

ASSEMBLY BILL NO. 492—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LEGISLATIVE COUNSEL)

MAY 30, 2015

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to administrative regulations. (BDR 18-1281)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to administrative regulations; revising provisions governing statements relating to the effect of a regulation on small business submitted with adopted permanent regulations; clarifying the time by which proposed regulations must be returned to state agencies; revising provisions relating to the review of regulations by the Legislative Committee on Health Care; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires an agency which is proposing to adopt a regulation to
2 make a concerted effort to determine whether the proposed regulation is likely to
3 impose a direct and significant economic burden upon a small business or directly
4 restrict the formation, operation or expansion of a small business. If so, the agency
5 is required to take certain actions and prepare a small business impact statement.
6 (NRS 233B.0608, 233B.0609) In addition, such an agency is required to prepare a
7 statement which identifies the methods used by the agency in determining the
8 impact of a proposed regulation on a small business and the reasons for the
9 conclusions of the agency. A copy of the statement and the small business impact
10 statement are required to be submitted to the Legislative Counsel with each adopted
11 regulation. (NRS 233B.0608) **Section 2** of this bill instead requires an agency to
12 submit only one statement or the other. **Section 2** also provides that a small
13 business impact statement will only be required when the agency concludes that the
14 regulation is likely to impose a direct and significant economic burden upon a small
15 business or directly restrict the formation, operation or expansion of a small
16 business. **Sections 1, 4 and 6** of this bill make conforming changes.



17 Existing law requires a state agency that intends to adopt, amend or repeal a
18 permanent regulation to submit its proposed regulation to the Legislative Counsel.
19 The Legislative Counsel is required to examine and, if appropriate, revise the
20 language submitted. If the proposed regulation is submitted between July 1 of an
21 odd-numbered year and July 1 of the succeeding even-numbered year, the
22 Legislative Counsel is required to return the proposed regulation within 30 days.
23 (NRS 233B.063) **Section 3** of this bill clarifies that if the proposed regulation is
24 submitted during any other period, the Legislative Counsel may accept the
25 regulation but is not required to comply with the 30-day deadline.

26 Existing law requires the Legislative Committee on Health Care to consider
27 certain regulations relating to the licensing of health care professionals. (NRS
28 439B.225) **Section 7** of this bill instead authorizes the Legislative Committee on
29 Health Care to consider any regulation that is proposed or adopted which relates to
30 health care, thereby allowing the Committee to determine which regulations the
31 Committee wishes to consider and to consider a broader range of topics that may
32 relate to health care which are addressed in administrative regulations. **Sections 3**
33 **and 5** of this bill make conforming changes.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 233B.0603 is hereby amended to read as
2 follows:

3 233B.0603 1. The notice of intent to act upon a regulation
4 required pursuant to NRS 233B.060 must:

5 (a) Include:

6 (1) A statement of the need for and purpose of the proposed
7 regulation.

8 (2) If the proposed regulation is a temporary regulation,
9 either the terms or substance of the proposed regulation or a
10 description of the subjects and issues involved.

11 (3) If the proposed regulation is a permanent regulation, a
12 statement explaining how to obtain the approved or revised text of
13 the proposed regulation prepared by the Legislative Counsel
14 pursuant to NRS 233B.063.

15 (4) A statement of the estimated economic effect of the
16 regulation on the business which it is to regulate and on the public.
17 These must be stated separately and in each case must include:

18 (I) Both adverse and beneficial effects; and

19 (II) Both immediate and long-term effects.

20 (5) A statement identifying the methods used by the agency
21 in determining the impact on a small business prepared pursuant to
22 subsection 3 of NRS 233B.0608 **† or a small business impact**
23 **statement prepared pursuant to paragraph (d) of subsection 2 of**
24 **NRS 233B.0608 in the manner set forth in NRS 233B.0609, as**
25 **applicable.**



1 (6) The estimated cost to the agency for enforcement of the
2 proposed regulation.

3 (7) A description of any regulations of other state or local
4 governmental agencies which the proposed regulation overlaps or
5 duplicates and a statement explaining why the duplication or
6 overlapping is necessary. If the regulation overlaps or duplicates a
7 federal regulation, the notice must include the name of the
8 regulating federal agency.

9 (8) If the regulation is required pursuant to federal law, a
10 citation and description of the federal law.

11 (9) If the regulation includes provisions which are more
12 stringent than a federal regulation that regulates the same activity, a
13 summary of such provisions.

14 (10) The time when, the place where and the manner in
15 which interested persons may present their views regarding the
16 proposed regulation.

