

# **Board for the Administration of the Subsequent Injury Account for Self-Insured Employers**

## **Nevada Revised Statutes (NRS) 616B.545 through 616B.560:**

**Board members (NRS 616B.548):** The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers, Division of Industrial Relations (DIR), Department of Business and Industry, consists of five members appointed by the Governor. The members must be self-insured employers.

### **Operations of the Board (NRS 616B.548 and 616B.551):**

- The members of the Board shall elect a Chair and Vice Chair from among the members for terms of two years;
- A legal counsel, appointed by or contracted with the DIR, shall serve as counsel to the Board;
- The Board may meet throughout the year;
- The Board may prescribe its own rules and regulations for its own management;
- If a member of the Board submits a claim, that member shall not vote or otherwise participate in the decision of the Board concerning the claim; and
- The Board shall administer the Subsequent Injury Account for Self-Insured Employers.

### **The Subsequent Injury Account for Self-Insured Employers (NRS 616B.554 through 616B.560):**

- The Account is created in the Fund for Workers' Compensation and Safety in the State Treasury;
- The State Treasurer may disburse money from the Account only upon written order of the Board;
- The Board shall adopt regulations for rates, payments, and penalties. Assessment rates must result in an equitable distribution of costs among self-insured employers and must be based upon expected annual expenditures for claims;
- The Commissioner of Insurance shall assign an actuary to review the rates;

#### **EXHIBIT L - SUNSET**

Document consists of 65 pages.

Due to size limitations, pages 1-19 provided.

A copy of the complete document is available through the Research Library (775/684-6827 or e-mail [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us))

Meeting Date: 03-15-16

- The Administrator of the DIR shall evaluate any claim submitted to the Board and recommend any appropriate action; and
- Money in the Account may be used only to make payments in accordance with the provisions of NRS 616B.557 and 616B.560.

### **Background:**

**Legislation:** Senate Bill 458 (Chapter 587, *Statutes of Nevada 1995*), establishing the Board and a trust fund, was introduced by the Senate Committee on Commerce and Labor. The measure made various changes relating to industrial insurance, including establishing separate boards to administer the subsequent injury funds for self-insured employers and associations of self-insured employers.

The Subsequent Injury Fund was established with the passage of S.B. 548 (Chapter 642, *Statutes of Nevada 1981*). Until the establishment of the Board, the Administrator of the DIR administered the fund. According to testimony given during committee hearings, the intent in creating the Board was to provide a means for self-insured employers to evaluate claims. The Board would make its own rules and regulations to govern its processes and procedures.

**Legislative history:** A legislative history of S.B. 458 has been compiled and is available here:

Part 1:

<http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1995/SB458,1995pt1.pdf>;

Part 2:

<http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1995/SB458,1995pt2.pdf>; and

Part 3:

<http://www.leg.state.nv.us/Division/Research/Library/LegHistory/LHs/1995/SB458,1995pt3.pdf>.

**Members:** The members are listed on the review form.

**Reports to the Legislature:** No reports to the Legislature are required pursuant to Chapter 616B (“Industrial Insurance: Insurers; Liability for Provision of Coverage”) of NRS.

**Records:**

- Research Library holdings:
  - *A Study of Subsequent Injury Fund: Background Paper 01-1*
- State Library holdings: none
- State Archives holdings: none

**Contact:** Roque Lapuz, Chair  
Charles R. Zeh, Esq., Counsel  
Steve George, Administrator, DIR

**Website:** none

W161248

**Self-Insured Employers**

**NRS 616B.545 "Board" defined.** As used in NRS 616B.545 to 616B.560, inclusive, unless the context otherwise requires, "Board" means the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers created pursuant to NRS 616B.548.

(Added to NRS by 1995, 2124; A 2001, 2757)

**NRS 616B.548 Board for Administration of Subsequent Injury Account for Self-Insured Employers: Creation; membership; officers; vacancies; members serve without compensation; legal counsel.**

1. There is hereby created the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers, consisting of five members who are self-insured employers. The members must be appointed by the Governor.

2. The members of the Board shall elect a Chair and Vice Chair from among the members appointed. After the initial election of a Chair and Vice Chair, each of those officers shall hold office for a term of 2 years commencing on July 1 of each odd-numbered year. If a vacancy occurs in the office of the Chair or Vice Chair, the members of the Board shall elect a replacement for the remainder of the unexpired term.

