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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; expanding the list of administrative regulations subject to review by the Legislative Committee on Health Care; and providing other matters properly relating thereto.

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

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

3. The Legislative Commission shall review the temporary regulation at its next regularly scheduled meeting if the temporary regulation is received more than 10 working days before the meeting and a regular meeting is held within 35 days after receipt of the temporary regulation. The Legislative Commission may direct the Committee to Review Regulations to examine any

temporary regulation that a Legislator has requested to be reviewed more than 35 days before a regular meeting of the Commission is scheduled to be held.

4. The Legislative Counsel shall notify the agency that adopted the temporary regulation of the results of the review of the temporary regulation by the Legislative Commission within 30 days after receipt of the request for review of the temporary regulation from a Legislator. If the Commission does not object to the temporary regulation, the Legislative Counsel shall notify the agency that the agency may file the temporary regulation with the Secretary of State. If the Commission objects to the temporary regulation after determining 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 of the Commission, including a statement of the reasons for its objection, and shall promptly return the temporary regulation to the agency.

5. If the Legislative Commission has objected to a temporary regulation, the agency that adopted the temporary regulation may revise it and return it to the Legislative Counsel. Upon receipt of the revised temporary regulation, the Legislative Counsel shall resubmit the temporary regulation to the Commission at its next regularly scheduled meeting. If the Commission does not object to 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.

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

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

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

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

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

Sec. 3. NRS 233B.063 is hereby amended to read as follows:

233B.063 1. At or before the time of giving notice of its intention to adopt, amend or repeal a permanent regulation an agency shall deliver to the Legislative Counsel a copy of the proposed regulation or amendment or an identification of the regulation to be repealed. The Legislative Counsel shall examine and if appropriate revise the language submitted so that it is clear, concise and suitable for incorporation in the Nevada Administrative Code, but shall not alter the meaning or effect without the consent of the agency.

2. Unless the proposed regulation is submitted to him between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall deliver the approved or revised text of the regulation within 30 days after it is submitted to him. If the proposed or revised text of a regulation is changed before adoption, the agency shall submit the changed text to the Legislative Counsel, who shall examine and revise it if appropriate pursuant to the standards of subsection 1. Unless it is submitted between July 1 of an even-numbered year and July 1 of the succeeding odd-numbered year, the Legislative Counsel shall return it with any appropriate revisions within 30 days. If the agency is a licensing board as defined in NRS 439B.225 and the proposed regulation relates to standards for licensing *or registration* or for the renewal of a license *or a certificate of registration* issued to a person or facility regulated by the agency, the Legislative Counsel

shall also deliver one copy of the approved or revised text of the regulation to the Legislative Committee on Health Care.

3. An agency may adopt a temporary regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year without following the procedure required by this section and NRS 233B.064, but any such regulation expires by limitation on November 1 of the odd-numbered year. A substantively identical permanent regulation may be subsequently adopted.

4. An agency may amend or suspend a permanent regulation between August 1 of an even-numbered year and July 1 of the succeeding odd-numbered year by adopting a temporary regulation in the same manner and subject to the same provisions as prescribed in subsection 3.

Sec. 4. NRS 233B.066 is hereby amended to read as follows:

233B.066 1. Except as otherwise provided in subsection 2, each adopted regulation which is submitted to the Legislative Counsel ~~[Bureau]~~ pursuant to NRS 233B.067 or filed with the Secretary of State pursuant to subsection 2 *or* 3 of NRS 233B.070 must be accompanied by a statement concerning the regulation which contains the following information:

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

(b) The number of persons who:

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

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

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

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

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

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

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

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

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

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

Sec. 5. 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 Legislative Counsel for review by the Legislative Commission, which may refer it to a joint interim committee, to determine whether the regulation conforms to the statutory authority pursuant to which it was adopted and whether the regulation carries out the intent of the Legislature in granting that authority. The Legislative Counsel shall endorse on the original and the copy of each adopted regulation the date of their receipt. The Legislative Counsel shall maintain the copy of the regulation in a file and make the copy available for public inspection for 2 years.

