

Chapter 354 of NAC

LCB File No. E002-05

**ADOPTED EMERGENCY REGULATION OF THE  
NEVADA TAX COMMISSION**

(Effective for 120 days after May 11, 2005)

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

**AUTHORITY:** Chapter 20, Nevada Statutes for 2005, Section 9

**GENERAL PROVISIONS**

**Section 1.** *A local government proposing to increase its total ad valorem tax rate for a fiscal year above its total ad valorem tax rate for the immediately preceding fiscal year must apply to the Nevada Tax Commission (Commission) for the tax rate increase. The application shall be submitted on a form approved by the Commission. Applications are not required for an increase in tax rate determined to be necessary to satisfy the payment of debt obligations, pursuant to section 6 of chapter 20, Statutes of Nevada 2005; voter-approved overrides, pursuant to sections 7 or 11 of chapter 20, Statutes of Nevada 2005; or as otherwise provided by law.*

**Sec. 2.** *Filing. An application for a tax rate increase shall be deemed to have been filed with the Commission upon physical receipt of the application in the Department of Taxation (Department) Carson City offices no later than 5:00 p.m. on May 23, 2005. An electronic or facsimile transmission will be accepted. A postmark date is insufficient.*

**Sec. 3.** *Application Procedures.*

**1.** *The application must contain the following information:*

- (a) Name of the local government applying for the tax rate increase;*
- (b) Contact information of the person who completes the application. The person completing the form should be the same as the person who attests to the budget submitted to the Department.*
- (c) Tax rate information, including the current year tax rate and the proposed tax rate, the amount of increase, and the percentage change of the proposed tax rate over the current year tax rate;*
- (d) Amount of revenue expected from the proposed tax rate increase;*
- (e) Operating rate history of the general fund and any other applicable funds receiving property taxes from the increase, for the current year and the previous four fiscal years;*
- (f) Ending fund balance history of the general fund and any other applicable funds receiving property taxes from the increase, projected for the current year and the actual*

*ending fund balance for the previous four fiscal years, including both reserved and unreserved balances;*

*(g) Total revenues and expenditures of the general fund and any other applicable funds receiving property taxes from the increase, projected for the current year and the actual total revenues and expenditures for the previous two fiscal years;*

*(h) Sources and uses of any interfund transfer to or from the general fund and any other applicable funds receiving property taxes from the increase, projected for the current year and the previous four fiscal years;*

*(i) An explanation why the proposed rate increase is necessary, including the effect on programs if the revenue is not generated by the proposed tax rate increase;*

*(j) Proof that notice was provided to government entities that could be affected by the proposed tax rate increase, such as a certificate of service attached to the notice;*

*(k) Statistics with regard to the population growth of the jurisdiction and such other information as provided on Schedule S-2 of the budget forms required by NRS 354.596; and*

*(l) Any other information the local government deems important including supporting documentation.*

*2. The application must be signed by a person authorized to attest to the budget.*

**Sec. 4. Additional information required.** *As soon as available, but not later than 5 p.m. June 8, 2005, the local jurisdiction must submit a copy of the resolution of the governing body adopting the proposed budget; a copy of the completed final budget schedules; and the draft or approved minutes of the public hearing held to approve the jurisdiction's budget. The additional information shall be deemed to have been filed with the Commission upon physical receipt of the additional information in the Department's Carson City offices. An electronic or facsimile transmission will be accepted. A postmark date is insufficient.*

**Sec. 5. Determination and notification of affected governmental entities by the local government requesting a tax rate increase; approval or objection by affected governmental entity; notification of Commission of objection.**

*1. Before a local government may submit to the Commission an application that will result in an increase in the rate of property taxes, the local government shall provide written notification to all overlapping taxing entities.*

*2. A notification sent pursuant to subsection 1 must include, without limitation, a description of the proposed property tax rate increase; the estimated amount the proposed tax rate increase would increase property tax revenue; and the possible effect on the affected governmental entity.*

*3. If either the governing board or official authorized to attest to the budget objects to an application, it shall provide the Commission and the local government requesting the rate increase with notification in writing of the objection and the reasons for objecting no later than 5 p.m., June 8, 2005. If an objection is not received by the date specified, the government entity will be deemed to have adopted a resolution not opposing the application. The objection shall be deemed to have been filed with the Commission upon physical receipt of the objection in the Department's Carson City offices. An electronic or facsimile transmission will be accepted. A postmark date is insufficient.*

*4. As used in this section:*

*(a) "Affected governmental entity" means a governmental entity:*

*(1) That has territory which overlaps the territory of the local government proposing the tax rate increase; and*

*(2) For which the total revenue collected on a tax bill would exceed the limit set forth in Chapter 20, Nevada Statutes for 2005, if the current combined tax rate levied on the overlapping territory is added to:*

