

STATE OF NEVADA
Subsequent Injury Account
for the Associations of Self-Insured Public or Private Employers

NOTICE OF MEETING
(Public Workshop)

The Board for the Administration of the Subsequent Injury Account for the Associations of Self-Insured Public or Private Employers, will hold a public workshop on **May 21, 2015, at 9:00 a.m.**, at the following locations by Video Conference:

Division of Industrial Relations
Department of Business and Industry
1301 North Green Valley Parkway
OSHA Video Conference Room
First Floor
Henderson, NV 89074

Division of Industrial Relations
Department of Business and Industry
400 West King Street, Suite 400
Conference Room
Carson City, NV 89703

Nevada Occupational Safety and Health Administration
4600 Kietzke Lane, Building F, Suite 153
Nevada OSHA Conference Room
Reno, NV 89502

AGENDA

- Notice:** (1) Items on the Agenda may be taken out of order; (2) the Board may combine two or more Agenda items for consideration; and (3) the Board may remove an item from the Agenda or delay discussion relating to an item on the Agenda at any time.
1. Roll Call.
 - ** 2. Public Comment. The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
 - * 3. Approval of Posting of Agenda. **For Possible Action.**
 - * 4. Approval of Agenda. **For Possible Action.**
 - * 5. Workshop to Discuss Proposed Regulations, Take Public Comment, Consider Recommendations from the Public, Give Direction to Legal Counsel for the Board, and Take Any Other Appropriate Action Based upon the Contents of the Workshop. Discussion Will Include, but Is Not Limited To, the Following Subjects.

- Defining service of process; identification of persons to be served.
- Written records of knowledge requirement found at NRS 616B.578(4).
- Annuity purchases, whether and under what circumstances allowed.
- Declaratory or advisory opinions from the Board, a new addition to the regulations.
- Petitions to the Board to amend, repeal, modify or add regulations, a new addition to the regulations.
- Process for securing extensions of time and continuances.
- Methods of service of process including electronic means.
- Commutation of benefits, reimbursements, and approvals.
- Identification of AMA "Guides" to be applied under NRS 616B.578(3).
- Lump sum buy outs, whether and under what circumstances permissible and under what circumstances would reimbursement then be allowed.
- Modification and simplification of hearing procedures to correspond with the process used by the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers.
- Procedures for the conduct of the hearing in contested cases.
- Procedures for appealing to the Board and beyond, the disposition of an application for reimbursement.
- Delineation and use of "written records."
- Any other issue raised by the general public. **For Possible Action.**

6. Additional Items:

- ** a. General Matters of Concern to Board Members Regarding Matters Not Appearing on the Agenda.
- ** b. Old and New business.
- * c. Schedule of next Meeting. The following dates have been scheduled in advance but are subject to change at any time: June 18, 2015, July 16, 2015, August 13, 2015, September 17, 2015, October 15, 2015, November 12, 2015, and December 17, 2015. **For Possible Action.**

7. Public Comment. The opportunity for public comment is reserved for any matter within the jurisdiction of the Board. No action on such an item can be taken by the Board unless and until the matter has been agendaized as an action item. Comment from the public is limited to three minutes per person.

* 8. Adjournment. **For Possible Action.**

Single-asterisk items are matters upon which the Board may take possible action.

Double-asterisk items are matters upon which the Board may take no action until the matter itself has been specifically included on an agenda as an item upon which action may be taken.

Any person with a disability as defined by the Americans with Disabilities Act who requires special assistance to participate in the meeting may contact, at least two days prior to the meeting, Jacque Everhart at the Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada, 89074, or by calling (702) 486-9089 to arrange for reasonable accommodations.