17 (b) If the proposed regulation is a temporary regulation, state
18 each address at which the text of the proposed regulation may be
19 inspected and copied.

20 (c) Include an exact copy of the provisions of subsection 2 of
21 NRS 233B.064.

22 (d) Include a statement indicating whether the regulation
23 establishes a new fee or increases an existing fee.

24 (e) Be mailed to all persons who have requested in writing that
25 they be placed upon a mailing list, which must be kept by the
26 agency for that purpose.

27 (f) Be submitted to the Legislative Counsel Bureau for inclusion
28 in the Register of Administrative Regulations created pursuant to
29 NRS 233B.0653. The publication of a notice of intent to act upon a
30 regulation in the Register does not satisfy the requirements for
31 notice set forth in paragraph (e).

32 2. The Attorney General may by regulation prescribe the form
33 of notice to be used.

34 3. In addition to distributing the notice to each recipient of the
35 agency's regulations, the agency shall also solicit comment
36 generally from the public and from businesses to be affected by the
37 proposed regulation.

38 **Sec. 2.** NRS 233B.0608 is hereby amended to read as follows:

39 233B.0608 1. Before conducting a workshop for a proposed
40 regulation pursuant to NRS 233B.061, an agency shall make a
41 concerted effort to determine whether the proposed regulation is
42 likely to:

43 (a) Impose a direct and significant economic burden upon a
44 small business; or



1 (b) Directly restrict the formation, operation or expansion of a
2 small business.

3 2. If an agency determines pursuant to subsection 1 that a
4 proposed regulation is likely to impose a direct and significant
5 economic burden upon a small business or directly restrict the
6 formation, operation or expansion of a small business, the agency
7 shall:

8 (a) Insofar as practicable, consult with owners and officers of
9 small businesses that are likely to be affected by the proposed
10 regulation.

11 (b) Conduct or cause to be conducted an analysis of the likely
12 impact of the proposed regulation on small businesses. Insofar as
13 practicable, the analysis must be conducted by the employee of the
14 agency who is most knowledgeable about the subject of the
15 proposed regulation and its likely impact on small businesses or by
16 a consultant or other independent contractor who has such
17 knowledge and is retained by the agency.

18 (c) Consider methods to reduce the impact of the proposed
19 regulation on small businesses, including, without limitation:

20 (1) Simplifying the proposed regulation;

21 (2) Establishing different standards of compliance for a small
22 business; and

23 (3) Modifying a fee or fine set forth in the regulation so that
24 a small business is authorized to pay a lower fee or fine.

25 (d) Prepare a small business impact statement *in the manner set*
26 *forth in NRS 233B.0609* and make copies of the statement available
27 to the public not less than 15 days before the workshop conducted
28 and the public hearing held pursuant to NRS 233B.061. A copy of
29 the statement must accompany the notice required by subsection 2
30 of NRS 233B.061 and the agenda for the public hearing held
31 pursuant to that section.

32 3. ~~The~~ *If the agency determines that a proposed regulation*
33 *is not likely to impose a direct and significant economic burden*
34 *upon a small business or directly restrict the formation, operation*
35 *or expansion of a small business, the agency* shall prepare a
36 statement identifying the methods used by the agency in
37 determining the impact of ~~the~~ *the* proposed regulation on a small
38 business and the reasons for the conclusions of the agency. The
39 director, executive head or other person who is responsible for the
40 agency shall sign the statement certifying that, to the best of his or
41 her knowledge or belief, a concerted effort was made to determine
42 the impact of the proposed regulation on small businesses and that
43 the information contained in the statement is accurate.

44 4. Each adopted regulation which is submitted to the
45 Legislative Counsel pursuant to NRS 233B.067 must be



1 accompanied by a copy of *the statement prepared pursuant to*
2 *subsection 3 or* the small business impact statement ~~{and the~~
3 ~~statement made pursuant to subsection 3.}~~ *prepared pursuant to*
4 *paragraph (d) of subsection 2 in the manner set forth in NRS*
5 *233B.0609.* If the agency revises a regulation after preparing the
6 *statement or the* small business impact statement ~~{and the statement~~
7 ~~made pursuant to subsection 3.}~~, *as applicable,* the agency must
8 include *in the applicable statement* an explanation of the revision
9 and the effect of the change on small businesses.

10 **Sec. 3.** NRS 233B.063 is hereby amended to read as follows:

11 233B.063 1. An agency that intends to adopt, amend or
12 repeal a permanent regulation must deliver to the Legislative
13 Counsel a copy of the proposed regulation. The Legislative Counsel
14 shall examine and if appropriate revise the language submitted so
15 that it is clear, concise and suitable for incorporation in the Nevada
16 Administrative Code, but shall not alter the meaning or effect
17 without the consent of the agency.

