

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

LCB File No. R132-04

Effective January 1, 2005

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; revising the rates of contribution for eligible employers; 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 ~~2004:~~ *2005:*

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~6.2~~ *6.7* percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~4.8~~ *5.3* percent but less than ~~6.2~~ *6.7* percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~3.4~~ *3.9* percent but less than ~~4.8~~ *5.3* percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~2.0~~ *2.5* percent but less than ~~3.4~~ *3.9* percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~0.6~~ *1.1* percent but less than ~~2.0~~ *2.5* percent;

6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~[-0.8]~~ -0.3 percent but less than ~~[0.6]~~ 1.1 percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~[-2.2]~~ -1.7 percent but less than ~~[-0.8]~~ -0.3 percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~[-3.6]~~ -3.1 percent but less than ~~[-2.2]~~ -1.7 percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~[-5.0]~~ -4.5 percent but less than ~~[-3.6]~~ -3.1 percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~[-6.4]~~ -5.9 percent but less than ~~[-5.0]~~ -4.5 percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~[-7.8]~~ -7.3 percent but less than ~~[-6.4]~~ -5.9 percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~[-9.2]~~ -8.7 percent but less than ~~[-7.8]~~ -7.3 percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~[-10.6]~~ -10.1 percent but less than ~~[-9.2]~~ -8.7 percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~[-12.0]~~ -11.5 percent but less than ~~[-10.6]~~ -10.1 percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~[-13.4]~~ -12.9 percent but less than ~~[-12.0]~~ -11.5 percent;
16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~[-14.8]~~ -14.3 percent but less than ~~[-13.4]~~ -12.9 percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~[-16.2]~~ -15.7 percent but less than ~~[-14.8]~~ -14.3 percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~[-16.2]~~ -15.7 percent.

Sec. 2. This regulation becomes effective on January 1, 2005.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R132-04**

The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation adopted regulations assigned LCB File No. R132-04 which pertain to chapter 612 of the Nevada Administrative Code on November 16, 2004.

Notice date: 9/10/2004
Hearing date: 11/16/2004

Date of adoption by agency: 11/16/2004
Filing date: 12/15/2004

INFORMATIONAL STATEMENT

DESCRIPTION OF HOW PUBLIC COMMENT WAS SOLICITED

Public Meeting

In compliance with NRS 233B.061, a regular meeting of the Employment Security Council was held on October 6, 2004, at the Legislative Building, 401 S. Carson Street, Room 2135, Carson City, Nevada, to consider the unemployment contribution rate schedule to be adopted for calendar year 2005. The meeting was also video conferenced to the Grant Sawyer Building, 555 East Washington Avenue, Room V4412, Las Vegas, Nevada. Notice of the meeting was mailed on September 10, 2004, 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 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.

A total of 32 persons attended the meeting, including seven members of the Employment Security Council, eighteen Department of Employment, Training and Rehabilitation staff members; three newspaper reporters; three representatives of employer organizations and one employer representative.

Three Department of Employment, Training and Rehabilitation staff members testified at the workshop regarding the proposed contribution rate schedule. No written comments were received.

The Employment Security Council voted to adopt the proposed contribution rate schedule, which provides for an estimated average employer tax rate of 1.38 percent of taxable wages for calendar year 2005. The council unanimously voted for the increase to the average tax rate. The council consisted of two members representing labor, three members representing employers and two members representing the general public.

Small Business Impact Statement

Employment Security Division staff completed a small business impact statement in compliance with NRS 612.0608 and NRS 612.0609 and copies were made available to the public.

Small Business Workshop

In compliance with NRS 233B.0608, NRS 233B.0609 and NRS 612.061 a small business workshop was held on November 3, 2004, at the Public Utilities Commission, 1150 E. Williams Street, Hearing Room A, Carson City, Nevada to consider the unemployment contribution rate schedule to be adopted for calendar year 2005. The small business workshop was also videoconferenced to the Public Utilities Commission, 101 Convention Center Drive, Suite 250, Las Vegas, Nevada. Notice of the workshop was mailed on October 12, 2004 to all individuals on the Employment Security Division mailing list. Notice was posted at the principal office the Employment Security Division in Carson City, Nevada, 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 county libraries in the state, the Public Utilities Commission offices in Carson City and Las Vegas and on the web sites of the Department of Employment Training and Rehabilitation, the Legislative Counsel Bureau and the Public Utilities Commission.

