

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

LCB File No. R201-01

January 25, 2002

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

AUTHORITY: §§1-5, 28, 29 and 32-36, NRS 354.107; §§6-9, 13, 17-21, 23-27 and 30, NRS 354.107 and 354.594; §§10-12, NRS 354.107, 354.594 and 354.6015; §§14-16, NRS 354.107, 354.475 and 354.594; §22, NRS 354.107 and 354.150; §31, NRS 354.107 and 354.625.

Section 1. Chapter 354 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. *As used in this chapter, unless the context otherwise requires, the words and terms defined in:*

1. Sections 3, 4 and 5 of this regulation have the meanings ascribed to them in those sections; and

2. The Local Government Budget and Finance Act, NRS 354.470 to 354.626, inclusive, have the meanings ascribed to them in that act.

Sec. 3. *“Committee” means the committee on local government finance created pursuant to NRS 354.105.*

Sec. 4. *“Department” means the department of taxation.*

Sec. 5. *“Local government” means any local government subject to the provisions of the Local Government Budget and Finance Act, NRS 354.470 to 354.626, inclusive.*

Sec. 6. *As used in NRS 354.685, the committee interprets:*

1. *The term “decline” to mean a decline of 20 percent or more in the balance of the general fund of the local government.*

2. *“Past 2 years” to mean the past 2 fiscal years.*

Sec. 7. *As used in NRS 354.59803, the committee interprets:*

1. *“Expends more than \$6,000” to include only those expenditures that are incurred by the local government during the legislative session.*

2. *“Salary or wages paid to its officers and employees” to include only that portion of the salary or wages paid to those officers and employees for time actually spent on activities designed to influence the passage or defeat of any legislation.*

Sec. 8. *In addition to the requirements set forth in subsection 6 of NRS 354.598, a local government shall submit an amended final budget to:*

1. *The county auditor within 15 days after making any change in its final budget which decreases the combined ad valorem tax rate; and*

2. *The county clerk within 15 days after making any change in its final budget which increases or decreases the combined ad valorem tax rate.*

Sec. 9. *If the governing body of a local government submits a fiscal report of the local government to the department pursuant to NRS 354.6015 and sections 10 and 11 of this regulation, the local government shall be deemed to have fulfilled the requirement of:*

1. *Submitting a tentative budget to the department pursuant to NRS 354.596; and*

2. *Transmitting a final budget to the Nevada tax commission pursuant to NRS 354.598.*

Sec. 10. 1. *Except as otherwise provided in subsections 7 and 8, the governing body of each local government required to submit electronically a fiscal report of the local government*

to the department pursuant to NRS 354.6015 shall complete and submit each portion of the fiscal report:

- (a) On a form prescribed by the department;*
- (b) In accordance with the instructions provided by the department; and*
- (c) On or before the applicable date and time as set forth in section 11 of this regulation.*

2. A local government that does not have the current ability to submit a fiscal report of the local government to the department in an electronic format may petition the committee for an exemption from the requirement of submitting the fiscal report in that format. The petition must:

(a) Be in the form of an ordinance or resolution adopted by the governing body of the local government;

(b) Be filed with the department on or before January 1 of the fiscal year for which the exemption is requested; and

(c) Include:

(1) A statement of the reason that the local government is unable to submit the fiscal report to the department in an electronic format;

(2) An estimate of the cost that the local government would incur to comply with the requirement of electronically submitting the fiscal report to the department;

(3) The annual revenue of the local government; and

(4) Any other evidence of the financial inability of the local government to comply with the requirement of electronically submitting the fiscal report to the department.

3. The department shall forward each petition filed with the department pursuant to subsection 2 to the committee within 30 days after receiving the petition. The committee will

consider each petition at the next regularly scheduled meeting of the committee after receipt of the petition.

4. In determining whether to grant a petition, the committee will consider:

(a) Whether the annual revenue of the local government is not more than \$50,000;

(b) Any other evidence set forth in the petition of the financial inability of the local government to comply with the requirement of electronically submitting the fiscal report to the department; and

(c) Whether the local government has the technological capability to comply with the requirement of electronically submitting the fiscal report to the department.

