

ASSEMBLY BILL NO. 403—ASSEMBLYMEN DALY, FRIERSON, DIAZ,
BENITEZ-THOMPSON, ARAUJO; BROOKS, CARRILLO,
MCCURDY II AND MONROE-MORENO

MARCH 20, 2017

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises various provisions relating to governmental
administration. (BDR 18-573)

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 governmental administration; authorizing the
Legislative Commission to suspend or nullify certain
regulations; abolishing the Subcommittee to Review
Regulations of the Legislative Commission; revising
provisions relating to administrative regulations; and
providing other matters properly relating thereto.

Legislative Counsel's Digest:

The separation-of-powers provision of the Nevada Constitution provides that if the Legislature authorizes the adoption of regulations by an agency of the Executive Department of the State Government which bind persons outside the agency, the Legislature is authorized to enact laws providing for: (1) the review of such regulations by a legislative agency before their effective date to determine whether each such regulation is within the statutory authority for its adoption; (2) the suspension by a legislative body of any such regulation which appears to exceed the statutory authority for its adoption until the regulation is reviewed by a legislative body composed of members of the Senate and Assembly; and (3) the nullification of any such regulation by a majority vote of a legislative body composed of members of the Senate and Assembly. (Nev. Const. Art. 3, § 1) The Nevada Administrative Procedure Act sets forth the procedures for the adoption of emergency, temporary and permanent regulations by nonexempt state agencies. (NRS 233B.0395-233B.120) With limited exceptions, the Legislative Commission or the Subcommittee to Review Regulations of the Legislative Commission is required under existing law to approve permanent regulations before those regulations become effective. (NRS 233B.067-233B.070)

Section 10 of this bill authorizes the Legislative Commission to suspend or nullify a regulation adopted pursuant to the Nevada Administrative Procedure Act if the regulation: (1) exceeds the statutory authority for its adoption; (2) is inconsistent with the intent of the Legislature in granting the statutory authority for



its adoption; or (3) is no longer being administered or interpreted in a manner that is consistent with the agency's stated intention when adopting the regulation or the agency's stated intention during the review and approval of the regulation by the Legislative Commission. **Section 10** also precludes judicial review of a decision of the Legislative Commission to suspend or nullify a regulation and authorizes the Legislative Commission to determine what constitutes a regulation for the purposes of exercising the Legislative Commission's power to suspend or nullify a regulation. **Sections 12, 26 and 28** of this bill make conforming changes.

Section 22 of this bill abolishes the Subcommittee to Review Regulations of the Legislative Commission and, with limited exceptions, requires only the Legislative Commission to review and approve permanent regulations before those regulations become effective. **Sections 16, 19, 21-24, 27 and 29** of this bill make conforming changes.

Section 11 of this bill authorizes the Legislative Commission to adopt regulations necessary to carry out the provisions of the Nevada Administrative Procedure Act governing administrative regulations.

Existing law excludes the application of certain agency policies as applied to a person with sufficient prior actual notice of the policy from the definition of "regulation" for the purposes of the Nevada Administrative Procedure Act. (NRS 233B.038) **Section 13** of this bill removes this exception.

Existing law ratifies the Nevada Administrative Code as revised or supplemented before May 15, 1987. (NRS 233B.0395) **Section 14** of this bill ratifies the Code as revised or supplemented before February 6, 2017.

Existing law requires an agency to adopt a proposed regulation not later than 2 years after the proposed regulation is submitted to the Legislative Counsel. (NRS 233B.040) **Section 15** of this bill requires an agency to also submit the proposed regulation to the Legislative Commission for review within the same 2-year period.

Existing law requires an agency to hold an oral public hearing on a proposed regulation if an oral hearing is requested by certain persons and the proposed regulation is substantive. (NRS 233B.061) **Section 17** of this bill eliminates the requirement regarding the substantiveness of the regulation.

