

SENATE BILL NO. 261—SENATOR NEAL

MARCH 13, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to local governments.
(BDR 19-793)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 4)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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 local governments; revising the definitions of the terms “business,” “local government” and “rule” for purposes of provisions relating to the adoption of rules by local governments that affect businesses; revising the notice requirements relating to the adoption of such rules; requiring, with certain exceptions, the governing body of a local government to hold at least one workshop before the adoption of such rules; revising the requirements for a business impact statement; revising provisions relating to when an action of the governing body of a local government to adopt rules that affect local governments is void; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires that before a governing body of a local government adopts a proposed rule that is likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, the governing body or its designee must notify trade associations or owners and officers of businesses likely to be affected by the rule. (NRS 237.080) **Section 4** of this bill requires a governing body of a local government to also notify chambers of commerce of any such proposed rule. **Section 4** requires that the notification of chambers of commerce and associations includes notice by electronic mail when an address is provided. **Section 4** also requires a governing body of a local government to maintain an electronic mailing list of local chambers of commerce, trade associations and owners and officers of businesses and to



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update the list not later than January 31 of each year. **Section 4** further requires, with certain exceptions, that a governing body of a local government hold not less than one workshop to solicit comments from persons on one or more general topics to be addressed in a proposed rule.

Existing law requires that if a proposed rule is determined to likely impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, the governing body or its designee must prepare a business impact statement which must be considered by the governing body at a public meeting held at least 10 calendar days before the meeting held to adopt the proposed rule. (NRS 237.080, 237.090) **Section 5** of this bill requires that the business impact statement include: (1) the total number of businesses likely to be affected by the proposed rule; (2) a list of the chambers of commerce and trade associations notified of the proposed rule pursuant to **section 4**; and (3) a summary of any workshop held pursuant to **section 4**.

Existing law provides that any action of the governing body of a local government to adopt a proposed rule in violation of certain provisions of the Nevada Revised Statutes is void. (NRS 237.140) **Section 5** of this bill clarifies that any such action is void if the governing body does not, under certain circumstances: (1) determine whether a petition objecting to a rule has merit; or (2) take action to readopt or amend the rule to which a business has objected. (NRS 237.100)

Section 1 of this bill revises the definition of "business" to mean any trade or occupation conducted for profit, regardless of whether the trade or occupation is a small business. **Section 2** of this bill revises the definition of "local government" to include a quasi-municipal agency, including a special improvement district, a municipal utility and a regional transportation commission. **Section 3** of this bill revises the definition of "rule" to provide that a "rule" includes an action taken by the governing body of a local government that imposes, increases or changes the basis for the calculation of a fee that has been negotiated pursuant to a contract between a business and local government.

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

Section 1. NRS 237.040 is hereby amended to read as follows:
237.040 **1.** "Business" means ~~any~~ *any* trade or occupation conducted for profit ~~any~~ *, regardless of whether the trade or occupation is a small business.*

2. *As used in this section, "small business" has the meaning ascribed to it in NRS 233B.0382.*

Sec. 2. NRS 237.050 is hereby amended to read as follows:
237.050 "Local government" means a political subdivision , *other entity* of this State ~~any~~ *or a quasi-municipal agency*, including, without limitation, a city, county, ~~health district,~~ *irrigation district, local health district, municipal utility, regional transportation commission, special improvement district,* water district or water conservancy district.

Sec. 3. NRS 237.060 is hereby amended to read as follows:
237.060 **1.** "Rule" means:



(a) An ordinance by the adoption of which the governing body of a local government exercises legislative powers; and

(b) An action taken by the governing body of a local government that imposes, increases or changes the basis for the calculation of a fee that is paid in whole or in substantial part by businesses.

2. "Rule" does not include:

(a) An action taken by the governing body of a local government that imposes, increases or changes the basis for the calculation of:

(1) Special assessments imposed pursuant to chapter 271 of NRS;

(2) Impact fees imposed pursuant to chapter 278B of NRS;

(3) Fees for remediation imposed pursuant to chapter 540A of NRS;

(4) Taxes ad valorem; *or*

(5) Sales and use taxes. ~~;~~ *or*

~~—(6) A fee that has been negotiated pursuant to a contract between a business and a local government.]~~

(b) An action taken by the governing body of a local government that approves, amends or augments the annual budget of the local government.

(c) An ordinance adopted by the governing body of a local government pursuant to a provision of chapter 271, 271A, 278, 278A, 278B or 350 of NRS.

(d) An ordinance adopted by or action taken by the governing body of a local government that authorizes or relates to the issuance of bonds or other evidence of debt of the local government.

Sec. 4. NRS 237.080 is hereby amended to read as follows:

237.080 1. Before a governing body of a local government adopts a proposed rule, the governing body or its designee must make a concerted effort to determine whether the proposed rule will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business. The governing body of a local government or its designee must notify *chambers of commerce*, trade associations or owners and officers of businesses which are likely to be affected by the proposed rule that they may submit data or arguments to the governing body or its designee as to whether the proposed rule will:

(a) Impose a direct and significant economic burden upon a business; or

(b) Directly restrict the formation, operation or expansion of a business.

