STATE OF NEVADA

Steve Sisolak
Governor

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Administrator

Department of Employment, Training and Rehabilitation
EMPLOYMENT SECURITY DIVISION
500 E. Third Street
Carson City, Nevada 89713-0001

NOTICE OF SMALL BUSINESS WORKSHOP AND INTENT TO ACT UPON A REGULATION

Post Date: 10/18/2022

Notice of Employment Security Council Meeting and Workshop to Solicit Comments on Proposed Regulation Amendment to NAC 612.270.

The purpose of this Small Business Workshop and Regulation Hearing is to receive comments from all interested persons regarding the proposed amendment to the Regulation pertaining to Nevada Administrative Code (NAC) 612, pursuant to Nevada Revised Statute NRS 612.550, which will establish the Unemployment Insurance Tax Rate Schedule for Nevada employers for calendar year 2023. This notice is provided in compliance with NRS 241.020 and 233B.061. This meeting, conducted by the Administrator of the Employment Security Division (ESD), will include a workshop to review, discuss and solicit comment on the proposed amendment to regulation.

Name of Organization: Employment Security Division; NRS 612.305

Date and Time of Meeting: Friday, November 18th, 2022; 9:30 A.M.

Place of Meeting:

Live Meeting:
URL: https://nvdetr-org.zoom.us/j/85499738175
Telephone: 1 669 900 6833
Webinar/Meeting ID: 854 9973 8175

Broadcast From:
ESD SAO Auditorium
500 E 3rd St.
Carson City, NV 89713

Note: This meeting will take place via the Zoom Webinar, and virtual public comment will be made available at (669) 900-6833, meeting ID 896 7889 9306. A free copy of all materials will be made available before the meeting at: https://detr.nv.gov/Page/Public_Meetings

AGENDA

I. Call to order and welcome – ESD

II. Public Comment – *Administrator or representative may limit public comment to 3 minutes per speaker but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item. This round of public comment will last no longer than thirty minutes.*

III. Confirmation of Posting - ESD

IV. Review Written Comments – ESD

V. Workshop to consider proposed regulation to establish the Unemployment Insurance (UI) Tax Rate Schedule for Nevada Employers for calendar year 2023

A. Review of Trust Fund and Economic Analysis – R&A / DETR
B. Unemployment Insurance Tax Schedule and Small Business Impact Statement – ESD / DETR

VI. Administrator review of amended regulation to establish the 2023 Tax Rate Schedule – ESD / DETR

VII. Closing Public Comment – *Administrator or representative may limit public comment to 3 minutes per speaker but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item. This round of public comment will last no longer than thirty minutes.*

VIII.* ***For possible action:*** Adjournment

Agenda items may be taken out of order. Two or more agenda items may be combined for consideration. An item may be removed or discussion on an item may be delayed at any time.

A copy of the meeting Notice and Agenda can be requested either in person or by written request to the Department of Employment, Training and Rehabilitation; Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713 or telephone Stewart Terry at (775) 684-3902. Copies of pertinent documents will also be made available on the DETR website at: http://detr.nv.gov

NOTE: Written comments must be received by the Employment Security Division on or before November 15, 2022, at the following address:

Attn: Stewart Terry / MASS
Department of Employment, Training and Rehabilitation
Employment Security Division
500 E. Third Street, Carson City, NV 89713

NOTE: Persons with disabilities who require reasonable accommodations or assistance at the meeting should notify the Employment Security Division in writing at 500 E. Third Street, Carson City, Nevada 89713, contact the Management and Administration Support Services team at MASS@detr.nv.gov , or call Stewart Terry at (775) 684-3902 *(for individuals who are deaf or have hearing disabilities, dial TTY (800) 326-6868 or 711 for Relay Nevada)* within 72 hours of meeting date and time. Supporting materials as provided for in NRS 241.020(5) may be obtained by contacting Stewart Terry at the above-noted contact information.