3. Vacancies on the Board must be filled in the same manner as original appointments.

4. The members of the Board serve without compensation.

5. A legal counsel that has been appointed by or has contracted with the Division pursuant to NRS 232.660 shall serve as legal counsel of the board.

(Added to NRS by 1995, 2124; A 2001, 2757)

**NRS CROSS REFERENCES.**

Terms of office, vacancies, residency requirements, NRS 232A.020

**NRS 616B.551 Board for Administration of Subsequent Injury Account for Self-Insured Employers: Meetings; regulations; quorum; administration of Account.**

1. The members of the Board may meet throughout each year at the times and places specified by a call of the Chair or a majority of the Board. The Board may prescribe rules and regulations for its own management and government. Three members of the Board constitute a quorum, and a quorum may exercise all the power and authority conferred on the Board. If a member of the Board submits a claim against the Subsequent Injury Account for Self-Insured Employers, that member shall not vote on or otherwise participate in the decision of the Board concerning that claim.

2. The Board shall administer the Subsequent Injury Account for Self-Insured Employers in accordance with the provisions of NRS 616B.554, 616B.557 and 616B.560.

(Added to NRS by 1995, 2125; A 2001, 2758)

**ADMINISTRATIVE REGULATIONS.**

Subsequent Injury Account for Self-Insured Employers, NAC 616B.770-616B.7714

**NRS 616B.554 Creation and administration of Subsequent Injury Account for Self-Insured Employers; assessment rates, payments and penalties.**

1. There is hereby created in the Fund for Workers' Compensation and Safety in the State Treasury the Subsequent Injury Account for Self-Insured Employers, which may be used only to make payments in accordance with the provisions of NRS 616B.557 and 616B.560. The Board shall administer the Account based upon recommendations made by the Administrator pursuant to subsection 8.

2. All assessments, penalties, bonds, securities and all other properties received, collected or acquired by the Board for the Subsequent Injury Account for Self-Insured Employers must be delivered to the custody of the State Treasurer.

3. All money and securities in the Account must be held by the State Treasurer as custodian thereof to be used solely for workers' compensation for employees of self-insured employers.

4. The State Treasurer may disburse money from the Account only upon written order of the Board.

5. The State Treasurer shall invest money of the Account in the same manner and in the same securities in which the State Treasurer is authorized to invest State General Funds which are in the custody of the State Treasurer. Income realized from the investment of the assets of the Account must be credited to the Fund.

6. The Board shall adopt regulations for the establishment and administration of assessment rates, payments and penalties. Assessment rates must result in an equitable distribution of costs among the self-insured employers and must be based upon expected annual expenditures for claims for payments from the Subsequent Injury Account for Self-Insured Employers.

7. The Commissioner shall assign an actuary to review the establishment of assessment rates. The rates must be filed with the Commissioner 30 days before their effective date. Any self-insured employer who wishes to appeal the rate so filed must do so pursuant to NRS 679B.310.

8. The Administrator shall:

(a) Evaluate any claim submitted to the Board for payment or reimbursement from the Subsequent Injury Account for Self-Insured Employers and recommend to the Board any appropriate action to be taken concerning the claim; and

(b) Submit to the Board any other recommendations relating to the Account.

(Added to NRS by 1981, 1454; A 1987, 452; 1991, 207; 1993, 725, 1867; 1995, 531, 539, 2143, 2169, 2170; 1997, 127, 593; 1999, 1772; 2001, 2449, 2758)

#### ADMINISTRATIVE REGULATIONS.

Assessments, NAC 616B.680-616B.740

Subsequent Injury Account for Self-Insured Employers, NAC 616B.770-616B.7714

**NRS 616B.557 Payment of cost of additional compensation resulting from subsequent injury of employee of self-insured employer.** Except as otherwise provided in NRS 616B.560:

1. If an employee of a self-insured employer has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for Self-Insured Employers in accordance with regulations adopted by the Board.

2. If the subsequent injury of such an employee results in his or her death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the compensation due must be charged to the Subsequent Injury Account for Self-Insured Employers in accordance with regulations adopted by the Board.

3. As used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole person if evaluated according to the American Medical Association's *Guides to the Evaluation of Permanent Impairment* as adopted and supplemented by the Division pursuant to NRS 616C.110.

4. To qualify under this section for reimbursement from the Subsequent Injury Account for Self-Insured Employers, the self-insured employer must establish by written records that the self-insured employer had knowledge of the "permanent physical impairment" at the time the employee was hired or that the employee was retained in

employment after the self-insured employer acquired such knowledge.

