

SENATE BILL NO. 14—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE HEARINGS DIVISION OF
THE DEPARTMENT OF ADMINISTRATION)

PREFILED NOVEMBER 15, 2018

Referred to Committee on Government Affairs

SUMMARY—Provides for the removal of certain gubernatorial appointees under certain circumstances. (BDR 18-186)

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 governmental administration; authorizing the Governor to remove certain gubernatorial appointees to boards, commissions or similar bodies under certain circumstances; authorizing the Governor to remove appeals officers under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes the Governor to remove from their positions
2 gubernatorial appointees to certain boards, commissions and similar bodies, such as
3 the Board of Examiners for Long-Term Care Administrators, the State Board of
4 Pharmacy and the State Board of Landscape Architecture, among others. (NRS
5 623A.080, 639.030, 654.080) The Governor is not explicitly authorized to remove
6 gubernatorial appointees to other boards, such as the State Board of Professional
7 Engineers and Land Surveyors, the Nevada Funeral and Cemetery Services Board
8 and the Certified Court Reporters’ Board of Nevada, among others. (NRS 625.100,
9 642.020, 656.040) **Section 1** of this bill: (1) declares any gubernatorial appointee to
10 any board, commission or similar body to be a civil officer of this State; and (2)
11 authorizes the Governor to remove such an appointee for misconduct in office,
12 incompetence or neglect of duty unless a specific statute requires other removal
13 procedures. **Section 1** requires that the Governor give the appointee 45 days’ notice
14 of the removal unless the Governor determines that circumstances require the
15 immediate removal of the appointee.

16 Existing law requires the Governor to appoint one or more appeals officers to
17 conduct hearings and appeals in contested cases involving industrial insurance
18 benefits for injuries or death. Appeals officers must be licensed attorneys and are



19 appointed for 2-year terms. (NRS 616C.340) **Section 2** of this bill: (1) declares an
20 appeals officer to be a civil officer of this State; and (2) authorizes the Governor to
21 remove an appeals officer prior to the expiration of his or her term for misconduct
22 in office, incompetence or neglect of duty or if his or her license to practice law is
23 revoked or suspended. **Section 2** requires that the Governor give the appeals officer
24 45 days' notice of the removal unless the Governor determines that circumstances
25 require the immediate removal of the appeals officer.

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

1 **Section 1.** Chapter 232A of NRS is hereby amended by
2 adding thereto a new section to read as follows:

3 *1. Each member of a board, commission or similar body*
4 *appointed by the Governor is deemed to be a civil officer of this*
5 *State for the purposes of Section 4 of Article 7 of the Nevada*
6 *Constitution.*

7 *2. Except as otherwise provided by a specific statute, the*
8 *Governor may remove any member of a board, commission or*
9 *similar body appointed by the Governor for misconduct in office,*
10 *incompetence or neglect of duty. The Governor shall provide the*
11 *member 45 days' notice of the removal unless the Governor*
12 *determines that circumstances warrant immediate removal.*

13 *3. The provisions of this section which deem the holders of*
14 *certain positions to be civil officers of this State:*

15 *(a) Are intended to supplement all other provisions of statute*
16 *or case law which make the holders of certain positions be civil*
17 *officers of this State; and*

18 *(b) Must not be construed to make the holder of any position*
19 *not described in this section not be a civil officer of this State.*

20 **Sec. 2.** NRS 616C.340 is hereby amended to read as follows:

21 616C.340 1. The Governor shall appoint one or more appeals
22 officers to conduct hearings and appeals as required pursuant to
23 chapters 616A to 617, inclusive, of NRS. *Each appeals officer*
24 *appointed by the Governor is deemed to be a civil officer of this*
25 *State for the purposes of Section 4 of Article 7 of the Nevada*
26 *Constitution.* Each appeals officer shall hold office for 2 years after
27 the date of his or her appointment and until the successor of the
28 appeals officer is appointed and has qualified. Each appeals officer
29 is entitled to receive an annual salary in an amount provided by law
30 and is in the unclassified service of the State.

31 2. Each appeals officer must be an attorney who has been
32 licensed to practice law before all the courts of this State for at least
33 2 years. Except as otherwise provided in NRS 7.065, an appeals
34 officer shall not engage in the private practice of law.



1 3. If an appeals officer determines that he or she has a personal
2 interest or a conflict of interest, directly or indirectly, in any case
3 which is before him or her, the appeals officer shall disqualify
4 himself or herself from hearing the case.

5 4. The Governor may appoint one or more special appeals
6 officers to conduct hearings and appeals as required pursuant to
7 chapters 616A to 617, inclusive, of NRS. *Each special appeals*
8 *officer appointed by the Governor is deemed to be a civil officer of*
9 *this State for the purposes of Section 4 of Article 7 of the Nevada*
10 *Constitution.* The Governor shall not appoint an attorney who
11 represents persons in actions related to claims for compensation to
12 serve as a special appeals officer.

13 5. A special appeals officer appointed pursuant to subsection 4
14 is vested with the same powers as a regular appeals officer. A
15 special appeals officer may hear any case in which a regular appeals
16 officer has a conflict, or any case assigned to the special appeals
17 officer by the senior appeals officer to assist with a backlog of cases.
18 A special appeals officer is entitled to be paid at an hourly rate, as
19 determined by the Department of Administration.

20 6. *The Governor may remove any appeals officer or special*
21 *appeals officer for misconduct in office, incompetence or neglect*
22 *of duty. The Governor may remove any appeals officer whose*
23 *license to practice law has become void or has been revoked or*
24 *suspended. The Governor shall provide the appeals officer or*
25 *special appeals officer 45 days' notice of the removal unless the*
26 *Governor determines that circumstances warrant immediate*
27 *removal.*

28 7. The decision of an appeals officer is the final and binding
29 administrative decision on a claim for compensation under chapters
30 616A to 616D, inclusive, or chapter 617 of NRS, and the whole
31 record consists of all evidence taken at the hearing before the
32 appeals officer and any findings of fact and conclusions of law
33 based thereon.

34 8. *The provisions of this section which deem the holders of*
35 *certain positions to be civil officers of this State:*

36 (a) *Are intended to supplement all other provisions of statute*
37 *or case law which make the holders of certain positions be civil*
38 *officers of this State; and*

39 (b) *Must not be construed to make the holder of any position*
40 *not described in this section not be a civil officer of this State.*

41 **Sec. 3.** The amendatory provisions of this act apply to any
42 person who has been appointed to office before, on or after the
43 effective date of this act.



1 **Sec. 4.** This act becomes effective upon passage and approval.

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