

**LEGISLATIVE REVIEW OF ADOPTED
PERMANENT REGULATIONS AS REQUIRED BY
NRS 233B.066**

LCB FILE R054-18

The following statement is submitted for adopted amendments to Nevada Administrative code (NAC) Chapter 612.

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

The proposed amendment to the Regulation pertaining to NAC 612, pursuant to Nevada Revised Statute NRS 612.535 – 612.580, will require Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers. The regulation will increase the timeliness and accuracy of employer reporting. The data will go directly into the system and eliminate the need for staff to handle paper reports; reducing the possibility of human error in keying, filing, and indexing. Additionally, it will increase staff time to focus on higher priority activities.

2. 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.

The Employment Security Division Administrator held the sixteen listening sessions throughout Nevada in effort to solicit public comment. At the July 18, 2017 listening session, only one member of the public provided public comment asking for clarification on the capture of an electronic signature in Nevada’s unemployment insurance system (UINV). No other public comment was provided during the remaining sessions. Locations of these listening sessions are as follows:

<i>NORTHERN NEVADA LISTENING SESSION MEETINGS</i>			
Location of Meeting	Address	Date	Time
Carson City, Nevada	State Capitol Building Old Assembly Chambers 101 N. Carson Street, 2nd Floor Carson City, NV 89701	Tuesday, July 18, 2017	9:00am
Reno, Nevada	Washoe County Manager’s Office Commission Chambers 1001 E. Ninth Street, Building A Reno, NV 89512	Wednesday, July 19, 2017	9:30am
Sparks, Nevada	Sparks Library Meeting Room 1125 12th Street Sparks, NV 89431	Wednesday, July 19, 2017	2:00pm
Fernley, Nevada	Comfort Suites Conference Room 800 Mesa Drive Fernley, NV 89408	Thursday, July 20, 2017	9:30am
Fallon, Nevada	Churchill County Commissioners Chambers 155 N. Taylor St. Suite 145 Fallon, NV 89406	Thursday, July 20, 2017	2:30pm

Yerington, Nevada	Yerington Library Meeting Room 20 Nevin Way Yerington, NV 89447	Friday, July 21, 2017	11:00am
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SOUTHERN NEVADA LISTENING SESSION MEETINGS

Location of Meeting	Address	Date	Time
Las Vegas, Nevada	DETR - Stan Jones Building Conference Room A, B & C 2800 E. St. Louis Avenue Las Vegas, NV 89104	August 1, 2017	2:30 pm
North Las Vegas, Nevada	Grant Sawyer Building 555 E. Washington Avenue, Room 1100 Las Vegas, NV 89101	August 2, 2017	9:00 am
Mesquite, Nevada	Mesquite Library Meeting Room 121 W. 1 st North Street Mesquite, NV 89027	August 2, 2017	2:30 pm
Pahrump, Nevada	Nye County Administration Commission Chambers 2100 E. Walt Williams Drive Pahrump, NV 89048	August 3, 2017	10:00 am
Henderson, Nevada	James I. Gibson Library Program Room 100 W. Lake Mead Parkway Henderson, NV 89015	August 4, 2017	9:00 am

RURAL NEVADA LISTENING SESSION MEETINGS

Location of Meeting	Address	Date	Time
Ely, Nevada	Bristlecone Convention Center Pinyon Room 150 West 6th Street Ely, NV 89301	August 28, 2017	2:30 pm
Elko, Nevada	Elko County Library 720 Court Street Elko, NV 89801	August 29, 2017	1:00 pm
Battle Mountain, Nevada	Lander County Courthouse Community Meeting Room 50 State Route 305 Battle Mountain, NV 89820	August 30, 2017	10:00 am
Winnemucca, Nevada	Humboldt County Courthouse 50 West Fifth Street, Room 201 Winnemucca, NV 89445	August 30, 2017	3:00 pm
Lovelock, Nevada	Lovelock Community Center 820 6th Street Lovelock, NV 89419	August 31, 2017	10:00 am

A Small Business Workshop was held on Thursday, March 22, 2018, at 11:00 a.m., the live meeting was held at the Legislative Building, 401 S. Carson Street, Room 3137, Carson City, Nevada 89701 and Video Conferenced to the Grant Sawyer Building, 555 E. Washington Ave, Room 4412E, Las Vegas, Nevada 89101. The purpose of the Small Business Workshop was to present and solicit public comment on a proposed amendment of a regulation pertaining to Chapter 612 of the Nevada Administrative Code (NAC) pursuant to Nevada Revised Statute (NRS) 233B.061. The proposed amendment will establish the Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers.

