VERBATIM TRANSCRIPTION

of

the

SMALL BUSINESS WORKSHOP OF THE DEPARTMENT OF EMPLOYMENT, TRAINING AND REHABILITATION

held on

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Verbatim Transcript

Note: *If a portion of the recording could not be transcribed due to the quality of the recording or because the words could not be distinguished, this has been indicated as follows: "(Incomprehensible)".*

OLSON: My name is Renee Olson. I am the Administrator of the Employment Security Division. I'll go ahead and call this meeting to order. Sitting to my right I'd like to introduce Tom Susich. He's our Senior Legal Counsel for the Employment Security Division. And to my left is Mr. Kelly Karch, our Deputy Administrator for the Employment Security Division in charge of the Employment Insurance Program. This Small Business Workshop is being conducted in compliance with Nevada Revised Statute Section 233(b).0608 to solicit public comment on a proposed amendment to the regulation setting the unemployment insurance tax schedule for calendar year 2014, and contained in Nevada Administrative Code 612.270.

Mrs. Golden, for the record, was proper notice for this meeting given in accordance with Nevada Revised Statute 233.061?

GOLDEN: Joyce Golden, Administrative Assistant to the Administrator. Proper notice was given.

OLSON: Thank you. And were there any written comments submitted in response to this posting?

GOLDEN: Joyce Golden again. There were no written comments submitted.

OLSON: Thank you. So we'll begin under Item No. 2 on the Agenda, public comment. If there was any -- if there is anyone in Las Vegas or Carson City who would like to provide public comment now, please make your way to the microphone, introduce yourself and who you represent for the record. And if you could limit remarks to five minutes each, we'd appreciate it. And if you have any written testimony, you can go ahead and provide that to staff as well.

Okay. With that, I don't see anyone coming forward. We'll move on to Agenda Item 3 and start the workshop to consider adoption of the regulation. As part of the regulatory process, a meeting of the Employment Security Council was held, along with the Regulation Workshop on October 2, 2013. After hearing testimony regarding the status of the Unemployment Insurance Trust Fund, the impact of federal borrowing and considering the public comment from several -- from several individuals, the Employment Security Council voted unanimously to recommend to the Division Administrator to keep the average unemployment insurance tax rate at 2.25 percent for calendar year 2014, in the case that we do not bond to refinance our unemployment insurance trust fund debt, and to set the rate at 2.10 if we do bond the debt

with the flexibility to adjust as needed according to what the bond assessment will end up being. So as of today we are selling bonds and we will discuss the bond assessment we are projecting and the resulting SUTA rate during the workshop.

So under Agenda Item 3A, the first presentation will be a review of the unemployment insurance benefit payment trust fund. Presenting this information for us today is Mr. David Schmidt. Mr. Schmidt is an economist with the Department's Research and Analysis Bureau. And I'll let Dave take it away.

SCHMIDT: Thank you. Again, for the record, my name is David Schmidt, and I'm an economist with DETR's Research and Analysis Bureau. This is a shortened version of the presentation I gave at the Employment Security Council with a couple of updates to discuss the latest numbers as they relate to the bond sale, which was just mentioned.

Looking at the history of the trust fund and the tax rates and benefit costs that have been associated with it, there's a couple of important trends to keep an eye on. One is that from really the late 1980s up until the most recent recession, the tax rate that employers faced in the state was relatively low and stable. Another thing to note is the surge in benefit payment costs that we experienced during the latest recession which are clearly much higher than any recession that we'd seen before. Following this increase in benefit costs over the last several years based on the recommendation of the Employment Security Council, the average tax rate for unemployment benefits that the state charges to employers has increased from about 1.33 percent to 2.25 percent. At that level, we're now bringing in more money than we're paying out in benefits and able to begin repaying the loans that have been necessary from the federal government to pay benefits.

You can see the effect of that on slide three where we had a surge in benefit payments where we paid out over a billion dollars in benefits in 2009. This is just regular unemployment benefits. The costs of all of the federal extended unemployment benefits programs isn't included in this because the state doesn't have to pay for that.

You can see also that the revenues the state brings in have been increasing from 2009 through 2013. And as a result the loan balance that we have to the federal government has improved from a peak of about 846 million to just over 520 million as of October 1st.

You can see a similar trend when you look at our solvency levels. This is comparing to the federal average high cost multiple. You can see that in prior recessions while the fund was drawn down, the overall drop was not very large, and the fund was able to quickly recover from that. In comparison, the

most recent recession, we went from a high of 1.1 times to being down by almost negative .1 times. But the fund has begun to recover based on the increased tax rates. In 2012/2013 the fund actually recovered by .2 in the solvency multiple, which if you look at the prior trends is a faster recovery than we had seen in those prior recessions, again, because the tax rate was increased to increase the rate of repayment compared to what happened over that 20-year period.

