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**Minutes of the Meeting**  
**COMMITTEE ON LOCAL GOVERNMENT FINANCE**

**SUBCOMMITTEE ON DEFINITION OF A LOCAL GOVERNMENT**

**August 19, 2014**  
**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 4406, Las Vegas, Nevada.

**COMMITTEE MEMBERS PRESENT:**

Mary Walker, Chairwoman  
Alan Kalt  
John Sherman

**COUNSEL TO COMMITTEE**

Dawn Buoncristiani

**MEMBERS OF THE PUBLIC PRESENT:**

<b>Name</b>	<b>Representing</b>
Cy Ryan	Las Vegas Sun
Adrienne Lawrence	State Public Charter School Authority
Larry Burtness	Washoe County
Sandy Gualano	Washoe County

**DEPT OF TAXATION STAFF PRESENT:**

Terry Rubald  
Kelly Langley  
Warner Ambrose  
Bill Farrar  
Penny Hampton  
Susan Lewis  
Heidi Rose  
Janie Ware

**1. Roll Call and Opening Remarks**

Chairwoman Walker called the meeting to order at 10:00 a.m. Warner Ambrose, Budget Analyst, Department of Taxation, called the roll and stated all members of the Subcommittee were present.

**2. Public Comment**

There was no public comment.

**3. For Possible Action: Discussion and Consideration of criteria used to make a determination about whether an entity is a local government subject to the Local Government Budget and Finance Act; identification of the kind of documentation used to make the determination; discussion and consideration of case studies such as, but not limited to, charter schools, housing authorities, regional associations of governments under joint powers agreements.**

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Terry Rubald, Deputy Executive Director, Department of Taxation, stated the Department of Taxation (Department) is seeking guidance, in general, regarding how to interpret certain situations in view of the requirements of NRS 354.474. Sometimes it is a close call. The Department has made several decisions about what is a local government. Sometimes an entity requests to be a local government, and we turn them down. Recently we had some charter schools inquiring about this. In other cases, there are entities that seem to fit the requirements of the statute, but they do not want to be subject to the Local Government Budget and Finance Act. The exhibit packet has background and case studies from which we may be able to find a general principle which can be applied to various situations. The Subcommittee may determine whether this gets turned into a regulation. Ms. Rubald stated she does not know whether regulations are needed, but it would be good to have the guidance. She went on to review the contents of the exhibit packet. The statute is included, and she also added NRS 354.472. This talks about the purposes of having the Local Government Budget and Finance Act. NRS 354.474 gives the definition of what a local government is, and it seems to be straightforward. It also says "without limitation," which could mean other things, as well.

Member Sherman commented that some of the material in the packet dates back and forth over this definition as to what it really means. He is not clear on the first part regarding "the right to levy." There are entities that are created and receive money. There are also entities that impose and collect property taxes and pass through revenue. Is there a clear Attorney General Opinion (AGO) in terms of an entity that is authorized to collect and pass money through to another entity that is the subject of whether or not they are a local government?

Terry Rubald referenced Case Study #3 pertaining to the Silver State Energy Association. She asked the Subcommittee if it should be interpreted generally, or if it can be identified that the money is actually coming from property tax, sales tax, etc. If the funds are going through another entity first and is part of a pool of money with an unknown source, perhaps we are getting into the weeds if we make the assumption that it is absolutely from taxes.

Member Sherman stated if there is an issue whether an entity is or is not a local government, we should clarify that and put it in statute. That is one remedy. In this case, he believes a regulation would be prudent if the subject entity does receive money from an entity that levies property taxes and other taxes and then passes money through. This would, by definition, be a local government.

Terry Rubald responded that this would be helpful.

Chairwoman Walker stated that in the situation with the electric company, because the various types of taxes collected typically constitute more than half of a local government's revenue source, she does not see how we could say it would not be coming from some type of taxes. Maybe this is a clarification we could make through a regulation. If it is coming from another local government to a new entity then it is deemed to be coming from taxes or mandated fees.

Terry Rubald continued her review of the exhibit packet. She referenced where the NRS states "and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision." There are examples of this in Case Study #6 and #7 regarding component units of government. Ms. Rubald reviewed these case studies. There are several entities in Clark County which partially fit this scenario.

