

**LCB File No. R190-07**

**PROPOSED REGULATION OF THE  
COMMISSION ON TOURISM**

Legislative Summary: Section 13 of Senate Bill 579 appropriated \$500,000 from the State General Fund to the Nevada Commission on Tourism to make grants to small Nevada airports for the purpose of recruiting, retaining, stabilizing, and expanding regional commercial air service within the State. The Commission on Tourism is charged with adopting regulations for awarding such grants. The grant program expires on or before September 18, 2009, with any remaining money reverting to the State General Fund.

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***CHAPTER 231 - ECONOMIC DEVELOPMENT AND TOURISM***

***GRANTS TO ESTABLISH REGIONAL COMMERCIAL  
AIR SERVICE WITHIN THE STATE***

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***GRANTS TO ESTABLISH REGIONAL COMMERCIAL  
AIR SERVICE WITHIN THE STATE***

***NAC 231.200 Definitions. As used in NAC 231.200 to 231.255, inclusive, unless the context otherwise requires, the words and terms defined in NAC 231.205 through 231.220 have the meanings ascribed to them in those sections.***

***(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)***

***NAC 231.205 “Small Airport Commercial Air Service Grant Program” defined. “Small Airport Commercial Air Service Grant Program” means the grant program authorized in Section 13 of Senate Bill 579 of the 2007 Legislature designed to recruit, retain, stabilize and expand regional commercial air service within the State of Nevada by awarding air carrier risk abatement grants to qualifying Nevada airports.***

***(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)***

*NAC 231.210 “Air Carrier” defined. “Air carrier” means a person that provides commercial air transportation to passengers.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.215 “Commission” defined. “Commission” means the Nevada Commission on Tourism.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.220 “Fund” defined. “Fund” means the Nevada Air Service Development Fund as established in Section 13 of SB 579 of the 2007 Legislature.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.225 Application for grant.*

*1. To apply to the Commission for a grant from the Fund, a local government must follow the criteria and guidelines established by the Commission and use the form prescribed by the Commission.*

*2. The application form must include, without limitation:*

*(a) A reasonable business case for success including reasonable cost estimates;*

*(b) Commitments from an air carrier and the airport that if the Commission awards the grant to the local government, the three (3) parties will enter into a written operating agreement that provides for the air carrier to commence or continue air service;*

*(c) The cost and terms of the agreement between the local government, the airport and the air carrier;*

*(d) The amount of, and method in which, the contribution from the airport or governing body of the local government in the jurisdiction in which the airport is located will be generated; and*

*(e) The amount of the grant for which the local government is applying.*

*3. The Commission will evaluate each grant application in accordance with the guidelines set forth in this program.*

*(a) Special consideration shall be given to applicants demonstrating interagency commitments for destination airport incentives and/or Federal grant opportunities, such as the Small Community Air Service Development Grant.*

*(b) Preference will also be given to airlines offering intrastate rather than interstate service;*

*(c) Applicants are solely responsible for soliciting, reviewing, and selecting a regional air carrier for inclusion in the application;*

*(d) The Commission will consider and approve or disapprove grant applications at regularly scheduled commission meetings;*

*(e) The airport and the local government in the jurisdiction in which the airport is located must be in agreement on the application and present the application to the Commission; and*

*(f) If approved, the successful applicant is responsible for facilitating the implementation of the regional air service and ensuring the specified level of service is provided.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.230 Eligibility for grant.*

*1. To apply to the Commission for a grant from the Fund, an airport in the jurisdiction of the local government applying for the grant:*

*(a) Must be a commercial service airport that does not have more passenger boardings on an annual basis than a small hub airport;*

*(b) Must be certified by the Federal Aviation Administration pursuant to 14 C.F.R. Part 139;*

*(c) Must be located more than 150 miles from the nearest medium and large hub airports; and*

*(d) Must demonstrate to the Commission, through the applicant, that air carriers charge unreasonably high fares to service the airport or provide insufficient service to the airport.*

*2. As used in this section, the terms “large hub airport,” “medium hub airport,” “passenger boardings” and “small hub airport” have the meanings ascribed to them in 49 U.S.C. § 47102.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

#### *NAC 231.235 Use of grant.*

*1. A grant awarded from the Fund may only be used by the recipient to:*

*(a) Guarantee that an air carrier will receive an agreed amount of revenue per flight that the air carrier operates in or out of the airport; or*

*(b) Guarantee a profit goal for the air carrier that is established by agreement between the air carrier and the airport.*