5. The committee will provide notice of its decision concerning the petition within 30 days after the meeting at which the petition was considered to:

(a) The local government; and

(b) If the committee grants the petition, the department.

6. The notice provided to the local government pursuant to subsection 5 must include the reasons for the decision of the committee.

7. If the committee grants a petition filed with the department pursuant to subsection 2, the governing body of the local government that filed the petition shall submit the fiscal report of the local government to the department in a format determined by the department.

8. If the governing body of the local government is unable to submit electronically the fiscal report of the local government to the department because of a technological problem with the website of the department, the local government shall:

(a) Notify the department of the problem; and

(b) Submit the fiscal report to the department in a format determined by the department.

Sec. 11. 1. *The fiscal report that the governing body of a local government is required to submit electronically to the department pursuant to NRS 354.6015:*

(a) Includes the information listed in paragraph (b) of subsection 2 of NRS 354.6015;

(b) Must be submitted to the department in the form of the documentation set forth in subsection 2; and

(c) Must be submitted to the department on or before the dates and times set forth in subsection 2.

2. *The fiscal report described in subsection 1 consists of the following documentation:*

(a) Except for a local government that has been exempted from the requirement of filing its tentative budget pursuant to the provisions of NRS 354.475 and NAC 354.010 to 354.040, inclusive, the tentative budget that is required to be submitted to the department pursuant to NRS 354.596. The tentative budget must be submitted to the department on or before 5 p.m. on April 15 of each year.

(b) A copy of the final budget that is required to be submitted to the Nevada tax commission pursuant to NRS 354.598. Except as otherwise provided in this paragraph, the copy of the final budget must be submitted to the department on or before 5 p.m. on June 1 of each year. The copy of the final budget of:

(1) A school district must be submitted to the department on or before 5 p.m. on June 8 of each year; and

(2) A local government that has been exempted from the requirement of filing its tentative budget pursuant to the provisions of NRS 354.475 and NAC 354.010 to 354.040, inclusive, must be submitted to the department on or before 5 p.m. on April 15 of each year.

(c) If the local government is augmenting a budget pursuant to NRS 354.598005, the information concerning the budget augmentation that the governing body of the local government is authorized to file with the department pursuant to that section. That information must be submitted to the department within 30 days after the adjournment of the legislative session if the governing body files the information as authorized pursuant to subsection 6 or 7 of NRS 354.598005.

(d) The responses of the local government to the quarterly survey prescribed by the committee concerning the economic conditions affecting the local government. The responses must be submitted to the department not later than 45 days after the end of each quarter of a fiscal year.

(e) Except for a local government that has been exempted from the requirement of filing its audit reports pursuant to the provisions of NRS 354.475 and NAC 354.010 to 354.040, inclusive, the actual revenue and the actual expenditures for the fiscal year immediately preceding the fiscal year in which the information is submitted. The information relating to the actual revenue and actual expenditures must be submitted to the department on or before January 1 of each year.

(f) If the local government has been exempted from the requirement of filing its audit reports pursuant to the provisions of NRS 354.475 and NAC 354.010 to 354.040, inclusive, the statement of revenues, expenditures and changes in fund balance that is required to be submitted to the department pursuant to NAC 354.040. The statement must be submitted to the department on or before January 1 of each year.

3. For the purpose of submitting the information required to be included in the fiscal report pursuant to paragraph (a), (b) or (e) of subsection 2, the governing body of a local government shall report information relating to:

(a) A special revenue fund, capital project fund or debt service fund of the local government separately from information relating to any other special revenue fund, capital project fund or debt service fund of the local government if any of the revenue in the special revenue fund, capital project fund or debt service fund was received from property taxes or the local government tax distribution account;

(b) The expenditures or expenses of the local government by the governmental function to which the expenditure or expense was charged for the general fund of the local government and for each special revenue fund, capital project fund, debt service fund and propriety fund of the local government;

(c) The total expenditures or expenses of the local government charged against each fund listed in the fiscal report in at least the following categories:

(1) Salaries and wages;

(2) Benefits;

(3) Services and supplies; and

(4) Capital outlay; and

(d) Revenue in categories, including, without limitation, property taxes, other taxes, business licenses, other licenses and permits, local government tax distribution account, intergovernmental resources, charges for services, and fines and forfeitures.

