

SENATE BILL NO. 7—COMMITTEE ON REVENUE
AND ECONOMIC DEVELOPMENT

(ON BEHALF OF THE DEPARTMENT OF TAXATION)

PREFILED DECEMBER 19, 2012

Referred to Committee on Revenue and
Economic Development

SUMMARY—Requires the Executive Director of the Department of Taxation to publish and periodically revise technical bulletins. (BDR 32-299)

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

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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 taxation; requiring the Executive Director of the Department of Taxation to publish and periodically revise technical bulletins setting forth information relating to the taxes administered by the Department and certain written opinions received from the Attorney General; exempting such technical bulletins from the Nevada Administrative Procedure Act; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law creates the Department of Taxation and authorizes the Department
2 to exercise general supervision and control over the revenue system of this State.
3 The Executive Director of the Department is its Chief Administrative Officer.
4 (NRS 360.120, 360.200) Existing law also requires the Attorney General, when
5 requested by the head of any state department, agency, board or commission, to
6 give his or her written opinion on any question of law relating to the respective
7 office, department, agency, board or commission. (NRS 228.150) **Section 1** of this
8 bill requires the Executive Director to prepare, publish and periodically revise
9 technical bulletins to educate the public on: (1) issues relating to businesses and
10 taxes administered by the Department; and (2) written opinions that the Executive
11 Director receives from the Attorney General. **Section 2** of this bill exempts such
12 technical bulletins from the provisions of the Nevada Administrative Procedure Act
13 governing administrative regulations so that the technical bulletins can be approved



14 and posted without being drafted, reviewed and adopted in the manner required for
15 administrative regulations.

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

1 **Section 1.** Chapter 360 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *The Executive Director shall prepare or cause to be*
4 *prepared technical bulletins to educate the public on:*

5 (a) *Issues related to their businesses and the taxes*
6 *administered by the Department; and*

7 (b) *Written opinions that the Executive Director receives from*
8 *the Attorney General pursuant to NRS 228.150.*

9 2. *The technical bulletins must be written in simple*
10 *nontechnical language and may include:*

11 (a) *Information and guidance concerning specific issues or*
12 *topics;*

13 (b) *Examples for clarification purposes; and*

14 (c) *Any other information determined by the Executive*
15 *Director or Nevada Tax Commission to be beneficial to the public.*

16 3. *A technical bulletin must not include advice on a specific*
17 *fact situation but may include information that is applicable to a*
18 *specific industry or type of business.*

19 4. *The technical bulletins must be published and revised as*
20 *needed. Each bulletin and revised bulletin must be published and*
21 *posted on an Internet website maintained by the Department and*
22 *made available upon request at the offices of the Department.*

23 5. *Any technical bulletin published or revised pursuant to this*
24 *section is intended for informational purposes only.*

25 6. *The Executive Director shall submit each proposed*
26 *technical bulletin and any revisions to a bulletin to the Nevada*
27 *Tax Commission for approval before publishing the bulletin or*
28 *revised bulletin.*

29 **Sec. 2.** NRS 233B.038 is hereby amended to read as follows:

30 233B.038 1. "Regulation" means:

31 (a) An agency rule, standard, directive or statement of general
32 applicability which effectuates or interprets law or policy, or
33 describes the organization, procedure or practice requirements of
34 any agency;

35 (b) A proposed regulation;

36 (c) The amendment or repeal of a prior regulation; and

37 (d) The general application by an agency of a written policy,
38 interpretation, process or procedure to determine whether a person is



1 in compliance with a federal or state statute or regulation in order to
2 assess a fine, monetary penalty or monetary interest.

3 2. The term does not include:

4 (a) A statement concerning only the internal management of an
5 agency and not affecting private rights or procedures available to the
6 public;

7 (b) A declaratory ruling;

8 (c) An intraagency memorandum;

9 (d) A manual of internal policies and procedures or audit
10 procedures of an agency which is used solely to train or provide
11 guidance to employees of the agency and which is not used as
12 authority in a contested case to determine whether a person is in
13 compliance with a federal or state statute or regulation;

14 (e) An agency decision or finding in a contested case;

15 (f) An advisory opinion issued by an agency that is not of
16 general applicability;

17 (g) A published opinion of the Attorney General;

18 (h) An interpretation of an agency that has statutory authority to
19 issue interpretations;

20 (i) Letters of approval, concurrence or disapproval issued in
21 relation to a permit for a specific project or activity;

22 (j) A contract or agreement into which an agency has entered;

23 (k) The provisions of a federal law, regulation or guideline;

24 (l) An emergency action taken by an agency that is necessary to
25 protect public health and safety;

26 (m) The application by an agency of a policy, interpretation,
27 process or procedure to a person who has sufficient prior actual
28 notice of the policy, interpretation, process or procedure to
29 determine whether the person is in compliance with a federal or
30 state statute or regulation in order to assess a fine, monetary penalty
31 or monetary interest;

32 (n) A regulation concerning the use of public roads or facilities
33 which is indicated to the public by means of signs, signals and other
34 traffic-control devices that conform with the manual and
35 specifications for a uniform system of official traffic-control devices
36 adopted pursuant to NRS 484A.430; ~~to~~

37 (o) The classification of wildlife or the designation of seasons
38 for hunting, fishing or trapping by regulation of the Board of
39 Wildlife Commissioners pursuant to the provisions of title 45 of
40 NRS ~~H~~; *or*

41 *(p) A technical bulletin prepared pursuant to section 1 of this*
42 *act.*

43 **Sec. 3.** This act becomes effective upon passage and approval.



