

LCB File No. R038-02

**PROPOSED REGULATION OF THE DIRECTOR OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Amendment of Regulations of the
Department of Business and Industry, Office of Business Finance and Planning**

The Department of Business and Industry, Office of Business Finance and Planning, 788 Fairview, Suite 100, Carson City, Nevada 89701, 775-687-4246, will hold a public hearing at 10:00 a.m., on Wednesday, May 1, 2002, via videoconference in the Hearing Room, 788 Fairview, Carson City, Nevada 89701 and in the Conference Room, 2501 East Sahara Avenue, Manufactured Housing Division, Suite 204, Las Vegas, Nevada 89104. The purpose of the hearing is to receive comments from all interested persons regarding the amendment of regulations that pertain to chapter 348A of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

The amendments being proposed will create additional requirements for local governments to allocate and transfer state volume cap in order to better track the use of volume cap in the State of Nevada to ensure that no volume cap is wasted. The amendments will also update provisions regarding the makeup of the special committee to provide advice on private activity bonds. A copy of the proposed amendment is attached to this Notice

2. Either the terms or the substance of the regulations to be adopted, amended, or repealed, or a description of the subjects and issues involved.

See Item #1

3. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately and in each case must include:

- (a) Both adverse and beneficial effects

Local governments will have additional, although minor, requirements for the allocation and use of state volume cap in the immediate and long-term which should not involve any additional expense. Local governments and other persons who benefit from the use of state volume cap, including the public, will benefit in the immediate and long-term from provisions that will provide greater assurance that volume cap authority is not wasted.

(b) Both immediate and long-term effects.

See Item # 3(a)

4. The estimated cost to the agency for enforcement of the proposed regulation.

N/A

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

N/A

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

N/A

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

N/A

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

N/A

Persons wishing to comment upon the proposed action of the Department of Business and Industry, Office of Business Finance and Planning may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to Doug Walther, Chief, Office of Business Finance and Planning, 788 Fairview, Suite 100, Carson City, Nevada 89701. Written submissions must be received by May 1, 2002. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Office of Business Finance and Planning may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Office of Business Finance and Planning, 788 Fairview, Suite 100, Carson City, Nevada 89701 and the Director's Office of the Department of Business and Industry, 555 East Washington Avenue, Suite 490, Las Vegas, Nevada 89106, and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed regulation are also

available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice of hearing has been posted at the following locations:

See Attached Exhibit A

PROPOSED REGULATION OF THE DIRECTOR OF THE DEPARTMENT OF BUSINESS AND INDUSTRY

Issuance of Private Activity Bonds

EXPLANATION--Matter in *italics* is new, matter in brackets ~~⊞~~ is material to be omitted.

Purpose: To clarify procedures for allocation of state volume cap.

Authority: NRS 348A.040

Address of Agency: The agency promulgating this regulation is the Director of the Department of Business and Industry (Director), whose address is 2500 W. Washington, Suite 100, Las Vegas, Nevada 89106. The contact person for the Director is Doug Walther, Office of Business Finance and Planning, 788 Fairview, Suite 100, Carson City, Nevada 89701, phone (775) 687-4246; fax (775) 687-4266. The Director is being advised and assisted by the Nevada Attorney General's Office in the drafting of these regulations. The contact person is Sonia Taggart, Senior Deputy Attorney General, Attorney General's Office, Capital Complex, Carson City, Nevada 89710, phone (775) 684-1224; fax (775) 684-1108

Section 1. NAC 348A.180 is hereby amended to read as follows:

1. A local government may, by resolution, transfer to any other local government located within the same county, all or any portion of its volume cap or local population share for a specific project. *Any ~~⊞if the⊞~~ portion so transferred is subject to the provisions of NAC 348A.220 in the same manner as the local population share of the local government receiving the transfer.*
2. A local government may transfer to the director, by resolution, all or any portion of its volume cap or local population share, subject to the director's approval. *The resolution must designate and provide contact information for a representative of the local government with whom the director may communicate regarding the resolution.*
3. Any transfer made pursuant to this section may be subject to such terms and conditions as may be established by the local government in its resolution, *provided the local government agrees, by the terms of the resolution, to inform the director in writing of the occurrence or nonoccurrence of any term or condition that would effect the disposition of the subject volume cap as soon as practicable after the occurrence or nonoccurrence of the event.* Any transfer is irrevocable upon the issuance of private activity bonds for the project which is the subject of the transfer to the extent of the principal amount of the bonds so issued. The local government receiving the transfer may elect to treat all or any portion of the transfer as a carry forward, if permitted by the code, unless the resolution making the transfer provides otherwise. *If the local government elects to treat all or any portion of the transfer as a carry forward it shall provide the director in writing the details of the carry forward as soon as practicable after it formally evidences its election pursuant to the code.*