4. Upon receipt of a final budget, the department shall forward a copy of the final budget to the Nevada tax commission.

Sec. 12. 1. *The summary of the fiscal report that the governing body of a local government is required to publish pursuant to NRS 354.6015 must be published before July 1 of each year in the manner required pursuant to that section.*

2. *The summary of the fiscal report must include:*

(a) *The following information relating to the general fund of the local government:*

(1) *The total actual revenue and the total actual expenditures for the fiscal year immediately preceding the date on which the report is published;*

(2) *The total anticipated revenue and the total expenditures for the current fiscal year;*
and

(3) *The total revenue and the total expenditures budgeted for the ensuing fiscal year;*
and

(b) *The following information relating to any proprietary fund of the local government:*

(1) *The operating revenue and the operating expenses for the fiscal year immediately preceding the date on which the report is published;*

(2) *The anticipated revenue, other than operating revenue, and the expenses, other than operating expenses, for the current fiscal year;*

(3) *The operating revenue and the operating expenses budgeted for the ensuing fiscal year; and*

(4) *Any revenue, other than operating revenue, and any expenses, other than operating expenses, budgeted for the ensuing fiscal year.*

3. *The governing body of the local government may include information relating to any other fund of the local government in the summary of the fiscal report.*

Sec. 13. *A local government that is required to file a report with the department pursuant to NRS 354.59803 shall file the report on a form prescribed by the department for that purpose.*

Sec. 14. NAC 354.010 is hereby amended to read as follows:

354.010 1. Any special district with annual total expenditures of less than ~~[\$100,000]~~ *\$200,000* during a current fiscal year and ~~[proposed]~~ annual total expenditures of less than ~~[\$100,000 in]~~ *\$200,000 budgeted for* the succeeding fiscal year may petition the department ~~[of taxation]~~ for exemption from all or any one of the following:

(a) Filing of a tentative budget.

(b) Filing of independent audit reports.

(c) Publishing requirements of the Local Government Budget *and Finance* Act, *NRS 354.470 to 354.626, inclusive*, other than the annual publication of a notice of budget adoption and filing.

(d) Maintaining accounting records on an accrual or modified accrual basis.

2. The petition must be in the form of an ordinance or resolution adopted by the governing body of the district.

3. No district will be granted an exemption if it is:

(a) In noncompliance with any law or regulation at the time the petition is made ~~[]~~ ; *or*

(b) In default in payments due for the redemption of any bond ~~[]~~ *or for any other outstanding indebtedness.*

Sec. 15. NAC 354.020 is hereby amended to read as follows:

354.020 1. The department ~~[of taxation]~~ has final authority to grant all or part of the petition of each ~~[entity.]~~ *special district*. The executive director may act on behalf of the

department in granting or denying the petition of any *special* district filed pursuant to NAC 354.010 to 354.040, inclusive.

2. The department's determination must be made and ~~[entities notified no]~~ *the special district must be notified of that determination not* later than ~~[February 1 of each year.]~~ *30 days after the special district files the petition with the department.*

Sec. 16. NAC 354.050 is hereby amended to read as follows:

354.050 1. A special district that has been exempted from the requirement of filing its *tentative* budget ~~[documents]~~ and audit reports pursuant to the provisions of NRS 354.475 *and NAC 354.010 to 354.040, inclusive,* shall hold a public hearing concerning its *final* budget ~~[]~~ *before submitting the final budget to the department.*

2. The officer charged by law with the preparation of the district's budget or the governing body of the district shall cause a notice of the public hearing to be published in a newspaper of general circulation within the area of the district. The publication must occur not more than 14 nor less than 7 days before the date set for the hearing. An alternative method of publication may be used with the prior approval of the department . ~~[of taxation.]~~ The notice must contain the following information:

