



## **NOTICE OF INTENT TO ACT UPON REGULATIONS**

### **Notice of Hearing to adopt Regulation amendments in NAC 612**

**Post Date: 05/10/2024**

The Employment Security Division of the Department of Employment, Training and Rehabilitation will hold a public hearing on the date, time and at the locations noted below.

The purpose of the hearing is to receive comments from all interested persons regarding the repeal that pertains to **Chapter 612** of the Nevada Administrative Code (NAC). Revised texts of these regulations are attached to the Agenda.

There are no adverse or beneficial estimated direct or indirect economic effect on small businesses with the proposed regulation amendments as stated in the Small Business Impact Statements presented at the Small Business Workshop held on this regulation amendment, to-wit: **April 24, 2024, 1 P.M.**

The methods used by DETR in determining the impact on a small business were public workshops that DETR ESD conducted for stakeholders to provide input and comments regarding the proposed regulation amendments, an analysis performed by DETR's Research and Analysis Bureau. There are no estimated costs to the agency for enforcement of the proposed regulation amendments, additions or repeals. There are no associated fee increases nor new fees associated with the proposed regulation amendments, additions or repeals.

**This Notice is provided in compliance with NRS 241.020, 233B.061 and 233B.0608.**

**Name of Organization:** Nevada Employment Security Division (ESD)

**Date and Time of Meeting:** **Thursday, June 13, 2024: 1:00 PM**

**Place of Meeting:** **Live Meeting:**  
URL: <https://nvdetr-org.zoom.us/j/86078772198>  
Telephone: **1 253 205 0468**  
Webinar/Meeting ID: **85354975229**

**Live/Broadcast From:**  
ESD SAO Auditorium  
500 E. Third Street  
Carson City, NV 89713

ESD St. Louis Auditorium  
2800 St. Louis Avenue  
Las Vegas, NV 89104

**Note:** This meeting will take place in person at the location(s) noted above and via a Zoom Webinar that is accessible to the public as noted above. A free copy of all materials will be made available before the meeting at: [https://detr.nv.gov/Page/Public\\_Meetings](https://detr.nv.gov/Page/Public_Meetings)

## AGENDA

- I. Call to order and welcome
- II. Public Comment - May limit public comment to 3 minutes per speaker but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item. This round of public comment will last no longer than thirty minutes.
- III. Confirmation of Posting
- IV. Review of Written Comments
- V. **\*FOR POSSIBLE ACTION** – The ESD Administrator will review and take possible action on the following NAC. This information is provided pursuant to the requirements of NRS 233B.0603:
  - A. **R086-24p:  
Amendment of NAC 612.258**  
The need for and purpose of the proposed regulation amendment is to clarify and define an employing unit exception to the prohibition of payrolling in said regulation.
- VI. Closing Public Comment: May limit public comment to 3 minutes per speaker but may not restrict comment based upon viewpoint. No action may be taken upon a matter raised under the public comment period, unless the matter itself has been specifically included on this agenda as an action item. This round of public comment will last no longer than thirty minutes.
- VII. Adjournment – ESD

**Note: Agenda items may be taken out of order. Two or more agenda items may be combined for consideration. An item may be removed or discussion on an item may be delayed at any time.**

A copy of the meeting Notice and Agenda can be requested either in person or by written request to the Department of Employment, Training and Rehabilitation; Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713 or telephone Lindsay Thompson at (775) 684-3967. Copies of pertinent documents will also be made available on the DETR website at: <http://detr.nv.gov>

**Notes:** Written comments must be received by the Employment Security Division on or before **June 10, 2024** at the following address:

**Attn:** Lindsay Thompson/ MASS  
Department of Employment, Training and Rehabilitation Employment Security Division  
500 E. Third Street, Carson City, NV 89713

Persons with disabilities who require reasonable accommodations or assistance at the meeting should notify the Employment Security Division in writing at 500 E. Third Street, Carson City, Nevada 89713, or call Lindsay Thompson at (775) 684-3967 (for individuals who are deaf or have hearing disabilities, dial TTY (800) 326-6868 or 711 for Relay Nevada) within 72 hours of meeting date and time. Supporting materials as provided for in NRS 241.020(5) may be obtained by contacting Lindsay Thompson at the above-noted contact information.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