Under existing law, the Legislative Counsel is required to prepare and publish a Register of Administrative Regulations, which includes information relating to adopted permanent regulations. (NRS 233B.0653) **Section 20** of this bill eliminates the requirement that the Legislative Counsel publish paper copies of the Register and instead requires the Legislative Counsel to publish the Register electronically on the public website of the Legislature on the Internet.

An emergency regulation becomes effective when certain documents are filed with the Secretary of State. (NRS 233B.070) **Section 25** of this bill requires that a copy of the written statement of the emergency endorsed by the Governor is included with the information that must be filed with the Secretary of State before an emergency regulation becomes effective.

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.)



1 **Sec. 7.** (Deleted by amendment.)

2 **Sec. 8.** (Deleted by amendment.)

3 **Sec. 9.** Chapter 233B of NRS is hereby amended by adding
4 thereto the provisions set forth as sections 10 and 11 of this act.

5 **Sec. 10. 1. Upon its own initiative, the Legislative**
6 **Commission may suspend or nullify a regulation adopted pursuant**
7 **to this chapter if, in the opinion of the Legislative Commission, the**
8 **regulation:**

9 **(a) Exceeds the statutory authority for the adoption of the**
10 **regulation;**

11 **(b) Is inconsistent with the intent of the Legislature in**
12 **granting the statutory authority for the adoption of the regulation;**
13 **or**

14 **(c) Is no longer being administered or interpreted by the**
15 **agency in a manner consistent with the stated intent of the agency**
16 **when adopting the regulation or during the review and approval of**
17 **the regulation by the Legislative Commission.**

18 **2. If the Legislative Commission exercises its authority to**
19 **suspend or nullify a regulation pursuant to this section, the**
20 **Legislative Commission shall:**

21 **(a) Notify the agency that the regulation has been suspended**
22 **or nullified; and**

23 **(b) Within 120 days after the suspension or nullification**
24 **becomes effective, provide the reason for the suspension or**
25 **nullification to the agency.**

26 **3. Any decision of the Legislative Commission to suspend or**
27 **nullify a regulation is final and not subject to judicial review.**

28 **4. In exercising the powers granted in this section, the**
29 **Legislative Commission shall have the authority to determine if an**
30 **agency rule, standard, directive or statement is a regulation**
31 **pursuant to NRS 233B.038. Any agency rule, standard, directive**
32 **or statement which is nullified by the Legislative Commission**
33 **pursuant to this section must be removed from the Nevada**
34 **Administrative Code and from any agency publications and**
35 **notices.**

36 **Sec. 11. The Legislative Commission may adopt such**
37 **regulations as are necessary to carry out the provisions of this**
38 **section and NRS 233B.0395 to 233B.120, inclusive, and section 10**
39 **of this act.**

40 **Sec. 12.** NRS 233B.020 is hereby amended to read as follows:
41 233B.020 1. By this chapter, the Legislature intends to
42 establish ~~minimum~~ procedural requirements for the ~~regulation-~~
43 ~~making-and~~ **adoption, review, suspension or nullification of**
44 **regulations, for the** adjudication procedure of all agencies of the
45 Executive Department of the State Government and for judicial



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1 review of ~~both functions,~~ *contested cases*, except *as to* those
2 agencies expressly exempted pursuant to the provisions of this
3 chapter. This chapter confers no additional regulation-making
4 authority upon any agency except to the extent provided in
5 subsection 1 of NRS 233B.050.

6 2. The provisions of this chapter are intended to supplement
7 statutes applicable to specific agencies. This chapter does not
8 abrogate or limit additional requirements imposed on such agencies
9 by statute or otherwise recognized by law.

10 **Sec. 13.** NRS 233B.038 is hereby amended to read as follows:
11 233B.038 1. "Regulation" means:

12 (a) An agency rule, standard, directive or statement of general
13 applicability which effectuates or interprets law or policy, or
14 describes the organization, procedure or practice requirements of
15 any agency;

16 (b) A proposed regulation;

17 (c) The amendment or repeal of a prior regulation; and

18 (d) The general application by an agency of a written policy,
19 interpretation, process or procedure to determine whether a person is
20 in compliance with a federal or state statute or regulation in order to
21 assess a fine, monetary penalty or monetary interest.

