

SENATE BILL NO. 329—SENATOR AMODEI

MARCH 17, 2003

Referred to Committee on Government Affairs

SUMMARY—Authorizes review of and objection to temporary regulations by Legislative Commission in certain circumstances. (BDR 18-730)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to administrative regulations; authorizing the review of a temporary regulation by the Legislative Commission upon the request of a Legislator; providing a procedure for such a review; authorizing the Legislative Commission to object to and suspend the filing of a temporary regulation and the Legislature to prevent that regulation from becoming effective under certain circumstances; providing a procedure for an agency to revise and resubmit to the Legislative Commission a temporary regulation to which the Commission has objected; revising the date by which an agency that adopts a temporary regulation may file the regulation with the Secretary of State; and providing other matters properly relating thereto.

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

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

3 *1. Upon the request of a Legislator, the Legislative*  
4 *Commission may examine a temporary regulation adopted by an*  
5 *agency that is not yet effective pursuant to subsection 2 of NRS*  
6 *233B.070 to determine whether the temporary regulation*  
7 *conforms to the statutory authority pursuant to which it was*



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1 *adopted and whether the temporary regulation carries out the*  
2 *intent of the Legislature in granting that authority.*  
3     2. *If a temporary regulation that the Legislative Commission*  
4 *is requested to examine pursuant to subsection 1 was required to*  
5 *be adopted by the agency pursuant to a federal statute or*  
6 *regulation and the temporary regulation exceeds the specific*  
7 *statutory authority of the agency or sets forth requirements that*  
8 *are more stringent than a statute of this state, the agency shall*  
9 *submit a statement to the Legislative Commission that adoption of*  
10 *the temporary regulation was required by a federal statute or*  
11 *regulation. The statement must include the specific citation of the*  
12 *federal statute or regulation requiring such adoption.*  
13     3. *The Legislative Commission shall review the temporary*  
14 *regulation at its next regularly scheduled meeting if the temporary*  
15 *regulation is received more than 10 working days before the*  
16 *meeting and a regular meeting is held within 35 days after receipt*  
17 *of the temporary regulation. The Legislative Commission may*  
18 *appoint a committee composed of three or more members of the*  
19 *Commission to examine any temporary regulation that a*  
20 *Legislator has requested to be reviewed more than 35 days before*  
21 *a regular meeting of the Commission is scheduled to be held.*  
22     4. *The Legislative Counsel shall notify the agency that*  
23 *adopted the temporary regulation of the results of the review of the*  
24 *temporary regulation by the Legislative Commission within*  
25 *30 days after receipt of the request for review of the temporary*  
26 *regulation from a Legislator. If the Commission does not object to*  
27 *the temporary regulation, the Legislative Counsel shall notify the*  
28 *agency that the agency may file the temporary regulation with the*  
29 *Secretary of State. If the Commission objects to the temporary*  
30 *regulation after determining that:*  
31     (a) *If subsection 2 is applicable, the temporary regulation is*  
32 *not required pursuant to a federal statute or regulation;*  
33     (b) *The temporary regulation does not conform to statutory*  
34 *authority; or*  
35     (c) *The temporary regulation does not carry out legislative*  
36 *intent,*  
37 *the Legislative Counsel shall attach to the temporary regulation a*  
38 *written notice of the objection of the Commission, including a*  
39 *statement of the reasons for its objection, and shall promptly*  
40 *return the temporary regulation to the agency.*  
41     5. *If the Legislative Commission has objected to a temporary*  
42 *regulation, the agency that adopted the temporary regulation may*  
43 *revise it and return it to the Legislative Counsel. Upon receipt of*  
44 *the revised temporary regulation, the Legislative Counsel shall*  
45 *resubmit the temporary regulation to the Commission at its next*



1 *regularly scheduled meeting. If the Commission does not object to*  
2 *the revised temporary regulation, the Legislative Counsel shall*  
3 *notify the agency that the agency may file the revised temporary*  
4 *regulation with the Secretary of State.*

