

ASSEMBLY BILL NO. 340—ASSEMBLYMAN MATTHEWS

MARCH 19, 2021

Referred to Committee on Government Affairs

SUMMARY—Provides for the review of certain administrative regulations by the Legislature. (BDR 18-929)

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 administrative regulations; requiring agencies to determine the economic impact of proposed regulations; prohibiting agencies from adopting certain regulations that will have an economic impact without legislative and executive approval; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes agencies to adopt reasonable regulations to carry out the functions assigned to the agency by law. (NRS 233B.040) **Section 2** of this bill prohibits an agency from adopting a regulation if the agency determines that the economic impact of the proposed regulation is \$10,000,000 or more. **Section 1** of this bill requires an agency to determine the economic impact of a proposed regulation, which includes the costs to implement the proposed regulation and any costs reasonably expected to be incurred or passed on to local governments, businesses and any other person. **Section 1** also provides that if the economic impact of the proposed regulation is \$10,000,000 or more, the agency must submit the proposed regulation to the Legislature and the Governor for approval.

Section 3 of this bill makes conforming changes to authorize the Director of the Office of Finance to request as a legislative measure necessary to implement the budget proposed by the Governor and provide for the fiscal management of the State any proposed regulation which an agency has determined will have an economic impact of \$10,000,000 or more.



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

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

1. In addition to the requirements of NRS 233B.0608 and 233B.0609, before conducting a workshop for a proposed regulation pursuant to NRS 233B.061, an agency shall determine the estimated economic impact of the proposed regulation. The economic impact must, without limitation:

(a) Be expressed as a single dollar figure.

(b) Include the costs for the agency to implement the proposed regulation and the costs that are reasonably expected to be incurred by or passed along to businesses, local governments and any other person, which may include any economic burden imposed on small businesses, as determined by the agency pursuant to NRS 233B.0608.

2. If the agency determines that the estimated economic impact of the proposed regulation is \$10,000,000 or more, the agency:

(a) May not adopt the proposed regulation; and

(b) Shall submit the proposed regulation to the Director of the Office of Finance as a legislative measure for the approval of the Legislature and the Governor pursuant to the provisions of chapter 218D of NRS.

Sec. 2. NRS 233B.040 is hereby amended to read as follows:

233B.040 1. ~~[To]~~ *Except as otherwise provided in subsection 2 and section 1 of this act,* 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. An agency may not adopt a proposed regulation if the agency determines, pursuant to section 1 of this act, that the proposed regulation will have an economic impact of \$10,000,000 or more.

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

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

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

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

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

~~[4.—An]~~

5. *Except as otherwise provided in subsection 2 and section 1 of this act, an* agency shall adopt a proposed regulation not later than 2 years after the date on which the proposed regulation is submitted to the Legislative Counsel pursuant to subsection 1 of NRS 233B.063. If an agency does not adopt a proposed regulation within the time prescribed by this subsection, the executive head of the agency shall appear personally before the Legislative Commission and explain why the proposed regulation has not been adopted.

Sec. 3. NRS 218D.175 is hereby amended to read as follows:

218D.175 1. Except as otherwise provided in subsection 2, for a regular session, the Governor or the Governor's designated representative may request the drafting of not more than 110 legislative measures which have been approved by the Governor or the Governor's designated representative on behalf of the officers, agencies, boards, commissions, departments and other units of the Executive Department. The requests must be submitted to the Legislative Counsel on or before August 1 preceding the regular session.

2. The Governor or the Governor's designated representative may request at any time before or during a regular session, without limitation, the drafting of as many legislative measures as are necessary to carry out the provisions of NRS 288.400 to 288.630, inclusive.

3. The Director of the Office of Finance may request on or before the 19th day of a regular session, without limitation, the



1 drafting of as many legislative measures as are necessary to
2 implement the budget proposed by the Governor and to provide for
3 the fiscal management of the State ~~§~~ , *including, without*
4 *limitation, the submission of a legislative measure to enact a*
5 *proposed regulation that an agency has determined pursuant to*
6 *section 1 of this act will have an economic impact of \$10,000,000*
7 *or more.* In addition to the requests otherwise authorized pursuant to
8 this section, the Governor may request the drafting of not more than
9 5 legislative measures on or before the 19th day of a regular session
10 to propose the Governor's legislative agenda.

11 4. For a regular session, the following constitutional officers
12 may request, without the approval of the Governor or the
13 Governor's designated representative, the drafting of not more than
14 the following numbers of legislative measures, which must be
15 submitted to the Legislative Counsel on or before September 1
16 preceding the regular session:

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18	Lieutenant Governor.....	3
19	Secretary of State.....	6
20	State Treasurer.....	5
21	State Controller.....	5
22	Attorney General	20
23		

24 5. In addition to the requests authorized by subsection 4, the
25 Secretary of State may request, without the approval of the
26 Governor or the Governor's designated representative, the drafting
27 of not more than 2 legislative measures, which must be submitted to
28 the Legislative Counsel on or before December 31 preceding the
29 regular session.

30 6. Each request made pursuant to this section must be on a
31 form prescribed by the Legislative Counsel. The legislative
32 measures requested pursuant to subsections 1 and 4 must be prefiled
33 on or before the third Wednesday in November preceding the
34 regular session. A legislative measure that is not prefiled on or
35 before that day shall be deemed withdrawn.

36 **Sec. 4.** This act becomes effective on July 1, 2021.