- (a) The time and place of the public hearing;
- (b) The location at which and the times during which the budget document is available for public inspection; and
- (c) That the budget document has been prepared with the detail and in the form prescribed by the department . ~~[of taxation.]~~

Sec. 17. NAC 354.100 is hereby amended to read as follows:

354.100 ~~[A]]~~ A local government ~~[entities subject to the provisions of the Local Government Budget Act, NRS 354.470 to 354.626, inclusive, shall utilize]~~ *shall use the* budget forms provided by the department and complete ~~[them]~~ *the forms* as prescribed in :

1. NAC 354.100 to 354.160, inclusive ~~[, and in instructions submitted]~~ ; *and*
2. *The instructions provided* by the department.

Sec. 18. NAC 354.140 is hereby amended to read as follows:

354.140 ~~[A]~~ 1. *Except as otherwise provided in subsection 2, a* tentative budget submitted to the department ~~[of taxation]~~ must be accompanied by a letter of certification signed by the governing body or the officer charged by law with preparing the budget.

2. *If the tentative budget is submitted electronically as part of a fiscal report pursuant to section 11 of this regulation, the letter of certification must be submitted separately on paper to the department.*

Sec. 19. NAC 354.150 is hereby amended to read as follows:

354.150 1. If its tentative budget as filed is adopted as a final budget, ~~[an entity need file only;~~
~~—1.]~~ *a local government shall submit to the department:*

(a) A cover letter stating that fact; and

~~[2.]~~ (b) A new letter of certification signed by the governing body.

2. *If the tentative budget is submitted electronically as part of a fiscal report pursuant to section 11 of this regulation, the documents set forth in subsection 1 must be submitted separately on paper to the department.*

Sec. 20. NAC 354.155 is hereby amended to read as follows:

354.155 The ~~final budget submitted to the department of taxation by a local government must include~~ *officer charged by law with preparing the budget for his respective county shall submit to the department* a copy of the notice of information prepared and caused to be published by the ex officio tax receiver ~~]~~ *pursuant to NRS 361.4545.*

Sec. 21. NAC 354.160 is hereby amended to read as follows:

354.160 If as a result of negotiations or a factfinder's report, a substantial change to ~~an entity's~~ *the* budget *of a local government* becomes necessary, the ~~entity shall file,~~ *local government shall submit to the department,* within 30 days after receiving the report, those fund schedules affected consistent with the budgetary requirements of the report.

Sec. 22. NAC 354.350 is hereby amended to read as follows:

354.350 1. Entities that have unclaimed money held for a period of 1 year in accordance with NRS 120A.200 may transfer the money from the debt service fund to any other fund including, if not prohibited by statute, the general fund. The transfer must be in accordance with subparagraph (1) of paragraph ~~(b)~~ *(c)* of subsection ~~H~~ *5* of NRS ~~354.606~~ *354.598005.*

Counties shall comply with chapter 150 of NRS for the transfer of dormant funds.

2. This action does not negate consideration of a claim filed pursuant to chapter 11 of NRS.

Sec. 23. NAC 354.360 is hereby amended to read as follows:

354.360 1. All the procedures authorized by NRS ~~354.606~~ *354.598005* for the transfer of budget appropriations between accounts must be completed before June 30 of the affected fiscal year.

2. Any transfer of money from a fund established pursuant to NRS 354.6115 must be completed within 60 days after June 30 of the affected fiscal year.

Sec. 24. NAC 354.400 is hereby amended to read as follows:

354.400 The purpose of NAC 354.400 to ~~[354.450,]~~ **354.490**, inclusive, is to define available resources and to specify filing requirements for budget augmentation for governmental funds.

Sec. 25. NAC 354.410 is hereby amended to read as follows:

354.410 1. An unappropriated ending balance of any governmental fund, except a fund for capital projects, is not an available resource. Available resources are:

- (a) An opening balance which is larger than anticipated;
- (b) Revenues in excess of those budgeted;
- (c) Revenues generated from previously unbudgeted sources; or
- (d) An unappropriated ending balance of a fund for capital projects.

