

STATE OF NEVADA

Brian Sandoval
Governor



Don Soderberg
Director

Renee L. Olson
Administrator

Department of Employment, Training and Rehabilitation
EMPLOYMENT SECURITY DIVISION
500 E. Third Street
Carson City, Nevada 89713-0001

NOTICE OF INTENT TO ACT UPON A REGULATION

*****REVISED – (Please see below changes in red)**

Notice of Hearing to adopt the amended Regulation for the
Electronic Filing of Unemployment Insurance Contribution and Wage Reports

The purpose of the hearing is to receive comments from all interested persons regarding the proposed amendment to the Regulation pertaining to Nevada Administrative Code (NAC) 612, pursuant to Nevada Revised Statute NRS 233B.061. The proposed amendment will establish the Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers effective July 1, 2018.

Name of Division: Nevada Employment Security Division (ESD)

Date and Time of Hearing: Thursday, May 31, 2018; 11:00 A.M.

Place of Meeting:	Live Meeting:	Video Conference To:
	Legislative Building	Grant Sawyer Building
	401 S. Carson Street, Room 3137	555 E. Washington Ave., Room 4401
	***401 S. Carson Street, Room 2134 Carson City, Nevada 89701	***555 E. Washington Ave., Room 4412E Las Vegas, Nevada 89101

AGENDA

- I. Call to order and welcome – ESD
- II. Public Comment - *ESD may limit public comment to 5 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.*
- III. Confirmation of Posting – ESD
- IV. Review Written Comments – ESD
- V. Review of amended regulation to establish online filing of Unemployment Insurance Contribution and Wage Reports – ESD
- VI. Closing Public Comment - *ESD may limit public comment to 5 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.*
- VII. ***For possible action:** Adjournment

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.

NOTICE AND EXPLANATION

The purpose of the hearing is to receive comments from all interested persons regarding the amendment of a Regulation that pertains to Chapter 612 of the NAC.

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. **Statement of the need for and purpose of the proposed regulation or amendment**

The proposed amendment to the Regulation pertaining to NAC 612, pursuant to Nevada Revised Statute NRS 612.535 – 612.580, will require Electronic Filing of Unemployment Insurance Contribution and Wage Reports for Nevada Employers effective July 1, 2018.

2. **Description of the proposed regulation**

The purpose of the regulation is to mandate electronic filing which will ultimately make the filing process more efficient, cost effective, and improve accuracy.

3. **Estimated Economic Impact**

All Nevada employers subject to unemployment insurance (UI) contribution and wage reports will be affected by the electronic filing requirement. As of the 4th quarter of 2017, 67 percent of Nevada's employers are already filing reports electronically. Of the remaining third that are filing manually, over 99 percent are small employers. These employers will be required to adopt a new method for filing contribution and wage reports. Possible options include the employer electronically filing reports using the UINV system or hiring a payroll service to file the employer reports on their behalf. If an employer can demonstrate these options cause a hardship, a waiver request can be made to the Division's Administrator. The economic impact of this requirement is not estimable as it is unknown how these employers will elect to electronically file.

Adverse Impacts

Some employers may lack the technological resources, access to internet connectivity, and/or abilities required to file electronically and could view this regulation as a burden. A handbook with a step-by-step how to enter and submit employer reports is available on the UINV webpage. Other employers may choose to hire or add to an existing payroll service which could result in an additional expense. These services, for ten employees running a bi-weekly payroll, can range between \$820 to \$3,080 per year, depending on the company and desired levels of service. Again, if employers view these impacts as a hardship, they may submit a waiver to the Division for the Administrator to review.

Beneficial Impacts

84 percent of all manual filers of the employers that file manually have ten or fewer employees and are likely unaware of the overall efficiency gains the UINV system will provide. Once an employer has created an account in the UINV system, they have three options to report their data; manual data entry, electronic filing W-2-EFW2, or upload a spreadsheet (comma delineated file). For the manual options, the employer would only have to input wages for previously existing employees in subsequent quarters as the UINV system automatically saves employee records from the previous wage report. The other methods further simplify the electronic filing process, allowing an employer to simply upload reports into the system. In addition to the efficiency gains, electronic filing has been shown to improve accuracy as compared to manual report filing.

Immediate Impacts

The immediate impact of the regulation will require employers that are not already submitting their contribution and wage reports electronically, to begin doing so by July 1, 2018.

Long - Term Impacts

This Regulation will serve to improve the efficiency and accuracy in Unemployment Insurance Contribution and Wage reports received from Employers.

4. Methods used in determining the impact on a small business

This analysis was conducted by the state employee with the greatest understanding of the subject of Nevada unemployment insurance data. The analysis was performed by acquiring the current number of employers reporting quarterly contribution and wage reports manually. This was followed by breaking out several options employers will have to electronically file their quarterly reports. Due to the inability to foresee how these employers will elect to file, no dollar amount is estimable.

5. Estimated Cost of Enforcement

The Regulation will be enforced through the existing UINV system; therefore employers will not incur additional costs. The system will automatically notify employers if they have not submitted their reports. The State is expected to experience a cost savings from the regulation, as funds that previously went towards manually entering employer reports can now be directed towards customer service.

6. Overlap or duplication of regulations

This Regulation does not overlap or duplicate any other regulation of federal, state, or local governments. This Regulation only modifies employer reporting requirements, requiring employers to file contribution and wage reports electronically. If an employer finds this too burdensome, the employer can apply for a waiver from the Division.

7. Requirement pursuant to federal law

The proposed Regulation is not required by federal law.

8. More stringent than federal regulations

This Regulation does not provide a more stringent standard than any other regulation of federal, state, or local governments.