**Notice of this meeting was posted at the following locations on or before the 30th day prior to the scheduled meeting date.**

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

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

American Job Center of Nevada, 4001 South Virginia Street, Reno, NV 89502

Nevada Career/Business Hub-Carson City, 1929 North Carson Street, Carson City, NV 89701

Nevada Career/Business Hub-Elko, 172 Sixth Street, Elko, NV 89801

Nevada Career/Business Hub-Ely, 1500 Avenue F, Suite 1, Ely, NV 89301

Nevada Career/Business Hub-Fallon, 121 Industrial Way, Fallon, NV 89406

Nevada Career/Business Hub-Henderson, 4500 E. Sunset Road, Suite 40, Henderson, NV 89014

Nevada Career/Business Hub-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169

Nevada Career/Business Hub-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV 89030

Nevada Career/Business Hub-Sparks, 2281 Pyramid Way, Sparks, NV 89431

Nevada Career/Business Hub-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445

**Notice of this meeting was posted on the Internet on the following websites:**

DETR's Public Notices website at: [https://detr.nv.gov/Page/Public\\_Meetings](https://detr.nv.gov/Page/Public_Meetings)

State of Nevada's Public Notices website at: <https://notice.nv.gov/>

Administrative Regulation Notices website at: <https://www.leg.state.nv.us/App/Calendar/A/>

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

**LCB File No. R086-24**

May 8, 2024

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

AUTHORITY: § 1, NRS 612.220.

A REGULATION relating to unemployment compensation; exempting certain employing units from the prohibition against payrolling; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

The Unemployment Compensation Law requires employers to make contributions to the Unemployment Compensation Fund for the purpose of providing temporary benefits to persons who become involuntarily unemployed. In general, existing law requires employers to pay contributions to the Fund at a certain rate of the wages paid by the employer for employment. (Chapter 612 of NRS) Existing regulations: (1) define the term “payrolling” to mean the practice of designating one employing unit to report the wages of an employee who performs services for another employing unit; and (2) prohibit an employing unit from engaging in payrolling. (NAC 612.258) This regulation exempts an employing unit from this prohibition if: (1) the employing unit reporting the wages of an employee pays certain contribution rates; and (2) the contribution rate paid by the employing unit reporting the wages of an employee is equal to or greater than the contribution rate paid by the employing unit for whom the employee performs services.

**Section 1.** NAC 612.258 is hereby amended to read as follows:

612.258 1. *Except as otherwise provided in subsection 2:*

(a) An employing unit shall not engage in payrolling.

(b) Wages must be reported by the employing unit:

~~(a)~~ (1) That has the right to hire and fire the employee;

~~(b)~~ (2) That has the responsibility to control and direct the employee; and

~~(e)~~ (3) For which the employee performs services.

2. *The provisions of subsection 1 do not apply to an employing unit that reports the wages of an employee who performs services for another employing unit if:*

*(a) The employing unit pays the standard contribution rate or is assigned a contribution rate in classes 10 to 18, inclusive, pursuant to NAC 612.270; and*

*(b) The contribution rate paid by the employing unit reporting the wages of the employee is equal to or greater than the contribution rate paid by the employing unit for whom the employee performs services.*

3. As used in this section ~~is, “payrolling”~~:

*(a) “Payrolling” means the practice of designating one employing unit to report the wages of an employee who performs services for another employing unit.*

*(b) “Standard contribution rate” means the rate of contribution prescribed by NRS 612.540.*

**Small Business Impact Statement**  
**Department of Employment, Training, and Rehabilitation**

**NAC 612.258 Amendment: Payrolling**

**Pursuant to NRS 233B.0608**

**1. Description of the manner in which comments were solicited from affected small businesses, a summary of their responses, and an explanation of the manner in which other interested persons may obtain a copy of the summary.**

On April 8, 2024, the Division publicly posted notice of the meeting notice and agenda for the Workshop to Address the Impact of Proposed Regulation on Small Businesses to solicit public comments pursuant to NRS 241.020 and 233B.061. Said Small Business Workshop is being held on April 24, 2024, 1:00 P.M. The Notice of Intent to Act Upon Regulations will be held on June 13, 2024, 1:00 P.M.

