

LCB File No. R208-99

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearings for the Adoption, Amendment or Repeal of Regulations
Of
The State of Nevada Contractors' Board

The State of Nevada Contractors' Board ("Board") will hold public hearings at 2:30 p.m. on Tuesday, March 7, 1999, at the Board's Las Vegas office. The purpose of the hearings 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.

Pursuant NRS 338, upon proper application, the Board must issue a Certificate of Eligibility to licensed general contractors who qualify for a preference in bidding on certain public works projects in Nevada. Pursuant to this statutory requirement, these proposed regulations are necessary to implement the Certificate of Eligibility approval process required under NRS 338.

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 Either the terms or the substance of the regulations to be adopted amended or repealed or a description of the subjects and issues involved.

A copy of the proposed regulations may be obtained by contacting either of the Board's offices.

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.

There will be no adverse effect on businesses if the proposed regulations are adopted, as the regulations are a fair and equitable method of assessing applicants.

(b) Both immediate and long-term effects.

Once issued, the Certificates of Eligibility should simplify and expedite processing of bids on public works projects. Because qualification for issuance of Certificates of Eligibility must be demonstrated on each renewal date, tighter control on eligibility for bidders preference should be achieved in the future.

4. the estimated cost to the Agency for enforcement of the proposed regulation.

Adoption of the proposed regulation will not result in any significant additional cost to the Agency for enforcement.

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.

This proposed regulation does not overlap or duplicate any regulations of other state or local governmental agencies.

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.

Yes. However, the regulations only impose a fee on general contractors who choose to apply for a certificate. It is not a mandatory assessment.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing(s) or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 4220 South Maryland Parkway, Building D, Suite 800, Las Vegas, Nevada 89119 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. Written submissions must be received by the Board on or before the day before the hearing(s). 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, 4220 South Maryland Parkway, Building D, Suite 800, Las Vegas, Nevada 89119 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. In all counties in which an office of the Board is not maintained, a copy of this notice and 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 Las Vegas

Dated: 2/7/00

NOTICE OF INTENT TO ACT UPON A REGULATION

Notice of Hearings for the Adoption, Amendment or Repeal of Regulations
Of
The State of Nevada Contractors' Board

The State of Nevada Contractors' Board ("Board") will hold public hearings at 10:00 a.m. on Thursday, December 30, 1999, at the Board's Las Vegas office. The purpose of the hearings 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.

Pursuant to SB 437, upon proper application, the Board must issue a Certificate of Eligibility to licensed contractors who qualify for a preference in bidding on public works projects in Nevada. Pursuant to this statutory requirement, these proposed regulations are necessary to implement Certificate of Eligibility approval process required under SB 437.

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.

A copy of the proposed regulation may be obtained by contacting either of the Board's offices.

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 law already provides for granting a preference in bidding to those contractors who demonstrate that they have paid the required sales, use, and motor vehicle taxes imposed pursuant to chapters 371, 372, 374, and 377 of NRS for each consecutive 12-month period for 60 months immediately preceding the submission of the contractor's bid. NRS 338. The changes in the law provide a clerical mechanism to determine eligibility.

Pursuant to SB 437, the Board will process applications with the required documentation to determine which contractors are qualified under NRS 338 to receive a bidders preference on public works projects. If the appropriate documentation, the Board will issue Certificates of Eligibility, which may be relied upon by the agencies administering the respective public works projects. The public body will still handle challenges to the validity of the certificates.

The benefit will be a uniformity in processing, which will lessen the burden on public bodies.

(b) Both immediate and long-term effects.

Once issued, the Certificates of Eligibility should simplify and expedite processing of bids on public works projects. Because qualification for issuance of Certificates of Eligibility must be demonstrated on each renewal date, it is hoped that a tighter control on eligibility for bidders preference should be achieved in the future.