Warner Ambrose discussed the Southern Nevada Health District. The Southern Nevada Health District has its own chosen board, two members are from the county commission and one representative from each of the five incorporated cities within the county. There are two medical doctors and a registered nurse. They have a

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board of eleven which adopts the budget for the Southern Nevada Health District. The budget is then presented to the Board of County Commissioners, which approves it. One of the big sticking points several years ago was because the statute says they will get 3.5 cents of the property tax. This came about long before the abatement issue. When the abatement and the recession came along, the county reduced every other fund, including the Southern Nevada Health District. The county cut the Southern Nevada Health District's revenue, and said they would not give them the 3.5 cents. The Southern Nevada Health District objected and pointed out the agreement in statute. The Southern Nevada Health District sued and won. The county had to pay close to \$20 million plus interest.

Terry Rubald asked why the Southern Nevada Health District does not submit a separate budget.

Warner Ambrose responded that he is not sure. It has been this way for a long time.

Chairwoman Walker added that when she was working as Carson City's Finance Director, Carson-Tahoe Hospital was a county hospital. The hospital was in the budget, but they had a separate audit, and they were a separate local government. The county commission had the final authority to approve their budget and bonding issues. This was probably in the county hospital law. Chairman Walker believes if we look in the health district law, it may say the county must approve the budget. We would have to look in each individual statute. The hospital was still a separate local government, but there was an extra authority.

Terry Rubald stated that by comparison in Case #7, the recently reorganized Virginia City Tourist Commission (VCTC), submits a separate budget. However, they do not submit a separate audit, and they are part of the county's audit. There is confusion about how this should be treated, as well.

Larry Burtness, Washoe County Recorder, participating by teleconference, stated they were having trouble hearing the audio. He stated their primary interest in listening to this conversation is related to exemptions with real property transfer tax. He asked if this was the venue for their participation and feedback.

Terry Rubald responded that this is certainly one of the questions regarding the definition of a local government because there are exemptions for transfers to properties that are owned by local governments. He is more than welcome to comment about how the definition of local government affects real property transfer tax.

Larry Burtness replied that they will stay on the line. There are four of them participating in the teleconference.

Warner Ambrose stated, with regard to Southern Nevada Health District, the requirement that they must be in the county's budget may have to do with the fact that some of those entities, by definition, cannot issue their own debt. We have a similar situation with the Regional Transportation Commission. They have been separated out as far as filing their budget, but the county still issues their debt for them. It is the same with the Las Vegas Valley Water District. At one time they issued debt for Southern Nevada Water Authority, University Medical Center and the Department of Aviation. Mr. Ambrose has not made a thorough review of these governing statutes.

Member Sherman commented, regarding the Washoe County Health District, there was an interlocal agreement between two cities and the county to create the health district. That agreement says the county shall fund the health district. The Board of Washoe County Commissioners approves the budget of the Washoe County Health District. The Washoe County Health District is a component unit of the county for both budget and financial reporting purposes. They are treated as a special revenue fund. He believes the Southern Nevada Health District would be a special revenue fund because they collect a property tax and have designated monies which go to them. Regarding the debt obligations, what are the rights and obligations they

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have once they receive the designation of a local government? There is a requirement to file an annual budget, and they fall under the purchasing act. But there are other obligations and rights. He believes one of the rights is the ability to issue debt. That is not a universal right. Once you get the designation of a local government you may or may not have the right to issue debt. The Regional Transportation Commission and the Fair and Recreation Board are examples. They can issue special revenue-only debt, but not general obligation-backed debt, he believes. Are there specific issues that arise when the Department is approached by an entity that would like to become a local government because they want to issue debt? What issues arise when an entity does not want to be considered a local government because they do not want to submit a budget? It may be helpful to determine what rights and obligation we want to consider as part of this bundle of local governments.

Terry Rubald responded this is exactly what she is looking for because we have apparent exceptions.

Member Kalt stated transparency, accountability and oversight were three words that came to mind. If you have a designation of a local government, the public demand transparency. The Department of Taxation, Division of Local Government Services, is the clearinghouse for the budgets, audits, indebtedness reports, etc. There is oversight and accountability by the Department. Requirements may go back to the county, if they are the "parent" government.