If we were to continue on the course that we're on, we would expect to repay the federal loans in roughly 2016. Part of this is employers would be facing increased federal unemployment taxes. Those taxes would be increasing each year until the loans are repaid. The federal unemployment tax rate is typically 0.6 percent, but beginning in 2011 employers had to pay a rate of 0.9 percent. That increased to 1.2 percent in 2012, and would be scheduled to increase to 1.5 percent in 2013. In addition employers would be paying the special interest assessments which came out for the first time in 2013 based on some legislation that was passed in the latest legislative session to repay the -- or to the pay interest charges that we have on those federal loans. However, we are in the process of selling bonds to refinance this debt. This will eliminate that increased portion of the federal unemployment taxes, so instead of a rate of 1.5 percent, the rate that employers pay for their federal taxes for 2013 is expected to drop back down to 0.6 percent, because we will be repaying those federal loans prior to November 10th.

In addition, employers would not have to pay a special interest assessment charge, because the federal loan balance is going away. All of the interest charges for the bonds will be rolled into a bond assessment which will be quarterly in the same fashion as employers' normal state unemployment taxes. So we're eliminating some costs. There will be a bond assessment which employers will have to pay on top of their regular state unemployment taxes, but this will be offset by the declines in their federal charges, as well as a decline in their state unemployment charges.

This is a chart that was presented at the Employment Security Council to sort of illustrate how this works. We would be lowering the average state unemployment tax from 2.25 percent to a lower level based on whatever the bond assessment is. As presented at the Council, that bond assessment was approximate -- or that was estimated to be approximately 0.5 percent. So the Council recommended an average state unemployment tax rate of 2.1 percent, so the total of 2.6 percent is lower than the total cost that employers would face in a no bonding scenario of 2.2 percent. Those numbers have changed slightly and I'll have another chart to illustrate that a couple slides later on here.

Slide seven shows the financing. There are three scenarios here for 2014. One is the no bonding scenario, which is the cost that we would be looking at

if we don't -- if we were to not bond and to keep the average state unemployment tax at 2.25 percent. Under that scenario, the total cost to employers would be an average of 2.62 percent once the federal unemployment taxes and interest charges are taken into account, for a total cost per employee at that average rate, at the maximum state taxable wage base of $27,400, of $717.88 per employee.

The middle column presents the numbers as was recommended at Council with an average state tax of 2.1 percent and a bond assessment rate of 0.5 percent. However, I'd like you to look at the column on the far right now which is sort of the final bond rate. Based on the latest numbers as we look at the bonds, it looks like the bond assessment will need to be approximately 0.65 percent. That could change by .01, .02 percent, might be as low as 0.63 percent. Just depends on the final pricing which is going on as we speak.

At that rate though of 0.65 percent, to keep the total cost to employers at the recommended 2.60 percent, we would be lowering the state unemployment average tax rate from the 2.1 percent down to 1.95 percent so that the overall costs to employers remains the same based on the recommendation that the Administrator received to have some flexibility to set that final rate depending on where the bond assessment rate comes in.

At that level the September 30th ending fund balance would be a positive, approximately $172 million. This is based on getting some bond proceeds in the neighborhood of $600 million, paying out approximately 420, $430 million in benefits, and bringing in approximately $507 million in the regular state unemployment contributions.

The bond proceeds, there is the one time, essentially I'm treating it as revenue here, into the trust fund to repay the federal debt, and to provide a little bit of extra money so that the state can make it to next April or May, when on a seasonal basis the revenues into the trust fund are the highest, because that's when employers are paying their contributions for the first quarter of the year. And so at that point we would essentially become self funding again, building reserves into the trust fund and paying for all of the benefit payments that we have through our normal contributions.

How this looks graphically, again this is the same chart from before, with another column showing that decline in the state average tax rate from 2.1 percent, which was recommended for 2014 based on the 0.5 bond assessment, to a 1.95 percent based on the 0.65 bond assessment.

With a drop from 2.25 percent to 1.95 percent, on average most employers would see their rate decline by one rate class. Since the increments between the tax rates that employers pay in statute is set at approximately 0.3 percent for just about every rate class, by dropping the average rate by 0.3 percent, we

would expect to see almost all employers except for those at the very top who are still at the peak rate or those who are the very bottom who can't go any lower than the rate they already have to see a decline in the rate that they receive. And so the bond assessment is larger than the federal taxes that they currently pay, but we're lowering the state average tax rate to compensate for that, so that the total cost to employers of all of the taxes that they pay with respect to the unemployment insurance program will be lower than it would be if we did not bond.

