

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

LCB File No. R214-08

Effective January 1, 2009

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 2009; 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 ~~2008;~~ *2009*:

1. Class 1: A rate of 0.25 percent is assigned to each employer whose reserve ratio is ~~7.2~~ *6.9* percent or more;
2. Class 2: A rate of 0.55 percent is assigned to each employer whose reserve ratio is at least ~~5.8~~ *5.5* percent but less than ~~7.2~~ *6.9* percent;
3. Class 3: A rate of 0.85 percent is assigned to each employer whose reserve ratio is at least ~~4.4~~ *4.1* percent but less than ~~5.8~~ *5.5* percent;
4. Class 4: A rate of 1.15 percent is assigned to each employer whose reserve ratio is at least ~~3.0~~ *2.7* percent but less than ~~4.4~~ *4.1* percent;
5. Class 5: A rate of 1.45 percent is assigned to each employer whose reserve ratio is at least ~~1.6~~ *1.3* percent but less than ~~3.0~~ *2.7* percent;

6. Class 6: A rate of 1.75 percent is assigned to each employer whose reserve ratio is at least ~~[-0.2]~~ -0.1 percent but less than ~~[-1.6]~~ 1.3 percent;
7. Class 7: A rate of 2.05 percent is assigned to each employer whose reserve ratio is at least ~~[-1.2]~~ -1.5 percent but less than ~~[-0.2]~~ -0.1 percent;
8. Class 8: A rate of 2.35 percent is assigned to each employer whose reserve ratio is at least ~~[-2.6]~~ -2.9 percent but less than ~~[-1.2]~~ -1.5 percent;
9. Class 9: A rate of 2.65 percent is assigned to each employer whose reserve ratio is at least ~~[-4.0]~~ -4.3 percent but less than ~~[-2.6]~~ -2.9 percent;
10. Class 10: A rate of 2.95 percent is assigned to each employer whose reserve ratio is at least ~~[-5.4]~~ -5.7 percent but less than ~~[-4.0]~~ -4.3 percent;
11. Class 11: A rate of 3.25 percent is assigned to each employer whose reserve ratio is at least ~~[-6.8]~~ -7.1 percent but less than ~~[-5.4]~~ -5.7 percent;
12. Class 12: A rate of 3.55 percent is assigned to each employer whose reserve ratio is at least ~~[-8.2]~~ -8.5 percent but less than ~~[-6.8]~~ -7.1 percent;
13. Class 13: A rate of 3.85 percent is assigned to each employer whose reserve ratio is at least ~~[-9.6]~~ -9.9 percent but less than ~~[-8.2]~~ -8.5 percent;
14. Class 14: A rate of 4.15 percent is assigned to each employer whose reserve ratio is at least ~~[-11.0]~~ -11.3 percent but less than ~~[-9.6]~~ -9.9 percent;
15. Class 15: A rate of 4.45 percent is assigned to each employer whose reserve ratio is at least ~~[-12.4]~~ -12.7 percent but less than ~~[-11.0]~~ -11.3 percent;
16. Class 16: A rate of 4.75 percent is assigned to each employer whose reserve ratio is at least ~~[-13.8]~~ -14.1 percent but less than ~~[-12.4]~~ -12.7 percent;

17. Class 17: A rate of 5.05 percent is assigned to each employer whose reserve ratio is at least ~~[+15.2]~~ -15.5 percent but less than ~~[+13.8]~~ -14.1 percent; and

18. Class 18: A rate of 5.4 percent is assigned to each employer whose reserve ratio is less than ~~[+15.2]~~ -15.5 percent.

Sec. 2. This regulation becomes effective on January 1, 2009.

NOTICE OF ADOPTION OF PROPOSED REGULATION LCB File No. R214-08

The Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation adopted regulations assigned LCB File No. R214-08 which pertain to chapter 612 of the Nevada Administrative Code.

INFORMATIONAL STATEMENT

- 1. 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.**

ESD Workshop

In compliance with NRS 233B.061 and NRS 612.305, a regular meeting of the Employment Security Council was held on October 2, 2008, 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 2009. 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 September 16, 2008, to all individuals on the Employment Security Division mailing list. Notice was posted at the principle 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.

There were no written comments received from the public. During the workshop a verbal comment was made by a member of the public expressing concern about future trust fund solvency.

Public Hearing

In compliance with NRS 233B.0603, a public hearing was held on December 3, 2008, at the Northern office of the Department of Employment, Training and Rehabilitation, 500 E. Third Street, Carson City, Nevada. The hearing was also video conferenced to the Southern office of the Department of Employment, Training and Rehabilitation, 2800 E. St. Louis Avenue, 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 29, 2008, 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 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 December 3,

to all individuals on the Employment Security Division mailing list, submitted to 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 noticed in three newspapers. They were the Reno Gazette Journal, Nevada Appeal and the Las Vegas Review Journal.

There were no verbal or written comments received from the public.

Copies of the 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/>.

2. The number of persons who:

- (a) Attended the workshop: 23**
- (b) Testified at the workshop: 3**
- (c) Submitted to the agency written comments: None**

A total of 23 persons attended the workshop, including five members of the Employment Security Council, thirteen Department of Employment, Training and Rehabilitation staff members, two newspaper reporters, two employer representatives and one employer.

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 unanimously to adopt the proposed contribution rate schedule, which provides for an average employer tax rate of 1.33 percent of taxable wages for calendar year 2009. The council consisted of two members representing labor, two members representing the general public and one member representing employers.

The number of persons who:

- (a) Attended the hearing: 10**
- (b) Testified at the hearing: 3**
- (c) Submitted to the agency written comments: None**

A total of ten 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 attended the meeting along with one newspaper reporter. Three staff members provided testimony during the hearing. No written comments were received.

3. 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.

4. 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 regulation was adopted without change, as recommended by the Employment Security Council. The public expressed no opposition, either verbally or in written statements.

5. 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.**

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 2009. The adopted contribution rate schedule benefits businesses as there was no increase of the average tax rate for 2009. The continuation of the average tax rate at 1.33% uses the reserve in the Trust Fund according to its counter-cyclical purpose – using revenue collected during strong economic times to cover the increased demand for payments of unemployment benefits during downturns with no tax increases on employers. There are no anticipated adverse effects on the businesses, which the regulation is to regulate.

b. The immediate effect of the regulation is to continue payment of unemployment benefits with no increase 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 this economic downturn. The balance in the trust fund on September 30, 2008 was \$703.4 million. It is projected that the adopted contributions rate schedule will enable the fund to produce an ending balance for September 30, 2009 of \$450.3 million,

Public

a. There are no anticipated adverse effects on the public. It is anticipated that the adopted contribution rate schedule will benefit the public by ensuring 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 continued solvency of the unemployment trust fund to ensure payment of such benefits in the future without borrowing funds from the federal government.

6. 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.

7. 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.

8. 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.

9. 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.