

SENATE BILL NO. 423—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE DEPARTMENT OF EMPLOYMENT,
TRAINING AND REHABILITATION)

MARCH 24, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes relating to unemployment
compensation benefits. (BDR 53-476)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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; increasing the period during which the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation may recover an overpayment of unemployment compensation benefits; authorizing the Administrator to establish or provide support for job training programs in the public and private sectors for training, retraining or improving the skills of persons employed in this state; authorizing the filing of an action for judicial review of a final decision of the Board of Review concerning a claim for unemployment benefits in the district court of the county where the employment which is the basis of the claim was performed; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 612.365 is hereby amended to read as follows:
2 612.365 1. Any person who is overpaid any amount as
3 benefits under this chapter is liable for the amount overpaid unless:
4 (a) The overpayment was not due to fraud, misrepresentation or
5 willful nondisclosure on the part of the recipient; and



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1 (b) The overpayment was received without fault on the part of
2 the recipient, and its recovery would be against equity and good
3 conscience, as determined by the Administrator.

4 2. The amount of the overpayment must be assessed to the
5 liable person , and he must be notified of the basis of
6 the assessment. The notice must specify the amount for which the
7 person is liable. In the absence of fraud, misrepresentation or willful
8 nondisclosure, notice of the assessment must be mailed or
9 personally served not later than 1 year after the close of the benefit
10 year in which the overpayment was made.

11 3. At any time within ~~{3}~~ 5 years after the notice of
12 overpayment, the Administrator may recover the amount of the
13 overpayment ~~{either}~~ by using the same methods of collection
14 provided in NRS 612.625 to 612.645, inclusive, *612.685 and*
15 *612.686* for the collection of past due contributions or by deducting
16 the amount of the overpayment from any benefits payable *to* the
17 liable person under this chapter.

18 4. The Administrator may waive recovery or adjustment of all
19 or part of the amount of any such overpayment which he finds to be
20 uncollectible or the recovery or adjustment of which he finds to be
21 administratively impracticable.

22 5. Any person against whom liability is determined under this
23 section may appeal therefrom within 10 days after the date the
24 notice provided for in this section was mailed to, or served upon, the
25 person. An appeal must be made and conducted in the manner
26 provided in this chapter for the appeals from determinations of
27 benefit status. The 10-day period provided for in this subsection
28 may be extended for good cause shown.

29 **Sec. 2.** NRS 612.475 is hereby amended to read as follows:

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

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

42 3. Upon receipt of a notice of the filing of a claim, the
43 employing unit shall , within 10 days ~~{off}~~ *after* the date of *the*
44 mailing of the notice , submit to the Division any facts which may
45 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~~ if the protest is filed within 10 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 his deputy, and the
7 notice must contain a statement setting forth the right of appeal.

8 **6. As used in this section:**

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

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

17 **Sec. 3.** NRS 612.530 is hereby amended to read as follows:

18 612.530 1. Within 10 days after the decision of the Board of
19 Review has become final, any party aggrieved thereby or the
20 Administrator may secure judicial review thereof by commencing
21 an action in the district court of the county ~~[wherein the appealed~~
22 ~~claim or claims were filed against the Administrator]~~ *where the*
23 *employment which is the basis of the claim was performed* for
24 the review of the decision, in which action any other party to the
25 proceedings before the Board of Review must be made a defendant.

26 2. In such action, a petition which need not be verified, but
27 which must state the grounds upon which a review is sought, must
28 be served upon the Administrator, unless he is the appellant, or upon
29 such person as he may designate, and such service shall be deemed
30 completed service on all parties, but there must be left with the party
31 so served as many copies of the petition as there are defendants, and
32 the Administrator shall forthwith mail one such copy to each ~~[such]~~
33 defendant.

34 3. With his answer or petition, the Administrator shall certify
35 and file with the court originals or true copies of all documents and
36 papers and a transcript of all testimony taken in the matter, together
37 with the Board of Review’s findings of fact and decision therein.
38 The Administrator may ~~[also, in his discretion,]~~ certify to the court
39 questions of law involved in any decision.

