

ASSEMBLY BILL NO. 292—ASSEMBLYWOMAN CARLTON

MARCH 16, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to unemployment compensation. (BDR 53-210)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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

AN ACT relating to unemployment compensation; eliminating provisions that make a person ineligible for unemployment benefits under certain circumstances related to the person’s separation from his or her next to last employer; eliminating a requirement that the next to last employer of a person be notified of a new or additional claim for unemployment benefits filed by the person under certain circumstances; eliminating a prohibition on the charging of benefits to the account of a person’s next to last employer if the person left the employer to take other employment under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the circumstances under which a person separated from his
2 or her last and next to last employers affect a person’s eligibility for unemployment
3 benefits. If, during a person’s last or next to last employment, the person performed
4 services while incarcerated in a custodial or penal institution and left such
5 employment due to his or her transfer or release from the institution, existing law
6 provides that the person is ineligible for unemployment compensation until the
7 person earns remuneration in covered employment equal to or exceeding his or her
8 weekly benefit amount in each of 10 weeks. (NRS 612.376) Existing law further
9 provides that a person who voluntarily left his or her last or next to last employment
10 without good cause or to seek other employment is generally ineligible for
11 unemployment benefits until the person earns remuneration in covered employment
12 equal to or exceeding his or her weekly benefit amount in each of 10 weeks. (NRS
13 612.380) Finally, existing law provides that a person who was discharged from his
14 or her last or next to last employment for misconduct connected with the person’s



15 work is generally ineligible for unemployment compensation until the person earns
16 remuneration in covered employment equal to or exceeding his or her weekly
17 benefit amount in each of not more than 15 weeks as determined by the
18 Administrator of the Employment Security Division of the Department of
19 Employment, Training and Rehabilitation according to the seriousness of the
20 misconduct. (NRS 612.385) **Sections 1-3** of this bill revise those provisions to
21 remove references to a person's next to last employment. As a result, under
22 **sections 1-3**, the circumstances under which a person separated from his or her next
23 to last employment do not affect his or her eligibility for unemployment benefits
24 under those provisions and only the circumstances under which the person left his
25 or her most recent employment are relevant in determining whether a person is
26 ineligible for unemployment benefits under those provisions.

27 If a person who is unemployed files a new or additional claim for benefits,
28 existing law requires notice to be given to the claimant's last and next to last
29 employing units if the claimant has not earned remuneration with his or her last
30 covered employer equal to or exceeding his or her weekly benefit amount in each
31 of 16 weeks. Upon receipt of a notice, the employing unit is required to submit
32 certain information to the Employment Security Division of the Department of
33 Employment, Training and Rehabilitation and is authorized to protest the payment
34 of benefits to the claimant. (NRS 612.475) Because **sections 1-3** of this bill
35 eliminate the consideration of the circumstances in which a person separated from
36 his or her next to last employment in determining his or her eligibility for benefits,
37 **section 4** of this bill eliminates the requirement that the next to last employing unit
38 of a claimant who has not earned the required amount of remuneration be provided
39 notice of a new or additional claim of the claimant.

40 If a claimant leaves his or her last or next to last employer to take other
41 employment and leaves or is discharged by the latter employer, existing law
42 prohibits the benefits paid to the claimant from being charged against the record for
43 experience rating of the former employer. (NRS 612.551) **Section 5** of this bill
44 eliminates this prohibition with respect to the next to last employer of the claimant.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 612.376 is hereby amended to read as follows:
2 612.376 A person who:

3 1. During his or her last ~~for next to last~~ employment,
4 performed services in the employ of a private employer while
5 incarcerated in a custodial or penal institution; and

6 2. Is discharged from or leaves such employment because of
7 his or her transfer or release from the institution,

8 ➤ is ineligible for benefits for the week in which the person was
9 discharged from or left such employment until that person earns
10 remuneration in covered employment equal to or exceeding his or
11 her weekly benefit amount in each of 10 weeks.

12 **Sec. 2.** NRS 612.380 is hereby amended to read as follows:

13 612.380 1. Except as otherwise provided in subsection 2, a
14 person is ineligible for benefits for the week in which the person has
15 voluntarily left his or her last ~~for next to last~~ employment:



1 (a) Without good cause, if so found by the Administrator, and
2 until the person earns remuneration in covered employment equal to
3 or exceeding his or her weekly benefit amount in each of 10 weeks.

4 (b) To seek other employment and for all subsequent weeks
5 until the person secures other employment or until he or she earns
6 remuneration in covered employment equal to or exceeding his or
7 her weekly benefit amount in each of 10 weeks, if so found by the
8 Administrator.

9 2. A person is not ineligible for benefits solely because he or
10 she left employment which was not suitable to enter training
11 approved pursuant to 19 U.S.C. § 2296.

12 3. As used in subsection 2, employment is "suitable" if the
13 work is of a substantially equal or higher level of skill than the
14 person's past adversely affected employment, and the wages are not
15 less than 80 percent of the person's average weekly wage at his or
16 her past adversely affected employment.

