

MINUTES OF THE MEETING
JOINT SENATE AND ASSEMBLY COMMITTEES
ON TAXATION

SIXTY-FIRST SESSION
NEVADA STATE LEGISLATURE
February 3, 1981

SENATE

MEMBERS PRESENT: Senator Keith Ashworth, Chairman
Senator Glaser, Vice Chairman
Senator Don Ashworth
Senator Kosinski
Senator Raggio

MEMBERS ABSENT: Senator Getto
Senator Lamb

ASSEMBLY

MEMBERS PRESENT: Mr. May, Chairman
Mr. Coulter, Vice Chairman
Mr. Bergevin
Mr. Brady
Mrs. Cafferata
Mr. Craddock
Mr. Marvel
Mr. Price
Mr. Rusk
Mr. Stewart
Mrs. Westall

MEMBERS ABSENT: None

The meeting was called to order at 2:00 p.m. Senator Keith Ashworth was in the Chair. He informed the joint committees that the purpose of the meeting was to discuss with Attorney General Richard H. Bryan, taxation problems encountered by his office during the fiscal year 1979-80.

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Attorney General Richard H. Bryan:

Those of you from Washoe County will recall the genesis of the grand jury tax probe that occurred about this time last year. It came to our attention that a substantial amount of property, particularly parcels located in the downtown Reno area, had not been reassessed within the statutory mandate of 5 years, for some period of time.

As members of the committee, you are familiar in general with the procedures that are involved in the tax collection process. Let me mention 2 or 3 dates which I think will help you to focus on the problem that I see with the statute and discuss with you some recommendations which I hope you will consider.

On or before the 15th of December of each year, the assessor closes the tax roll. Thereafter, on or before the 1st of January, following December 15, publication of that tax roll occurs and the assessor is required to file a certificate. Prior to the legislative change which you have just processed, the County Board of Equalization, which serves as an appeal board from the evaluations that are attached to the property, had jurisdiction only through the month of January. Thereafter, the State Board of Equalization was available as a subsequent body from which an aggrieved taxpayer could take the decision of the County Board. The State Board of Equalization is the highest administrative body that a taxpayer can take an aggrieved assessment to, short of a petition for judicial review.

Both the County Board's time period of January and the State Board's time period of March 4 had elapsed by the time the grand jury probe had begun. It was determined that there was a substantial amount of property which had not been reassessed within the mandated 5 year period of time. That statute, as you will recall, requires the assessor to reappraise at least once within the 5 year period of time.

The State Tax Commission, acting upon our advice, and pursuant to the provisions of NRS 360.250, ordered the reappraisals take place. The question immediately arose as to what procedure, what mechanism was provided by law once the time periods for both boards had expired, to correct a rather obvious defect; namely, the failure to reappraise massive amounts of real property in Washoe County.

The answer was not an easy one because there is no provision in law which specifically addresses that failure and sets forth a statutory procedure for correction. We invoked the provisions of 2 different statutes, acting in tandem. One is the

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provision of NRS 360.260 and the other is the provision contained in NRS 361.395. Reading those 2 sections together, we advised our clients, the State Board of Equalization and the State Tax Commission, to proceed to order the reappraisal and to establish a time period following the reappraisals for hearings from taxpayers who complained about the new reassessments.

Immediately an argument arose that a taxpayer who was caught up in the corrective process would be deprived of his or her or its opportunity to appear before the County Board of Equalization. Indeed, that had to be conceded because the County Board's jurisdiction expired, for purposes of review, on January 31. We recently extended that to February 27.

Nevertheless, it was conceded that there was no authority on the part of the County Board to review those notices. Secondly, it was argued under the provisions of law, that the State Board of Equalization had likewise lost jurisdiction because the March 4 date had expired. There was a provision in the law, which continues to this day, that says if it has a substantial effect upon the property tax roll, the jurisdiction of the State Board expires on the 1st of October.

The difficulty, in part, is once the reappraisals were ordered, a question arose as to whether or not the taxpayer was entitled to notice of the new appraisal. Our office concluded that the requirements of due process required that a taxpayer had an opportunity to protest the new appraisal. Again, the County Board's time period had elapsed and so the State Board would be the only body to which an appeal could be taken. There was some question as to whether that Board had authority beyond the March 4 date.

But the most immediate problem facing the State Department of Taxation, the State Board of Equalization and the State Tax Commission was sending notices of the magnitude we are talking about. It was quite expensive. The law was not clear. Indeed, there was no authority to place that responsibility on the local county which had failed to comply with the assessment time schedule of reappraising each parcel at least once within the 5 year period of time.