5. A self-insured employer must submit to the Board a claim for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

6. The Board shall adopt regulations establishing procedures for submitting claims against the Subsequent Injury Account for Self-Insured Employers. The Board shall notify the self-insured employer of its decision on such a claim within 120 days after the claim is received.

7. An appeal of any decision made concerning a claim against the Subsequent Injury Account for Self-Insured Employers must be submitted directly to the district court.

(Added to NRS by 1973, 693; A 1979, 1050; 1981, 1477; 1985, 373; 1987, 453, 944; 1991, 362, 492, 502, 2414; 1993, 572, 620, 726, 727, 1868; 1995, 531, 541, 2144, 2169, 2170; 1997, 593; 2001, 2759; 2007, 392)

#### ADMINISTRATIVE REGULATIONS.

Subsequent Injury Account for Self-Insured Employers, NAC 616B.770-616B.7714

#### NEVADA CASES.

Effect of concealing previous injury. Appellate court refused to adopt a rule prohibiting an employee who willfully made false representations concerning his medical history on an application for employment from recovering benefits for workmen's compensation when an industrial injury exacerbated a concealed, preexisting condition (see NRS 616B.557), because adoption of policy advocating exclusion of coverage was properly left to the legislature because the provisions of former NRS 616.370 (cf. NRS 616A.020) generally require coverage. *Goldstine v. Jensen Pre-Cast*, 102 Nev. 630, 729 P.2d 1355 (1986), cited, *Weaver v. State Indus. Ins. Sys.*, 104 Nev. 305, at 306, 756 P.2d 1195 (1988), *State Indus. Ins. Sys. v. Wrenn*, 104 Nev. 536, at 539, 762 P.2d 884 (1988), *Ransier v. State Indus. Ins. Sys.*, 104 Nev. 742, at 746, 766 P.2d 274 (1988), *State Indus. Ins. Sys. v. Campbell*, 109 Nev. 997, at 1001, 862 P.2d 1184 (1993)

#### ATTORNEY GENERAL'S OPINIONS.

Department may adopt any edition of guide that is still in print, and amend it as necessary. Pursuant to former NRS 616.427 (cf. NRS 616B.557), the department of industrial relations may adopt by reference any edition of the American Medical Association's Guides to Evaluation of Permanent Impairment that is still in print, and may amend such edition by adding or deleting language as it deems necessary. AGO 92-11 (10-20-1992)

#### **NRS 616B.560 Reimbursement of self-insured employer for cost of additional compensation resulting from subsequent injury.**

1. A self-insured employer who pays compensation due to an employee who has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone is entitled to be reimbursed from the Subsequent Injury Account for Self-Insured Employers if:

(a) The employee knowingly made a false representation as to his or her physical condition at the time the employee was hired by the self-insured employer;

(b) The self-insured employer relied upon the false representation and this reliance formed a substantial basis of the employment; and

(c) A causal connection existed between the false representation and the subsequent disability.

➔ If the subsequent injury of the employee results in his or her death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, any compensation paid is entitled to be reimbursed from the Subsequent Injury Account for Self-Insured Employers.

2. A self-insured employer shall notify the Board of any possible claim against the Subsequent Injury Account for Self-Insured Employers pursuant to this section no later than 60 days after the date of the subsequent injury or the date the self-insured employer learns of the employee's false representation, whichever is later.

(Added to NRS by 1987, 452; A 1993, 572, 728; 1995, 2145; 1997, 593; 2001, 2759)

#### ADMINISTRATIVE REGULATIONS.

Subsequent Injury Account for Self-Insured Employers, NAC 616B.770-616B.7714

# The Law Offices of Charles R. Zeh, Esq.

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March 8, 2016

The Honorable Senator James A. Settelmeyer  
Chairman, Sunset Subcommittee of the Legislative Commission  
401 South Carson Street, Room 3137  
Carson City, NV 89701

Re: *The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers*

Dear Senator Settelmeyer and Committee Members:

The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers (the Board) wishes to provide the following information to help round out the description of the Board's function and underscore the importance of the Subsequent Injury Account. The Board is comprised of members from self-insured employers, appointed by the Governor. Board members are five in number and they serve without compensation. NRS 616B.548.