5 *6. If the Legislative Commission objects to the revised*  
6 *temporary regulation, the agency may continue to revise it and*  
7 *resubmit it.*

8 *7. If the agency refuses to revise a temporary regulation to*  
9 *which the Legislative Commission has objected, the Commission*  
10 *may suspend the filing of the temporary regulation until the final*  
11 *day of the next regular session of the Legislature. Before the final*  
12 *day of the next regular session, the Legislature may, by concurrent*  
13 *resolution or other appropriate legislative measure, declare that*  
14 *the temporary regulation will not become effective. If the*  
15 *Legislature makes such a declaration, the agency shall not file or*  
16 *enforce the temporary regulation or subsequently adopt a*  
17 *substantively identical permanent regulation. If the Legislature*  
18 *has not so declared by the final day of the session, the agency may*  
19 *file the temporary regulation with the Secretary of State.*

20 **Sec. 2.** NRS 233B.0613 is hereby amended to read as follows:

21 233B.0613 1. If an agency determines that an emergency  
22 exists, it shall submit to the Governor a written statement of the  
23 emergency which sets forth the reasons for the determination. If the  
24 Governor endorses the statement of the emergency by written  
25 endorsement at the end of the full text of the statement of  
26 emergency on the original copy of a proposed regulation, the  
27 regulation may be adopted and become effective immediately upon  
28 its being filed in the Office of the Secretary of State pursuant to  
29 subsection ~~2~~ 3 of NRS 233B.070. The statement of the emergency  
30 endorsed by the Governor must be included as a part of the  
31 regulation for all purposes. A regulation so adopted may be effective  
32 for a period of not longer than 120 days. A regulation may be  
33 adopted by this emergency procedure only once.

34 2. If an agency adopts, after providing notice and the  
35 opportunity for a hearing as required in this chapter, a permanent or  
36 temporary regulation which becomes effective and is substantially  
37 identical to its effective emergency regulation, the emergency  
38 regulation expires automatically on the effective date of the  
39 temporary or permanent regulation.

40 **Sec. 3.** NRS 233B.066 is hereby amended to read as follows:

41 233B.066 1. Except as otherwise provided in subsection 2,  
42 each adopted regulation which is submitted to the Legislative  
43 Counsel ~~Bureau~~ pursuant to NRS 233B.067 or filed with the  
44 Secretary of State pursuant to subsection 2 *or 3* of NRS 233B.070



1 must be accompanied by a statement concerning the regulation  
2 which contains the following information:

3 (a) A description of how public comment was solicited, a  
4 summary of the public response, and an explanation how other  
5 interested persons may obtain a copy of the summary.

6 (b) The number of persons who:

- 7 (1) Attended each hearing;
- 8 (2) Testified at each hearing; and
- 9 (3) Submitted to the agency written statements.

10 (c) A description of how comment was solicited from affected  
11 businesses, a summary of their response, and an explanation how  
12 other interested persons may obtain a copy of the summary.

13 (d) If the regulation was adopted without changing any part of  
14 the proposed regulation, a summary of the reasons for adopting the  
15 regulation without change.

16 (e) The estimated economic effect of the regulation on the  
17 business which it is to regulate and on the public. These must be  
18 stated separately, and in each case must include:

- 19 (1) Both adverse and beneficial effects; and
- 20 (2) Both immediate and long-term effects.

21 (f) The estimated cost to the agency for enforcement of the  
22 proposed regulation.

23 (g) A description of any regulations of other state or government  
24 agencies which the proposed regulation overlaps or duplicates and a  
25 statement explaining why the duplication or overlapping is  
26 necessary. If the regulation overlaps or duplicates a federal  
27 regulation, the name of the regulating federal agency.

28 (h) If the regulation includes provisions which are more  
29 stringent than a federal regulation which regulates the same activity,  
30 a summary of such provisions.

31 (i) If the regulation provides a new fee or increases an existing  
32 fee, the total annual amount the agency expects to collect and the  
33 manner in which the money will be used.

34 2. The requirements of paragraphs (a) to (d), inclusive, of  
35 subsection 1 do not apply to emergency regulations.