This chart shows the benefit cost rate that we expect for future years and the average tax rate for the -- the 1.95 percent, the 2.1 and the 2.25 illustrated. As you can see all of those rates are above the benefit cost rate that we expect for 2014, which means that we will again be bringing in more money to the trust fund than we're paying out in benefits, which will allow us to continue to build solvency back into the trust fund based on our state unemployment tax collections to begin better preparing ourselves for any future recessions.

At that level of approximately 2 percent, we would be higher than the benefit cost rates that we've typically experienced over the 1980 to 2007 period. There were, again, some very high costs over the course of the last recession. But in general, the benefit cost rate has been below roughly 2 percent, and so at a rate of 1.95 we should be well positioned to continue to pay for benefits and to restore some solvency to the trust fund. That concludes my presentation.

OLSON: Thank you, Dave. Next on the Agenda, Item 3B, our presentation provides an explanation of the tax rates schedule and the impact on small businesses. And I'd like to introduce you to Mr. Edgar Roberts, our Chief of Contributions for the Employment Security Division.

ROBERTS: Good morning. Edgar Roberts for the record, and I serve as the Chief of Contributions for the Employment Security Division. The purpose of the Small Business Workshop is to discuss the proposed unemployment insurance tax rate for 2014. And NRS 233(b) defines a small business as having 149 employees or less. On slide three, on October 2nd the Employee Security Council recommended two rates. One, if we were pursuing bonding with a 2.1 percent rate with the Administrator having flexibility to adjust the rate, and the second is keeping the rate 2.25 percent. The Administrator is now considering lowering rate from 2.1 percent to 1.95 percent in accordance with favorable bond rates we expect to attain.

On slide number four, the economic impact of the proposed regulation, the regulation with or without bonding affects all Nevada employers subject to the experience rating system. This constitutes approximately 36,310 employers or 63 percent of total employers registered.

Moving on to slide five, in the yellow areas, a number of eligible small employers at 1.95 percent. If we go to the maximum tax rate of 5.4 percent, 9.5 percent of small employers are in this category. And at the lowest rate of .25 percent, 27 percent of small employers will fall in the lowest tax rate. At the 1.95 percent, estimated revenue to come in is 503 million. And if you also look at the highest 5.4 for all contributive employers, the percentage would be 9.4, so it slightly goes up for small employers to 9.5. And then in the lowest tax bracket of the .25 for all contributory employers is 26.2 percent, so the number of small business employers at the 1.95 raises to 27 percent.

Moving on to slide number six. If for some reason we don't pursue the bonding and keep the 2.25 percent the current rate, the estimated revenue is 580 million. And at the top rate of 5.4 percent, the number of small employers that are affected is 10.3 percent. And at the very bottom rate of the .25 percent, 15.2 percent of the small business employers will fall into that category.

Moving on to slide number seven, beneficial impacts. The bonding scenario at 1.95 rate will allow the repayment of Nevada's borrowing. And if bonds are not used, the 2.25 percent rate will bring in adequate stream of revenue to continue paying the down federal loans, with an estimated loan repayment of 2016. The regulation with or without bonding continues to support the UI system which has paid over 400 million in regular unemployment benefits to Nevada workers this past year. Both scenarios will continue to allow many experience rated employers to pay contributions at a lower rate than the new employer rate of 2.95 percent.

Moving on to slide eight, the adverse impacts. The principal cause of any major change in an employer's SUTA tax rate is due to changes in their own reserve ratio and experience with unemployment.

Slide nine goes over the direct impact. If we're bonding with a tax rate of 1.95 percent, it is expected to generate 503 million. And the non bonding rate of 2.25 percent is expected to generate 580 million. Taxable wages of small business account for 42 percent of all taxable wages in the state. Approximately 207 million of the total revenue will be attributed to small business with a bonding rate of 1.95 percent, and 238 million at a rate of 2.25 percent. The impact of the proposed 1.95 or the 2.25 percent tax rate is unique to each employer based on their previous experience with unemployment.

Slide 10 deals with indirect impact. Bonding and implementing the 1.95 percent average tax rate will help the State of Nevada control the current deficit spending and accrual of interest on outstanding loans. The bonding option will improve Nevada's trust fund, and also reduce mandatory federal tax increases under FUTA.

Slide 11 is the considerations involved in the proposed rate. The tax methodology used in Nevada's unemployment compensation program is based on experience rating system approved by the U.S. Department of Labor. This rating system is designed to ensure that employers are fairly treated based on their unique experience with unemployment regardless of size or industry type. And having a federally approved rating system allows employers to offset credit against their federal unemployment tax. And this is a saving of approximately 400 million a year to Nevada employers.