Notice of this meeting was posted at the following locations on or before 9 a.m. of the 30th day prior to the scheduled meeting date.

Nevada State Library & Archives, 100 North Stewart Street, Carson City, NV 89701
Legislative Building, 401 South Carson Street, Carson City, NV 89701
Grant Sawyer State Building, 555 E. Washington Ave., Las Vegas, NV 89101
Legislative Counsel Bureau Web Site
Department of Employment, Training and Rehabilitation Web Site
Employment Security Division, State Administrative Office, 500 East Third Street, Carson City, NV 89713
Employment Security Division Southern Administrative Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Unemployment Insurance Contributions, 1320 South Curry Street, Carson City, NV 89703
Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431
American Job Center of Nevada, 4001 South Virginia Street, Reno, NV 89502
Las Vegas Casual Labor Office, 1001 North A Street, Las Vegas, NV 89106
Nevada JobConnect-Carson City, 1929 North Carson Street, Carson City, NV 89701
Nevada JobConnect-Elko, 172 Sixth Street, Elko, NV 89801
Nevada JobConnect-Ely, 1500 Avenue F, Suite 1, Ely, NV 89301
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406
Nevada JobConnect-Henderson, 4500 E. Sunset Road, Suite 40, Henderson, NV 89014
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV 89030
Nevada JobConnect-Sparks, 2281 Pyramid Way, Sparks, NV 89431
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

Notice of this meeting was posted on the Internet on the following websites: DETR's Public Notices website at: https://detr.nv.gov/Page/PUBLIC_NOTICES, the State of Nevada's Public Notices website at: https://notice.nv.gov/, and the Administrative Regulation Notices website at: http://www.leg.state.nv.us/App/Notice/A/.

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Small Business Impact Statement

Department of Employment, Training, and Rehabilitation

2023 Unemployment Insurance Contribution Schedule

Pursuant to NRS 233B.0608

1. **Description of the manner in which comment was solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

   On October 7, 2022, the Employment Security Council held a meeting to review, discuss, and solicit comment on the proposed amendment of a regulation pertaining to Chapter 612 of Nevada Administrative Code. On August 30, 2022, the Division publicly noticed the Employment Security Council Meeting in accordance with Nevada Revised Statute NRS 241.020. In the meeting notice, written comment was requested on or before September 28, 2022. An amended agenda was posted on October 3, 2022 reflecting a new date for the Employment Security Council Meeting, as it had to be delayed to October 7, 2022 due to technical issues. As of October 7, 2022, no written comments were received. On October 7, 2022, the Employment Security Council met to discuss the 2023 Unemployment Insurance Contribution Tax Rate Schedule and no member of the public provided public comment. No other public comment was provided. Minutes from this meeting will be made available on the Division's web page on or before November 6, 2022.

2. **Manner and Method of Analysis**

   This analysis was conducted by the state employee with the most understanding of the subject of unemployment insurance projected benefits and contributions. Analysis of expected benefit costs comes from a model of estimated employment growth and estimated average wage growth on a quarter-by-quarter basis throughout the time period to which the regulation would apply. Data about the number, size, and distribution of employers comes from the records of the Division from the required reports filed by those employers.

3. **Estimated Economic Impact**

   All Nevada employers subject to Unemployment Insurance (UI) contributions and eligible for experience rating will be affected by the proposed regulation, constituting approximately 58,564 employers, or 58.9% of all employers registered with the Employment Security Division. This regulation represents adopting an average UI contribution rate of 1.65% in 2023, as recommended by the Employment Security Council on October 7, 2023. Pursuant to NRS 612.540, the standard contribution rate in effect in the absence of this regulation is 2.95%.

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Beneficial Impacts

With the 1.65% average contribution rate, the total costs paid by Nevada employers will be 1.70% of wages subject to contributions, instead of 3.00% - the rate in effect in the absence of this regulation, composed of the 2.95% standard rate and the 0.05% CEP assessment.