2. The difference between the total of the original budgeted resources and the total of the revised resources is the amount available for budget augmentation . ~~[, within the limits of NRS 354.621.]~~

Sec. 26. NAC 354.430 is hereby amended to read as follows:

354.430 The published notice required by NRS ~~[354.615]~~ **354.598005** must include the time and place of the hearing, the appropriations to be augmented and the nature of the unanticipated resources.

Sec. 27. NAC 354.490 is hereby amended to read as follows:

354.490 A local government ~~[need]~~ **is not required to** file an augmented budget for an enterprise or internal service fund with the department ~~[of taxation]~~ but shall ~~[include]~~ **report** the budget augmentation in the next **response submitted to the department to the** quarterly ~~[report.]~~ **survey prescribed by the committee concerning the economic conditions affecting the local government.**

Sec. 28. NAC 354.650 is hereby amended to read as follows:

354.650 ~~[A local government shall transmit to the Nevada tax commission with its final budget an explanation for any amount it has budgeted as an ending fund balance.]~~

1. If the ending fund balance in the general fund of a local government has been budgeted for less than 4 percent of the actual expenditures from the general fund of the local government for the previous fiscal year, the local government shall provide a written explanation to the department that includes the reason for the low ending fund balance and the manner in which the local government plans to increase the fund balance.

2. If the ending fund balance in a debt service fund ~~[has an ending fund balance that]~~ of a local government exceeds the principal and interest of the fund for the year, the local government shall provide a written explanation ~~[must state]~~ to the department that includes the reason and any authority for the excess.

Sec. 29. NAC 354.660 is hereby amended to read as follows:

354.660 A budgeted ending fund balance of not more than 8.3 percent of the total budgeted expenditures, less capital outlay, for a general or special revenue fund which receives revenue from *property* taxes ~~[ad valorem]~~ or the ~~[supplemental city-county relief tax,]~~ *local government tax distribution account* is not subject to negotiations with other local governments or employee organizations.

Sec. 30. NAC 354.735 is hereby amended to read as follows:

354.735 1. ~~[A]~~ *Except as otherwise provided in subsection 2, a* local government which desires an extension of time to file an audit report required by NRS 354.624 must, on or before November 30, submit to the department ~~[of taxation]~~ the following information in support of its application:

- (a) ~~{Name}~~ *The name* of the local government;
- (b) ~~{Name}~~ *The name* of the auditor and firm, if any;
- (c) ~~{Date}~~ *The date* the report will be filed with the governing ~~{board;~~

~~—(d) ~~{Date}~~ *body;*~~

(d) *The date* the report will be filed with the department ~~{of taxation;~~

~~—(e) ~~{Reason}~~ ;~~

(e) *The reason* the application is being made, including an explanation of why the statutory date for submission could not be met if due care and adequate planning were exercised by the local government and the auditor;

(f) ~~{Name}~~ *The name* of the person making the application; and

(g) ~~{Date}~~ *The date* of the application.

2. *If the local government making the application for an extension of time is a school district, the school district must submit the information set forth in subsection 1 to the department on or before October 31.*

3. The person making the application *for an extension of time* must sign it.

Sec. 31. NAC 354.750 is hereby amended to read as follows:

354.750 1. The governing body of every local government shall take an inventory at least once every 2 years of all its equipment and other personal property which constitute ~~{fixed}~~ *capital* assets. The governing body may adopt by resolution guidelines for the conduct of such an inventory. For the purposes of such an inventory, unless the governing body of the local government establishes a different guideline concerning the threshold for required capitalization by resolution:

(a) An asset of the local government that has a value of \$3,000 or more must be capitalized;

(b) An asset of the local government that has a value of less than \$3,000 may be capitalized or categorized as an expenditure; and

(c) The useful life of the equipment and personal property of the local government is 1 year or more.

2. Each item of property subject to the inventory must be assigned an identifying number and be labeled as belonging to the local government.