One county offered to underwrite the expense and thereafter, a lawsuit was filed in which the authority of the State Board of Equalization and the State Tax Commission was challenged on the basis that the taxpayer who was reassessed pursuant to the procedure that was established by our office, would not have a right to, in the first instance, appear before the County Board of Equalization but would only go before the State Board.

The Nevada Taxpayers Association filed that suit, indicating that they believed it was violative of the provisions of law. Indeed, we had to acknowledge there was no express statute that provided it but we believed the reading of the 2 statutes previously cited, and working in tandem, provided the authority.

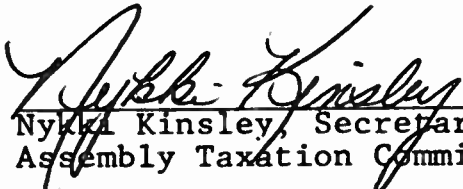
In any event, action was delayed. The court ordered briefs to be filed and by virtue of the expiration of a substantial amount of time, the State Board of Equalization rather reluctantly concluded that they simply would not have the time to conduct all of the hearings, even assuming the court contest could be successfully defended. I emphasize that the Supreme Court, in acting upon this writ, made no decision on the merits so the issue was, in effect, rendered mute because of the lack of time.

I have made some recommendations that I would like you to consider. (Attached as Exhibit I)

Following a brief discussion of the recommendations made by Attorney General Bryan, Chairman Keith Ashworth announced that a skeleton bill, incorporating those recommendations, would be drafted for review by the joint committees.

There being no further business, the meeting was adjourned.

Respectfully submitted,



Nykki Kinsley, Secretary
Assembly Taxation Committee

with the five-year cycle to be reappraised and added to the current year's tax roll.

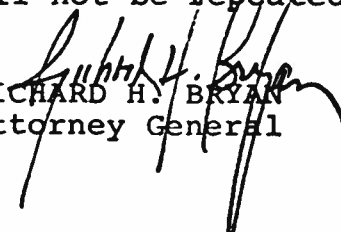
- c. In order to insure due process for taxpayers who find their taxes increased by mandated reappraisals in a current tax year, provide statutory authorization for emergency Board of Equalization hearings preceded by proper notice at the county and/or State level to consider property owner appeals from reappraisals necessary to bring properties into compliance with the five-year cycle on the current tax roll.
 - d. Clarify which governmental entity (State or county) shall bear the cost of reappraising property and the attendant business of equalization when necessitated by the failure of an assessor to maintain property values within the mandatory five-year cycle.
 - e. Clarify the jurisdiction of the State Board of Equalization in NRS 361.380 to meet beyond March 10 of each year to consider the business of equalization with respect to properties reappraised in a current tax year in order to comply with the mandatory five-year cycle, even if such cases have a substantial effect on tax revenues. Note: This may be unnecessary if emergency hearings are authorized, as suggested in subparagraph c. above.
2. Clarify the statutes prescribing the enforcement mechanism to be employed and the penalties to be provided, if an assessor does not reappraise properties within the mandatory five-year cycle of NRS 361.260(3). Some suggestions would be:
- a. Provide a legislative declaration of policy establishing which governmental entity bears the ultimate responsibility for ensuring that properties are assessed within the five-year cycle and for enforcing this legal requirement.
 - b. Adopt a statutory requirement (1) that each county assessor file a plan every five years, showing how the properties in the county will be reappraised within the statutory five-year cycle and (2) that each assessor file annual progress reports with the Department of Taxation explaining how the five-year plan is being implemented. Note: State

Tax Commission Regulation No. 7, effective September 17, 1980, currently requires such a plan to be filed with the Commission.

- c. Amend NRS 361.310 to provide that the affidavit of the assessor attached to the annual assessment roll and that is filed with the Department of Taxation include a statement under oath that all property has been appraised or reappraised within the required five-year cycle.
 - d. Clarify NRS 361.275 by defining whether property not appraised within the five-year cycle is property "not assessed" within the meaning of said statute.
 - e. Clarify the procedure in NRS 361.275 by which the county auditor and county treasurer must inform the district attorney of a county in which property has not been appraised within the required five-year cycle and specify the action that must be taken by the district attorney with respect to bringing the appraisals of said properties within the five-year cycle or seeking appropriate penalties for failure to comply with said mandatory five-year reappraisal cycle.
 - f. Add specific statutory penalties for failure of an assessor to comply with the mandatory five-year cycle, including consideration of civil as well as criminal penalties or forfeiture or removal from office.
3. Review the statutes authorizing correction of clerical and typographical errors on tax rolls, including NRS 361.765, and determine (a) if statutory definitions are needed to limit the scope of corrections permissible under these statutes and (b) if a consistent procedure must be followed by the assessor prior to making all such roll corrections that includes a review of the performance of the assessor's office by the county commissioners. Note: A.B. 46 currently provides one method for resolving this uncertainty by deleting subsections 3 and 4 of NRS 361.765.
 4. Review and amend the statutes pertaining to the assessment of agricultural property so as to eliminate vagueness in the standards used in ascertaining whether property is being used for agricultural and not speculative purposes.

