

STATE OF NEVADA

Brian Sandoval
Governor



Frank Woodbeck
Director
Renee Olson
Administrator

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

NOTICE OF INTENT TO ACT UPON A REGULATION

**Notice of Hearing for the Adoption of a Regulation of the
Employment Security Division of the
Department of Employment, Training and Rehabilitation**

The Employment Security Division of the Department of Employment, Training and Rehabilitation (DETR) will hold a public hearing at 10:00 a.m., on Tuesday, December 4, 2012 at the Legislative Building, 401 S. Carson Street, Room 2134, Carson City, Nevada 89701. The hearing will also be videoconferenced to the Grant Sawyer Building, 555 E. Washington Ave, Room 4412E, Las Vegas, Nevada 89101.

This meeting will also be broadcast on the Internet at www.leg.state.nv.us

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of a regulation that pertains to Chapter 612 of the Nevada Administrative Code.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. Statement of need and purpose

The regulation is required to establish the schedule of unemployment insurance tax rates for those employers eligible for experience rating for calendar year 2013. The Administrator of the Employment Security Division is required to establish this schedule annually, pursuant to NRS 612.550.

2. How to obtain the revised text of regulation

To obtain a copy of the proposed regulation as revised by Legislative Counsel by writing to the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, or telephone Joyce Golden at (775) 684-3909.

3. Estimated Economic Effect

The resources of the unemployment insurance trust fund were exhausted in mid October of 2009. Nevada began borrowing from the federal unemployment account in October 2009. It is estimated that Nevada may have a total outstanding loan balance of up to \$800 million dollars. The aforementioned amount will enable Nevada to pay claims through calendar 2013. It is important to note that this deficit is a result of an unprecedented economic downturn with Nevada having the highest rates of unemployed persons in the nation. Increasing the current average tax rate is needed to reduce the amount of federal borrowing required to fund unemployment insurance benefit payments to Nevada workers.

(a) **Effect on businesses**

It has been recommended the average tax rate be increased to 2.25%. It is hoped that improved economic conditions in the future will allow for increased contribution rates that can help to offset Federal loans needed in 2009, 2010, 2011, 2012 and 2013 for the continuation of benefits.

All Nevada employers subject to Nevada Unemployment Compensation Law that pay an unemployment insurance tax rate subject to the experience rating system are affected by the tax rate schedule in the proposed regulation. This currently constitutes approximately 36,262 or 63% of total registered businesses. However, the tax rate for individual businesses may either increase or decrease, depending upon each individual business' experience record within the program. Employers with high employee turnover will be more likely to experience a higher tax rate, while those who retained their employees, and have low employee turnover, may be less likely to experience an increase in their tax rate.

(b) **Effect on the public**

The tax rate schedule will become effective January 1, 2013 and remains in effect for the calendar year. The immediate and long-term effect on the public is to ensure the payment of unemployment benefits to workers who are unemployed through no fault of their own. Unemployment benefits enable unemployed persons to purchase necessary goods and services and put those resources back into the local economy. It is estimated that every dollar in UI benefits provides a \$2.15 value to the local economy.

In the last year, regular unemployment insurance benefit payments have infused approximately \$480 million dollars cash into Nevada's economy, providing a direct economic stabilizer for both Nevada workers and employers. The proposed average tax rate of 2.25% is expected to produce revenue for the Unemployment Compensation Trust Fund of over \$499 million in calendar year 2013, reducing state borrowing from the federal account. However, the need for some continued borrowing is anticipated to continue.

4. Methods Used to Determine Impact on a Small Business

The Nevada Unemployment Compensation Program uses an experience rating system approved by the U.S. Department of Labor. Experience rating is designed to ensure that employers are fairly rated based on their unique experience with unemployment, regardless of size or industry type. Financial analysis and projections were used to determine that of the estimated 36,262 employers eligible for experience rating, approximately 35,273 are small businesses. Approximately 43% of all taxable wages in the state are paid by small businesses. A public meeting of the Employment Security Council was held on October 2, 2012 and a Small Business Workshop was held on November 2, 2012. Both of these meetings were widely noticed in accordance with the open meeting law, and public comment was solicited at both meetings. Public testimony was provided by Carole Vilardo of the Nevada Taxpayers Association, advocating for a legislative reinstatement of the solvency assessment that had been in statute a few years back, and agreeing that an increased state UI contribution might be more desirable

than future federal tax measures designed to pay off the loans. Ray Bacon of the Nevada Manufacturers Association, urged the Council to consider raising the rate, as well as future legislative action to revise the rate schedule, providing for a higher percentage on the upper end of the rate schedule, to help pay off the federal loans. Brian McAnallen of the Las Vegas Chamber of Commerce advocated increasing the rate, and Jim Nelson of the Nevada Association of Employers, suggested substituting the CEP assessment as a means for paying down the federal loans.

5. Estimated cost

There are no additional costs involved in enforcing the proposed regulation, since funds are provided by the U.S. Department of Labor to administer the Unemployment Insurance Program.

6. Overlap or duplication of regulations

The proposed regulation does not overlap or duplicate any regulations of other state or local government agencies.

7. More stringent than federal regulations

The proposed regulation is not required pursuant to federal law, nor is there a federal regulation that regulates the same activity.

8. New or increased fee

This regulation does not increase an existing fee.

Persons wishing to comment on the proposed action of the Department of Employment, Training and Rehabilitation, Employment Security Division, may appear at the scheduled public hearing or address their comments, data, views or arguments in written form to the Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713. The Employment Security Division must receive all written submissions on or before November 30, 2012. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Employment Security Division may proceed immediately to action upon any written submissions.

A copy of this notice and the regulation to be amended will be on file at the Nevada State Library and Archives, 100 N. Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be amended will be available at the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, 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. 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 <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

This proposed regulation has been publicly noticed in accordance with Nevada's open meeting law, public comment has been solicited, and the regulation has been submitted to the Legislative Counsel Bureau for review, as outlined in NRS 233B.064, cited below.

NRS 233B.064 Permanent regulation not to be adopted until text approved or revised by Legislative Counsel; agency's reasons for adoption.

1. An agency shall not adopt, amend or repeal a permanent regulation until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.

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

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

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
All County Libraries in Nevada
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 89710
Reno Field Audit Office, 1325 Corporate Blvd, Suite B, Reno, NV 89502
Las Vegas Field Audit Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104
Reno Appeals Office, 1325 Corporate Blvd, Suite C, Reno, NV 89502
Las Vegas Appeals Office, 2800 E. St. Louis Ave, Las Vegas, NV 89104
Reno Casual Labor Office, 420 Galletti Way, Sparks, NV 89431
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, 119 Water Street, Henderson, NV 89015
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-Reno Town Mall, 4001 South Virginia Street, Suite H-1, Reno, NV 89502
Nevada JobConnect-Sparks, 1675 E. Prater Way, Suite 103 Sparks, NV 89434
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445