



WASHOE COUNTY

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CM/ACM	<u>KS</u>
Finance	<u>DN</u>
DA	<u>✓</u>
Risk Mgt.	<u>N/A</u>
Clerk	<u>CS</u>
Comptroller	<u>CH</u>

STAFF REPORT BOARD MEETING DATE: June 21, 2016

DATE: June 13, 2016

TO: Board of County Commissioners

FROM: Bob Webb, Planning Manager, Planning and Development Division
Community Services Department, 328-3623, bwebb@washoecounty.us

THROUGH: Kevin Schiller, Assistant County Manager
Manager's Office, 328-2016, kschiller@washoecounty.us

SUBJECT: Possible action to adopt the Business Impact Statement for the Regional License and Permit Platform with a finding, based on staff's recommendation, that the proposed NRS 354.790 Regional Technology Fee does not impose a direct and significant economic burden on a business; nor does the proposed fee directly restrict the formation, operation or expansion of a business; and, set the public hearing for possible adoption of the proposed Regional Technology Fee for June 28, 2016. The fee would apply to customers using the new online Regional License and Permit Platform being created for the purpose of expediting and enhancing access to the county's licensing and permitting processes, including business licenses and building permits. The proposed fee in any case would be a minimum of \$1 and otherwise would apply (1) to all business licenses at the time of license application and for each license renewal as follows: \$2.75 for annual licenses, \$2 for quarterly licenses; and (2) to all other permits including permit renewals (includes building, engineering, planning, and utility permits) as follows: 4% of the total permit cost to include permit renewal. (All Commission Districts.)

SUMMARY

Adoption of the Business Impact Statement for the Regional License and Permit Platform with a finding that the proposed Regional Technology Fee does not have a significant business impact. Set the public hearing for possible adoption of the proposed Regional Technology Fee for June 28, 2016.

Washoe County Strategic Objective supported by this item: Proactive Economic Development and Diversification.

PREVIOUS BOARD ACTION

The Board of County Commissioners (Board) heard a report from staff on March 25, 2014 concerning progress towards awarding the Regional License and Permits Platform contract to Accela, Inc. That report included a description of meetings held with the

Builder's Association of Northern Nevada, the Association of General Contractors, the Chamber, and all jurisdictions' business license customers on the proposed regional technology fee.

The Board approved an Interlocal Cooperative Agreement on June 17, 2014 establishing the Regional Business License and Permit Program among Washoe County, the City of Reno, the City of Sparks, and the Washoe County Health District. The Board further approved a contract with Accela, Inc. totaling \$1,580,074.66 for the Program (total project budget of \$1,667,444.32), and directed staff to return prior to project implementation with a regional technology fee to recover portions of the project's costs with the fee to only be implemented after go-live of the platform.

The Board approved a \$148,000 change order from the Regional License and Permit Platform Vendor, Accela, Inc., to extend the contract until the project's go-live date of August 22, 2016. The change order action included approving Washoe County's \$67,636 share of the total change order; authorizing the Comptroller's Office to bill the Cities of Reno and Sparks for their share of the total change order; authorizing the use of \$33,300 from the contract's approved contingency funds for platform payments in January and February of 2016; and, directing project management staff to execute the change order only after the City Councils of Reno and Sparks approved their respective shares of the total change order (both Councils approved their change order shares subsequent to the Board's action).

BACKGROUND

REGIONAL LICENSE AND PERMIT PLATFORM

The City of Reno, the City of Sparks, the Washoe County Health District, and Washoe County have been cooperatively seeking a new regional license and permit platform (program) since April of 2012. The regional team released a Request for Proposal (RFP) in late 2013. After going through a formal requirements and presentation process, the regional team selected Accela, Inc. as the preferred vendor for the platform in April of 2014. The Board approved the contract with Accela, Inc. on June 17, 2014.

The new regional license and permit platform will replace the current Permits Plus permit program for the City of Sparks, Washoe County, and the Health District; and, the current Permits Plus business license program for Washoe County. The new platform will also replace the current business license programs for the City of Reno and the City of Sparks. The advantages of the new regional license and permit platform to the business and development community are numerous. The most significant improvement is that the new system will allow for centralized shopping for anyone applying for licenses or permits, so that the applicant can apply and pay on-line for licenses and/or permits and not have to physically submit applications at any jurisdiction. Customers will still be able to submit license and/or permit applications in person at a jurisdiction; however, the on-line capacity should provide substantial time and cost savings for our customers. Customers will also have the ability to track the status of their applications on-line, and to submit electronic documents associated with their application.

