

LCB File No. R012-10

**PROPOSED REGULATION OF THE
COMMITTEE ON LOCAL GOVERNMENT FINANCE**

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

AUTHORITY: §§1-15, NRS 354.107; NRS 233B.120; AB 97 (2009)

A REGULATION relating to local government finance; establishing procedures for transferring a function from a state agency to a local government or from a local government to a state agency; or from one local government to another local government; and providing other matters relating properly thereto.

Section 1. Chapter 354 of NAC is hereby amended by adding thereto the provisions set forth as sections 1 to 15, inclusive, of this regulation.

Sec. 2. *As used in Sections 1 to 15, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation, have the meanings ascribed to them in those sections.*

Sec. 3. *“Administrative functions” means all administrative activities and responsibilities, including but not limited to personnel, budget, finance, office facilities, contract administration, information technology services, and communications associated with the function to be transferred.*

Sec. 4. *“Affected local government or state agency” means the local government or state agency which divests a function and the local government or state agency which assumes a function.*

Sec. 5. *“Function” means a governmental activity done or furnished for general public good, such as, but not limited to, operating an animal shelter, conducting safety or building inspections, issuing permits or operating a program or department. Function includes administrative functions as defined in Section 3 these regulations.*

Sec. 6. *“Governing body” has the meaning ascribed to it in NRS 354.536.*

Sec. 7. *“Interested party” means a person, government, governmental agency or political subdivision of a government, other than the affected local government or state agency, who is directly and substantially affected by the transfer of a function.*

Sec. 8. *“Local government” has the meaning ascribed to it in NRS 354. 474.*

Sec. 9. *“State Agency” means any statewide office, non-elective officer, department, division, bureau, board, commission or agency in the executive branch of the state government. It does not include agencies whose primary function is service to the Legislature, judicial branches of state government or any agency that is administered by an elective officer.*

Sec. 10. **1.** *Prior to issuing a Notice of Intent to Transfer a Function, the affected local governments and state agencies may jointly prepare a Plan for Transfer of Function (Transfer Plan).*

2. *If the Transfer Plan is between a local government and a state agency, the affected local government and state agency must identify a lead state agency or local government which will be responsible for collecting data, identifying interested parties, writing a draft of the Transfer Plan, and transmitting the Transfer Plan to all other affected local governments and state agencies and interested parties.*

3. *If the Transfer Plan is between local governments and does not include a state agency, the affected local governments may identify a lead local government which will be responsible for collecting data, identifying interested parties, writing a draft of the Transfer Plan, and transmitting the Transfer Plan to all other affected local governments and interested parties. If no lead local government is appointed, the local government which first proposed the transfer of function will fulfill the duties of this section.*

4. Affected local governments and state agencies, and interested parties if applicable, must provide the lead local government or state agency sufficient data regarding the description of the function including property and other assets, liabilities, operating costs, contracts, pending claims and funding mechanisms to enable the lead local government or state agency to draft the Transfer Plan. The data must be provided within 30 days of the written request from the lead local government or state agency.

Sec. 11. 1. Affected local governments or state agencies may object to any component of the Transfer Plan within 45 days of receipt of the Transfer Plan. Objections must be in writing and may be accompanied by alternative proposals, as necessary and applicable. The failure to object by any affected local government or state agency does not mean the affected local government or state agency approves the Transfer Plan; however, it is deemed to be preliminary approval of the Transfer Plan for purposes of going forward to the public hearing process and final approval by the governing bodies of the affected local governments and administrators of state agencies.

2. The lead local government or state agency must consider any objection made by the other affected local governments or state agencies; and may consider the alternative proposals or make new proposals.

3. If the affected local governments or state agencies, including the lead local government or state agency, cannot agree on the provisions of the Transfer Plan within thirty days of the postmark when the objection is mailed, the affected local governments and state agencies jointly or individually may request assistance from the Committee on Local Government Finance to resolve differences.

4. Upon receipt of a written request for assistance, the Chairman of the Committee on Local Government Finance shall immediately appoint a subcommittee of the Committee to meet with the representatives of the affected local governments and state agencies. The subcommittee may make recommendations to the affected local governments and state agencies as to specific provisions of the Transfer Plan. The meeting must take place within 15 days of the request. The affected local governments and state agencies are not obligated to adhere to the recommendations of the subcommittee.

5. The provisions of Section 10 and Section 11 do not apply in the event a Notice of Intent to Transfer a Function is waived by mutual agreement.

6. These regulations do not apply when a transfer of function occurs as a result of the creation of a new entity or annexation of territory from one tax district to another.

