

NEVADA STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

NOTICE OF PUBLIC HEARING
INTENT TO ACT UPON REGULATIONS
December 10, 2018

Date: December 10, 2018
Time: 2:00 PM
Location: NVBPELS Reno Office
1755 E Plumb Lane, Suite 130
Reno, NV 89502
(775) 688-1231

AGENDA

Please note: The Nevada State Board of Professional Engineers and Land Surveyors may 1) take agenda items out of order, 2) combine two or more items for consideration, 3) remove an item from the agenda or delay discussion related to an item at any time. Reasonable efforts will be made to assist and accommodate individuals with disabilities who wish to attend the meeting. Please contact the Board office at (775) 688-1231 (board@boe.state.nv.us), in advance, so that arrangements can be made.

1. Open hearing for LCB file number R085-18 - Section 2 by Chair Bob LaRiviere.
2. Presentation, discussion and adoption of proposed changes to Nevada Administrative Code 625 as drafted by the Nevada Legislative Council Bureau, LCB file number R085-18 - Section 2
(For possible action)
 - a. NAC 625.545 adds professional liability insurance disclosure to contract requirements, if professional liability insurance is carried, disclosure of the limits of coverage provided by the policy.
3. Public comment. **(Discussion only)** Action may not be taken on any item brought up under public comment until scheduled on an agenda for action at a later meeting.
4. Close hearing for LCB file number R085-18 – Section 2.
5. Adjournment.

Supporting material for this meeting may be requested from Patty Mamola, PE, Executive Director at (775) 688-1231 (board@boe.state.nv.us) and is available at 1755 East Plumb Lane, Suite 135, Reno, NV 89502.

AFFIDAVIT OF POSTING

The undersigned affirms that in accordance with NRS 241.020, this public notice and agenda was posted on or before 9:00 AM on November 10, 2018, at the Nevada State Board of Professional Engineers and Land Surveyors office at 1755 East Plumb Lane, Suite 130, Reno, NV 89502, on the Nevada State Board of Professional Engineers and Land Surveyors website, <http://www.nvbpels.org/>, and the State of Nevada's Public Notice website, <http://notice.nv.gov>.

SIGNATURE

Name: Louisa Kern

Title: Secretary

Date and Time of Posting: _____

Also, in accordance with NRS 241.020, this public notice and agenda was posted on or before 9:00 AM on November 10, 2018, at the following locations:

City of Reno, Engineering Division
1 E First Street, 2nd Floor
Reno, NV 89501

City of Sparks, Building & Safety
City Hall, 431 Prater Way
Sparks, NV 89431

Clark County Depart of Building & Fire Prevention
4701 W Russell Road
Las Vegas, NV 89118

Elko County Recorder
571 Idaho Street
Elko, NV 89801

City of Las Vegas, Development Services Center
333 N Rancho Drive
Las Vegas, NV 89106

NOTICE OF INTENT TO ACT UPON REGULATIONS

Notice of Hearing for the Adoption of Regulations of the Nevada State Board of Engineers and Professional Engineers

LCB File No R085-18 – Section 2

The Nevada State Board of Engineers and Professional Engineers will conduct a public hearing at **2:00pm; Monday December 10, 2018 at the NVBPELS Office, 1755 E Plumb Lane, Suite 130, Reno, NV 89502**. The purpose of the hearing is to receive comments from all interested persons regarding the adoption of regulations that pertain to Chapter 625 of the Nevada Administrative Code.

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

Information Regarding Adoption

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either prior to 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 adoption.

1. Need and Purpose of the Proposed Regulations

The following regulations are necessary to provide clarity to existing regulations and add measures to enhance public health, safety and welfare.

Section 2 of the proposed regulation relates to contracts. The change would require a professional engineer or professional land surveyor, who enters into a contract with a client to include a disclosure as to whether the engineer or land surveyor maintains a professional liability insurance policy, and if so, the limits of coverage provided by the policy.

2. Terms of the Proposed Regulations

The proposed regulation relates to revising provisions relating to written contracts entered into and between licensed professional engineers and/or professional land surveyors and clients.

3. Estimated Economic Effect

a. Adverse effects:

The proposed amendment relating to contracts in Section 2 of this regulation requires a disclosure regarding professional liability coverage, not mandating coverage. The minor

impact of adjusting contractual text is accepted. The adjustment period would be immediate and would not continue into the longer term.

b. Beneficial effects:

Adding a requirement to the level of disclosure in contracting enables a more informed decision before executing a binding agreement. The benefit would start immediately and continue.

4. Estimated Cost to the Agency

It is estimated that there would be no additional cost to the agency.