Under a separate statutory provision in Nevada's unemployment compensation law – NRS 612.350 – the total wages subject to unemployment insurance contributions rose from $36,300 in 2022 to $40,100 in 2023. At the standard contribution rate of 2.95%, the maximum cost per employee would be $1,182.95. Under this regulation, the maximum cost per employee at the average rate of 1.65% will be $661.65, a per-employee savings of approximately $520.

This regulation will lead to a continued increase in reserves in the UI Trust Fund, which is projected to grow by $551 million from September 30, 2022 to September 30, 2023, building reserves in the event of an economic downturn.

Adverse Impacts

Under an experience-rated schedule, pursuant to NRS 612.550, instead of each employer paying the standard rate of 2.95%, some employers receive a rate as low as 0.25%, and others receive a rate as high as 5.4%. While the average employer will pay significantly less under this regulation, those employers who receive a rate higher than 2.95% will pay more. Approximately 5.3% of experience-rated employers - 3,087 employers - are scheduled to receive a rate higher than 2.95% based on their experience with benefit charges and historic contributions. In contrast, approximately 94.7% of experience-rated employers will receive a lower rate under this regulation.

Direct Impacts

The direct impact of this regulation on any particular Nevada business depends on that business' prior experience with respect to unemployment. Because the rates that employers pay are fixed in statute, the average rate is adjusted each year in the regulatory process by adopting a range of reserve ratios which will apply to those rates. Each employer's reserve ratio changes each year as well, rising or falling, depending on the net balance of UI contributions and benefit charges from and to that account.

Indirect Impacts

This regulation complies with the federal compliance regulations governing Unemployment Insurance contribution rates. Therefore, employers maintain eligibility for a full 5.4% credit toward their federal unemployment insurance taxes. In addition, the additional solvency in the UI system will help to pay for unemployment benefits in the future. On average, evidence suggests that for each dollar in UI benefits, $2 or more in economic activity results. In addition, employers

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benefit as funds are returned to the economy through UI benefit payments, helping to mitigate the drop in consumption that takes place in a recession. Finally, the UI system helps to maintain the attachment of workers to the local workforce and facilitates a faster return to work, both through job search and training services and through mandatory work search requirements.

4. Consideration of Impact on Small Businesses

By using an experience-rated structure, employers' tax rates depend primarily on their own experience with unemployment, without regard for employer size or industry type. The distribution of small employers through the UI contribution schedule closely mirrors that of the state as a whole. For all new employers – those who have less than 3 full years of experience in the Nevada UI system – the contribution rate remains fixed by statute at 2.95%, and is unaffected by this regulation. In addition, federal laws only allow the State to assign rates below the standard rate in a state based on their experience with respect to unemployment, so no preferential rates may be assigned to small businesses.

5. Estimated Cost of Enforcement

This regulation will be enforced as a regular part of ongoing UI operations, and does not represent any additional burden on staff time, as the regulation is used to modify contribution rates each year. Funding for the administration of the UI program is provided to the Department by the US Department of Labor.

6. Anticipated Revenue Increase and Use

This regulation reduces the average UI contribution rate to 1.65%. By law, money collected from state unemployment insurance contributions can only be used to pay unemployment insurance benefits, so these funds will remain deposited in the Nevada Unemployment Insurance Trust Fund.

7. Duplication or More Stringent Standards than Federal, State, or Local Governments

This regulation is only an annual modification to the unemployment insurance contribution schedule. Therefore, this regulation does not duplicate or provide a more stringent standard than any other regulation of federal, state, or local governments.

8. The Reason for the Conclusions of the Agency Regarding the Impact of the Regulation on Small Businesses

Because the distribution of small business employers closely matches the overall distribution of all employers in the state and because US unemployment insurance law does not allow states to assign rates below the standard rate except on

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the basis of an employer's prior experience with respect to unemployment; the agency believes that there is no disparate impact to small businesses due to this regulation.

