

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

LCB File No. R094-13

Effective January 1, 2014

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 2014; 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 ~~2013:~~ *2014:*

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~11.6~~ *10.8* percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~10.0~~ *9.2* percent but less than ~~11.6~~ *10.8* percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~8.4~~ *7.6* percent but less than ~~10.0~~ *9.2* percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~6.8~~ *6.0* percent but less than ~~8.4~~ *7.6* percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~5.2~~ *4.4* percent but less than ~~6.8~~ *6.0* percent;

6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~[3.6]~~ **2.8** percent but less than ~~[5.2]~~ **4.4** percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~[2.0]~~ **1.2** percent but less than ~~[3.6]~~ **2.8** percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~[0.4]~~ **-0.4** percent but less than ~~[2.0]~~ **1.2** percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~[-1.2]~~ **-2.0** percent but less than ~~[0.4]~~ **-0.4** percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~[-2.8]~~ **-3.6** percent but less than ~~[-1.2]~~ **-2.0** percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~[-4.4]~~ **-5.2** percent but less than ~~[-2.8]~~ **-3.6** percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~[-6.0]~~ **-6.8** percent but less than ~~[-4.4]~~ **-5.2** percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~[-7.6]~~ **-8.4** percent but less than ~~[-6.0]~~ **-6.8** percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~[-9.2]~~ **-10.0** percent but less than ~~[-7.6]~~ **-8.4** percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~[-10.8]~~ **-11.6** percent but less than ~~[-9.2]~~ **-10.0** percent;
16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~[-12.4]~~ **-13.2** percent but less than ~~[-10.8]~~ **-11.6** percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~[-14.0]~~ -14.8 percent but less than ~~[-12.4]~~ -13.2 percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~[-14.0]~~ -14.8 percent.

Sec. 2. This regulation becomes effective on January 1, 2014.

State of Nevada
Department of Employment, Training and Rehabilitation
Employment Security Division

**LEGISLATIVE REVIEW OF ADOPTED REGULATION AS REQUIRED BY
ADMINISTRATIVE PROCEDURES ACT, NRS 233B.066
LCB FILE R094-13 [Revised]**

The following statement is submitted for adopted amendments to Nevada Administrative Code (NAC) 612.270. Hearing to adopt was held on December 4, 2013.

- **A clear and concise explanation of the need for the adopted regulation.**

Under the authority of NRS 612.220 and 612.550, the Administrator of the Employment Security Division is required to set the UI contribution rates for the coming year. This is accomplished by amending NAC 612.270 with new ranges of reserve ratios pertinent to each rate class.

- **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, 2013, 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 2014. 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 30, 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, 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 Robert Ostrovsky of the Nevada Resort Association, seeking to verify that in the case of bonding there would be no more assessment to pay interest on the federal loans.

After consideration, the Employment Security Council voted unanimously to recommend two scenarios:

1. In the event of bonding, to reduce the rate to 2.10%, while giving the Administrator some flexibility to adjust the rate in accordance with the actual bonding rates the state is able to obtain.
2. In the absence of bonding, to maintain the present rate of 2.25% of taxable wages for calendar year 2014.

The number of persons who:

(a) Attended the meeting: 29

(b) Testified at the workshop: 6 (5 DETR staff, 1 public)

- **Public**

- Robert Ostrovsky,
 - (702)498-9477
 - 2328 Delina, Las Vegas, NV 89134
 - rao@theferrarogroup.com
 - Nevada Resort Association

- **DETR Staff**

- Renee Olson, ESD Administrator
- David Schmidt, Economist
- William Anderson, Chief, Research & Analysis
- Edgar Roberts, Chief, Contributions
- Kelly Karch, ESD Deputy Administrator

(c) Submitted to the agency written comments: None

Small Business Workshop

In compliance with NRS 233B.0603, a small business workshop was held on October 29, 2013, 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 2014. The meeting was also video conferenced to the Grant Sawyer Building, 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada. A notice and agenda for the workshop, along with a request for comment, and a small business impact statement, were circulated to the Department's mailing list, and public notices were sent to multiple locations as described above.

The notices also explained how a copy of the proposed regulations could be obtained.

There was the following public comment at the meeting:

Carole Vilardo of the Nevada Taxpayers' Association and Brian McAnallen of the Las Vegas Chamber of commerce, both of whom were supportive of the bonding scenario and reduction of the rate accordingly.

The Employment Security Division Administrator chose to follow the Employment Security Council's recommendation, and to decrease the average contribution rate to 1.95% in accordance with the discretion authorized by the Council, to reflect favorable bond rates the Division expected to obtain.

The number of persons who:

(a) Attended the workshop: 15

(b) Testified at the workshop: 5 (including 3 DETR staff)

• Public

- Carole Vilardo, Nevada Taxpayers Association [declined to sign in]
- Brian McAnallen
 - (702)641-5822
 - 8363 W. Sunset Blvd., Suite 250, Las Vegas, NV 89113
 - bmcnallen@lvchamber.com
 - Las Vegas Metro Chamber of Commerce

• DETR Staff

- David Schmidt, Economist
- William Anderson, Chief, Research & Analysis
- Edgar Roberts, Chief, Contributions

(c) Submitted to the agency written comments: none

A total of 15 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 October 29, 2013, 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 October 30 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. .

Public comment was received at the Small Business Workshop on October 29, 2013.. After consideration of these and other factors the Administrator chose to follow the Employment Security Council's recommendation of bonding with a discretionary decrease to an average rate of 1.95%, reflecting expected favorable bond rates.

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 2014. decreasing the average contribution rate to 1.95% will lessen the strain on businesses dealing with the current economic recession. There are no adverse effects on businesses from the proposed decreased 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 decrease 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 this average contribution rate will produce revenue to the fund of approximately \$503 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 decreasing the contribution rate to 1.95% will benefit the public by providing 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.