22 2. The term does not include:

23 (a) A statement concerning only the internal management of an
24 agency and not affecting private rights or procedures available to the
25 public;

26 (b) A declaratory ruling;

27 (c) An intraagency memorandum;

28 (d) A manual of internal policies and procedures or audit
29 procedures of an agency which is used solely to train or provide
30 guidance to employees of the agency and which is not used as
31 authority in a contested case to determine whether a person is in
32 compliance with a federal or state statute or regulation;

33 (e) An agency decision or finding in a contested case;

34 (f) An advisory opinion issued by an agency that is not of
35 general applicability;

36 (g) A published opinion of the Attorney General;

37 (h) An interpretation of an agency that has statutory authority to
38 issue interpretations;

39 (i) Letters of approval, concurrence or disapproval issued in
40 relation to a permit for a specific project or activity;

41 (j) A contract or agreement into which an agency has entered;

42 (k) The provisions of a federal law, regulation or guideline;

43 (l) An emergency action taken by an agency that is necessary to
44 protect public health and safety;



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(m) ~~{The application by an agency of a policy, interpretation, process or procedure to a person who has sufficient prior actual notice of the policy, interpretation, process or procedure to determine whether the person is in compliance with a federal or state statute or regulation in order to assess a fine, monetary penalty or monetary interest;~~

~~—(n)}~~ A regulation concerning the use of public roads or facilities which is indicated to the public by means of signs, signals and other traffic-control devices that conform with the manual and specifications for a uniform system of official traffic-control devices adopted pursuant to NRS 484A.430;

~~{(o)}~~ (n) The classification of wildlife or the designation of seasons for hunting, fishing or trapping by regulation of the Board of Wildlife Commissioners pursuant to the provisions of title 45 of NRS; or

~~{(p)}~~ (o) A technical bulletin prepared pursuant to NRS 360.133.

Sec. 14. NRS 233B.0395 is hereby amended to read as follows:

233B.0395 The Nevada Administrative Code as most recently revised or supplemented before ~~{May 15, 1987,}~~ *February 6, 2017*, and the text of those regulations which have been prepared by the Legislative Counsel for inclusion in the Nevada Administrative Code on or before ~~{May 15, 1987,}~~ *February 6, 2017*, but have not been included, are hereby ratified.

Sec. 15. NRS 233B.040 is hereby amended to read as follows:

233B.040 1. To the extent authorized by the statutes applicable to it, each agency may adopt reasonable regulations to aid it in carrying out the functions assigned to it by law and shall adopt such regulations as are necessary to the proper execution of those functions. If adopted and filed in accordance with the provisions of this chapter, the following regulations have the force of law and must be enforced by all peace officers:

(a) The Nevada Administrative Code; and

(b) Temporary and emergency regulations.

➤ In every instance, the power to adopt regulations to carry out a particular function is limited by the terms of the grant of authority pursuant to which the function was assigned.

2. Every regulation adopted by an agency must include:

(a) A citation of the authority pursuant to which it, or any part of it, was adopted; and

(b) The address of the agency and, to the extent not elsewhere provided in the regulation, a brief explanation of the procedures for obtaining clarification of the regulation or relief from the strict application of any of its terms, if the agency is authorized by a



1 specific statute to grant such relief, or otherwise dealing with the
2 agency in connection with the regulation.

3 3. An agency may adopt by reference in a regulation material
4 published by another authority in book or pamphlet form if:

5 (a) It files one copy of the publication with the Secretary of
6 State and one copy with the State Library, Archives and Public
7 Records Administrator, and makes at least one copy available for
8 public inspection with its regulations; and

9 (b) The reference discloses the source and price for purchase of
10 the publication.

11 ➤ An agency shall not attempt to incorporate any other material in a
12 regulation by reference.

