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Guidance Letter 13-003

Date: October 7, 2013

To: All County Finance Directors, All City Finance Directors

From: Terry E. Rubald, Deputy Executive Director, Department of Taxation

CC: Committee on Local Government Finance, Marvin Leavitt, Chairman
Christopher G. Nielsen, Executive Director, Department of Taxation
Kelly Langley, Supervisor, Local Government Finance, Division of Local Government Services

Subject: Publishing Financial Statements

SUMMARY:

Since 1939, city and county governments have been required to publish in a newspaper a financial statement showing all receipts and disbursements, exhibiting in detail the amounts of bills allowed and paid. In 2011, the Legislature passed SB 65, which amended newspaper publishing requirements, and expanded publishing requirements on the internet. This letter provides guidance to county and city local governments with regard to publishing financial statements in newspapers, as well as on official websites; and explains the changes brought about by SB 65 (2011) which amended NRS Chapters 244, 268, and 354 and new regulations adopted by the Committee on Local Government Finance.

AUTHORITY FOR REPORTING:

NRS 244.225 Publication of financial statement by county commissioners (Effective 1-15- 2012)

NRS 268.030 Publication or posting of quarterly financial statements by city clerk and city council. (Effective 1-15-2012)

NRS 354.210 Publication or posting and maintenance on website of statements of amount of bills allowed by county commissioners (Effective 1-15-2012)

NAC, not yet codified, LCB File No. R005-12 (Effective 12-20-2012)

APPLICATION:

Contents of information published in a newspaper

NRS 268.030, which governs the publication of financial statements by city clerks and city councils, as well as NRS 244.225 and NRS 354.210, which govern the publication of financial statements by boards of county commissioners, were amended in a similar manner. For cities and counties, the information published in the local newspaper now only needs to be the total amount of receipts, disbursements, and bills allowed and paid and does not need to recite or list each receipt, disbursement, and bill, unless there is no website where the detailed information can be placed. The "total amount" includes

all funds administered by the city or county, including enterprise funds and internal service funds. Total receipts and expenditures do not include transfers in or out.

The financial statements published in the newspaper must also contain the following information:

1. The city or county telephone number the public may call for further instructions on how to obtain the detailed financial documents;
2. The address of the city or county office or offices where the public may view the detailed financial documents; and
3. If the city or county maintains an internet website, the report published in the newspaper must also inform the public of where the financial statement is posted on the city or county's Internet website.

In addition to the above requirements, the financial statements published by the cities in both newspapers and on the internet must be signed by the mayor and attested to by the clerk. See *NRS 268.030(1)(e) and NRS 268.030(2)(d)*.

In addition, amendments to NRS 244.225(1)(a), NRS 268.030(3), and NRS 354.210(1)(a) require each published financial document to include a statement to the effect that supporting documentation for each transaction is a public record which must be made available for inspection and copying. The wording in each statute varies slightly. In order to meet the requirements of all three statutes, the Department recommends a statement similar to the following be published:

The original and any duplicate or copy of each receipt, bill, invoice, check, warrant, voucher or other similar document that supports a transaction, the amount of which is shown in the total of this report, along with the name of the person to whom such allowance is made and the purpose of the allowance, is a public record that is available for inspection and copying by any person pursuant to the provisions of [chapter 239](#) of NRS.

Cities and counties must publish the above information in the newspaper on a quarterly basis, along with the total amounts received, disbursed, and bills paid, for the immediately preceding three months.

Additional Newspaper Publishing Requirements

NRS 268.030(1)(f), NRS 244.225(1)(e) and NRS 354.210(1)(e) require the financial statements to be published for a period of at least 5 consecutive days. The statute is silent with regard to communities in which the newspaper is published only once or twice weekly. The Department recommends cities and counties which have a once-or-twice weekly newspaper consult with their city or county attorneys to determine whether publishing once or twice during one week sufficiently meets the intent of the statute. Pending such legal advice, the Department assumes publishing for one week in a once-or-twice weekly paper is sufficient notice to the public since once-or-twice weekly papers are available for the entire week.

In addition, for financial statements published by counties, NRS 354.210(2) provides that the rate to be paid for publishing in a newspaper must not exceed the statutory rate for publication of legal notices. Both NRS 244.225(1) and NRS 354.210(2) provide the publication must not extend beyond a single insertion, which means the notice only needs to be in an issue of the paper once, not multiple times. It does not relieve the county or city from publishing five consecutive times, or as described above for once-or-twice weekly papers.

NRS 268.030(1)(f), NRS 244.225(1) and NRS 354.210(3) provide exceptions to publishing in a newspaper. In the case of cities, the financial statements must be published in a newspaper published in the city; and if none is published in the city, then in a newspaper published in the county. If no newspaper is published in the county, then the financial statements must be published in a newspaper of general circulation or posted on the city hall doors. Posting on the city hall doors is only an option if there is no newspaper published in the city or county.

