

SENATE BILL NO. 473—COMMITTEE ON FINANCE

(ON BEHALF OF THE DEPARTMENT OF ADMINISTRATION)

MARCH 25, 2013

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the State Administrative Manual. (BDR 18-1128)

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 the State Government; revising provisions relating to the State Administrative Manual and the adoption of internal policies and procedures by the State Board of Examiners; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes a procedure for the adoption and review of regulations by state administrative agencies. (Chapter 233B of NRS) Exempted from the definition of a "regulation," and from that procedure, are internal policies and procedures of an agency which are used solely to train or provide guidance to employees of an agency and are not used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation. (NRS 233B.038) The Department of Administration currently publishes the State Administrative Manual, a compilation of policies adopted by the State Board of Examiners which govern the internal operation of agencies of the Executive Department of the State Government. Assembly Bill No. 16 of this session provides specific statutory authority and notice requirements for adopting, amending and repealing such policies. This bill amends Assembly Bill No. 16 to: (1) clarify that the State Board of Examiners is authorized to adopt internal policies as such policies are defined in existing law; and (2) provide that the special provisions of Assembly Bill No. 16 prevail over the general provisions of the Nevada Administrative Procedure Act to the extent of any conflict between those provisions.



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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)

Sec. 8. (Deleted by amendment.)

Sec. 9. (Deleted by amendment.)

Sec. 10. (Deleted by amendment.)

Sec. 10.3. Section 1 of Assembly Bill No. 16 of this session is hereby amended to read as follows:

Section 1. Chapter 232 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Director, or the Chief of the Budget Division of the Department if the Director does not serve as the Chief, shall compile and publish an administrative manual consisting of the internal policies and procedures adopted or amended by the State Board of Examiners pursuant to section 2.3 of this act.

2. The Department shall cause a copy of the current version of the administrative manual compiled and published pursuant to subsection 1 to be posted on the primary Internet website maintained by the State Government. The copy must be accessible through a conspicuous link to the manual that appears on the main page of that website.

3. In addition to complying with the requirements of NRS 241.020, the Director or the Chief, as applicable, shall, not later than 30 days before presenting to the State Board of Examiners any policy or procedure for adoption, amendment or repeal, cause notice of the proposed action to be posted on the Internet website used by the State Board of Examiners to provide public notice of its meetings. The notice must:

(a) Be accessible through a conspicuous link that appears on the main page of that website;

(b) Include the full text of the policy or procedure proposed to be adopted, amended or repealed, clearly setting forth any language proposed for addition to or deletion from the policy or procedure;



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1 (c) *Solicit the submission of written comments by any*
2 *interested person to the Director or the Chief, as applicable,*
3 *for transmittal to the State Board of Examiners, concerning*
4 *its proposed action and set forth the address for the*
5 *submission of such comments and the deadline for*
6 *submission applicable pursuant to subsection 4; and*

7 (d) *Set forth the date on which the adoption, amendment*
8 *or repeal of the policy or procedure becomes effective if*
9 *action is taken as proposed.*

10 4. *Any written comments submitted to the Director or*
11 *the Chief, as applicable, pursuant to subsection 3 must be*
12 *submitted not later than 5 working days before the meeting*
13 *at which the proposed adoption, amendment or repeal is to*
14 *be considered by the State Board of Examiners and must be*
15 *entered into the record of the Board.*

16 **Sec. 10.5.** Assembly Bill No. 16 of this session is hereby
17 amended by adding thereto new sections to be designated as
18 sections 2.1 and 2.3, immediately following section 2, to read as
19 follows:

20 **Sec. 2.1.** NRS 233B.039 is hereby amended to read as
21 follows:

22 233B.039 1. The following agencies are entirely
23 exempted from the requirements of this chapter:

24 (a) The Governor.

25 (b) Except as otherwise provided in NRS 209.221, the
26 Department of Corrections.

27 (c) The Nevada System of Higher Education.

28 (d) The Office of the Military.

29 (e) The State Gaming Control Board.

30 (f) Except as otherwise provided in NRS 368A.140, the
31 Nevada Gaming Commission.