13 4. An agency shall adopt *and submit* a proposed regulation *to*
14 *the Legislative Commission for review* not later than 2 years after
15 the date on which the proposed regulation is submitted to the
16 Legislative Counsel pursuant to subsection 1 of NRS 233B.063. If
17 an agency does not adopt *and submit* a proposed regulation *to the*
18 *Legislative Commission for review* within the time prescribed by
19 this subsection, the executive head of the agency shall appear
20 personally before the Legislative Commission and explain why the
21 proposed regulation has not been adopted ~~H~~ *and submitted to the*
22 *Legislative Commission for review.*

23 **Sec. 16.** NRS 233B.060 is hereby amended to read as follows:

24 233B.060 1. Except as otherwise provided in subsection 2
25 and NRS 233B.061, before adopting, amending or repealing:

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

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

34 2. Except as otherwise provided in subsection 3, if an agency
35 has adopted a temporary regulation after notice and the opportunity
36 for a hearing as provided in this chapter, it may adopt, after
37 providing a second notice and the opportunity for a hearing, a
38 permanent regulation, but the language of the permanent regulation
39 must first be approved or revised by the Legislative Counsel and the
40 adopted regulation must be approved by the Legislative
41 Commission . ~~for the Subcommittee to Review Regulations~~
42 ~~appointed pursuant to subsection 6 of NRS 233B.067.]~~

43 3. If the Public Utilities Commission of Nevada has adopted a
44 temporary regulation after notice and the opportunity for a hearing
45 as provided in this chapter, it may adopt a substantively equivalent



1 permanent regulation without further notice or hearing, but the
2 language of the permanent regulation must first be approved or
3 revised by the Legislative Counsel and the adopted regulation must
4 be approved by the Legislative Commission . ~~for the Subcommittee~~
5 ~~to Review Regulations.~~

6 **Sec. 17.** NRS 233B.061 is hereby amended to read as follows:

7 233B.061 1. All interested persons must be afforded a
8 reasonable opportunity to submit data, views or arguments upon a
9 proposed regulation, orally or in writing.

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

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

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

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

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

31 5. Each workshop and public hearing required pursuant to
32 subsections 2 and 3 must be conducted in accordance with the
33 provisions of chapter 241 of NRS.

34 **Sec. 18.** NRS 233B.0617 is hereby amended to read as
35 follows:

36 233B.0617 No regulation adopted after July 1, 1965, is valid
37 unless adopted in substantial compliance with this chapter but no
38 objection to any regulation on the ground of noncompliance with the
39 procedural requirements of NRS 233B.060 to 233B.0617, inclusive,
40 may be made more than 2 years after its effective date. *Nothing in*
41 *this section shall be construed to preclude the making of an*
42 *objection to a regulation on a ground other than noncompliance*
43 *with the procedural requirements of NRS 233B.060 to 233B.0617,*
44 *inclusive.* Regulations in effect on July 1, 1965, continue in effect
45 until amended , *suspended, nullified* or repealed in accordance with



1 the provisions of this chapter, if an original and two copies were
2 deposited with the Secretary of State on or before July 1, 1965.

3 **Sec. 19.** NRS 233B.0633 is hereby amended to read as
4 follows:

5 233B.0633 1. Upon the request of a Legislator, the
6 Legislative Commission may examine a temporary regulation
7 adopted by an agency that is not yet effective pursuant to subsection
8 2 of NRS 233B.070 to determine whether the temporary regulation
9 conforms to the statutory authority pursuant to which it was adopted
10 and whether the temporary regulation carries out the intent of the
11 Legislature in granting that authority.

12 2. If a temporary regulation that the Legislative Commission is
13 requested to examine pursuant to subsection 1 was required to be
14 adopted by the agency pursuant to a federal statute or regulation and
15 the temporary regulation exceeds the specific statutory authority of
16 the agency or sets forth requirements that are more stringent than a
17 statute of this State, the agency shall submit a statement to the
18 Legislative Commission that adoption of the temporary regulation
19 was required by a federal statute or regulation. The statement must
20 include the specific citation of the federal statute or regulation
21 requiring such adoption.

