

## INFORMATIONAL STATEMENT

### LCB File Number R006-24, relating to contracts

The following information is provided pursuant to the requirements of NRS 233B.066.

#### **A. Need and Purpose of the Proposed Regulations.**

The Nevada Board of Professional Engineers and Land Surveyors proposes an amendment to Nevada Administrative Code 625.545 to clarify language related to contract requirements.

The board believes the term “schedule” is more appropriate than “date of completion”. Often when a contract is drafted, determining a singular date of completion is not possible because of factors outside of a professional’s control i.e. review time periods by public entities. Providing a schedule is more helpful in managing client expectations than solely providing a project completion date.

A schedule based on a project scope could be as simple as providing a completion date or could include milestones and deliverable dates including statements related to receiving items needed from parties outside of the professional’s control. An example of simple language for a schedule could be, “three weeks after we receive X, we will deliver Y”.

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NAC 625.545 is amended to change “date of completion” to “schedule” and includes additional clarifying language.

#### **B. Description of How Public Comment was Solicited, Response Summary, and Explanation of How Interested Parties May Obtain a Copy of Summary.**

A Regular Board Meeting relating to the regulation changes was held in-person and virtually on September 21, 2023, and was noticed according to NRS 241.020. Public comment was received at the board meeting. The minutes of the regular board meeting are available to view at the Nevada Board of Professional Engineers and Land Surveyors website, <https://nvbpels.org/board/meetings>.

In accordance with the requirements of NRS 233B.061 public workshops were held on December 6, 2023. Notice was given in excess of 15 days for the workshops, and e-mails were sent to 19,200 addresses of interested parties notifying them of the workshops and with direct links to relevant documentation. Public comment was received at the workshops. The minutes of the workshops are available to view at the Nevada Board of Professional Engineers and Land Surveyors website, <https://nvbpels.org/board/meetings>.

A Public Hearing for Intent to Act Upon Regulations was held in-person and virtually on June 13, 2024. The hearing was noticed in excess of the 30-day public posting requirement, and e-mails were sent to 19,200 addresses of interested parties notifying them of the hearing and with direct links to relevant documentation. Public comment was received during the hearing.

A comment by Mr Brian Matthews stated he did not agree the text “time and sequence of each part of the work” was necessary for all contracts, rather he suggested a monetary threshold for the inclusion – and suggested stepped monetary levels with a description of inclusions at each level – with a minimum contract value of \$20,000 before schedule detail is required.

The board responded at the Adoption Hearing that the proposed text would best serve the public if required for all contracts, regardless of the dollar amount. The premise being to ensure communication between the professional and client on project delivery expectations.

Mr Dave Rowe submitted a comment on behalf of the Structural Engineering Association of Southern Nevada (SEASoN). He stated agreement of the changes of “date” to “schedule” and included “that indicates the time and sequence of each part of work” when contracting with the public but had concerns relating professional-to-professional contracts (between architects and engineers) with preset schedules. Mr Rowe’s recommendation was to add a statement of agreement to the proposed schedule for professional contracts.

The board responded at the Adoption Hearing that the regulation outlines a minimum requirement for public protection, whereas with commercial professional-to-professional contracts, the contract expectations and detail inclusions may well be more involved as needs be.

The minutes of the June 13, 2024, Intent to Act Upon Regulations are available to view at the Nevada Board of Professional Engineers and Land Surveyors website at <https://nvbpels.org/board/meetings>.

**C. The number of persons who:**

Attended each hearing—

December 6, 2023, Public Workshops were attended by 5 members of the public.

June 13, 2024, Public Hearing for Intent to Act Upon Regulations was attended by 26 members of the public.

Testified at each hearing—

December 6, 2023, Public Workshops. No members of the public testified at the workshops.

June 13, 2024, Intent to Act Upon Regulations Public Hearing. No members of the public testified.

Submitted written statements—

December 6, 2023, Public Workshops. No written statements were received.

June 13, 2024, Public Hearing for Intent to Act Upon Regulations. Two (2) written statements were received.

**D. For each person identified in subparagraphs (2) and (3) of paragraph (c), the following information if provided to the agency conducting the hearing - Name; Telephone number;**

**Business address; Business telephone number; Electronic mail address; and Name of entity or organization represented.**

<b>Name</b>	<b>Email or Business Address</b>	<b>Entity or Organization</b>
Brian Matthews, PE	<a href="mailto:bamatthews@yahoo.com">bamatthews@yahoo.com</a>	Self
Dave Rowe, SE	<a href="mailto:drowe@wrightengineers.com">drowe@wrightengineers.com</a>	Structural Engineers Association of Southern Nevada (SEASoN)

**E. A description of how comment was solicited from affected businesses, a summary of their response and an explanation of how other interested persons may obtain a copy of the 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 e-mailed survey link that was sent to 19,200 interested parties.

The surveys asked for input regarding both direct and indirect adverse and beneficial economic effects on small businesses, with space to elaborate on responses. A summary of the survey responses is available for viewing on the Nevada Board of Professional Engineers and Land Surveyors website <https://nvbpels.org/wp-content/uploads/2023/10/SBI-Survey-Results-October-2023-FINAL.pdf>.

**F. If the Regulation was Adopted Without Changing Any Part of the Proposed Regulation, a Summary of Reasons for Adopting it Without Change.**

**LCB file number R006-24, related to licensure and examinations.**

NAC 625.545 was adopted on June 13, 2024, as drafted by the LCB. During the public process there was two written comments that requested additional language be added to the proposed language. However, the board determined the proposed additional language could result in ambiguity and unnecessarily absolve the professional of responsibility in providing a schedule for the work. Therefore, the board declined to pursue further consideration of the proposed additional language.

**G. The estimated economic effect of the regulation on the business which it is to regulate and on the public. These must be stated separately, and in each case must include:**

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**NAC 625.545**

No adverse or beneficial economic effects were identified in the immediate or long-term.

**H. The estimated cost to the agency for enforcement of the proposed regulations.**

There is no additional cost to the agency.

**I. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The Nevada Board of Professional Engineers and Land Surveyors is not aware of any similar regulations of other state or government agencies that the proposed changes overlap or duplicate.

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

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

**K. If the 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.**

The proposed regulation amendment does not establish new fees or increase existing fees.