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MEMORANDUM

Date: April 24, 2023

To: State Board of Equalization

From: Shellie Hughes, Executive Director
Yvonne M. Nevarez-Goodson, Chief Deputy Executive Director

Re: Special Meeting - Governor Lombardo's Executive Order 2023-003 (Regulation Review)

Dear Members,

The April 26, 2023, Special Meeting of the State Board of Equalization provides for the public hearing of the Board to determine its recommendation to Governor Lombardo under Executive Order No. 2023-003. The Executive Order requires the Board to freeze the issuance of new regulations, conduct a comprehensive review of existing regulations, and prepare a report to the Governor's Office by May 1, 2023.

Specifically, the Executive Order requires the Board to recommend at least 10 regulations for removal and any amendments to other regulations under its jurisdiction that can be streamlined, clarified, reduced or otherwise improved. In particular, the review of regulations should consider whether the regulations are outdated, result in unintended consequences, create conflicts, or impose an unnecessary burden on citizens, businesses or government entities. This regulatory review is intended to identify and otherwise repeal, streamline or clarify provisions to emphasize the economic potential of the State.

The Department of Taxation will prepare the report to the Governor based on the direction of the Board for the regulations which it recommends for repeal or amendment under this Order.

This Executive Order has also frozen all previously proposed regulations pending specific approval by the Governor's Office, which may be granted under certain exemptions, such as regulations that affect public health, safety and security, are necessary in the pursuit of federal funds and certifications, affect the application of powers, functions and duties essential to the operation of the executive branch agency, board or commission, affect pending judicial deadlines, or are necessary to comply with federal law.

As it relates to the Board, the Department has identified several provisions within Nevada Administrative Code (“NAC”) Chapter 361 that were adopted by and under the jurisdiction of the Board.

The Department developed a comprehensive spreadsheet that identifies every regulation within the Board’s jurisdiction. These spreadsheets were provided to Department staff and the public and stakeholders to identify any regulations for discussion and/or recommendation under the Executive Order. They are also available to the Board for its review of any provisions identified for repeal or amendment.

The Department’s staff has reviewed the regulations within these chapters to make certain recommendations. Moreover, on April 14, 2023, the Department staff held a workshop with interested stakeholders to obtain feedback for the Board on this Project. Certain stakeholders provided the Department with written suggestions and/or public comment for the repeal and amendment of various sections of NAC.

At the hearing on April 26, 2023, the Department will present the recommendations from Department staff and stakeholders, and the Board will be responsible for approving or declining these recommendations, and/or directing any other provisions for repeal or amendment of provisions.

Upon the final direction of the Board at its Special Meeting, Department staff will prepare the report required by the Executive Order on or before May 1, 2023.

Please note, this process will not result in automatic regulatory changes. Instead, the report will identify the Board’s recommendations to the Governor’s Office. If the Governor’s Office thereafter directs the Board to move forward with these regulatory changes, the Board will thereafter have to comply with the provisions of NRS Chapter 233B to adopt/enact these regulatory changes.

NRS Chapter 233B requires, at a minimum:

- 1) The Board/Department provide proposed language to the Legislative Counsel Bureau (“LCB”) for amending, repealing or adding language in the NAC
- 2) The Board/Department provide public notice of LCB’s proposed draft language
- 3) The Department hold formal workshops
- 4) The Board hold public hearings for adoption
- 5) The Legislative Commission approve any such adopted regulations

It is anticipated that the Governor’s Office will provide guidance regarding the Board’s recommended regulatory changes after the report is filed in May.

As a summary, the Department has **2 lists** for the Board’s review: 1) Proposed repealed sections by the Department and Stakeholders; and 2) Proposed amended sections by the Department and Stakeholders.

- 1) List #1: Proposed Repeal – **See Attached**
- 2) List #2: Proposed Amendments – **See Attached**

Proposed Motions:

In response to the Governor's Executive Order No. 2023-003, I have the following motion(s):

- 1) I move to accept the recommendations presented by the Department and public stakeholders to recommend to the Governor the repeal of NAC provisions as identified by staff in List #1 of the materials and presentation to the Board for this Meeting. (Refer to List #1 for specific NAC sections)
- 2) I move to accept the recommendations presented by the Department and public stakeholders to recommend to the Governor the amendment of NAC provisions as identified by staff in List # 2 of the materials and presentation to the Board for this Meeting (Refer to List #2 for specific NAC sections)
- 3) I move to recommend to the Governor the repeal/amendment of the following additional sections of NAC:
 - Any additional provisions identified by Board members for inclusion in the Report to the Governor for repeal/amendment. If amendment, identify the specific amendment.
- 4) I move to authorize and direct staff of the Department to prepare a report outlining these recommendations to the Governor's Office on or before May 1, 2023, as required by the Executive Order No. 2023-003.

