

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

**LCB File No. R184-12**

Effective January 1, 2013

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 2013; and providing other matters properly relating thereto.

**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 ~~2012:~~ *2013:*

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~11.4~~ *11.6* percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~9.8~~ *10.0* percent but less than ~~11.4~~ *11.6* percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~8.2~~ *8.4* percent but less than ~~9.8~~ *10.0* percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~6.6~~ *6.8* percent but less than ~~8.2~~ *8.4* percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~5.0~~ *5.2* percent but less than ~~6.6~~ *6.8* percent;

6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~[3.4]~~ 3.6 percent but less than ~~[5.0]~~ 5.2 percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~[1.8]~~ 2.0 percent but less than ~~[3.4]~~ 3.6 percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~[0.2]~~ 0.4 percent but less than ~~[1.8]~~ 2.0 percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~[1.4]~~ -1.2 percent but less than ~~[0.2]~~ 0.4 percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~[3.0]~~ -2.8 percent but less than ~~[1.4]~~ -1.2 percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~[4.6]~~ -4.4 percent but less than ~~[3.0]~~ -2.8 percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~[6.2]~~ -6.0 percent but less than ~~[4.6]~~ -4.4 percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~[7.8]~~ -7.6 percent but less than ~~[6.2]~~ -6.0 percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~[9.4]~~ -9.2 percent but less than ~~[7.8]~~ -7.6 percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~[11.0]~~ -10.8 percent but less than ~~[9.4]~~ -9.2 percent;
16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~[12.6]~~ -12.4 percent but less than ~~[11.0]~~ -10.8 percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~[-14.2]~~ **-14.0** percent but less than ~~[-12.6]~~ **-12.4** percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~[-14.2]~~ **-14.0** percent.

**Sec. 2.** This regulation becomes effective on January 1, 2013.

**LEGISLATIVE REVIEW OF ADOPTED REGULATIONS AS REQUIRED BY  
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066  
LCB FILE R 184-12**

**INFORMATIONAL STATEMENT**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 612.270. Hearing to adopt was held on December 4, 2012.

- **A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

**Employment Security Council Meeting and Workshop**

In compliance with NRS 233B.061 and NRS 612.305, a regular meeting of the Employment Security Council was held on October 2, 2012, at the Legislative Building, 401 S. Carson Street, Room 2134, Carson City, Nevada, to consider the unemployment contribution rate schedule to be adopted for calendar year 2013. The meeting was also video conferenced to the Grant Sawyer Building, 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada. Notice of the meeting was mailed on August 31, to all individuals on the Employment Security Division mailing list. Notice was posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the state, and was posted on the web sites of the Department of Employment, Training and Rehabilitation and the Legislative Counsel Bureau. The meeting was also noticed in three newspapers, the Reno Gazette journal, Nevada Appeal and the Las Vegas Review Journal. The council includes three members representing labor, three members representing the general public and three members representing employers.

During the workshop portion of the meeting, DETR staff members made a variety of presentations covering agency and legislative updates, Impact of Federal Borrowing, the Employer Self Service feature of the Unemployment Insurance Modernization Project (UINV), Benefit System Integrity, Economic Projections and Overview, a Review of the UI Trust Fund, and an explanation of the UI Tax Schedule.

There were no written comments received from the public. Verbal comments were offered by:

- Ray Bacon of the Nevada Manufacturers Association, who recommended an increase in the average rate, and that the agency consider future legislative action to revamp the rate schedule so that contributions might be more evenly distributed among employers,
- Carole Vilardo of the Nevada Taxpayers Association, who agreed with the concept of a special assessment, and recognized that a rate increase may be necessary,
- Brian McAnallen of the Las Vegas Chamber of Commerce, who also agreed that a rate increase may be needed, and
- Jim Nelson, of the Nevada Association of Employers, who would like to see the rate remain at 2.00%, and suggested rescission of the CEP and using of those funds to help reduce federal borrowing.

After consideration, the Employment Security Council voted unanimously to Increase the average contribution rate to 2.25 percent of taxable wages for calendar year 2013.

**The number of persons who:**

- (a) Attended the meeting: 28**
- (b) Testified at the workshop: 10 (6 DETR staff, 4 public)**
- (c) Submitted to the agency written comments: None**

**Small Business Workshop**

In compliance with NRS 233B.0603, a small business workshop was held on November 2, 2012, at the Legislative Building, 401 S. Carson Street, Room 2134, Carson City, Nevada, to consider the effect on small businesses of the unemployment contribution rate schedule to be adopted for calendar year 2013. The meeting was also video conferenced to the Grant Sawyer Building, 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada. A copy of the proposed regulation and a request for comment was circulated to the Department's mailing list, and public notices were sent to multiple locations as described above. There was the following public comment at the meeting:

- Andy Flagg, an employer from the Lake Tahoe area, who expressed concern about the effect of any increased tax on employers,
- Brian McAnallen, of the Las Vegas Chamber of Commerce, who recognizes the necessity of a small increase, and
- Carole Vilardo, of the Nevada Taxpayers Association, who also supports an increase.