This Notice has been sent to all persons on the Board's meeting list, an Electronic Copy has been sent to the Director, Legislative Counsel Bureau, and posted at the following locations and on the following websites:

Postings:

Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200,
Henderson, Nevada, 89074

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

Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada, 89101

Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada 89104

Websites:

State of Nevada Public Notices Website: <https://notice.nv.gov/>

Department of Business and Industry Website:
http://business.nv.gov/About/Meetings/2015/Meetings_and_Agendas/

Nevada Department of Business and Industry, Nevada Business of Industrial Relations's
Website: <http://dirweb.state.nv.us/wcs/wcs.htm>

Nevada Legislature's website: <https://leg.state.nv.us/App/Notice/A/>

E-mail:

Director, Legislative Counsel Bureau.

Nevada Libraries:

Nevada State Library, 100 North Stewart Street, Carson City, NV 89701

(Libraries) 775-847-0998/775-623-6438/775-273-0421/775-738-8262

(Libraries) jcrobins@clan.lib.nv.us; kemacdon@clan.lib.nv.us; dfwargo@clan.lib.nv.us;
kscott@douglas.lib.nv.us

Dated this 4th day of May, 2015.

By:



/s/ Charles R. Zeh, Esq.

Charles R. Zeh, Esq.
Counsel for the Board

**NOTICE OF PUBLIC WORKSHOP TO SOLICIT COMMENTS ON
PROPOSED REGULATIONS
LCB File No. Unassigned**

(THIS IS NOT A NOTICE OF INTENT TO ACT ON A REGULATION)

The Board for the Administration of the Subsequent Injury Account for the Associations of Self-insured Public or Private Employers, ("Board") will conduct a public workshop to amend Chapter 616B, Nevada Administrative Code, regarding the Subsequent Injury Account for the Associations of Self-insured Public or Private Employers.

The public workshop will be conducted at the following locations at the listed date and time:

THURSDAY, MAY 21, 2015, AT 9:00 A.M., BY VIDEO CONFERENCE

Division of Industrial Relations
Department of Business and Industry
1301 North Green Valley Parkway
OSHA Video Conference Room
First Floor
Henderson, NV 89074

Division of Industrial Relations
Department of Business and Industry
400 West King Street, Suite 400
Conference Room
Carson City, NV 89703

Nevada Occupational Safety and Health Administration
4600 Kietzke Lane, Building F, Suite 153
Nevada OSHA Conference Room
Reno, NV 89502

Pursuant to NRS 233B.608 and 233B.609, the Board is providing the following statement pertaining to the workshop on proposed changes to Chapter 616B, NAC.

The need and purpose of the proposed revisions to regulations: The Board's proposed additions and amendment to Chapter 616B, Nevada Administrative Code will, *inter-alia*, add provisions for declaratory relief from the Board, and the opportunity for the public to propose the repeal, modification or addition of regulations governing the disposition of matters before the Board, clarify the process by which requests for continuances of hearing are to be processed, clarify the procedure for conducting hearings before the Board, provide for the disposition of annuities and the handling of commutated payments, address the standards for considering written records, address the question of retention in employment in light of recent Nevada Supreme Court decisions and clarify "permanent physical impairment."

The estimated economic effect of the proposed regulations on regulated businesses and the public, stating adverse and beneficial effects:

Adverse: The Board believes that there will be no adverse effects that would negatively impact business. The Board also believes that there are no adverse effects anticipated that would negatively impact the general public.

Beneficial: The Board believes that additions and revisions of this regulation would benefit the Associations of Self-insured Public or Private Employers who apply for subsequent injury account reimbursement by more clearly defining the process and criteria used by the Board in determining eligibility for relief.

A copy of the draft regulations and the Small Business Impact Statement may be obtained at the workshop or downloaded from the Nevada Division of Industrial Relations, Workers Compensation Section's website: <http://dirweb.state.nv.us/WCS/wcs.htm>. Before the Public Workshop, persons may submit written comments to Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 575 Forest Street, Suite 200, Reno, NV 89509. E-mail address: crzeh@aol.com.

Any person with a disability as defined by the Americans with Disabilities Act who requires special assistance to participate in the meeting may contact, at least two days prior to the meeting, Jacque Everhart at the Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada, 89074, or by calling (702) 486-9089 to arrange for reasonable accommodations.