40 4. In any judicial proceedings under this section, the finding of
41 the Board of Review as to the facts, if supported by evidence and in
42 the absence of fraud, is conclusive, and the jurisdiction of the court
43 is confined to questions of law.

44 5. Such actions, and the questions so certified, must be heard in
45 a summary manner and must be given precedence over all other



1 civil cases except cases arising under chapters 616A to 616D,
2 inclusive, or chapter 617 of NRS.

3 6. An appeal may be taken from the decision of the district
4 court to the Supreme Court of Nevada ~~{such}~~ in the same manner, but
5 not inconsistent with the provisions of this chapter, as is provided in
6 civil cases.

7 7. It is not necessary, in any judicial proceeding under this
8 section, to enter exceptions to the rulings of the Board of Review,
9 and no bond may be required for entering ~~{such}~~ *the* appeal.

10 8. Upon the final determination of ~~{such}~~ *the* judicial
11 proceeding, the Board of Review shall enter an order in accordance
12 with the determination.

13 9. A petition for judicial review does not act as a supersedeas
14 or stay unless the Board of Review so orders.

15 **Sec. 4.** NRS 612.606 is hereby amended to read as follows:

16 612.606 1. Except as otherwise provided in subsection 4, in
17 addition to any other contribution required by this chapter, each
18 employer shall make payments into the Unemployment
19 Compensation Administration Fund for the program for the
20 employment *and training* of ~~{claimants and other}~~ unemployed
21 persons *and persons employed in this state* at the rate of .05 percent
22 of the wages he pays.

23 2. The interest and forfeit provisions of NRS 612.620 and
24 612.740, respectively, are inapplicable to the payments required by
25 this section.

26 3. In determining unemployment compensation contribution
27 rates assigned to employers pursuant to this chapter, payments paid
28 into the Unemployment Compensation Administration Fund for the
29 program for the employment *and training* of ~~{claimants and other}~~
30 unemployed persons *and persons employed in this state* pursuant to
31 this section must remain separate from any other contribution paid
32 pursuant to this chapter and must not be included in any manner in
33 computing the contribution rates to be assigned to employers under
34 NRS 612.550.

35 4. The provisions of this section do not apply to an employer:

36 (a) Who has been assigned a contribution rate of 5.4 percent
37 pursuant to subsection 6 of NRS 612.550; or

38 (b) Who has elected to make reimbursement in lieu of
39 contributions pursuant to NRS 612.553.

40 **Sec. 5.** NRS 612.607 is hereby amended to read as follows:

41 612.607 1. All payments collected pursuant to NRS 612.606
42 must be deposited in the Unemployment Compensation
43 Administration Fund. At the end of each fiscal year, the State
44 Controller shall transfer to the Clearing Account in the
45 Unemployment Compensation Fund the amount by which the



1 unencumbered balance of the money deposited in the
2 Unemployment Compensation Administration Fund pursuant to this
3 subsection exceeds the amount of that money which the Legislature
4 has authorized for expenditure during the first 90 days of the
5 succeeding fiscal year.

6 2. Except for money transferred from the Unemployment
7 Compensation Administration Fund pursuant to subsection 1, the
8 Administrator may only expend the money collected for the
9 employment *and training* of ~~{claimants and other}~~ unemployed
10 persons *and persons employed in this state* to:

11 (a) Establish and administer an employment training program
12 which must foster job creation, minimize unemployment costs of
13 employers and meet the needs of employers for skilled workers by
14 providing training to ~~{unemployment compensation claimants and
15 other}~~ unemployed persons; ~~{and}~~

16 (b) *Establish or provide support for job training programs in
17 the public and private sectors for training, retraining or improving
18 the skills of persons employed in this state; and*

19 (c) Pay the costs of the collection of payments required pursuant
20 to NRS 612.606.

21 3. The money used for the program for the employment *and
22 training* of ~~{claimants and other}~~ unemployed persons *and persons
23 employed in this state* must supplement and not displace money
24 available through existing employment training programs conducted
25 by any employer or public agency and must not replace, parallel,
26 supplant, compete with or duplicate in any way existing
27 apprenticeship programs approved by the State Apprenticeship
28 Council.

29 **Sec. 6.** This act becomes effective on July 1, 2003.

