association of Assessing Officers. They are normally classroom courses offered at one-week blocks. More than one course may be offered. In

addition, some counties send their people elsewhere. Nye County, for example, went to Idaho last year to take the same courses approved by the department. There are courses available by extension and there's a possibility of substitution of university or community college courses as well as long as they are approved by this board as being relative.

Mr. Lien explained that sub-section three basically states that a certificate shall be issued to an applicant only if he has passed an examination and allows the department to charge for the examination. The fee is \$5 per person to cover renting a room, hiring the proctor and printing the examinations. The department had a one-shot contract of \$5,000 to initiate the first examination. From this point on, the department and the board have been updating and cleaning up the exams. He noted that an applicant who has a professional designation which is recognized by the board may have a certificate without an examination upon the approval of the board.

He explained that sub-section four cleans up the language and gets rid of the obsolete.

He was asked by Senator Bryan if he construed that section to include the elected assessors as well. Mr. Lien said in that as well as in paragraph one.

Senator Bryan asked if it seemed converse that a person can be called an assessor and not be able to assess property. The public would be surprised to know this.

Mr. Lien stated he assumed this would be true. But he noted what usually happens with new assessors is that one of the first things that they do is to inquire about the kind of training program they can get involved in to know the subject.

Senator Bryan asked Mr. Lien if it is possible to legally, without amending the constitution, to require as a condition of service that an assessor follow election by becoming certified within a certain prescribed time. Mr. Lien stated he did not think it is possible.

Senator Dodge stated he didn't feel that could be done under the federal constitution either. He said he has checked this out and is not sure this should be done because the practical problem, even beside the legal aspect, is you don't have the availability of trained assessors in the smaller counties. That's why it was proposed in that study that it be a pre-requisite for running a second time. That gives him four years.

Senator Hilbrecht asked if that doesn't raise the same constitutional question.

Senator Sheerin stated he did not know whether you could distinguish between someone running for the first time and someone running the second time.

Senator Dodge said he felt it was a reasonable qualification.

Senator Bryan stated he agreed in terms of policy but he questioned whether it is permissible legally to place upon an incumbent different qualifications than a non-incumbent if neither issues are addressed in the constitution.

Senator Sheerin stated he thought that's why this was done this way.

Senator Dodge stated he felt it was encouraging that five present small county assessors are certified and others have shown interest in becoming trained without having to mandate it. He said he felt, as a matter of professional pride, these fellows are all going to want to become certified.

Mr. Lien said it appears that way. But it accomplishes somewhat the same purpose the way we think the law is written. If the public doesn't care if he is not certified and, therefore, not appraising property, and if they don't care to re-elect him, that's their business. They have the option.

Senator Hilbrecht stated he is concerned about line 12 on page two. Since it has been agreed that constitutionally a prerequisite can't be made, something other than the word "may" must be used. "May" implies that it is the board's absolute discretion, based on regulations or standards to withhold the temporary certificate.

Mr. Lien said he would not object to using the word "may".

Senator Sheerin stated, under the present law and in Chapter 250, "may" really turns into a "shall". But it should be changed. Then there is no question.

Senator Bryan asked if the intention was to make the wording so broad. The present language allows that the department shall issue a temporary appraiser's certificate. This refers not only to the elected official but to any employee in the state government or any of its political sub-divisions.

Mr. Lien said, as it states a little further, a temporary certificate expires two years after the date of issue or when the results of the applicant's examination are determined. He said he didn't feel the "shall" would hurt the language.

Senator Sheerin indicated that someone who wasn't familiar with this conversation would question whether the elected assessor needs this certification.

Senator Hilbrecht answered that maybe this discussion discloses that there should be a distinction between the elected assessor and the employee because every man believes he elected someone qualified to do the job he was elected to do.

Senator Bryan stated he tended to agree with Senator Hilbrecht. He asked what would happen if a man, elected as an assessor, makes application for his temporary appraiser's certificate and after two years refuses to take this examination. Would the department's position as a matter of law preclude him from performing his functions and duties as an assessor?

Mr. Lien said he could perform them as long as he had a certified appraiser doing the work.

Senator Hilbrecht reiterated that it should be distinguished. He said he doesn't have a problem with the assessors in Washoe and Clark counties not being appraisers or being certified. Those places are big enough that they are really administrators. He indicated it should be spelled out.

Mr. Lien said what has been drawn up is the outcome of a great number of hearings last session, particularly in the Assembly because it handled the bill first. That was where it ended up with a compromise because the first bill did say the elected official couldn't run again unless he was certified.

Senator Dodge stated he supposed, under this bill, if the assessor flunked the examination, he wouldn't get certified but he could run again.

