

Minutes of the Meeting
SUB COMMITTEE ON LOCAL GOVERNMENT FINANCE
October 16, 2018, 1:00 p.m.



The meeting was held at the Department of Taxation, 1550 College Parkway, Large Conference Room, Carson City, Nevada. This meeting was also part of a teleconference.

SUBCOMMITTEE MEMBERS PRESENT:

Mary Walker, Chairman
Beth Kohn-Cole
Tom Ciesynski
Jeff Cronk
Jim McIntosh

COUNSEL TO COMMITTEE

Peter Keegan

DEPT OF TAXATION STAFF PRESENT:

Jeff Mitchell
Kelly Langley
Keri Gransbery
Penny Hampton
Erik Rowley
Evelyn Barragan
Chali Spurlock

MEMBERS OF THE PUBLIC PRESENT:

Name

Representing

Rick McCann
Todd Ingalsbee
Rusty McAllister
Marlene Lockard
John Vellardita
Jason Goudie
Diane Bartholomew
Sherry Whiteman

NV Assoc of Public Safety Officers
PFFN
AFL – CIO
SEIU Nevada
Clark County Education Association
Clark County School District
Clark County School District
Storey County School District

ITEM 1. ROLL CALL AND OPENING REMARKS

Chairman Walker called the meeting to order at 1:02 p.m. Member McIntosh arrived shortly after roll call, all other members were present.

ITEM 2. PUBLIC COMMENT

There was no public comment

ITEM 3. DISCUSSION AND CONSIDERATION OF POTENTIAL CHANGES TO NAC 354.660

Chairman Walker noted some changes proposed by Jason Goudie, with the Clark County School District, have already been codified. SB168 passed in 2016, CLGF then approved changes to the NAC which the legislative commission approved in September of 2017. She explained that State Departments usually don't pass regulations this close to a legislative session. She explained the emergency regulation process and how the regulation would be temporary. Peter Keegan, with the Attorney General's Office confirmed.

Chairman Walker asked Mr. Goudie how he would like to proceed. Mr. Goudie replied that the new changes to the NAC helped, but do not address budgeted amount. They do not believe an emergency regulation is needed, and are requesting a guidance letter from the Department of Taxation (Department) explaining NAC 354.660.

Member Kohn-Cole stressed that a guidance memo should not say anything different than the NAC. There are decisions regarding this NAC and the word "budgeted". If it is budgeted, it is protected. Kelly Langley, with the Department, clarified that budgeted would include any future augmentations on that budget. Member Kohn-Cole and Chairman Walker agreed.

Chairman Walker agreed that a guidance memo has to be in compliance with the law. She asked for comments on an emergency regulation, or if they are looking towards a guidance letter.

Member Ciesynski requested clarification on the emergency regulation process. Mr. Keegan explained. Member Ciesynski also asked for a definition of emergency. Mr. Keegan clarified by reading from NRS 233B.0613.

Member McIntosh asked how many times the Committee has provided guidance letters. Chairman Walker replied that it was just done several months ago regarding audit points.

Member Cronk asked Mr. Goudie if the School District thinks the arbitrator didn't take the ending fund balance (EFB) into consideration. Mr. Goudie responded that the arbitrator acknowledged the NAC, but recognized there were still funds available in the EFB.

Member Ciesynski expressed concern that the NAC does not protect the 8.3%. Chairman Walker explained she has never had an arbitrator go against EFB and believes the new NAC that separates out school district is clearer. A letter of clarification would be better, as this is not an emergency.

Mr. Keegan explained the word emergency is not defined in NRS 233B.0613 and is largely under the governors office's discretion how that is interpreted.

Member Kohn-Cole stressed that they need to be very clear between budgeted EFB and not the actual EFB when referring to fund balance. Chairman Walker agreed, noting augmentations are included. Member Kohn-Cole added there is a statutory ruling for augmenting.

Ms. Langley clarified that school districts have an automatic augmentation in December which allows them to bring in EFB from the prior year. She also noted although the NAC recommends 8.3% be protected in the budget process, the Department looks for an EFB of at least 4%. If they fall below, they have to provide an explanation, and would like that emphasized in the guidance letter. Clark County School District trustees authorized them to go to 2%. Chairman Walker commented that she believes 4% is law.

Member Ciesynski asked that the 4% be included in the guidance letter, Chairman Walker agreed, noting they can quote the regulation. He added it is important for the public to know that bond companies look at fund balance, ratings are determined based on that balance. Clark and Washoe counties have seen impacts from that.

Member Cronk asked for clarification on the differences between actual and EFB, and questioned what Clark County School Districts budgeted EFB was. Mr. Goudie responded that the budgeted was slightly higher than what they ended up having in their EFB, but did not have the figure with him.

