

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

LCB File No. R028-08

Effective September 18, 2008

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

AUTHORITY: §1, NRS 354.107.

A REGULATION relating to local government financial administration; revising provisions governing the ending fund balance in a debt service fund of a local government; and providing other matters properly relating thereto.

Section 1. NAC 354.650 is hereby amended to read as follows:

354.650 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~~ *that portion of an* ending fund balance in a debt service fund of a local government *which is attributable to revenue from property taxes* exceeds the principal and interest ~~to be~~ *payable from that portion of* the fund for the *ensuing* year, the local government shall provide a written explanation to the Department that includes the reason and any authority for the excess.

3. *Except as otherwise provided in subsections 5 and 6, if the Department finds that there is no authority for the excess, the Department shall require the local government to reduce the debt rate.*

4. A local government may propose to the Department a plan to reduce the debt rate over a period not to exceed 3 years. The Department may consider the plan and require the local government to reduce the debt rate in phases.

5. The Department shall exempt a local government from the requirement to reduce the debt rate pursuant to subsection 3 if the local government demonstrates to the satisfaction of the Department that:

(a) The debt rate is levied pursuant to subsection 4 of NRS 350.020; or

(b) A reduction in the debt rate would decrease the balance in the debt service fund to an amount less than the amount required for the reserve account pursuant to subsection 5 of NRS 350.020 for any fiscal year during which a bond issued pursuant to subsection 4 of NRS 350.020 is outstanding and would reduce the debt rate below the rate approved for that bond.

6. The Department may exempt for a period determined pursuant to subsection 7 a local government from the requirement to reduce the debt rate pursuant to subsection 3 if the local government demonstrates to the satisfaction of the Department:

(a) That at least one of the following conditions exist:

(1) The estimated annual revenues from property taxes are not sufficient to pay the scheduled principal and interest of current outstanding and proposed bonds;

(2) Projects to be financed by bonds are delayed for a reasonable cause; or

(3) A temporary increase in assessed values of taxable property within the boundaries of the local government caused an increase in revenues from property taxes; and

(b) A need exists to issue bonds during the subsequent 3 years which:

(1) Would be used to finance projects included in the 5-year capital improvement plan and debt management policy of the local government; and

(2) Would result in that portion of the ending fund balance in a debt service fund that is attributable to revenues from property taxes being at a level that would not require the local government to provide a written explanation to the Department pursuant to subsection 2.

7. The Department may exempt a local government pursuant to subsection 6:

(a) Only for the period during which the local government has voter authorization for the debt; and

(b) For a period specified by the Department which does not exceed 3 years.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB FILE R028-08**

Treatment of unappropriated ending fund balance of a local government

The Committee on Local Government Finance adopted regulations assigned LCB File No. R028-08 which pertain to chapter 354 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 354 adopted by the Committee on Local Government Finance (CLGF), relating to local government financial administration; establishing certain requirements for the treatment of an unappropriated ending fund balance in a debt service fund of a local government.

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation, as staff to CLGF, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
5/16/07	Subcommittee	5/25/07	366	177
7/3/07	Subcommittee	7/19/07	187	18
8/20/07	Subcommittee	8/27/07	366	177
9/25/07	Workshop	10/11/07	366	177
3/27/08	Hearing	4/2/08	366	177
4/18/08	Subcommittee	4/28/08	187	18
5/5/08	Hearing	6/4/08	366	177

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions subject to these regulations.

Many oral and two written comments were received at the workshops and hearing. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at **lhopper@tax.state.nv.us**.

The Legislative Counsel Bureau completed its review and revisions on March 31, 2008 and revised June 3, 2008.

2. The number of persons who:

(a) Attended and testified at each workshop:

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
10/11/07	17	3

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Commission/ Public Attended</u>	<u>Public Testified</u>
4/2/08	9/30	2
6/4/08	20/31	4

(c) Submitted to the agency written comments:

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
4/2/08	1
4/2/08	0

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested businesses, local governments, and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct mail to assessors and the interested parties list maintained by the Department. Approximately 48% of the approximately 366 direct mail or email notices were sent to individuals or associations representing business.

Members of the CLGF, officials of the Nevada Department of Taxation, local government officials, and members of the general public commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearings.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2100 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at **lhopper@tax.state.nv.us**

4. **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The permanent regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Department of Taxation primarily from government entities and CLGF members during the workshops and hearings listed above. CLGF adopted the permanent regulation as revised in a workshop and at the adoption hearing; and believed no changes other than those made were necessary.

5. **The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:**
- (a) **Both adverse and beneficial effects; and**
 - (b) **Both immediate and long-term effects.**

CLGF found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada. The permanent regulation provides clarification of the requirements for the treatment of an unappropriated ending fund balance in a debt service fund of a local government.

The regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses. The regulation provides the criteria for determining when a local government must reduce the debt rate. The immediate and long-term effects of the regulation are to provide a process for the reduction of the debt rate.

6. **The estimated cost to the agency for enforcement of the adopted regulation.**

The Department anticipates little additional cost for local governments to administer the regulation.

7. **A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

There are no other state or government agency regulations that the proposed amendments duplicate.

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

CLGF is not aware of any provision in this regulation which is also governed by federal regulation.

9. **If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.**

CLGF is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.