17 **Sec. 3.** NRS 612.385 is hereby amended to read as follows:

18 612.385 A person is ineligible for benefits for the week in
19 which the person has filed a claim for benefits, if he or she was
20 discharged from his or her last ~~for next to last~~ employment for
21 misconduct connected with the person's work, and remains
22 ineligible until the person earns remuneration in covered
23 employment equal to or exceeding his or her weekly benefit amount
24 in each of not more than 15 weeks thereafter as determined by the
25 Administrator in each case according to the seriousness of the
26 misconduct.

27 **Sec. 4.** NRS 612.475 is hereby amended to read as follows:

28 612.475 1. The last employing unit of any unemployed
29 claimant ~~[and the next to last employing unit of an unemployed~~
30 ~~claimant who has not earned remuneration with his or her last~~
31 ~~covered employer equal to or exceeding his or her weekly benefit~~
32 ~~amount in each of 16 weeks]~~ must be notified of any new claim or
33 additional claim filed by the unemployed claimant following his or
34 her separation.

35 2. The notice of the filing of a claim must contain the
36 claimant's name and social security number, the reason for
37 separation from the employing unit affected as given by the
38 claimant, the date of separation and such other information as is
39 deemed proper.

40 3. Upon receipt of a notice of the filing of a claim, the
41 employing unit shall, within 11 days after the date of the mailing of
42 the notice, submit to the Division all known relevant facts which
43 may affect the claimant's rights to benefits.



1 4. Any employing unit that receives a notice of the filing of a
2 claim may protest payment of benefits to the unemployed claimant
3 if the protest is filed within 11 days after the notice is filed.

4 5. Any employing unit which has filed a protest in accordance
5 with the provisions of this section must be notified in writing of the
6 determination arrived at by the Administrator or the Administrator's
7 Deputy, and the notice must contain a statement setting forth the
8 right of appeal.

9 6. As used in this section:

10 (a) "Additional claim" means a claim filed during the benefit
11 year when a break of 1 week or more has occurred in the series of
12 claims with intervening employment.

13 (b) "New claim" means an application for a determination of
14 eligibility and benefits, benefit amount and duration of benefits
15 which certifies to the beginning date of a first period of
16 unemployment in a benefit year or the continuance of a period of
17 unemployment into a new benefit year.

18 **Sec. 5.** NRS 612.551 is hereby amended to read as follows:

19 612.551 1. Except as otherwise provided in subsections 2, 3
20 and 7, if the Division determines that a claimant has earned 75
21 percent or more of his or her wages during his or her base period
22 from one employer, it shall notify the employer by mail of its
23 determination and advise him or her that he or she has a right to
24 protest the charging of benefits to his or her account pursuant to
25 subsection 4 of NRS 612.550.

26 2. Benefits paid pursuant to an elected base period in
27 accordance with NRS 612.344 must not be charged against the
28 record for experience rating of the employer.

29 3. Except as otherwise provided in subsection 7, if a claimant
30 leaves his or her last ~~for next to last~~ employer to take other
31 employment and leaves or is discharged by the latter employer,
32 benefits paid to the claimant must not be charged against the record
33 for experience rating of the former employer.

34 4. If the employer provides evidence within 10 working days
35 after the notice required by subsection 1 was mailed which satisfies
36 the Administrator that the claimant:

37 (a) Left his or her employment voluntarily without good cause
38 or was discharged for misconduct connected with the employment;
39 or

40 (b) Was the spouse of an active member of the Armed Forces of
41 the United States and left his or her employment because the spouse
42 was transferred to a different location,

43 ↪ the Administrator shall order that the benefits not be charged
44 against the record for experience rating of the employer.



1 5. The employer may appeal from the ruling of the
2 Administrator relating to the cause of the termination of the
3 employment of the claimant in the same manner as appeals may be
4 taken from determinations relating to claims for benefits.

5 6. A determination made pursuant to this section does not
6 constitute a basis for disqualifying a claimant to receive benefits.

7 7. If an employer who is given notice of a claim for benefits
8 pursuant to subsection 1 fails to submit timely to the Division all
9 known relevant facts which may affect the claimant's rights to
10 benefits as required by NRS 612.475, the employer's record for
11 experience rating is not entitled to be relieved of the amount of any
12 benefits paid to the claimant as a result of such failure that were
13 charged against the employer's record pursuant to NRS 612.550 or
14 612.553.

15 8. To the extent allowed by federal law, the Administrator
16 may, by regulation, suspend, modify, amend or waive any
17 requirement of this section for the duration of a state of emergency
18 or declaration of disaster proclaimed pursuant to NRS 414.070 and
19 for any additional period of time during which the emergency or
20 disaster directly affects the requirement of this section if:

21 (a) The Administrator determines the action is:

22 (1) In the best interest of the Division, this State or the
23 general health, safety and welfare of the citizens of this State; or

24 (2) Necessary to comply with instructions received from the
25 Department of Labor; and

26 (b) The action of the Administrator is approved by the
27 Governor.

28 **Sec. 6.** This act becomes effective on July 1, 2021.