5. Duplication with other Agencies

No duplication with other agencies.

6. Federal Law

The proposed amendments are not federal requirements.

7. Federal Regulation

There are no federal regulations associated with professional engineers and land surveyors. However every state and US territory regulates the professions of engineering and land surveying.

Comments and Written Submissions

Persons wishing to comment on the proposed action of the Nevada State Board of Engineers and Professional Engineers may appear at the scheduled public hearings or may address their comments, data, views, or arguments in written form to:

Nevada State Board of Professional Engineers and Land Surveyors
1755 E Plumb Lane, Suite 135
Reno, NV 89502

Written submissions must be received by the Board no later than **Monday, December 10, 2018**. 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.

Copies of Proposed Regulation

A copy of this notice and the proposed regulation 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 notice and the proposed regulation are available on the Board's website at <https://nvbpels.org/> and at the Board's office:

Nevada State Board of Professional Engineers and Land Surveyors
1755 E Plumb Lane, Suite 135
Reno, NV 89502

The text of each regulation will include the entire text of any section of the Nevada Revised Statutes, which is proposed for amendment or repeal. This notice and the text of the proposed regulation 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:

<https://www.leg.state.nv.us/Register/2018Register/R085-18P.pdf>

Copies will 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 agency, 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.

This notice of hearing has been posted at the following locations:

City of Reno, Engineering Division
1 E First Street, 2nd Floor
Reno, NV 89501

City of Sparks, Building & Safety
City Hall, 431 Prater Way
Sparks, NV 89431

Clark County Depart of Building & Fire Prevention
4701 W Russell Road
Las Vegas, NV 89118

Elko County Recorder
571 Idaho Street
Elko, NV 89801

City of Las Vegas, Development Services Center
333 N Rancho Drive
Las Vegas, NV 89106

Copies of this notice of hearing, hearing agenda, and proposed regulations may also be obtained from any of the public libraries listed below:

Churchill County Library, 553 South Main Street, Fallon, NV
Douglas County Library, 1625 Library Lane, Minden, NV
Elko County Library, 720 Court Street, Elko, NV
Esmeralda County Library, Corner of Crook and Fourth Street, Goldfield, NV
Humboldt County Library, 85 East Fifth Street, Winnemucca, NV
Lander County Library, 625 South Broad Street, Battle Mountain, NV
Lincoln County Library, 63 Main Street, Pioche, NV
Lyon County Library, 20 Nevin Way, Yerington, NV
Mineral County Public Library, 110 First Street, Hawthorne, NV
Pershing County Library, 1125 Central Avenue, Lovelock, NV
Tonopah Public Library, 167 Central Street, Tonopah, NV
Washoe County Library, 301 South Central Street, Reno, NV
White Pine County Library, 950 Campton Street, Ely, NV

**PROPOSED REGULATION OF THE
STATE BOARD OF PROFESSIONAL
ENGINEERS AND LAND SURVEYORS**

LCB File No. R085-18

SECTION 2

July 5, 2018

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

AUTHORITY: §1, NRS 625.140 and 625.175; §§2 and 4, NRS 625.140; §3, NRS 625.140 and 625.565.

A REGULATION relating to professions; revising provisions concerning structures and buildings that are required to be structurally designed by professional engineers licensed as structural engineers; revising provisions relating to written contracts entered into between licensed professional engineers or professional land surveyors and clients; revising provisions relating to stamps, seals and signatures of professional engineers or professional land surveyors; revising provisions relating to advertising for or offering to perform land surveying or engineering in a discipline of professional engineering; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the State Board of Professional Engineers and Land Surveyors to adopt regulations necessary for the proper performance of the duties of the Board, the regulation of the proceedings before the Board and the maintenance of a high standard of integrity and dignity in professional engineering and land surveying. (NRS 625.140)

Existing regulations require: (1) a licensed professional engineer or professional land surveyor to enter into a written contract with each client for whom the professional engineer or professional land surveyor will perform work before performing any work; and (2) that the contract include certain provisions. (NAC 625.545) **Section 2** of this regulation provides that such a contract also must include a disclosure as to whether the licensed professional engineer or professional land surveyor currently maintains a policy of professional liability insurance and, if so, the limits of the coverage provided by the policy.

Sec. 2. NAC 625.545 is hereby amended to read as follows:

625.545 Before performing any work, a licensee shall enter into a written contract with each client for whom the licensee will perform work. The written contract must include, without limitation ~~{, provisions}~~:

1. Provisions specifying:

~~{1.}~~ *(a)* The scope of the work;

~~{2.}~~ *(b)* The cost for completion of the work; and

~~{3.}~~ *(c)* The anticipated date for completion of the work ~~{.}~~; *and*

2. A disclosure as to whether the licensee currently maintains a policy of professional liability insurance and, if so, the limits of the coverage provided by the policy of insurance.