Notice of the Listening Sessions were sent requesting comments as follows.

DAY, DATE	DESCRIPTION
Friday, June 30, 2017	Provide notice of Public Listening Session – Carson City
Monday, July 3, 2017	Provide notice of Public Listening Session - Reno, Sparks, Fernley, Fallon, and Yerington.
Friday, July 14, 2017	Provide notice of Public Listening Session – Las Vegas, North Las Vegas, Mesquite, Pahrump and Henderson.
Friday, July 28, 2017	Provide notice of Public Listening Session – Ely, Elko, Battle Mountain, Winnemucca, and Lovelock.

The Small Business Workshop notice was sent on March 7, 2018, requesting comments by March 15, 2018. All Listening Sessions and Small Business Workshop Notices were sent by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. Notices were 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 notices were submitted to the Legislative Counsel Bureau, the Nevada State Library, and all main county libraries in the state. The Listening Sessions were noticed in the newspaper nearest to the meeting location.

The Small Business Workshop meeting was noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment, Training and Rehabilitation (DETR):

- <http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page),
- http://www.nvdetr.org/public_notices.htm (DETR Public Notices page),
- <https://notice.nv.gov/> and at the Nevada Legislature website at
- <http://www.leg.state.nv.us/App/Notice/A/>.

Posting 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 89703
Las Vegas Field Audit Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Appeals Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Reno Day Labor Office, 420 Galletti Way, Sparks, NV 89431
Las Vegas Day 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, 4500 E. Sunset Road, Suite 40, Henderson, NV 89014
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, Reno, NV 89502
Nevada JobConnect-Sparks, 2281 Pyramid Way, Sparks, NV 89431
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

During the Listening Sessions and Workshop, DETR staff members reviewed the proposed Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers regulation. The final draft of the regulation was drafted by LCB on April 26, 2018; the Division posted the revised language to the DETR website and posted the revised language to the Nevada Legislature website. During the Small Business Workshop, DETR staff members reviewed the Amended Regulation to the Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers, provided an explanation of the Regulation. The Small Business Impact Statement per NRS 233B.0608 pursuant to Subsection 3 was also reviewed by staff at the Small Business Workshop.

On July 18, 2017, the Employment Security Division Administrator held the first listening session in Carson City to discuss and solicit comment on the proposed regulation which amended Chapter 612 of Nevada Administrative Code. This regulation requires employers to file all reports required by NRS 612.535- 612.580 electronically. As of the July 18, 2017 meeting, no written comments were received. At the July 18, 2017 listening session, only one member of the public provided public comment asking for clarification on the capture of an electronic signature in Nevada's unemployment insurance system (UINV). No other public comment was provided. Minutes from this meeting are available on the Division's web page. The Division held 15 additional listening sessions throughout Nevada in effort to

solicit public comment. No public comment was provided at any of these additional sessions. During the Small Business Workshop, no verbal or written comments were received during the meetings.

On May 31, 2018, the Division issued a Hearing Agenda and a Notice of Intent to Act upon the Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers regulation. The Notice and Agenda was sent by U.S. mail, to all individuals and employers on the Employment Security Division mailing list. The Notice and Agenda 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, the Nevada Chamber of Commerce offices and all main county libraries in the state, including all locations in the workshop notification list above. The meeting was also noticed in three newspapers, the Reno Gazette Journal, the Nevada Appeal and the Las Vegas Review Journal. These documents were also made available at the website of the Department of Employment,

Training and Rehabilitation (DETR):

<http://www.nvdetr.org/publicmeetings.htm> (DETR Public Meetings page),

http://www.nvdetr.org/public_notices.htm (DETR Public Notices page),

<https://notice.nv.gov/> and at the Nevada Legislature website at

<http://www.leg.state.nv.us/App/Notice/A/>.