Senator Sheerin stated the question is even if he doesn't, can he appraise property?

Mr. Lien replied he can't appraise, he can only administrate.

Senators Hilbrecht and Bryan questioned the constitutionality of this.

Senator Bryan asked if the committee wanted to amend that section. Senator Hilbrecht said it should be amended to read that with all respect to the elected assessor it should be mandatory to be issued the certificate. He indicated it is unthinkable that the people could elect someone to serve without the authority to do his job.

Mr. Lien clarified that 361.222 was being suggested to be amended to state the department must issue a temporary certificate and shall issue one to an elected assessor, leaving the wording

to "may" for the others. He stated now some discretion has been put in which wasn't ever the intent. If "shall" is put for one and "may" for the other, discretion is introduced which shouldn't be there.

It was indicated the suggestion would be dropped.

Senator Bryan asked Mr. Lien if he thought the committee should expressly make reference in 361.222 to the elected assessor.

Mr. Lien said he didn't think it was necessary because he had a philosophical difference as to what is occurring. He stated he would like to see "may" changed to "shall".

It was agreed to change the "may" to "shall".

Mr. Lien explained that section three amends .223 to give the certification board the authority to approve the types of college or university courses that may be substituted in the continuing education program. He said section four removes the department from ascertaining whether the person has attained his 36 hours of training and places responsibility for determination on the certification board. Also, it becomes the recommendation of the board to the department whether it should suspend or revoke the certificate of a person who did not complete 36 hours of training.

Mr. Homer Rodriguez, Carson City Assessor, stated that the purpose of this bill is to get the people in the small counties trained to do a better job. He said the association supports the measure. The only objection he had is that an elected official won't be affected in court. It would be thrown out in court. The thinking behind the bill is good because it will help everyone concerned. Appraising is becoming a very specialized field and a person must have the education in order to understand the appraising process. If the smaller county appraisers don't get the training this way, they won't get it at all.

Senator Sheerin moved to amend and Do Pass. It was seconded by Senator Dodge and passed unanimously with Senator Lamb absent.

AB 230 Clarifies applicability of Chapter 487 of NRS to mobile homes.

Mr. Frank W. Daykin, Legislative Counsel, stated the origin of the request is that when 487.001 was enacted, its purpose was to make the provisions of Chapter 487, which basically deals with the repair of various kinds of vehicles, apply to mobile homes other than those which have become so firmly affixed to a foundation that they were no longer mobile homes. But the language chosen for the purpose doesn't do the job. As the law now reads, it says the provisions of this chapter, except NRS 487.035, apply

to mobile homes subject to NRS 482.3973 and following. NRS. 482.3973 and following are the trip permit law. Therefore, as the law reads now, if someone had never had occasion to get a trip permit for a mobile home, Chapter 487 and its various protections do not apply to that mobile home. Consequently, the trip permit reference was replaced with new language "applied to mobile homes although not licensed or registered" and the mobile home was defined in the same way as it is defined for

general purposes. The only other change was to add 487.290 to the provisions which do not apply because that is one which, of its very nature, is limited to motor vehicles.

Senator Dodge moved to Do Pass. Senator Hilbrecht seconded the motion and it was passed unanimously with Senator Lamb not voting.

The committee discussed options of SB 303. Senator Bryan explained to Mr. Lien that the committee wanted to limit the amount of the franchise fee but he didn't know how it could be done without having to re-calculate the formula each year as fuel costs increase. A bill could be passed which would simply freeze the rate, but that wouldn't be very good.

Senator Dodge explained that would not solve the problem because as the costs go up, the amount generated from the fee would rise also. Maybe it would be feasible to pass a bill that would limit to the dollar revenue cities were receiving at a certain point in time.

Mr. Lien said it always gets awkward when that is attempted. The percentage is best but that also continues to increase as the costs rise. To automatically freeze it when one entity has five per cent and one has three per cent, allows one entity to freeze its revenue at a higher percentage than the other entity. It could be frozen at the equivalent of four per cent at a certain date, then all entities could even themselves out at four per cent.

Senator Dodge said most of the testimony he heard indicated the problem was with reducing the present revenue. There's a certain validity to the fact that there's an increase to the consumer in the burden of the franchise fee along with the increase of the utility rates.

Mr. Lien again stated that cities charge both a franchise fee and a city business tax. The language is going to have to be extremely broad to cover all various types of fees involved.

Senator Bryan asked Mr. Lien to develop some language for the committee to consider under the guidelines that the committee doesn't want to reduce the revenue the cities are presently realizing but it doesn't want to see the cities get an increase either. A mechanism must be developed to calculate it. It should be broad

enough to include not only the franchise tax but any similar types of taxes collected which cities pass on to the consumers.

