

Amendment No. 1104

Senate Amendment to Assembly Bill No. 328 Second Reprint	(BDR 54-157)
Proposed by: Senator Atkinson	
Amendment Box: Consistent with Amendment No. 1099.	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

BJF



Date: 6/2/2017

A.B. No. 328—Revises provisions relating to professional licensing boards.
(BDR 54-157)



ASSEMBLY BILL NO. 328—ASSEMBLYMEN PICKARD, BUSTAMANTE ADAMS; BILBRAY-AXELROD, EDWARDS, KRAMER, MARCHANT, SPRINKLE AND TITUS

MARCH 20, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to professional licensing boards. (BDR 54-157)

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 professions; establishing limitations on the employment or retention of attorneys by certain regulatory bodies; requiring attorneys who contract with certain regulatory bodies to act as legal counsel for the regulatory body to carry professional liability insurance that satisfies certain criteria; requiring the Department of Administration to adopt regulations relating to the financial operation and administration of certain regulatory bodies; revising the qualifications for the executive director or executive secretary of certain regulatory bodies; revising the disciplinary process for certain regulatory bodies which administer occupational licensing; revising requirements for certain regulatory bodies of this State to prepare a balance sheet or hire a public accountant or accounting firm to conduct an audit of the body for a fiscal year; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law generally imposes certain requirements on regulatory bodies that regulate professions in this State. (Chapter 622 of NRS) **Section 2** of this bill prohibits an attorney from being employed as legal counsel by more than one regulatory body. **Section 2** further requires an attorney who contracts with a regulatory body to act as legal counsel as an independent contractor to carry a policy of professional liability insurance that names the State as an additional insured in the insurance policy. **Section 4** of this bill prohibits a person from being employed as an executive director or executive secretary by more than one regulatory body and requires a person employed by a regulatory body as an executive director or executive secretary to be a resident of this State. **Section 3** of this bill requires the Department of Administration to adopt regulations that establish standards for the financial operation and administration of regulatory bodies.

Existing law requires regulatory bodies to comply with certain administrative procedures governing the disciplinary process for licensees. (Chapter 622A of NRS) Existing law also provides an exemption for certain regulatory bodies from having to comply with the uniform disciplinary process. (NRS 622A.120) **Section 8** of this bill removes the exemption for regulatory bodies that issue professional licenses and are not under the direct supervision of a department of the Executive Branch of State Government ~~and~~ , except that the State

Contractors' Board would continue to be exempt from the uniform disciplinary process.
Section 6 of this bill prohibits a deputy attorney general from acting as legal counsel for a regulatory body in a contested case if he or she prosecuted the contested case before the regulatory body. **Section 7** of this bill prohibits an attorney who is employed or retained as legal counsel to a regulatory body from prosecuting a contested case before the regulatory body at any time while employed or retained by the regulatory body.

Existing law, with certain exceptions, requires certain regulatory bodies of this State which: (1) receive less than \$75,000 in revenue during a fiscal year to prepare a balance sheet for that fiscal year; or (2) receive \$75,000 or more in revenue during any fiscal year to hire a public accountant or accounting firm to conduct an audit of the regulatory body's fiscal records for that fiscal year. Upon completion of the balance sheet or audit, existing law requires the regulatory body to file the balance sheet or a report of the audit with the Legislative Auditor and the Chief of the Budget Division of the Office of Finance on or before December 1 following the end of that fiscal year. (NRS 218G.400) **Section 30.5** of this bill increases from \$75,000 to \$200,000 the amount of revenue received in any fiscal year for the purpose of determining whether a regulatory body is required to prepare a balance sheet or hire a public accountant or accounting firm to conduct the audit and subsequently file a report of the audit with the Legislative Auditor and the Chief of the Budget Division.

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

Section 1. Chapter 622 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. Each regulatory body shall contribute to the Fund for Insurance Premiums as required by NRS 331.187.