Certification of Concerted Effort to Determine Impact on Small Business and Accuracy of Statement

I certify that to the best of my knowledge or belief, a concerted effort was made by the Department of Employment, Training, and Rehabilitation to determine the impact of this regulation on small business, and that the information contained in this statement has been prepared properly and is accurate.

DocuSigned by:
Lynda Parven
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Lynda Parven, Administrator

Employment Security Division

PROPOSED REGULATION OF THE ADMINISTRATOR OF THE

EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT

OF EMPLOYMENT, TRAINING AND REHABILITATION

LCB File No. R191-22

September 28 2022

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

AUTHORITY: §§ 1 and 2, NRS 612.220 and 612.550.

A REGULATION relating to unemployment compensation; prescribing the contribution rate schedule for calendar year 2023; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The Unemployment Compensation Law requires employers to make contributions to the Unemployment Compensation Fund for the purpose of providing temporary benefits to persons who become involuntarily unemployed. (Chapter 612 of NRS) The amount of each employer's contribution is a percentage of the employer's average annual payroll. Existing law establishes a standard contribution rate of 2.95 percent. (NRS 612.540) However, after an employer has accumulated a specified number of consecutive calendar quarters of contribution and benefit experience, depending on the quarter in which the employer became subject to the Unemployment Compensation Law, the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation assigns the employer to a class of employers whose contribution rate is based on their previous experience with unemployment, as determined by a reserve ratio formula. An employer's reserve ratio is calculated by subtracting the benefits charged to the employer's account for all previous years from the contributions paid by the employer during all previous years and dividing the difference by the employer's average payroll for the previous 3 years. The Administrator is required to annually prescribe the contribution rate schedule for each class of employers. (NRS 612.550) This regulation prescribes the contribution rate schedule for calendar year 2023.

Section 1. NAC 612.270 is hereby amended to read as follows:

612.270 The Administrator establishes the following schedule of contribution rates for eligible employers for calendar year ~~[2022:]~~ ***2023:***

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~[15.95]~~ ***16.9*** percent or more;

2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~[14.35]~~ ***15.3*** percent but less than ~~[15.95]~~ ***16.9*** percent;

3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~[12.75]~~ ***13.7*** percent but less than ~~[14.35]~~ ***15.3*** percent;

4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~[11.15]~~ ***12.1*** percent but less than ~~[12.75]~~ ***13.7*** percent;

5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~[9.55]~~ ***10.5*** percent but less than ~~[11.15]~~ ***12.1*** percent;

6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~[7.95]~~ ***8.9*** percent but less than ~~[9.55]~~ ***10.5*** percent;

7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~[6.35]~~ ***7.3*** percent but less than ~~[7.95]~~ ***8.9*** percent;

8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~[4.75]~~ ***5.7*** percent but less than ~~[6.35]~~ ***7.3*** percent;

9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~[3.15]~~ ***4.1*** percent but less than ~~[4.75]~~ ***5.7*** percent;

10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~[1.55]~~ ***2.5*** percent but less than ~~[3.15]~~ ***4.1*** percent;

11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~[-0.05]~~ ***0.9*** percent but less than ~~[1.55]~~ ***2.5*** percent;

12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~[-1.65]~~ ***-0.7*** percent but less than ~~[-0.05]~~ ***0.9*** percent;

13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~[-3.25]~~ ***-2.3*** percent but less than ~~[-1.65]~~ ***-0.7*** percent;

14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~[-4.85]~~ ***-3.9*** percent but less than ~~[-3.25]~~ ***-2.3*** percent;

15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~[-6.45]~~ ***-5.5*** percent but less than ~~[-4.85]~~ ***-3.9*** percent;

16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~[-8.05]~~ ***-7.1*** percent but less than ~~[-6.45]~~ ***-5.5*** percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~[-9.65]~~ ***-8.7*** percent but less than ~~[-8.05]~~ ***-7.1*** percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~[-9.65]~~ ***-8.7*** percent.

Sec. 2. This regulation becomes effective on January 1, 2023.