The counties have a similar requirement. The financial statements must be published in a newspaper published in the county, but if there is no newspaper published in the county, then the statements must be posted on the courthouse door and two other public places in the county. NRS 354.210(3) also provides that if there is no newspaper published in the county, then the statements may be placed in a newspaper of general circulation or posted on the courthouse door.

Exactly what does “publishing” mean in the context of newspapers?

The Department posed the following question to the Attorney General:

What does the word “publish” mean if a county or city does not have newspaper facilities to produce and print a newspaper?

In the Attorney General’s written advice to the Department, the AG noted that NRS 268.030(1)(f) “also draws a distinction between newspapers that are “published” in a city or county and newspapers that are “of general circulation” in the county. [The] question requires that distinctions be drawn between the terms ‘print’, ‘publish’, and ‘circulate.’ ”

The AG went on to say:

First, NRS 268.030 does not require that a newspaper actually be printed in the city or county. Printing is the physical preparation of the newspaper and is a part of, but not the only part of, publishing the newspaper. Publishing is the business of preparing and issuing material for public distribution. It includes the stages of development, acquisition, copyediting, graphic design, printing and marketing and distribution of newspapers and other printed materials.

Determining whether a newspaper is published in a city or county goes beyond whether there is a printing facility located in the city or county. If any part of the publishing business takes place in the city or county – from newsgathering to advertising – then the newspaper is published in that city or county. This is distinct from the circulation of the newspaper which simply means that the finished newspaper is delivered to customers in a city or county.

The AG concluded that “it is not a requirement that a newspaper be printed in a city or county for the newspaper to be published in the city or county. If any stage of the publication of a newspaper takes place in a city or county, including but not limited to printing the paper, then a newspaper is considered published in that city or county.”

Contents of information published on Internet website

Much more detailed financial statements must be published on internet websites for those cities and counties which maintain an official website. The financial statements on the city or county’s website must also provide the disclosure statement discussed above, as well as the telephone number and

address of the city or county office where the public may view the detailed documents. The full reports of revenues and expenditures include not only the general fund, but all funds administered by the city or county. Presentation may be enhanced if sorted by fund, but is not required.

LCB File No. R005-12, effective December 20, 2012 but not yet codified, regulates the format and contents of financial statements appearing on the city and county's official website. The regulations may be viewed at <http://leg.state.nv.us/register/2012Register/R005-12A.pdf>.

The regulations require that an "easily located" link must be placed on the internet website which guides the reader to the financial statements. The term "easily located" is relative, but it generally should not take more than 3 clicks on the website to find the documents, and logically would be placed with other financial documents on the website. In addition, each quarterly statement of total amounts of receipts and expenditures must remain on the city or county's official website until it is updated. The updates must not be later than 45 days after the end of every calendar quarter. The statement must also advise the reader whether the accounting basis for the report is on a cash or modified accrual basis.

Website Report Formats

The regulations require that the report of receipts published on the website be summarized by category or source, for example, "taxes," "licenses and permits," "intergovernmental resources," "charges for services," "fines and forfeitures," and "miscellaneous receipts." The report must contain the total amount of receipts for each category or source for the current calendar quarter, as well as the total for the year-to-date. See LCB File No. R005-12, Section 1(2)(a)(4)(II) and Section 1(2)(a)(5)(II) for counties; and Section 2(2)(a)(4)(II) and Section (2)(2)(a)(5)(II) for cities.

The report of expenditures must be summarized by payee, except for expenditures related to the employment of personnel. The payroll may be reported as "total salaries and wages," or "total benefits" without reference to an individual employee. A county may, however, choose to report each individual employee's wages and benefits. The report must contain the total amount of expenditures by category and by payee, with the exception of payroll, for the current calendar quarter, as well as the total for the year-to-date.

The city or county also has the option of publishing certain other information, including a comparison of actual receipts received during the quarter compared to the county's forecast of the receipts for the quarter. A similar comparison of expenditures may be included. The city or county may also choose to report the amount of receipts deposited into each fund or account maintained by the city or county during the quarter, as well as the amount of expenditures paid from each fund or account.

If you have any questions about this guidance letter, please call the Local Government Finance Section of the Division of Local Government Services, Department of Taxation at (775) 684-2100.

WEBSITE LOCATIONS:

Nevada Revised Statutes (NRS): <http://www.leg.state.nv.us/NRS/>

Nevada Administrative Code: <http://www.leg.state.nv.us/NAC/CHAPTERS.html>

Department of Taxation Guidance letters: <http://www.tax.state.nv.us>; then select "Publications;" then select Assessment Standards Publications and "Guidance letters."