The City of Reno, the City of Sparks, Washoe County and the Health District entered into an Interlocal Cooperative Agreement in June of 2014 to govern the new regional license and permit platform. The Agreement's scope covers such matters as program creation, fiscal management, term, functions, administration, responsibilities, annual operations and budgeting process, initial and on-going contributions, personnel participation, payments and financing, a process to add new jurisdictions, rights and obligations, and terminations. Washoe County is the program's fiscal manager, and provides project leadership and administrative support. The Agreement created an Oversight Committee consisting of the Reno City Manager, the Sparks City Manager, the County Manager, and the District Health Officer.

A Scope of Work was developed with Accela, Inc. to outline responsibilities of the vendor and each of the four jurisdictions. The Scope of Work also establishes work plans, documentation requirements, staff assignments, and other components critical to project completion. Project staffs from all four jurisdictions are responsible to perform the majority of the work and tasks to actually create the new program with Accela providing "best practice templates," program training, and subject matter expertise.

The Oversight Committee is briefed quarterly on the project timelines and status by the project staff. The Committee has met on September 2, 2014; December 2, 2014; March 3, 2015; June 2, 2015; September 1, 2015; December 1, 2015; January 21, 2016 (special meeting to discuss the proposed change order for Accela); March 1, 2016; and, June 7, 2016. During these meetings, the Committee has provided direction and guidance to staff on a variety of project issues, to include validation of the project's vision, direction on how customers will pay for permits through the on-line application ("shopping cart" concept), approval of the customer page for the on-line application, review of the change order approved by the Board on March 8, 2016, and continued review of the project's implementation time lines in the context of go-live critical events. The Committee has charged project staff to ensure that the platform's "go-live" date of August 22, 2016 balances elements critical for functionality with any other components which can be included after the system is operational.

REGIONAL TECHNOLOGY FEE

The primary goal of the proposed regional technology fee is to recover each jurisdiction's capital outlay costs for the platform over a five-year fee collection period. The capital outlay costs include one-time project implementation costs and a 5.5% project contingency component. The secondary goal of the proposed regional technology fee is to recover the required annual subscription costs. The subscription costs commenced on the date the contract was signed with Accela (June 17, 2014). The third goal of the proposed regional technology fee is to provide funds for future technology needs associated with the platform (e.g., future upgrades and technology improvements).

The five-year overall cost recovery period reflects a time frame used to calculate a reasonable fee schedule (i.e., recover the capital outlay costs spread over five years). The actual time frame to recover the capital outlay costs will depend upon the annual revenue raised by the regional technology fee. Project staff anticipates that the City of Reno may

recover its capital outlay costs sooner than the five-year time frame. Conversely, Washoe County may recover its capital outlay costs, and associated annual subscription fees, in six years and four months. Project staff recommends that Washoe County (and each participating jurisdiction) periodically evaluate the regional technology fee, extending the fee's period as required or reducing the fee as needed once capital outlay costs are recovered. Staff further recommends a reduced regional technology fee in the future be retained to meet goals two and three (recover annual subscription costs and provide future technology needs funds).

The Interlocal Cooperative Agreement includes a provision related to the regional technology fee (entities refer to the City of Reno, the City of Sparks, the Washoe County Health District, and Washoe County):

Section 12.2 A "regional technology fee" may be imposed by the initial ENTITIES upon their customers utilizing the PLATFORM for a minimum of one year, commencing upon go live of the PLATFORM. The "regional technology fee" shall be consistent among the ENTITIES and shall include the following: business permits – 4%; annual business license - \$4; quarterly business license - \$2.

Legal staff from all four jurisdictions agrees that the proposed regional technology fee qualifies as a fee which can be imposed under the provisions of NRS 354.790 (yellow highlight text added for emphasis):

NRS 354.790 Additional fee for providing service to customer in expeditious or convenient manner.