32 (g) The Division of Welfare and Supportive Services of
33 the Department of Health and Human Services.

34 (h) Except as otherwise provided in NRS 422.390, the
35 Division of Health Care Financing and Policy of the
36 Department of Health and Human Services.

37 (i) The State Board of Examiners acting pursuant to
38 chapter 217 of NRS.

39 (j) Except as otherwise provided in NRS 533.365, the
40 Office of the State Engineer.

41 (k) The Division of Industrial Relations of the
42 Department of Business and Industry acting to enforce the
43 provisions of NRS 618.375.

44 (l) The Administrator of the Division of Industrial
45 Relations of the Department of Business and Industry in



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1 establishing and adjusting the schedule of fees and charges
2 for accident benefits pursuant to subsection 2 of
3 NRS 616C.260.

4 (m) The Board to Review Claims in adopting resolutions
5 to carry out its duties pursuant to NRS 590.830.

6 (n) The Silver State Health Insurance Exchange.

7 2. Except as otherwise provided in subsection 5 and
8 NRS 391.323, the Department of Education, the Board of the
9 Public Employees' Benefits Program and the Commission on
10 Professional Standards in Education are subject to the
11 provisions of this chapter for the purpose of adopting
12 regulations but not with respect to any contested case.

13 3. The special provisions of:

14 (a) Chapter 612 of NRS for the distribution of regulations
15 by and the judicial review of decisions of the Employment
16 Security Division of the Department of Employment,
17 Training and Rehabilitation;

18 (b) Chapters 616A to 617, inclusive, of NRS for the
19 determination of contested claims;

20 (c) Chapter 91 of NRS for the judicial review of decisions
21 of the Administrator of the Securities Division of the Office
22 of the Secretary of State; ~~and~~

23 (d) NRS 90.800 for the use of summary orders in
24 contested cases ~~and~~ ; and

25 *(e) Section 1 of this act for the adoption, amendment*
26 *and repeal of internal policies and procedures by the State*
27 *Board of Examiners pursuant to section 2.3 of this act,*

28 ➤ prevail over the general provisions of this chapter.

29 4. The provisions of NRS 233B.122, 233B.124,
30 233B.125 and 233B.126 do not apply to the Department of
31 Health and Human Services in the adjudication of contested
32 cases involving the issuance of letters of approval for health
33 facilities and agencies.

34 5. The provisions of this chapter do not apply to:

35 (a) Any order for immediate action, including, but not
36 limited to, quarantine and the treatment or cleansing of
37 infected or infested animals, objects or premises, made under
38 the authority of the State Board of Agriculture, the State
39 Board of Health, or any other agency of this State in the
40 discharge of a responsibility for the preservation of human or
41 animal health or for insect or pest control;

42 (b) An extraordinary regulation of the State Board of
43 Pharmacy adopted pursuant to NRS 453.2184;

44 (c) A regulation adopted by the State Board of Education
45 pursuant to NRS 392.644 or 394.1694; or



(d) The judicial review of decisions of the Public Utilities Commission of Nevada.

6. The State Board of Parole Commissioners is subject to the provisions of this chapter for the purpose of adopting regulations but not with respect to any contested case.

Sec. 2.3. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The State Board of Examiners may adopt, amend and repeal internal policies and procedures, not inconsistent with applicable law, to train or provide guidance to employees of any agency, bureau, board, commission, department, division or any other unit of the Executive Department of the State Government except employees of:

(a) Any board which is exempt from the provisions of this chapter pursuant to NRS 353.005;

(b) The Board of Regents of the University of Nevada; or

(c) The Nevada System of Higher Education.

2. As used in this section, "internal policies and procedures" does not include any policy or procedure used as authority in a contested case to determine whether a person is in compliance with a federal or state statute or regulation.

Sec. 10.7. Section 2.5 of Assembly Bill No. 16 of this session is hereby repealed.

Sec. 11. This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

Section 2.5 of Assembly Bill No. 16 of this session:

Sec. 2.5. NRS 353.040 is hereby amended to read as follows:

353.040 The State Board of Examiners shall have authority to establish ~~rules and regulations~~ *policies and procedures* for its government not inconsistent with law.

