

# **Bill Drafting Guidelines**

## **Advanced Advocacy – Legislative Policy**

### **Spring 2011**

These guidelines were adapted from the guidelines for drafting regulations developed by the Nevada Legislative Counsel Bureau and the Attorney General's Office.

The entire manual can be found at:

<http://ag.state.nv.us/publications/manuals/Rulemaking%20Manual%20Complete.pdf>



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# The Drafting Process

The basic criteria for the statutory drafting are accessibility, clarity, and conciseness. The primary goal is to harmonize the style throughout the code. Thus, while there may well be two or more ways of expressing a particular thought which are equally clear and concise, one should be chosen and followed throughout the code. Drafting the language for any statute should follow these general guidelines:

## Sections

1. All statutes are divided into sections numbered consecutively from 1. For the first section, "Section 1." should be written out. The abbreviation "Sec." is used for succeeding sections.
2. Sections should be short. Several sections can be related by numbering or by subheads outside the body of the sections.
3. The internal arrangement of a section should follow this pattern:
  1. Subsection
    - (a) Paragraph.
      - (1) Subparagraph.
        - (I) Subsubparagraph. (Designated by Roman numerals)
4. Do not assign numbers for codification to new sections or renumber sections already codified in the Nevada Revised Statutes. The Legislative Counsel assigns the section numbers when a new section is incorporated into the Nevada Revised Statutes. You may, however, to make suggestions regarding placement of sections.
5. A new section to be added to a chapter in the Nevada Revised Statutes should have the following prefatory language:

Chapter \_\_\_ of NRS is hereby amended by adding thereto a new section to read as follows:

If two or three new sections are added:

Chapter \_\_\_ of NRS is hereby amended by adding thereto the provisions set forth as sections \_\_\_ and \_\_\_ of this statute.

Chapter \_\_\_ of NRS is hereby amended by adding thereto the provisions set forth as sections \_\_\_, \_\_\_ and \_\_\_ of this statute.



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If four or more new sections are added:

Chapter \_\_\_ of NRS is hereby amended by adding thereto the provisions set forth as sections \_\_\_ to \_\_\_, inclusive, of this statute.

The language of a new section being added to the Nevada Revised Statutes should be underscored (or italicized). Do not underscore the number of the section. Example:

Sec. 3. A contractor may . . .

Sec. 3. A contractor may . . .

6. If a section in the Nevada Revised Statutes is being amended, the prefatory language is:

NAC \_\_\_ is hereby amended to read as follows:

7. If a section is being repealed, the prefatory language is:

NAC \_\_\_ is hereby repealed.

If more than one section is repealed, all the repealed sections should be listed in numerical order in one section. Always make sure, particularly in a large statute, that you do not repeal a section you are also amending in the same statute.

8. To amend a section from the Nevada Revised Statutes, material to be deleted should be placed in brackets and new material underscored. New material should follow a set of brackets. For example:

The board's [standards] procedural statutes shall control the conduct of [disciplinary hearings] all formal proceedings.

Generally, punctuation should be added after the closing bracket. The exceptions are that an added period should precede the brackets and that when punctuation alone is being added, such a change should also be placed before the brackets.

Examples:

. . . Fine [or], revocation or probation.

. . . issuance of a license. [or renewal.]

For clarity, if there are only one or two words between two sets of brackets, all the language should be included in one set of brackets. The following example is what not to do:

[Such] These contracts [shall] must include [provision] provisions for the . .

Instead, do the following:



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[Such contracts shall include provision for] These contracts must include provisions for . . . .

### *Definitions*

1. A definition should be used only for a word that is used in a sense different from its natural meaning or whose meaning is extended or limited for purposes of the statute or chapter in which it occurs. Do not define a word which does not occur in the statute or chapter.
2. A definition must only define the word or term and must not contain any substantive provisions.
3. If a word is defined in NRS, it should be used in the same sense in any related statutes and defined by saying, for example: "Controlled substance" has the meaning ascribed to it in NRS 0.031.

### *Common Terms of Art*

1. A command is expressed by "shall," a prohibition by "shall not." "No person shall" is not acceptable usage. Use "shall" when a duty to act is imposed. Remember that only persons and other legal entities can perform a duty.
2. Use "must" to express a requirement when:
  - (a) The subject is a thing. For example: "The application must be accompanied by a fee of . . ."
  - (b) The verb is in the passive voice. For example: "A licensee whose bond has expired must be . . ."
  - (c) Only a condition precedent and not a duty is imposed. For example: "A person who desires to be licensed must file an application . . ."
3. Permissive conduct is expressed by "may." The negative expression "No person may . . ." is appropriate.
4. An agency cannot command itself. If the agency intends to promise that it will act in a certain way, the appropriate phrase is, for example, "The board will . . ."



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5. The following is a partial list of words and phrases that should be avoided:

“individual” as a noun

“prior to”, instead use “before”

“such”, unless it means “of this kind” or is followed by

“as” or “that”

“due to”, instead use “because of”

“duly”

“herein”

“professional” as a noun

“implement” as a verb, instead use “carry out”

“utilize”, instead use “use”

6. Use verbs in their simplest and most active form. For example:

instead of “give consideration to” use “consider,”

instead of “have knowledge of” use “know,” and

instead of “make payment” use “pay.”

7. Do not use jargon. Words used in a statute should be found in the dictionary. A common fault of contemporary speech and writing is the stringing together of nouns when all but the last are being used as adjectives, as in “health care delivery system.” Use prepositions to avoid this (“System for delivery of health care”).

8. Always use the singular number unless only the plural applies.

9. Do not use redundant language. A provision of a statute which repeats the provisions of a statute, verbatim or in substance, is not void, but it is redundant. Therefore, a statute should contain no text covered by a statute.

### *Typical Order of Sections in a Statute*

Chapters and sections should be amended in numerical order. New sections added to a chapter are placed before amended sections for that chapter. If definitions are added with other new sections, the definitions appear before the substantive provisions. The following is an outline of the typical order of sections in a statute:

1. New sections for a particular chapter.

(a) Definitions.

(b) Substantive provisions.

2. Amended sections in that same chapter in numerical order.



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3. If applicable, new sections for another chapter, in numerical order.
4. Amended sections for that chapter, in numerical order.
5. Repealed sections in numerical order.
6. Effective date. (This is rarely used in a statute. Normally, the statutes become effective upon filing.)



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