This Notice of Workshop to Solicit Comments on Proposed Regulations and a copy of the Small Business Impact Statement have been sent to all persons on the Board's meeting list, an Electronic Copy of both documents has been sent to the Director, Legislative Counsel Bureau, and posted at the following locations and on the following websites:

Postings:

Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200,
Henderson, Nevada, 89074

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

Grant Sawyer Building, 555 East Washington Avenue, Las Vegas, Nevada, 89101

Bradley Building, 2501 East Sahara Avenue, Las Vegas, Nevada 89104

Websites:

State of Nevada Public Notices Website: <https://notice.nv.gov/>

Department of Business and Industry Website:
http://business.nv.gov/About/Meetings/2015/Meetings_and_Agendas/

Nevada Department of Business and Industry, Nevada Business of Industrial Relations's
Website: <http://dirweb.state.nv.us/wcs/wcs.htm>

Nevada Legislature's website: <https://leg.state.nv.us/App/Notice/A/>

E-mail:

Director, Legislative Counsel Bureau.

Nevada Libraries:

Nevada State Library, 100 North Stewart Street, Carson City, NV 89701

(Libraries) 775-847-0998/775-623-6438/775-273-0421/775-738-8262

(Libraries) jcrobins@clan.lib.nv.us; kemacdon@clan.lib.nv.us; dfwargo@clan.lib.nv.us;
kscott@douglas.lib.nv.us

Dated this 4th day of May, 2015.

By:



/s/ Charles R. Zeh, Esq.

Charles R. Zeh, Esq.
Counsel for the Board

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INDUSTRIAL RELATIONS

THE BOARD FOR THE ADMINISTRATION OF THE SUBSEQUENT INJURY
ACCOUNT FOR THE ASSOCIATIONS
OF SELF-INSURED PUBLIC OR PRIVATE EMPLOYERS

SMALL BUSINESS IMPACT STATEMENT
AS REQUIRED BY NRS 233B.0608 AND 223B.0609
(FINDING OF NO ADVERSE IMPACT)
LCB FILE No. Unassigned

February 12, 2015

This Statement is submitted on behalf of the Board for the Administration of Subsequent Injury Account for the Associations of Self-insured Public or Private Employers (Board). *See*, NRS 616B.569 for the creation of the Board. *See*, NRS 616B.575, for the creation of the Subsequent Injury Account. The Board is proposing to amend its regulatory scheme set forth in NAC 616B, regarding the Associations of Self-insured Public or Private Employers.

Note: Small Business is defined as "a business conducted for profit which employs fewer than 150 full-time or part-time employees." (NRS 233B.0382).

1. Describe 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.

ANSWER: No comment was solicited from affected small businesses because the Board determined that there will be no adverse impact from the proposed changes to the regulations upon small businesses. Solicitation of comment from small businesses is only mandated if the Board determines that the proposed changes to the regulations would impose a direct and significant economic burden upon a small business or would directly restrict the formation, operation or expansion of a small business. *See*, NRS 233B.0608(1) and (2).

As explained, below, the proposed changes will streamline, simplify and clarify the process by which claims are administered by the Board. After reasoned and serious consideration where the Board evaluated the purpose and scope of the proposed regulatory changes in conjunction with the existing regulations, the Board reached the conclusion that small businesses as well as all other employers who appear before the Board will benefit from the proposed regulatory changes.

2. The manner in which the analysis was conducted.

ANSWER: As noted in Answer 1, the Board has concluded that the proposed regulatory changes will not have a direct and significant economic burden upon a small business or would directly restrict the formation, operation or expansion of a small business. *See*, NRS 233B.0608(1) and (2). This conclusion was reached because the proposed amendments to the Board's Regulations will, *inter-alia*, add provisions for declaratory relief from the Board and the opportunity for the public to propose the repeal, modification or addition of regulations governing the disposition of matters before the Board, clarify the process by which requests for continuances of hearing are to be processed, clarify the procedure for conducting hearings before the Board, provide for the disposition of annuities and the handling of commuted payments, address the standards for considering written records, address the question of retention in employment in light of recent Nevada Supreme Court decisions and clarify "permanent physical impairment."

