

SENATE BILL NO. 428—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 29, 2005

Referred to Committee on Legislative Operations and Elections

SUMMARY—Prohibits admission of certain persons as parties to certain administrative proceedings. (BDR 18-987)

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 procedure; prohibiting the admission of a person as a party to an administrative proceeding in a contested case involving the grant, denial or renewal of a license if the person does not have a direct financial interest in the grant, denial or renewal of the license; 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.** NRS 233B.127 is hereby amended to read as
2 follows:
3 233B.127 1. When the grant, denial or renewal of a license is
4 required to be preceded by notice and opportunity for hearing, the
5 provisions of this chapter concerning contested cases apply.
6 2. When a licensee has made timely and sufficient application
7 for the renewal of a license or for a new license with reference to
8 any activity of a continuing nature, the existing license does not
9 expire until the application has been finally determined by the
10 agency, and, in case the application is denied or the terms of the new
11 license limited, until the last day for seeking review of the agency
12 order or a later date fixed by order of the reviewing court.
13 3. No revocation, suspension, annulment or withdrawal of any
14 license is lawful unless, prior to the institution of agency
15 proceedings, the agency gave notice by certified mail to the licensee



1 of facts or conduct which warrant the intended action, and the
2 licensee was given an opportunity to show compliance with all
3 lawful requirements for the retention of the license. If the agency
4 finds that public health, safety or welfare imperatively require
5 emergency action, and incorporates a finding to that effect in its
6 order, summary suspension of a license may be ordered pending
7 proceedings for revocation or other action. Such proceedings shall
8 be promptly instituted and determined.

9 **4. Except as otherwise provided in this subsection, a person**
10 **must not be admitted as a party to an administrative proceeding in**
11 **a contested case involving the grant, denial or renewal of a license**
12 **unless he demonstrates to the satisfaction of the presiding hearing**
13 **officer that:**

14 (a) **His financial situation is likely to be maintained or to**
15 **improve as a direct result of the grant or renewal of the license; or**

16 (b) **His financial situation is likely to deteriorate as a direct**
17 **result of the denial of the license or refusal to renew the license.**

18 ➔ **The provisions of this subsection do not preclude the admission,**
19 **as a party, of any person who will participate in the administrative**
20 **proceeding as the agent or legal representative of an agency.**

21 **Sec. 2.** NRS 233B.130 is hereby amended to read as follows:

22 233B.130 1. Any party who is:

23 (a) Identified as a party of record by an agency in an
24 administrative proceeding; and

25 (b) Aggrieved by a final decision in a contested case,
26 ➔ is entitled to judicial review of the decision. Where appeal is
27 provided within an agency, only the decision at the highest level
28 is reviewable unless a decision made at a lower level in the agency
29 is made final by statute. Any preliminary, procedural or intermediate
30 act or ruling by an agency in a contested case is reviewable if review
31 of the final decision of the agency would not provide an adequate
32 remedy.

33 2. Petitions for judicial review must:

34 (a) Name as respondents the agency and all parties of record to
35 the administrative proceeding;

36 (b) Be instituted by filing a petition in the district court in and
37 for Carson City, in and for the county in which the aggrieved party
38 resides or in and for the county where the agency proceeding
39 occurred; and

40 (c) Be filed within 30 days after service of the final decision of
41 the agency.

42 ➔ Cross-petitions for judicial review must be filed within 10 days
43 after service of a petition for judicial review.

44 3. The agency and any party desiring to participate in the
45 judicial review must file a statement of intent to participate in the



1 petition for judicial review and serve the statement upon the agency
2 and every party within 20 days after service of the petition.

3 4. A petition for rehearing or reconsideration must be filed
4 within 15 days after the date of service of the final decision. An
5 order granting or denying the petition must be served on all parties
6 at least 5 days before the expiration of the time for filing the petition
7 for judicial review. If the petition is granted, the subsequent order
8 shall be deemed the final order for the purpose of judicial review.

9 5. The petition for judicial review and any cross-petitions for
10 judicial review must be served upon the agency and every party
11 within 45 days after the filing of the petition, unless, upon a
12 showing of good cause, the district court extends the time for such
13 service. If the proceeding involves a petition for judicial review or
14 cross-petition for judicial review of a final decision of the State
15 Contractors' Board ~~H~~ *or of a final decision of an agency or*
16 *hearing officer in a contested case involving the grant, denial or*
17 *renewal of a license,* the district court ~~may,~~ *shall,* on its own
18 motion or the motion of a party, dismiss from the proceeding any
19 agency or person who:

20 (a) Is named as a party in the petition for judicial review or
21 cross-petition for judicial review; and

22 (b) Was not a party to the administrative proceeding for which
23 the petition for judicial review or cross-petition for judicial review
24 was filed.

25 6. The provisions of this chapter are the exclusive means of
26 judicial review of, or judicial action concerning, a final decision in a
27 contested case involving an agency to which this chapter applies.



