

DRAFT
Minutes of the Meeting
COMMITTEE ON LOCAL GOVERNMENT FINANCE
SUBCOMMITTEE ON AMENDING NAC 287.788
August 18, 2015
10:00 a.m.

The meeting was held at the Nevada State Legislative Building located at 401 South Carson Street, Room 2135, Carson City, Nevada, and video-conferenced to the Grant Sawyer State Office Building located at 555 East Washington Avenue, Room 4412, Las Vegas, Nevada.

COMMITTEE MEMBERS PRESENT:

John Sherman, Chairman
George Stevens
Mary Walker

COUNSEL TO COMMITTEE

Dawn Buoncristiani

DEPT OF TAXATION STAFF PRESENT:

Terry Rubald
Kelly Langley
Bill Farrar
Janie Ware

MEMBERS OF THE PUBLIC PRESENT:

Name	Representing
Tom Grady	City of Fallon
David Cherry	City of Henderson
Brian McAnallen	City of Las Vegas
Jill Olsen	City of Reno
Debbie Kinder	City of Sparks
Wayne Webber	City of Sparks
Rana Lacer	Las Vegas Convention and Visitors Authority
Renny Ashleman	Las Vegas Valley Water District
Jamie Rodriguez	Lewis Roca Rothgerber, LLP

1. Roll Call and Opening Remarks

Chairman John Sherman called the meeting to order at 10:02 a.m. Janie Ware, Administrative Assistant, Department of Taxation (Department), took roll call. All Subcommittee members were present, and there was a quorum.

2. Public Comment

There was no public comment.

3. For Possible Action: Consideration of proposals to amend NAC 287.788, clarifying the conditions under which the Committee on Local Government Finance ("CLGF") is required to approve an OPEB trust investment plan; and specifically considering limiting CLGF approval to investment plans of trusts that will invest in equity securities outside of the retirement Benefits Investment Fund

Chairman John Sherman stated this administrative code was written seven or eight years ago. It was written shortly after statutory authorization to allow local governments to set up OPEB trusts. There were three possibilities in investments which were a retirement benefit investment fund (RBIF) managed by the retirement benefit investment board, basically PERS; authorization to invest in fixed income securities with a maturity of 10 years or less; and authorization to invest in equity securities. It was the investment in equity securities which was the reason for the statute change and the need for the administrative code. As he recalls, the committee, at the time, was fine with the first two investment options. However, if a local government wanted to invest in equity securities as a trust by itself, there were conditions. The main conditions were that the portfolio had to be valued at \$100 million or more and that the CLGF would approve the investment plan. Less than a year ago, Clark County established an OPEB trust. Clark County interpreted the NAC to read that

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CLGF approval was needed for the first two investment options. The proposal was to clarify the language making it certain that if a trust wanted to invest in equity securities on its own that the trust must have an asset value of \$100 million or more and then would need CLGF approval for the investment plan.

Chairman Sherman made note that the proposed amendment language has a reference to NRS 351.170. This is a typo, and it should be NRS 355.170.

Member Walker commented that the policy of not requiring a local government to come before the CLGF if they are going into the PERS system is a good change.

Member Stevens stated that he agrees with the change. NAC 287.778 regarding the appointment of the members, Section 1(c) talks about whether the assets qualify to be invested pursuant to NAC 287.790. A board of five members, two of which are experienced with the securities exchange market, is required. Member Stevens asked if the intent was, when a local government has more than \$100 million to invest in equities themselves, then a board of five would be more qualified than what three members provide.

Chairman Sherman answered that this is correct.

Renny Ashleman, Counsel for the Las Vegas Valley Water District's pension fund and for their proposed OPEB, came forward for comment. One concern is that they already manage a pension fund with \$300 million, outside of PERS. Their investment managers, Milliman, are one of the largest actuarial firms. They would like to be able to use them for their OPEB, which will probably have \$300 million per year put into it. They will pay out about half of that, depending on what happens here today. Several members of their Board of Commissioners are sophisticated in investments. He suggested the possibility of waiving the \$100 million upon application so the Committee could look at who is applying, how they make up their board, who are their investment managers, etc.

Terry Rubald, Deputy Executive Director, Department of Taxation, pointed out that should this Committee want to go forward, the next step would be to have a workshop. This meeting has not been noticed as a workshop. We would go through that additional step and concurrently take it to LCB for the final drafting.

Chairman Sherman asked if we could have a workshop preceding the full CLGF meeting. This would be more efficient. He asked what the action item would be.

Terry Rubald responded this could be done prior to the full CLGF meeting, and the action item would be to ask the Department to go forward in drafting the regulation and holding a workshop.

Member Walker moved to approve the drafting of the regulation as proposed to amend NAC 287.788 and to proceed forward with the regulatory process.

Chairman Sherman asked if this motion includes changing the reference to NRS 351.170 to NRS 355.170. Member Walker responded yes. Chairman Sherman made the second motion. The motion carried.

4. For Possible Action: Discussion and Consideration of other regulatory amendments to NAC Chapter 287 regarding administration and interpretation of the provisions of NRS 287.017 relating to trust funds for future retirement benefits of local governmental employees.

Member Stevens stated there is really no reason to have five board members if you are only going to invest with RBIF or the county treasurer. It would not require actively managing the money. He suggested clarifying NAC 287.778 1(c).

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Terry Rubald asked Member Stevens if he was suggesting that if the assets were not going to be invested in equities pursuant to the NRS, it would mean a body of five would not be required, at all.