The division posted the regulation drafted by LCB to the DETR website and posted the revised language to the Nevada Legislature website. A copy of the revised regulation was also made available to the public at the Hearing and DETR staff reviewed the Amended Regulation to the Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers, providing an explanation of the Regulation.

In compliance with NRS 233B, a Hearing for the adoption of the regulation was held on May 31, 2018 at 11:00 a.m., the live meeting was held at the Legislative Building, 401 S. Carson Street, Room 2134, Carson City, Nevada 89701 and Video conferenced to the Grant Sawyer Building, 555 E. Washington Ave, Room 4412E, Las Vegas, Nevada 89101. The purpose of the hearing was to receive comments from all interested persons regarding the adoption of the regulation pertaining to Chapter 612, of the Nevada Administrative Code. During the Hearing verbal comments were received from Ira Victor opposing this regulation requiring businesses to file electronically. Mr. Victor stated that the statistics show small businesses have data security issues and requiring business to file electronically puts these business at risk. No written comments were received.

The transcript from all Listening Sessions and the Small Business Workshop are available at DETR's Public Meeting Minutes page http://nvdetr.org/PublicMinutes_ESD_ESC.htm. The Hearing transcript and a summary of comments from this meeting are not yet

available, but will be posted to DETR's Public Meeting Minutes page within 30 days of the Hearing.

3. The number of persons who:

a. Attended at each meeting:

Northern Nevada Listening Sessions

July 18, 2017: Carson City, Nevada: 6

July 19, 2017: Reno, Nevada: 4

July 19, 2017: Sparks, Nevada: 4

July 20, 2017: Fernley, Nevada: 4

July 20, 2017: Fallon, Nevada: 4

July 21, 2017: Yerington, Nevada: 4

Southern Nevada Listening Sessions

August 1, 2017: Las Vegas, Nevada: 4

August 2, 2017: North Las Vegas, Nevada: 4

August 2, 2017: Mesquite, Nevada: 4

August 3, 2017: Pahrump, Nevada: 4

August 4, 2017: Henderson, Nevada: 4

Rural Nevada Listening Sessions

August 28, 2017: Ely, Nevada: 4

August 29, 2017: Elko, Nevada: 4

August 30, 2017: Battle Mountain, Nevada: 4

August 30, 2017: Winnemucca, Nevada: 4

August 31, 2017: Lovelock, Nevada: 4

Small Business Workshop:

March 22, 2018: Carson City, Nevada: 13; Las Vegas, Nevada: 1

Hearing:

May 31, 2018: Carson City, Nevada: 14; Las Vegas, Nevada: 1

b. Testified at each meeting:

Northern Nevada Listening Sessions

July 18, 2017: Carson City, Nevada: 1

- Cheryl Blomstrom – Nevada Taxpayers Association
116 E. 7th Street
Carson City, Nevada 89701
Telephone Number: 775-882-2697
Email: info@nevadataxpayers.org

July 19, 2017: Reno, Nevada: 0
July 19, 2017: Sparks, Nevada: 0
July 20, 2017: Fernley, Nevada: 0
July 20, 2017: Fallon, Nevada: 0
July 21, 2017: Yerington, Nevada: 0

Southern Nevada Listening Sessions

August 1, 2017: Las Vegas, Nevada: 0
August 2, 2017: North Las Vegas, Nevada: 0
August 2, 2017: Mesquite, Nevada: 0
August 3, 2017: Pahrump, Nevada: 0
August 4, 2017: Henderson, Nevada: 0

Rural Nevada Listening Sessions

August 28, 2017: Ely, Nevada: 0
August 29, 2017: Elko, Nevada: 0
August 30, 2017: Battle Mountain, Nevada: 0
August 30, 2017: Winnemucca, Nevada: 0
August 31, 2017: Lovelock, Nevada: 0

Small Business Workshop:

March 22, 2018: Carson City, Nevada: 0; Las Vegas, Nevada: 0

Hearing:

May 31, 2018

- Ira Victor – Privacy Technician Inc.
4790 Caughlin Pkwy #223
Reno, Nevada 89509
Telephone Number: 702-331-8686
Email: asap@iravictor.net

c. Submitted to the agency written comments:

Employment Security Council: No written comments were submitted

Small Business Workshop: No written comments were submitted

Hearing: No written comments were submitted

4. A description of how comments were solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses in the same manner as they were solicited from the public.