1. Except as otherwise provided by specific statute, a local government may charge, in addition to the fee otherwise imposed for a service provided by the local government, a reasonable fee for providing the service in an expedited manner or in a manner that is expeditious or convenient to the customer.
2. The fee authorized pursuant to subsection 1 must not exceed 5 percent of the fee otherwise imposed.
3. As used in this section, "local government" has the meaning ascribed to it in NRS 354.474.

The fee(s) "otherwise imposed for a service by the local government" (i.e., Washoe County) are the permit or license fees currently in place as approved by the Board either by ordinance or resolution. The proposed regional technology fee for Washoe County would be in addition to those fees and is broken down as follows:

1. For all business licenses at time of license application and for each license renewal:
 - a. \$2.75 for annual licenses; and,
 - b. \$2 for quarterly licenses (collected each calendar quarter).
2. 4% of the total permit cost for all other permits, to include permit renewal.
 - a. Includes building, engineering, planning, and utility permits.
 - b. Certain agency fees will not be totaled as part of the total permit cost.
 - c. Minimum regional technology fee is \$1, and the fee will be rounded to the nearest dollar.

During the writing of this staff report, staff discovered that the \$4 regional technology fee as outlined in the Interlocal Cooperative Agreement adopted by the Board in June of 2014 for annual business licenses exceeds the 5% fee cap imposed by NRS 354.790 for three of the County's existing business license fee categories:

- The current annual business license fee for the first year of operation (includes the license application fee) is \$75. 5% of \$75 is \$3.75, and a \$4 regional technology fee exceeds the 5% State Law cap for this fee.
- The current annual business license renewal fee for a business with reported annual gross receipts between \$25,001 and \$50,000 is \$65. 5% of \$65 is \$3.25, and a \$4 regional technology fee exceeds the 5% State Law cap for this fee.
- The current annual business license renewal fee for a business with reported annual gross receipts of less than \$25,000 is \$55. 5% of \$55 is \$2.75, and a \$4 regional technology fee exceeds the 5% State Law cap for this fee.

State Law does not allow the County, nor any other jurisdiction, to exceed the 5% cap for any fee imposed pursuant to NRS 354.790. Consequently, the regional technology fee for at least these three annual business license fees must be reduced. Staff recommends reducing the regional technology fee for annual business license fees from \$4 to \$2.75. This reduced regional technology fee will meet the 5% cap imposed by State Law. Also, staff recommends this flat fee for all annual business license fees to maintain the intent of the Interlocal Cooperative Agreement to provide a flat regional technology fee for all business license transactions.

Staff checked all other business license fees to ensure that the State mandated 5% cap was not exceeded.

- All other annual business license fees are more than \$75. The next annual business license renewal fee category is \$115. 5% of \$115 is \$5.75. The proposed regional technology fee of \$2.75 for annual business licenses is less than this amount.
- The smallest business license fee category for a quarterly license is \$50 for a package beer liquor license. 5% of \$50 is \$2.50. The proposed regional technology fee of \$2 for quarterly business licenses is less than this amount.
- All other permits will be charged a 4% regional technology fee. This amount is less than the 5% cap.

Of significant concern is the effect of this change on the recommendations and conclusions involved in this staff report. It is of particular importance that this discrepancy---between the fee amount chargeable under NRS 354.790's 5% cap and the originally contemplated \$4 across-the-board fee---has resulted in a downward adjustment of the fee planned to be imposed. For this reason, it is staff's opinion that the changes being made to the fee level do not result in a different conclusion being reached in connection with the analyses in this report that were done in regard to the original \$4 fee. In other words, it is still staff's position, as set forth more fully below in the recommendation and possible motion sections of this report, that the proposed fee still neither imposes a direct and significant economic burden on a business, nor directly restricts the formation, operation or expansion of a business. In fact, if anything, this

reduction lessens whatever impacts this fee may otherwise have had on businesses in the community.

Specific types of licenses and permits, and fees associated with those permits, will be either exempted or not included in the permit total cost when calculating the regional technology fee. The Washoe County Community Services Department (CSD) will determine the exempted licenses/permits and exempted permit fees (currently, only CSD licenses and permits are included in the platform at go-live). Some examples include:

- Gaming license fees, as these fees are established and controlled through NRS.
- Electric energy service license fees and telecommunication services license fees as these fees are authorized and established within NRS.
- Permit fees collected on behalf of a non-participating government agency. For example, fees collected on building permits for the Regional Transportation Commission or for the Tahoe Regional Planning Agency will be subtracted from the permit total prior to applying the regional technology fee calculation.

