

LCB File No. R155-05

**PROPOSED REGULATION OF THE
STATE CONTRACTORS' BOARD**

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Workshop and Hearing for the Adoption, Amendment or Repeal of Regulations
Of
The State of Nevada Contractors' Board**

The State of Nevada Contractors' Board ("Board") will hold a workshop and public hearing on Wednesday, October 26, 2005. The workshop will begin at 2:00 p.m. and the hearing will commence immediately following the workshop. The workshop and hearing will be video-conferenced between the Board's Henderson Office located at 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and the Reno Office located at 9670 Gateway Drive, Reno, Nevada 89521. The purpose of the workshop and hearing is to receive comments from all interested persons regarding the adoption, amendment or repeal of regulations that pertain to Chapter 624 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.060 and 233B.0603:

1. The need for and purpose of the proposed regulation or amendment.

The purpose of the proposed regulation is to amend Chapter 624 of the Nevada Administrative Code concerning the types of financial statements provided to the Board to establish financial responsibility for applicants and licensees. The proposed regulation is to comply with the provisions of Senate Bill 501 enacted by the 2005 legislative session.

2. Either the terms or the substance of the regulations to be adopted, amended or repealed or a description of the subjects and issues involved.

The proposed regulation revises the types of financial statements that the Board will allow to be submitted by an applicant or licensee to establish financial responsibility. A copy of the proposed regulation may be obtained by writing to the Board's offices at 9670 Gateway Drive, Reno, Nevada 89521.

3. The estimated economic effect of this proposed regulation on the business which it is to regulate and on the public.

(a) Adverse and beneficial effects.

The adoption of this regulation may be beneficial to the industry since it broadens the type of financial statements the Board will accept from certain applicants and licensees.

(b) Both immediate and long-term effects.

The immediate and long term effect of implementing the change should be beneficial.

- 4. The estimated cost to the Agency for enforcement of the proposed regulation.**
The cost to the agency should not be substantial.
- 5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary.**
The proposed regulation does not overlap or duplicate any regulation of other state or local governmental entities.
- 6. If the regulation is required pursuant to federal law, a citation and description of the federal law.**
Does not apply.
- 7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.**
Does not apply.
- 8. Whether proposed regulation establishes a new fee or increases an existing fee.**
The regulation does not establish a fee or increase an existing fee.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public workshop and hearing or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. Written submissions must be received by the Board five days prior to the scheduled hearing. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board may proceed immediately to act upon any written submissions.

A copy of this notice and the regulations to be adopted, amended or repealed will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notices and the regulation to be adopted will be available at the State Contractors' Board, 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89521. In all counties in which an office of the Board is not maintained, a copy of this notice and the text of the proposed regulation will also be available for public inspection and copying at the main public library during business hours. This notice and the text of the proposed regulation will be available in the State of Nevada Register of Administrative Regulations which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulation, the Board, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal

reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

This notice has been mailed to all persons on the agency's mailing list of administrative regulations and posted at the following locations:

Washoe County Court House
Washoe County Library
Reno City Hall
Las Vegas City Hall
Sawyer State Building
Clark County Library
Offices of the State Contractors' Board in Reno and Henderson

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

NAC 624.590 Application. (NRS 624.100, 624.240, 624.250)

1. A person must make a separate application for each classification of license in which the applicant desires to conduct business.

2. The Board will not consider an incomplete application. Each application must include, without limitation:

(a) All applicable fees;

(b) Four notarized certificates supporting the experience of the applicant or his qualified employee on the form provided by the Board;

(c) All information which is required to be confirmed by a bank; and

(d) *For license monetary limits in the amount of \$1 million or more, a certified public accountant prepared financial statement that is reviewed or audited and current to within one year of filing; [prepared]*

(e) *For license monetary limits in an amount less than \$1 million, a current financial statement that is:*

(1) Prepared by an independent certified public accountant; or

(2) Submitted on a form prescribed by the Board together with an affidavit that verifies the accuracy of the financial statement; or

(3) Prepared using GAAP compliant accounting software together with an affidavit that verifies the accuracy of the financial statement.

(e) Any other information required by the Board.

3. As used in this section, "person" means:

(a) A natural person;

(b) A corporation, partnership, limited partnership or limited-liability company that is organized pursuant to the laws of this State; or

(c) A foreign corporation, foreign partnership, foreign limited partnership or foreign limited-liability company that is authorized to do business in this State.

NAC 624.630 Renewal. (NRS 624.100, 624.283)

1. Each year the Board will mail to each licensee, at his address of record, an application for the renewal of his license. Except as otherwise provided in subsection 2, the licensee must return the completed application to the Board no later than the 30th day of the month in which the license expires.

2. If the Board has requested that a licensee *whose monetary license limit is less than \$1 million* submit a financial statement with his application for renewal, the licensee must return the completed application, a *current* financial statement *that is* prepared by **[a]** *an independent*

certified public accountant; *or submitted on a form prescribed by the Board together with an affidavit that verifies the accuracy of the financial statement; or a statement prepared using GAAP compliant accounting software together with an affidavit that verifies the accuracy of the financial statement* ~~for a public accountant~~ and renewal fee no later than the first day of the month in which the license expires. *If the Board has requested that a licensee whose monetary license limit is \$1 million or more submit a financial statement with his application for renewal, the licensee must return the completed application, a reviewed or audited financial statement prepared by a certified public accountant that is current to within one year preceding submittal and the renewal fee no later than the first day of the month in which the license expires.*

3. If a licensee fails:

(a) To renew his license before it expires, a late fee will be charged at the rate of one-half the renewal fee as set forth in NAC 624.130.