Chairwoman Walker stated this is confusing because a local government must be established by law, either through the Constitution or through NRS statute. She looked at several entities and reviewed the laws. She looked at how they were established. In each case, they were established either by an elected body such as the Legislature, a county commission, city council, etc., or they were established by an election such as an incorporated city. She also looked at the governance. The governance needs to be an elected board. There is a real tie between the public and a local government. Southern Nevada Health District uses the statute that requires a doctor, a nurse and elected offices. Specifically it is different, but it is different in statute. It is still primarily elected offices. The Southern Nevada Health District is a local government. As Member Sherman described, Washoe County Health District was established as a county department. It is the county that funds it.

Member Sherman clarified that Washoe County Health District does not receive any general tax but they have the ability to impose fees. Washoe County Health District is a hybrid. Even though the Washoe County Commission approves their budget and has sole authority over their budget, the Washoe County Commission has no authority at all over programs. The Washoe County Health District board is comprised primarily of elected officials with some non-elected officials. The Reno Sparks Visitors and Convention Authority does have elected officials on it, but there is a significant number that are appointed, not elected. There are exceptions to the elected officials.

Chairman Walker agreed that there are exceptions, and the exceptions are allowed specifically by statute. She is glad Mr. Ambrose brought up the matter of debt. If you look at each of these statutes, you will see that there is some type of fiscal control, or only the county can issue the debt. That is why the budget goes to them.

Terry Rubald asked if there was some principle we can draw from these examples about when a local government would not have to give the Department a budget or audit.

Member Sherman asked if the Southern Nevada Health District budget was included in the Clark County budget as a component unit.

Terry Rubald responded yes.

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Member Sherman asked if Clark County's audit includes the Southern Nevada Health District.

Warner Ambrose responded the Southern Nevada Health District has four funds that are rolled into the Clark County budget. Three of them are expendable trusts and the fourth is a proprietary fund. They are rolled into Clark County's annual comprehensive annual financial report (CAFR).

Member Sherman clarified that charter schools are not rolled into the school district in the county in which they operate.

Warner Ambrose responded that this is correct. There is no requirement for charter schools to submit an audit to the Department. They are a component unit of each county school district. They are controlled by each county school district and also the State Department of Education. The Department has very little involvement with charter schools.

Member Sherman asked if the charter schools, primarily Clark and Washoe, are included in the school district budgets and financial statements.

Warner Ambrose responded that he did not believe so. However, the school district does have oversight because they are receiving the same amount per student.

Member Sherman asked about oversight without reporting responsibilities.

Warner Ambrose said the charter schools report to the school district and the State Department of Education.

Member Sherman stated that charter schools have no public reporting requirement, either budget or financial statements.

Warner Ambrose responded not to the Department.

Member Kalt believes they report to the Department of Administration. The Department of Administration would be the repository of a budget, audit and accountability report.

Terry Rubald referenced Case Study #4. It was brought to our attention by employees with the State Public Charter School Authority, the sponsoring agency. Each charter school receives a portion of the Distributive School Account (DSA) distribution but the funding mechanism from the DSA is the same for charter schools as it is for the school district. The charter schools do not report to the school district. They report to the Department of Education. The Department of Education inquired as to whether they should be subject to the Budget Act.

Chairwoman Walker asked about the governing board of a charter school.

Warner Ambrose stated he believes each one has an operating board or a board of trustees. He is not sure.

Chairwoman Walker asked if there was an elected board for charter schools. She also asked if they follow the open meeting law or the local government purchasing act.

Terry Rubald responded that these are good points. We do not know.

Member Kalt added that they are spending public tax dollars through the DSA account.

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Warner Ambrose responded that at some point, if they qualify as a local government, they will be subject to the Budget Act and all of these things. At this point, they do not.

Adrienne Lawrence, Administrative Services Office, State Public Charter School Authority, came forward to answer questions. She has only been in this position a few months, but has worked with the charter schools through the Department of Education for ten years. She said the charter schools are subject to the open meeting law. She believes they are subject to the State Purchasing Act. For large purchases, she directs the charter schools to go through the Request for Proposal (RFP) process. Most of their purchases are small. They do have to put out for bid on certain items. Also, their boards are not publicly elected but are subject to all the typical boards. The State Public Charter School Authority does have a board, also. She believes they are elected through the Department of Education. They are subject to open meeting law.

Chairwoman Walker asked if the board was elected by the public.

Adrienne Lawrence stated the board was not elected by the public. She will check on whether they are subject to the State Purchasing Act.

