

SENATE BILL NO. 17—SENATOR WIENER

PREFILED FEBRUARY 1, 2005

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing review of administrative regulations by Legislative Commission. (BDR 18-647)

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; removing the provision which allows the filing of permanent regulations without a review by the Legislative Commission; making the appointment of a subcommittee to review regulations mandatory; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the review, suspension and nullification by the Legislative Branch of permanent administrative regulations adopted by agencies of the Executive Branch of State Government. (Nev. Const., Art. 3, § 1, NRS 233B.0395-233B.120) The regulations are reviewed to determine whether they conform to statutory authority and carry out legislative intent. Under existing law, a state agency is required to submit permanent regulations for review by the Legislative Commission. The Commission must review the regulation if a regular meeting of the Commission is held within 35 days after receipt of the regulation. If there is no meeting of the Commission scheduled within 35 days after receipt of a regulation, the regulation is filed and becomes effective without being reviewed unless the regulation is referred to a subcommittee or a joint interim committee. (NRS 233B.067)

This bill requires that every permanent regulation be reviewed by the Legislative Commission at its next scheduled meeting after submission of the regulation unless (1) the Commission refers the regulation to a subcommittee; or (2) the adopting agency has an emergency that requires the regulation to become effective before the next scheduled meeting of the Commission. In either case, the bill provides for review of the regulation by an established subcommittee of the Commission. This bill also makes the appointment of a subcommittee to review regulations mandatory.



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

Section 1. NRS 233B.067 is hereby amended to read as follows:

233B.067 1. After adopting a permanent regulation, the agency shall submit the informational statement prepared pursuant to NRS 233B.066 and one copy of each regulation adopted to the Legislative Counsel for review by the Legislative Commission ~~to which may refer it to a joint interim committee,~~ to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carries out the intent of the Legislature in granting that authority. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

2. If an agency submits an adopted regulation to the Legislative Counsel pursuant to subsection 1 that:

(a) The agency is required to adopt pursuant to a federal statute or regulation; and

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this State, it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. ~~The~~ *Except as otherwise provided in subsection 4, the* Legislative Commission ~~to or the joint interim committee if the Commission has referred it to such a committee, shall review~~ *shall:*

(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than ~~10~~ *3* working days before the meeting ~~and a regular meeting is held within 35 days after receipt of the regulation. The Commission may appoint a Committee to Review Regulations composed of three or more members of the Commission or any joint interim committee to examine proposed regulations received more than 35 days before a regular meeting is scheduled to be held.~~

~~4. The Legislative Commission shall notify the Legislative Counsel of the results of its review within 30 days after receipt of the regulation from the agency.~~ *; or*

(b) Refer the regulation for review to the subcommittee to review regulations appointed pursuant to subsection 6.

4. If an agency determines that an emergency exists which requires a regulation of the agency submitted pursuant to



1 *subsection 1 to become effective before the next meeting of the*
2 *Legislative Commission is scheduled to be held, the agency may*
3 *notify the Legislative Counsel in writing of the emergency. Upon*
4 *receipt of such a notice, the Legislative Counsel shall refer the*
5 *regulation for review by the subcommittee to review regulations.*

6 5. If the *Legislative Commission , or the subcommittee to*
7 *review regulations if the regulation was referred,* does not object to
8 the regulation, the Legislative Counsel shall *promptly* file ~~it~~ *the*
9 *regulation* with the Secretary of State ~~within 35 days after receipt~~
10 ~~from the agency~~ and notify the agency of the filing. If the
11 Commission *or subcommittee* objects to the regulation after
12 determining that:

13 (a) If subsection 2 is applicable, the regulation is not required
14 pursuant to a federal statute or regulation;

15 (b) The regulation does not conform to statutory authority; or

16 (c) The regulation does not carry out legislative intent,
17 ➔ the Legislative Counsel shall attach to the regulation a written
18 notice of the objection , ~~[of the Commission,]~~ including a statement
19 of the reasons for ~~its~~ *the* objection, and shall promptly return the
20 regulation to the agency.

21 6. *As soon as practicable after each regular legislative*
22 *session, the Legislative Commission shall appoint a subcommittee*
23 *to review regulations consisting of at least three members of the*
24 *Legislative Commission.*

25 **Sec. 2.** NRS 233B.0675 is hereby amended to read as follows:

26 233B.0675 1. If the Legislative Commission *or the*
27 *subcommittee to review regulations* has objected to a regulation, the
28 agency may revise it and return it to the Legislative Counsel. Upon
29 receipt of the revised regulation, the Legislative Counsel shall
30 resubmit the regulation to the Commission ~~[at its next regularly~~
31 ~~scheduled meeting. If the Commission does not object]~~ *or*
32 *subcommittee for review. If there is no objection* to the revised
33 regulation, the Legislative Counsel shall promptly file the revised
34 regulation with the Secretary of State and notify the agency of the
35 filing.

36 2. If the Legislative Commission *or subcommittee* objects to
37 the revised regulation, the agency may continue to revise it and
38 resubmit it to the ~~[Commission,]~~ *Legislative Counsel.*

39 3. If the agency refuses to revise a regulation to which the
40 Legislative Commission *or the subcommittee* has objected, the
41 Commission may suspend the filing of the regulation until the final
42 day of the next regular session of the Legislature. Before the final
43 day of the next regular session the Legislature may, by concurrent
44 resolution or other appropriate legislative measure, declare that the
45 regulation will not become effective. The Legislative Counsel shall



1 thereupon notify the agency that the regulation will not be filed and
2 must not be enforced. If the Legislature has not so declared by the
3 final day of the session, the Legislative Counsel shall promptly file
4 the regulation and notify the agency of the filing.

5 **Sec. 3.** This act becomes effective on July 1, 2005.