(b) To attempt renewal within the first 6 months of the new license year, the Board will deny, revoke or refuse to renew the license. In either situation, he must apply for a new license.

4. If a licensee has filed a timely application for renewal, accompanied by the required fee, but necessary information is lacking, the Board will conditionally renew the license until the information is received. If the information is not received within a reasonable time, the Board will deny the renewal.

5. If the completed application for renewal contains information which warrants the action, the Board will impose or reduce the limits upon the license, or remove a classification or subclassification from the license.

NAC 624.670 Application for increase in monetary limit on license; submittal of bid before approval of application. (NRS 624.100, 624.220)

1. A licensee may submit to the Board a written application for an increase, for a single project, in the monetary limit on his license. The application must be made at least 2 working days before the date he submits his bid for the project.

2. The licensee *whose license monetary limit is less than \$1 million* must submit with the application his current financial statement *that is* prepared by ~~an~~ *an independent* certified public accountant; ~~for a public accountant~~ *or submitted on a form prescribed by the Board together with an affidavit that verifies the accuracy of the financial statement; or a statement prepared using GAAP compliant accounting software together with an affidavit that verifies the accuracy of the financial statement; a licensee whose license monetary limit is \$1 million or more must submit with the application a financial statement that is reviewed or audited; prepared by a certified public accountant and current to within one year preceding submittal;* and any other supporting information the Board requests.

3. The Board will approve the application if it finds that the financial status of the licensee is adequate to justify the increase and if the licensee:

(a) Procures and agrees to maintain any performance or payment bond, or both, that the Board requires; and

(b) Complies with any other conditions the Board finds necessary to protect the public interest.

4. A licensee who has complied with the requirements of subsections 1 and 2 may submit his bid for the project before the Board acts upon his application if he submits with the bid a statement that the bid is contingent upon the approval of his application by the Board. The Board

may deny the application if it determines that the licensee has submitted his bid without submitting the statement required pursuant to this subsection.

5. If a licensee submits a bid in compliance with subsection 4 and the Board:

(a) Approves his application, the approval shall be deemed to become effective at the time the bid was submitted.

(b) Denies his application, the bid shall be deemed void and not to have exceeded the monetary limit placed on his license.

NAC 624.675 Increase in monetary limit for indemnified licensee or applicant; withdrawal of indemnity. (NRS 624.100, 624.220)

1. If an applicant or licensee is indemnified by its officers, directors or any other person, the Board will consider a written request to increase, remove or not place a monetary limit on the license of an applicant or licensee although the financial condition of an applicant or licensee is not adequate to justify such a request.

2. If the applicant or licensee is a corporation and the officers or directors are personally indemnifying the corporation, the request must be submitted with:

(a) A personal financial statement *that is* prepared by ~~[a]~~ *an independent* certified public accountant; ~~[or public accountant]~~ *or submitted on a form prescribed by the Board together with an affidavit that verifies the accuracy of the financial statement or a statement that is prepared using GAAP compliant accounting software together with an affidavit that verifies the accuracy of the financial statement* from each of the indemnitors; *if the license monetary limit is less than \$1 million; if the license monetary limit is \$1 million or more, the financial statement must be reviewed or audited; prepared by a certified public accountant and current to within one year preceding submittal;* and

(b) An agreement for indemnification made on a form supplied by the Board which has been signed by each indemnitor and his spouse, if any.

3. If another corporation will act as an indemnitor for the licensee, the request must be submitted with:

(a) A resolution by the directors of the indemnitor in which they approve the indemnification;

(b) A current financial statement of the indemnitor prepared by a certified public accountant or a public accountant; and

(c) An agreement for indemnification which is made on the form supplied by the Board and is signed by the appropriate officer of the indemnitor.

4. If a natural person will act as indemnitor for the applicant or licensee, the request must be submitted with:

(a) A personal financial statement *that is* prepared by ~~[a]~~ *an independent* certified public accountant; ~~[or public accountant]~~ *or submitted on a form prescribed by the Board together with an affidavit that verifies the accuracy of the financial statement or a statement that is prepared using GAAP compliant accounting software together with an affidavit that verifies the accuracy of the financial statement* from each of the indemnitors *if the license monetary limit is less than \$1 million; if the license monetary limit is \$1 million or more, the financial statement must be reviewed or audited; prepared by a certified public accountant and current to within one year preceding submittal;* and

(b) An agreement for indemnification made on a form supplied by the Board which has been signed by each indemnitor and his spouse, if any.

5. Except as otherwise provided in this subsection, if an indemnitor wishes to withdraw his agreement for indemnification, he must deliver to the Board a written notice of his withdrawal. The withdrawal becomes effective 90 days after the Board's receipt of the notice. If the agreement for indemnification was provided as a precondition to the approval by the Board of an increase in the monetary limit on a license pursuant to NAC 624.670, the indemnitor may not withdraw the agreement.

624.XXX. Establishing license monetary limits

License monetary limits are determined by evaluating an applicant's financial responsibility using criteria established by NRS 624.262, NRS 624.263 and NRS 624.264 and generally may be set at an amount equal to 10 times working capital or five times net worth whichever is less; a license monetary limit may be increased or decreased based on consideration of the statutorily established criteria.