4. The estimated cost to the Agency for enforcement of the proposed regulation.

SB 437 provides that the Board may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works. The Board is still studying the amount of the necessary fee. The Board anticipates that the proposed fee will be established by the time of the hearings on these regulations and will be submitted thereafter for review with the final form of these regulations. This fee will be based on the estimated time necessary to review the applications and affidavits and any necessary activity confirming the validity of the supporting affidavits.

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.

This proposed regulation does not overlap or duplicate any regulations of other state or local governmental agencies.

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 establishes a new fee and further provides for an additional fee for expedited processing in appropriate cases. The board anticipates that the proposed fee will be established by the time of the hearings on these regulations and will be submitted thereafter for review with the final form of these regulations. This fee will be based on the estimated time necessary to review the applications and affidavits and any necessary activity confirming the validity of the supporting affidavits.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing(s) or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 4220 South Maryland Parkway,

Building D, Suite 800, Las Vegas, Nevada 89119 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. Written submissions must be received by the board on or before the day before the hearing(s). 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, 4220 South Maryland Parkway, Building D, Suite 800, Las Vegas, Nevada 89119 and 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. In all counties in which an office of the Board is not maintained, a copy of this notice and 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:

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Sawyer State Building
Clark County Library
Offices of the State Contractors' Board in Reno and Las Vegas

Dated: 12-1-99

PROPOSED REGULATION OF THE NEVADA STATE CONTRACTORS BOARD

December 6, 1999

Explanation: Matter in *italics* is new; matter in brackets is material to be eliminated.

AUTHORITY: NRS 624.100, 624.160, AND NRS 338.1389

Sec. 1 Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 1-17, inclusive, of this regulation.

Sec. 2. All general contractors requesting a Certificate of Eligibility for bidding on Public Works projects in the State of Nevada in compliance with NRS 338.147 must submit an application to the Nevada State Contractors' Board ("board") requesting the issuance of a Certificate of Eligibility. The applicant must be a licensed general contractor who is licensed as a General Engineering Contractor or General Building Contractor under NRS 624 at the time of submission.

Sec. 3. As used in this section, unless the context requires, or they are otherwise defined in this section, the terms defined in NRS 338 used herein shall have the meaning ascribed to them in NRS 338.

Sec. 4. "Issue a Certificate," means the creation of a certificate and notification of the General Contractor identified in the certificate of the contents of the certificate.

Sec. 5. "Cancel a Certificate," means to make a certificate ineffective from the date of cancellation forward.

Sec. 6. "Certificate of Eligibility" means a certificate issued by the State Contractors Board verifying that the board has received from a licensed general contractor, on forms prescribed by the board, a statement of compliance with NRS 338.147 and the Affidavit of Certified Public Accountant as Proof of Compliance with the provisions of NRS 338.147.

Sec. 7. An application shall be submitted for each license classification held by the Licensee for whom a certificate of Eligibility is requested, and shall be:

(a) Made on a form prescribed by the board and be submitted with any documentation required by the board and the required fee. The application shall include the name, mailing and physical address, and telephone number of the applicant; the name and service address of the registered or authorized agent for service of process on the applicant; the names of all of the officers of the applicant, identifying information, and such other information as the board may require, and be signed by the applicant or authorized agent.

(b) The application must be accompanied by notarized affidavits, on forms prescribed by the board, from the Licensee and a certified public accountant, certifying under penalty of

perjury that the Licensee is qualified for the bid preference set forth in NRS 338.147. The certification by the certified public accountant shall be made with ample opportunity to reflect after being apprised of all material facts.

(c) The certified public accountant must perform the following procedures in substantiating the elements of required sales, use, and motor vehicle privilege tax payments in accordance with Statement on Auditing Standards 75.

(1) Review all State of Nevada sales and use, and motor vehicle privilege tax returns for each consecutive 12-month period for 60 months immediately preceding the submission of a new application. The review is to determine that the applicant has paid the sales and use taxes imposed pursuant to Chapters 372, 374 and 377 of the NRS, on materials for construction in the state of Nevada, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this state that is managed by the Federal Government or is on an Indian reservation or Indian colony and the motor vehicle privilege tax imposed pursuant to Chapter 371 of NRS on vehicles used in the operation of the contractor's business in this state, of not less than \$5000 for each 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or any combination of such sales and use taxes and motor vehicle privilege tax.