Cynthia A. Jones, Administrator of the Employment Security Division of the Department of Employment, Training, and Rehabilitation, presided and was accompanied by six staff members and the Division's legal counsel. Three staff members of the Department of Employment, Training, and Rehabilitation testified at the workshop. There were no members of the public at the workshop, nor were any written comments received.

Copies of the minutes from the Employment Security Council Meeting and Small Business Workshop, may be obtained from the 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/>

Public Hearing

In compliance with NRS 233B.0603, a public hearing was held on November 16, 2004, at the Department of Employment, Training and Rehabilitation, 500 E. Third Street, Auditorium, Carson City, Nevada. The hearing was also videoconferenced to the Nevada JobConnect, 3405 S. Maryland Parkway, Conference Room, Las Vegas, Nevada. A copy of the proposed regulation and Notice of Intent to Adopt a Regulation were submitted to the Legislative Counsel Bureau and the Nevada State Library on October 12, 2004, providing at least 30 days notice of the Employment Security Division's intention to adopt 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 of the public hearing was mailed on October 12, 2004, 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 county libraries in the state, posted on the Department of Employment Training and Rehabilitation site, and published in three newspapers.

A total of 12 persons attended the public hearing. Cynthia A. Jones, Administrator of the Employment Security Division of the Department of Employment, Training, and Rehabilitation, presided over the hearing. Nine staff from the Department of Employment, Training and Rehabilitation, the Division's legal counsel, two newspaper reporters and one employer representative, participating via teleconference, attended the meeting. Two staff members provided testimony during the hearing. No written comments were received.

Copies of the minutes from the public meeting, workshop and the public hearing, as well as this summary, may be obtained from the 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/>.

DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED BUSINESSES

Comment was requested at the Employment Security Council Meeting and the Small Business Workshop from affected businesses in the same manner as for the public, as indicated above.

REASON FOR ADOPTION WITH CHANGE

The regulation was adopted with the average tax rate increased to 1.38% versus the prior year's rate of 1.29%. The Employment Security Council recommended this increase, and no opposition was expressed by the public, either verbally or in written statements.

ESTIMATED ECONOMIC EFFECT

Business Which it is to Regulate

All Nevada employers who are required by 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 2005.

Beneficial Effects

The increase in the average tax rate from 1.29% to 1.38% will allow the Unemployment Compensation Trust Fund to build reserves during economic expansion and provide stable taxation during future periods of slow or negative economic growth.

Adverse Effects

The average tax rate will increase from 1.29% to 1.38%. The average tax rate will affect approximately 5% of the employers that are currently in the lowest tax rate of .25%. The direct impact to individual employers will be based on their own experience record with the Unemployment Compensation Program.

Immediate and Long-Term Effects

The immediate effect of the regulation is to continue payment of unemployment benefits while building up the unemployment trust fund balance. The long-term effect is to ensure solvency of the unemployment trust fund to pay future benefits, and allow the fund to serve as a stabilizer during economic downturns. The balance in the trust fund on September 30, 2004 was \$453.5 million, which was \$51.6 million more than the state solvency test of \$401.9 million, as provided in NRS 612.550. It is projected that the adopted contribution rate schedule will enable the fund to produce an ending balance of \$470 million on September 30, 2005, which will be \$52.6 million more than the projected state solvency test of \$417.4.

Public

While the regulation involves a tax on employers, it also has impact on the public.

Beneficial effects

It is anticipated that the adopted contribution rate schedule will ensure 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.

Adverse effects

There are no anticipated adverse effects on the public.

Immediate and long-term effects.

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 continued solvency of the unemployment trust fund to ensure payment of such benefits in the future without borrowing funds from the federal government.

REGULATIONS OF OTHER STATE OR GOVERNMENT AGENCIES

The proposed regulation does not overlap or duplicate regulations of other state or government agencies.

FEDERAL REGULATIONS

There are no federal regulations that regulate the same activity.

NEW FEE OR INCREASE AN EXISTING FEE

The adopted regulation increased the average tax rate for eligible employers from 1.29% to 1.38%. This increase is expected to generate an additional \$20 million to the Unemployment Compensation Trust Fund in calendar year 2005. This increase will ensure continued solvency of the fund and the ability to pay benefits without borrowing funds from the federal government that would have to be repaid by Nevada employers.