5. If, after consideration of public comment, the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The Division did not receive any written comments recommending changes to the regulation during the Listening Session, Small Business Workshop or Hearing, however during the Hearing the Division received one public comment from Ira Victor opposing the regulation due to security concerns imposed from this regulation on small businesses. The Division has carefully considered the impact to employers during the regulation process and found this approach is currently being used successfully in a number of states that have recently modernized their systems. Those states have shifted staffing resources to focus on customer services, to assist in educating Employers on electronic filing, opposed to rekeying information from paper forms into the system. In the long term, it has benefited both the State and the Employer community and has created a win-win situation for all of the stakeholders. The Division will adopt this regulation with no changes.

6. The estimated economic effect of the adopted regulation on the business which 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.**

All Nevada employers subject to unemployment insurance (UI) contribution and wage reports will be affected by the electronic filing requirement. As of the 4th quarter of 2017, 67 percent of Nevada's employers are already filing reports electronically. Of the remaining third that are filing manually, over 99 percent are small employers. These employers will be required to adopt a new method for filing contribution and wage reports. Possible options include the employer electronically filing reports using the UINV system or hiring a payroll service to file the employer reports on their behalf. If an employer can demonstrate these options cause a hardship, a waiver request can be made to the Division's Administrator. The economic impact of this requirement is not estimable as it is unknown how these employers will elect to electronically file.

Beneficial Impacts

84 percent of all manual filers of the employers that file manually have ten or fewer employees and are likely unaware of the overall efficiency gains the UINV system will provide. Once an employer has created an account in the UINV system, they have three options to report their data; manual data entry, electronic filing W-2-EFW2, or upload a spreadsheet (comma delineated file). For the manual options, the employer would only have to input wages for previously existing employees in subsequent quarters as the UINV system

automatically saves employee records from the previous wage report. The other methods further simplify the electronic filing process, allowing an employer to simply upload reports into the system. In addition to the efficiency gains, electronic filing has been shown to improve accuracy as compared to manual report filing.

Adverse

Some employers may lack the technological resources, access to internet connectivity, and/or abilities required to file electronically and could view this regulation as a burden. A handbook with a step-by-step how to enter and submit employer reports is available on the UINV webpage. Other employers may choose to hire or add to an existing payroll service which could result in an additional expense. These services, for ten employees running a bi-weekly payroll, can range between \$820 to \$3,080 per year, depending on the company and desired levels of service. Again, if employers view these impacts as a hardship, they may submit a waiver to the Division for the Administrator to review.

Direct Impacts

The direct impact of the regulation will require employers that are not already submitting their contribution and wage reports electronically, to begin doing so by July 1, 2018.

Indirect Impacts

Employers that are reporting manually may have to acquire the technology required to electronically submit records or hire a service that can do so on their behalf, i.e. obtain internet connectivity. Both of these options may cause an additional expense for the business.

Immediate Effect:

Manual filers will need to find a new method for filing reports.

Long-Term Effect:

This regulation will adopt Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers that will ultimately make the filing process more efficient, cost effective, and improve accuracy.

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

The regulation will be enforced through the existing UINV system; therefore employers will not incur additional costs. The system will automatically notify employers if they have not submitted their reports. The State is expected to experience a cost savings from the regulation, as funds that previously went towards manually entering employer reports can now be directed towards customer service.

Anticipated Revenue Increase and Use

This is a revenue neutral regulation.

- 8. A description of any regulations of other state or government agencies which 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.**

This regulation only modifies employer reporting requirements, requiring employers to file contribution and wage reports electronically. If an employer finds this too burdensome, the employer can apply for a waiver from the Division. Therefore, this regulation does not duplicate or provide a more stringent standard than any other regulation of federal, state, or local governments.

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

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

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

This Regulation does not impose any new or increased fees on employers.