

## 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

Self-Insured Employers

The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers will hold a public hearing at 10:00 a.m., on the 20<sup>th</sup> day of August, 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.770, *et. seq.*, of the Nevada Administrative Code, a copy of which is attached hereto.

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.551(1) and 616B.557(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 **Either the terms or substance of the regulations to be adopted, amended or repealed, or a description of the subjects and issues involved.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 commutation 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; and
- (k) Consolidation of hearing procedure to simplify 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.*, 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 Self-Insured 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 Self-Insured Employers c/o Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 575 Forest Street, Suite 200, Reno, Nevada 89509. Written submissions must be received by the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers on or before August 16, 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 Self-Insured 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, 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 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., 575 Forest Street, Suite 200, 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:

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



**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:

|          |   |  |
|----------|---|--|
| <b>X</b> | 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<br>ProGroup Management, Inc.<br>575 South Saliman Road<br>Carson City, Nevada 89701<br><br>Richard S. Staub<br>Attorney at Law<br>Post Office Box 392<br>Carson City, NV 89702<br><br>White Pine County Library<br>950 Campton Street<br>Ely, NV 89301<br><br>Mineral County Library<br>Post Office Box 1390<br>Hawthorne, NV 89415  | Eureka County Library<br>10190 Monroe Street<br>Eureka, Nevada 89316<br><br>Battle Mountain Branch Library<br>(Lander County)<br>625 South Broad Street<br>Battle Mountain, Nevada 89820<br><br>Lincoln County Library<br>63 Main Street<br>Pioche, Nevada 89043<br><br>Lyon County Library System<br>20 Nevin Way<br>Yerington, Nevada 89447-2399 |
| <b>X</b> | Telephonic Facsimile at the following numbers:<br><br>775.847.0921: Storey County Community Library, Virginia City<br>775.623.6438: Humbolt County Library, Winnemucca<br>775.273.0421: Pershing County Library, Lovelock<br>775.738.8262: Elko Library   |  |
| <b>X</b> | By e-mail at the following addresses:<br><br>jcrobins@clan.lib.nv.us: Lincoln County Library<br>kemacdon@clan.lib.nv.us: Esmerelda County Library<br>dfwargo@churchillcountylibrary.org: Churchill County Library<br>dcpl-postings@douglas.lib.nv.us: Douglas County Library<br>library-postinggroup@washoecounty.us Washoe County Library<br>allisona@lvccld.org: Las Vegas-Clark County Library District Headquarters<br>tonopahlibrary@hotmail.com: Tonopah Public Library<br>jkintop@admin.nv.gov: State Library and Archives Administrator<br>posting@carsoncitylibrary.org: Carson City Library |  |

Dated this 17<sup>th</sup> day of July, 2018.

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