Membership on the Board is very demanding. Significant dollar amounts are at stake and large volumes of material must be reviewed by Board members. Moreover, the Board is quasi-judicial in nature. The Board members hear claims for reimbursement and must assess the claims against the standard for eligibility set forth in NRS 616B.557 and NRS 616B.560. The disposition of claims submitted for reimbursement requires a critical analysis of medical records as well as a review of the factual claims of applicants that they (a) knew of the injured worker's preexisting condition before hire or (b) retained the injured worker in the self-insured's employ with knowledge of the preexisting condition prior to the occurrence of the subsequent industrial injury. Proof of knowledge must be shown by written record that the Board finds satisfactory according to the requirements of NRS 616B.557(4).

The Board must also determine whether the preexisting condition would support a rating of permanent physical impairment of 6% or more of the whole person, if evaluated according to the *American Medical Associations' Guides to the Evaluation of Permanent Impairment*. See, NRS 616B.557(3). Finally, the Board must determine whether the combined effect of the preexisting condition and the subsequent industrial injury substantially increased the compensation paid on behalf of the injured worker. The compensation paid includes disability payments and medical costs of treatment and care. See, NRS 616B.557(1).

The Board disposes of claims based upon the written evidence presented during the course of the hearing. The Board also receives oral testimony. The Board is provided a written recommendation about claim acceptance and verified costs from the Administrator of the Division of Industrial Relations.

The Board's hearings are conducted according to the Nevada Administrative Procedures Act. *See*, NRS 233B.010, *et. seq.* A relaxed version of the Nevada Rules of Evidence also applies. As a quasi-judicial, administrative body, the Board's decisions may be appealed to the District Courts of the State and from there, to the Nevada Supreme Court. The Board must be correct as a matter of law in the disposition of the claims and the Board's decisions must be supported by substantial evidence.

The Board has been appealed to the District Court on 15 occasions, and has ultimately prevailed in all but one instance. Four of these District Court decisions were appealed to the Nevada Supreme Court. Of these cases, one was resolved through the Nevada Supreme Court's settlement process. The others were resolved through disposition by the Nevada Supreme Court. Of these, the Board was the prevailing party on two of the cases. The third case was remanded back to the Board for further proceedings. As a result, the Board has been the prevailing party in 14 of its 15 court cases.

In a study completed by Crystal M. McGee, Senior Research Analyst, entitled "A Study of Subsequent Injury Funds," dated September, 2000, for the Legislative Counsel Bureau, she observed that before the advent of subsequent injury funds or accounts, the prospect for employers of having to incur substantially larger compensation costs for hiring or retaining workers who had suffered from a preexisting condition "...provided a strong incentive for employers not to hire or retain physically impaired employees." Study, p. 1.

She then concluded that the purpose of a subsequent injury fund or account was:

When originally created, SIF's were designed to achieve two major objectives:

1. To encourage employers to hire and retain workers who have preexisting conditions; and
2. To provide economic relief to employers who hire workers with preexisting conditions should the employee sustain a subsequent injury in the course and scope of employment. Study, p. 2

The Board continues to serve these two-fold purposes as the following caseload information reveals.



	Gross Dollar of Claims Presented	Gross Dollar of Claims Approved
2009	\$2,137,087.06	\$1,464,425.89
2010	\$3,190,424.81	\$1,620,919.64
2011	\$3,003,202.07	\$2,462,361.06
2012	\$4,237,334.05	\$2,660,838.14
2013	\$2,541,180.99	\$1,591,373.47
2014	\$2,697,135.00	\$2,184,222.10
2015	\$1,960,185.03	\$1,372,325.38
2016 (2 months)	\$ 352,055.38	\$ 229,252.79

2016 is on pace to exceed 2015. There was a dip in claims in 2013, which coincided with the *Holiday* decision, *Holiday Retirement Corporation v. State of Nevada Division of Industrial Relations*, 274 P.3d 759 (2012). Prior to *Holiday*, self-insureds thought that a claim was eligible for reimbursement even if the preexisting condition was not discovered until treatment for the subsequent industrial injury. Self-insureds would argue that if they retained the injured worker, then, after the subsequent industrial injury, when the preexisting condition was discovered, this would satisfy the retention requirement of NRS 616B.557(4).

The Nevada Supreme Court rejected that reading of the retention requirement. Now, self-insureds must establish by written record, that they hired or retained the injured worker with knowledge of the preexisting condition prior to the occurrence of the subsequent industrial injury. This requirement has tended to reduce, it is believed, the number of claims submitted, following the *Holiday* decision. Employers, the Board believes, have begun to adjust to *Holiday* through greater utilization of post-hire inquiries.

