PROPOSED REGULATION OF THE ADMINISTRATOR OF THE EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION

LCB File No. R039-13

Chapter 612 of NAC

Process for Calculating Special Bond Contribution Rates

Timing

1) ***For each calendar year for which bond obligations and bond administrative expenses will be due, by August 1 of each prior year the State Treasurer shall notify the Administrator of the amount of bond obligations, the estimated amount of bond administrative expenses and the other amounts due to permit the Administrator to determine the amount of special bond contributions required for that year. If no bond obligations exist for a calendar year, the Administrator shall not impose any special bond contributions.***

2) ***On September 15 of each year, or as soon after that date as the bond obligations for the following year are received from the Treasurer's Office, DETR will calculate the special bond contribution rates necessary to pay bond obligations, including principal and interest on any special obligation bonds issued, that will be due on taxable[1] wages paid to employees of eligible employers in the upcoming calendar year.***

Calculation of Baseline Special Bond Contribution Rates

3) ***Using the total bond principal[2] that will be due during the upcoming May-April period the average contribution rate that will be necessary will be calculated by multiplying the bond principal which will be due by any principal coverage ratio which may be required by the Indenture or Financing Agreement, then dividing the total result by 95% of the total estimated taxable wages for the upcoming calendar year.***

4) ***Using the total bond interest and other bond obligations (including bond principal payments other than those described in step 3) that will be due during the upcoming May-April period the average special bond contribution rate that will be necessary will be calculated as follows:***

    a. ***By multiplying the interest payments due by any interest coverage ratio that may be necessary as specified in the Indenture or Financing Agreement.***

[1] Taxable Wages as used here refers to wages subject to unemployment insurance contributions as determined in NRS 612.545.
[2] "Principal" as used here refers to that part of bond principal which was issued to either repay federal advances under Title XII, or which was deposited into the state's Unemployment Compensation Fund.

b. By subtracting from the result of 4a any funds available to pay bond interest, less all known obligations between the date of calculation and April 30 of the following calendar year.

c. By dividing the result of step 4b by 95% of the total estimated taxable wages for the upcoming calendar year.

Designation of Bond Contribution Rate Tiers

5) The Bond principal and interest j expense special bond contributions will be divided into four tiers to take into account the past experience of employers with regard to unemployment insurance, which are calculated below. Tier 1 is assigned to all contributory employers who do not qualify for a contribution rate based on experience under NRS 612.550. Tier 2 is assigned to all employers eligible for contribution rate based on experience who have a reserve ratio of less than zero. Tier 3 and 4 are assigned to employers eligible for a contribution rate based on experience and who have a reserve ratio greater than or equal to zero based on those employers' reserve ratios such that not more than 10 percent of taxable wages from employers with a reserve ratio greater than or equal to zero receive the Tier 4 rate, and the remainder of employers with a reserve ratio greater than or equal to zero receive the Tier 3 rate.

Calculation of Threshold for Tier 4 Bond Contribution Rate

6) The threshold reserve ratio for the Tier 4 bond contribution rates will be determined by determining the lowest possible reserve ratio, rounded to the nearest tenth of a percent, which, using the most recent 12 months of data available results in not more than 10 percent of all taxable wages from employers with a reserve balance greater than or equal to zero qualifying for the Tier 4 bond contribution rate.

Modification of Baseline Principal Bond Contribution Rate for Tier 1 Bond Contribution Rate

7) The Baseline Principal Bond Contribution Rate will be modified for employers who qualify for a Tier 1 bond contribution rate by multiplying the Baseline Principal Bond Contribution Rates determined in step 3 by a factor of 0.45, then rounding the result up to the nearest one-hundredth of a percent.

Modification of Baseline Principal Bond Contribution Rate for Tiers 2, 3 and 4

8) The Baseline Principal Bond Contribution Rate will be modified for employers who qualify for a Tier 2 bond contribution by multiplying the Baseline Principal Bond Contribution Rates determined in step 3 by a factor of 1.40, then rounding the result up to the nearest one-hundredth of a percent.

9) The Baseline Principal Bond Contribution Rate will be modified for employers who qualify for a Tier 4 bond contribution by multiplying the Baseline Principal Bond

Contribution Rate determined in step 3 by a factor of 0.25, then rounding the result up to the nearest one-hundredth of a percent.