Member Kalt added that it would also be interesting to know about the financial controls. Do they prepare budgets? Are they reviewed and approved? Do they have an independent audit performed?

Adrienne Lawrence responded that they submit a preliminary, a final budget and any amended budgets to the Department of Education, to their sponsors and to the Legislative Counsel Bureau (LCB). They have to do an annual audit. The audit is submitted to the Department of Education and their sponsors.

Chairwoman Walker asked if there was a separate statute for charter schools, and the authority to establish charter schools.

Adrienne Lawrence responded NRS 387 is for the Department of Education and NRS 386 is specific to charter schools.

Chairwoman Walker asked if the statute states whether charter schools shall be deemed a subdivision of the state or a local government.

Adrienne Lawrence stated the individual charter schools are not. The State Public Charter School Authority was broken out from the Department of Education two years ago. It is a quasi Local Education Agency (LEA) at this time. This is so they can apply for federal funding such as Title I, Title II and Title III. They are the third largest school district in the state. There is a huge group of students that are not eligible for any federal funding otherwise. That was the impetus for making it a quasi LEA. They cannot do taxes.

Chairwoman Walker clarified that the State Public Charter School Authority is like a school district that oversees the charter schools.

Adrienne Lawrence responded that some of the schools are sponsored by Clark County, Washoe County and one by Carson City. The State Board of Education was approving these charter schools after Clark County and Washoe County said they did not want any more. The State Board of Education then started sponsoring charter schools; however, they did not have the skill set to monitor these. The State Public Charter School Authority was formed to take over this responsibility.

Chairwoman Walker asked if the State Public Charter School Authority was deemed to be a local government in NRS.

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Adrienne Lawrence responded that she did not know if it was in NRS. The State Public Charter School Authority is considered to be an LEA for federal grants.

Member Sherman asked if charter schools can issue debt.

Adrienne Lawrence responded a law was passed that provided funding for start-up schools, State Budget Account 2708. This is the first year they have processed loans because this is the first year there was money available.

Member Sherman clarified this is the state loaning charter schools money.

Adrienne Lawrence responded yes. There are parameters as to how it is paid back. It is taken directly out of the charter school's DSA payments. There are issues with some of the charter schools purchasing buildings. The charter schools are supposed to get approval for it from State Public Charter School Authority and some other entities. She is unsure which other entities.

Terry Rubald stated this is when the issue came up. The Department was asked for approval of medium-term obligations. We have not done so because we did not feel they were subject to the Local Government Budget and Finance Act.

Member Sherman stated that it was his understanding the state could loan money to a local government. He thought part of the charter school law stated they cannot issue debt. He would like clarification on that.

Chairwoman Walker replied that Dawn Buoncristiani, Deputy Attorney General, has provided NRS 386. It does include some type of debt. We will need to review it. It looks like it is an obligation of the state, not an obligation of the Authority itself or the charter school.

Adrienne Lawrence stated there was a bond option. It was her understanding that the charter schools are responsible for the debt that they incur.

Chairwoman Walker asked for clarification as to whether the charter schools have been going directly to a bank and incurring debt.

Adrienne Lawrence stated she will have to research this. It is her understanding that they have been doing this, but she may be incorrect.

Member Sherman stated this is an issue where we will need clarification. One of the rights and responsibilities is the ability to issue debt. Even though an entity might fall under the classification of a local government, it is his opinion that not all local governments should have the ability to issue debt. You can get into big trouble doing this.

Adrienne Lawrence responded that the State Public Charter School Authority does not incur debt. The primary reason for charter school debt is facility issues.

Chairwoman Walker expressed appreciation to Ms. Lawrence for being here. She suggested that Ms. Rubald compile a list of questions on charter schools for the next meeting

Terry Rubald agreed. She then returned to the review of NRS 354.474. She summarized by saying the definition of a local government is in Subsection 1(a). We have exceptions to the rule. The Nevada Rural

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Housing Authority is not a local government except for purposes of loans. An irrigation district does have to comply with Chapter 354. An electric light and power district created under Chapter 318 only has to comply if it does not issue bonds or levy an assessment. One of Ms. Rubald's questions is regarding the Nevada Rural Housing Authority. What about all the other housing authorities in the state that are not specifically mentioned? Are they local governments? The right to levy and receive money part is confusing. For instance, in Case Study #1 regarding the Regional Development Authorities, there is an Attorney General Opinion that specifically calls them local governments. They can receive monies from the state to disburse for economic development. She does not believe anyone thought that they would be subject to the Local Government Budget and Finance Act. The Department has not thought that. However, they have been defined as a local government, and they receive monies. This question arises.

