

ASSEMBLY BILL NO. 403—ASSEMBLYMAN OCEGUERA

MARCH 21, 2011

Referred to Committee on Government Affairs

SUMMARY—Requires the adoption of certain permanent regulations. (BDR S-974)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 regulations; requiring the adoption of certain permanent regulations; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth the general procedure for the adoption of a permanent, temporary or emergency regulation by an agency, bureau, board, commission, department, division or officer of the Executive Department of the State Government. (Chapter 233B of NRS) Certain agencies are exempted from that procedure, including, without limitation, the Governor. (NRS 233B.039) As part of the procedure for adopting a permanent regulation, an agency which is subject to the provisions of chapter 233B of NRS must: (1) provide a notice of its intended action, which must include a statement of the need for and purpose of the proposed regulation; (2) determine whether the proposed regulation will likely impose a direct and significant economic burden upon small businesses or directly restrict the formation, operation or expansion of small businesses; (3) conduct a public workshop and a public hearing which includes a period for public comment; and (4) deliver a copy of the proposed regulation to the Legislative Counsel for examination and possible revision. (NRS 233B.060, 233B.0603, 233B.0608, 233B.061, 233B.063, 233B.064) In lieu of adopting a permanent regulation, an agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the next odd-numbered year without submitting a copy of the regulation to the Legislative Counsel for review. However, such a regulation expires by limitation on November 1 of the next odd-numbered year. (NRS 233B.063)

On January 3, 2011, the Governor issued Executive Order 2011-01, which provides that “. . . all proposed administrative regulations propounded by an Executive Branch agency, department, board or commission within the purview of the Governor . . . shall be frozen until January 1, 2012. During the freeze, no new regulations may be proposed or acted on unless excepted from the application of this order.” Each of those agencies, departments, boards or commissions is required to complete a comprehensive review of all regulations that are subject to



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enforcement by the agency, department, board or commission to assess the consistency of the regulations with the Governor's priority of protecting the health and welfare of the members of the general public without discouraging economic growth. Each of those agencies is further required to assess: (1) the problem the regulation is intended to address or its value to the public; (2) the impact of the regulation; (3) the adverse impact, if any, the regulation has on businesses, communities and governmental entities; (4) the cost of the regulation; (5) whether the regulation remains necessary; (6) whether alternative forms of regulation may address the problem; (7) whether the regulation is written clearly and concisely; and (8) whether other regulations address the same problem. (Executive Order 2011-01)

Despite its broad application, Executive Order 2011-01 specifies that certain regulations are not subject to the freeze, including regulations that: (1) affect public health; (2) affect public safety and security; (3) are necessary to acquire federal funds or certifications; (4) affect the application of duties that are essential for the operation of the agency, department, board or commission; (5) affect pending judicial deadlines; or (6) are necessary to comply with federal law.

On January 18, 2011, the Governor issued Executive Order 2011-04 which amended Executive Order 2011-01 by adding to the list of regulations that are not subject to the freeze any regulation which will have a positive impact for the people of the State of Nevada.

To ensure compliance with all applicable provisions of law and to ensure that the intent of the Legislature is carried out by an agency concerning the adoption of permanent regulations authorized by the Legislature to implement various laws enacted by the Legislature in previous sessions, **section 1** of this bill requires a board, commission or person having adopted certain temporary regulations to adopt a permanent regulation to replace the temporary regulation in accordance with the applicable provisions of chapter 233B of NRS. **Section 1** requires the permanent regulation to be adopted before November 1, 2011, which is the date each of the specified temporary regulations expires by limitation. **Section 1** further provides that, in replacing a temporary regulation, the board, commission or person is not required to adopt a substantively identical permanent regulation.

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

Section 1. 1. Before November 1, 2011, and in accordance with the provisions of chapter 233B of NRS:

(a) The Director of the Department of Motor Vehicles shall adopt a permanent regulation to replace LCB File No. T001-10.

(b) The State Board of Education shall adopt a permanent regulation to replace LCB File No. T003-10.

(c) The Board of Wildlife Commissioners shall adopt a permanent regulation to replace LCB File No. T004-10.

(d) The Commissioner of Insurance shall adopt a permanent regulation to replace LCB File No. T007-10.

(e) The State Dairy Commission shall adopt a permanent regulation to replace LCB File No. T009-10.



(f) The Commission on Professional Standards in Education shall adopt a permanent regulation to replace LCB File No. T010-10.

(g) The State Environmental Commission shall adopt a permanent regulation to replace LCB File No. T011-10.

(h) The Attorney General shall adopt a permanent regulation to replace LCB File No. T013-10.

(i) The Commission on Professional Standards in Education shall adopt a permanent regulation to replace LCB File No. T001-11.

(j) The State Board of Education shall adopt a permanent regulation to replace LCB File No. T002-11.

(k) The Board of Dental Examiners of Nevada shall adopt a permanent regulation to replace LCB File No. T004-11.

2. The provisions of subsection 1 do not require a board, commission or person specified in that subsection to adopt a permanent regulation that is substantively identical to a temporary regulation replaced by the board, commission or person.

Sec. 2. This act becomes effective upon passage and approval.

