

Assembly

MINUTES OF MEETING - TAXATION COMMITTEE - 55TH NEVADA ASSEMBLY
SESSION - MARCH 12, 1969

Present: T. Hafen, Swackhamer, Young, Hilbrecht, Smith,
Espinoza and Getto

Absent: Tyson and Schouweiler

Also

Present: Assemblyman Bowler; Ray Knisley; Assemblyman Ashworth;
Frank Daykin, Legislative Counsel Bureau
Mr. Peckham and Mr. Mongolo; Washoe County Assessor
Chairman Hafen convened the meeting at 8:00 a.m.

A.B. 547, enacts tax upon soft drinks and soft drink syrups.

Mr. Bowler informed the committee that he was one of the authors of the bill which provided for a tax of 1¢ per gallon on bottled soft drinks but that is really meaningless as far as the revenue is concerned. This is an untapped revenue. Certain bottlers have indicated that their usage of bottles has dropped as much as 30%. Bowler said he believed it was a good tax which would not hurt anyone. But they want to be sure that the philosophy is right. Some people had suggested that they ear-mark the revenue to go to the park fund but that would be up to the committee to decide.

Chairman Hafen said they hoped to come up with some figures on this revenue on Tuesday when they would hold the hearing. Hilbrecht noted that he believed only about 25% of soda today is sold in bottles but most is sold through the dispenser using a syrup. Swackhamer suggested that a lot of the soda would be sold through wholesale dealers and asked how they could monitor the tax on them.

Daykin said he had not examined the bill after it was drafted but he believed they could require the wholesalers to report the information to the tax commission.

Hafen said Mr. Nickson would be there Friday morning to speak on A.B. 548, which transfers collection of motor vehicle fuel and lubricants revenue from the tax commission to the motor vehicle department. Next Wednesday, March 19, Mr. Bailey from DMV would address the committee on the same bill and offer his views. Tuesday, March 18, they would hold the hearing on A.B. 534, amending the bank share tax law and also a joint hearing with the Senate on A.B. 547, the soft drink tax. Also on Wednesday, March 19, they would take up A.B. 652.

On March 21, the Civil Air Patrol will be heard on A.B. 425 which raises the apportionment of the gasoline tax.

A.B. 387, includes livestock within "free port" tax exemption.

Getto said when the free port law was put in they neglected to have livestock included. It is considered to be personal property and many people were applying this in their free port exemptions. However, the Attorney General has ruled that the personal property reference applied only to inanimate objects.

Getto further noted that the cost of freight to a market is almost prohibitive and the use of feed lots would be very beneficial. In order to apply, of course, these cattle would have to come from out of state, remain in the feed lots for a certain length of time and then be shipped back out of state, the same provision which applies to other personal property. One of the arguments against this bill has been that these cattle would grow in value while they were being fed. However this would apply also to those items being assembled in the state because they actually grow in value as they are assembled.

Getto said the agricultural field has become very competitive; they are using very scientific methods in farming. He said he could see where Churchill and Lyon Counties would be encouraged to put in feed yards for these purposes.

Chairman Hafen noted that alfalfa is one of the products which is so difficult to freight. It is bulky and takes a lot of time to load. Getto said he believed it took about 1/3 of the total price just to pay for the freight costs. This has a large economic impact on the farmer.

Hilbrecht stated that from past discussions, it was noted that these cattle would most likely be branded for the purpose of separating the mother herd from those in transit, but he wondered if the tax assessor's office would be sending someone out to check on these brands. Getto said usually they only require a report. They must sign a sworn statement as to the number of cattle exempt under the free port law and also state how many head were there last year. They could, of course, make personal checks on this the same as any other inventory.

Smith said if they seel hay for a gain of \$11 a ton; and they feed the cattle, where is the gain? Sparks right now is wondering if it is really paying its way because of the additional cost fo the local government. Is the farmer going to make enough extra on this to pay him to do it?

Knisley noted that commercial yards are charging extra for the feed. Getto said barley is becoming a major crop because of the new variety; it is economic to grow the barley and this is fed to the cattle. Younger cattle would be fed hay and silage. Hafen said last year, grain was worth \$40 a ton and it took \$10 of that to deliver. Swackhamer gave an example of some people coming in and cultivating land to grow wheat. But wheat is hard to ship also; they have now changed to alfalfa. There

are many things against the new growers in Nevada; especially in the financial end of it. People in Montana could bring their cattle into Nevada and fatten them up rather than worrying about providing the feed themselves. Then they could take them on to California or elsewhere for market.

Chairman Hafen said it would be cheaper to ship cattle than to ship the hay; a 1000 pound steer will eat a tremendous amount of feed while he is in Nevada.

Daykin said there would be no constitutional problem with regards to including livestock because they are personal property; the problem comes in on that portion reading, "which is moving in interstate commerce through or over the territory of the State of Nevada; of...." He did not think that would apply to the feed lots. Also, "Which was consigned to a warehouse, public or private, within the State of Nevada....." Is a feed lot a warehouse?

Knisley pointed out that the livestock would actually be moving through or over the territory because they would not be staying in Nevada or being sold here. Daykin said the question was when you keep these cattle for so long, where does the movement stop. Knisley pointed out that some warehouses retain their products in Nevada for as long as two or three years.

Hilbrecht asked if they could include the manufacturing in this since processing means a manufacturing. Actually it does say that now by definition, but it would help in assuring and aiding the assessors. Daykin said they could.

