

CHAPTER.....

AN ACT relating to administrative regulations; requiring the Legislative Commission and the subcommittee to review regulations to provide certain notice before holding meetings to review regulations; requiring the notice of intent to act upon a permanent regulation to include a statement explaining how to obtain the approved or revised text of the regulation that is prepared by the Legislative Counsel; prohibiting an agency from holding a public hearing on a proposed regulation on the same day that the agency holds the workshop; revising the procedure for the review of temporary regulations; making various additional changes relating to administrative regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law prescribes a procedure for the review of adopted regulations and certain temporary regulations by the Legislative Commission or the subcommittee to review regulations for conformity with statutory authority and legislative intent. (NRS 233B.0633, 233B.067, 233B.0675) **Section 1** of this bill requires the Legislative Commission or the subcommittee to review regulations, as applicable, to give written notice of at least 3 working days before holding a meeting to review regulations. The notice must include a list of the regulations that will be reviewed and an explanation of how a person may obtain a copy of such a regulation. **Section 1** also requires the Legislative Counsel Bureau to post on its website a list of the regulations that will be reviewed at the meeting. **Section 7** of this bill revises the procedure for review of temporary regulations so that it is identical to the procedure for review prescribed for adopted regulations. (NRS 233B.0633) **Sections 10 and 11** of this bill also revise the circumstances under which the Legislative Counsel is required to provide a statement of the reasons for an objection to a regulation. (NRS 233B.067, 233B.0675) **Section 9** of this bill removes a provision that conflicts with the procedure for reviewing regulations. (NRS 233B.0665)

Existing law requires an agency to give notice of intent to act upon a permanent regulation at least 30 days before its intended action and prescribes the contents of the notice. (NRS 233B.060, 233B.0603) **Section 3** of this bill requires that the notice of intent include a statement explaining how to obtain the text of the regulation as prepared by the Legislative Counsel. In addition, **section 6** of this bill revises the deadline by which an agency is required to deliver a copy of the proposed regulation or amendment to the Legislative Counsel for approval or revision of the text from the same time at which it gives notice of its intent to adopt, amend or repeal the regulation to at least 30 days before the agency wishes to give such notice. (NRS 233B.063)

Section 5 of this bill prohibits an agency from holding a public hearing on a proposed regulation on the same day that it holds the workshop for that regulation. (NRS 233B.061)



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

Section 1. Chapter 233B of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before holding a meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or 233B.0675, the Legislative Commission or the subcommittee to review regulations appointed pursuant to subsection 6 of NRS 233B.067, as applicable, shall provide written notice of the meeting at least 3 working days before the meeting. The notice must include, without limitation:

(a) A list of the regulations that the Legislative Commission or the subcommittee to review regulations will review at the meeting; and

(b) An explanation of the manner in which a person may obtain a copy of a regulation that the Legislative Commission or subcommittee to review regulations will review at the meeting.

2. If the Legislative Counsel Bureau maintains a website on the Internet or its successor, the Legislative Counsel Bureau shall, at least 3 working days before the Legislative Commission or the subcommittee to review regulations holds a meeting to review temporary regulations pursuant to NRS 233B.0633 or adopted regulations pursuant to NRS 233B.067 or 233B.0675, post on its website a list of the regulations that the Legislative Commission or the subcommittee to review regulations will review at the meeting, unless the Legislative Counsel Bureau is unable to do so because of technical problems relating to the operation or maintenance of its website.

Sec. 2. NRS 233B.060 is hereby amended to read as follows:

233B.060 1. Except as otherwise provided in subsection 2 and ~~the~~ NRS 233B.061, before adopting, amending or repealing ~~any~~:

(a) A permanent ~~for temporary~~ regulation, the agency must , 30 days or more after delivering a copy of the proposed regulation to the Legislative Counsel, or after receiving the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063, give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.

(b) A temporary regulation, the agency must give at least 30 days' notice of its intended action, unless a shorter period of notice is specifically permitted by statute.



