

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON TRANSPORTATION**

**Seventy-Third Session
February 22, 2005**

The Committee on Transportation was called to order at 2:15 p.m., on Tuesday, February 22, 2005. Chairman John Ocegüera presided in Room 1214 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Mr. John Ocegüera, Chairman
Ms. Genie Ohrenscha11, Vice Chairwoman
Mr. Kelvin Atkinson
Mr. Jerry Claborn
Ms. Susan Gerhardt
Mr. Pete Goicoechea
Mr. Joseph Hogan
Mr. Mark Manendo

COMMITTEE MEMBERS ABSENT:

Mr. John Carpenter (excused)
Mr. Chad Christensen (excused)
Mr. Rod Sherer (excused)

GUEST LEGISLATORS PRESENT:

Senator Mike McGinness, Central Nevada Senatorial District

STAFF MEMBERS PRESENT:

Marjorie Paslov Thomas, Committee Policy Analyst
J. Randall Stephenson, Committee Counsel
Angela Flores, Committee Manager
Linda Ronnow, Committee Attaché

OTHERS PRESENT:

Norman Harry, Tribal Chairman, Pyramid Lake Paiute Tribe, Nixon, Nevada
John Michela, Deputy Attorney General, Office of the Attorney General,
State of Nevada

Ernie Adler, representing Reno-Sparks Indian Colony, Reno, Nevada
Willett Smith, Tax Administrator, Reno-Sparks Indian Colony, Reno,
Nevada

Clay Thomas, Deputy Director, Nevada Department of Motor Vehicles

Assembly Bill 61: Exempts from imposition of governmental services tax vehicles owned by governing body of Indian reservation or Indian colony under certain circumstances. (BDR 32-974)

Chairman Ocegüera:

[Meeting called to order. Roll called]. Today we are hearing one bill, Assembly Bill 61. I believe the main proponent of the bill will be Mr. Harry, the Tribal Chairman of the Pyramid Lake Paiute Tribe. Also just for your information, Mr. Harry, Senator McGinness would like to come down and speak on the bill as well. He's in another committee. We sent for him, so if he comes down I'll probably interrupt you and let him come in, give him the privilege, and let him speak. Please go ahead with your testimony.

Norman Harry, Tribal Chairman, Pyramid Lake Paiute Tribe:

[Introduced himself and read from Exhibit B.]

I'm also here representing the tribes that are within our statewide organization as well as the Intertribal Council of Nevada. We're here today to support the proposed language change to NRS 371.100B, which reads: Vehicles used for noncommercial purposes owned by any federally recognized Native American tribal government if that government is located on a reservation or colony in the state of Nevada, and the other proposed changes as well.

Currently, the statute does not recognize tribal governments. In 2004, Nevada tribes were denied access to the exempt license plates, and this really raised a question for the tribes as to whether they qualified to receive exempt plates for their governmental vehicles. After numerous meetings with the State Attorney General's Office, Department of Motor Vehicles, and the Intertribal Council of Nevada, it was finally determined that tribal governments are eligible just as the State of Nevada.

[Norman Harry continued.]

As you'll see, we have attached to my testimony ([Exhibit B](#)) the minutes from the Intertribal Council of Nevada recognizing the Pyramid Lake Paiute Tribe in taking the lead on this issue. It also lists tribes and colonies within the state of Nevada that also have an identified number with vehicles that would qualify for the exemption. All in all, the Nevada tribes that we represent today support the proposed language identified in [Assembly Bill 61](#). I just want to take a minute to acknowledge a couple tribal leaders here—tribes that have been here supporting us as well. Chairman Brian Wallace from the Washoe Tribe, our staff from the tax department at Pyramid Lake, and the Walker River delegation with Vice Chairwoman Gina Williams.

Chairman Ocegueda:

Thank you, Chairman Harry. I'd like to bring up the folks from the Attorney General's Office, and maybe you can give us just a little bit of history on how we were applying this provision, and then we didn't, and how that went.

