

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearing for the Adoption, Amendment and

Repeal of Regulations of the

The Board for Administration of the Subsequent Injury Account for

Associations of Self-Insured Public or Private Employers

The Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers will hold a public hearing at 10:00 a.m., on the 11th day of December, 2018, at the Division of Industrial Relations, Department of Business and Industry, 3360 W. Sahara Avenue, Suite 250, Executive Video Conference Room, Las Vegas, NV 89102. The purpose of the hearing is to receive comments from all interested persons regarding the Adoption, Amendment and Repeal of Regulations that pertain to Chapter 616B.773 *et. seq.*, of the Nevada Administrative Code, a copy of which is attached hereto.

On August 16, 2018, the Board held a meeting pursuant to a “Notice of Intent” and approved revisions to the existing Regulations. The purpose of the meeting held pursuant to this Notice of Intent is to adopt one further revision or correction in the Regulations by deleting Section 16, paragraph 5, at page 17, of the previously approved amended Regulations. The reason for the deletion is to further streamline and simplify the application process for reimbursement from the Account the Board administers. The entire proposed Regulations are attached with the deletion of Section 16, paragraph 5 incorporated therein. The deletion of Section 16, paragraph 5 is the only change made the subject of this Notice of Intent.

The following information is provided pursuant to the requirements of NRS 223B.0603:

1. The need for and purpose of the proposed regulations and amendments:

- (a) Implementation of changes enacted by the Legislature since 2007 to the present;
- (b) NRS 233B.050(1)(a) which requires the Board to enact rules of practice;
- (c) NRS 616B.575(6) and 616B.578(6), which authorize the Board to adopt regulations governing the administration and practice before the Board;
- (d) NRS 233B.120 which requires Boards to adopt regulations which provide for the filing and disposition of petitions for declaratory orders and advisory opinions;
- (e) NRS 233B.050(1)(d) and (e) which require periodic review of the Board's regulations;
- (f) The Board's determination that the process for deciding applications for reimbursement could be further standardized and streamlined through regulations reflecting upon the Board's experience deciding claims since the Board's inception; and
- (g) Decisions of the Nevada Supreme Court directly impacting the Board.

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

- (a) Provisions for the parties to request the amendment or repeal of the Board's regulations;
- (b) Provisions for declaratory and injunctive relief;
- (c) Standards for allowing annuities to be liquidated by the Account;
- (d) Provisions for seeking continuances or extensions of time to respond to the Board;
- (e) Standards for the commutation of payments from the Account;
- (f) General Procedures for submitting claims;
- (g) Identification of methods for filing and service of process and pleadings;
- (h) Standards for assessing proof by written record of knowledge about preexisting conditions;
- (i) Clarification of processes in light of *Holiday Ret. Corp. v. State Div. of Indus. Rels.*, 274 P.3d 759, 2012 Nev. LEXIS 33, 128 Nev. Adv.Rep. 13, 2012 WL 1136405 (Nev. 2012);
- (j) Standards for establishing written records;
- (k) Consolidation of hearing procedures to simplify process; and
- (l) Deletion of Section 16, paragraph 5, from the Regulation to streamline the application process.

See also, below for information about how to obtain copies of the proposed changes to the existing regulations.

3. **The estimated economic effect of the changes proposed in the existing regulations on the business which the Board regulates and on the public:**

The Board determined that these proposed amendments and changes to the existing regulations will have no adverse economic effect, either immediate or long-term on either the public or small businesses (*e.g.*, Associations, employers, and/or third party administrators). The Board concludes, further, that by streamlining and clarifying and making the process, therefore, more efficient, if there is any economic effect, it will be positive on the public or small businesses by simplifying and clarifying the process by which applications for reimbursement are heard and decided.

To determine whether these regulatory matters, the proposed changes and new regulations, are likely to have an impact on small businesses, the Board considered the purpose and scope of the proposed and potential regulations, their amendment and changes in conjunction with the existing regulations. Based upon this review, the Board determined that since these proposed regulations are intended to streamline and clarify the existing regulatory structure, they are unlikely to have any adverse affect on small businesses.

4. **Estimated cost to the agency for enforcement of the proposed changes to the regulations:**

The Board estimates that there will be no increase in costs to the Board.

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. List also whether the proposed regulation overlaps or duplicates a federal regulation and if so, name the regulating federal agency:**

There is no duplication or overlapping of the proposed changes to the existing regulations at either the local governmental level, the State level, or with the Federal government.

6. **If the regulation is required by federal law, give the citation and a description of the federal law:**

Not applicable. None of the proposed changes to the existing regulations are required by federal law.

7. **If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions:**

Not applicable. There is no federal regulation impacted by the proposed changes in the existing regulations.

8. **Whether the proposed regulation establishes a new fee or increases an existing fee:**

Not applicable. No fees are involved in the proposed changes to the existing regulations.

Persons wishing to comment upon the proposed action of the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form to the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers c/o Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 50 West Liberty Street, Suite 950, Reno, NV 89501. Written submissions must be received by the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers on or before December 4, 2018. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers 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, and the State Library and Archives Administrator for inspection by members of the public during business hours. Additional copies of this notice and regulations to be Adopted, Amended or Repealed will be available at: Division of Industrial Relations, 3360 W. Sahara Avenue, Suite 250, Executive Video Conference Room, Las Vegas, NV 89102, Division of Industrial Relations, 400 West King

Street, Suite 400, Carson City, Nevada 89703, Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502 and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours.

Furthermore, a copy of this notice and a copy of the proposed regulations to be Adopted, Amended or Repealed, are available from the website of the Nevada Department of Industrial Relations at Division of Industrial Relations Website: <http://dirweb.state.nv.us/wcs/wcs.htm>.