18 2. ~~{Unless}~~ *If* the proposed regulation is submitted to the
19 Legislative Counsel between July 1 of an even-numbered year and
20 July 1 of the succeeding odd-numbered year, the Legislative
21 Counsel shall deliver the approved or revised text of the regulation
22 *as soon as possible or, if submitted any other time,* within 30 days
23 after it is submitted to the Legislative Counsel. If the proposed or
24 revised text of a regulation is changed before adoption, the agency
25 shall submit the changed text to the Legislative Counsel, who shall
26 examine and revise it if appropriate pursuant to the standards of
27 subsection 1. ~~{Unless}~~ *If* it is submitted between July 1 of an ~~{even-~~
28 ~~numbered}~~ *odd-numbered* year and July 1 of the succeeding ~~{odd-~~
29 ~~numbered}~~ *even-numbered* year, the Legislative Counsel shall
30 return it with any appropriate revisions *as soon as possible* within
31 30 days ~~{. If the agency is a licensing board as defined in NRS~~
32 ~~439B.225 and the proposed regulation relates to standards for the~~
33 ~~issuance or renewal of licenses, permits or certificates of registration~~
34 ~~issued to a person or facility regulated by the agency, the Legislative~~
35 ~~Counsel shall also deliver one copy of the approved or revised text~~
36 ~~of the regulation to the Legislative Committee on Health Care.}~~ *or*
37 *as soon as possible if submitted between July 1 of an even-*
38 *numbered year and July 1 of the succeeding odd-numbered year.*

39 3. An agency may adopt a temporary regulation between
40 August 1 of an even-numbered year and July 1 of the succeeding
41 odd-numbered year without following the procedure required by this
42 section and NRS 233B.064, but any such regulation expires by
43 limitation on November 1 of the odd-numbered year. A
44 substantively identical permanent regulation may be subsequently
45 adopted.



1 4. An agency may amend or suspend a permanent regulation
2 between August 1 of an even-numbered year and July 1 of the
3 succeeding odd-numbered year by adopting a temporary regulation
4 in the same manner and subject to the same provisions as prescribed
5 in subsection 3.

6 **Sec. 4.** NRS 233B.0665 is hereby amended to read as follows:

7 233B.0665 If a regulation submitted to the Legislative Counsel
8 Bureau pursuant to NRS 233B.067 is not accompanied by an
9 informational statement which complies with the requirements of
10 NRS 233B.066 or a *statement or* small business impact statement
11 which complies with the requirements of NRS 233B.0608 and
12 233B.0609, *as applicable*, the Legislative Counsel shall return the
13 regulation to the agency with a note indicating the statement which
14 is missing. Unless the missing statement is supplied, the Legislative
15 Counsel shall not submit the regulation to the Legislative
16 Commission or the Subcommittee to Review Regulations, as
17 applicable, and the regulation never becomes effective.

18 **Sec. 5.** NRS 233B.070 is hereby amended to read as follows:

19 233B.070 1. A permanent regulation becomes effective when
20 the Legislative Counsel files with the Secretary of State the original
21 of the final draft or revision of a regulation, except as otherwise
22 provided in NRS 293.247 or where a later date is specified in the
23 regulation.

24 2. Except as otherwise provided in NRS 233B.0633, an agency
25 that has adopted a temporary regulation may not file the temporary
26 regulation with the Secretary of State until 35 days after the date on
27 which the temporary regulation was adopted by the agency. A
28 temporary regulation becomes effective when the agency files with
29 the Secretary of State the original of the final draft or revision of the
30 regulation, together with the informational statement prepared
31 pursuant to NRS 233B.066. The agency shall also file a copy of the
32 temporary regulation with the Legislative Counsel, together with the
33 informational statement prepared pursuant to NRS 233B.066.

34 3. An emergency regulation becomes effective when the
35 agency files with the Secretary of State the original of the final draft
36 or revision of an emergency regulation, together with the
37 informational statement prepared pursuant to NRS 233B.066. The
38 agency shall also file a copy of the emergency regulation with the
39 Legislative Counsel, together with the informational statement
40 prepared pursuant to NRS 233B.066.

41 4. The Secretary of State shall maintain the original of the final
42 draft or revision of each regulation in a permanent file to be used
43 only for the preparation of official copies.

44 5. The Secretary of State shall file, with the original of each
45 agency's rules of practice, the current statement of the agency



1 concerning the date and results of its most recent review of those
2 rules.