2. If a regulatory body employs an attorney as legal counsel, the attorney may not be employed as legal counsel of another regulatory body.

3. If a regulatory body retains an attorney to act as legal counsel for the regulatory body as an independent contractor, the attorney:

(a) May contract with more than one regulatory body to act as legal counsel as an independent contractor.

(b) Shall obtain or otherwise carry, before acting as legal counsel for a regulatory body, a policy of professional liability insurance which:

(1) Insures the attorney against any liability arising from acting as legal counsel for the regulatory body; and

(2) Names this State as an additional insured in the insurance policy.

Sec. 3. The Department of Administration shall adopt regulations establishing standards for the financial operation and administration of regulatory bodies. The regulations must include, without limitation, provisions which establish the minimum level of professional liability insurance that an attorney who contracts with a regulatory body to act as legal counsel must carry pursuant to subsection 3 of section 2 of this act.

Sec. 4. NRS 622.220 is hereby amended to read as follows:

622.220 If a regulatory body employs a person as an executive director or executive secretary or in a position with powers and duties similar to those of an executive director or executive secretary, the person:

1. Must possess a level of education or experience, or a combination of both, to qualify the person to perform the administrative and managerial tasks required of the position;

2. Must be a resident of this State;

3. *Must not be employed by another regulatory body as an executive director or executive secretary or in a position with powers and duties similar to those of an executive director or executive secretary;* and

~~12-1~~ 4. Must not be the immediate relative of:

(a) A member or employee of the regulatory body; or

(b) A licensee of the regulatory body.

Sec. 5. Chapter 622A of NRS is hereby amended by adding thereto the provisions set forth as sections 6 and 7 of this act.

Sec. 6. *If a deputy attorney general prosecutes a contested case for a regulatory body, he or she may not also act as legal counsel for the regulatory body when the regulatory body considers or makes decisions concerning the contested case.*

Sec. 7. *If a regulatory body employs or retains an attorney to serve as legal counsel for and advise the regulatory body on any and all matters, and the attorney prosecutes a contested case for the regulatory body, the attorney may not also act as legal counsel for the regulatory body when the regulatory body considers or makes a decision regarding the contested case.*

Sec. 8. NRS 622A.120 is hereby amended to read as follows:

622A.120 1. The following regulatory bodies are exempted from the provisions of this chapter:

(a) State Contractors' Board.

~~(b) State Board of Professional Engineers and Land Surveyors.~~

~~(c) Nevada State Board of Accountancy.~~

~~(d) Board of Medical Examiners.~~

~~(e) Board of Dental Examiners of Nevada.~~

~~(f) State Board of Nursing.~~

~~(g) Chiropractic Physicians' Board of Nevada.~~

~~(h) Nevada State Board of Optometry.~~

~~(i) State Board of Pharmacy.~~

~~(j) Board of Examiners for Marriage and Family Therapists and Clinical Professional Counselors.~~

~~(k) Real Estate Commission, Real Estate Administrator and Real Estate Division of the Department of Business and Industry.~~

~~(l) (b) (c) Commission of Appraisers of Real Estate.~~

~~(m) (e) (d) Commissioner of Mortgage Lending and Division of Mortgage Lending of the Department of Business and Industry.~~

~~(n) (d) (e) Commissioner of Financial Institutions and Division of Financial Institutions of the Department of Business and Industry.~~

~~(o) Private Investigator's Licensing Board.~~

~~(p) (e) (f) State Board of Health and Division of Public and Behavioral Health of the Department of Health and Human Services.~~

2. Any regulatory body which is exempted from the provisions of this chapter pursuant to subsection 1 may elect by regulation to follow the provisions of this chapter or any portion thereof.

Sec. 9. NRS 622A.130 is hereby amended to read as follows:

622A.130 1. The provisions of this chapter must be interpreted so as to effectuate their general purpose to make uniform among the regulatory bodies that are subject to the provisions of this chapter the procedures used to prosecute contested cases and take administrative action against a person who violates any law or regulation governing occupational licensing.