10) The Baseline Principal Bond Contribution Rate will be modified for employers who qualify for a Tier 3 bond contribution as follows:

a. Determine the fraction of total taxable wages from employers who are not eligible for experience rating by dividing the taxable wages from such employers by total taxable wages from all active employers.

b. Determine the fraction of total taxable wages from employers eligible for experience rating who have a negative reserve ratio by dividing the taxable wages from such employers by total taxable wages from all active employers.

c. Determine the fraction of total taxable wages from employers eligible for experience rating who have a reserve ratio greater than the threshold determined in step 6 by dividing the taxable wages from such employers by total taxable wages from all active employers.

d. Determine the fraction of total taxable wages from all other employers eligible for experience rating by subtracting the fractions calculated in steps a, b, and c from 1.00.

e. Multiply the bond contribution rate determined in step 7 by the fraction determined in step 10a.

f. Multiply the bond contribution rate determined in step 8 by the fraction determined in step l0b.

g. Multiply the bond contribution rate determined in step 9 by the fraction determined in step 10c.

h. Subtract the results of step 10e, 10f, and 10g from the Baseline Bond Contribution Rate determined in step 3.

i. Divide the result of step 10h by the fraction determined in step 10d, then round up to the next hundredth of a percent.

Modification of Baseline Interest / Expense Bond Contribution Rate for Tier 1 bond Contribution Rate

11) The Baseline Interest I Expense Bond Contribution Rate will be modified for employers who qualify for a Tier 1 bond contribution rate by multiplying the Baseline Interest Bond Contribution Rates determined in step 4 by a factor of 0.45, then rounding the result up to the nearest one-hundredth of a percent.

Modification of Baseline Interest I Expense Bond Contribution Rate for Tiers 2, 3 and 4

12) The Baseline Interest I Expense Bond Contribution Rate will be modified for employers who qualify for a Tier 2 bond contribution by multiplying the Baseline Interest Bond Contribution Rates determined in step 4 by a factor of 1.40, then rounding the result up to the nearest one-hundredth of a percent.

13) The Baseline Interest Bond Contribution Rate will be modified for employers who qualify for a Tier 4 bond contribution by multiplying the Baseline Interest Bond Contribution Rate determined in step 4 by a factor of 0.25, then rounding the result up to the nearest one-hundredth of a percent.

14) The Baseline Interest I Expense Bond Contribution Rate will be modified for employers who qualify for a Tier 3 bond contribution as follows:

a. Determine the fraction of total taxable wages from employers who are not eligible for experience rating by dividing the taxable wages from such employers by total taxable wages from all active employers.

b. Determine the fraction of total taxable wages from employers eligible for experience rating who have a negative reserve ratio by dividing the taxable wages from such employers by total taxable wages from all active employers.

c. Determine the fraction of total taxable wages from employers eligible for experience rating who have a reserve ratio greater than the threshold determined in step 6 by dividing the taxable wages from such employers by total taxable wages from all active employers.

d. Determine the fraction of total taxable wages from all other employers eligible for experience rating by subtracting the fractions calculated in steps a, b, and c from 1.00.

e. Multiply the bond contribution rate determined in step 11 by the fraction determined in step 14a.

f. Multiply the bond contribution rate determined in step 12 by the fraction determined in step 14b.

g. Multiply the bond contribution rate determined in step 13 by the fraction determined in step 14c.

h. Subtract the results of step 14c, 14f, and 14g from the Baseline Bond Contribution Rate determined in step 3.

i. Divide the result of step 14h by the fraction determined in step 14d, then round up to the next hundredth of a percent.

Supplemental Bond Contributions

15) 90 days prior to every principal and interest payment date, the Administrator shall determine whether the bond principal or bond interest collections and any finds available to meet those obligations will be sufficient to cover those obligations through April 30 or the following calendar year. If the collections are determined to be insufficient the Administrator shall impose a supplemental bond contribution.

16) Employers will not receive experience credit for these supplemental contributions.

17) The supplemental bond contribution rate will be calculated by dividing the amount needed to meet the principal and interest obligations by 95% of the total taxable wages for the most recent 12 months for which data are available.

18) This contribution rate will be charged to employers by multiplying the supplemental bond contribution rate by the 12-month total taxable wages for each employer for the most recent 12 months for which data are available.

19) Employers must be given at least 30 days notice prior to the supplemental bond contribution bills being mailed, notifying them as to the details of the supplemental bond contributions, and supplemental bond contributions shall be due on the date the Administrator shall indicate which may be not less than 31 days after the date of mailing, nor more than 75 days.

Priority of Payments

20) If an employer should pay less than the total amount due, money received from that employer shall be applied first to any special bond contributions for interest due, then to any special bond obligations for principal due, then to any other amounts owed according to the policies and procedures of the Employment Security Division.

Small Business Impact Statement
Department of Employment, Training, and Rehabilitation
Special Bond Contributions pursuant to 5B 515 of the 2013 Nevada Legislature

Estimated Economic Impact

All Nevada employers subject to unemployment contributions will be affected by the proposed regulation, constituting approximately 57,000 employers, or 99.4% of all employers registered with the Employment Security Division. The net impact is expected to lower the total burden of all employer costs for unemployment insurance statewide, but the actual savings will depend on the final structure of any potential bond agreement.