Based on input from trade associations and businesses (the customers of the regional license and permit platform), staff recommends that the proposed regional technology fee take effect when the platform “goes live” for use by citizens on August 22, 2016. The trade associations were very specific in requesting that the fee be charged when citizens have the ability to apply for licenses and permits on-line (a capability currently lacking with the County’s current license and permit program).

NRS 237.080 requires that before the Board adopts any rule, that the Board “make a concerted” effort to determine whether the proposed rule will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business. The proposed regional technology fee qualifies as a rule under NRS 237.060 as the fee will be “paid in whole or in substantial part by businesses”. NRS 237.080 requires the County to notify trade associations or owners and officers of businesses about the proposed rule and that they may submit data or arguments about whether the proposed rule will impose a direct and significant economic burden upon a business or directly restrict the formation, operation or expansion of a business.

Given the regional nature of the license and permit program, staffs from the City of Reno, the City of Sparks, the Washoe County Health District, and Washoe County collaborated to meet the requirements of NRS 237.080. Project staff prepared a legal ad (see Attachment A) and a notice (see Attachment B) for two public workshops held on June 30, 2015. Project staff mailed and e-mailed a total of 11,839 notices for the public workshops on June 1, 2015. Project staff also arranged for presentations on the proposed regional technology fee before The Chamber (June 9, 2015), the Association of General Contractors (June 18, 2015), and the Builders Association of Northern Nevada (June 23, 2015).

After gathering comments from the trade association meetings, the two public workshops, and from letters and e-mails in response to the notices, project staff prepared the Business Impact Statement (BIS) required by NRS 237.080(4). The BIS is included as Attachment C to this staff report.

Adoption of the BIS was initially scheduled to be heard by the Board in September of 2015. That date was delayed until January of 2016, and then delayed again until June 21, 2016 to bring the time frame for adoption of the regional technology fee closer to the project's go-live date of August 22, 2016. NRS 237.080 and related sections contain no time requirements between the time frame that comments are solicited and received on a BIS, and subsequent action to approve the BIS and/or adopt a fee. Less than a year has passed since the solicitation and receipt of comments for this BIS, so it reasonable to presume that an additional new solicitation/comment period would not provide any more information that has already been received. The trade associations originally notified in early June of 2015 were sent a letter by postal mail on May 16, 2016 and again on June 13, 2016 notifying them of the June 21, 2016 Board hearing to approve this BIS.

The BIS contains all of the information required by NRS 237.090, to include the information sheet provided at the meetings and workshops, and posted on-line. The BIS also includes a synopsis of comments received at the trade associations and the public workshops, and the letter mailed to the trade associations in May of 2016 concerning this meeting to review and adopt the BIS. Staff concludes that the proposed regional technology fee will not impose a significant economic burden on a business; and, will not restrict the formation, operation or expansion of a business (see section H in the BIS).

The City of Reno approved the regional technology fee as part of its FY 2015-2016 budget. Therefore, in accordance with State Law, the City does not need to adopt the BIS. The District Board of Health adopted the BIS on October 22, 2015 and subsequently adopted the regional technology fee on November 19, 2015.

The Sparks City Council will take action on the BIS and the regional technology fee in 2016. Attachment D is the latest information staff has on the different jurisdictional approaches to collecting the proposed regional technology fee.

FISCAL IMPACT

As noted earlier in the staff report, the proposed regional technology fee is calculated to recover the capital outlay implementation costs for the regional license and permit platform. The proposed fee will also recover the required annual subscription costs paid to Accela, Inc. for the platform. The total capital outlay implementation costs for the platform was \$1,385,479. Washoe County's share of those costs is \$614,187¹. Washoe County's annual subscription fee cost is \$71,412 (through at least the third year of the subscription). Section F of the attached BIS provides capital outlay costs and annual subscription fees for the other three jurisdictions.

Washoe County's costs for annual subscription fees for the first five years of the project/platform (time frame used to calculate the proposed fee) total \$357,060. The total capital outlay costs and five years of subscription fees for Washoe County is \$971,247.