Chairwoman Walker asked if Ms. Rubald wanted to discuss each example.

Terry Rubald suggested we make a list of questions. We have discussed several of these already.

Chairwoman Walker stated she would like to get a sense from the Subcommittee regarding a consensus on these examples. She asked Ms. Rubald to take them one by one.

Terry Rubald stated the first case study is regional development authorities. Under NRS 231.009, a regional development authority means an organization for economic development which is a local government entity, composed solely of two or more local governmental entities or a private nonprofit entity. The state can provide them with grant funding which they, in turn, can disburse. On Page 17 of the packet, the conclusion and the AGO was that the Nevada constitution does not prohibit the state from disbursing Catalyst Fund money to regional development authorities that by definition must be local governments or prohibit local governments from disbursing Catalyst Fund money to companies. The question is, under Chapter 354.474, whether they have the right to receive money. Ms. Rubald thinks they do not have the right to receive money. They just have the ability to receive money for disbursement. She believes this may not be a local government for our purposes because they do not have the right to receive money.

Member Sherman stated this is the same as having the right to impose a property tax, but whether you levy it is your choice. It is a distinction without a difference. If you have the ability to receive government funding, you should have some responsibilities in terms of financial reporting, budgeting, etc.

Terry Rubald stated that this is the question.

Member Kalt discussed the Churchill Economic Development Authority. It is funded and receives state grants. The county and the city contribute financial resources. There is an oversight board that is appointed by the city council and the county commission. Their internal board, their business council, votes and approves a budget at the board level. He does not believe they submit anything to the Department of Taxation. From an oversight and transparency standpoint, he does not believe you can pull up information on their website. There have been periods of time when they have an independent audit, and times when they do not. Maybe they should have oversight back to the Department of Taxation. One could argue that they have oversight back to the city council, the county commission and the state, the funders. This is how it operates in a rural environment.

Member Sherman asked if the economic development authorities have a role in granting tax exemptions.

Member Kalt responded that in Churchill County, the Churchill Economic Development Authority is the entity that pressures the county to make that recommendation, to support projects. He believes the statutory provisions are at the county level.

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Member Sherman stated in his experience with Washoe County, he believes the regional development authorities work with the state equivalent. There are applications and statutory requirements. Local governments that may be impacted by this can either lend support or not. This is the entity that lends support to companies that want to apply for tax exemptions that go to a state entity or board.

Terry Rubald believes these organizations would consider themselves private nonprofit and not a governmental organization.

Dawn Buoncristiani stated that she worked with the abatement program for a while. These were called abatements and not exemptions. Technically, they are a little different. An exemption has its own area in the laws. The abatement goes along with the idea of the development authorities.

Member Sherman added that the abatements are only for a certain amount of time.

Chairwoman Walker commented that the regional development authorities are private nonprofits. They get grants from local governments. She referenced Page 12 of the case study where it says in the law that it is a local government entity or a private nonprofit entity. If it follows that law, how can we say it is not a local government?

Terry Rubald asked, when we go back to NRS 354.474, do they have the right to levy or receive money?

Chairwoman Walker responded that they have the right to receive the state money that funds it.

Terry Rubald replied that she believes much of it is grant funding. She is not sure this qualifies as a right to receive because they must apply and be granted funds.

Chairwoman Walker stated that the Constitution says the state cannot grant money to a private entity. If we do not treat the regional developments authorities as a local government, aren't we at odds with the federal government and putting them at risk?

Terry Rubald responded that these are very good legal questions. She does not know. That is the question from Case Study #1. Case Study #2 is an example of an organization created both by legislative act and the joint powers agreement (JPA). In this case, both the statute and the JPA state they were establishing a "separate legal entity" serving a public purpose. It was "a body corporate and politic and a municipal corporation." The JPA states the entity is empowered to impose a fee adopted by resolution in an amount not to exceed 1.5% of the amount otherwise billed. It was the Department's conclusion, several years ago, that this was a local government because it was a separate political subdivision, and it had the right to impose a fee. This one seems clear.