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

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

(b) Exceeds the specific statutory authority of the agency or sets forth requirements that are more stringent than a statute of this state,

it shall include a statement that adoption of the regulation is required by a federal statute or regulation. The statement must include the specific citation of the federal statute or regulation requiring such adoption.

3. The Legislative Commission, or the joint interim committee if the Commission has referred it to such a committee, shall review the regulation at its next regularly scheduled meeting if the regulation is received more than 10 working days before the meeting and a regular meeting is held within 35 days after receipt of the regulation. The Commission may appoint a ~~{committee}~~ *Committee to Review Regulations* composed of three or more members of the Commission or any joint interim committee to examine proposed regulations received more than 35 days before a regular meeting is scheduled to be held.

4. The Legislative Commission shall notify the Legislative Counsel of the results of its review within 30 days after receipt of the regulation from the agency. If the Commission does not object to the regulation, the Legislative Counsel shall file it with the

Secretary of State within 35 days after receipt from the agency and notify the agency of the filing. If the Commission objects to the regulation after determining that:

- (a) If subsection 2 is applicable, the regulation is not required pursuant to a federal statute or regulation;
 - (b) The regulation does not conform to statutory authority; or
 - (c) The regulation does not carry out legislative intent,
- the Legislative Counsel shall attach to the regulation a written notice of the objection of the Commission, including a statement of the reasons for its objection, and shall promptly return the regulation to the agency.

Sec. 6. NRS 233B.0681 is hereby amended to read as follows:
233B.0681 The Legislative Commission may provide for:

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

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

Sec. 7. NRS 233B.070 is hereby amended to read as follows:

233B.070 1. A permanent regulation becomes effective when the Legislative Counsel files with the Secretary of State the original of the final draft or revision of a regulation, except as otherwise provided in NRS 233B.0665 or where a later date is specified in the regulation.

2. ~~[A temporary or]~~ *Except as otherwise provided in section 1 of this act, an agency that has adopted a temporary regulation may not file the temporary regulation with the Secretary of State until 35 days after the date on which the temporary regulation was adopted by the agency. A temporary regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of the regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the temporary regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.*

3. *An emergency regulation becomes effective when the agency files with the Secretary of State the original of the final draft or revision of ~~[a]~~ an emergency regulation, together with the informational statement prepared pursuant to NRS 233B.066. The agency shall also file a copy of the ~~[temporary or]~~ emergency regulation with the Legislative Counsel, together with the informational statement prepared pursuant to NRS 233B.066.*

~~[3-]~~ 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.

~~[4-]~~ 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.

~~[5-]~~ 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 and Archives Administrator, to the State Library and Archives 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 licensing *or registration* or for the renewal of a license *or a certificate 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.

~~[6-]~~ 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.

~~[7-]~~ 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. 8. NRS 439B.225 is hereby amended to read as follows:

439B.225 1. As used in this section, "licensing board" means any board empowered to adopt standards for licensing *or registration* or for the renewal of licenses *or certificates of registration* pursuant to chapter 449, *625A*, 630, *630A*, 631, 632, 633, *634*, *634A*, *635*, *636*, *637*, *637A*, 637B, 639, 640, *640A*, 641, *641A*, 641B, *641C*, 652 or 654 of NRS.

2. The Committee shall review each regulation that a licensing board proposes or adopts that relates to standards for licensing *or registration* or to the renewal of a license *or certificate of registration* issued to a person or facility regulated by the board, giving consideration to:

(a) Any oral or written comment made or submitted to it by members of the public or by persons or facilities affected by the regulation;

(b) The effect of the regulation on the cost of health care in this state;

(c) The effect of the regulation on the number of licensed *or registered* persons and facilities available to provide services in this state; and

(d) Any other related factor the Committee deems appropriate.

3. After reviewing a proposed regulation, the Committee shall notify the agency of the opinion of the Committee regarding the advisability of adopting or revising the proposed regulation.

4. The Committee shall recommend to the Legislature as a result of its review of regulations pursuant to this section any appropriate legislation.