This aids in two ways. If the employee truthfully advises of a preexisting condition, a written record is established. If the employee intentionally hides the preexisting condition when asked, and suffers a subsequent industrial injury related to the condition that the employee hid from the employer, when asked, the employer may proceed under the falsification provision of NRS 616B.560.

Once a claim is approved, it should finally be pointed out that as additional treatment costs or disability benefits are paid, self-insureds may submit applications for supplemental reimbursement. In the case of back injuries, for example, these supplemental requests for

The Honorable Senator James A. Settelmeyer  
Chairman, Sunset Subcommittee of the Legislative Commission  
March 8, 2016  
Page 4

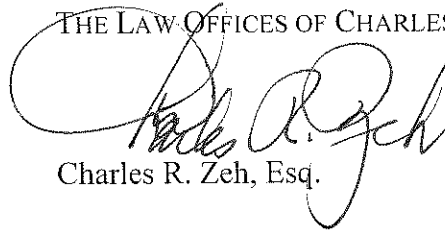
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reimbursement can be significant, six figures in magnitude. This is called the "tail" of the approved claims. It is not possible to estimate the tail that exists on approved claims except to state that it is significant, and will require continued review and disposition of such claims.

Should you or the Committee have any questions between now and the hearing date, we would be pleased to respond.

Sincerely,

THE LAW OFFICES OF CHARLES R. ZEH, ESQ.

A handwritten signature in black ink, appearing to read "Charles R. Zeh", is written over the typed name and firm name.

Charles R. Zeh, Esq.

CRZ/kdk

cc: RJ LaPuz, Chairman and Board Members  
of the Self-insured Board  
Steve George, Administrator, DIR  
Donald C. Smith, Esq., Administrator's Legal Counsel  
Jacque Everhart, Administrator's Liaison to the Board

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March 2, 2016

Carol M. Stonefield  
Chief Principal Policy Analyst  
Research Division  
Legislative Counsel Bureau  
401 South Carson Street  
Carson City, NV 89701

Re: *Board for the Administration of the Subsequent Injury Account for Self-Insured Employers*

Dear Ms. Stonefield:

Attached is the corrected/updated response of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers (the Board) to the questionnaire propounded by the Sunset Subcommittee to the Board. There was one correction, an incorrect address or outdated address was listed for Board Vice-Chairman, Michele Berrington. Her address in response number 8 now correctly states: 975 Ryland Street, Reno, Nevada 89502. In addition, the Board noted a typographical error on old page 5 where the letter "O" mistakenly was at the beginning of "Please." This is corrected on the revised draft as seen on page 6.

There are no other changes. The Board approved the corrected/updated version of the questionnaire at a duly called and noticed meeting of the Board held on March 1, 2016.

If there are any questions, please do not hesitate to contact me.

Sincerely,

THE LAW OFFICES OF CHARLES R. ZEH, ESQ.

Charles R. Zeh, Esq.

CRZ/kdk

Enclosures as stated

cc: RJ LaPuz, Chairman and Board members  
Steve George, Administrator, DIR  
Donald C. Smith, Esq., Legal Counsel, DIR  
Charles J. Verre, Chief Administrative Officer, DIR



## Information Concerning Board or Commission Subject to Review by the Sunset Subcommittee of the Legislative Commission

as required by *Nevada Revised Statutes* 232B.230



**Board or commission name:**

Response to No. 1. Board for the Administration of the Subsequent Injury Account for Self-Insured

**Members' names with expiration date of term, and indicate the number of vacancies:**

Response to No. 2. The Board members are: RJ LaPuz, Chairman, Michele Berrington, Vice-chairman, Amy Wong, member, Michael Heward, member and Cecilia Meyer, member. Chairman LaPuz's term expires June 30, 2016; Vice-chairman Berrington's term expires June 30, 2017; Member Amy Wong's term expires June 30, 2018; Member Michael Heward's term expires June 30, 2016; and Member Cecilia Meyer's term expires June 30, 2016.

**Physical address:**

Response to No. 3. The Board has no offices of its own. However, applications for

**Mailing address:**

Response to No 4. See, Response No. 3.

**Web site address (if any):**

Response to No. 5. None. See also, No. 3, above.

**Web site developer** (if not EITS, please indicate if EITS approved the web site):

Response to No. 6. N/A.

**Executive director's name and contact information:**

Response to No. 7. There is no executive director. However, the Board's Chairman is RJ LaPuz, 4828 South Pearl Street, Las Vegas, Nevada 89121-6010. Also, Board counsel is another point of contact. See, Response Nos. 2 and 3, above.