22 3. ~~{Except as otherwise provided in subsection 4, the}~~ **The**
23 Legislative Commission shall ~~{~~

24 ~~—(a) Review}~~ **review** the temporary regulation at its next regularly
25 scheduled meeting if the request for examination of the temporary
26 regulation is received more than 10 working days before the
27 meeting. ~~{; or~~

28 ~~—(b) Refer the temporary regulation for review to the~~
29 ~~Subcommittee to Review Regulations appointed pursuant to~~
30 ~~subsection 6 of NRS 233B.067.~~

31 ~~—4. If an agency determines that an emergency exists which~~
32 ~~requires a temporary regulation of the agency for which a Legislator~~
33 ~~requested an examination pursuant to subsection 1 to become~~
34 ~~effective before the next meeting of the Legislative Commission is~~
35 ~~scheduled to be held, the agency may notify the Legislative Counsel~~
36 ~~in writing of the emergency. Upon receipt of such a notice, the~~
37 ~~Legislative Counsel shall refer the temporary regulation for review~~
38 ~~by the Subcommittee to Review Regulations as soon as practicable.~~

39 ~~—5.}~~ **4.** If the Legislative Commission ~~{, or the Subcommittee to~~
40 ~~Review Regulations if the temporary regulation was referred,}~~
41 approves the temporary regulation, the Legislative Counsel shall
42 notify the agency that the agency may file the temporary regulation
43 with the Secretary of State. If the Commission ~~{or the~~
44 ~~Subcommittee}~~ objects to the temporary regulation after determining
45 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, including, if practicable, a statement of the reasons for the objection, and shall promptly return the temporary regulation to the agency.

~~{6.}~~ 5. If the Legislative Commission ~~{for the Subcommittee to Review Regulations}~~ has objected to a temporary regulation, the agency that adopted the temporary regulation 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.}~~ 4. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Legislative Commission . ~~{for the Subcommittee for review.}~~ If the Legislative Commission ~~{for the Subcommittee}~~ approves 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.

~~{7.}~~ 6. If the Legislative Commission ~~{for the Subcommittee to Review Regulations}~~ objects to the revised temporary regulation, the 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 to the Legislative Commission ~~{for the Subcommittee}~~ within 30 days after the agency received the written notice of the objection to the revised temporary regulation.

Sec. 20. NRS 233B.0653 is hereby amended to read as follows:

233B.0653 1. The Legislative Counsel shall *periodically* prepare and publish ~~{for cause to be prepared and published}~~ *electronically* a Register of Administrative Regulations ~~{}~~ *on the public website of the Legislature on the Internet.* The Register must include the following information regarding each permanent regulation adopted by an agency:

(a) The proposed and adopted text of the regulation and any revised version of the regulation;



(b) The notice of intent to act upon the regulation set forth in NRS 233B.0603;

(c) The written notice of adoption of the regulation required pursuant to NRS 233B.064;

(d) The informational statement required pursuant to NRS 233B.066; and

(e) The effective date of the regulation, as determined pursuant to NRS 233B.070.

~~1. In carrying out the duties set forth in this subsection, the Legislative Counsel may use the services of the State Printing Office.~~

~~2. The Legislative Counsel shall publish the Register not less than 10 times per year but not more than once every 2 weeks.~~

~~3. The Register must be provided to and maintained by:~~

~~(a) The Secretary of State;~~

~~(b) The Attorney General;~~

~~(c) The Supreme Court Law Library;~~

~~(d) The State Library, Archives and Public Records;~~

~~(e) Each county clerk;~~

~~(f) Each county library; and~~

~~(g) The Legislative Counsel Bureau.~~

~~4. The Legislative Counsel may sell an additional copy of the Register to any person or governmental entity that requests a copy, at a price which does not exceed the cost of publishing the additional copy.~~

~~5.~~ 2. The Legislative Counsel is immune from civil liability which may result from failure to include any information in the Register.