36 **Sec. 4.** NRS 233B.0681 is hereby amended to read as follows:

37 233B.0681 The Legislative Commission may provide for:

38 1. Its early review of a *proposed permanent* regulation after  
39 the agency has given notice of a hearing on the regulation but before  
40 the hearing is held. If the *permanent* regulation adopted after the  
41 hearing is identical to the regulation submitted for early review,  
42 the Legislative Counsel shall promptly file the regulation with the  
43 Secretary of State and notify the agency of the filing.

44 2. A waiver of its review of a *permanent* regulation in a case  
45 of administrative convenience or necessity.



1       **Sec. 5.** NRS 233B.070 is hereby amended to read as follows:  
2       233B.070 1. A permanent regulation becomes effective when  
3 the Legislative Counsel files with the Secretary of State the original  
4 of the final draft or revision of a regulation, except as otherwise  
5 provided in NRS 233B.0665 or where a later date is specified in the  
6 regulation.  
7       2. ~~[A temporary or]~~ *Except as otherwise provided in section 1*  
8 *of this act, an agency that has adopted a temporary regulation may*  
9 *not file the temporary regulation with the Secretary of State until*  
10 *35 days after the date on which the temporary regulation was*  
11 *adopted by the agency. A temporary regulation becomes effective*  
12 *when the agency files with the Secretary of State the original of*  
13 *the final draft or revision of the regulation, together with the*  
14 *informational statement prepared pursuant to NRS 233B.066. The*  
15 *agency shall also file a copy of the temporary regulation with*  
16 *the Legislative Counsel, together with the informational statement*  
17 *prepared pursuant to NRS 233B.066.*  
18       3. An emergency regulation becomes effective when the  
19 agency files with the Secretary of State the original of the final draft  
20 or revision of ~~[a]~~ *an emergency* regulation, together with the  
21 informational statement prepared pursuant to NRS 233B.066. The  
22 agency shall also file a copy of the ~~[temporary or]~~ emergency  
23 regulation with the Legislative Counsel, together with the  
24 informational statement prepared pursuant to NRS 233B.066.  
25       ~~[3.]~~ 4. The Secretary of State shall maintain the original of the  
26 final draft or revision of each regulation in a permanent file to be  
27 used only for the preparation of official copies.  
28       ~~[4.]~~ 5. The Secretary of State shall file, with the original of  
29 each agency's rules of practice, the current statement of the agency  
30 concerning the date and results of its most recent review of those  
31 rules.  
32       ~~[5.]~~ 6. Immediately after each permanent or temporary  
33 regulation is filed, the agency shall deliver one copy of the final  
34 draft or revision, bearing the stamp of the Secretary of State  
35 indicating that it has been filed, including material adopted by  
36 reference which is not already filed with the State Library and  
37 Archives Administrator, to the State Library and Archives  
38 Administrator for use by the public. If the agency is a licensing  
39 board as defined in NRS 439B.225 and it has adopted a permanent  
40 regulation relating to standards for licensing or for the renewal of a  
41 license issued to a person or facility regulated by the agency, the  
42 agency shall also deliver one copy of the regulation, bearing the  
43 stamp of the Secretary of State, to the Legislative Committee on  
44 Health Care within 10 days after the regulation is filed with the  
45 Secretary of State.



1     ~~6.1~~ 7. Each agency shall furnish a copy of all or part of that  
2 part of the Nevada Administrative Code which contains its  
3 regulations, to any person who requests a copy, and may charge a  
4 reasonable fee for the copy based on the cost of reproduction if it  
5 does not have money appropriated or authorized for that purpose.

6     ~~7.1~~ 8. An agency which publishes any regulations included in  
7 the Nevada Administrative Code shall use the exact text of the  
8 regulation as it appears in the Nevada Administrative Code,  
9 including the leadlines and numbers of the sections. Any other  
10 material which an agency includes in a publication with its  
11 regulations must be presented in a form which clearly distinguishes  
12 that material from the regulations.