The Subcommittee agreed.

Terry Rubald went on to review Case Study #3 on Page 37. This one is an energy association formed by local governments. The members of the association provide funding based on an equal share of the administrative and general expenses; and each member is responsible for funding its own share. The Department had an opinion from the representative for the Silver State Energy Association (SSEA), from the Attorney General's Office. They said that this entity does not have the right to levy or receive money from ad valorem or other taxes or any mandatory assessments. The SSEA was entered into as a cooperative agreement pursuant to the Interlocal Cooperation Act. There was cited an AGO written in 1969. It was written before they had the amendments to 354.474. Basically, they concluded the Gardnerville Town Water Company is not a local government within the meaning of this act because it was not a political subdivision. Ms. Rubald's question is,

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if they are receiving monies from other organizations, should we have guidance as an exception or to pull it in as a local government.

Chairwoman Walker questioned that if you are receiving money from a local government and most of the money is for taxes and mandatory levies, should we deem that it is from those taxes? She asked Member Kalt and Member Sherman for their thoughts regarding this.

Member Kalt responded that the first example that comes to mind is POOL/PACT where local governments, cities, counties, hospitals and GIDs come together to develop purchasing power to buy insurance. Those premiums are being paid out of local government taxes and fees. They are buying a product through an association. POOL/PACT follows the open meeting law. They have audits, and their budgets are approved by the governing board. Every government that makes up the association is on the governing board. POOL/PACT is not a local government, and would not qualify as a local government. They follow many of the best practices contained within NRS 354.

Terry Rubald stated in this case per 354.474, they might receive money but they are not a political subdivision.

Member Sherman asked if there was a requirement that the coalition produce audits and financial statements. They do receive money. Is there some transparency to their financial activity?

Terry Rubald responded that in the Cooperative Agreement, Page 65, it states "the SSEA shall provide for an annual audit of all funds and accounts." Yes, they have established some transparency and financial requirements.

Chairwoman Walker commented that there are two case studies under Case Study #3. One is the Silver State Energy Association, and one is the Clean Water Coalition. Maybe we should look at them separately. It states in the Cooperative Agreement of SSEA that they shall be a political subdivision. This was approved by the Attorney General. She believes it is a local government because it does receive money from the various local governments. This is where we need to look at some type of regulation. Her concern with this energy association is that we have a group of local governments that decided to undertake a cooperative effort and establish a non-governmental entity. They take public dollars but are not required to follow open meeting law or meet any of the 354 requirements. This one could open up the ability for local governments to circumvent laws. An entity could be established that does not have to pay PERS. She believes with having the right to receive money that is coming from local governments, they should be deemed a local government.

Member Sherman concurred with what Chairwoman Walker said. If you form a local government under JPA laws which state you are a local government, and you form an entity under the Cooperative Agreement that states you are not a local government, and you do essentially the same thing, there is a puzzling contradiction. If we look at the NRS 354 criteria of a local government, it is not just the ad valorem. If you have the right to impose a fee, you fall under the local government acts.

Member Kalt stated when we establish the criteria, we establish the rights and obligations. What will be the fiscal impacts and ramifications? One size may not fit all, but we do not want to create loopholes. What we are seeing in some of these case studies is that they want it both ways.

Terry Rubald agreed with the comments. She went on to discuss the Clean Water Coalition. They do not have the right to levy an ad valorem or any other tax, but they have the right to assess their members. This seems be similar to the energy association which had the right to receive monies from local governments.

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Chairwoman Walker asked if it stated in their Cooperative Agreement that they are a political entity.

Terry Rubald responded that she will check into this.

Warner Ambrose stated that the agreement between the parties of the Clean Water Coalition specifically stated they would comply with the Local Government Budget and Finance Act. They did comply until they were dissolved. This coalition no longer exists.

Terry Rubald stated this was only brought forward as an example. Case Study #4, Charter Schools, begins on Page 87. We already had a robust discussion regarding this. Case Study #5 is the Regional Housing Authorities on Page 110. The Nevada Rural Housing Authority is not subject to the Act except for loans from a local government. This will be of interest to the County Recorders that are on the teleconference. The Clark County Recorder, based on AB 477 and AGO 86-5 and interpretations of NRS 315 and NRS 41, determined that the Las Vegas Housing Authority, the North Las Vegas Housing Authority and the Southern Nevada Regional Housing Authority qualified for an exemption from the real property transfer tax as a local government. This set the stage as how these housing authorities are different from the Nevada Rural Housing Authority. If they are not different, should we treat them as local governments? Where there is something specific in the law, perhaps the law references the one housing authority and not the others.