Member Stevens responded that he was suggesting that a body of five would not be required if only investing with RBIF or in securities which any local government can invest with, such as Clark County investing with the treasurer. You would not need five, but could continue with as few as three because the trust board is not going to be doing any active investing. They will just be sending the money to RBIF or pooling it with their other assets.

Chairman Sherman asked if Member Stevens had suggested language changes for NAC 287.778 1(c).

Member Stevens responded it would read "If the assets of the trust fund are invested pursuant to NRS 287.017 2 (g)(3)." Then delete the first part of (c) up to the end of the NAC reference. Everything else in the section would remain the same.

Chairman Sherman stated NAC 287.791 2 is the key section regarding permitted investments if under or over \$100 million. There was testimony suggesting we may want to change this threshold. The original intent, in both drafting of the statute and the administrative code, was if a local trust wanted to invest in equity securities on their own, outside of RBIF, they should be large enough to be sophisticated investors. There would not be a small local government with a few million dollars and without the necessary sophistication entering into the equity securities market. The \$100 million was a judgment call of the committee at the time. There are eight or nine trusts in the state already, only one of which is in excess of \$100 million. This Subcommittee may want to consider revising this. One suggestion is to keep the \$100 million threshold but allow the CLGF to waive that requirement. There is a local government in Las Vegas that manages a retirement portfolio far in excess of that, and they have the necessary expertise. This is going to be the same group that manages an OPEB trust of more than \$100 million. The CLGF may want the option to waive this requirement based on the proposal. He is still hesitant to lower it to less than \$100 million.

Member Walker stated she would like to have some criteria on top of coming before the CLGF, allowing only certain entities to ask for this. Otherwise, we are opening it up to 280 local governments. If a local government is already investing and has their own retirement, not in PERS, and they are already investing an amount greater than \$100 million, that should give us the comfort that they are large enough to be sophisticated investors. She would recommend this being the criteria.

Chairman Sherman did not believe we should craft an NAC for a specific case only. Maybe it should be a demonstrated ability to manage a portfolio that includes equity securities.

Dawn Buoncristiani, Deputy Attorney General, State of Nevada, recommended adding a general phrase to include other things.

Chairman Sherman suggested the phrase, "include, but not limited to having a pension fund outside of PERS."

Terry Rubald stated she has a phrase "upon application by a local government, the Committee may waive the minimum market value of the investment portfolio." She asked if the Subcommittee wanted to wait until there is an application or if there would be situations where they would want to look at it without waiting for the local government to ask.

Chairman Sherman responded that he did not feel that was necessary. He liked the sentence so far, and he would qualify it by saying "if the applicant has currently demonstrated an ability to manage a portfolio which

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includes equity securities and is greater than \$100 million and includes, but is not limited to, managing their own pension fund..." We would have to add the appropriate statutory references.

Member Walker suggested adding "good cause shown."

Terry Rubald asked if the initiating act needed to be an application by the local government.

Chairman Sherman and Member Walker responded yes.

Member Stevens asked if, based on the other change we made, anyone who wants to invest on their own in equity securities has to have an investment plan approved by the CLGF.

Chairman Sherman responded yes.

Member Stevens stated we also have the protection of this regardless of whether they request a waiver. This requirement will be there no matter what the threshold is. If we do not approve their investment plan, they cannot invest in equities.

Chairman Sherman stated this was correct. This proposal informs the local governments that they can invest in equity securities with an OPEB trust portfolio of less than \$100 million, but they must meet these other requirements, including having a portfolio in a pension plan outside of PERS that has a value in excess of \$100 million. This connects the pension plan portfolio to an OPEB trust portfolio, and the pension plan can be less than \$100 million. If all they had was an OPEB trust less than \$100 million, they would not be able to apply. We need to make it clear that the pension plan investment must be outside of PERS.

Chairman Sherman stated that there are two separate proposals under Agenda Item 4. He will take them separately for voting purposes.

Regarding Member Steven's request to clarify the requirements of membership of the board of trustees, Terry Rubald read the language revision. "If the assets of the trust fund will be invested in equities pursuant to NRS 287.017 2 (g)(3), the governing body shall appoint five persons to the board of trustees, including..."

Member Steven's stated this was correct. He moved to accept this language with a second from Member Kohn-Cole. The motion carried.

Chairman Sherman stated the second proposal is related to the option that the CLGF can waive the \$100 million threshold for investing in equities securities on its own. This is NAC 287.790 2.

Terry Rubald recommended this be put under section (d). She read the language revision. "The Committee may waive the minimum market value of the investment portfolio upon application by a local government, and if, for good cause shown, including a demonstrated ability to manage a portfolio that includes managing equity securities having a market value of \$100 million or more and also managing a pension fund outside of PERS."

Member Walker stated the pension fund needs to be greater than \$100 million. She moved to approve the drafting of this amendment with a second from Chairman Sherman. The motion carried.

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5. BRIEFING TO AND FROM THE SUBCOMMITTEE ON LOCAL GOVERNMENT FINANCE AND LOCAL GOVERNMENT FINANCE STAFF

a) Discussion of Matters Affecting Local Governments

b) For Possible Action: Schedule Date and Review Agenda Topics for the Next Meeting and for possible workshop to take public comment on amendments to NAC Chapter 287.

Terry Rubald stated that she will draft this and send it to LCB. They will take at least 30 days or longer. When she gets it back, she will schedule a workshop, or it will be scheduled at the next CLGF meeting.

6. Public Comment

There was no public comment.

7. For Possible Action: ADJOURNMENT

The meeting adjourned at 10:38 a.m.