

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

LCB File No. R039-13

July 25, 2013

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

AUTHORITY: §§1-9 and 11-17, NRS 612.220 and section 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2648; §10, NRS 612.220 and sections 14 and 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at pp. 2646 and 2648.

A REGULATION relating to unemployment compensation; establishing requirements and procedures relating to special bond contributions imposed upon certain employers to pay for certain revenue bonds and other securities concerning unemployment compensation; and providing other matters properly relating thereto.

Section 1. Chapter 612 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 17, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 17, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 9, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Baseline bond interest and expenses contribution rate” means the rate established pursuant to section 13 of this regulation.*

Sec. 4. *“Baseline bond principal contribution rate” means the rate established pursuant to section 12 of this regulation.*

Sec. 5. *“Interest coverage ratio” means the rate of excess collection of money agreed to by the State and the issuer of the bond to provide for the security of the payment of the bond interest and other bond obligations other than the bond principal secured by the principal coverage ratio.*

Sec. 6. *“Principal coverage ratio” means the rate of excess collection of money agreed to by the State and the issuer of the bond to provide for the security of the payment of the bond principal.*

Sec. 7. *“Reserve ratio” has the meaning ascribed to it in NRS 612.550.*

Sec. 8. *“Taxable wages” means wages as determined pursuant to NRS 612.545 which are paid by employers who are required to pay special bond contributions pursuant to subsection 1 of section 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2648.*

Sec. 9. *“Total bond principal” means that part of the bond principal which was issued to repay federal advances pursuant to Title XII of the Social Security Act, 42 U.S.C. §§ 1321 et seq., as amended, or to make deposits to or to establish adequate balances in this State’s account in the Unemployment Trust Fund of the United States Treasury.*

Sec. 10. 1. *If the State Board of Finance issues bonds pursuant to section 12 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2645, for each calendar year in which bond obligations and bond administrative expenses will be due, the State Treasurer must, on or before August 1 of the immediately preceding year, or as soon as practicable thereafter, notify the Administrator of the amount of bond obligations, the estimated amount of bond administrative expenses and the other amounts described in subsection 3 of section 15 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2647, to permit the Administrator to determine the amount of special bond contributions required for the*

applicable calendar year. If no such bond obligations exist for a calendar year, the Administrator will not impose any special bond contributions.

2. After receiving the information described in subsection 1, the Administrator will calculate the rates for the special bond contributions pursuant to sections 12 to 16, inclusive, of this regulation. The Administrator will complete the calculations not later than September 15 of the year in which the information is due from the State Treasurer or 45 days after receiving the information from the State Treasurer, whichever is later.

Sec. 11. *1. An employer who is required to pay special bond contributions pursuant to subsection 1 of section 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2648 shall pay special bond contributions based upon the rates established pursuant to sections 12 to 16, inclusive, of this regulation, and, if applicable, the rate established pursuant to section 17 of this regulation.*

2. If such an employer pays less than the total amount due pursuant to chapter 612 of NRS and any regulations adopted pursuant thereto, including, without limitation, sections 2 to 17, inclusive, of this regulation, the Administrator will apply the money received from that employer first to any special bond contributions for the bond interest and other bond obligations as defined in section 13 of this regulation, then to any special bond contributions for the total bond principal, and then to any other amounts owed pursuant to chapter 612 of NRS and any regulations adopted pursuant thereto, as determined by the Administrator. As used in this subsection, “total amount due” includes, without limitation, the amount due from the employer for contributions for unemployment compensation, principal payments for special bond contributions, and interest payments for special bond contributions.

Sec. 12. *To determine the baseline bond principal contribution rate, the Administrator will:*

1. Multiply the amount of the total bond principal that will be due during the 12-month period beginning on May 1 of the immediately succeeding calendar year and ending on April 30 of the following calendar year by the principal coverage ratio specified in the trust indenture or other instruments in connection with the bonds; and

2. Divide the result reached pursuant to subsection 1 by 95 percent of the total estimated taxable wages for the immediately succeeding calendar year.