**Staff members' names including titles and status as full-time or part-time** (attach additional pages as necessary):

Response to No. 8. There are no staff persons employed by or assigned to the Board. However, the liaison between the Administrator, DIR, and the Board is Jacque Everhart, Administrator's Office, DIR, State of Nevada, 1301 North Green Valley Parkway, Suite 200,

**Days and hours of operation:**

Response to No. 9. The Board has no office and, thus, no office hours. However, Board

**Created by what authority:**

Response to No. 10. The Board is defined and created by NRS 616B.545 and NRS 616B.548, respectively. Members are appointed by the Governor.

**Authority to adopt regulations (NRS) and citation to regulations (NAC), if applicable:**

Response to No. 11. The Board has authority to adopt regulations by virtue of NRS 616B.551(1); NRS 616B.554(6)(a); NRS 616B.557(6); NRS 233B.040(1)(4); NRS 233B.100(1); NRS 233B.120;.

**Information Concerning Board or Commission  
Subject to Review by the  
Sunset Subcommittee of the Legislative Commission**

List by LCB File No. and date of adoption the five regulations most recently adopted by the board or commission, with any applicable deadline for the adoption of any such regulation:

Response to No. 12. The Board did not directly adopt the existing regulations. NAC 616B.700 through NAC 616B.7717, read "Added to NAC by Div. Of Industrial Relations, eff 2-18-97." It appears that the Board drafted the regulations and the DIR submitted them for approval. See, Minutes of Meeting, dated 1-18-1996.

List any required regulations that have not been adopted, with any applicable deadline for the adoption of any such regulation. Please identify each such regulation by LCB File No., if available, or by reference to the provision of NRS or Statutes of Nevada requiring adoption of the regulation:

Response to No. 13. Proposed regulations were submitted to Ms. Brenda J. Erdoes, Legislative Counsel, on October 22, 2015, and have been assigned LCB File No. R123-15.

Governing structure of the board or commission pursuant to statute:

Response to No. 14. The Board consists of a Board Chairman, RJ LaPuz, a Vice-chairman, Michele Berrington, and three other members. The Board also has its own legal counsel. See, NRS 616B.548(2)(5). A quorum consisting of three members of the Board must be present to conduct business. See, NRS 616B.551(1). Board meetings are scheduled by the

Duties of the board or commission:

Response to No. 15. "The Board shall administer the Subsequent Injury Account for Self-Insured Employers in accordance with the provisions of NRS 616B.554, 616B.557 and 616B.560." See, NRS 616B.551(2). In addition, Nevada's Subsequent Injury Account for Self-Insured Employers (Account) was created to encourage self-insured employers to hire or retain workers with preexisting disabling conditions by providing economic relief to those employers who knowingly accept the risk associated with the employment of already impaired workers, should they sustain a subsequent industrial injury. Crystal M. McGee, Background Paper 01-1, A Study of Subsequent Injury Funds, Research Division

Statement of the objectives and programs of the board or commission:

Response to No. 16. The Board administers the Subsequent Injury Account as directed by NRS 616B.551(2), is a quasi-judicial body administering claims submitted to it for reimbursement from the Account pursuant to NRS 616B.557 and NRS 616B.560. It is an administrative body that also dispenses claims for reimbursement pursuant to the Nevada Administrative Procedures Act, NRS 233B.010, et. seq. Decisions of the Board may be appealed to the District Courts of Nevada, and from there, to the Nevada Supreme Court. See, NRS 616B.557(7). See also, item 15, above.

**Information Concerning Board or Commission  
Subject to Review by the  
Sunset Subcommittee of the Legislative Commission**

**Itemized list of services offered  
by the board or commission:**

Response to No. 17. See, item 15 and 16, above.

**Dates of the immediately  
preceding six meetings:**

Response to No. 18. February 17, 2016, January 20, 2016; December 16, 2015; November 18, 2015; September 23, 2015; and August 19, 2015.

**Statutory tax exemptions,  
abatements, or money set aside  
for the board or commission:**

Response to No. 19. N/A.

**Description of the manner in  
which the board or commission  
is funded, including all funding  
sources:**

Response to No. 20. The Board is funded through a transfer from the Workers' Compensation and Safety Fund, Fund 210, by annual assessments to all insurers. See, NRS 616B.554, see also, NAC 616B.731 and NAC 616B

**Please identify any forms  
required by the board or  
commission to be used by  
members of the public which  
are not available for  
downloading from the web site  
of the board or commission:**

Response to No. 21. The Board has no forms but the Administrator, in regulations approved by the Board, requires completion of Form D-37, prescribed in NAC 616B.7702 (2)(b), available, free-of-charge, on the Internet.