*(I) The tax rate increase proposed by the local government; and*

*(II) The unlevied amount of property taxes that currently may be levied by the governmental entity pursuant to NRS 354.59811.*

**Sec. 6. *Distribution of Materials.*** *The Department shall distribute copies of the completed application and all other related correspondence to the members of the Committee on Local Government Finance (CLGF) and to the members of the Commission prior to the hearings held by the respective bodies to consider the application.*

**Sec. 7. *Appearance at the hearing held by CLGF.***

*CLGF shall hold a hearing to determine whether a recommendation shall be made to the Commission to approve an increase in the tax rate. A representative authorized to attest to the financial reports of the local government requesting the tax rate increase and a representative authorized to attest to the financial reports of the local government opposing the requested tax rate increase, if any, must appear at the hearing held by CLGF. Appearance may be in person or by telephone. Failure to appear by either the local government requesting or opposing the tax rate increase shall be deemed a withdrawal of the request or opposition to increase the tax rate.*

**Sec. 8. *Criteria to be used by CLGF for recommendations to the Commission.*** *The following criteria shall be used by CLGF to determine whether a recommendation shall be made to the Commission to increase the tax rate:*

*(a) Determine the highest and best use of the unlevied amount of property taxes, based upon a comparison of the public needs to be served by the proceeds from the proposed tax rate increase and the public needs to be served by other possible debts or tax levies by other tax entities whose tax-levying powers overlap, based on:*

*I. Whether the revenue generated by the proposed tax rate increase is necessary to fund a federal or other mandate;*

*II. Whether a governmental service would be curtailed if the proposed tax rate increase were not approved;*

*III. Whether the governmental service that would be curtailed is a significant public priority;*

*IV. Whether the funding of the governmental service represents a significant portion of the total expenditures of the local government requesting the tax rate increase;*

*V. Whether the revenue to be obtained from the property tax rate increase could be accommodated by other resources;*

*VI. Whether material amounts of interfund transfers are made from the fund to which the revenues from the property tax rate increase would apply;*

*VII. Whether the financial reports of the requesting local government and each affected entity, including any reports made to the Department in compliance with the Local Government Budget and Finance Act, reflect stable economic conditions and stable,*

*consistent operations measured by, but not limited to, the amount of cash and cash equivalents and ending fund balance available; and*

*VIII. Whether the local government has historically set its tax rates at the level being proposed.*

*(b) Consider whether the total property tax revenue impact to the other affected governmental entities is de minimus;*

*(c) Consider whether the requesting local government or any affected entity is currently at the maximum rate allowed pursuant to NRS 354.59811 and whether the request for a tax rate increase conforms to the requirements of NRS 361.453;*

*(d) Consider whether an objection has been raised by any affected governmental entity, pursuant to Section 5 of these regulations; and*

*(e) Consider whether extraordinary circumstances exist that require the increased tax rate.*

**Sec. 9. Determination to be made by Nevada Tax Commission.**

*1. In determining whether to approve, in whole or in part, or reject the increase in property tax rate requested by a local government, the Commission shall consider the recommendations of CLGF, taking into account the following:*

*(a) The factors identified in Section 8;*

*(b) The information made available by the local government requesting the tax rate increase;*

*(c) The objections, if any, of any affected governmental entity; and*

*(d) Any other information deemed relevant by the Commission.*

*2. The Department shall notify all parties of the Commission's decision not later than 5 p.m., June 14, 2005. The notification will be sent by either facsimile or electronic transmission.*

**Sec. 10. Adoption or Rejection of proposed tax rate increase.**

*1. In the event the request to increase the tax rate is granted by the Commission, the Department shall notify each affected governmental entity of the decision of the Commission. Each affected governmental entity so notified shall revise its revenue to conform to the requirements of Chapter 20, Nevada Statutes 2005, and NRS 361.453, and resubmit the budget report to the Department reflecting any revenue revisions not later than 5 p.m., June 20, 2005. An electronic or facsimile transmission will be accepted. A postmark date is insufficient.*

*2. In the event the request to increase the tax rate is denied by the Commission, the requesting local government shall revise its tax rate and resubmit the budget report to the Department reflecting any revenue revisions not later than 5 p.m., June 20, 2005. An electronic or facsimile transmission will be accepted. A postmark date is insufficient.*

**NEVADA TAX COMMISSION  
STATEMENT OF EMERGENCY**

WHEREAS, the Nevada Tax Commission (Commission) convened a public meeting on May 11, 2005 for the purpose of considering the adoption of the attached Emergency Regulation, which interprets and implements Chapter 20, Nevada Statutes for 2005, Sections 6, 7, 9, and 11 with regard to the process for approving the requests by local governments to increase tax rates; and

WHEREAS, the Commission finds that an emergency exists insofar as:

1. Local governments must be afforded an opportunity and a process to request a tax rate increase pursuant to Section 9 of Chapter 20, Nevada Statutes 2005;

