

ASSEMBLY BILL NO. 12—COMMITTEE ON GOVERNMENT AFFAIRS

PREFILED JANUARY 7, 1999

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning administrative procedure of state and local government. (BDR 18-10)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: 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 procedure; revising the definition of “regulation” for purposes of the Nevada Administrative Procedure Act; authorizing judicial review of a final administrative decision made by a hearing officer of a local government; and providing other matters properly relating thereto.

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

Section 1. NRS 233B.038 is hereby amended to read as follows:
233B.038 “Regulation” means an agency rule, standard, directive or statement of general applicability which effectuates or interprets law or policy, or describes the organization, procedure or practice requirements of any agency. The term ~~[includes a]~~ :

1. Includes, without limitation:

(a) A proposed regulation ~~[and the]~~ ;

(b) The amendment or repeal of a prior regulation ~~[-but does]~~ ; and

(c) A state policy, interpretation or finding of general applicability that an agency applies to:

(1) Determine whether a person is in compliance with a federal or state statute or regulation; or

(2) Assess a fine, monetary penalty or monetary interest.

2. Does not include:

~~[1.]~~ (a) A statement concerning only the internal management of an agency and not affecting private rights or procedures available to the public;

~~[2.]~~ (b) A declaratory ruling;

- 1 ~~[3.]~~ (c) An intraagency memorandum;
- 2 ~~[4.]~~ (d) *A manual of internal policies and procedures, including,*
- 3 *without limitation, audit procedures, of an agency which is used solely to*
- 4 *train or provide guidance to employees of the agency and which is not*
- 5 *used as authority in a contested case to determine whether a person is in*
- 6 *compliance with a federal or state statute or regulation;*
- 7 (e) An agency decision or finding in a contested case; ~~for~~
- 8 ~~-5.]~~ (f) *An advisory opinion issued by an agency that is not of general*
- 9 *applicability;*
- 10 (g) *An interpretation of an agency that has specific statutory authority*
- 11 *to issue interpretations which is not of general applicability;*
- 12 (h) *Letters of approval, concurrence or disapproval issued in relation*
- 13 *to a permit for a specific project or activity; or*
- 14 (i) A regulation concerning the use of public roads or facilities which is
- 15 indicated to the public by means of signs ~~and signals.~~, *signals and other*
- 16 *traffic-control devices that conform with the manual and specifications*
- 17 *for a uniform system of official traffic-control devices adopted pursuant*
- 18 *to NRS 484.781.*

19 **Sec. 2.** Chapter 244 of NRS is hereby amended by adding thereto a

20 new section to read as follows:

21 *If the governing body of a county has authorized the hiring or*

22 *appointment of a hearing officer to make final administrative decisions*

23 *on behalf of that governing body, a person who is aggrieved by a final*

24 *administrative decision of the hearing officer may obtain judicial review*

25 *of the decision, as if the hearing officer were a state agency, in the*

26 *manner provided in NRS 233B.130 to 233B.150, inclusive.*

27 **Sec. 3.** Chapter 268 of NRS is hereby amended by adding thereto a

28 new section to read as follows:

29 *If the governing body of a city has authorized the hiring or*

30 *appointment of a hearing officer to make final administrative decisions*

31 *on behalf of that governing body, a person who is aggrieved by a final*

32 *administrative decision of the hearing officer may obtain judicial review*

33 *of the decision, as if the hearing officer were a state agency, in the*

34 *manner provided in NRS 233B.130 to 233B.150, inclusive.*

35 **Sec. 4.** This act becomes effective on July 1, 1999, for the purpose of

36 adopting regulations to comply with the amendatory provisions of section 1

37 of this act and on January 1, 2000, for all other purposes.