Sec. 21. 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 or a small business impact statement which complies with the requirements of NRS 233B.0608 and 233B.0609, the Legislative Counsel shall return the regulation to the agency with a note indicating the statement which is missing. Unless the missing statement is supplied, the Legislative Counsel shall not submit the regulation to the Legislative Commission ~~for the Subcommittee to Review Regulations, as applicable.~~ and the regulation never becomes effective.

Sec. 22. 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



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1 Legislative Counsel for review by the Legislative Commission to
2 determine whether to approve the regulation. The Legislative
3 Counsel shall endorse on the original and the copy of each adopted
4 regulation the date of their receipt. The Legislative Counsel shall
5 maintain the copy of the regulation in a file and make the copy
6 available for public inspection for 2 years.

7 2. If an agency submits an adopted regulation to the Legislative
8 Counsel pursuant to subsection 1 that:

9 (a) The agency is required to adopt pursuant to a federal statute
10 or regulation; and

11 (b) Exceeds the specific statutory authority of the agency or sets
12 forth requirements that are more stringent than a statute of this State,
13 ➔ it shall include a statement that adoption of the regulation is
14 required by a federal statute or regulation. The statement must
15 include the specific citation of the federal statute or regulation
16 requiring such adoption.

17 3. ~~Except as otherwise provided in subsection 4, the~~ **The**
18 Legislative Commission shall ~~refer~~ **review**

19 ~~(a) Review~~ **review** the regulation at its next regularly scheduled
20 meeting if the regulation is received more than 10 working days
21 before the meeting. ~~or~~

22 ~~(b) Refer the regulation for review to the Subcommittee to~~
23 ~~Review Regulations appointed pursuant to subsection 6.~~

24 ~~4. If an agency determines that an emergency exists which~~
25 ~~requires a regulation of the agency submitted pursuant to subsection~~
26 ~~1 to become effective before the next meeting of the Legislative~~
27 ~~Commission is scheduled to be held, the agency may notify the~~
28 ~~Legislative Counsel in writing of the emergency. Upon receipt of~~
29 ~~such a notice, the Legislative Counsel shall refer the regulation for~~
30 ~~review by the Subcommittee to Review Regulations. The~~
31 ~~Subcommittee shall meet to review the regulation as soon as~~
32 ~~practicable.~~

33 ~~5.~~ **4.** If the Legislative Commission ~~or the Subcommittee to~~
34 ~~Review Regulations if the regulation was referred,~~ approves the
35 regulation, the Legislative Counsel shall promptly file the regulation
36 with the Secretary of State and notify the agency of the filing. If the
37 Commission ~~for Subcommittee~~ objects to the regulation after
38 determining that:

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

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

42 (c) The regulation does not carry out legislative intent;

43 (d) The small business impact statement is inaccurate,
44 incomplete or did not adequately consider or significantly



1 underestimated the economic effect of the regulation on small
2 businesses; or

3 (e) The agency has not provided a satisfactory explanation of the
4 need for the regulation in its informational statement as required
5 pursuant to NRS 233B.066, or the informational statement is
6 insufficient or incomplete,

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

11 ~~{6. As soon as practicable after each regular legislative session,~~
12 ~~the Legislative Commission shall appoint a Subcommittee to~~
13 ~~Review Regulations consisting of at least three members or alternate~~
14 ~~members of the Legislative Commission.}~~

15 **Sec. 23.** NRS 233B.0675 is hereby amended to read as
16 follows:

17 233B.0675 1. If the Legislative Commission ~~{, or the~~
18 ~~Subcommittee to Review Regulations appointed pursuant to~~
19 ~~subsection 6 of NRS 233B.067,}~~ has objected to a regulation, the
20 agency shall revise the regulation to conform to the statutory
21 authority pursuant to which it was adopted and to carry out the
22 intent of the Legislature in granting that authority and return it to
23 the Legislative Counsel within 60 days after the agency received the
24 written notice of the objection to the regulation pursuant to NRS
25 233B.067. Upon receipt of the revised regulation, the Legislative
26 Counsel shall resubmit the regulation to the Commission ~~for~~
27 ~~Subcommittee}~~ for review. If the Commission ~~for Subcommittee}~~
28 approves the revised regulation, the Legislative Counsel shall
29 promptly file the revised regulation with the Secretary of State and
30 notify the agency of the filing.