2. Except as otherwise provided in subsection 3, if an agency has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt, after providing a second notice and the opportunity for a hearing, a permanent regulation, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation is subject to review by the Legislative Commission ~~or~~ *or the subcommittee to review regulations appointed pursuant to subsection 6 of NRS 233B.067.*

3. If the Public Utilities Commission of Nevada has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this chapter, it may adopt a substantively equivalent permanent regulation without further notice or hearing, but the language of the permanent regulation must first be approved or revised by the Legislative Counsel and the adopted regulation is subject to review by the Legislative Commission ~~or~~ *or the subcommittee to review regulations.*

Sec. 3. NRS 233B.0603 is hereby amended to read as follows:

233B.0603 1. The notice of intent to act upon a regulation *required pursuant to NRS 233B.060* must:

(a) Include:

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

(2) ~~Either~~ *If the proposed regulation is a temporary regulation, either* the terms or substance of the proposed regulation or a description of the subjects and issues involved.

(3) *If the proposed regulation is a permanent regulation, a statement explaining how to obtain the approved or revised text of the proposed regulation prepared by the Legislative Counsel pursuant to NRS 233B.063.*

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

(I) Both adverse and beneficial effects; and

(II) Both immediate and long-term effects.

~~(4)~~ (5) A statement identifying the methods used by the agency in determining the impact on a small business prepared pursuant to subsection 3 of NRS 233B.0608.

~~(5)~~ (6) The estimated cost to the agency for enforcement of the proposed regulation.

~~(6)~~ (7) A description of any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or



overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the notice must include the name of the regulating federal agency.

~~[(7)]~~ (8) If the regulation is required pursuant to federal law, a citation and description of the federal law.

~~[(8)]~~ (9) If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

~~[(9)]~~ (10) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

(b) ~~[(State)]~~ *If the proposed regulation is a temporary regulation, state* each address at which the text of the proposed regulation may be inspected and copied.

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

(d) Include a statement indicating whether the regulation 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. 4. NRS 233B.0607 is hereby amended to read as follows:

233B.0607 1. The agency shall at the time of giving the notice ~~[(of intent to act upon a regulation required pursuant to NRS 233B.060):~~

(a) Deposit one copy of the notice and text of the proposed regulation with the State Library and Archives Administrator;

(b) Keep at least one copy of the notice and text available in each of its offices from the date of the notice to the date of the hearing, for inspection and copying by the public; and



(c) If the agency does not maintain an office in a county, deposit one copy of the notice and text with the librarian of the main public library in the county.

2. The text of the proposed regulation so disseminated must include the entire text of any section of the Nevada Administrative Code which is proposed for amendment or repeal.

3. After the final ~~[draft or revision]~~ *version* of an adopted regulation is received, each such librarian may discard the deposited copy of the *text of the* proposed regulation.

Sec. 5. NRS 233B.061 is hereby amended to read as follows:

233B.061 1. All interested persons must be afforded a reasonable opportunity to submit data, views or arguments upon a proposed regulation, orally or in writing.

2. Before holding the public hearing required pursuant to subsection 3, an agency shall conduct at least one workshop to solicit comments from interested persons on one or more general topics to be addressed in a proposed regulation. Not less than 15 days before the workshop, the agency shall provide notice of the time and place set for the workshop:

(a) In writing to each person who has requested to be placed on a mailing list; and

(b) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

3. With respect to substantive regulations, the agency shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the agency may proceed immediately to act upon any written submissions. The agency shall consider fully all written and oral submissions respecting the proposed regulation.

4. *An agency shall not hold the public hearing required pursuant to subsection 3 on the same day that the agency holds the workshop required pursuant to subsection 2.*

5. The agency shall keep, retain and make available for public inspection written minutes and an audio recording or transcript of each public hearing held pursuant to subsection 3 in the manner provided in NRS 241.035.

Sec. 6. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. At ~~for~~ *least 30 days* before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation an agency shall deliver to the Legislative Counsel a copy of the proposed regulation . ~~for amendment or an identification of~~



~~the regulation to be repealed.]~~ The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the Legislative Counsel shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 7. NRS 233B.0633 is hereby amended to read as follows:

233B.0633 1. Upon the request of a Legislator, the Legislative Commission may examine a temporary regulation adopted by an agency that is not yet effective pursuant to subsection 2 of NRS 233B.070 to determine whether the temporary regulation conforms to the statutory authority pursuant to which it was adopted and whether the temporary regulation carries out the intent of the Legislature in granting that authority.