Sec. 32. NAC 354.760 is hereby amended to read as follows:

354.760 After adopting an ordinance creating a general improvement district, the board of county commissioners, as ex officio board of trustees of the district, shall:

1. Transmit a certified copy of the ordinance and the service plan required by chapter 308 of NRS to the department . ~~[of taxation.]~~

2. Comply with the requirements of subsection 2 of NRS 318.080 in a manner consistent with the provisions of *this chapter and* the Local Government Budget *and Finance* Act, NRS 354.470 to 354.626, inclusive . ~~[, and chapter 354 of NAC.]~~

Sec. 33. NAC 354.780 is hereby amended to read as follows:

354.780 1. Upon the merger of any special district to which the Local Government Budget *and Finance* Act, NRS 354.470 to 354.626, inclusive, is applicable, all property and money remaining in the treasury of that district must be surrendered and transferred to the governmental unit which assumes its obligations.

2. Upon the consolidation of any special district to which the Local Government Budget *and Finance* Act is applicable, all property and money remaining in the treasury of that district must be surrendered and transferred to the consolidated governmental unit.

3. Taxes, including delinquent taxes, and special assessments paid after the merger or consolidation of special districts must be paid to the governmental unit assuming the district's obligations in case of merger or to the consolidation governmental unit in the case of consolidation.

Sec. 34. NAC 354.790 is hereby amended to read as follows:

354.790 1. Upon the dissolution of any special district to which the Local Government Budget *and Finance* Act, *NRS 354.470 to 354.626, inclusive*, is applicable, all property and money remaining in the treasury of that district must be surrendered and transferred to the county general fund.

2. Taxes, including delinquent taxes, and special assessments paid after dissolution of a special district must be placed in the general fund of the county in which the property was assessed.

3. If any area comprising the district or portion thereof:

(a) Is annexed to a city or town within 6 months from the effective date of the dissolution ordinance, a pro rata share of the property and money must be transferred to the municipality.

(b) Is not annexed to a city or town within 6 months from the effective date of the dissolution ordinance, the county commissioners shall pay to the owners of property located within the former district pro rata shares of the money remaining in the district treasury, and an amount of money equal to the value of any property which is not used for the benefit of the area formerly comprising the district. The county commissioners may, before paying such money, apply a proportionate amount of the payment to any special assessments which are due.

Sec. 35. NAC 354.120, 354.130, 354.480, 354.500, 354.510 and 354.705 are hereby repealed.

Sec. 36. 1. This section and sections 1 to 8, inclusive, and 13 to 35, inclusive, of this regulation become effective on the date on which the regulation is filed with the secretary of state.

2. Sections 9 to 12, inclusive, of this regulation become effective on July 1, 2002, or the date on which the regulation is filed with the secretary of state, whichever occurs later.

TEXT OF REPEALED SECTIONS

354.120 Index page. All entities whose budget document exceeds 5 pages shall attach an index page to the front of the budget document listing all funds contained in the document.

354.130 Negative conversion factor. Each local government which has a negative conversion factor shall amortize the factor, in a systematic and rational manner, over a period not to exceed 40 years.

354.480 Expenses in excess of original appropriation. Expenses charged to an enterprise or internal service fund in excess of the original budget appropriation therefor are allowable in accordance with NRS 354.610 and 354.612 and are not a violation of NRS 354.626 if:

1. The expenses do not cause a deficit in the equity balance of the fund; and
2. The budget is adjusted in a manner provided by law.

354.500 Vote by proxy.

1. The department of taxation will accept a written proxy of a member of a governing body anticipating his absence on a date of formal action on a resolution authorizing augmentation of the budget of a proprietary fund if the proxy:

- (a) Indicates the subject matter of the resolution to which the vote applies; and
- (b) Is filed with the governing body before the resolution is considered.

2. A copy of the proxy must be sent to the department of taxation with the record of the vote on the resolution.

354.510 Deadline. The augmentation procedure must be finalized before June 30 of the affected fiscal year.

354.705 Local government required to give department auditor's name and address.

354.705 Local government required to give department auditor's name and address. A local government shall, at least 2 months before the close of each fiscal year, give the department of taxation a written notice of the name and address of the auditor selected to audit its financial statements, as required by NRS 354.624.