Newton said he believed they could further improve the bill if on Page 2, line 6, they expanded it to include other than enclosed buildings. This is particularly true with the assembling of campers and trailers which are retained in yards adjacent to enclosed warehouses. Chairman Hafen asked Mr. Getto to work with Mr. Daykin and Mr. Newton on the language needed.

A.B. 546, eliminates casino entertainment tax on admissions.

Mr. Ashworth presented the background on this bill and furnished copies of letter from Ed Bowers with the gaming commission.

He noted that when the federal government released the cabaret tax, the state felt it would be good to put it back on in the form of the entertainment tax. One of the casinos at Lake Tahoe came up with the idea to aid them during the winter months which would provide a first run moving picture house within the casino.

This prompted some discussion with the gaming commission because it is a unique situation. You can walk in the south end of the casino and never go through the rest of the casino. In addition

to the admission charge they provide a \$2 or \$3 entree for the customers. The tax was on this food and beverage before entering the picture show. After the first of this year they received notification that because of the law, it could not be exempted.

If they had been allowed to proceed on the basis of admissions not being assessed, they would have made a considerable profit; however with the entertainment tax enforced they would have had a loss. The thing they needed to determine was what effect the exemption of entertainment tax for admissions would have on the revenue of Nevada. Mr. Bowers in his letter states that it is his belief that there would be very little diminution of revenues through this exemption on admissions.

Ashworth continued that they had no objection on the tax paid on the sale of merchandise, refreshments or services but it will be a factor with the assessment of the 10% admissions tax whether or not the casino will continue the program. He said they could try to break even on it, or raise the price of admission 10%. They will still be charged the 10% on all food and beverages. We must remember that there is an amount to be generated after the movie also. They will most likely remain afterwards for further enjoyment.

Discussion was held on the suit now pending by Circus Circus in opposition to the entertainment tax. Ashworth said there was also the possibility of amending it to provide for the "fair market value" of food and beverage. They could always charge an amount of \$10 or \$15 and then let them have their food and drink free.

He said he could see some problems now with the larger convention areas. They are charged an admission and have food and beverage available if they want it. This could continue on to such other businesses as movies, etc. He felt Nevada would be getting more in the long run if admissions was exempted.

Bowers noted that the question was the sale of tangible property vs. intangible property; admissions could be handled much the same way. This is an isolated case now and as long as the tax remained on the food and services, there would be no problem. There are instances where no cabaret licenses has been issued and they would not be covered by this.

Ashworth said in his opinion the admissions fee is for entrance only and therefore is an intangible thing. Hilbrecht asked what would be the difference between that and the charge for services. In essence they would be receiving a service, whatever the performance is.

Ashworth said a good example would be those casinos who offer special New Years Eve packages; they try to get a big name show and then they invite their guests. For an amount of \$12 a night, you can go in and enjoy the champagne, food, noise-makers, whatever the celebration has to offer. They are receiving a service and the tax should actually be paid on this. Circus Circus was a good example because they furnish an area where it is just like a midway at a circus with all the games, etc. The tables set up around the area are set up so they are in view of the stage.

Bowers noted that they were still in court on the Circus Circus suit and they are objecting to both admissions and the food and drink taxes. Ashworth noted that this was not in the entertainment area, however.

Daykin said in his opinion the challenge by Circus Circus was without merit. He believed if they wanted to provide for the payment of "fair market value" amount on food and beverages, it would be better to spell it out in the bill. They would not have the right to decide by flexible regulation; this type of tax cannot be imposed on a flexible law.

Hafen said he would like Mr. Ashworth to pin this down and to bring back the amendment when it was prepared.

S.B. 101, repeals purported amendment to penalties under sales and use tax act.

Daykin noted that this was corrective legislation and simply repealed what had inadvertently legislated prior to this time.

Hilbrecht moved for a Do Pass on S.B. 101;
Motion seconded by Young;
Unanimously carried.

S.B. 282, requires filing of all tax exemption claims on or before 1st Monday in August.

Daykin noted that this bill had come from the county assessors to make uniform all claims for tax exemptions on real property. All other claims for exemption would be due the first Monday in October. Hafen asked if there were any problems and Mr. Peckham said he did not see the need for the deadline.

Hafen said in view of the questions involved they would hold the bill for further study.

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S.B. 238, removes obsolete reference to poll tax collections from requirements for annual county auditors' statements.

Hilbrecht moved Do Pass S.B. 238;
Motion seconded by Getto;
Unanimously carried.

S.B. 237, makes provision dealing with property taxes on certain parcels of land retroactive.

Mr. Daykin said this was being proposed because all of the tax provisions refer in Chapter 361 to "real estate" rather than "real property". The other correction on page 2 refers to applying to delinquencies occurring before 1967 when the law went into effect.

The law passed in 1967 was intended to let persons redeem portions of large tracts which are delinquent in their taxes. The owner of many lots could release a portion from the delinquent tax list. The correction on page two simply makes it clear that it applied to that property delinquent prior to 1967 also.

Swackhamer moved for a Do Pass on S.B. 237;
Motion seconded by Smith;
Unanimously carried.

S.B. 189, decreases number of mandatory meetings of Multistate Tax Compact Advisory committee.

Daykin noted that this also was corrective legislation.

Young moved for a Do Pass on S.B. 189;
Getto seconded the motion;
Unanimously carried.

Meeting adjourned.