31 2. If the Legislative Commission ~~for Subcommittee}~~ objects to
32 the revised regulation, the Legislative Counsel shall attach to the
33 revised regulation a written notice of the objection, including, if
34 practicable, a statement of the reasons for the objection, and shall
35 promptly return the revised regulation to the agency. The agency
36 shall continue to revise it and resubmit it to the Commission ~~for~~
37 ~~Subcommittee}~~ within 30 days after the agency received the written
38 notice of the objection to the revised regulation.

39 **Sec. 24.** NRS 233B.0677 is hereby amended to read as
40 follows:

41 233B.0677 1. Before holding a meeting to review temporary
42 regulations pursuant to NRS 233B.0633 or adopted regulations
43 pursuant to NRS 233B.067 or 233B.0675, the Legislative
44 Commission ~~for the Subcommittee to Review Regulations~~
45 ~~appointed pursuant to subsection 6 of NRS 233B.067, as~~



1 ~~applicable,~~ shall provide written notice of the meeting at least 3
2 working days before the meeting. The notice must include, without
3 limitation:

4 (a) A list of the regulations that the Legislative Commission ~~for~~
5 ~~the Subcommittee to Review Regulations~~ will review at the
6 meeting; and

7 (b) An explanation of the manner in which a person may obtain
8 a copy of a regulation that the Legislative Commission ~~for~~
9 ~~Subcommittee to Review Regulations~~ will review at the meeting.

10 2. If the Legislative Counsel Bureau maintains a website on the
11 Internet or its successor, the Legislative Counsel Bureau shall, at
12 least 3 working days before the Legislative Commission ~~for the~~
13 ~~Subcommittee to Review Regulations~~ holds a meeting to review
14 temporary regulations pursuant to NRS 233B.0633 or adopted
15 regulations pursuant to NRS 233B.067 or 233B.0675, post on its
16 website a list of the regulations that the Legislative Commission ~~for~~
17 ~~the Subcommittee to Review Regulations~~ will review at the
18 meeting, unless the Legislative Counsel Bureau is unable to do so
19 because of technical problems relating to the operation or
20 maintenance of its website.

21 **Sec. 25.** NRS 233B.070 is hereby amended to read as follows:

22 233B.070 1. A permanent regulation becomes effective when
23 the Legislative Counsel files with the Secretary of State the original
24 of the final draft or revision of a regulation, except as otherwise
25 provided in NRS 293.247 or where a later date is specified in the
26 regulation.

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

37 3. An emergency regulation becomes effective when the
38 agency files with the Secretary of State the original of the final draft
39 or revision of an emergency regulation, together with the
40 informational statement prepared pursuant to NRS 233B.066 ~~H~~ *and*
41 *a copy of the written statement of the emergency endorsed by the*
42 *Governor pursuant to NRS 233B.0613.* The agency shall also file a
43 copy of the emergency regulation with the Legislative Counsel,
44 together with the informational statement prepared pursuant to NRS



233B.066 ~~H~~ and a copy of the written statement of the emergency endorsed by the Governor pursuant to NRS 233B.0613.

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, Archives and Public Records Administrator, to the State Library, Archives and Public Records 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 the issuance or renewal of licenses, permits or certificates 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. 26. NRS 233B.100 is hereby amended to read as follows:

233B.100 1. Any interested person may petition an agency requesting the adoption, filing, amendment or repeal of any regulation and shall accompany the petition with relevant data, views and arguments. Each agency shall prescribe by regulation the form for such petitions and the procedure for their submission, consideration and disposition. Upon submission of such a petition, the agency shall within 30 days either deny the petition in writing, stating its reasons, or initiate regulation-making proceedings.

2. Any regulation of any agency is subject to ~~amendment~~ :



1 *(a) Amendment* or suspension by the Governor pursuant to the
2 provisions of NRS 416.060.

