

**PROPOSED REGULATION OF
THE NEVADA ARTS COUNCIL**

LCB File No. R098-18

June 12, 2018

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

AUTHORITY: §1, NRS 233B.100 and 233C.097; §§2 and 3, NRS 233C.097.

A REGULATION relating to the Nevada Arts Council; creating provisions governing the procedure for any interested person to petition the Nevada Arts Council to adopt, file, amend or repeal any regulation; authorizing, in certain situations, the Nevada Arts Council to withdraw financial support; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law refers to the Nevada Arts Council as the “Division.” (NRS 233C.019) Existing law requires the Division to adopt regulations establishing criteria and standards for the eligibility for and use of any funding provided by the Division from the Nevada Cultural Account. (NRS 233C.097)

Existing law authorizes any interested person to petition an agency requesting the adoption, filing, amendment or repeal of any regulation. Existing law requires such a petition to be accompanied with relevant data, views and arguments. Existing law requires, upon the submission of such a petition, an agency to, within 30 days: (1) deny the petition in writing, stating its reasons; or (2) initiate regulation-making proceedings. Existing law requires each agency to prescribe by regulation: (1) the form for such petitions; and (2) the procedure for the submission, consideration and disposition of such petitions. (NRS 233B.100) **Section 1** of this regulation provides that, pursuant to existing law, any interested person may petition the Division for the adoption, filing, amendment or repeal of any regulation. **Section 1** requires such a petition to: (1) be in writing on a form prescribed by the Division; and (2) include certain information, including any relevant data, views and arguments that support the petition. If a petition does not include such information, **section 1** authorizes the Division to refuse to act on a petition. **Section 1** requires the Division to forward a petition to the Board of the Division for the Board’s consideration if, upon review, the Division determines that the petition pertains to the regulatory authority of the Board. **Section 1** requires the Division to, within 30 days after the date on which the petitioner filed the petition: (1) notify the petitioner of the Division’s decision regarding the petition; and (2) if the Division approves the petition, initiate regulation-making proceedings.

Existing regulations authorize the Nevada Arts Council, upon a violation or willful avoidance of any provision relating to the Nevada Arts Council, to refuse to approve a grant or to withdraw financial support, in whole or in part, after consultation with the applicant or subgrantee. (NAC 233C.110) **Section 2** of this regulation authorizes, upon a violation of any provision relating to the Nevada Arts Council, the Division to withdraw financial support, in whole or in part, after notifying the grantee in writing.

Existing regulations provide that the regulatory provisions of the Nevada Arts Council are severable so that the invalidity of any provision of the regulations does not affect the validity of any other provision relating to the Nevada Arts Council. (NAC 233C.120) **Section 3** of this regulation repeals this severability provision.

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

- 1. Pursuant to NRS 233B.100, any interested person may petition the Division for the adoption, filing, amendment or repeal of any regulation.*
- 2. A petition for the adoption, filing, amendment or repeal of a regulation must be in writing on a form prescribed by the Division and must include:*
 - (a) The name and address of the petitioner;*
 - (b) The reason for petitioning for the adoption, filing, amendment or repeal of the regulation;*
 - (c) The proposed language of the regulation to be adopted, filed, amended or repealed;*
 - (d) The statutory authority for the adoption, filing, amendment or repeal of the regulation;**and*
 - (e) Any relevant data, views and arguments that support the petition for the adoption, filing, amendment or repeal of the regulation.*
- 3. The Division may refuse to act upon a petition for the adoption, filing, amendment or repeal of a regulation if the petition does not include the information required by subsection 2.*

4. The Division will review a petition for the adoption, filing, amendment or repeal of a regulation which is filed pursuant to this section and will determine, after conducting such a review, if the petition pertains to the regulatory authority of the Division. If the Division determines that the petition pertains to the regulatory authority of the Board, the Division will:

(a) Forward the petition to the Board for consideration by the Board; and

(b) Notify the petitioner in writing that the Division forwarded the petition to the Board.

5. The Division will notify the petitioner in writing of the Division's decision regarding the petition within 30 days after the date on which the petitioner filed the petition. If the Division approves the petition for the adoption, filing, amendment or repeal of a regulation, the Division will initiate regulation-making proceedings concerning that regulation within 30 days after the date on which the petitioner filed the petition.

Sec. 2. NAC 233C.110 is hereby amended to read as follows:

233C.110 Upon a violation ~~{or willful avoidance}~~ of any provision contained in this chapter, the ~~{Council may refuse to approve a grant or}~~ *Division* may withdraw financial support, in whole or in part, after ~~{consultation with the applicant or subgrantee.}~~ *notifying the grantee in writing.*

Sec. 3. NAC 233C.120 is hereby repealed

TEXT OF REPEALED SECTION

233C.120 Severability If any provision of the regulations contained in this chapter, or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision contained in this chapter or its application which can be given effect without the invalid provision or application, and to this end the provisions contained in this chapter are hereby declared to be severable.