2. If a temporary regulation that the Legislative Commission is requested to examine pursuant to subsection 1 was required to be adopted by the agency pursuant to a federal statute or regulation and the temporary regulation exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this state, the agency shall submit a statement to the Legislative Commission that adoption of the temporary regulation was 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 shall ~~[review]~~ :

(a) *Review* the temporary regulation at its next regularly scheduled meeting if the *request for examination of the* temporary regulation is received more than 10 working days before the meeting ~~[and a regular meeting is held within 35 days after receipt of the temporary regulation. The Legislative Commission may direct the Committee to Review Regulations to examine any temporary regulation that a Legislator has requested to be reviewed more than 35 days before a regular meeting of the Commission is scheduled to be held.]~~

~~—4. The Legislative Counsel shall notify the agency that adopted the temporary regulation of the results of the review of the temporary regulation by the Legislative Commission within 30 days after receipt of the request for review of the temporary regulation from a Legislator.] ; or~~

(b) *Refer the temporary regulation for review to the subcommittee to review regulations appointed pursuant to subsection 6 of NRS 233B.067.*

4. *If an agency determines that an emergency exists which requires a temporary regulation of the agency for which a Legislator requested an examination pursuant to subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the temporary regulation for review by the subcommittee to review regulations as soon as practicable.*

5. If the *Legislative Commission , or the subcommittee to review regulations if the temporary regulation was referred,* does not object to the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation



with the Secretary of State. If the Commission *or the subcommittee* objects to the temporary regulation after determining that:

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

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

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

→ the Legislative Counsel shall attach to the temporary regulation a written notice of the objection, ~~[of the Commission,]~~ including, *if practicable*, a statement of the reasons for ~~[its]~~ *the* objection, and shall promptly return the temporary regulation to the agency.

~~[5.]~~ 6. If the Legislative Commission *or the subcommittee to review regulations* has objected to a temporary regulation, the agency that adopted the temporary regulation ~~[may revise it]~~ *shall revise the temporary regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority* and return it to the Legislative Counsel ~~[.]~~ *within 60 days after the agency received the written notice of the objection to the temporary regulation pursuant to subsection 5.* Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the *Legislative* Commission ~~[at its next regularly scheduled meeting. If the Commission does not object]~~ *or the subcommittee for review. If there is no objection* to the revised temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the revised temporary regulation with the Secretary of State.

~~[6.]~~ 7. If the Legislative Commission *or the subcommittee to review regulations* objects to the revised temporary regulation, the ~~[agency may]~~ *Legislative Counsel shall attach to the revised temporary regulation a written notice of the objection, including, if practicable, a statement of the reasons for the objection, and shall promptly return the revised temporary regulation to the agency. The agency shall* continue to revise it and resubmit it ~~[.]~~

~~—7. If the agency refuses to revise a temporary regulation to which the Legislative Commission or may suspend the filing of the temporary regulation until the final day of the next regular session of the Legislature. Before the final day of the next regular session, the Legislature may, by concurrent resolution or other appropriate legislative measure, declare that the temporary regulation will not become effective. If the Legislature makes such a declaration, the agency shall not file or enforce the temporary~~



~~regulation or subsequently adopt a substantively identical permanent regulation. If the Legislature has not so declared by the final day of the session, the agency may file the temporary regulation with the Secretary of State.]~~ *to the Legislative Commission or the subcommittee within 30 days after the agency received the written notice of the objection to the revised temporary regulation.*

Sec. 8. (Deleted by amendment.)

