

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.

~

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; revising the procedure for objecting to an administrative regulation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the review, suspension and nullification by the
2 Legislative Branch of permanent administrative regulations adopted by agencies of
3 the Executive Branch of State Government. (Nev. Const., Art. 3, § 1; NRS
4 233B.0395-233B.120) The regulations are reviewed to determine whether they
5 conform to statutory authority and carry out legislative intent. Under existing law, a
6 state agency is required to submit permanent regulations for review by the
7 Legislative Commission. The Commission must review the regulation if a regular
8 meeting of the Commission is held within 35 days after receipt of the regulation. If
9 there is no meeting of the Commission scheduled within 35 days after receipt of a
10 regulation, the regulation is filed and becomes effective without being reviewed
11 unless the regulation is referred to a subcommittee or a joint interim committee.
12 (NRS 233B.067)

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



Existing law provides that if the Legislative Commission has objected to a regulation, the agency may revise and resubmit the regulation to the Legislative Commission until the objection is removed. Under existing law, if an agency refuses to revise a regulation to which the Legislative Commission has objected, the Legislative Commission may suspend the filing of the regulation until the final day of the next regular session of the Legislature. Unless the Legislature declares by the final day of the next regular session that the regulation will not become effective, the regulation is filed with the Secretary of State and becomes effective. (NRS 233B.0675)

This bill allows an agency one opportunity to revise a regulation after the Legislative Commission or the subcommittee to review regulations has objected to the regulation. If the Legislative Commission or subcommittee objects to the revised regulation, the bill requires the Legislative Counsel to revise the regulation to conform to statutory authority and carry out legislative intent and submit it to the Legislative Commission or subcommittee for its approval. Upon such approval, the bill provides that the regulation is filed with the Secretary of State and becomes effective.

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~~ ~~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.



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

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

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

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

17 4. *If an agency determines that an emergency exists which*
18 *requires a regulation of the agency submitted pursuant to*
19 *subsection 1 to become effective before the next meeting of the*
20 *Legislative Commission is scheduled to be held, the agency may*
21 *notify the Legislative Counsel in writing of the emergency. Upon*
22 *receipt of such a notice, the Legislative Counsel shall refer the*
23 *regulation for review by the subcommittee to review regulations.*
24 *The subcommittee shall meet to review the regulation as soon as*
25 *practicable.*

26 5. If the *Legislative Commission , or the subcommittee to*
27 *review regulations if the regulation was referred,* does not object to
28 the regulation, the Legislative Counsel shall *promptly* file ~~{it}~~ *the*
29 *regulation* with the Secretary of State ~~{within 35 days after receipt~~
30 ~~from the agency}~~ and notify the agency of the filing. If the
31 Commission *or subcommittee* objects to the regulation after
32 determining that:

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

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

36 (c) The regulation does not carry out legislative intent,

37 ➤ the Legislative Counsel shall attach to the regulation a written
38 notice of the objection , ~~{of the Commission.}~~ including a statement
39 of the reasons for ~~{its}~~ *the* objection, and shall promptly return the
40 regulation to the agency.

41 6. *As soon as practicable after each regular legislative*
42 *session, the Legislative Commission shall appoint a subcommittee*
43 *to review regulations consisting of at least three members of the*
44 *Legislative Commission.*



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

2 233B.0675 1. If the Legislative Commission *or the*
3 *subcommittee to review regulations* has objected to a regulation, the
4 agency ~~{may revise it}~~ *shall revise the regulation to conform to*
5 *the statutory authority pursuant to which it was adopted and to*
6 *carry out the intent of the Legislature in granting that authority*
7 and return it to the Legislative Counsel ~~{}~~ *within 60 days after the*
8 *agency received the written notice of the objection to the*
9 *regulation pursuant to NRS 233B.067.* Upon receipt of the revised
10 regulation, the Legislative Counsel shall resubmit the regulation to
11 the Commission ~~{at its next regularly scheduled meeting. If the~~
12 ~~Commission does not object}~~ *or subcommittee for review. If there*
13 *is no objection* to the revised regulation, the Legislative Counsel
14 shall promptly file the revised regulation with the Secretary of State
15 and notify the agency of the filing.

16 2. If the Legislative Commission *or subcommittee* objects to
17 the revised regulation, the ~~{agency may continue to revise it and~~
18 ~~resubmit it to the Commission.~~

19 ~~—3.— If the agency refuses to revise a regulation to which the~~
20 ~~Legislative Commission has objected, the Commission may suspend~~
21 ~~the filing of the regulation until the final day of the next regular~~
22 ~~session of the Legislature. Before the final day of the next regular~~
23 ~~session the Legislature may, by concurrent resolution or other~~
24 ~~appropriate legislative measure, declare that the regulation will not~~
25 ~~become effective. The Legislative Counsel shall thereupon notify~~
26 ~~the agency that the regulation will not be filed and must not be~~
27 ~~enforced. If the Legislature has not so declared by the final day of~~
28 ~~the session, the Legislative Counsel shall promptly file the~~
29 ~~regulation and notify the agency of the filing.}~~ *Legislative Counsel*
30 *shall:*

31 (a) *Revise the regulation to conform to the statutory authority*
32 *pursuant to which it was adopted and to carry out the intent of the*
33 *Legislature in granting that authority;*

34 (b) *Submit the regulation to the Legislative Commission or*
35 *subcommittee for its approval; and*

36 (c) *Upon approval of the regulation by the Legislative*
37 *Commission or subcommittee, promptly file the regulation with*
38 *the Secretary of State and provide the agency with a copy of the*
39 *filing.*

40 **Sec. 3.** NRS 233B.0675, as amended by section 2 of this act,
41 applies to regulations for which filing was suspended on or after
42 July 1, 2003, by the Legislative Commission or the Committee to
43 Review Regulations appointed pursuant to NRS 233B.067. Those
44 regulations include, without limitation, R114-03, R147-04 and
45 R159-04. Within 60 days after the effective date of this act, the



1 Legislative Counsel shall revise those regulations to conform to the
2 statutory authority pursuant to which they were adopted and to carry
3 out the intent of the Legislature in granting that authority and submit
4 the regulations to the Legislative Commission or subcommittee to
5 review regulations appointed pursuant to NRS 233B.067 for
6 approval.

7 **Sec. 4.** This act becomes effective upon passage and approval.