**Information Concerning Board or Commission  
Subject to Review by the  
Sunset Subcommittee of the Legislative Commission**

Does the board or commission have any recommendations for consolidation with another board or commission? If so, which one(s) could be revised to include the charge to the board or commission that is the subject of this review?

Response to No. 22. None. This Board is a creation of statute. Any change, moreover, in its structure, scope or authority would require an amendment to the statutory framework that creates the Board and the Subsequent Injury Account.

Does the board or commission believe that its objectives and programs have been effective in accomplishing the purposes for which the board or commission was created? Please explain the response with any information the board or commission believes is relevant:

Response No. 23. Yes. The Board has no staff to conduct studies of its impact upon employment. That being said, anecdotally, as a member of the Associations Board observed, it is of considerable comfort for employers in the construction industry, where back injuries are prevalent, to know that the Subsequent Injury Account is available to support the hiring or retention of employees with back issues.

Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs:

Response to No. 24. None. The Board has submitted draft regulations to the Legislative Counsel Bureau, which the Board believes will help standardize and streamline its processes to help expedite the disposition of claims. During the past calendar year, ending December 31, 2015, the Board decided claims with a face value of \$1,960,185.03, and approved claims with verified costs in the amount of \$1,372,325.28 to self-insured employers. In addition, there is a tail of claims that cannot be tracked. Injured employees have life-time re-opening rights and, thus, they have the opportunity of submitting

If additional space is necessary, please attach additional pages and refer to the attachments on the form.

Please include with this form:

1. The operating budget of the board or commission.
2. A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits this form, including the balances of any fund or account maintained by or on behalf of the board or commission.
3. The most recent legislative audit or other audit of the board or commission, and any efficiency studies or constituent or staff surveys conducted in the past 3 years.
4. Any reports required to be filed with the Legislative or Executive Branch over the past 3 years. Please indicate if any reports were filed late or have not been filed.
5. Copies of the minutes of the immediately preceding six meetings of the board or commission.
6. A copy of the organizational chart showing the governing structure of the board or commission and its staff.
7. A copy of the most recent strategic plan of the board or commission.

Please submit this form electronically to: [cstonefield@lcb.state.nv.us](mailto:cstonefield@lcb.state.nv.us). Submit additional documents electronically in a .pdf format.

If the file is too large for emailing, please submit hard copies to:

Carol Stonefield  
Research Division  
Legislative Counsel Bureau  
401 South Carson Street  
Carson City, NV 89701

# **Board for the Administration of the Subsequent Injury Account for Self-Insured Employers (attachment to the Review Form)**

Page 1, Members' names with expiration date of term, and indicate the number of vacancies

The Board members are: RJ LaPuz, Chairman, Michele Berrington, Vice-chairman, Amy Wong, member, Michael Heward, member and Cecilia Meyer, member.

Chairman LaPuz's term expires June 30, 2016; Vice-chairman Berrington's term expires June 30, 2017; Member Amy Wong's term expires June 30, 2018; Member Michael Heward's term expires June 30, 2016; and Member Cecilia Meyer's term expires June 30, 2016.

Page 1, Physical address:

The Board has no offices of its own. However, applications for reimbursement are submitted to the Administrator, DIR, State of Nevada, attention Subsequent Injury Coordinator, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada, 89074. *See*, NRS 616B.554(8), and NAC 616B.7702.

Also, pleadings and requests for hearings and all other documents related to the administrative proceedings before the Board are to be filed with Board legal counsel, Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 575 Forest Street, Suite 200, Reno, Nevada 89509. *See*, NAC 616B.7706 and NAC 616B.771.

Page 1, Staff members' names including titles and status as full-time or part-time:

There are no staff persons employed by or assigned to the Board. However, the liaison between the Administrator, DIR, and the Board is Jacque Everhart, Administrator's Office, DIR, State of Nevada, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

Board counsel is Charles R. Zeh, Esq.

The Board officers are RJ LaPuz, Chairman, and Vice-chairman, Michele Berrington, 975 Ryland Street, Reno, Nevada 89502. *See*, Response No. 2, above.



