



togetherforbetter

memorandum

BRIANA JOHNSON
CLARK COUNTY ASSESSOR

Mary Ann Weidner
Deputy Director of Assessment Services

to: Nevada Department of Taxation
from: Clark County Assessor's Office & Civil Division of the Clark County District Attorney's Office
subject: R037-24 Regulation Workshop
date: June 11, 2024

Following are comments and recommendations to be discussed at the upcoming regulation workshop for R037-24.

Item 1: LCB Draft Proposal

Sec. 3. NAC 361.698 is hereby amended to read as follows:

361.698 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.]~~ *an attorney in good standing who is licensed and admitted to practice law in this State or an attorney who is otherwise authorized to practice law in this State pursuant to the rules of the Nevada Supreme Court.*

Clark County Recommendation:

At the original hearing and before the State Board, Paul Bancroft – recommended to Repeal – stating “there is no need for this NAC because the qualifications are already established by the Nevada Supreme Court.” The Department disagreed. The LCB is now proposing the language above.

NAC 361.698 –Qualifications of attorneys.

Clark County Assessor recommends that this provision be changed to mirror the requirements in NAC 360.085. While the proposed regulation and the Assessor's proposed change have similar requirements, the Assessor's proposed language is consistent with other legal representation before another State agency and does not put an undue burden on staff. By adding the “*or an attorney who is otherwise authorized to practice law in this State pursuant to the rules of the Nevada Supreme Court*” it would be require out of state attorneys representing clients before the State Board of Equalization to comply with Nevada Supreme Court Rule 42. Rule 42(1)(a)(2) specifically states that this rule applies to all actions or proceedings pending before an administrative agency or governmental body in this state unless that agency or governmental body provides otherwise. Here, NAC 361.698 provides an alternative to the comprehensive process required by Rule 42. Under Rule 42, an attorney representing a person before the State Board would be required to seek approval from the State Board and also file an application with the Nevada State Bar and there must also be a motion to associate, which requires a Nevada licensed attorney to appear as the attorney of record. The language currently proposed puts an undue burden on the State Board and staff to approve an unlicensed Nevada attorney's representation before that

attorney can appear on behalf of the client complied with Rule 42, when the adoption of the Tax Commission regulation (NAC 360.085) would provide consistency and ensure the same goal as Rule 42, which is that the out of state attorney will associate with a Nevada licensed attorney.

Proposed Reversion

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. **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 State Board.**

Item 2:

LCB Draft Proposal to Repeal

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.~~
361.61034 2. (a)

Clark County Recommendations:

At the original hearing and before the State Board, Paul Bancroft – recommended to 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 supported this recommendation.

NAC 361.748 – Action for redress from finding of State Board.

While the Assessor understands the position of the Department, that this provision may be unnecessary since challenges of State Board decisions must comply with NRS 233B, there is still a cause of action that is permitted by NRS 361.420. NRS 361.420 allows a property owner whose taxes are in excess of the amount the owner claims justly to be due may pay each installment of taxes as it becomes due under protest in writing. The property owner that has protested the payment of taxes and been denied relief by the State Board may commence suit against the State of Nevada and county were the taxes were paid. This action must be commenced within 3 months after the date of payment of the last installment of taxes. The claims under NRS 361.420 are different than a challenge to the State Board’s decision. In light of this statutory claim provision, it would be the Assessor’s and District Attorney’s recommendation that NAC 361.748 remain to ensure that the Department is served a copy of an action brought under NRS 361.420.

Propose – Retain

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)