5. Clarify that Chapters 361 and 372 of the Nevada Revised Statutes provide the exclusive means by which a taxpayer may commence litigation and obtain judicial review of the correctness of the amount of property and sales taxes levied and to recover any excess taxes paid. Note: This prohibition could be accomplished by amending NRS 233B.039 to indicate that the Administrative Procedures Act (Chapter 233B, NRS) is not applicable to determine tax liability.
6. Clarify that the statutes of limitations for protesting payment of taxes and commencing actions to recover taxes or make refund claims begins on the date said taxes are due and not from the date the taxes are paid. Note: NRS 361.420 and 372.635 both include provisions that the statute of limitations commences as of the time a tax is paid. If taxes are never paid, the period of limitations for seeking review of the correctness of the tax to be paid can be prolonged indefinitely by a taxpayer. To avoid this uncertainty, the statutes of limitations for seeking review of the correctness of any taxes paid should be directly tied to the due dates for the taxes.

In order to further assist you in reviewing the above matters, our Office will be happy to provide you at your request any additional information we have developed or acquired over the past several months, including a copy of recommendations in the May 27, 1980 Washoe County Grand Jury Special Report relating to the Washoe County Assessor's Office and the problems of lagging appraisals and assessment roll corrections discussed therein, together with copies of several recent Nevada Attorney General's Opinions addressing other problems encountered in the taxation area. The problem areas addressed in these opinions include: property escaping taxation within the meaning of NRS 361.325(3) (AGO 80-36); appraisals of new construction at full cash value as opposed to backdating (AGO 80-34); and certification of appraisers in an assessor's office (AGO 80-30). If any additional information or assistance is needed from the Attorney General's Office, we shall be happy to provide same to your committees. I sincerely hope you will be able to correct some of the current inadequacies in our existing tax laws, so that the problems we have experienced will not be repeated at some future time.


RICHARD H. BRYAN
Attorney General

AGENDA

JOINT SENATE AND ASSEMBLY
COMMITTEE MEETING

Committee on Taxation , Room 131 .

Day Tuesday , Date February 3 , Time 2 p.m. .

Attorney General Richard Bryan will speak on taxation problems his office has encountered.

ATTENDANCE ROSTER FORM

COMMITTEE MEETINGS

SENATE COMMITTEE ON TAXATION

DATE: February 3

PLEASE PRINT NAME	PLEASE PRINT ORGANIZATION & ADDRESS	PLEASE PRINT TELEPHONE
Chris Woodford	LV SUN	385-2111
Jim Adams	LV SUN	385-3111
John F. Campbell		
Quinn Campbell	Nevada Miners & Prospectors Assn	273-2173
Bob WARREN	NEV. MINING ASSN.	323-8575
JOHN ECK	SOUTHERN PACIFIC CO.	329-2492
CHUCK KING	CENTRAL TELEPHONE CO	383-5501
Mitchell Landstary	A.P.	885-1822
WALTER J. BURIA		
Richard King	INTERA	
Shelley Chan	inter - Family, and Price	
BOB EVANS	INTERA - RUSK	
Ray Hays	Intern Senator Heimstadt	
Jim Lien	Metro	
CHUCK NEELY	CLARK County Soc. Dist	
Richard Brown	News. Assoc. School Adm.	
Joseph E Fisher	Nevada State Education Assoc.	882-5574
Ann Lynch	Nevada P.T.A	870-2791 (h.k.)
Cosm Keason	Douglas County	782-5176
PATRICK J. PINE	CLARK COUNTY	
Bob Sullivan	Cassidy River Basin CSK	885-4600
GP Etcheberry	NEV LEAGUE OF CITIES	882-2121
Joe Cathcart	City of North Las Vegas	882-2121
MARVIN LEAVITT	CITY OF LAS VEGAS	883-0768

Name	Organization + Address	Telephone
Dennis Belcourt	UNR Intern	329-3057
John Barriage	UNR Intern	358-4476