2. NRS 354.596 (4) (a) requires the governing body for counties to hold a budget hearing on the third Monday in May, which is May 16, 2005; NRS 354.596 (4) (b) requires the governing body for cities to hold a budget hearing on the third Tuesday in May, which is May 17, 2005; NRS 354.596 (4) (c) requires the governing body for school districts to hold a budget hearing on the third Wednesday in May, which is May 18, 2005; and NRS 354.596 (4) (d) requires the governing body for all other local governments to hold a budget hearing on the third Thursday in May, which is May 19, 2005;

3. NRS 354.598 (2) requires the final budget for all local entities, except schools, to be adopted on or before June 1 of each year, and for school districts, by June 8 of each year; and upon the adoption of the final budget, the amounts proposed for expenditure are appropriated for the purposes indicated in the budget;

4. NRS 361.4547 (1) requires the Nevada Tax Commission to certify to the board of county commissioners of each county the combined tax rate necessary to produce the amount of revenue required by the approved budgets on June 27, 2005;

5. Time is of the essence in providing a process to consider tax rate increases;

**NOW, THEREFORE, the Commission hereby adopts the foregoing Emergency Regulation.**

Dated this \_\_\_\_\_ day of May, 2005.

**FOR THE COMMISSION:**

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CHARLES E. CHINNOCK  
Executive Director  
Nevada Department of Taxation

## **GOVERNOR'S ENDORSEMENT**

I, Governor Kenny C. Guinn, endorse the Nevada Tax Commission Statement of Emergency.

Dated this \_\_\_\_\_ of May, 2005.

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**KENNY C. GUINN**

Governor of the State of Nevada

**NOTICE OF ADOPTION OF EMERGENCY REGULATIONS**  
**LCB File No. E002-05**

The Nevada Tax Commission (Commission) adopted emergency regulations pertaining to Chapter 354 and Chapter 361 of the Nevada Administrative Code, adding to the regulations which interpret and implement Chapter 20, Nevada Statutes for 2005, Sections 6, 7, 9, and 11 with regard to the process for approving the requests by local governments to increase tax rates. The emergency regulations provide for filing and application procedures to propose an increase to the tax rate by a local government; determination and notification of affected governmental entities by a local government; approval or objection by an affected governmental entity; notification of the Commission of any objections to the rate increase; distribution of materials to the Commission and the Committee on Local Government Finance (CLGF); requirement of appearance before the CLGF at a hearing to determine whether a recommendation will be made by CLGF to the Commission; the criteria to be used by CLGF for recommendations to the NTC; determination to be made by the NTC; the process of adoption or rejection of a proposed tax rate increase; and adoption of a proposed form and instructions fulfilling the requirements of the emergency regulation.

**Notice date:** 5/6/2005

**Hearing date:** 5/11/2005

**Date of Adoption:** 5/11/2005

**INFORMATIONAL STATEMENT**

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 354 and 361 adopted by the Nevada Tax Commission under the authority of Chapter 20, Nevada Statutes 2005, Section 9.

- 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 the Nevada Tax Commission (Commission), 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>
April 25, 2005	CLGF Meeting	May 6, 2005	630	233
May 3, 2005	NTC Workshop	May 6, 2005	630	233

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

Oral and written comments were received at the Committee on Local Government Finance (CLGF) meeting and the joint workshop of the Commission and CLGF. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2180 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@tax.state.nv.us.

**2. The number persons who:**

**(a) Attended and testified at each workshop:**

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
May 6, 2005	19	12

**(b) Attended and testified at each hearing:**

<u>Date of Hearing</u>	<u>Commission/ Public Attended</u>	<u>Public Testified</u>
May 11, 2005	20	13

**(c) Submitted to the agency written comments:**

<u>Date of Hearing</u>	<u>Number Received</u>
May 11, 2005	2

**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 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 local government officials and the interested parties list maintained by the Department. Approximately 37% of the approximately 630 direct mail notices were sent to individuals or associations representing business.

Members of the Committee on Local Government Finance, officials of the Nevada Department of Taxation, the City of Boulder, Eureka County, Churchill County, and the Nevada Taxpayers Association, commented on some or all of the proposed language changes during the workshop process or during the Adoption 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) 684-2180 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at lheyman@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 emergency regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Department of Taxation. The Commission adopted the emergency regulation as revised in 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.**

The Commission has found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada. The emergency regulation requires local governments to apply to the Commission for approval of any proposed tax rate increases and provides criteria by which recommendations will be made by the CLGF to the Commission to determine whether the request will be granted. Certain supporting documentation is required to accompany applications to ensure the public and affected local governments have an opportunity to comment on proposed increases and to otherwise justify or oppose the proposed increases. The proposed regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses or to the general public. The immediate and long-term effects of the regulation are to ensure public participation in the fee increase process.

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

The Department anticipates little, if any, additional cost to administer the regulations.

**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.**

The Commission 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.**

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