Finally, this notice and the text of the proposed regulations are also 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 regulations will also be mailed to members of the public upon request. A copy of each may be obtained by contacting Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 50 West Liberty Street, Suite 950, Reno, Nevada 89509, or calling (775) 323-5700. A reasonable fee may be charged for copies if it is deemed necessary.

Upon adoption of any regulations, the Board if requested to do so by an interested person, either before adoption or within 30 days thereafter, will 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.

Notice of hearing and this Notice of Intent to Act Upon a Regulation have been posted at the following locations:

Division of Industrial Relations, 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada, 89703

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502

Nevada Business Center, 3300 W. Sahara Ave., Suite 425, Las Vegas, Nevada, 89502

This Notice of Intent to Act Upon a Regulation has been posted at the following Nevada County Public Libraries locations:

This notice of hearing has been posted at the following Nevada County Public Libraries locations:

Carson City Library
900 North Roop Street
Carson City, Nevada 89701-3101

Lincoln County Library
63 Main Street
Pioche, Nevada 89043

Churchill County Library
553 South Main Street
Fallon, Nevada 89406-3306

Lyon County Library System
20 Nevin Way
Yerington, Nevada 89447-2399

Las Vegas-Clark County Library District
Headquarters - Windmill Library
7060 W. Windmill Lane
Las Vegas, Nevada 89113

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

Douglas County Public Library
1625 Library Lane
Minden, Nevada 89423-0337

Pershing County Library
1125 Central Avenue
Lovelock, Nevada 89419

Elko County Library
720 Court Street
Elko, Nevada 89801-3397

Storey County Public Library
c/o Storey County Treasurer and Clerk's
Office
Drawer D
Virginia City, Nevada 89440

Esmeralda County Library
Corner of Crook & 4th Street
P.O. Box 430
Goldfield, Nevada 89013-0430

Tonopah Public Library (Nye County)
P.O. Box 449
Tonopah, Nevada 89049

Eureka County Library
10190 Monroe Street
Eureka, Nevada 89316

Washoe County Library System
301 South Center Street
Reno, Nevada 89501-2102

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445-3095

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Battle Mountain Branch Library (Lander
County)
625 South Broad Street
Battle Mountain, Nevada 89820

The Notice has also been posted at the following web site addresses:

State of Nevada, Department of Business and Industry, Industrial Relations (DIR), Workers' Compensation Section website at <http://dir.nv.gov/WCS/Hearings/>

Nevada Public Notices at <https://notice.nv.gov/>

Legislative Counsel Bureau at <https://www.leg.state.nv.us/App/Notice/A/>

An electronic copy of this notice has been sent to the following:

Legislative Counsel Bureau at ahartzler@lcb.state.nv.us

In addition, a copy of this Notice of Intent to Act Upon a Regulation has been mailed to all persons who have requested in writing that they be informed of proposed regulations. Also, one copy of this notice and the text of the proposed regulations has been deposited with the State Library and Archives Administrator. Finally an electronic copy of this notice has been provided the Legislative Counsel Bureau for inclusion in the Register of Administrative Regulations.

Dated this 5th day of November, 2018.

 /s/Charles R. Zeh, Esq.
Charles R. Zeh, Esq.
Legal Counsel for the Board

CERTIFICATE OF SERVICE

I certify that I am an employee of the Law Offices of Charles R. Zeh, Esq., and that on this date I served the attached Notice of Intent to Act Upon a Regulations with the proposed regulations attached, on those parties identified below by:

X	Placing an original or true copy thereof in a sealed envelope, postage prepaid, placed for collection and mailing in the United States Mail, at Reno, Nevada:
	Robert Vogel ProGroup Management, Inc. 575 South Saliman Road Carson City, NV 89701
	Battle Mountain Branch Library (Lander County) 625 South Broad Street Battle Mountain, NV 89820
	Richard S. Staub Attorney at Law Post Office Box 392 Carson City, NV 89702
	Lyon County Library System 20 Nevin Way Yerington, NV 89447-2399
	Carson City Library 900 North Roop Street Carson City, NV
White Pine County Library 950 Campton Street Ely, NV 89301	
Mineral County Library Post Office Box 1390 Hawthorne, NV 89415	
Eureka County Library 10190 Monroe Street Eureka, NV 89316	
Robert Balkenbush, Esq. Thorndal, Armstrong, Delk, Balkenbush & Sisinger 6590 S. McCarran Blvd., Ste B Reno, NV 89101	
Dalton Hooks, Esq. Hooks Meng Schaan Clement, PLLC 2820 West Charleston Blvd., Ste C-23 Las Vegas, NV 89102	
X	Telephonic Facsimile at the following numbers: 775.847.0921: Storey County Community Library, Virginia City 775.623.6438: Humbolt County Library, Winnemucca 775.273.0421: Pershing County Library, Lovelock 775.738.8262: Elko Library
X	By e-mail at the following addresses: jcrobins@clan.lib.nv.us: Lincoln County Library kemacdon@clan.lib.nv.us: Esmerelda County Library dfwargo@churchillcountylibrary.org: Churchill County Library dcpl-postings@douglas.lib.nv.us: Douglas County Library library-postinggroup@washoecounty.us Washoe County Library allisona@lvccld.org: Las Vegas-Clark County Library District Headquarters tonopahlibrary@hotmail.com: Tonopah Public Library jkintop@admin.nv.gov: State Library and Archives Administrator

Dated this 5th day of November, 2018.

/s/Karen Kennedy
Employee of The Law Offices of Charles R. Zeh, Esq.