

ASSEMBLY BILL NO. 486—ASSEMBLYMEN GOLDWATER, LEE, PERKINS, BUCKLEY, NEIGHBORS, BERMAN, GIBBONS, MARVEL, PRICE, OHRENSCHALL, ANDERSON, FREEMAN, PARNELL, KOIVISTO, MCCLAIN, ANGLE, MORTENSON, HUMKE, CLABORN, DE BRAGA, CHOWNING, BACHE, EVANS, LESLIE, NOLAN, GIUNCHIGLIANI, ARBERRY, WILLIAMS, COLLINS, MANENDO, PARKS, BEERS, CARPENTER, SEGERBLOM, THOMAS AND DINI

MARCH 11, 1999

JOINT SPONSORS: SENATORS RAWSON, O'CONNELL AND TITUS

Referred to Committee on Commerce and Labor

SUMMARY—Requires certain governmental entities to consider impact of regulations on small businesses and rules on businesses. (BDR 18-1297)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State or on Industrial Insurance: Yes.

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

AN ACT relating to administrative procedure affecting businesses; requiring certain governmental entities to consider the impact on small businesses of regulations promulgated by the governmental entity; requiring local governmental entities to consider the impact on businesses of certain rules promulgated by the governmental entity; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 233B of NRS is hereby amended by adding thereto
- 2 the provisions set forth as sections 2 to 5, inclusive, of this act.
- 3 **Sec. 2.** *“Small business” means a business conducted for profit*
- 4 *which employs fewer than 150 full-time or part-time employees.*
- 5 **Sec. 3. 1.** *Before conducting a workshop for a proposed regulation*
- 6 *pursuant to NRS 233B.061, an agency shall determine whether the*
- 7 *proposed regulation is likely to:*

1     (a) *Impose a direct and significant economic burden upon a small*  
2 *business; or*

3     (b) *Directly restrict the formation, operation or expansion of a small*  
4 *business.*

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

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

11     (b) *Consider methods to reduce the impact of the proposed regulation*  
12 *on small businesses, including, without limitation:*

13         (1) *Simplifying the proposed regulation;*

14         (2) *Establishing different standards of compliance for a small*  
15 *business; and*

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

18     (c) *Prepare a small business impact statement and make copies of the*  
19 *statement available to the public at the workshop conducted and the*  
20 *public hearing held pursuant to NRS 233B.061.*

21     **Sec. 4.** *A small business impact statement prepared pursuant to*  
22 *section 3 of this act must set forth the following information:*

23         1. *A description of the manner in which comment was solicited from*  
24 *affected small businesses, a summary of their response and an*  
25 *explanation of the manner in which other interested persons may obtain*  
26 *a copy of the summary.*

27         2. *The estimated economic effect of the proposed regulation on the*  
28 *small businesses which it is to regulate, including, without limitation:*

29             (a) *Both adverse and beneficial effects; and*

30             (b) *Both direct and indirect effects.*

31         3. *A description of the methods that the agency considered to reduce*  
32 *the impact of the proposed regulation on small businesses and a*  
33 *statement regarding whether the agency actually used any of those*  
34 *methods.*

35         4. *The estimated cost to the agency for enforcement of the proposed*  
36 *regulation.*

37         5. *If the proposed regulation provides a new fee or increases an*  
38 *existing fee, the total annual amount the agency expects to collect and*  
39 *the manner in which the money will be used.*

40         6. *If the proposed regulation includes provisions which duplicate or*  
41 *are more stringent than federal, state or local standards regulating the*  
42 *same activity, an explanation of why such duplicative or more stringent*  
43 *provisions are necessary.*

1   **Sec. 5. 1. A small business that is aggrieved by a regulation**  
2 **adopted by an agency on or after January 1, 2000, may object to all or a**  
3 **part of the regulation by filing a petition with the agency that adopted the**  
4 **regulation within 90 days after the date on which the regulation was**  
5 **adopted.**

6   **2. A petition filed pursuant to subsection 1 may be based on the**  
7 **following grounds:**

8   **(a) The agency failed to prepare a small business impact statement as**  
9 **required pursuant to section 3 of this act; or**

10 **(b) The small business impact statement prepared by the agency**  
11 **pursuant to section 3 of this act did not consider or significantly**  
12 **underestimated the economic effect of the regulation on small**  
13 **businesses.**

14   **3. After receiving a petition pursuant to subsection 1, an agency shall**  
15 **determine whether the petition has merit. If the agency determines that**  
16 **the petition has merit, the agency may, pursuant to this chapter, take**  
17 **action to amend the regulation to which the small business objected.**

18   **Sec. 6.** NRS 233B.030 is hereby amended to read as follows:

19   233B.030 As used in this chapter, unless the context otherwise  
20 requires, the words and terms defined in NRS 233B.031 to 233B.0385,  
21 inclusive, **and section 2 of this act** have the meanings ascribed to them in  
22 those sections.

23   **Sec. 7.** Chapter 237 of NRS is hereby amended by adding thereto the  
24 provisions set forth as sections 8 to 15, inclusive, of this act.