2. To the extent possible, the provisions of this chapter are intended to supplement other statutory provisions governing administrative procedure, occupational licensing and regulatory bodies, and such other provisions must be

given effect to the extent that those provisions do not conflict with the provisions of this chapter. If there is a conflict between such other provisions and the provisions of this chapter, the provisions of this chapter control.

3. The provisions of this chapter do not prohibit a regulatory body from adopting procedures used to prosecute contested cases that:

(a) Impose stricter requirements on the regulatory body relating to such prosecution; or

(b) Provide greater due process protections for licensees, so long as such procedures do not hinder the duty of the regulatory body to protect the public.

Sec. 10. (Deleted by amendment.)

Sec. 11. NRS 623.133 is hereby amended to read as follows:

623.133 1. The Attorney General is hereby designated as the legal adviser of the Board.

2. ~~Nothing~~ *Subject to the provisions of sections 6 and 7 of this act, nothing* in this section shall be construed so as to prevent the Board from employing legal counsel as provided elsewhere in this chapter.

Sec. 12. NRS 623A.160 is hereby amended to read as follows:

623A.160 The Attorney General is the legal adviser of the Board, but the Board may employ legal counsel ~~to~~ *subject to the provisions of sections 6 and 7 of this act.*

Sec. 13. NRS 628.410 is hereby amended to read as follows:

628.410 1. The Board may initiate proceedings under this chapter:

(a) On its own motion;

(b) On the complaint of any person; or

(c) On a complaint made by a board of accountancy of another state.

2. A written notice of the hearing must be served on the respondent not less than 30 days before the date of the hearing, either personally or by mailing a copy thereof by registered or certified mail to the address of the respondent last known to the Board.

3. If, after having been served with the notice of hearing, the respondent fails to appear at the hearing and defend, the Board may proceed to hear evidence against the respondent and may enter such order as is justified by the evidence. The order is final unless the respondent petitions for a review thereof. Within 30 days after the date of any order, upon a showing of good cause for failing to appear and defend, the Board may reopen the proceedings and may permit the respondent to submit evidence in his or her behalf.

4. At any hearing, a respondent may be represented before the Board by counsel or by a certified public accountant or registered public accountant of this State in good standing. The respondent is entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his or her behalf.

5. The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents. In case of disobedience to a subpoena, the Board may invoke the aid of any court of this State in requiring the attendance and testimony of witnesses and the production of documentary evidence.

6. A hearing may be conducted by:

(a) The Board, less any member or members who have been disqualified, without the appointment of persons to hear the case in place of the disqualified members; or

(b) A member of the Board appointed by the Board as a hearing officer, with the remaining members of the Board, less any member or members who have been disqualified, to review the record, make a final decision and issue the order, unless the Board, after disqualifications, consists of less than three members to hear or review the case, in which circumstance the Governor must appoint one or more qualified persons so that the panel which hears or reviews the case consists of at least three persons.

7. A stenographic record of the hearing must be kept and a transcript thereof filed with the Board.

8. At all hearings, the Attorney General or a deputy designated by the Attorney General or such other legal counsel as may be employed shall appear and represent the Board **subject to the provisions of sections 6 and 7 of this act.**

9. The decision of the Board must be by majority vote thereof.

Sec. 14. NRS 630.346 is hereby amended to read as follows:

630.346 In any disciplinary hearing:

1. The Board, a panel of the members of the Board and a hearing officer are not bound by formal rules of evidence, **except that evidence must be taken and considered in the hearing pursuant to NRS 233B.123**, and a witness must not be barred from testifying solely because the witness was or is incompetent.

2. A finding of the Board must be supported by a preponderance of the evidence.

3. Proof of actual injury need not be established.

4. A certified copy of the record of a court or a licensing agency showing a conviction or plea of nolo contendere or the suspension, revocation, limitation, modification, denial or surrender of a license to practice medicine, perfusion or respiratory care is conclusive evidence of its occurrence.