Sec. 13. *1. To determine the baseline bond interest and expenses contribution rate, the Administrator will:*

(a) Multiply the amount of the bond interest and other bond obligations that will be due during the 12-month period beginning on May 1 of the immediately succeeding calendar year and ending on April 30 of the following calendar year by the interest coverage ratio specified in the trust indenture or other instruments in connection with the bonds;

(b) Subtract from the result reached pursuant to paragraph (a) the amount of any money available to pay the bond interest and other bond obligations, less all known obligations between the date of calculation and April 30 of the immediately succeeding calendar year which relate to that money; and

(c) Divide the result reached pursuant to paragraph (b) by 95 percent of the total estimated taxable wages for the immediately succeeding calendar year.

2. As used in this section, “bond interest and other bond obligations” means the premium and interest payable on a bond, together with any amount owed under a related credit

agreement or under any instrument or agreement related the bond. The term does not include the total bond principal.

Sec. 14. 1. For the purposes of determining the special bond contributions due from each employer who is required to pay special bond contributions pursuant to subsection 1 of section 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2648, the Administrator will assign each such employer to one of four tiers.

2. Tier 1 consists of such employers who do not qualify for a contribution rate based on experience pursuant to NRS 612.550.

3. Tier 2 consists of such employers who:

(a) Qualify for a contribution rate based on experience pursuant to NRS 612.550; and

(b) Have a reserve ratio of less than zero.

4. Tier 3 consists of such employers who:

(a) Qualify for a contribution rate based on experience pursuant to NRS 612.550;

(b) Have a reserve ratio of equal to or greater than zero; and

(c) Have a reserve ratio of less than the threshold reserve ratio determined pursuant to subsection 6.

5. Tier 4 consists of such employers who:

(a) Qualify for a contribution rate based on experience pursuant to NRS 612.550;

(b) Have a reserve ratio of equal to or greater than zero; and

(c) Have a reserve ratio of equal to or greater than the threshold reserve ratio determined pursuant to subsection 6.

6. The threshold reserve ratio for Tier 4 is 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

the qualification for Tier 4 of the employers who pay not more than 10 percent of all taxable wages from employers with a reserve ratio greater than or equal to zero.

Sec. 15. 1. To determine the bond principal contribution rate for employers assigned to Tier 1, the Administrator will multiply the baseline bond principal contribution rate by a factor of 0.45, then round the result up to the nearest one-hundredth of a percent.

2. To determine the bond principal contribution rate for employers assigned to Tier 2, the Administrator will multiply the baseline bond principal contribution rate by a factor of 1.40, then round the result up to the nearest one-hundredth of a percent.

3. To determine the bond principal contribution rate for employers assigned to Tier 4, the Administrator will multiply the baseline bond principal contribution rate by a factor of 0.25, then round the result up to the nearest one-hundredth of a percent.

4. To determine the bond principal contribution rate for employers assigned to Tier 3, the Administrator will:

(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 the total taxable wages from all employers who are required to pay special bond contributions;

(b) Determine the fraction of total taxable wages from employers who are eligible for experience rating and who have a reserve ratio of less than zero by dividing the taxable wages from such employers by the total taxable wages from all employers who are required to pay special bond contributions;

(c) Determine the fraction of total taxable wages from employers who are eligible for experience rating and who have a reserve ratio that is equal to or greater than the threshold reserve ratio determined pursuant to subsection 6 of section 14 of this regulation by dividing

the taxable wages from such employers by the total taxable wages from all employers who are required to pay special bond contributions;

(d) Determine the fraction of total taxable wages from employers who are eligible for experience rating, who have a reserve ratio of equal to or greater than zero and who have a reserve ratio that is less than the threshold reserve ratio determined pursuant to subsection 6 of section 14 of this regulation by subtracting the fractions calculated pursuant to paragraphs (a), (b) and (c) from 1;

(e) Multiply the bond principal contribution rate determined pursuant to subsection 1 by the fraction determined pursuant to paragraph (a);

(f) Multiply the bond principal contribution rate determined pursuant to subsection 2 by the fraction determined pursuant to paragraph (b);

(g) Multiply the bond principal contribution rate determined pursuant to subsection 3 by the fraction determined pursuant to paragraph (c);

(h) Subtract the results reached pursuant to paragraphs (e), (f) and (g) from the baseline bond principal contribution rate; and

(i) Divide the result reached pursuant to paragraph (h) by the fraction determined pursuant to paragraph (d), then round up to the next one-hundredth of a percent.