Sec. 2. NAC 348A.220 is hereby amended to read as follows:

1. After September 1 of any calendar year, the volume cap for the director will, for the remainder of that calendar year, be augmented by an amount equal to any unused portion of the

volume cap assigned for that calendar year to any local government pursuant to chapter 348A of NRS, and augmented pursuant to this chapter, unless the local government adopts a resolution on or before September 1 of that year indicating that it has used, intends to use or has reserved its entire allocation or a portion thereof for a specified project or projects for the remainder of that calendar year. ***The resolution must designate and provide contact information for a representative of the local government with whom the director may communicate regarding the resolution.***

2. Any portion of a local government's volume cap allocated for a calendar year which is not committed to a specified project by September 1, or is not sufficiently identified or not adequately described in a resolution adopted by the local government, reverts to the director.

3. A copy of the resolution required by subsection 1 must be mailed to the director and secretary of the state board of finance and must be received on or before September 15 of the calendar year to which it applies. If the resolution is not received on or before that date, the local government's local population share reverts to the director. ***Upon receipt of a resolution submitted pursuant to this section the Director will inform the local government's designated representative in writing of the local government's obligation:***

(a) to inform the director in writing pursuant to NAC 348A.280(3) of the occurrence or nonoccurrence of any term or condition that would effect the disposition of the subject volume cap;

(b) to inform the director in writing pursuant to NAC 348A.280(3) of any election to carry forward any volume cap reserved; and

(c) to certify to the Director in writing pursuant to this section that any allocation reserved has been or will be used by December 31 through the issuance of bonds or a carry forward to a subsequent year.

4. On October 1 of each calendar year, or as soon thereafter as is practicable, the director will file a certificate on a form designated by the secretary of the state board of finance, specifying the local governments affected by the provisions of this section and the amount by which the director's volume cap is augmented for the remainder of the calendar year.

5. If a local government has adopted and mailed a resolution pursuant to the provisions of this section, it shall determine not later than December 1 if the allocation reserved has been or will be used by December 31 through the issuance of bonds or a carry forward to a subsequent year and shall immediately certify in writing to the director the amount of the reserved allocation which will be used.

6. If the local government fails to certify on or before December 1 that any portion of a reserved allocation will be used or if the director does not receive written certification by December 10, the unused portion of the reserved allocation reverts to the director. As soon thereafter as is practicable, the director will file a certificate in the form and manner provided in subsection 4 ***and mail a copy of the certificate to the local government's designated representative.***

Sec. 3. NAC 348A.280 is hereby amended to read as follows:

1. The special committee to provide advice on private activity bonds is hereby created, consisting of the following members:

(a) The director, who will act as chairman.

(b) The executive director of the commission on economic development, or his designee.

(c) The administrator of the housing division of the department, or his designee.

(d) The ~~[deputy director of the department]~~ *Chief of the Office of Business Finance and Planning*, who shall act as the ex officio secretary of the committee and as the chairman in the director's absence.

(e) ~~[The director of the office of community services, or his designee.~~

~~—(f)]~~ The director of the Nevada Association of Counties, or his designee.

~~(f)]~~ ~~(g)]~~ The director of the Nevada League of Cities, or his designee.

2. The director may appoint an additional member to the committee who:

(a) Is a member of the general public;

(b) Is knowledgeable in matters referred to the committee; and

(c) Has no financial or pecuniary interest in matters referred to the committee pursuant to NAC 348A.010 to 348A.270, inclusive.

3. Four members of the committee must be present to conduct the business of the committee.

4. The committee shall consider any matter referred to it pursuant to NAC 348A.010 to 348A.270, inclusive, and may, if requested, advise the governor, the state board of finance and the director on any matter concerning private activity bonds.