

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

LCB File No. R082-13

August 21, 2013

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

AUTHORITY: §§ 1-5, NRS 354.107, 354.594; 354.6015, 354.613, and AB 503(1)(6)(a-b).

A REGULATION relating to governmental financial administration; providing the process by which eligible local governments may apply for approval of loans or transfers from enterprise funds to the general fund of the local government; requiring quarterly reports on the financial status of the local government; and providing other matters properly relating thereto.

Section 1. Chapter 354 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 4, inclusive, of this regulation.

Sec. 2. *1. An eligible local government may request the Committee on Local Government Finance to consider approving a loan or transfer of money from;*

(a) An enterprise fund;

(b) Money collected from fees imposed for the purposes for which an enterprise fund was created; or

(c) Any income or interest earned on money in an enterprise fund.

2. The information in support of the request made by the local government must, at a minimum, include:

(a) A copy of the resolution of the local government authorizing the loan or transfer. The resolution must include:

(1) A description of the purpose for which the loan or transfer will be used;

(2) A description of the services previously provided which will be restored or the loss of which will be avoided by the use of the loan or transfer; and the effect of the transfer on service levels in future years.

(b) A written declaration by the governing body stating:

(1) The loan or transfer from the enterprise fund will not harm the financial viability of the enterprise fund from which the transfer is made; and

(2) The governing body will take whatever action is necessary to preserve the viability of the enterprise fund from which the transfer is made.

(c) A description of the accounts and records relating to the stated purpose and actual use of the monies obtained from the requested loan or transfer and how the accounts and records will be maintained for auditing purposes;

(d) A description of whether the loan or transfer is incremental to transfers previously made pursuant to NRS 354.613; and whether other transfers or expenditures are contingent upon approval of the loan or transfer by the Committee on Local Government Finance.

(e) A copy of the annual audit prepared for the local government pursuant to NRS 354.624 for the fiscal year immediately prior to the year in which the request is made;

(f) An analysis showing whether the ending fund balance of the general fund at the end of the prior fiscal year is less than 9 percent of the total expenditures, excluding all transfers, of the local government from the general fund during that fiscal year;

(g) Documentation showing the local government has loaned or transferred money from an enterprise fund or monies collected from fees or any income or interest

intended for or earned by the enterprise fund, during each of the five fiscal years preceding June 10, 2013, including, at a minimum:

(1) Documentation showing the amount of each loan and transfer from an enterprise fund during each of the five years, and the cumulative total for the five-year period; and

(2) A statement that the provisions of subsection 1 of NRS 354.613 do not apply to transfers from the enterprise fund to the general fund of the local government until July 1, 2021.

(h) For each fiscal year through June 30, 2022, projections of revenues, expenditures, other sources, uses, and liabilities of all governmental funds of the local government that are authorized to receive taxes under the laws of the State of Nevada, including the effect of loans and transfers;

(i) A copy of the plan required by NRS 354.613(10), revised to show:

(1) How all transfers, including the transfer that is the subject of the current request, will be eliminated by July 1, 2021; and

(2) How expenditures of the general fund that are intended to be supported by the transfer will be maintained upon elimination of the transfer in 2021.

(g) A showing that the amounts transferred from the enterprise fund to the general fund after July 1, 2011 did not increase above the amount transferred in fiscal year 2011, except for loans and transfers that comply with NRS 354.613(1) or AB 503;

(h) A showing that the enterprise fund fees were not increased on or after July 1, 2011 except to meet the requirements of bond or debt instruments;

(i) A statement showing how the local government will inform the public about the effects of the loan or transfer on the enterprise fund, including, but not limited to, changes in rates, fund balance, and future capital expenditures.

(j) A copy of the resolution establishing the enterprise fund from which the loan or transfer will be obtained and any amendments thereto;

(k) A copy of the enterprise fund fee schedule;

(l) A copy of the indebtedness report provided to the Department of Taxation pursuant to NRS 354.6025, updated to the current quarter and separately identifying the indebtedness of the enterprise fund from which the loan or transfer is made;

(m) A list of bonds issued for an enterprise fund, if any, including whether the bonds are general obligation or revenue bonds, the issue date, amount, balloon payments if any, terms, and schedule of payment.