Member Ciesynski noted if they were below 8.3% it would be a moot point. He doesn't believe the statute or NRS is understood. An arbitrator or fact finder is supposed to make the determination based on all available revenues. In the NAC and NRS it talks about fund balance. He believes there is some confusion and thinks they should provide clarification to include what that section means as it pertains to arbitration. Chairman Walker suggested if a letter is done, maybe they should give an example of a calculation to help explain it.

Member Kohn-Cole explained if you go into arbitration and they budget 2% fund balance, the entire EFB is automatically unavailable for negotiations.

Member Cronk noted he thinks it is vague and interpreted differently. He would like to see clarification. Arbitrators look at the ability to pay over revenues and expenditures that create fund balance. Chairman Walker and Member Kohn-Cole disagreed, noting this deals with budgeted fund balance only, which is a known factor.

Chairman Walker explained it is how much of the fund balance is or is not available for use as a resource. Member Kohn-Cole added an over budgeted amount is available, fund balance is not. Chairman Walker clarified it is the one time cash in the bank. They all agreed it needs to be clarified.

Chairman Walker further added that this law does not protect revenues and expenditures; it protects the fund balance from any payments. She went over augmentations, noting as the budget is changed this calculation would change with it.

Member Kohn-Cole stressed if you want to protect it, budget it.

Member Ciesynski asked if the 8.3% budgeted would be assigned or unassigned. Chairman Walker explained the law does not specify that and why schools have 8.3% and local governments are given 25%. If schools have a shortfall the government guarantees them and pays per pupil. Local Governments, cities, and counties do not have a bail out option.

Ms. Langley added that net proceeds is specific for school districts, and they do not budget for that.

Member Ciesynski noted that bail out is not a guarantee for the schools.

Member Walker asked if there was a general consensus to do the guidance letter.

Member Cronk questioned what kind of authority the guidance letter would have and if it would stand until changed. Member Walker explained it would come from the Department of Taxation and that it

would stand. Ms. Langley added that if it is important enough, a regulation change can be made in the future if needed.

Member Ciesynski motioned that the Department write a guidance letter regarding NAC 354.660 as discussed, shared with the subcommittee members, and once there is consensus, to bring it back to the Committee for potential action.

Member Kohn-Cole asked if there would be another subcommittee meeting. Member Walker doesn't believe it is necessary.

Mr. Keegan pointed out that there is a motion on the table for a second meeting to review the guidance letter.

Member Cronk seconded the motion.

Member Kohn-Cole thinks it is important to review and give feedback. Mr. Keegan noted they need to come to a consensus on the guidance letter and present it to the Committee following Open Meeting Laws. He also noted they cannot get on a group email and go back and forth.

Member Walker asked if she and Member Kohn-Cole could work on the guidance letter with the Department and have another meeting if they do not come to a consensus, if they do, it will go to the full committee.

Member Ciesynski noted as long as what they are writing is what was discussed.

Mr. Goudie asked what exactly they are clarifying. Chairman Walker responded it would basically be an example of the calculation and they will put in the 4% as a reminder.

Member Ciesynski asked what calculation. Member Kohn-Cole and Chairman Walker agreed to one of each.

Ms. Langley suggested that there needs to be an example of a special revenue fund of a school district, as stated.

Member Cronk asked if they were going to dive into GASB 54, and Chairman Walker replied no as the law is silent on that.

Member Ciesynski wanted to be sure Mr. Goudie was comfortable with this. Mr. Goudie noted he would like to see it and be able to ask questions. Chairman Walker noted there wouldn't be a problem with that.

Mr. Keegan again stated that the motion was for another meeting. Member Ciesynski stated he meant a discussion, and another meeting only if necessary.

Chairman Walker announced the motion was on the table. All members voted in support of Member Ciesynski's motion; the Department will draft a guidance letter as discussed.

ITEM 4. FOR POSSIBLE ACTION: SCHEDULE DATE AND REVIEW AGENDA TOPICS FOR THE NEXT MEETING

Chairman Walker explained if they come to a consensus it will go before CLGF, if not, the subcommittee will have another meeting. Member Ciesynski asked for a copy of the draft before the next committee meeting. Chairman Walker and Mr. Keegan replied that it would be a violation of the open meeting law. Mr. Keegan added that materials can be sent in advance of the CLGF meeting, but commenting is not encouraged.

ITEM 8. PUBLIC COMMENT

There was no public comment

ITEM 9. FOR POSSIBLE ACTION: ADJOURNMENT

Meeting was adjourned at 1:46 pm.