3 *(b) Suspension or nullification by the Legislative Commission*
4 *pursuant to section 10 of this act.*

5 **Sec. 27.** NRS 233B.105 is hereby amended to read as follows:

6 233B.105 1. A small business that is aggrieved by a
7 regulation adopted by an agency on or after January 1, 2000, may
8 object to all or a part of the regulation by filing a petition with the
9 agency that adopted the regulation within 90 days after the date on
10 which the regulation was adopted. An agency which receives such a
11 petition shall transmit a copy of the petition to the Legislative
12 Counsel for submission to the Legislative Commission . ~~for the~~
13 ~~Subcommittee to Review Regulations appointed pursuant to~~
14 ~~subsection 6 of NRS 233B.067.~~

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

17 (a) The agency failed to prepare a small business impact
18 statement as required pursuant to NRS 233B.0608 and 233B.0609;
19 or

20 (b) The small business impact statement prepared by the agency
21 pursuant to NRS 233B.0608 and 233B.0609 is inaccurate,
22 incomplete or did not adequately consider or significantly
23 underestimated the economic effect of the regulation on small
24 businesses.

25 3. After receiving a petition pursuant to subsection 1, an
26 agency shall determine whether the petition has merit. If the agency
27 determines that the petition has merit, the agency may, pursuant to
28 this chapter, take action to amend the regulation to which the small
29 business objected.

30 **Sec. 28.** NRS 233B.110 is hereby amended to read as follows:

31 233B.110 1. The validity or applicability of any regulation
32 may be determined in a proceeding for a declaratory judgment in the
33 district court in and for Carson City, or in and for the county where
34 the plaintiff resides, when it is alleged that the regulation, or its
35 proposed application, interferes with or impairs, or threatens to
36 interfere with or impair, the legal rights or privileges of the plaintiff.
37 A declaratory judgment may be rendered after the plaintiff has first
38 requested the agency to pass upon the validity of the regulation in
39 question. The court shall declare the regulation invalid if it finds that
40 it violates constitutional or statutory provisions or exceeds the
41 statutory authority of the agency. The agency whose regulation is
42 made the subject of the declaratory action shall be made a party to
43 the action.

44 2. An agency may institute an action for declaratory judgment
45 to establish the validity of any one or more of its own regulations.



* A B 4 0 3 R 1 *

3. Actions for declaratory judgment provided for in subsections 1 and 2 shall be in accordance with the Uniform Declaratory Judgments Act (chapter 30 of NRS), and the Nevada Rules of Civil Procedure. In all actions under subsections 1 and 2, the plaintiff shall serve a copy of the complaint upon the Attorney General, who is also entitled to be heard.

4. Nothing in this section shall be construed to limit the authority of the Legislative Commission to suspend or nullify a regulation as provided in this chapter.

Sec. 29. NRS 514A.110 is hereby amended to read as follows: 514A.110 A permanent regulation adopted by the:

1. Nevada Tax Commission, pursuant to NRS 360.090, concerning any taxation related to the extraction of any mineral in this State, including, without limitation, the taxation of the net proceeds pursuant to chapter 362 of NRS and Section 5 of Article 10 of the Nevada Constitution;

2. Administrator of the Division of Industrial Relations of the Department of Business and Industry for mine health and safety pursuant to NRS 512.131;

3. Commission on Mineral Resources pursuant to NRS 513.063, 513.094 or 519A.290; and

4. State Environmental Commission pursuant to NRS 519A.160,

is not effective unless it is reviewed by the Mining Oversight and Accountability Commission before it is approved pursuant to chapter 233B of NRS by the Legislative Commission . ~~for the Subcommittee to Review Regulations appointed pursuant to subsection 6 of NRS 233B.067.~~ After conducting its review of the regulation, the Mining Oversight and Accountability Commission shall provide a report of its findings and recommendations regarding the regulation to the Legislative Counsel for submission to the Legislative Commission . ~~for the Subcommittee to Review Regulations, as appropriate.~~

Sec. 30. This act becomes effective on July 1, 2017.