Sec. 3. 1. The Committee on Local Government Finance must, prior to approval of the request to transfer or loan money from an enterprise fund, consider whether:

(a) The local government is eligible to make the request pursuant to the requirements of AB 503(1)(1) and (7);

(b) The proposed use of the money so transferred or loaned meets the requirements of AB 503(1)(2);

(c) The local government is otherwise in compliance with the requirements NRS 354.613 and 354.626;

(d) The local government has reduced service levels, caused layoffs, closed public facilities, or any general, major, or special revenue fund has materially experienced such conditions as, but not limited to, inability to repay debt; insufficient cash to meet

required payroll payments, workers' compensation or payroll taxes in a timely manner; or a substantial decline in major sources of tax revenue such as property tax or allocations from the Local Government Tax Distribution Account;

(e) The viability of the enterprise fund from which the loan or transfer is made would be negatively impacted; and

(f) The local government has the ability to repay a loan, eliminate a transfer, and continue to maintain functions and activities upon elimination of said transfer by July 1, 2021.

2. The Committee may request the local government and the Department of Taxation to supply additional information or analyses for its consideration.

3. The Committee may withhold approval if it makes a finding that:

(a) The viability of the enterprise fund or the local government as a whole would be materially harmed by the transfer or loan;

(b) The local government has violated NRS 354.626 or has not materially complied with the requirements of AB 503 or NRS 354.613;

(c) The local government has shown an inability to control and handle its finances; or

(d) The request contains incomplete, inaccurate, or unlikely assumptions or is based on unreliable or unverifiable information.

4. The Committee shall schedule a hearing on the local government's request at the next meeting of the Committee after receipt of the request, but no later than 45 days after receipt of the request.

5. Any approval by the Committee of a request for a loan or transfer is contingent upon the local government augmenting its budget pursuant to the requirements of NAC 354.420 through NAC 354.490; and a description of:

(a) The source and amount of new revenue to be augmented; or the underperforming revenue source that the approved loan or transfer is intended to replace; and

(b) How the monies will be used.

Sec. 3. 1. The governing body of a local government which has been granted approval to transfer or loan money from an enterprise fund by the Committee must thereafter file a quarterly report to the Committee until June 30, 2017.

Sec. 4. 1. The report filed pursuant to section 3 of this regulation must include, at a minimum:

(a) The type of transaction, whether loan or transfer;

(b) The execution date of the transfer or loan;

(c) The amount of the transfer or loan;

(d) A description of the fund into which the proceeds of the loan or transfer are placed;

(e) The purpose of the transfer or loan, and a description of the service or claim to be paid from the proceeds of the transfer or loan;

(f) A summary description of any fee increases imposed by the local government for the benefit of the enterprise fund during the prior fiscal year or the prior reporting period, whichever is applicable, including the amount of the increase and a copy of the resolution imposing the increase;

(g) A summary description of any change to salaries or benefits paid to employees of the local government during the prior fiscal year or the prior reporting period, whichever is applicable, in accordance with existing collective bargaining agreements or action taken by the governing body with respect to non-represented employees;

(h) If the transaction is a loan, a copy of the loan agreement;

(i) A description of how the services restored by the loan or transfer will be maintained in future years, including identification of the revenue stream that will be used to support those services;

(j) A description of any amendments to the resolution establishing the enterprise fund;

(k) A copy of the indebtedness report provided to the Department of Taxation pursuant to NRS 354.6025, updated to the current quarter and separately identifying the indebtedness of the enterprise fund from which the loan or transfer is made;

(l) For the first quarter after the audit report required by NRS 354.624 has been submitted to the local government, a comparison of each general fund revenue and expenditure between final budgeted and actual amounts; and an explanation for variances greater than 5%;

(m) Contact information for the report preparer, including mailing address, phone number, facsimile transmission number, and e-mail address;

(n) A certification by the report preparer that the information submitted is true, accurate and complete to the best of the preparer's knowledge and belief;

(o) Signature of the preparer, the preparer's title, and the date the report was prepared.

- 2. Each quarterly report must be submitted to the Department on behalf of the Committee within 45 days of the end of each calendar quarter.*
- 3. The Committee may consider revoking approval of future transfers or loans if the local government fails or refuses to submit a complete quarterly report or is habitually late in submitting the reports.*