➤ Notification provided pursuant to this subsection must include the date by which the data or arguments must be received by the



governing body or its designee, which must be at least 15 working days after the notification is sent.

2. After the period for submitting data or arguments specified in the notification provided pursuant to subsection 1 has expired, the governing body or its designee shall determine whether the proposed rule is likely to:

(a) Impose a direct and significant economic burden upon a business; or

(b) Directly restrict the formation, operation or expansion of a business.

➤ If no data or arguments were submitted pursuant to subsection 1, the governing body or its designee shall make its determination based on any information available to the governing body or its designee.

3. If the governing body or its designee determines pursuant to subsection 2 that a proposed rule is likely to impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business, the governing body or its designee shall consider methods to reduce the impact of the proposed rule on businesses, including, without limitation:

(a) Simplifying the proposed rule;

(b) Establishing different standards of compliance for a business; and

(c) Modifying a fee or fine set forth in the rule so that a business is authorized to pay a lower fee or fine.

4. After making a determination pursuant to subsection 2, the governing body or its designee shall prepare a business impact statement.

5. Except as provided in subsection 6, a governing body of a local government shall hold not less than one workshop to solicit comments from persons on one or more general topics to be addressed in a proposed rule. The governing body or its designee must notify chambers of commerce, trade associations or owners and officers of businesses which are likely to be affected by the proposed rule of the date, time and location of the workshop.

6. In lieu of holding a workshop pursuant to subsection 5, a governing body of a local government may accept a report provided by a chamber of commerce, trade association or owner or officer of a business of the estimated effect of the proposed rule. The report must contain the estimated economic effect of the proposed rule on the businesses which it is to regulate, including, without limitation:

(a) Both adverse and beneficial effects; and

(b) Both direct and indirect effects.



7. *The governing body of a local government shall maintain an electronic mailing list of chambers of commerce, trade associations and owners and officers of businesses. The electronic mailing list must be updated on or before January 31 of each year. The governing body of a local government must provide notification pursuant to this section to each chamber of commerce and trade association by electronic mail regardless of whether the chamber of commerce or trade association has requested that it be placed on the electronic mailing list. Nothing in this section prohibits the governing body from also providing notification pursuant to this section by mail.*

Sec. 5. NRS 237.090 is hereby amended to read as follows:

237.090 1. A business impact statement prepared pursuant to NRS 237.080 must be considered by the governing body at a public meeting held at least 10 calendar days before the public meeting of the governing body held to adopt the proposed rule. The business impact statement must set forth the following information:

(a) A description of the manner in which comment was solicited from affected businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(b) The total number of businesses likely to be affected by the proposed rule.

(c) A list of the chambers of commerce and trade associations notified of the proposed rule pursuant to NRS 237.080.

(d) A summary of any workshop held pursuant to NRS 237.080.

~~[(b)]~~ *(e)* The estimated economic effect of the proposed rule on the businesses which it is to regulate . ~~[-including-]~~ *The statement of estimated economic effect must include,* without limitation:

(1) Both adverse and beneficial effects; and

(2) Both direct and indirect effects.

~~[(e)]~~ *(f)* A description of the methods that the governing body of the local government or its designee considered to reduce the impact of the proposed rule on businesses and a statement regarding whether the governing body or its designee actually used any of those methods.

~~[(d)]~~ *(g)* The estimated cost to the local government for enforcement of the proposed rule.

~~[(e)]~~ *(h)* If the proposed rule provides a new fee or increases an existing fee, the total annual amount the local government expects to collect and the manner in which the money will be used.

~~[(f)]~~ *(i)* If the proposed rule includes provisions which duplicate or are more stringent than federal, state or local standards regulating



1 the same activity, an explanation of why such duplicative or more
2 stringent provisions are necessary.

3 ~~(e)~~ (j) The reasons for the conclusions regarding the impact of
4 the proposed rule on businesses.

5 2. The county manager, city manager or other chief executive
6 officer for the governing body of a local government shall sign the
7 business impact statement certifying that, to the best of his or her
8 knowledge or belief, the information contained in the statement was
9 prepared properly and is accurate.

10 3. The governing body of a local government shall not include
11 the consideration of a business impact statement on the agenda for a
12 public meeting unless the statement has been prepared and is
13 available for public inspection at the time the agenda is first posted.

14 **Sec. 6.** NRS 237.140 is hereby amended to read as follows:

15 237.140 Any action of the governing body of a local
16 government to adopt a proposed rule in violation of the provisions
17 of NRS 237.030 to 237.150, inclusive, is void ~~(f)~~ , *including,*
18 *without limitation, if the governing body does not comply with the*
19 *provisions of subsection 3 of NRS 237.100.*

20 **Sec. 7.** The provisions of NRS 354.599 do not apply to any
21 additional expenses of a local government that are related to the
22 provisions of this act.