25   **Sec. 8. As used in sections 8 to 15, inclusive, of this act, unless the**  
26 **context otherwise requires, the words and terms defined in sections 9, 10**  
27 **and 11 of this act have the meanings ascribed them in those sections.**

28   **Sec. 9. "Business" means a trade or occupation conducted for**  
29 **profit.**

30   **Sec. 10. "Local government" means a political subdivision of this**  
31 **state, including, without limitation, a city, county, irrigation district,**  
32 **water district or water conservancy district.**

33   **Sec. 11. "Rule" means an ordinance, regulation, resolution or other**  
34 **type of instrument by the adoption of which the governing body of a local**  
35 **government exercises legislative powers. The term does not include an**  
36 **ordinance, regulation, resolution or other type of instrument by the**  
37 **adoption of which the governing body of a local government exercises**  
38 **legislative powers authorized pursuant to chapter 271, 278, 278A or 278B**  
39 **of NRS.**

40   **Sec. 11.5. The provisions of sections 8 to 15, inclusive, of this act do**  
41 **not apply with respect to a rule for which a local government does not**  
42 **have the authority to consider less stringent alternatives, including,**  
43 **without limitation, a rule that the local government is required to adopt**

1 *pursuant to a federal or state statute or regulation or pursuant to a*  
2 *contract or agreement into which the local government has entered.*

3 **Sec. 12.** 1. *Before adopting a proposed rule, the governing body of*  
4 *a local government shall determine whether the proposed rule is likely to:*

5 *(a) Impose a direct and significant economic burden upon a business;*

6 *or*

7 *(b) Directly restrict the formation, operation or expansion of a*  
8 *business.*

9 2. *If the governing body of a local government determines pursuant*  
10 *to subsection 1 that a proposed rule is likely to impose a direct and*  
11 *significant economic burden upon a business or directly restrict the*  
12 *formation, operation or expansion of a business, the governing body*  
13 *shall:*

14 *(a) Insofar as practicable, consult with trade associations or owners*  
15 *and officers of businesses that are likely to be affected by the proposed*  
16 *rule.*

17 *(b) Consider methods to reduce the impact of the proposed rule on*  
18 *businesses, including, without limitation:*

19 *(1) Simplifying the proposed rule;*

20 *(2) Establishing different standards of compliance for a business;*

21 *and*

22 *(3) Modifying a fee or fine set forth in the rule so that a business is*  
23 *authorized to pay a lower fee or fine.*

24 *(c) Prepare a business impact statement and make copies of the*  
25 *statement available to any interested person before holding a hearing to*  
26 *adopt the rule.*

27 **Sec. 13.** *A business impact statement prepared pursuant to section*  
28 *12 of this act must set forth the following information:*

29 1. *A description of the manner in which comment was solicited from*  
30 *affected businesses, a summary of their response and an explanation of*  
31 *the manner in which other interested persons may obtain a copy of the*  
32 *summary.*

33 2. *The estimated economic effect of the proposed rule on the*  
34 *businesses which it is to regulate, including, without limitation:*

35 *(a) Both adverse and beneficial effects; and*

36 *(b) Both direct and indirect effects.*

37 3. *A description of the methods that the governing body of the local*  
38 *government considered to reduce the impact of the proposed rule on*  
39 *businesses and a statement regarding whether the governing body*  
40 *actually used any of those methods.*

41 4. *The estimated cost to the local government for enforcement of the*  
42 *proposed rule.*

1     5. If the proposed rule provides a new fee or increases an existing  
2 fee, the total annual amount the local government expects to collect and  
3 the manner in which the money will be used.

4     6. If the proposed rule includes provisions which duplicate or are  
5 more stringent than federal, state or local standards regulating the same  
6 activity, an explanation of why such duplicative or more stringent  
7 provisions are necessary.

8     **Sec. 14. 1.** A business that is aggrieved by a rule adopted by the  
9 governing body of a local government on or after January 1, 2000, may  
10 object to all or a part of the rule by filing a petition with the governing  
11 body that adopted the rule within 30 days after the date on which the rule  
12 was adopted.

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

15     (a) The governing body of the local government failed to prepare a  
16 business impact statement as required pursuant to section 12 of this act;  
17 or

18     (b) The business impact statement prepared by the governing body  
19 pursuant to section 12 of this act did not consider or significantly  
20 underestimated the economic effect of the rule on businesses.

21     3. After receiving a petition pursuant to subsection 1, the governing  
22 body of a local government shall determine whether the petition has  
23 merit. If the governing body determines that the petition has merit, the  
24 governing body may take action to amend the rule to which the business  
25 objected.

26     4. Each governing body of a local government shall provide a  
27 procedure for an aggrieved business to object to a rule adopted by the  
28 governing body. The procedure must be filed with the clerk of the local  
29 government and available upon request at no charge.

30     **Sec. 15.** The governing body of a local government may adopt a rule  
31 without complying with the provisions of sections 8 to 14, inclusive, of  
32 this act if the governing body declares, by unanimous vote, that  
33 emergency action is necessary to protect public health and safety. Such a  
34 rule may remain in effect for not more than 6 months after the date on  
35 which it was adopted.

36     **Sec. 16.** This act becomes effective on January 1, 2000.