¹ Washoe County assumed the capital outlay implementation costs for itself and for the Washoe County Health District. Those separate costs were \$338,724 for Washoe County and \$275,463 for the Health District. The Health District will be responsible to pay its share of the annual subscription costs.

Washoe County is expected to raise \$153,805 annually from the proposed regional technology fee. This projected revenue is based on permits and licenses issued in calendar year 2014. The actual revenue raised may be more or less depending on the number and dollar amount of permit fees and licenses subject to the regional technology fee.

All revenue raised from the proposed regional technology fee will be deposited in regional permits system fund accounts dedicated solely to recovering the County's capital outlay costs and annual subscription fees for the regional license and permit platform. The GL Code (revenue account) for the regional permits system is 460723. Cost centers vary between collecting department/division, and include C230010 and C230060 through C230130. The County can anticipate recovering the costs and fees with the projected annual revenue in six years and four months.

The revenue anticipated for each of the other three jurisdictions is shown in Section E of the attached BIS. It should be noted, however, that the City of Sparks may collect less revenue given its approach to the regional technology fee as shown in Attachment D.

RECOMMENDATION

It is recommended that the Board adopt the Business Impact Statement for the Regional License and Permit Platform with a finding that the proposed Regional Technology Fee does not impose a direct and significant economic burden on a business; nor does the proposed fee directly restrict the formation, operation or expansion of a business. It is further recommended that the Board set the public hearing for possible adoption of the proposed Regional Technology Fee for June 28, 2016.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to adopt the Business Impact Statement for the Regional License and Permit Platform with a finding that the proposed Regional Technology Fee does not impose a direct and significant economic burden on a business; nor does the proposed fee directly restrict the formation, operation or expansion of a business. Further move to set the public hearing for possible adoption of the proposed Regional Technology Fee for June 28, 2016.”

- Attachment:
- A. Legal Ad published for Public Workshops
 - B. Comment Request and Public Workshop Notice
 - C. Regional License/Permit Platform Business Impact Statement
 - D. Jurisdictional approaches to collecting the proposed regional technology fee

Attachment A

Legal Ad
Publish 2 times
June 17 and 19, 2015
1 Proof

**City of Reno, City of Sparks, Washoe County
and the Washoe County Health District**

NOTICE OF INTENT TO IMPOSE A NEW FEE

**NOTICE OF PUBLIC WORKSHOPS
and**

**Request for data or arguments concerning
a proposed regional technology fee**

In compliance with NRS 237.080, local governments are to notify trade associations or owners and officers of businesses that are likely to be affected by the adoption of a proposed new fee for a license or permit. Trade associations or owners and officers of businesses may submit data or arguments to the local government's governing body, or its designee, if adoption of the proposed new fee will either: (a) impose a direct and significant economic burden upon a business, or (b) directly restrict the formation, operation or expansion of a business.

The City of Reno, the City of Sparks, Washoe County, and the Washoe County Health District (the Regional Partners) are proposing a new regional technology fee to help recover capital outlay implementation costs and annual subscription fees of a new regional license and permit program. The proposed new fee will be \$4 for annual business licenses and \$2 for quarterly business licenses at the time of license application or each license renewal, and 4% of the total permit cost for all other permits, to include permit renewals.

The Regional Partners will host two public workshops to discuss the potential impacts of the proposed regional technology fee on a business. The public is invited to attend these workshops to ask questions, and to provide comments, arguments or data on the potential impacts of the proposed regional technology fee. The workshops will be held:

Date: June 30, 2105 (Tuesday)
Time of workshops: Noon until 1:00 p.m., and 5:30 p.m. until 6:30 p.m.
Location: Mt. Rose Conference Room, Washoe County Administrative Complex, Building A, Second Floor (west end), 1001 East Ninth Street, Reno

Any data or arguments must be received no later than fifteen working days after the date of first publication of this notice or by **Tuesday, June 30, 2015** and directed to Bob Webb, Planning Manager, at (775) 328-6133 (fax) or businesslicense@washoecounty.us.

If you have any questions or desire to view a document outlining the potential impacts to a business from the proposed new fee, you may visit www.washoecounty.us/techfee or request a copy via email at businesslicense@washoecounty.us.