SB 16 Provides for submission at next general election of question proposing certain changes in Sales and Use Tax law.

SB 243 Provides rebate of sales taxes on food to persons of limited income.

Senator Hilbrecht stated he was concerned that some action has to be taken in this area. A number of Assemblyman and several Senators have campaigned very successfully on the problem in this area. It's a problem the people are alerted to and they deserve some kind of action. If it is decided, maybe because of revenue problems, that no action ought to be taken, it's going to come back to us next year and maybe some years later when many of us aren't going to be here to express our opinions. He indicated there are feelings that these two bills present the only two viable alternatives which have been advanced for dealing with the problem. He said the committee ought not to bury its heads. It should pass one bill out, depending on the way the committee feels philosophically. The problem must be faced.

Senator Lamb stated it is not easy to face these issues.

Senator Hilbrecht said the philosophy of one of these bills is that people of low income are being hurt badly. The philosophy of the other bill acknowledges that fact but is fearful of narrowing the tax base.

Senator Sheerin stated that the SB 243 approach is half-way. Testimony before the committee indicated only 55 per cent of the people are going to go through the trouble, the inconvenience, the waiving of confidentiality in order to make the application once a year. Only half the people are going to get it when they don't need it once a year. They need it every week. He said he went into this with an open mind. At first, when he heard the concept of SB 243, he thought it might have real merit. But, as he sat through the hearings, he came to the conclusion that SB 243 is not the way to go because it gets to only half the people and it puts them in an inconvenient situation in having to file for it. For this reason, the SB 16 approach is much better albeit narrowing the tax base is a big question. But if something is to be done in this area, it must be done the right way. That's SB 16. Another argument for SB 16 is that it would cost the state a net of \$116,000. That's something that could be relatively easily absorbed.

Senator Dodge said the only basis in which the loss can be cut that low would be if the collection allowance was taken away from the merchants.

Senator Sheerin disagreed. He said the loss is \$116,000 the way the bill is presently written. The loss in SB 243 is

\$1.4 million per year.

Mr. Lien stated that Senator Sheerin is correct with the first figure. The general fund loss of \$1 million was reduced by reducing the collection allowance. This is in the amendment. He said the loss under SB 243 would be approximately \$1.1 million.

Senator Hilbrecht said he was alarmed at the 50 per cent participation figure being discussed with regard to SB 243. He said he knew nothing that validates that figure. As a matter of fact, 67 per cent or more of the people participate in the Senior Citizens plan.

Mr. Lien stated that the department developed and said this is an out-of-the-sky figure based on the fact that some 60 per cent of senior citizens apply and some 40 per cent of Food Stamp people apply.

Senator Bryan asked Mr. Lien if he expected the level of participation to be as high as the Senior Citizens' property tax program. Mr. Lien said he did not because the people involved in the Senior Citizens program own property and basically are probably more responsible than the low income families who are younger and would not apply under the rebate program.

Senator Bryan said he felt, aside from the philosophical differences pointed out, it has to be conceded that SB 16 provides more relief for more people in a more efficient manner. He said he recognized the concern that it narrows the tax base, but it seems that SB 16 is a self-implementing vehicle. There won't be any need for involvement of administration for collection and publicizing. He said one argument that makes some sense is that with respect to the group trying to be reached. They need relief now, not in the future after making application for it.

Senator Hilbrecht said the state is going to be in serious trouble and it won't be able to give relief to anyone if this big of a sector is carved out of the basic tax rate. The problem should be plugged into, refined as there is experience with it and ways should be developed to reach more people. He said he didn't need his food tax money back and if Nevadans were asked whether they would rather have to pay 3.5 per cent on all food and grocery items or pay four per cent on everything they buy exclusive of grocery items, 80 per cent of the people in the State of Nevada would say they like it just as it is now.

Senator Bryan stated, if that's true, it would be reflected on the referendum.

Senator Dodge said that is a good point. He felt if it went to the referendum and people understood thoroughly the economics of it, they would probably vote it down. He also said there's a question of whether, in legislative judgement, it ought to be referred.

Senator Hilbrecht said the committee recognizes the problem and feels the responsibility to do something.

Senator Bryan said the argument being raised would certainly be debated at the time of the referendum.

Senator Lamb stated, if it is put on the referendum, it will pass.

Senator Glaser said he didn't think the sales tax is as regressive as most people contend it is. It's the only tax that a lot of people who are earning high incomes pay. He is inclined to feel that this tax should not be chipped away at. Once this area is opened up, it will constantly be subjected to invasion. SB 243 gears it to the people who need it most. Those members of the Finance Committee recognize that if the measure is implemented somewhere down the road there's going to be serious difficulty.