Proposed Repeals to Regulations

- ✓ 361.698 – Paul Bancroft - Repeal – There is no need for this NAC because the qualifications are already established by the Nevada Supreme Court.

Department’s Response:

The Department respectfully disagrees with this recommendation. Out of state attorneys regularly appear before the State Board of Equalization (SBE). If an out-of-state attorney is the representative, the attorney should be licensed by the highest court of that State. A Nevada attorney must be licensed by the Supreme Court of Nevada. This language is consistent with the Nevada Tax Commission (NTC) requirements set forth in NRS 360.085, which states “If a party chooses to be represented by an attorney, the attorney must be one who is admitted to practice and in good standing before the highest court of any state of the United States.”

Notably, the NTC also requires an out-of-state attorney to have an in-state attorney licensed by the Nevada Supreme Court to appear as well. SBE does not currently require an associate counsel in Nevada. Pursuant to NRS 360.085 for NTC: “If the attorney is not admitted to practice and in good standing before the Supreme Court of Nevada, an attorney so admitted and in good standing must be associated with the attorney appearing before the Commission or Department.”

- ✓ 361.721 – Clark County Accessor - Repeal as format for documents is outdated.
The Department supports this recommendation.
- ✓ 361.748 – Paul Bancroft - Repeal as service requirements for appeals of the State Board of Equalization are addressed in NRS 233B and the Nevada Rules of Civil Procedure.
The Department supports this recommendation.

Proposed Amendments to Regulations

- ✓ 361.658 – Clark County Assessor – Amend to remove the cost for the Board’s “Standard on Ratio Studies” because this has the potential to change.
The Department supports this recommendation.

- ✓ 361.6405 – Clark County Assessor – Amend pursuant to R192-22.
The Department supports this recommendation.

- ✓ 361.7018 – Clark County Assessor - Recommend "facsimile machine" be replaced with "electronic transmission" which captures the transfer of all forms and electronic documents.
The Department recommends leaving “facsimile machine” as that is still a valid source of filing and to use the word “electronic mail” to conform with the language in other NACs.

- ✓ 361.723 - Clark County Assessor - Recommend "facsimile machine" be replaced with "electronic transmission" which captures the transfer of all forms and electronic documents.
The Department recommends leaving “facsimile machine” as that is still a valid source of filing and to use the word “electronic mail” to conform with the language in other NACs.

Public/Member Recommendation for Repeal **Department's Response**

NAC 361.698

CHAPTER 361 - PROPERTY TAX

Parties to Proceedings

Paul Bancroft - Repeal – There is no need for this NAC because the qualifications are already established by the Nevada Supreme Court.

Department's Response:

The Department respectfully disagrees with this recommendation. Out of state attorneys regularly appear before the State Board of Equalization (SBE). If an out-of-state attorney is the representative, the attorney should be licensed by the highest court of that State. A Nevada attorney must be licensed by the Supreme Court of Nevada. This language is consistent with the Nevada Tax Commission (NTC) requirements set forth in NRS 360.085, which states “If a party chooses to be represented by an attorney, the attorney must be one who is admitted to practice and in good standing before the highest court of any state of the United States.”

Notably, the NTC also requires an out-of-state attorney to have an in-state attorney licensed by the Nevada Supreme Court to appear as well. SBE does not currently require an associate counsel in Nevada. Pursuant to NRS 360.085 for NTC: “If the attorney is not admitted to practice and in good standing before the Supreme Court of Nevada, an attorney so admitted and in good standing must be associated with the attorney appearing before the Commission or Department.”

~~NAC 361.698 – Qualifications of attorneys. (NRS 361.375, 361.385) If a party chooses to be represented by an attorney, the attorney must be one who is admitted to practice and in good standing before the highest court of any state of the United States.~~

~~— [St. Bd. of Equalization, Practice Rule 27, eff. 10-14-77]~~

Public/Member Recommendation for Repeal

NAC 361.721

CHAPTER 361 - PROPERTY TAX

Hearings

Clark County Assessor – Format for documents is outdated.

The Department supports this recommendation.

