

SENATE BILL NO. 488—COMMITTEE ON LEGISLATIVE
OPERATIONS AND ELECTIONS

MARCH 29, 2005

Referred to Committee on Government Affairs

SUMMARY—Makes various changes concerning adoption of certain rules and regulations affecting business. (BDR 19-1294)

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 procedure affecting businesses; making various changes concerning the adoption of certain rules and regulations affecting business; 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 237.080 is hereby amended to read as follows:
2 237.080 1. Before ~~adopting~~ ***a governing body of a local***
3 ***government adopts*** a proposed rule, the governing body ~~of a local~~
4 ~~government~~ ***or its designee must notify trade associations or***
5 ***owners and officers of businesses which are likely to be affected***
6 ***by the proposed rule that they may submit data or arguments to***
7 ***the governing body or its designee as to whether the proposed rule***
8 ***will:***
9 ***(a) Impose a direct and significant economic burden upon a***
10 ***business; or***
11 ***(b) Directly restrict the formation, operation or expansion of a***
12 ***business.***
13 ***↪ Notification provided pursuant to this subsection must include***
14 ***the date by which the data or arguments must be received by the***
15 ***governing body or its designee, which must be at least 15 working***
16 ***days after the notification is sent.***



2. If the governing body or its designee does not receive any data or arguments from the trade associations or owners or officers of businesses that were notified pursuant to subsection 1 within the period specified in the notification, a rebuttable presumption is created that the proposed rule will not impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

3. After the period for submitting data or arguments specified in the notification provided pursuant to subsection 1 has expired, the governing body or its designee shall determine whether the proposed rule is likely to:

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

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

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↳ If no data or arguments were submitted pursuant to subsection 1, the governing body or its designee shall make its determination based on any information available to the governing body or its designee.

4. If the governing body ~~{of a local government}~~ or its designee determines pursuant to subsection ~~{1}~~ 3 that a proposed rule is likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, the governing body or its designee shall ~~{-~~
~~—(a) Insofar as practicable, consult with trade associations or owners and officers of businesses that are likely to be affected by the proposed rule.~~

~~—(b) Consider}~~ consider methods to reduce the impact of the proposed rule on businesses, including, without limitation:

~~{(1)}~~ (a) Simplifying the proposed rule;

~~{(2)}~~ (b) Establishing different standards of compliance for a business; and

~~{(3)}~~ (c) Modifying a fee or fine set forth in the rule so that a business is authorized to pay a lower fee or fine.

~~{(c) Prepare}~~

5. After making a determination pursuant to subsection 3, the governing body or its designee shall prepare a business impact statement . ~~{and make copies of the statement available to any interested person before holding a hearing to adopt the rule.}~~

Sec. 2. NRS 237.090 is hereby amended to read as follows:

237.090 1. A business impact statement prepared pursuant to NRS 237.080 must **be considered at any hearing conducted to adopt a proposed rule and** set forth the following information:



~~1-1~~ (a) A description of the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

~~1-2~~ (b) The estimated economic effect of the proposed rule on the businesses which it is to regulate, including, without limitation:

~~1-3~~ (1) Both adverse and beneficial effects; and

~~1-4~~ (2) Both direct and indirect effects.

~~1-5~~ (c) A description of the methods that the governing body of the local government *or its designee* considered to reduce the impact of the proposed rule on businesses and a statement regarding whether the governing body *or its designee* actually used any of those methods.

~~1-6~~ (d) The estimated cost to the local government for enforcement of the proposed rule.

~~1-7~~ (e) If the proposed rule provides a new fee or increases an existing fee, the total annual amount the local government expects to collect and the manner in which the money will be used.

~~1-8~~ (f) If the proposed rule includes provisions which duplicate or are more stringent than federal, state or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

2. The governing body of a local government shall not include the adoption of a proposed rule on the agenda for a meeting unless a business impact statement has been prepared and is available for public inspection at the time the agenda is first posted.

Sec. 3. NRS 237.100 is hereby amended to read as follows:

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

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

(a) The governing body of the local government *or its designee* failed to prepare a business impact statement as required pursuant to NRS 237.080; or

(b) The business impact statement prepared by the governing body *or its designee* pursuant to NRS 237.080 did not consider or significantly underestimated the economic effect of the rule on businesses.

3. After receiving a petition pursuant to subsection 1, the governing body of a local government shall determine whether the petition has merit. If the governing body determines that the petition



1 has merit, the governing body may take action to amend the rule to
2 which the business objected.

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

7 **Sec. 4.** NRS 233B.0603 is hereby amended to read as follows:

8 233B.0603 1. The notice of intent to act upon a regulation
9 must:

10 (a) Include:

11 (1) A statement of the need for and purpose of the proposed
12 regulation.

13 (2) Either the terms or substance of the proposed regulation
14 or a description of the subjects and issues involved.

15 (3) A statement of the estimated economic effect of the
16 regulation on the business which it is to regulate and on the public.
17 These must be stated separately and in each case must include:

18 (I) Both adverse and beneficial effects; and

19 (II) Both immediate and long-term effects.

20 (4) *A statement identifying the methods used by the agency*
21 *in determining the impact on a small business prepared pursuant*
22 *to subsection 3 of NRS 233B.0608.*

23 (5) The estimated cost to the agency for enforcement of the
24 proposed regulation.

25 ~~(5)~~ (6) A description of any regulations of other state or
26 local governmental agencies which the proposed regulation overlaps
27 or duplicates and a statement explaining why the duplication or
28 overlapping is necessary. If the regulation overlaps or duplicates a
29 federal regulation, the notice must include the name of the
30 regulating federal agency.

31 ~~(6)~~ (7) If the regulation is required pursuant to federal law,
32 a citation and description of the federal law.

33 ~~(7)~~ (8) If the regulation includes provisions which are more
34 stringent than a federal regulation that regulates the same activity, a
35 summary of such provisions.

36 ~~(8)~~ (9) The time when, the place where and the manner in
37 which interested persons may present their views regarding the
38 proposed regulation.

39 (b) State each address at which the text of the proposed
40 regulation may be inspected and copied.

41 (c) Include an exact copy of the provisions of subsection 2 of
42 NRS 233B.064.

43 (d) Include a statement indicating whether the regulation
44 establishes a new fee or increases an existing fee.



(e) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the agency for that purpose.

(f) Be submitted to the Legislative Counsel Bureau for inclusion in the Register of Administrative Regulations created pursuant to NRS 233B.0653. The publication of a notice of intent to act upon a regulation in the register does not satisfy the requirements for notice set forth in paragraph (e) of this subsection.

2. The Attorney General may by regulation prescribe the form of notice to be used.

3. In addition to distributing the notice to each recipient of the agency's regulations, the agency shall also solicit comment generally from the public and from businesses to be affected by the proposed regulation.

Sec. 5. NRS 233B.0608 is hereby amended to read as follows:

233B.0608 1. Before conducting a workshop for a proposed regulation pursuant to NRS 233B.061, an agency shall determine whether the proposed regulation is likely to:

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

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

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

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

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

(1) Simplifying the proposed regulation;

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

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

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

3. The agency shall prepare a statement identifying the methods used by the agency in determining the impact of a proposed regulation on a small business.



1 **Sec. 6.** This act becomes effective on July 1, 2005.