3 6. Immediately after each permanent or temporary regulation is
4 filed, the agency shall deliver one copy of the final draft or revision,
5 bearing the stamp of the Secretary of State indicating that it has
6 been filed, including material adopted by reference which is not
7 already filed with the State Library and Archives Administrator, to
8 the State Library and Archives Administrator for use by the public.
9 ~~[[If the agency is a licensing board as defined in NRS 439B.225 and
10 it has adopted a permanent regulation relating to standards for the
11 issuance or renewal of licenses, permits or certificates of registration
12 issued to a person or facility regulated by the agency, the agency
13 shall also deliver one copy of the regulation, bearing the stamp of
14 the Secretary of State, to the Legislative Committee on Health Care
15 within 10 days after the regulation is filed with the Secretary of
16 State.]]~~

17 7. Each agency shall furnish a copy of all or part of that part of
18 the Nevada Administrative Code which contains its regulations, to
19 any person who requests a copy, and may charge a reasonable fee
20 for the copy based on the cost of reproduction if it does not have
21 money appropriated or authorized for that purpose.

22 8. An agency which publishes any regulations included in the
23 Nevada Administrative Code shall use the exact text of the
24 regulation as it appears in the Nevada Administrative Code,
25 including the leadlines and numbers of the sections. Any other
26 material which an agency includes in a publication with its
27 regulations must be presented in a form which clearly distinguishes
28 that material from the regulations.

29 **Sec. 6.** NRS 233B.105 is hereby amended to read as follows:

30 233B.105 1. A small business that is aggrieved by a
31 regulation adopted by an agency on or after January 1, 2000, may
32 object to all or a part of the regulation by filing a petition with the
33 agency that adopted the regulation within 90 days after the date on
34 which the regulation was adopted. An agency which receives such a
35 petition shall transmit a copy of the petition to the Legislative
36 Counsel for submission to the Legislative Commission or the
37 Subcommittee to Review Regulations appointed pursuant to
38 subsection 6 of NRS 233B.067.

39 2. A petition filed pursuant to subsection 1 may be based on
40 the following grounds:

41 (a) The agency failed to prepare a *statement or* small business
42 impact statement as required pursuant to NRS 233B.0608 and
43 233B.0609 ~~†~~, *as applicable*; or

44 (b) The *statement or* small business impact statement prepared
45 by the agency pursuant to NRS 233B.0608 and 233B.0609 , *as*



1 *applicable*, is inaccurate, incomplete or did not adequately consider
2 or significantly underestimated the economic effect of the regulation
3 on small businesses.

4 3. After receiving a petition pursuant to subsection 1, an
5 agency shall determine whether the petition has merit. If the agency
6 determines that the petition has merit, the agency may, pursuant to
7 this chapter, take action to amend the regulation to which the small
8 business objected.

9 **Sec. 7.** NRS 439B.225 is hereby amended to read as follows:

10 439B.225 1. ~~{As used in this section, "licensing board"~~
11 ~~means any division or board empowered to adopt standards for the~~
12 ~~issuance or renewal of licenses, permits or certificates of registration~~
13 ~~pursuant to NRS 435.3305 to 435.339, inclusive, chapter 449, 625A,~~
14 ~~630, 630A, 631, 632, 633, 634, 634A, 635, 636, 637, 637A, 637B,~~
15 ~~639, 640, 640A, 640D, 641, 641A, 641B, 641C, 652 or 654 of NRS.~~

16 ~~—2.}~~ The Committee ~~{shall}~~ *may* review ~~{each}~~ *any* regulation
17 that ~~{a licensing board proposes or adopts that relates to standards~~
18 ~~for the issuance or renewal of licenses, permits or certificates of~~
19 ~~registration issued to a person or facility regulated by the board,}~~ *is*
20 *proposed or adopted which relates to health care*, giving
21 consideration to:

22 (a) Any oral or written comment made or submitted to it by
23 members of the public or by persons or facilities affected by the
24 regulation;

25 (b) The effect of the regulation on the cost of health care in this
26 State;

27 (c) The effect of the regulation on the number of licensed,
28 permitted or registered persons and facilities available to provide
29 services in this State; and

30 (d) Any other related factor the Committee deems appropriate.

31 ~~{3.}~~ 2. After reviewing a proposed regulation, the Committee
32 shall notify the agency of the opinion of the Committee regarding
33 the advisability of adopting or revising the proposed regulation.

34 ~~{4.}~~ 3. The Committee shall recommend to the Legislature as a
35 result of its review of regulations pursuant to this section any
36 appropriate legislation.

37 **Sec. 8.** This act becomes effective upon passage and approval.