~~NAC 361.721 Format of documents. (NRS 361.375, 361.395) All petitions, pleadings, briefs, correspondence, notices and other written documents filed with the State Board must be on white paper that is 8 1/2 by 11 inches in size and must be legibly written, printed or typewritten on one side of the paper only.~~

~~—(Added to NAC by St. Bd. of Equalization by R029-05, eff. 6-28-2006; A by R097-15, 1-27-2017)~~

Public/Member Recommendation for Repeal

NAC 361.748

CHAPTER 361 - PROPERTY TAX

Hearings

Paul Bancroft – Repeal as service requirements for appeals of the State Board of Equalization are addressed in NRS 233B and the Nevada Rules of Civil Procedure.

The Department supports this recommendation.

~~NAC 361.748 Action for redress from finding of State Board. (NRS 361.375) A person who commences an action pursuant to NRS 361.410 to 361.435, inclusive, for redress from a finding of the State Board shall serve a copy of the summons, complaint or petition on the Department.
(Added to NAC by St. Bd. of Equalization by R029-05, eff. 6-28-2006)~~

Public/Member Recommendation for Amendment

NAC 361.658

CHAPTER 361 - PROPERTY TAX

EQUALIZATION BY STATE BOARD OF EQUALIZATION

Clark County Assessor – Amend to remove the cost for the Board’s “Standard on Ratio Studies” because this has the potential to change.

The Department supports this recommendation.

NAC 361.658 Adoption by reference of *Standard on Ratio Studies*; revision of publication after adoption. (NRS 361.375, 361.395)

1. The State Board hereby adopts by reference the *Standard on Ratio Studies*, July 2007 edition, published by the International Association of Assessing Officers. The *Standard on Ratio Studies* may be obtained from the International Association of Assessing Officers, 314 West 10th Street, Kansas City, Missouri 64105-1616, or on the Internet at <http://www.iaao.org/store>, ~~for the price of \$10.~~

2. If the publication adopted by reference in subsection 1 is revised, the State Board will review the revision to determine its suitability for this State. If the State Board determines that the revision is not suitable for this State, the State Board will hold a public hearing to review its determination and give notice of that hearing within 30 days after the date of the publication of the revision. If, after the hearing, the State Board does not revise its determination, the State Board will give notice that the revision is not suitable for this State within 30 days after the hearing. If the State Board does not give such notice, the revision becomes part of the publication adopted by reference pursuant to subsection 1.

(Added to NAC by St. Bd. of Equalization by R153-09, eff. 4-20-2010)

Public/Member Recommendation for Amendment

NAC 361.6405 (R192-22)

CHAPTER 361 - PROPERTY TAX

EQUALIZATION BY COUNTY BOARD OF EQUALIZATION

Clark County Assessor – Amend pursuant to R192-22.

The Department supports this recommendation.

NAC 361.6405 Determination of percentage of obsolescence. ([NRS 361.340](#), [361.375](#))

1. The State Board of Equalization will or a county board of equalization shall, in ~~fixing a percentage of determining~~ obsolescence ~~to be deducted from of~~ the taxable value of any improvements ~~the valuation of which are~~ subject to ~~appeal in~~ its jurisdiction, consider the total value of land and improvements ~~and, if applicable to a property valuation, any pertinent personal property assessed as of July 1 of the fiscal year immediately preceding the fiscal year for which the taxes are levied,~~ to determine whether ~~total~~ taxable value exceeds full cash value.

2. The State Board of Equalization will, or a county board of equalization shall, in determining obsolescence of the taxable value of personal property the valuation of which is subject to appeal in its jurisdiction, consider the personal property on its own merit to determine whether taxable value exceeds full cash value.

(Added to NAC by St. Bd. of Equalization, eff. 1-6-84)

Public/Member Recommendation for Amendment
Department's Response

NAC 361.7018 and 361.723

CHAPTER 361 - PROPERTY TAX

Hearings

Clark County Assessor - Recommend "facsimile machine" be replaced with "electronic transmission" which captures the transfer of all forms and electronic documents.

The Department recommends leaving "facsimile machine" as that is still a valid source of filing and to use the word "electronic mail" to conform with the language in other NACs.

NAC 361.7018 Notice of representation by authorized agent. ([NRS 361.375](#), [361.395](#))

1. A petitioner who desires to be represented by an authorized agent must notify the State Board in writing. The notice may be filed with the State Board at any time before the commencement of the hearing. The State Board will accept a notice filed by facsimile transmission *or electronic mail*, but the original document must be filed with the State Board before the commencement of the hearing.