*2. A grant recipient must pay with the grant 80 percent of the cost of the guarantee set forth in the agreement between the local government, air carrier and the airport. The remaining 20 percent of the cost of the guarantee must be paid by the airport or the governing body of the local government in the jurisdiction in which the airport is located. The contribution to the cost of the guarantee from the airport or governing body of the local government must be in the form of money or in kind, or both. An in-kind contribution may be in the form of:*

*(a) A waiver or reduction in favor of the air carrier, based on reasonable and customary rates:*

*(1) Airport rental fees;*

*(2) Landing fees;*

*(3) Air carrier ground operations support; or*

*(3) Other airport charges or taxes*

*(b) Marketing and advertising services provided by the airport or local government to the air carrier.*

*3. Portions of the matching grant referenced in section 2 may be funded, through the grant recipient, by connecting airport(s) or other public or private industry partner(s) who would benefit from the air service subsidized under the provisions set forth in NAC 231.205.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

#### *NAC 231.240 Agreement with Commission.*

*1. If the Commission approves an application as outlined in 231.225, the entity receiving the grant must enter into an agreement with the Commission. The agreement must specify:*

*(a) The amount of the grant;*

*(b) The proper use of the money obtained from the grant;*

*(c) The date on which the Commission approved the grant;*

*(d) The specific performance indicators by which the Commission and the recipient of the grant will measure progress;*

*(e) A requirement that the recipient of the grant report to the Commission on a quarterly basis and that the report include:*

*(1) The specific performance indicators mentioned in paragraph (d);*

*(2) A statement of projected cost estimates; and*

*(3) The amount of money the recipient expects to draw from the grant and the dates on which the recipient of the grant expects to draw money from the grant;*

*(f) The right of the Commission or its designee to review any document which the Commission or its designee determines is necessary for the appropriate fiscal oversight of the project; and*

*(g) The date on which the grant will end.*

*2. The Director and the Office of the Attorney General shall review the form of the agreement entered into by the Commission and the recipient of the grant pursuant to section 1.*

*3. No agreement will take effect unless the Director and the Office of the Attorney General approve the form of the agreement.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.245 Disbursement of grant.*

*1. The Director may not disburse any money from the grant until:*

*(a) The recipient of the grant and a representative of the Commission have signed the agreement required by NAC 231.240; and*

*(b) The Director has received a request to draw money from the grant from the recipient of the grant.*

*2. The recipient of the grant must make a request to draw money from the grant on a form prescribed by the Director. The request must include:*

*(a) A statement of the amount of money the recipient wants to draw from the grant; and*

*(b) Evidence of the performance and the calculation of the subsidy.*

*3. The recipient of the grant may request initial advances of up to 20% of the grant award to permit cash flow and ease of drawdowns.*

*4. If performance exceeds expectations and revenue shortfalls cannot be demonstrated, the recipient will not receive a subsidy.*

*5. Other disbursements will be made upon receipt of invoices that lay out the performance and the calculation of the subsidy.*

*6. The Director shall review and either approve or deny a request to draw money from the grant within 10 working days after the date on which the Director receives the request.*

*7. If the Director approves a request to draw money from the grant, the Director shall cause a check to be issued to the recipient of the grant in the amount requested by the recipient.*

*8. If the Director denies a request to draw money from the grant, the Director shall provide the recipient who made the request with a written statement:*

*(a) Stating the reason for the denial of the request; and*

*(b) Describing any actions the recipient must take to receive approval of the request from the Director.*

*9. Claims against the Fund must be paid as other claims against the State are paid.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.250 Failure to comply with agreement. If the Commission finds that the recipient of the grant is not using money from the grant in accordance with the provisions of the agreement set forth in NAC 231.235, the Commission will immediately cease providing the recipient with money from the grant and the Commission may, in its sole discretion, determine that the agreement is void. Repayment will be required if grant funds are found to have been used improperly.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*

*NAC 231.255 Disposition of unspent funds.*

*Any remaining balance of the appropriation made in Section 13 of Senate Bill 579 of the 2007 Legislature must not be committed for expenditure after June 30, 2009, by the entity to which the appropriation is made or any entity to which money from the appropriation is granted or otherwise transferred in any manner, and any portion of the appropriated money remaining must not be spent for any purpose after September 18, 2009, by either the entity to which the money was appropriated or the entity to which the money was subsequently granted or transferred, and must be reverted to the State General Fund on or before September 18, 2009.*

*(Added to NAC by the Nevada Commission on Tourism, eff. xx/xx/xxxx)*