Small Business Impact Statement for proposed amendments to NAC 625.545

Summary

The State Board of Professional Engineers and Land Surveyors have determined that the proposed amendments may have a minor negative financial impact on a small business. However these impacts are offset by the positive benefits to the public. The proposed regulations are not expected to negatively impact the formation, operation, or expansion of a small business in Nevada.

A small business in Nevada is defined in Nevada Revised Statute (NRS) 233B as a, “business conducted for profit which employs fewer than 150 full-time or part-time employees.”

This small business impact statement was created pursuant to NRS 233B.0608(3) and complies with the requirements of NRS 233B.0609. As required by NRS 233B.0608(3), this statement identifies the methods used by the agency in determining the impact of the proposed regulations on a small business and provides the reasons for the conclusions of the agency followed by certification by the agency’s responsible person.

Background

The proposed amendments to the regulation include the following –

The inclusion of the additional item is to give full information to the public prior to entering into a contractual agreement with a licensed professional.

1 – Manner in which comments were solicited, response summary, and explanation of how interested parties may obtain a copy of summary

Referencing the requirements of NRS 233B.0608, the Nevada Board of Professional Engineers and Land Surveyors requested input from owners and officers of professional engineering and land surveying small businesses via an e-mailed survey link. Feedback was also solicited from stakeholders in similar management and ownership positions in the partner industries of architecture and contracting/construction via notification and survey link through each of the respective state boards.

The survey asked for input on adverse/beneficial economic effects on small businesses, and indirect adverse/beneficial effects – with space to elaborate on responses.

A summary of the survey results is available for viewing on the Nevada Board of Professional Engineers and Land Surveyors website at <https://nvbpels.org/business-impact-survey-results>

2 – Manner in which the analysis was conducted

Survey results were initially reviewed for general comments to gauge if the intent of the proposed regulation changes were adequately conveyed. The general comments provided a basis for refining revisions to the proposed amendments prior to holding public workshops.

Survey analysis then focused on “YES” responses – in the direct economic effect and indirect adverse effect, and the associated comments and explanations to determine the individual concerns. The same was done with survey results for the direct and indirect beneficial impacts.

3 – Estimated economic impacts of the proposed regulation on small businesses

Potential economic impacts are associated with administrative costs that may result from adding language to existing contract templates disclosing professional liability insurance coverage if it is not already included in a business contract.

The proposed amendment is only requiring a disclosure regarding professional liability and not mandating coverage. Contract terms, as mentioned by the many respondents, are between the small business and the client, and details of any terms are to be negotiated between the two parties. The proposed amendment is about disclosure of information for decision making. The particulars of deciding on whether to include coverage for a particular project, and the coverage amounts, are at the discretion of the business and the client.

4 – Considerations were made to reduce impact of proposed regulation

Concerns on possible impacts to small businesses were taken into account during the drafting of the proposed amendment and that there may be an interpretation that the change is mandating the coverage of professional liability insurance – which it is not. The intent is to provide a full disclosure of information to the public/clients, and it is the prerogative of the two parties to negotiate the terms of the final contract.

5 – Cost estimate for agency enforcement

At this time there would be no additional cost to the regulatory board to enforce the proposed amendments. Any issues relating to compliance would be absorbed into the existing workload of the current staffing levels.

6 – New fees or increases in existing fees

The proposed amendments do not involve an increase to existing fees or create any new fees.

7 – Are any duplicative or more stringent provisions involved

There are no federal regulations associated with professional engineers and land surveyors. However every state and US territory regulates the professions of engineering and land surveying.

The addition of item (4) to NAC 625.545, disclosing whether a business has professional liability insurance, is more stringent than the current regulation, but with respect to allowing the public to have full information prior to making a contractual decision, in the considered opinion of the Nevada Board of Professional Engineers and Land Surveyors, best serves the public interest.

8 – Summary of conclusions

The proposed amendment is about providing complete information for the public. The terms of the contract are still at the discretion and the agreement of the small business and the client. The intent is to elevate the level of public protection by requiring the additional information be disclosed.

Certification by Person Responsible for the Agency

I, Patty Mamola, Executive Director of the Nevada State Board of Professional Engineers and Land Surveyors certify to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed amendments to the regulation on small businesses, and information contained in this statement was prepared properly and is accurate.

A handwritten signature in cursive script that reads "Patty Mamola". The signature is written in black ink and is positioned above the date.

April 17, 2018