Page 1, Days and hours of operation:

The Board has no office and, thus, no office hours. However, Board counsel's office hours are 8:30 a.m., through 5:00 p.m., Monday through Friday, and Ms. Everhart's office hours are 7:30 a.m., through 4:30 p.m., Monday through Friday.

Page 2, Governing structure of the board or commission pursuant to statute:

The Board consists of a Board Chairman, RJ LaPuz, a Vice-chairman, Michele Berrington, and three other members. The Board also has its own legal counsel. See, NRS 616B.548(2)(5).

A quorum consisting of three members of the Board must be present to conduct business. See, NRS 616B.551(1).

Board meetings are scheduled by the Board. Typically, the Board meets monthly to administer claims due to statutory time constraints. See, NRS 616B.557(6).

The Board is a quasi-judicial administrative body, hearing claims for reimbursement from the Account pursuant to the Nevada Administrative Procedures Act, NRS 233B.010, et. seq.

The Board reviews applications for reimbursement for subsequent industrial injuries suffered by the self-insured's employee. The Board administers the account, see, NRS 616B.551(2), and reviews claims pursuant to NRS 616B.557 and NRS 616B.560.

Page 2, Duties of the board or commission:

"The Board shall administer the Subsequent Injury Account for Self-Insured Employers in accordance with the provisions of NRS 616B.554, 616B.557 and 616B.560." See, NRS 616B.551(2). In addition, Nevada's Subsequent Injury Account for Self-Insured Employers (Account) was created to encourage self-insured employers to hire or retain workers with preexisting disabling conditions by providing economic relief to those employers who knowingly accept the risk associated with the employment of already impaired workers, should they sustain a subsequent industrial injury. Crystal M. McGee, Background Paper 01-1, A Study of Subsequent Injury Funds, Research Division Legislative Counsel Bureau (September 2000), p.1.

For eligible claims, the self-insured employer, who hires or retains the injured worker with knowledge of the worker's preexisting permanent physical

impairment, is reimbursed from the Account by decision of the Board for the Administration of the Subsequent Injury Account for Self-insured Employers (the Board). The reimbursement consists of the compensation (Compensation includes the benefits paid as disability compensation as well as the cost of medical treatment and care) paid to the claim as a result of the subsequent industrial injury.

Page 4, Any recommendations for statutory changes which are necessary for the board or commission to carry out its objectives and programs:

None. The Board has submitted draft regulations to the Legislative Counsel Bureau, which the Board believes will help standardize and streamline its processes to help expedite the disposition of claims. During the past calendar year, ending December 31, 2015, the Board decided claims with a face value of \$1,960,185.03, and approved claims with verified costs in the amount of \$1,372,325.28 to self-insured employers. In addition, there is a tail of claims that cannot be tracked. Injured employees have life-time re-opening rights and, thus, they have the opportunity of submitting requests for additional assistance which, if provided by the self-insured employer for a claim that has already been accepted for reimbursement, the self-insured employer may then submit an application for supplemental reimbursement.

Similarly, for on-going claims that are continuing to generate costs for treatment, care and disability benefits, the self-insured employer may return to the Board with a supplemental request for reimbursement, and if the claim had previously been accepted and the costs can be verified, supplemental reimbursement may be had. For example, during one of the Board's sessions on November 18, 2015, it awarded the self-insured employer the sum of \$326,069.65, for a supplemental reimbursement claim. It was the fourteenth supplemental request for reimbursement for a claim that was originally approved by the Board on August 22, 2002.

**Please include with this form:**

**1. The operating budget of the board or commission.**

The Board has no operating budget. Board membership is voluntary.

**2. A statement setting forth the income and expenses of the board or commission for at least 3 years immediately preceding the date on which the board or commission submits this form, including the balances of any fund or account maintained by or on behalf of the board or commission.**

*See, No. 1, the Board has no income nor does it have expenses.*

**3. The most recent legislative audit or other audit of the board or commission, and any efficiency studies or constituent or staff surveys conducted in the past 3 years.**

N/A

**4. Any reports required to be filed with the Legislative or Executive Branch over the past 3 years. 0Please indicate if any reports were filed late or have not been filed.**

The Board is not required to file any reports.

**5. Copies of the minutes of the immediately preceding six meetings of the board or commission.**

Copies of minutes for the last six meeting are attached.

**6. A copy of the organizational chart showing the governing structure of the board or commission and its staff.**

The Board is a creation of statute. The Board's structure is described above.

**7. A copy of the most recent strategic plan of the board or commission.**

The Board does not have a strategic plan. Its duties and responsibilities are established by statute as explained above.

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