Dawn Buoncristiani responded that this is the general rule. When one thing is named, it is named to the exclusion of the others.

Terry Rubald stated that, to date, the other housing authorities are not treated as local governments.

Chairwoman Walker asked where the housing authorities get their money.

Terry Rubald stated she would research this.

Chairwoman Walker clarified that the housing authorities do not have the right to levy a tax.

Terry Rubald responded that this was correct. She asked the County Recorders if they had any comments.

Chairwoman Walker asked, by the law that created them, if they were local governments.

Terry Rubald stated she would do some more research. She went on to Case Study #6, Component Units of Government, Page 122. We already discussed the first example, the Southern Nevada Health District. It appears to be a local government. They do everything all the other local governments do except create a separate budget reported to the Department. It is reported through the county. When they are subject to the Local Government Budget and Finance Act, does that mean everything or just some things? This is the question.

Chairwoman Walker responded that one thing to consider is what criteria meets NRS 354. For example, a local government budget is included in their parent budget because of debt or other oversight. If they are a component unit, per national accounting standards, of a county, does this fulfill the audit requirement if it has been audited in the county audit? Or is there a separate audit required?

Terry Rubald stated in the VCTC case, they are producing a separate budget but they are not producing a separate audit. They are a component unit of Storey County and are subject to Storey County's overall audit.

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Susan Lewis, Budget Analyst, Department of Taxation, stated this is what they have been doing the last two years, but it was her understanding they are going to now do a separate audit.

Chairwoman Walker asked if there was anything in the law that requires them to have a separate audit.

Terry Rubald responded that they are just required to have an audit.

Chairman Walker gave an example and asked if a separate audit is required of a component unit of the county. In a component unit of the county, the county is dispersing everything, all revenues are coming into the county treasury and all checks are being issued through the county. They are going through the county processes.

Susan Lewis responded that in the case of VCTC, they collect tax specific to them. They have a separate board. Their board is composed of a commissioner and also businesses at large. This changes it from a component unit to an entity of its own. Their governing board is separate from the county commission. If they collect that tax, they must have a separate board.

Chairwoman Walker asked if this board is appointed by the county commission.

Susan Lewis responded yes.

Chairwoman Walker asked if they were under the control of the county commission and therefore a component unit, per national accounting standards.

Susan Lewis responded that per national accounting standards, they are not a component unit because they have a completely separate board. The board of county commissioners is not the same board as the VCTC board. The VCTC board is made up of businesses in the community set down in statute. It includes one county commissioner.

Chairwoman Walker asked for a copy of the national accounting standards. Is it not substantial control if the VCTC board is appointed by the board of county commissioners? Does that trigger a component unit?

Member Sherman stated the concept is exercise of control, generally speaking, as to whether an entity is a component unit of another entity. Appointment of the board is one factor, but so is exercising control over financial affairs. As an example, the board of county commissioners only has two seats of a seven member board on the Washoe County Health District. The county cannot control the district health board, but they do control their budget. There are nuances to these concepts you have to dig into. It is the determination of an auditor as to whether it meets the criteria of a component unit. He does not have an answer to this one other than the possibility of it being statutorily defined to this particular entity or group of entities. Being a component unit does have the benefit of having an audit done of the larger organization. When we set the regulations for requirements of audit, there is a size criteria below which you do not need a full audit. This would be for a fairly small entity.

Member Kalt gave an example of the Fallon Visitors Authority. They manage the room tax. It is done at the city level, and the city council has a couple of seats. Local businesses serve on that board. He believes the staff are city employees. They do not have a separate audit. It is part of the City of Fallon audit. The Regional Transportation Commission receives a gas tax within the rural government. There is a member of the county, the city and local government on that governing board. It is audited through the county's CAFR. The internal controls go through the county.

Terry Rubald asked, in these examples, if they have a dedicated tax.

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Member Kalt responded that the Regional Transportation Commission has a nine cent gas tax and public transit has a quarter cent up to a half cent.