(2) Review all necessary banking records, including bank statements, cancelled checks, electronic transfers, cash disbursement records, and any other records deemed appropriate, in order to substantiate the payment of the required sales, use and motor vehicle privilege taxes referred to above. The Certificate of Eligibility will expire on the anniversary date of the contractor's license, and a new application with current affidavits must be filed with the annual renewal of the license, accompanied by a fee established by the board.

Sec. 8. The Certificate of Eligibility will be issued by the board no sooner than 30 days after it is received. The board will not issue a certificate until it has received the application supporting documentation and fee required by this section.

Sec. 9. The Certificate of Eligibility will include the date issued, the date it will expire unless renewed; and such disclaimers or limitations of losses which might be asserted against the board for issuance of the certificate as the board may include.

Sec. 10. A contractor who has previously received a Certificate of Eligibility from the board pursuant to NRS 338.147, shall, at the time of the annual renewal of the contractor's license, submit to the board a notarized affidavit from a certified public accountant, on a form prescribed by the board, substantiating that the contractor has, during the immediate preceding 12 months, paid the sales, use and motor vehicle privilege taxes imposed pursuant to chapters 371, 372, 374 and 377 of NRS. The board will, upon approval of the application, issue a new Certificate of Eligibility, which will be valid until the next license renewal date, while the license is active and in good standing with the board.

Sec. 11. A license which is placed on inactive, surrendered, expired or cancelled status, will result in the Certificate of Eligibility being immediately cancelled and will require a new application for a Certificate of Eligibility to be submitted to the board.

Sec. 12. If a contractor who applies to the board for a Certificate of Eligibility submits false or misleading information, or an application which is incomplete, or if the applicant is in non-compliance with this section, NRS 624, NRS 338, or other sections of NAC 624, the application may be denied, or if previously issued, the board may cancel the contractor's Certificate of Eligibility or take such other actions as are appropriate. In carrying out this section, the board may rely on records received in the board's office and is not obligated to conduct any investigation or other inquiry regarding information contained in those records.

Sec. 13. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venture, all of the joint ventures must separately meet the requirements of NRS 338.147 to qualify for Certificates of Eligibility from the board. Each member of the joint venture must also comply with the licensing requirements of NRS 624.

Sec. 14. The provisions of NRS 338.147(2) do not apply to any contract for a public work, which is expected to cost less than \$250,000.

Sec. 15. A person or entity who believes that a contractor wrongfully holds a Certificate of Eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid or proposal on a contract for the completion of a public work. A written objection pursuant to this section must:

(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a Certificate of Eligibility to receive a preference in bidding on public works; and

(b) Be filed with the public body at or after the time at which the contractor submitted the bid or proposal to the public body and before the time the public body awards the contract for which the bid or proposal was submitted.

(c) If a public body receives a written objection pursuant to this chapter, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to this section.

(d) If a complaint is filed with the public body, the board will, upon request by the public body, provide copies of the sworn affidavits and application on file with the board.

(e) If the public body determines that the objection is valid, the public body must notify the board in writing within 30 days of their findings and determination. The board will, upon receipt of the written documentation from the public body, immediately administratively cancel the Certificate of Eligibility for the Licensee. No formal Disciplinary Hearing is required

before cancellation of the Certificate of Eligibility based upon receipt of the documentation from the public body which received or awarded the bid or contract.

(f) All appeals regarding the revocation of the Certificate of Eligibility shall be heard before the public body that received or awarded the bid or contract.

Sec. 16. If any provisions contained in this section are in conflict with any provisions of NRS 338, then the language in NRS 338 controls.