Sec. 16. 1. *To determine the bond interest and expenses contribution rate for employers assigned to Tier 1, the Administrator will multiply the baseline bond interest and expenses contribution rate by a factor of 0.45, then round the result up to the nearest one-hundredth of a percent.*

2. To determine the bond interest and expenses contribution rate for employers assigned to Tier 2, the Administrator will multiply the baseline bond interest and expenses contribution rate by a factor of 1.40, then round the result up to the nearest one-hundredth of a percent.

3. To determine the bond interest and expenses contribution rate for employers assigned to Tier 4, the Administrator will multiply the baseline bond interest and expenses contribution rate by a factor of 0.25, then round the result up to the nearest one-hundredth of a percent.

4. To determine the bond interest and expenses contribution rate for employers assigned to Tier 3, the Administrator will:

(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 the total taxable wages from all employers who are required to pay special bond contributions;

(b) Determine the fraction of total taxable wages from employers who are eligible for experience rating and who have a reserve ratio of less than zero by dividing the taxable wages from such employers by the total taxable wages from all employers who are required to pay special bond contributions;

(c) Determine the fraction of total taxable wages from employers who are eligible for experience rating and who have a reserve ratio that is equal to or greater than the threshold reserve ratio determined pursuant to subsection 6 of section 14 of this regulation by dividing the taxable wages from such employers by the total taxable wages from all employers who are required to pay special bond contributions;

(d) Determine the fraction of total taxable wages from employers who are eligible for experience rating, who have a reserve ratio of equal to or greater than zero and who have a reserve ratio that is less than the threshold reserve ratio determined pursuant to subsection 6

of section 14 of this regulation by subtracting the fractions calculated pursuant to paragraphs (a), (b) and (c) from 1;

(e) Multiply the bond interest and expenses contribution rate determined pursuant to subsection 1 by the fraction determined pursuant to paragraph (a);

(f) Multiply the bond interest and expenses contribution rate determined pursuant to subsection 2 by the fraction determined pursuant to paragraph (b);

(g) Multiply the bond interest and expenses contribution rate determined pursuant to subsection 3 by the fraction determined pursuant to paragraph (c);

(h) Subtract the results reached pursuant to paragraphs (e), (f) and (g) from the baseline bond interest and expenses contribution rate; and

(i) Divide the result reached pursuant to paragraph (h) by the fraction determined pursuant to paragraph (d), then round up to the next one-hundredth of a percent.

Sec. 17. 1. *If the State Board of Finance issues bonds pursuant to section 12 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2645, at least 90 days before each payment for bond principal and interest is due, the Administrator will make the determination required by subsection 4 of section 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2648, and, if necessary, assess supplemental special bond contributions sufficient to pay all applicable obligations through April 30 of the immediately succeeding calendar year.*

2. *Employers will not receive experience credit for the supplemental special bond contributions.*

3. To determine the supplemental special bond contribution rate, the Administrator will divide the amount needed to meet the obligations described in subsection 1 by 95 percent of the total taxable wages for the most recent 12 months for which data are available.

4. To determine the supplemental special bond contribution charged to each employer who is required to pay special bond contributions pursuant to subsection 1 of section 16 of Senate Bill No. 515, chapter 450, Statutes of Nevada 2013, at page 2648, the Administrator will multiply the supplemental special bond contribution rate described in subsection 3 by the 12-month total taxable wages for the employer for the most recent 12 months for which data are available.

5. At least 30 days before the Administrator mails a bill to an employer for a supplemental special bond contribution, the Administrator will provide notice to the employer concerning the details of the supplemental special bond contribution.

6. The bill for a supplemental special bond contribution must include, without limitation, the date on which payment is due. The Administrator will provide a due date that is not less than 31 days after the date on which the bill is mailed and not more than 75 days after the date on which the bill is mailed.