

LCB File No. R191-03

**PROPOSED REGULATION OF THE HEALTH DIVISION OF  
THE DEPARTMENT OF HUMAN RESOURCES**

**NAC 278.490 Fees.** The following fees are prescribed for services performed by the health division:

- For reviewing a tentative map..... ~~200~~ 400  
Plus ~~23~~ for each building lot shown on the map.
- For reviewing a final map..... ~~200~~ 400  
Plus ~~23~~ for each building lot shown on the final map.
- For *preliminary* evaluation ~~ing~~ *ion of* a plant for water treatment  
*for the subdivision*, an additional fee of.....50
- For requesting and considering information which the subdivider has failed to submit  
in accordance with [NAC 278.260](#) to [278.370](#), inclusive, each request.....~~25~~ 100
- For reviewing water project plans associated with final maps of subdivisions, the  
fees specified in NAC 445A.6664 shall be charged.*
- For reviewing applications to operate a new water system, the fee specified in NAC  
445A.604 shall be charged.*

## LCB File No. R191-03

# PROPOSED REGULATION OF THE HEALTH DIVISION OF THE DEPARTMENT OF HUMAN RESOURCES

## SMALL BUSINESS IMPACT STATEMENT

### Amendments to Fees by the Bureau of Health Protection Services Contained in Nevada Administrative Code 278.490

PROPOSED AMENDMENTS TO EXISTING REGULATIONS within Nevada Administrative Code (NAC) provide for fee increases to allow the Bureau of Health Protection Services (BHPS), a bureau within the State Health Division to recover the increased costs of reviewing subdivision plans (NAC 278.490).

A small business is defined in Nevada Revised Statutes (NRS) 233B.0382 as a "business conducted for profit which employs fewer than 150 full-time or part-time employees." **This statement generally applies to fees charged by the Health Division for the review and approval of subdivision tentative and final maps. See the Small Business Impact Statement for amendments to Chapter 445A of the NAC for a similar discussion of the impacts of fee increases and decreases related to public water systems and water projects/improvement plans for public water systems.**

#### Background

The State Health Division receives funding for BHPS from three primary sources: grants from the federal government for administering the Public Water System Supervision Program; fees from regulated entities; and General Fund appropriations by the Nevada State Legislature. Nevada's allotment of the primary federal grant has decreased in recent years while expenses have increased. The federal grant, which is limited to the management and administration of the Public Water System Supervision Program, provides a major portion of the revenues to support the Public Health Engineering Section. Additional revenue from fees and General Fund appropriations provide the required match for the federal grants and supplemental revenue to meet remaining expenses. Since the review of tentative and final subdivision maps are state, not federal, requirements, federal funds do not provide revenue to support this work. The only sources of revenue for this section are from fees and General Fund appropriations.

The Nevada State Legislature appropriation does not cover the actual cost of the Bureau performing these statutory responsibilities. To meet this funding shortfall, and to provide program enhancements, the Nevada State Legislature has historically required that regulated entities pay fees to the State Health Division to supplement the funding for BHPS. (See NRS 439.150.) In State Fiscal Year 04 (July 1, 2003 — June 30, 2004) and State Fiscal Year 05 (July 1, 2004 — June 30, 2005), the Nevada State Legislature has budgeted a fee increase of approximately \$104,000 just to provide funding for the Public Health Engineering Section functions, which include review of subdivision maps, performed by the Bureau.

The proposed amendments to Chapter 278 of the NAC provide for fee increases for the review of tentative and final subdivision maps. They will enable the State Health Division to better meet its statutory responsibilities by providing an estimated \$13,825 of additional revenue necessary towards meeting a projected revenue shortfall for the Public Health Engineering Section of approximately \$104,000.

Plan review fees for subdivision tentative and final maps will increase under this proposal. The fee for reviewing a tentative subdivision map will increase from \$200 to \$400 plus an increase of \$1.00 (from

\$2.00 to \$3.00) per building lot. The fee for reviewing a final subdivision map will also increase from \$200 to \$400 plus an increase of \$1.00 (from \$2.00 to \$3.00) per building lot. If the subdivider has failed to submit all necessary information, he will be charged a resubmission fee, which will increase from \$25 to \$100. Fees for water project improvement plans, which must be submitted with the final map for approval, will be addressed in proposed changes to Chapter 445A of the NAC.