2. The written notification must be on the form prescribed by the State Board. The notice must include, for the property on which the petitioner is appealing the valuation and in connection with which the agent is being appointed:

(a) The name of the property owner as it appears on the assessment roll that sets forth the valuation being appealed;

(b) If the property owner is not a natural person:

(1) The organizational type of the entity that is the property owner, such as a sole proprietorship, trust, corporation, limited-liability company, general or limited partnership, government or governmental agency;

(2) The name of the state under the laws of which the entity was organized; and

(3) Whether the entity is a nonprofit organization;

(c) A statement to the effect that the agent is authorized to sign and file petitions, to receive all notices and decision letters related to the appeal and to represent the petitioner in all related hearings and matters, including, without limitation, the entry into a stipulation or the withdrawal of the appeal;

(d) Contact information, including the daytime telephone number, alternate telephone number, facsimile transmission number, mailing address and electronic mail address of the petitioner;

(e) A description of the petitioner's relationship to the owner of the property, such as that the petitioner is:

(1) The owner of the property;

(2) A co-owner of the property;

(3) A partner of a general or limited partnership that owns the property;

(4) A member of a limited-liability company that owns the property;

(5) A trustee of the trust that owns the property;

(6) An officer or director of a corporation that owns the property;

(7) A person employed by the owner of the property or an affiliate of the owner who is acting within the scope of his or her employment; or

(8) An employee or officer of a management company under a written agreement with the property owner that satisfies the conditions of [NRS 361.362](#);

(f) The physical address of the property or, in the case of personal property, of the place where the property is located, including the county and, if applicable, the city;

(g) The assessor's parcel number or identifying number of the property;

(h) An indication of whether the appeal involves more than one property and, if so, the assessor's parcel number or identifying number of each such property included in the appeal;

(i) The fiscal year and type of the assessment roll that sets forth the valuation being appealed;

(j) The name, title, company name, if applicable, mailing address, telephone number for daytime business hours, alternate telephone number, facsimile transmission number and electronic mail address of the authorized agent;

(k) The signature and title of the agent acknowledging that he or she has accepted the appointment as the authorized agent and the date on which he or she accepted the appointment; and

(l) A verification signed by a person who declares under penalty of perjury that:

(1) The information contained in the authorization, including any accompanying statements or documents, is true, correct and complete to the best of his or her knowledge and belief;

(2) The signatory has appointed the authorized agent named in the form and is authorized to make the appointment; and

(3) The signatory is:

(I) The owner of the property, including, without limitation, a person who owns, controls or possesses in its entirety taxable property, including a leasehold interest, possessory interest, beneficial interest or beneficial use in the property; or

(II) A person employed by the owner or an affiliate of the owner who is acting within the scope of his or her employment.

↪ A person who verifies an authorization pursuant to this paragraph must include his or her signature, title and the date on which he or she signs the verification.

(Added to NAC by St. Bd. of Equalization by R029-05, eff. 6-28-2006; A by R097-15, 1-27-2017)

NAC 361.723 Filing and receipt of documents; admission of late document into evidence. ([NRS 361.375](#))

1. Any petition, pleading, brief, correspondence, notice or other written document required or authorized to be filed with the State Board may be filed in person, ~~or~~ by facsimile machine, *electronic mail*, United States mail or third-party delivery service.

2. A document filed in person, ~~or~~ by facsimile machine *or electronic mail* must be received by the State Board not later than 5 p.m. on the last day for filing the document set forth in the applicable statute or regulation. The State Board will stamp each document filed with the date and time it is received. A document is presumed to have been received at the date and time shown on the stamp.

3. Except as otherwise provided in this subsection, a document filed by mail or third-party delivery service is timely filed if it is deposited with the post office or delivery service, correctly addressed, postage prepaid and postmarked not later than the last day for filing the document set forth in the applicable statute or regulation. A postmark provided by a postage meter does not establish that a document is timely filed.

4. If the last day set forth in a statute or regulation for the performance of an act falls on a Saturday, Sunday or legal holiday, the act is timely if it is performed on the next business day. For the purposes of this section, the performance of an act includes, without limitation, filing a document with the State Board and serving a document on a party.

5. The State Board will not admit into evidence a document that is not timely filed as set forth in this section except upon a motion for its admission pursuant to [NAC 361.705](#).

(Added to NAC by St. Bd. of Equalization by R029-05, eff. 6-28-2006)