Terry Rubald stated this was the Department's concern regarding VCTC. They have a quarter cent option tax dedicated solely to the purposes of the VCTC. We were worried about that being comingled through the county. They assured us that they had a separate fund. It is all administered by the county.

Alan Kalt responded that Churchill County has a quarter cent infrastructure tax for infrastructure development. They maintain a separate revenue fund. It is audited with the audit of the entire county.

Chairwoman Walker added that she thinks VCTC did retain the visitor's bureau membership as a separate board so they can levy that tax. She agrees with this. Regarding the audit, if there is substantial control of the board of county commissioners over the board, it can be deemed a component unit. If the board of county commissioners appoints the board, that is substantial control, she believes. Maybe we could do a regulation to clarify when an audit is required. If it is a component unit whose disbursements and revenues are through the county and the county is already having an audit, why would they need a separate audit? If there was a situation where you had a component unit, and for some reason they did their own checks and had separate revenues. That does require an audit because the disbursements are not through the county.

Susan Lewis stated that Storey County provides that service as an accounting service, not as an oversight service. The county does not decide how the money is spent, the board does.

Chairwoman Walker responded that it is not the county's authority. The legal authority is with that board. Her point is that an auditor will audit the processes. It is the same process the county will use when disbursing the checks.

Susan Lewis stated in some other counties, the county does the disbursements, but the entity is a separate entity. In Lyon County, for example, the county does the bookkeeping for approximately 18 entities, and four of those are considered component units because the county board is the exact same board on those four. The others are not. They do a separate audit, budget, etc.

Chairwoman Walker stated it seems impractical to have a separate audit when the same processes are being audited.

Terry Rubald responded that this was the conclusion of the Department. It would be nice to have a general principle. Ms. Rubald stated this completes her case studies.

Member Kalt stated there is a concern that there are some small entities that do not have audits performed. There is a risk of misappropriation of public funds. They may have been created by the county or city. The oversight from the parent organization is necessary. Sometimes they become convoluted. When they are receiving money from the feds, the state and the locals and do not meet the single audit requirements; or if they become local nonprofits, should there be regulatory requirements for oversight outside the scope of NRS 354 requiring that audits be performed? The board may not be getting bank statements or treasurer reports on the financial affairs of that organization. It is concerning and can create an environment for fraud.

Member Sherman generally agreed. This is going back to the purpose of being defined as a local government. We are particularly concerned about obligations to provide transparency, accountability and oversight to make sure the public's funds are being used appropriately. There appears to be some contradiction. He suggested tightening up the definition of what it means to be a local government when falling into these various categories. We may want to consider legislation. If there is a dispute about any particular entity, statutory

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clarification may be appropriate. It may come with a mixed bag that would say they are a local government for budgeting and financial reporting, but they may not issue debt. Legislation may be the only way to get clarification.

Member Kalt asked if not statutorily, the Committee on Local Government Finance would be a clearinghouse to make this determination.

Terry Rubald stated this has been a great discussion, and she appreciates all of the comments. The Department will try to get more information on the areas where there were questions. She asked if the Subcommittee would like the Department to make some recommendations for regulations.

Chairwoman Walker replied that would be a good idea. She suggested fine tuning the criteria. We need clarification on the ability to receive money and when any agency or department of the county or city which prepares a separate budget. These seem to be the grayest areas.

Member Sherman stated clarification on the criteria used to define a local government and the rights and responsibilities are important. It is his opinion that just because an entity is classified as a local government, they should not have the entire list of rights, particularly debt obligations. We need to be mindful of that.

Terry Rubald commented that we may not have the information in time for the main Committee of Local Government Finance Meeting, but we will have a report.

**4. For Possible Action: Discussion and Consideration regarding possible regulations governing additional criteria used to make a determination about whether an entity is a local government.**

This agenda item was not discussed.

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

- a) Discussion of Matters Affecting Local Governments**
- b) Schedule Date and Review Agenda Topics for the Next Meeting**

Terry Rubald did not have any matters to discuss under agenda item 5(a). Ms. Rubald will contact the Subcommittee members regarding the scheduling of the next meeting.

**6. Public Comment**

There was no public comment.

**7. For Possible Action: ADJOURNMENT**

Member Sherman moved to adjourn the meeting with a second from Member Kalt. The meeting was adjourned at 11:39 a.m.