Sec. 15. NRS 630.352 is hereby amended to read as follows:

630.352 1. Any member of the Board, other than a member of an investigative committee of the Board who participated in any determination regarding a formal complaint in the matter or any member serving on a panel of the Board at the hearing of the matter, may participate in an adjudication to obtain the final order of the Board. At the adjudication, the Board shall consider any findings of fact and conclusions of law submitted after the hearing and shall allow:

(a) Counsel for the Board to present a disciplinary recommendation and argument in support of the disciplinary recommendation **subject to the provisions of sections 6 and 7 of this act;**

(b) The respondent or counsel of the respondent to present a disciplinary recommendation and argument in support of the disciplinary recommendation; and

(c) The complainant in the matter to make a statement to the Board regarding the disciplinary recommendations by the parties and to address the effect of the respondent's conduct upon the complainant or the patient involved, if other than the complainant.

The Board may limit the time within which the parties and the complainant may make their arguments and statements.

2. At the conclusion of the presentations of the parties and the complainant, the Board shall deliberate and may by a majority vote impose discipline based upon the findings of fact and conclusions of law and the presentations of the parties and the complainant.

3. If, in the findings of fact and conclusions of law, the Board, hearing officer or panel of the Board determines that no violation has occurred, the Board shall dismiss the charges, in writing, and notify the respondent that the charges have been dismissed.

4. Except as otherwise provided in subsection 5, if the Board finds that a violation has occurred, it shall by order take one or more of the following actions:

(a) Place the person on probation for a specified period on any of the conditions specified in the order;

(b) Administer a written public reprimand to the person;

(c) Limit the person's practice or exclude one or more specified branches of medicine from his or her practice;

(d) Suspend the person's license for a specified period or until further order of the Board;

(e) Revoke the person's license;

(f) Require the person to participate in a program to correct alcohol or drug dependence or any other impairment;

(g) Require supervision of the person's practice;

(h) Impose a fine not to exceed \$5,000 for each violation;

(i) Require the person to perform community service without compensation;

(j) Require the person to take a physical or mental examination or an examination testing his or her competence; and

(k) Require the person to fulfill certain training or educational requirements.

5. If the Board finds that the respondent has violated the provisions of NRS 439B.425, the Board shall suspend the respondent's license for a specified period or until further order of the Board.

6. The Board shall not administer a private reprimand if the Board finds that a violation has occurred.

7. Within 30 days after the hearing before the Board, the Board shall issue a final order, certified by the Secretary-Treasurer of the Board, that imposes discipline and incorporates the findings of fact and conclusions of law obtained from the hearing. An order that imposes discipline and the findings of fact and conclusions of law supporting that order are public records.

Sec. 16. NRS 631.190 is hereby amended to read as follows:

631.190 In addition to the powers and duties provided in this chapter, the Board shall:

1. Adopt rules and regulations necessary to carry out the provisions of this chapter.

2. Appoint such committees, examiners, officers, employees, agents, attorneys, investigators and other professional consultants and define their duties and incur such expense as it may deem proper or necessary to carry out the provisions of this chapter, the expense to be paid as provided in this chapter.

~~Notwithstanding the provisions of this subsection, the Attorney General in his or her sole discretion may, but is not required to, serve as legal counsel for the Board at any time and in any and all matters.~~

3. Fix the time and place for and conduct examinations for the granting of licenses to practice dentistry and dental hygiene.

4. Examine applicants for licenses to practice dentistry and dental hygiene.

5. Collect and apply fees as provided in this chapter.

6. Keep a register of all dentists and dental hygienists licensed in this State, together with their addresses, license numbers and renewal certificate numbers.

7. Have and use a common seal.

8. Keep such records as may be necessary to report the acts and proceedings of the Board. Except as otherwise provided in NRS 631.368, the records must be open to public inspection.

9. Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

10. Have discretion to examine work authorizations in dental offices or dental laboratories.

Sec. 17. NRS 636.090 is hereby amended to read as follows:

636.090 1. The Board may employ:

(a) Agents and inspectors to secure evidence of, and report on, violations of this chapter.

(b) Attorneys, investigators and other professional consultants and clerical personnel necessary to administer this chapter.

2. The Attorney General may act as counsel for the Board ~~+~~ *subject to the provisions of section 6 of this act.*

Sec. 18. NRS 636.330 is hereby amended to read as follows:

636.330 If the Board makes a decision which is adverse to the licensee, the licensee may apply for a rehearing within ~~++~~ *15* days after the Board announces its decision. The Board shall grant or deny the application within a reasonable time thereafter.

Sec. 19. NRS 636.340 is hereby amended to read as follows:

636.340 Unless a license is suspended pursuant to NRS 425.540, on or after the expiration of ~~16 months~~ *1 year* following the revocation or suspension of a license, an application may be made for the restoration of the license and the Board may, in the exercise of reasonable discretion, restore the license absolutely or upon specified conditions.

Sec. 19.5. NRS 639.070 is hereby amended to read as follows:

639.070 1. The Board may:

(a) Adopt such regulations, not inconsistent with the laws of this State, as are necessary for the protection of the public, appertaining to the practice of pharmacy and the lawful performance of its duties.

(b) Adopt regulations requiring that prices charged by retail pharmacies for drugs and medicines which are obtained by prescription be posted in the pharmacies and be given on the telephone to persons requesting such information.

(c) Adopt regulations, not inconsistent with the laws of this State, authorizing the Executive Secretary of the Board to issue certificates, licenses and permits required by this chapter and chapters 453 and 454 of NRS.

(d) Adopt regulations governing the dispensing of poisons, drugs, chemicals and medicines.

(e) Regulate the practice of pharmacy.

(f) Regulate the sale and dispensing of poisons, drugs, chemicals and medicines.

(g) Regulate the means of recordkeeping and storage, handling, sanitation and security of drugs, poisons, medicines, chemicals and devices, including, but not limited to, requirements relating to:

(1) Pharmacies, institutional pharmacies and pharmacies in correctional institutions;

(2) Drugs stored in hospitals; and

(3) Drugs stored for the purpose of wholesale distribution.

(h) Examine and register, upon application, pharmacists and other persons who dispense or distribute medications whom it deems qualified.

(i) Charge and collect necessary and reasonable fees for the expedited processing of a request or for any other incidental service the Board provides, other than those specifically set forth in this chapter.

(j) Maintain offices in as many localities in the State as it finds necessary to carry out the provisions of this chapter.

(k) Employ ~~an attorney,~~ *attorneys*, inspectors, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

(l) Enforce the provisions of NRS 453.011 to 453.552, inclusive, and enforce the provisions of this chapter and chapter 454 of NRS.

(m) Adopt regulations concerning the information required to be submitted in connection with an application for any license, certificate or permit required by this chapter or chapter 453 or 454 of NRS.

(n) Adopt regulations concerning the education, experience and background of a person who is employed by the holder of a license or permit issued pursuant to this chapter and who has access to drugs and devices.

(o) Adopt regulations concerning the use of computerized mechanical equipment for the filling of prescriptions.

(p) Participate in and expend money for programs that enhance the practice of pharmacy.

2. The Board shall, to the extent feasible, communicate or cooperate with or provide any documents or other information to any other licensing board or any other agency that is investigating a person, including, without limitation, a law enforcement agency.

3. This section does not authorize the Board to prohibit open-market competition in the advertising and sale of prescription drugs and pharmaceutical services.

