
NEVADA DEPARTMENT OF TAXATION

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Tax Bulletin LGS 14- 0003 **Issue Date: December 8, 2014** **Severe Financial Emergency**

Introduction

This bulletin discusses Nevada Attorney General Opinion (AGO) No. 2013-01, which concerns the powers of the Department of Taxation (the "Department") when it assumes control over the management of a local government in response to a severe financial emergency. More specifically, it discusses the scope of the Department's authority over collective bargaining agreements, as well as its authority to assess and collect property taxes following a rate increase enacted pursuant to a declaration of severe financial emergency.

Statutes and/or Regulations referenced

NRS 354.695; NRS 354.705; NRS 361.4722; NRS 361.4723; NRS 361.4724; NRS 361.4726

Declaration of Severe Financial Emergency

When a local government such as a city or county is unable to meet its financial obligations, the Nevada Tax Commission (the "Commission") may evaluate the fiscal condition of the local government, and if warranted, declare a severe financial emergency. Following such a declaration, the Department is empowered, under NRS 354.695, to assume control over the financial management of the local government. In AGO 2013-01, the Attorney General addresses whether the Department may suspend, break or otherwise alter collective bargaining agreements between the local government and those of its employees who are covered by the agreement, typically police officers and firefighters. Additionally, the Attorney General addresses whether, following a property tax increase enacted pursuant to NRS 354.705, the Department may calculate and collect the amount of the increase without regard to the partial abatements set forth at NRS 361.4722, NRS 361.4723 and NRS 361.4724.

Power over Collective Bargaining Agreements

In AGO 2013-01, the Attorney General recognizes that while the Department has broad powers under NRS 354.695, those generally do not include the power to suspend, break or alter a collective bargaining agreement. According to the opinion, there would be an exception to this rule only if the collective bargaining agreement contained a contractual provision that expressly ceded to the Department the authority to suspend, break or alter the

agreement following a declaration of severe financial emergency. Collective bargaining agreements have not customarily included provisions to this effect.

Power to Calculate and Collect Property Tax Increases without Abatement

Under NRS 361.4722, NRS 361.4723, and NRS 361.4724, real property taxes are abated to the extent that they have increased on an annual basis over specified thresholds. This abatement scheme is often described as a property tax cap. In AGO 2013-01, the Attorney General addresses whether the abatements apply to taxes generated by a rate increase adopted by the Commission pursuant to NRS 354.705. Subject to specified limitations, the Commission may increase the property tax rate in order to generate additional revenue for a local government whose management functions have been assumed by the Department under a declaration of severe financial emergency. According to the Attorney General, NRS 361.4726 allows for the Department to calculate and collect the amount of the increase without regard to the property tax cap.

A copy of AGO No. 2013-01 is attached hereto.