Sec. 9. NRS 233B.0665 is hereby amended to read as follows:

233B.0665 If a regulation submitted to the Legislative Counsel Bureau pursuant to NRS 233B.067 is not accompanied by an informational statement which complies with the requirements of NRS 233B.066, the Legislative Counsel shall return the regulation to the agency with a note that the statement is missing. Unless the statement is supplied, the Legislative Counsel shall not submit the regulation to the *Legislative Commission* ~~[]~~ *or the subcommittee to review regulations, as applicable*, and the regulation never becomes effective. ~~[If the statement is supplied, the time for action upon the regulation must be computed from the date of delivering the statement to the Legislative Counsel.]~~

Sec. 10. 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 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. Except as otherwise provided in subsection 4, the Legislative Commission shall:



(a) Review the regulation at its next regularly scheduled meeting if the regulation is received more than ~~3~~ 10 working days before the meeting; 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 subsection 1 to become effective before the next meeting of the Legislative Commission is scheduled to be held, the agency may notify the Legislative Counsel in writing of the emergency. Upon receipt of such a notice, the Legislative Counsel shall refer the regulation for review by the subcommittee to review regulations. The subcommittee shall meet to review the regulation as soon as practicable.

5. If the Legislative Commission, or the subcommittee to review regulations if the regulation was referred, does not object to the regulation, the Legislative Counsel shall promptly file the regulation with the Secretary of State and notify the agency of the filing. If the Commission or subcommittee objects to the regulation after determining that:

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

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

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

↳ the Legislative Counsel shall attach to the regulation a written notice of the objection, including , *if practicable*, a statement of the reasons for the objection, and shall promptly return the regulation to the agency.

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

Sec. 11. NRS 233B.0675 is hereby amended to read as follows:

233B.0675 1. If the Legislative Commission , or the subcommittee to review regulations *appointed pursuant to subsection 6 of NRS 233B.067*, has objected to a regulation, the agency shall revise the regulation to conform to the statutory authority pursuant to which it was adopted and to carry out the intent of the Legislature in granting that authority and return it to the Legislative Counsel within 60 days after the agency received the written notice of the objection to the regulation pursuant to NRS 233B.067. Upon receipt of the revised regulation, the Legislative



Counsel shall resubmit the regulation to the Commission or subcommittee for review. If there is no objection to the revised regulation, the Legislative Counsel shall promptly file the revised regulation with the Secretary of State and notify the agency of the filing.

2. If the Legislative Commission or subcommittee objects to the revised regulation, the Legislative Counsel shall attach to the revised regulation a written notice of the objection, including , *if practicable*, a statement of the reasons for the objection, and shall promptly return the revised regulation to the agency. The agency shall continue to revise it and resubmit it to the Commission or subcommittee within 30 days after the agency received the written notice of the objection to the revised regulation.

Sec. 12. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except ~~as otherwise provided in NRS 233B.0665 or~~ where a later date is specified in the regulation.

2. Except as otherwise provided in NRS 233B.0633, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

3. An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.

4. The Secretary of State shall maintain the original of the final draft or revision of each regulation in a permanent file to be used only for the preparation of official copies.

5. The Secretary of State shall file, with the original of each agency's rules of practice, the current statement of the agency concerning the date and results of its most recent review of those rules.



6. Immediately after each permanent or temporary regulation is filed, the agency shall deliver one copy of the final draft or revision, bearing the stamp of the Secretary of State indicating that it has been filed, including material adopted by reference which is not already filed with the State Library and Archives Administrator, to the State Library and Archives Administrator for use by the public. If the agency is a licensing board as defined in NRS 439B.225 and it has adopted a permanent regulation relating to standards for licensing or registration or for the renewal of a license or a certificate of registration issued to a person or facility regulated by the agency, the agency shall also deliver one copy of the regulation, bearing the stamp of the Secretary of State, to the Legislative Committee on Health Care within 10 days after the regulation is filed with the Secretary of State.

7. Each agency shall furnish a copy of all or part of that part of the Nevada Administrative Code which contains its regulations, to any person who requests a copy, and may charge a reasonable fee for the copy based on the cost of reproduction if it does not have money appropriated or authorized for that purpose.

8. An agency which publishes any regulations included in the Nevada Administrative Code shall use the exact text of the regulation as it appears in the Nevada Administrative Code, including the leadlines and numbers of the sections. Any other material which an agency includes in a publication with its regulations must be presented in a form which clearly distinguishes that material from the regulations.

Sec. 13. This act becomes effective on July 1, 2007.