**2. Manner and Method of Analysis**

This analysis was conducted by the state employee, DETR's Chief Economist, with the most understanding of the subject of unemployment insurance, projected benefits and contributions, and ability to make a valid and educated determination as to the potential impact of said regulation amendments and repeals based on said economic analyses conducted and considerations from any/all public comments received by the Department during this rulemaking process.

**3. Estimated Economic Impact**

Through the manner and methods of analysis described above in 2., it is the determination of the Division that these regulatory amendments and repeals as outlined in the Employment Security Administrator's draft regulation are estimated to have the following economic impacts stated as follows:

- Amendment of NACs 612.258 adding:
  - o an exception to the payrolling regulation that exempts employing units that are assigned to Class 10 through Class 18 contribution rates as prescribed in NAC 612.270; or
  - o an exception to those employing units that would otherwise receive the standard rate of contributions under NRS 612.540 provided that the employing unit reporting the wages pays a greater rate than or equal to the rate that the employing unit receiving services would otherwise receive.

Through the manner and method of analysis described above in 2., it is the determination of the Division that these regulatory amendments will result in a *positive* economic impact for the State and/or the public, allowing for a cost saving measure for businesses within those UI tax rates to utilize payrolling companies, thus saving said businesses resources by allowing their payroll functions to be contracted out to payrolling companies.

If approved, this exception helps minimize costs to employers by enabling them to utilize said payrolling services and not requiring them to establish their own human resource unit within the State to perform said payrolling services.

The proposed regulation is not expected to impose any burden on any business in Nevada, nor would it directly restrict the formation, operation, or expansion of any business in the state.

#### **Adverse Impacts**

Through the manner and method of analysis described above in 2., it is the determination of the Division that this regulatory amendment does not pose any known adverse economic impact on the State and/or the public.

#### **Direct Impacts**

Through the manner and method of analysis described above in 2., it is the determination of the Division that this regulatory amendment will not have any significant direct economic impacts on the State and/or the public; the Division anticipates a direct *positive* impact for employers of the State and the public through the allowance of payrolling to employing units that are assigned to Class 10 through Class 18 contribution rates as prescribed in NAC 612.270.

#### **Indirect Impacts**

Through the manner and method of analysis described above in 2., it is the determination of the Division that this regulatory amendment will not have any significant direct economic impacts on the State and/or the public; the Division anticipates a direct *positive* impact for employers of the State and the public through the allowance of payrolling to employing units that are assigned to Class 10 through Class 18 contribution rates as prescribed in NAC 612.270.

#### **4. Consideration of Impact on Small Businesses**

Through the manner and methods of analysis described above in 2., it is the determination of the Division that this regulatory amendment is not expected to have any significant impacts on small businesses, other than the *positive* impacts in general as stated above.

#### **5. Estimated Cost of Enforcement**

This regulation amendment will be enforced as a regular part of ongoing UI operations and does not represent any additional burden on staff time. Funding for the administration of the UI program is provided to the Department by the US Department of Labor.

#### **6. Anticipated Revenue Increase and Use**

Through the manner and methods of analysis described above in 2., it is the determination of the Division that this regulatory amendment is not anticipated to result in revenue increase nor use.

#### **7. Duplication or More Stringent Standards than Federal, State, or Local Governments**

Through the manner and methods of analysis described above in 2., it is the determination of the Division that this regulatory amendment is not anticipated to result in duplication or more stringent standards than those of federal, state, or local governments.

#### **8. The Reason for the Conclusions of the Agency Regarding the Impact of the Regulation on Small Businesses**

Through the manner and methods of analysis described above in 2., the Division concludes that there is no disparate impact to small businesses due to this regulation amendment.

Certification of Concerted Effort to Determine Impact on Small Business and Accuracy of Statement

I certify that to the best of my knowledge or belief, a concerted effort was made by the Department of Employment, Training, and Rehabilitation to determine the impact of this regulation on small business, and that the information contained in this statement has been prepared properly and is accurate.

*Kristine Nelson* 05.10.2024

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Kristine Nelson  
ESD Administrator