

**ADOPTED REGULATION OF THE
DEPARTMENT OF TRANSPORTATION**

LCB File No. R048-26

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: § 1, NRS 408.100, 408.131, 408.141 and 408.205.

A REGULATION relating to transportation; establishing the procedure for the delegation of authority by the Board of Directors of the Department of Transportation to the Director of the Department; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the Nevada Department of Transportation, which is administered by a Board of Directors that consists of the Governor, the Lieutenant Governor, the State Controller and four members appointed by the Governor who are residents of this State and informed on and interested in the construction and maintenance of highways and other matters relating to transportation. (NRS 408.106) Under existing law, the Board of Directors is authorized to delegate to the Director of the Department the authority to carry out the provisions of existing law governing the construction, improvement and maintenance of highways, including, without limitation, the authority to execute plans, specifications, contracts and instructions. (NRS 408.131, 408.205) As a public body, meetings of the Board of Directors are subject to the Open Meeting Law. (Chapter 241 of NRS) Thus, with certain exceptions, any action taken by the Board of Directors, including, without limitation, the delegation of authority to the Director, must occur at an open and public meeting of which written notice was provided at least 3 working days before the meeting. (NRS 241.020) This regulation establishes additional procedural requirements for the Board of Directors to delegate authority to the Director, or to modify a previous delegation of authority, at a public meeting of the Board of Directors.

Under this regulation, if the Board of Directors wishes to delegate authority to the Director, or to modify any previous delegation of authority, the Board of Directors will prepare or cause to be prepared a proposed resolution for consideration at a public meeting of the Board of Directors. This regulation provides that the Board of Directors will provide at least 30 days' notice of its intent to adopt such a proposed resolution and specifies the manner in which the Board of Directors will provide such notice. This regulation further provides that at the public meeting at which the Board of Directors considers whether to adopt the proposed resolution, the Board of Directors will allow oral and written public comment on the proposed resolution and may establish a deadline for the submission of written public comments. Finally, this regulation provides that after considering oral and written public comments, the Board of Directors may adopt the proposed resolution if the Board of Directors determines that the proposed resolution is necessary to carry out the provisions of existing law and regulations governing the construction,

improvement and maintenance of highways. Upon adoption, the proposed resolution becomes effective and governs the authority of the Director.

Section 1. Chapter 408 of NAC is hereby amended by adding thereto a new section to read as follows:

1. If, pursuant to NRS 408.131, the Board wishes to delegate to the Director any of its authority to carry out the provisions of this chapter and chapter 408 of NRS, including, without limitation, delegating to the Director pursuant to NRS 408.205 authority to execute plans, specifications, contracts and instructions, or to modify any previous such delegation of authority to the Director, the Board will:

(a) Prepare or cause to be prepared a proposed resolution setting forth the specific authority the Board seeks to delegate to the Director or, if the Board wishes to modify a previous delegation of authority to the Director, the specific delegation of authority the Board seeks to modify and the manner in which the Board proposes to modify such delegation of authority; and

(b) Determine whether to adopt the proposed resolution at a public meeting of the Board conducted pursuant to this section and chapter 241 of NRS.

2. Not less than 30 days before the public meeting at which the Board will consider whether to adopt a proposed resolution prepared pursuant to subsection 1, the Board will give, or cause to be given, notice of its intent to adopt the proposed resolution by:

(a) Providing the minimum public notice of its intended action in the manner set forth in subsection 4 of NRS 241.020;

(b) Posting notice of its intended action on the Internet website of the Department;

(c) Mailing notice of its intended action to all persons who have requested in writing that they be placed upon the mailing list to receive notice of regulations proposed by the Department, which is kept by the Department pursuant to NRS 233B.0603; and

(d) Posting notice of its intended action at such other locations, including, without limitation, courthouses, or providing notice to such other persons, including, without limitation, affected businesses or trade or professional associations, as the Department, in its discretion, deems necessary to ensure that affected parties have notice and an opportunity to comment on the proposed resolution.

3. Each notice provided, posted or mailed pursuant to subsection 2 must be accompanied by a copy of the proposed resolution that is the subject of the notice.

4. At a public meeting at which the Board considers whether to adopt a proposed resolution prepared pursuant to subsection 1, the Board will:

(a) Allow members of the public to submit comment on the proposed resolution, orally or in writing. The Board may establish a deadline for the submission of written comments respecting the proposed resolution. In establishing the deadline, the Board will consider providing a reasonable opportunity for members of the public to submit comment on the proposed resolution and the need for the Board and the Department to consider and respond to such comment.

(b) Consider fully all written and oral comments respecting the proposed resolution, which may be done orally at the public meeting and consist of responses to such comments and an explanation of the reasons that the Board is rejecting or accepting any requested changes to the proposed resolution.

5. After considering fully all written and oral comments respecting a proposed resolution prepared pursuant to subsection 1, the Board may adopt the proposed resolution if the Board determines that the proposed resolution is necessary to carry out the provisions of this chapter and chapter 408 of NRS. Upon adoption of the proposed resolution, the proposed resolution becomes effective and governs the authority delegated by the Board to the Director.