John Michela, Deputy Attorney General, Office of the Attorney General, State of Nevada:

Normally I represent the Department of Motor Vehicles, but I am not here on their behalf today. I believe the question was the history of the provision of exempt license plates to tribal government vehicles. When I drafted the Attorney General's opinion on the provision of exempt license plates to tribal governments, I attempted to learn why some tribes got exempt plates and others did not. In fact, this was the reason the whole question was raised. I believe the Yerington Paiute Tribe was not getting exempt plates and they asked why, and that was the genesis of the Attorney General's opinion. I went back and looked and was not able to find any reason why some exempt plates were issued and others were not. But there was some inconsistency, and in looking at the law, the Attorney General found in his opinion that exempt plates were not currently allowed under the law.

It is because of the current status of the law in not allowing the exempt plates to tribal governments that the Attorney General supports a change in the law. And the reason he would like the law changed to allow the provision of exempt plates to tribal government vehicles is because exempt license plates confer an official status to the vehicles on which they're placed, and the Attorney General would like to extend this official status to tribal government vehicles.

[Mr. Michela read from [Exhibit C](#).]

The statute on exempt plates is NRS 482.368(1), which provides that the Department of Motor Vehicles shall provide suitable distinguishing plates to exempt vehicles. Subsection 5 of that

statute states that exempt vehicles are those vehicles exempt from the Governmental Services Tax.

NRS 482.368 does not contain a list of exempt vehicles; rather, it is NRS 371.100 that contains the list of exempt vehicles, and this is why Assembly Bill 61 proposes a change to NRS 371.100 as opposed to NRS 482.368.

[Mr. Michela read from [Exhibit C.](#)]

In Assembly Bill 61, there is a distinction between commercial vehicles and government, or noncommercial vehicles. And the reason behind this is that exempt plates confer an official status, and official governmental status should not be granted to commercial vehicles which exist for generating profit.

A.B. 61 would have no effect on the Government Services Tax because even though there's not a statutory exemption for tribal government vehicles from the Governmental Services Tax, there's a practical exemption that derives from Supreme Court case law. This case law says that the State cannot assess the Governmental Services Tax against tribal vehicles unless the tax is apportioned based on each vehicle's off-reservation use. Since it's impossible to determine the percentage of each vehicle's off-reservation use, the Governmental Services Tax has not been charged against the Indian tribes. In conclusion, the Attorney General supports the passage of Assembly Bill 61.

Chairman Ocegüera:

History on this bill for the Committee members' knowledge—the tribes did come and speak to me about the bill. They didn't have a vehicle for the bill. There are ongoing negotiations with the DMV [Department of Motor Vehicles] and the Attorney General's Office. We didn't have a vehicle for them to use and they went to Senator McGinness. He sponsored a bill later on. One of our bills fell through and I said I'd be more than happy to sponsor this bill for them. Senator McGinness so graciously withdrew his, but we'd like to give you the opportunity to show your support, Senator McGinness.

Senator Mike McGinness, Central Nevada Senatorial District:

[Introduced himself.] Members of the Walker River Paiute Tribe talked to me. I represent them. They have a tribal membership of nearly 3,000, and they came to me and talked about this issue just before the session and I saw that there was a need there. So I was very willing to sponsor that bill and we're glad to have a vehicle here to address the issue. I think it's something they need, and they can probably advocate a lot better than I can here, but they have my support.

Chairman Oceguera:

Thank you, Senator, for taking the time coming out of the very important Infrastructure Committee and Taxation Committee to visit our Committee down here on the bottom floor. Any questions for Mr. McGinness? Thank you for coming down with your support.

Assemblyman Goicoechea:

Is there anything in the statute that would preclude the tribes having their own plate rather than having to run the Nevada exempt?

John Michela:

Can the tribes issue their own plates, or can the State issue them a different distinguishing plate?