**1. A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

Letters were sent to all affected public water systems as well as those engineering firms who normally do business with the BHPS and local health authorities advising them of the potential fee changes and providing notice of public workshops. Copies of the proposed amendments will be posted at the Health Division's web site. Public workshops were held in September 2003 and are scheduled again for October 28, 2003. Copies of proposed amendments have been provided to those individuals and businesses, which have requested direct service.

Several faxed responses and numerous phone calls provided initial general responses to the generic questionnaire included in the mass mailing, which included fee amendments to nine Chapters of the NAC. Generally, many responders, whether or not they met the definition of a small business, complained that any increase in state fees was an increase in consumer fees, which was an adverse impact, and therefore not warranted. Although many of the responses were not specific to the changes proposed in NAC 278.390, the following did appear to address the proposal. Some indicated that they doubted very much if they would see any beneficial effects. With respect to the changes proposed in NAC 278.390, one engineering firm indicated that "all regulatory fees are passed through to clients," and that there was "[P]otential for improved response to plan reviews." Another indicated that the new fee would be prohibitive to pay, cause a financial loss to his firm, and would cause a loss of service to clients. Still another indicated that he expected no adverse impacts.

Interested persons may obtain a list of the recipients and a summary of written responses to the solicited comments by contacting Galen D. Denio, Manager, BHPS, 1179 Fairview Dr., Ste 101, Carson City, NV 89701 or by calling (775) 687-4750, extension 229, after October 24, 2003.

**2. The estimated economic effect of the proposed regulation on the small business which it is to regulate including, without limitation, both adverse and beneficial effects and both direct and indirect effects.**

**Direct Adverse and Beneficial Effects**

A potential direct adverse effect may be that some engineering firms will experience increased costs for plan reviews of subdivisions.

A beneficial direct effect is that the additional revenue should facilitate improved response to review filing by providing sufficient financial resources for data management, review processes and, possibly, personnel.

The estimated direct and indirect beneficial economic effects of the proposed fee changes on affected small businesses cannot be quantified. Overall, an indirect beneficial effect of the proposed fees will be that adequate funding for better protection of the health and safety of Nevada residents by ensuring that subdivisions are planned in accordance with drinking water standards, thereby decreasing the possibility of contamination of the public water supply, and ensuring safe drinking water to current and future customers.

### Direct and Indirect Costs

The estimated direct adverse economic effect of the proposed fee increases on the public water systems that qualify as small businesses, although unknown, is not expected to be large and will be primarily incurred by engineering firms in the tentative and final subdivision map review process. Indirect costs may be incurred by developers hiring the engineering firms to develop those maps and eventually by buyers of homes in the subdivision. Since costs vary with the number of lots in the subdivision, costs would have to be determined on a case-by-case basis.

### **3. A description of the methods that BHPS considered to reduce the impact of the proposed regulation on small businesses and statement regarding whether the agency actually used those methods.**

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (1), the agency shall consider simplifying the proposed regulation.

This fee proposal does not propose new regulations for compliance. The impact of these fee increases on small businesses has been minimized or eliminated to the extent possible. Existing fees are increased because of experienced or expected increased activity and, therefore, increased costs. However, fees must be increased based upon the legislatively approved budget for the regulatory responsibilities of the BHPS.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 2 (b) (2), the agency shall consider establishing different standards of compliance for a small business.

This fee proposal does not propose new regulations for compliance.

In considering methods to reduce the impact of the proposed regulation on small businesses as required by NRS 233B.0608 (2)(b)(3), the agency shall consider modifying a fee or fine set forth in the regulation so that a small business is authorized to pay a lower fee or fine.

This is not practical for this type of plan review since the Health Division has no way of knowing the size of the entity submitting the tentative or final subdivision map.

### **4. The estimated cost to the agency for enforcement of the proposed regulation.**

The estimated cost to the agency for enforcement of the proposed regulation is minimal and will be handled through the existing administrative process.

### **5. Total amount BHPS expects to collect from any fees and the manner in which the money will be used.**

The total amount of revenue expected to be collected from this fee proposal is estimated at \$\$27,450, an increase of about \$13,825 over existing revenue. The funds will be used to enhance the existing review process to facilitate plan reviews.

### **6. An explanation of why any duplicative or more stringent provisions than federal, state or local standards regulating the same activity are necessary.**

The proposed fee changes do not overlap or duplicate any federal, state or local regulations.