Sec. 12. 1. *The Transfer Plan or inter-governmental agreement, as applicable, may include one or more of the following elements:*

(a) The statutory authority for the exercise of the function;

(b) A description of the reasons why the transfer of function is being made, such as, but not limited to, improvements in management, delivery of services, execution of the laws, or increases in efficiency of government operations that are expected to ensue from the transfer of the function;

(c) Information sufficient to demonstrate how the financial condition of the affected local governments or state agencies will be impacted upon transfer of the function, including, but not limited to, the possible effect of the transfer of the function on the calculation of allowed revenue from property taxes and the consolidated tax pursuant to NRS 354.5987;

- (d) A detailed description of the transfer or other disposition of the records, property, and personnel affected by the transfer plan, and the timing thereof;*
- (e) An analysis of the impact of the transfer of functions on the existing employees administering the function and their status upon completion of the transfer;*
- (f) Information sufficient to demonstrate responsibility for outstanding obligations, if any; and how the obligations will be paid and the timeframe for payment; and provisions to ensure that there are sufficient assets to pay for outstanding liabilities;*
- (g) A detailed description of the funding that will be used to support the function in the future by the local government or state agency assuming the function;*
- (h) A description of whether and how the transfer of function may be terminated; or*
- (i) A description of a post-transfer dispute resolution process.*

2. No Transfer Plan or inter-governmental agreement for the transfer of a function shall have the effect of limiting in any way the validity of any statute enacted, or any regulation or other action made, prescribed, issued, granted or performed in respect to or by any local government or state agency before the effective date of the transfer, except to the extent that the Transfer Plan or inter-governmental agreement specifically so provides.

3. No Transfer Plan or inter-governmental agreement for the transfer of a function shall continue a function beyond the period authorized by law for its existence or beyond the time when it would have terminated if the transfer of function had not been made.

4. No Transfer Plan or inter-governmental agreement for the transfer of a function shall authorize a local government or state agency to exercise a function that is not expressly authorized by law at the time the plan is created.

5. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by the Transfer Plan shall not abate by reason of the taking effect of the transfer of function. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of the state agency or local government named in the Transfer Plan.

Sec. 13. 1. *Upon completion of a tentative or draft Transfer Plan between a local government and a state agency, the lead local government or state agency shall provide written notice to each affected state agency or local government of the intent to transfer a function from a state agency to a local government or from a local government to a state agency not less than 30 days before September 1 of an even-numbered year, unless a different period of notification is required by a statute or by contractual agreement.*

2. If the tentative or draft Transfer Plan is between local governments and does not include a state agency, the lead local government, or if no lead local government has been appointed, the initiating local government, shall provide written notice to each affected local government of the intent to transfer a function from one local government to another local government at least 180 days prior to the transfer, unless a different period of notification is required by a statute or by contractual agreement.

3. The notice required by subsection 1 or 2 shall be entitled “Notice of Intent to Transfer a Function.”

4. The requirements of this section may be waived by the affected local governments or state agencies by mutual agreement.

Sec. 14. 1. *The affected local governments and state agencies may jointly hold one or more workshops on the proposed:*

(a) Transfer Plan; or

(b) Inter-governmental agreement

↳ consistent with the requirements of NRS Chapter 233B.061 and these regulations.

2. If a workshop is held, it must be in a location where the service is provided and notice of same must be consistent with NRS 233B.061. The workshop may be scheduled at any convenient time but not later than 90 days prior to the effective date of the transfer.

3. Whether or not a workshop is held, each affected local government and state agency must jointly or severally hold a public hearing to adopt or approve the Transfer Plan or inter-governmental agreement pursuant to the requirements of Nevada Revised Statutes Chapter 241, except the hearing to consider adoption or approval of the Transfer Plan or inter-governmental agreement may not be held earlier than 30 days from the date the Notice of Intent to Transfer Function is issued or the date of the last workshop, whichever is later. In the event the Notice of Intent to Transfer Function is waived and no workshop is held, the hearing must be scheduled with at least 30 days notice to the public.

Sec. 15. 1. If the governing body of the affected local government or administrator of the state agency approves the Transfer Plan or inter-governmental agreement, the ordinance or order, as applicable, or inter-governmental agreement, must include:

(a) The effective date set for the completion of the transfer of the function pursuant to the requirements of the Statutes of Nevada, Chapter 117, page 430, Section 1(2)(b)(2) if applicable; and

(b) Items listed in Section 12(1) of these regulations, if any

2. Approval of the Transfer Plan or inter-governmental agreement expires if the transfer of function is not completed within one year after the date of approval or other date

specified in the Transfer Plan or inter-governmental agreement, unless the period is extended by each affected local government or agency for good cause.

3. If the governing body of the affected local government or the administrator of the state agency disapproves a Transfer Plan, the affected local governments, state agencies, and interested parties must be notified of the decision and the reasons therefore.