Sec. 20. NRS 639.252 is hereby amended to read as follows:

639.252 1. If the respondent wishes to contest or appeal the decision of the Board, the order or any part thereof, the respondent may, not later than ~~10~~ *15* days after the time the order becomes effective, apply in writing to the Board for a rehearing. The application must set forth with particularity the part or parts of the decision or order to which the respondent objects and the basis of the objection.

2. The Executive Secretary of the Board shall, within 10 days after receipt of a written application for rehearing, notify the respondent and the respondent's attorney of record in writing, by registered or certified mail, of his or her action, either granting or denying the application. If the application is granted, the notice must contain the date, time and place of the rehearing. The rehearing must be held at the next regularly scheduled meeting of the Board. Granting of the application by the Executive Secretary does not serve as an automatic stay of execution of the order pending conclusion of the rehearing.

Sec. 21. NRS 640C.190 is hereby amended to read as follows:

640C.190 *Subject to the provisions of sections 6 and 7 of this act:*

1. The Attorney General and his or her deputies are hereby designated as the attorneys for the Board.

2. The provisions of this section do not prevent the Board from employing or retaining other attorneys as it may deem necessary to carry out the provisions of this chapter.

Sec. 22. NRS 641A.370 is hereby amended to read as follows:

641A.370 If the Board revokes or suspends a license for a fixed time, the licensee may apply for a rehearing within ~~10~~ *15* days after the date of the suspension or revocation and the Board may grant the application upon the terms and conditions it deems appropriate within 30 days after the application.

Sec. 23. NRS 645A.193 is hereby amended to read as follows:

645A.193 *1.* The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter.

2. *Notwithstanding the provision of paragraph ~~(m)~~ ~~(e)~~ (d) of subsection 1 of NRS 622A.120, representation of the Division pursuant to subsection 1 shall be conducted in a manner consistent with the provisions of sections 6 and 7 of this act.*

Sec. 24. NRS 645A.235 is hereby amended to read as follows:

645A.235 1. A person who engages in an activity for which a license as an escrow agent or escrow agency is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph ~~(m)~~ ~~(e)~~ (d) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 25. NRS 645B.955 is hereby amended to read as follows:

645B.955 1. A person who engages in an activity for which a license as a mortgage broker or mortgage agent is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph ~~(m)~~ ~~(e)~~ (d) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

Sec. 26. NRS 645C.250 is hereby amended to read as follows:

645C.250 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division or the Commission.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter ~~+~~ *subject to the provisions of sections 6 and 7 of this act.*

Sec. 27. NRS 645D.150 is hereby amended to read as follows:

645D.150 1. The Attorney General shall render to the Division opinions upon questions of law relating to the construction or interpretation of this chapter, or arising in the administration thereof, submitted to the Attorney General by the Division.

2. The Attorney General shall act as the attorney for the Division in all actions and proceedings brought against or by the Division pursuant to any of the provisions of this chapter ~~+~~ *subject to the provisions of sections 6 and 7 of this act.*

Sec. 28. NRS 645E.955 is hereby amended to read as follows:

645E.955 1. A person who engages in an activity for which a license as a mortgage banker is required pursuant to this chapter, without regard to whether such a person is licensed pursuant to this chapter, may be required by the Commissioner to pay restitution to any person who has suffered an economic loss as a result of a violation of the provisions of this chapter or any regulation adopted pursuant thereto.

2. Notwithstanding the provision of paragraph ~~(m)~~ ~~(e)~~ (d) of subsection 1 of NRS 622A.120, payment of restitution pursuant to subsection 1 shall be done in a manner consistent with the provisions of chapter 622A of NRS.

1 **Sec. 29.** NRS 645H.370 is hereby amended to read as follows:

2 645H.370 1. The Attorney General shall render to the Division opinions
3 upon questions of law relating to the construction or interpretation of this chapter,
4 or arising in the administration thereof, submitted to the Attorney General by the
5 Division.