Written comments were received from:

- Cindy Peterson of Peterson Wealth Management, expressing a desire to maintain the current rate, and
- Ray Bacon of the Nevada Manufacturers Association, supporting a rate increase but expressing concern regarding the state of the economy, and suggesting an adjustment of the statutory rate structure to provide for more even distribution of employers across the schedule.

Although both of these written comments were received after the posted deadline, the Administrator allowed them to be read into the record.

The Employment Security Division Administrator chose to follow the Employment Security Council's recommendation to increase the average contribution rate to 2.25%.

**The number of persons who:**

- (a) Attended the workshop: 18**
- (b) Testified at the workshop: 6 (including 3 DETR staff)**
- (c) Submitted to the agency written comments: 2 (both written comments were past the posted deadline, but were made part of the record anyway.)**

A total of 18 persons attended the workshop, which included Department of Employment, Training and Rehabilitation staff members and one newspaper reporter.

Three Department of Employment, Training and Rehabilitation staff members testified at the workshop regarding the proposed contribution rate schedule.

### **Hearing to Adopt a Regulation**

Notices of a Hearing to Adopt a Regulation were submitted to the Legislative Counsel Bureau and the Nevada State Library on November 2, 2012, providing at least 30 days notice of the Employment Security Division's intention to consider the regulation. The notice included a copy of the proposed regulation and contained a statement of the need and purpose of the regulation. It further specified a time and location for a public hearing, at which interested individuals would be given the opportunity to present their views, or to submit any oral or written evidence. Notice was posted at the principal office of the Employment Security Division in Carson City, as well as numerous offices of the Employment Security Division throughout the state. Notice of the public hearing was mailed on November 2 to all individuals on the Employment Security Division mailing list, submitted to all main county libraries in the state and posted on the web sites of the Department of Employment Training and Rehabilitation and the Legislative Counsel Bureau. The meeting was noticed in three newspapers. They were the Reno Gazette Journal, Nevada Appeal and the Las Vegas Review Journal.

- **A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.**

Comment was solicited from affected businesses in the same manner as for the public, as indicated above. Verbal comment was received at the Employment Security Council Meeting on October 2, 2012 as noted above. After considering the comments the Council's decision was to recommend increasing the contribution rate to 2.25%.

Public comment was received at the Small Business Workshop on November 2, 2012. Two written comments were also received just prior to the Small Business Workshop. After consideration of these and other factors the Administrator chose to follow the Employment Security Council's recommendation of an increase to an average rate of 2.25%.

Copies of the regulation, minutes from the public workshop and the public hearing, as well as this summary, may be obtained from Joyce Golden, Employment Security Division, 500 East Third Street, Carson City, Nevada 89713, (775) 684-3909 and are also being made available on the Department's web site at <http://www.nvdetr.org/>.

- **If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.**

The Employment Security Division adopted the regulation without change, as had been recommended by the Employment Security Council. The public expressed no opposition, either verbally or in written statements.

- **The estimated economic effect of the adopted regulation on the businesses that it is to regulate and on the public. These must be stated separately, and each case must include:**
  - (a) **Both adverse and beneficial effects: and**
  - (b) **Both immediate and long-term effects.**

### **Effects on Business**

**a.** All Nevada employers who are required by the Nevada Unemployment Compensation Law to pay state unemployment compensation contributions, and are eligible for a rate under the experience rating system, are affected by the adopted regulation, which sets the employer contribution rates for calendar year 2013. Increasing the average contribution rate to 2.25% will put a slight strain on businesses dealing with the current economic recession. There are minor adverse effects on businesses from the proposed increased contribution rate. Rebuilding the depleted trust fund will continue to impact businesses in the future.

**b.** The immediate effect of the regulation is to continue payment of unemployment benefits with a small increase to the average contribution rate paid by employers. The long-term effect is to allow the Unemployment Insurance Trust Fund to serve as a stabilizer during recovery from this economic downturn. It is projected that increasing the current average contribution rate will produce revenue to the fund of approximately \$499.65 million, thus helping the State of Nevada reduce the current deficit spending and accrual of interest on outstanding federal loans.

### **Effects on the Public**

**a.** There are no anticipated adverse effects on the public. It is anticipated that increasing the contribution rate to 2.25% will benefit the public by ensuring continued payment of unemployment benefits to unemployed workers, which will enable them to purchase basic goods and services. Payment of benefits also serves as an economic stabilizer for the Nevada economy, particularly during periods of an economic downturn.

**b.** The immediate effect on the public is to ensure payment of unemployment benefits to workers who are unemployed through no fault of their own. The long-term effect is the restoration of solvency of the unemployment trust fund to ensure payment of such benefits in the future without borrowing funds from the federal government.

- **The estimated cost to the agency for enforcement of the adopted regulation.**

There is no additional cost to the agency for enforcement of this regulation.

- **A description of any regulations of other state or government agencies that 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 proposed regulation does not overlap or duplicate regulations of other state or government agencies.

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

There are no federal regulations that regulate the same activity.

- **If the regulation provides a new fee or increases an existing fee, the total annual amount of the agency expects to collect and the manner in which the money will be used.**

The regulation does not provide for a new fee or increase an existing fee.