Senator Dodge told the committee he would not support SB 16 because it is impossible to determine the length of the drought, he's uncomfortable with the prospect of higher food costs in the future taking more of the people's budgets and diminishing the revenue projections, and he has a great concern about the serious considerations given to table gaming in other states in America, including California. If those things come about in a substantial way in the next few years, the state's revenue from the gaming source is going to be potentially impaired and the state will be struggling to try to maintain a decent level of services in Nevada with whatever tax basis it happens to have. At this point in time, it seems fairly simple to take the tax off the food and put a four per cent tax on everything else. But, if the time comes that people have forgotten that the tax base has been narrowed, they're going to look at the tax rate. Because of the narrowed base, in order to raise any substantial amount of money, the rate will have to be increased at least one per cent. So then people would begin taking a look at a five per cent rate on that narrow base, forgetting that we had narrowed the base. And, comparing it to some other states, the increase would run into enormous resistance. As a matter of future planning, it is unwise to narrow the base. He said if the numbers look low on the rebate bill, he would be willing to consider adjustments to it. If there's any other way to relieve these people on some basis other than annually, he would consider that also. He said he

would vote against SB 16. On SB 243 he would vote to refer it to the Finance Committee because it has a financial impact and the Finance Committee would have to make the decision whether it would want to appropriate the money.

Senator Sheerin asked Senator Lamb if he felt the state could afford a \$1.1 million loss that SB 243 would cause. Senator Lamb stated he did not feel the state could afford any losses at this point in time.

Senator Hilbrecht said that if this bill came into the Finance Committee, it would have to look at the number of programs in the Department of Human Resources and in the University System and decide which would be given priority.

Senator Hilbrecht moved to Do Pass SB 243 with the understanding that it would be re-referred to the Finance Committee. Senator Dodge seconded the motion. The vote was tied 3-3 with Senators Glaser, Dodge and Hilbrecht assenting and Senators Byran, Sheerin and Lamb dissenting. The motion failed.

Senator Sheerin moved to Do Pass SB 16. Senator Bryan seconded the motion. The vote was tied 3-3 with Senators Bryan, Sheerin and Lamb assenting and Senators Glaser, Dodge and Hilbrecht dissenting. The motion failed.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Colleen Crum, Secretary

APPROVED:



Senator Richard Bryan, Chairman

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A. B. 364

ASSEMBLY BILL NO. 364—ASSEMBLYMAN MAY

FEBRUARY 25, 1977

Referred to Committee on Taxation

SUMMARY—Renames and expands duties of certification advisory board in department of taxation and alters certification and training requirements for certain appraisers. (BDR 32-888)

FISCAL NOTE: Local Government Impact: No.
State or Industrial Insurance Impact: No.

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

AN ACT relating to property tax; renaming the certification advisory board in the department of taxation as the appraiser certification board; expanding its duties; altering certification and training requirements for certain appraisers; 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. NRS 361.221 is hereby amended to read as follows:
2 361.221 1. [A] *Except as provided in subsection 4, a person shall*
3 *not perform the duties of an appraiser for property tax purposes as an*
4 *employee of or an independent contractor for the state or any of its*
5 *political subdivisions unless he holds a valid appraiser's certificate issued*
6 *by the department.*
7 2. There is established [a certification advisory] *an appraiser certifi-*
8 *cation board consisting of six members, three of whom shall be chosen*
9 *by majority vote of the several county assessors from persons who hold*
10 *a [professional designation as property appraisers] valid appraiser's*
11 *certificate issued by the department and three of whom shall be appointed*
12 *by the Nevada tax commission. This board shall: [recommend to]*
13 *(a) Advise the department [appropriate subjects in which appraisers*
14 *are to be examined who are applicants for certification.] on any matter*
15 *pertaining to the certification and continuing education of appraisers*
16 *who are subject to the provisions of this section; and*
17 *(b) Perform such other duties as are provided by law.*
18 3. The department may contract for the development and administra-
19 tion of the appropriate examinations. [An] *Except as provided in this*
20 *subsection, an appraiser's certificate shall be issued to an applicant only*
21 *if he has passed the appropriate examination. The department may*
22 *charge each examinee a reasonable examination fee to recover the cost*

SENATE
TAXATION COMMITTEE

DATE March 24, 1977

PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE PRINT PLEASE

TESTI-FYING?	NAME	ORGANIZATION	ADDRESS	PHON
yes yz	Bjell / Heinrichstadt Lu Lu LLC	Senate THP/...	STR 13 SB 303 C/S/...	