Slide 12 covers the estimated cost for enforcement. There's on additional cost for the enforcement of this regulation. And NAC 612.270 is adopted each year to set the employer contribution rates and is required by NRS 612.550. Funds for the administration of the program are provided by the U.S. Department of Labor.

Slide 13 covers anticipated revenue increase and use. In a bonding scenario, a tax rate of 1.95 is expected to produce 503 million to the trust fund. Small businesses will account for 207 million of the total revenues. With bonding, quarterly assessments would be imposed to service the bond debt. How we're paying off the loans would restore the FUTA credit to its full level of 5.4 percent, thus lessening the burden currently on employers. In the non bonding scenario, maintaining the tax rate of 2.25 percent is expected to produce 580 million. And small businesses will account for 238 million of the total revenues. However, the FUTA credits will continue to be reduced each year.

Slide number 14 covers duplication or more stringent standards of federal, state or local governments. The bonding scenario and non bonding scenario regulations do not duplicate or provide more stringent standard than any other regulation of federal, state or local governments.

This concludes my presentation. Thank you.

OLSON: Thank you. At this point I think it's time to open back up for public comment. So I'm going to start in Las Vegas. If there's anybody in Las Vegas that would like to come forward and make public comment, here's your opportunity. Go ahead and identify yourself and state who you represent.

McANALLEN: Thank you, Administrator. Brian McAnallen representing the Las Vegas Metro Chamber of Commerce. First, may I recognize the continued outstanding efforts of your agency when it comes to business impact statements. We appreciate the depth and breadth you have gone to answer the questions of how these regulations will impact business, especially small business. So I appreciate the handout that you have here. With your business -- small business impact statement, we think it's extremely thorough and addresses the issues. And appreciate the PowerPoints that you walk through.

I would just give a nod to your agency and to you all in how you address these issues. You may well be aware that we continuously ask the legislature for clarification or revisions to this process and try to hold out your efforts as a model for other state agencies and local entities as they deal with this in ordinance and regulation creation. So, again, on the record we appreciate the efforts that you have gone through in answering those questions and in your transparency in this process as always.

Specific to what we're discussing here and the impacts, we would like to thank you all for going through this process and trying to determine the rate setting for future years as well as (incomprehensible) opportunity, and think that, for example, slide seven, the potential rate increase where you show the no bond scenario and the bonding scenario with a final bond rate, we believe that your approach here in trying to keep businesses held harmless at the amount that they're paying, as well as reduce the federal unemployment rate by this bonding scenario is exactly what we should be doing, and think what you have outlined here is a strategic approach to get there is the right way to go. This will help us reduce our federal rate, help those businesses that are on the comeback from the economic recession and set the course on the right way to go as far as building towards a long-term solvency.

So we appreciate where you're going with that. Certainly the no bond scenario, I think, certainly with slide seven shows us that we're still clawing back and crawling our way out of this, so we appreciate the direction you're going with this new and final bond rate, and then that adjustment to the average tax rate of 1.95 for businesses. Again, thank you for your efforts and your Department's efforts in this. I know it's been a long time coming. You've been working on this for a while and many hours. And, again, we appreciate your transparency and depth on the small business impact statements.

OLSON: Thank you very much. I appreciate your comments. And we'll endeavor to maintain our standards on the small business impact statements for sure. Is anyone else wanting to come forward in Las Vegas? With that I'll move to Carson City. Doesn't look like. No? Okay. So I'll close public comment there for now.

The next item on the Agenda is not going to be an action item. What we're going to do is -- we'll be having our next meeting -- I'm sorry, this got stuck. We'll be having our next meeting, the hearing for the adoption of the regulation on December 4th at 10:00 a.m. in the same location as today's meeting.

Just a couple of comments to wrap up a little bit and just make sure the record's clear. We are in the process today of selling and pricing bonds. And

so, you know, barring any -- I can't imagine what it would be that would bar a sale of bonds at this point, so that being said, we're moving forward with the bond sales. We're predicting right now -- they're still negotiating to get our prices lowered as much as they possibly can in terms of the interest rate, and they're doing a great job of it. We expect to provide savings to employers through this bonding transaction of approximately $25 million in present value savings. And so with that, we think this is a great opportunity to have a plan moving forward to resolve our debt and to, again, start building up reserves in the trust fund.

So I'm going to conclude my comments there and, again, it looks like we need to open up for additional public comment if there's any out there. We're public commenting you to death. And with that, I'll close the meeting. And thank you all for attending, and your participation, we appreciate it.

END OF RECORDING