To reach the Board's conclusion of no adverse impact, the Board drew upon the experience and expertise of the Board members, themselves. They are risk management persons, with broad and long-term experience in the assessment of workers compensation claims. They are appointed to the Board by the Governor and have had considerable experience, also deciding claims as Board members. The Board considered recent case law when deciding whether to adopt changes to the regulatory scheme, reviewed in great detail the existing regulatory scheme, and also considered how the existing regulatory scheme could be changed to more readily dispose of the cases which have come before the Board. The Board, then, after drafting the proposed regulatory changes, took a step back and assessed the impact of the process for resolving claims, if the proposed regulatory changes were enacted. The result of this analysis was the recognition that the proposed regulatory changes would clarify, simplify and add to the regulatory framework provisions that were lacking but were mandated to be in place. Because all of these revisions inure to the benefit of applicants for reimbursement before the Board, the Board does not anticipate that adopting these regulations will have any adverse, negative economic effect, either immediate or long term on small businesses.

No fees are being added by these draft regulations, though the Board is adding that applicants have the option at their cost, of employing a court reporter to report upon and to secure a transcript of the hearing before the Board. As this is an expense incurred at the applicant's election, it is neither a fee, nor a source of revenue for the Board. It simply gives the applicant one more option for assessing a record of the proceedings before the Board.

Finally, these findings and determinations were reached by consensus of the Board after a public hearing. Upon a motion made by Emilia Hooks, seconded by Joyce Smith, the Board voted to affirm the findings and conclusions set out herein. The motion was adopted by a vote of 5, in favor and 0, against the motion, with a quorum of the Board being present to conduct this Board business, as reflected in the minutes of the meeting of the Board held on February 12, 2015.

3. The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

- (A) Both adverse and beneficial effects; and**
- (B) Both direct and indirect effects.**

ANSWER: The Board, as explained, does not anticipate that adopting these regulations will have any adverse, economic effect, either immediate or long term, direct or indirect, on small businesses.

4. Describe the methods that the agency considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the agency actually used any of those methods.

ANSWER: Because there will be no adverse impact on small businesses, there are no methods needed to reduce the impact the Board could have considered.

5. The estimated cost to the agency for enforcement of the proposed regulation.

ANSWER: There is no additional cost to the Board for enforcement of these regulations.

6. If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

ANSWER: The proposed regulatory changes do not provide for any new fee or increase any existing fee.

7. If the proposed regulation includes provisions which duplicate or are more stringent than federal, state, or local standards regulating the same activity, an explanation of why such duplicative or more stringent provisions are necessary.

ANSWER: The proposed regulatory changes do not include any provisions which duplicate or are more stringent than existing federal, state or local standards. The proposed regulatory changes amend existing regulations in compliance with existing Nevada law.

8. The reasons for the conclusions of the agency regarding the impact of a regulation on small businesses.

ANSWER: The Board complied with NRS 233B.0608 by considering the purpose and scope of the proposed and potential regulatory changes in conjunction with existing regulations and made a concerted effort to determine whether the proposed regulatory changes would impose a direct or significant economic burden upon small businesses, or directly restrict the formation,

operation, or expansion of a small business. *See also*, the response to Question 2, above. The Board determined that these proposed regulatory changes will have no adverse effect on small businesses.

I, Richard Iannone, Chairman of the Board for the Administration of the Subsequent Injury Account for the Associations of Self-insured Public or Private Employers, certify that, to the best of my knowledge or belief, the information contained in the statement was prepared properly and is accurate.

Dated this 19 day of March, 2015.

A handwritten signature in cursive script, appearing to read "Richard Iannone", is written over a horizontal line.