Assemblyman Goicoechea:

They would be issued by the State of Nevada, but we've got a couple hundred plates out there now. I was just curious why it is that the tribes would have to have the Nevada exempt rather than an exempt tag that recognizes the true sovereignty of the tribes and if that was possible—if it was legal.

John Michela:

I have not researched the legality of that, and maybe the tribes can answer this better, but I believe the reason the tribes wish to obtain exempt plates for their tribal government vehicles is because that little "EX" on the exempt plates confers an official status. When a policeman pulls you over and he has the "EX" on his plates, you know he's legitimate. He's an official government entity. I believe that's why the tribes wish to have the exempt plates. I know there are provisions in the statutes for special plates and, like you said, there are many special plates; however, I would not know whether we can issue one that is for the explicit purpose of recognizing the sovereignty of the tribes or whether any of these plates are available at this current date.

Chairman Oceguera:

Mr. Goicoechea, since we have legal counsel as well on this Committee, I'm going to have him answer the question as well.

Assemblyman Goicoechea:

Clearly it would be an exempt tag; it would just be a different plate.

Randy Stephenson, Committee Counsel:

[Introduced himself.] In response to your question, Mr. Goicoechea, the way I read NRS 42.386, and it was briefly alluded to by the Deputy Attorney General, any vehicle that is entitled to the exemption gets the exempt plates. The

Department of Motor Vehicles issues those. So if you do not want those tribes to be getting a plate other than the standard exempt plate, I believe that would require an amendment to the statute.

Assemblyman Goicoechea:

Again, I was just curious. I don't really know what the tribes want or don't want. I think it would be their call. I was just curious if they had to have just the one Nevada exempt tag or if they could in fact have a separate exempt tag that showed their sovereignty as a tribe.

Ernie Adler, representing Reno-Sparks Indian Colony, Reno, Nevada:

[Introduced himself.]

Willett Smith, Tax Administrator, Reno-Sparks Indian Colony, Reno, Nevada:

[Introduced herself.]

Ernie Adler:

Reno-Sparks Indian Colony does support this legislation. This isn't as critical for Reno-Sparks as for many of the remote tribes because their governmental vehicles don't have to transport people the great distances that they do for the other tribes. But as a matter of fairness to the other tribes, Reno-Sparks stridently supports this idea. I might say this has been kicked around for quite a while, because when I first came to Nevada in the late 1970s I worked with Indian tribes and this was an issue back then. It would be nice to finally put this to rest. This is an old, old issue and it really does need to get resolved so that the tribes know that they can drive their governmental vehicles on the highway without being stopped. I think it's really important that it finally get resolved.

Chairman Ocegüera:

I see the DMV sitting there. Would you like to come forward and give us any new information?

Clay Thomas, Deputy Director, Nevada Department of Motor Vehicles:

[Introduced himself.] The DMV has absolutely no problem with this bill. We will follow the law, whatever it may be and whatever decision comes out of this Committee. Our only concern is that the format in which the requests are made need to be consistent throughout; that is, one format to identify the specific types of vehicles and in what capacity they are going to be used. And with that said, we'll be more than happy to work with the tribes or with this Committee to make sure that occurs.

Chairman Oceguela:

Wouldn't that be an administrative function on your part, that you would set that format?

Clay Thomas:

If, in fact, the regulations are authorized for us to go ahead and initiate them, yes.

Chairman Oceguela:

We'll close the hearing on A.B. 61, it being the Chair's intention to move this bill forward.

ASSEMBLYWOMAN OHRENSCHALL MOVED TO DO PASS
ASSEMBLY BILL 61.

ASSEMBLYMAN ATKINSON SECONDED THE MOTION.

THE BILL CARRIED UNANIMOUSLY.

Chairman Oceguela:

Any other comments from the Committee on anything we have going?

[Meeting adjourned at 2:40 pm.]

RESPECTFULLY SUBMITTED:

Angela Flores
Committee Attaché

Assembly Committee on Transportation
February 22, 2005
Page 8

APPROVED BY:

Assemblyman John Ocegüera, Chairman

DATE: _____

