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Unconstitutional Property Tax Practices Reviewed

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(Phillip Moyer/Nevada News Bureau) – A Department of Taxation workshop held today reviewed proposals to equalize property taxes, a requirement of the Nevada State Constitution that county assessors have had difficulty realizing.

Evidence of these difficulties can be seen through a series of rulings that found the tax assessment rates of properties in Incline Village to be in violation of the constitutional requirement. Most recently, the State Board of Equalization unanimously voted that the 2006-07 assessments of the property tax for 9,000 properties in Incline Village and Crystal Bay should be rolled back to 2002-03 property values. Washoe County was later ordered by the District Court to give refunds to the affected property owners.

The rulings claimed that the property taxes – which were significantly higher than the taxes for similar properties in nearby Douglas County — disregarded taxpayers’ rights to “a uniform an equal rate of assessment” as required by the Nevada State Constitution.

Republican gubernatorial candidate Mike Montandon has called for an overhaul of the tax assessment system, blaming the difficulties with equalization on the taxable-value system that Nevada uses to determine property taxes. The current system calculates a property’s value by the both the market cost of the land and the replacement costs of the property’s improvements as determined in the Marshal and Swift Costing Service Manuals.

“The problem is, you end up with a system that doesn’t meet constitutional requirements,” Montandon said, asserting that the formulas can end up treating two equally-valued buildings in significantly different ways.

Instead, Montandon says Nevada should assess property tax by the building’s market value. The amount of data on market transactions, he says, should make such assessments much more feasible.

A recent article by the Nevada Policy Research Institute states that the current system of calculating

property taxes and assessors’ methods “vary across the state, leading to the likelihood that similar properties are not assessed equally, which would violate Article 10 of the state constitution.”

Montandon has pursued his concerns about Nevada property tax despite the small amount attention the issue has received in both the media and the gubernatorial race thus far.

“It’s not as politically sexy as other issues,” Montandon said.

Former Assemblywoman and Republican U.S. Senate candidate Sharron Angle believes the situation in Washoe County could lead to statewide tax appeals.

“I think it’s that win that has really spurred this on,” she said. “Once it’s proven that [property taxes] are not assessed equally and uniformly, it puts everyone in the state in the position where they can question the constitutionality of their own property taxes.”

Angle herself has worked toward property tax reform for years including an attempt to introduce a ballot measure limiting the annual property tax increase in Nevada to 2 percent and disallowing property taxes to increase when property values decrease. The initiative did not make it on the ballot due to its advocates missing the signature deadline by 20 minutes.

During the workshop today, concerns were raised about the lack of a manual of assessment policies provided by the Department of Taxation as required by Nevada Revised Statute 360.215.

Dino DiCianno, the executive director of the Nevada Department of Taxation, agreed that those concerns were valid but explained that Assembly Bill 12, passed in 1999, caused complications.

“We could no longer issue the assessment manual to the assessors to use because it prescribed policy. Policy can only be in regulations,” said DiCianno. “That is why we’re having this workshop with respect to the state board of equalization regulations. There will be another workshop with respect to regulations as to the

methodologies that will be adopted by the Nevada Tax Commission here shortly.”

DiCianno added that he is working with the Division of Assessment Standards to create a manual that compiles Nevada’s assessment statutes and regulations, which is all that is allowed by the 1999 Bill.

Another criticism of Montandon’s concerned Nevada’s property tax cap, which he called “an answer to government entities that aren’t willing to lower their tax rate when assessments rise naturally.”

Montandon said the cap, which was enacted in 2005, also fails the constitutional mandate for an equal rate assessment. Taxes are capped at a 3 percent annual increase for owner-occupied residences and an 8 percent annual increase for all other properties — a clear inequality, in Montandon’s view.

“Some sort of cap might be worthy of discussion, at least,” Montandon said. “It has its problems, though. Any time you put a cap on [property taxes], unless it’s evenly applied, it’s going to be unconstitutional.”

Clark County Assistant Assessor Michele Shafe stated that tax caps are a necessity to keep property taxes low.

“If we were on a market system and didn’t have any kind of a property tax cap, then the taxes would be a lot higher,” Shafe said. “That’s probably why a lot of the other states who are on a market system would probably have a property tax cap in place, or a Homestead Act exemption.”

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