9. New or increased fee

This Regulation does not impose any new or increased fees on employers.

10. Public Comments

Persons wishing to comment upon the proposed action of the Department of Employment, Training and Rehabilitation (DETR), ESD, may appear at the scheduled public hearing or address their comments, data, views or arguments in writing to the ESD, 500 E. Third Street, Carson City, Nevada 89713 – Attention Joyce Golden. The ESD must receive all written submissions on or before May 24, 2018. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the ESD may proceed immediately to action upon any written submissions.

11. Locations where the text of the rule may be inspected and copied

A copy of this Notice and the Regulation to be amended will be on file at the Nevada State Library and Archives, 100 N. Stewart Street, Carson City, Nevada 89701, for inspection by members of the public during business hours. Additional copies of the Notice and the Regulation to be amended will be available at the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713; and in all counties in which an office of the agency is not maintained, at the main public library, for inspection and copying by members of the public during business hours. This Notice and the text of the proposed Regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this Notice and the proposed Regulation will also be mailed to members of the public upon request. To obtain a copy of the proposed Regulation and Small Business Impact Statement, write to the Department of Employment, Training and Rehabilitation, Employment Security Division, 500 E. Third Street, Carson City, Nevada 89713, or telephone Joyce Golden at (775) 684-3909. Copies of pertinent documents will also be made available on the DETR web site at: <http://nvdeetr.org>. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

This proposed Regulation has been publicly noticed in accordance with Nevada's Open Meeting Law, public comment has been solicited and the Regulation has been submitted to the Legislative Counsel Bureau for review, as outlined in NRS 233B.064 cited below.

12. Subsection 2 of NRS 233B.064

“Permanent regulation: Prohibition against adoption until text approved or revised by Legislative Counsel; agency to provide written notification to Legislative Counsel of date of adoption; agency to issue statement of reasons for adoption upon request.

1. An agency shall not adopt, amend or repeal a permanent regulation until it has received from the Legislative Counsel the approved or revised text of the regulation in the form to be adopted. The agency shall immediately notify the Legislative Counsel in writing of the date of adoption of each regulation adopted.

2. 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.”

Note: 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 Joyce Golden at (775) 684-3909 (*for individuals who are deaf or have hearing disabilities, dial TTY (800) 326-6868 or 711 for Relay Nevada*), or send a fax to (775) 684-3910 within 72 hours of meeting date and time. Supporting materials as provided for in NRS 241.020(5) may be obtained by contacting Joyce Golden at the above-noted contact information.

Notice of this hearing was posted at the following locations on or before the *thirtieth* (30th) working day prior to the meeting:

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
All County Libraries in Nevada
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
Las Vegas Field Audit Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Appeals Office, 2800 E. St. Louis Ave., Las Vegas, NV 89104
Reno Day Labor Office, 420 Galletti Way, Sparks, NV 89431
Las Vegas Day Labor Office, 1001 North A Street, Las Vegas, NV 89106
Nevada JobConnect-Carson City, 1929 North Carson Street, Carson City, NV 89701
Nevada JobConnect-Elko, 172 Sixth Street, Elko, NV 89801
Nevada JobConnect-Ely, 1500 Avenue F, Suite 1, Ely, NV 89301
Nevada JobConnect-Fallon, 121 Industrial Way, Fallon, NV 89406
Nevada JobConnect-Henderson, 4500 E. Sunset Road, Suite 40, Henderson, NV 89014
Nevada JobConnect-Las Vegas, 3405 South Maryland Parkway, Las Vegas, NV 89169
Nevada JobConnect-North Las Vegas, 2827 Las Vegas Boulevard North, Las Vegas, NV 89030
Nevada JobConnect-Sparks, 2281 Pyramid Way, Sparks, NV 89431
Nevada JobConnect-Winnemucca, 475 Haskell St., Suite 1, Winnemucca, NV 89445
Northern Nevada OneStop-Reno Town Mall, 4001 South Virginia Street, Suite H, Reno, NV 89502

Notice of this meeting was posted on the Internet on the following websites: DETR's Public Notices website at: http://nvdetr.org/public_notices.htm, the State of Nevada's Public Notices website at: <https://notice.nv.gov/>, and the Administrative Regulation Notices website at: <http://www.leg.state.nv.us/App/Notice/A/>.

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

LCB File No. R054-18

April 26, 2018

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

AUTHORITY: §1, NRS 612.220, 612.240 and 612.535.

A REGULATION relating to unemployment insurance; requiring the electronic filing of certain required contribution and wage reports; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires certain employers to pay contributions to the Unemployment Compensation Fund at rates determined by the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation and assigned to those employers based on, among other factors, wages paid by the employers. (Chapter 612 of NRS) Existing regulations require each employing unit and employer to make any reports prescribed by the Administrator on forms issued by and required to be returned to the Division. (NAC 612.030) This regulation requires each employing unit and employer that is subject to the provisions of chapter 612 of NRS to file by electronic means all quarterly contribution and wage reports unless the requirement is waived by the Division on certain grounds pursuant to a request by the employing unit or employer.

Section 1. Chapter 612 of NAC is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, each employing unit and employer that is subject to the provisions of chapter 612 of NRS shall file by electronic means all quarterly contribution and wage reports pursuant to that chapter.

2. An employing unit or employer may request a waiver of the requirement of electronic filing set forth in subsection 1. The Division may grant a waiver of not more than 1 year if the employing unit or employer establishes to the satisfaction of the Administrator that:

(a) The employing unit or employer lacks the facilities to file by electronic means;

(b) Filing by electronic means would impose a severe economic hardship on the employing unit or employer; or

(c) Other good cause shown excuses compliance with the requirement of electronic filing.