Sec. 17. NAC 624.130 is hereby amended by adding thereto the provision set forth below:

*To issue or renew a Certificate of Eligibility for Bidders
Preference700
To issue a duplicate Certificate of Eligibility for Bidders
Preference.....50*

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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.

AB 633 provides that the Board shall adopt regulations prescribing the procedures for making application for an inactive contractors license and for reactivating the license.

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.

A copy of the proposed regulation may be obtained by contacting either of the Board's offices.

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

This regulation sets a fee for the processing of applications for an inactive license.

(a) Adverse and beneficial effects.

Will provide a simple description of the procedure for obtaining an inactive license.

(b) Both immediate and long-term effects.

Establishes the procedures and fee for processing of applications for inactive licenses.

4. The estimated cost to the Agency for enforcement of the proposed regulation.

Approximately the fee proposed.

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.

Does not apply.

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.

Regulation establishes a new fee which is necessary for processing, including imputing changes in status onto the Boards records.

Persons wishing to comment upon the proposed action of the Board may appear at the scheduled public hearing(s) or may address their comments, data, views or arguments, in written form to the Executive Officer of the Nevada State Contractors' Board, 4220 South Maryland Parkway, Building D, Suite 800, Las Vegas, Nevada 89119 or in Reno at 9670 Gateway Drive, Suite 100, Reno, Nevada 89511. Written submissions must be received by the board on or before the day before the hearing(s). 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.

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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:

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Offices of the State Contractors' Board in Reno and Las Vegas

Dated: 12-1-99

PROPOSED REGULATIONS - ASSEMBLY BILL 633

INACTIVE LICENSE STATUS

AMEND NAC CHAPTER 624 BY ADDING A NEW SECTION TO READ AS FOLLOWS:

NAC 624.____ Inactive license status; conditions for reactivation

A licensee who hold an active license in good standing may apply for inactive licensure status. The application must be on a form prescribed by the board and accompanied by the current license certificate and pocket card.

An inactive license may be renewed on the established renewal date by submitting the renewal application for an inactive license and paying the applicable fee. Failure to renew an inactive license will cause the license to expire.

A license which is not reactivated within 5 years from the date the inactive status is granted will be automatically cancelled.

A licensee who holds an application on a form prescribed by the board; paying the applicable fees and assessments; and fulfilling all other requirements for an active licensee.

AMEND NAC CHAPTER 624.130 AS FOLLOWS:

To renew an inactive license.....150

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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.

AB 634 provides that the Board may require an applicant for a contractors license or any officer, director, partner or associate of the applicant to submit completed fingerprint cards and an executed form authorizing investigation of the applicant's background. These regulations establish processing procedures and the fee required.

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.

A copy of the proposed rule may be obtained by contacting either of the Board's offices.

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

Except for the additional cost required by the Nevada Highway Patrol to process the cards, none.

(a) Adverse and beneficial effects.

Will facilitate more complete background checks of criminal histories when necessary.

(b) Both immediate and long-term effects.

Establishes the procedures and fee for processing of criminal history background checks.

4. The estimated cost to the Agency for enforcement of the proposed regulation. None.

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.

Does not apply.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

Does not apply.

PROPOSED REGULATION - ASSEMBLY BILL 634

AMEND NAC CHAPTER 624 BY ADDING A NEW SECTION TO READ AS FOLLOWS:

NAC 624.____Fingerprinting of applicants and fees

Upon request of the board, an applicant for a contractors license and any officer, director, partner or associate of the applicant, or person listed on the application, or to be listed on the license must:

1. Submit on a form prescribed by the board a complete set of fingerprints and a form authorizing an investigation of the person's background, for the purpose of conducting a criminal history background investigation through a search of the fingerprint criminal history records.
2. An agent of the board or an agency of law enforcement, using the form provided by the board, may take the person's fingerprints.
3. The fingerprint cards must be accompanied a cashier's check made payable to the Nevada Highway Patrol (NHP) for the processing fee as required by the NHP.