6 2. The Attorney General shall act as the attorney for the Division in all
7 actions and proceedings brought against or by the Division pursuant to any of the
8 provisions of this chapter ~~+~~ *subject to the provisions of sections 6 and 7 of this*
9 *act.*

10 **Sec. 30.** (Deleted by amendment.)

11 **Sec. 30.5.** NRS 218G.400 is hereby amended to read as follows:

12 218G.400 1. Except as otherwise provided in subsection 2, each board
13 created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive,
14 628, 630 to 644, inclusive, 648, 654 and 656 of NRS shall:

15 (a) If the revenue of the board from all sources is less than ~~\$75,000~~ *\$200,000*
16 for any fiscal year and, if the board is a regulatory body pursuant to NRS 622.060,
17 the board has submitted to the Director of the Legislative Counsel Bureau for each
18 quarter of that fiscal year the information required by NRS 622.100, prepare a
19 balance sheet for that fiscal year on the form provided by the Legislative Auditor
20 and file the balance sheet with the Legislative Auditor and the Chief of the Budget
21 Division of the Office of Finance on or before December 1 following the end of
22 that fiscal year. The Legislative Auditor shall prepare and make available a form
23 that must be used by a board to prepare such a balance sheet.

24 (b) If the revenue of the board from all sources is ~~\$75,000~~ *\$200,000* or more
25 for any fiscal year, or if the board is a regulatory body pursuant to NRS 622.060
26 and has failed to submit to the Director of the Legislative Counsel Bureau for each
27 quarter of that fiscal year the information required by NRS 622.100, engage the
28 services of a certified public accountant or public accountant, or firm of either of
29 such accountants, to audit all its fiscal records for that fiscal year and file a report of
30 the audit with the Legislative Auditor and the Chief of the Budget Division of the
31 Office of Finance on or before December 1 following the end of that fiscal year.

32 2. In lieu of preparing a balance sheet or having an audit conducted for a
33 single fiscal year, a board may engage the services of a certified public accountant
34 or public accountant, or firm of either of such accountants, to audit all its fiscal
35 records for a period covering two successive fiscal years. If such an audit is
36 conducted, the board shall file the report of the audit with the Legislative Auditor
37 and the Chief of the Budget Division of the Office of Finance on or before
38 December 1 following the end of the second fiscal year.

39 3. The cost of each audit conducted pursuant to subsection 1 or 2 must be paid
40 by the board that is audited. Each such audit must be conducted in accordance with
41 generally accepted auditing standards, and all financial statements must be prepared
42 in accordance with generally accepted principles of accounting for special revenue
43 funds.

44 4. Whether or not a board is required to have its fiscal records audited
45 pursuant to subsection 1 or 2, the Legislative Auditor shall audit the fiscal records
46 of any such board whenever directed to do so by the Legislative Commission.
47 When the Legislative Commission directs such an audit, the Legislative
48 Commission shall also determine who is to pay the cost of the audit.

49 5. A person who is a state officer or employee of a board is guilty of
50 nonfeasance if the person:

51 (a) Is responsible for preparing a balance sheet or having an audit conducted
52 pursuant to this section or is responsible for preparing or maintaining the fiscal

1 records that are necessary to prepare a balance sheet or have an audit conducted
2 pursuant to this section; and

3 (b) Knowingly fails to prepare the balance sheet or have the audit conducted
4 pursuant to this section or knowingly fails to prepare or maintain the fiscal records
5 that are necessary to prepare a balance sheet or have an audit conducted pursuant to
6 this section.

7 6. In addition to any other remedy or penalty, a person who is guilty of
8 nonfeasance pursuant to this section forfeits the person's state office or
9 employment and may not be appointed to a state office or position of state
10 employment for a period of 2 years following the forfeiture. The provisions of this
11 subsection do not apply to a state officer who may be removed from office only by
12 impeachment pursuant to Article 7 of the Nevada Constitution.

13 **Sec. 31.** This act becomes effective on July 1, 2017.