Beneficial Impacts

If issued, bonds paid for through this regulation will refinance all federal unemployment debt, eliminating the FUTA credit reduction, lowering the federal unemployment tax paid by employers. In addition, bonds paid for through this regulation would build a reserve in the state's unemployment Trust Fund, rebuilding solvency in the unemployment compensation system. This regulation will further enhance the weight of prior experience for charges in the state unemployment system by lowering the non-experience-distributed federal unemployment tax and replacing the non-experience-distributed temporary interest assessment.

Adverse Impacts

If bonds are issued, employers with the most negative reserve ratios who remain at a 5.4% tax rate after SUTA is lowered will face a higher overall burden, as the increased cost of the bond contributions will be larger than the reduction due to lower FUTA charges and the end of AB 482 assessments. If bonds are issued, employers with the most positive reserve ratios who are already at a 0.25% tax rate will not receive any benefit from lower average SUTA taxes. However, the regulation is structured so that the additional bond contributions will be largely offset by lower FUTA charges and the end of AB 482 assessments.

Direct Impacts

To understand the changes to individual employers, it is important to compare the overall tax rate in effect for an employer with a given reserve ratio.

- □ In the existing distribution, an employer with a reserve ratio of -10% has a total tax rate of 4.89%. With bonds, under the proposed regulation, the total tax rate is 5.05%.
- □ In the existing distribution, an employer with a reserve ratio of -5% has a total t ax rate of 3.99%. With bonds, under the proposed regulation, the total tax rate is 4.15%.
- □ In the existing distribution, an employer with a reserve ratio of +5% has a total tax rate of 2.19%. With bonds, under the proposed regulation, the total tax rate is 1.33%.
- □ In the existing distribution, an employer with a reserve ratio of -tl0% has a total tax rate of 0.99%. With bonds, under the proposed regulation, the total tax rate is 0.52%.

- □ In the existing distribution, a new employer has a total tax rate of 3.39%. With bonds, under the proposed regulation, the total tax rate is 3.44%.

The proposed special bond contributions are expected to generate the funds necessary to pay all obligations for the bonds until the bonds are fully repaid. The rates used here are based on one year's annual obligation of $243,226,217. The final bond obligations due in any single year is not yet known. Since taxable wages of small businesses account for 42.68% of all taxable wages In the State, approximately $104 million of the total revenue will be attributable to small businesses. The impact of the proposed regulation is unique to each employer based on their previous experience with unemployment and increases the weight of employers' prior experience in the current unemployment system.

Indirect Impacts

If bonds are issued and used to rebuild solvency in the state unemployment Trust Fund, this would provide additional stability and security against future recessions. If bonds are issued and used to rebuild solvency in the state unemployment Trust Fund, the state may be able to earn interest on that Trust Fund, which could help keep SUTA rates lower than would otherwise be possible. If bonds are issued and used to repay the federal loan, two annual charges (FUTA Credit Reductions and interest assessments under AB482) are eliminated, and employer costs are spread more evenly through the full year.

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. Under the proposed regulation, the overall unemployment tax burden on new employers remains steady to avoid imposing a large burden on these employers, who are likely to start small.

Estimated Cost of Enforcement

This regulation will be enforced through the same channels used to enforce regular SUTA contributions, therefore no additional cost for enforcement is expected. Funds for the administration of the overall Unemployment Compensation Program are provided by the U.S. Department of Labor.

Anticipated Revenue increase and Use

If bonds are issued, this regulation will provide for the revenue stream necessary to secure those special obligation bonds. Total collections by the Employment Security Division will increase, because currently FUTA Credit Reductions are collected by the IRS and applied directly to the state's federal loan balance. Under this regulation, the state will collect all the funds needed to pay the bond obligations directly. The total cost to employers is expected to be lower over the life of the bonds than would be the case if bonds are not issued.

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

This regulation establishes a special, dedicated revenue stream. Therefore, this regulation does not duplicate or provide a more stringent standard than any other regulation of federal, state, or local governments.

Manner of Analysis

This analysis was conducted by the state employee with the most understanding of the subject of these special bond contributions. The analysis was performed by comparing the distribution of employers in the two most recent years for which data was available: 2013 for the baseline comparison, and 2010 for the 1.33% SUTA rate comparison. Information on the distribution of small employers in 2013 comes from the records of the Employment Security Division. Information on the distribution of small employers in 2010 was not available; however in other years for which data are available, the distribution of small employers is within 0.2% for almost every rate category. Information about total employer FUTA costs uses estimated FUTA receipts for calendar year 2013 as a percentage of taxable wages in 2013. Information on potential bond rates comes from analysis received by the Employment Security Division as it is analyzing potential bond structures, however no such data is final and should be considered informational only. Analysis considers only a single year, however the stabilization of overall bond rates is possible through maintaining a lower rate in the near term, but a higher-than-baseline rate in the later years of bond repayment. Final bond contribution rates will depend on the structure of any bond deal, interest rates at the time of dosing. changes in US Treasury rates, changes in total wages in the state, and other economic factors.