

Minutes of Nevada Employment Security Division
Public Workshop of
The Department of Employment, Training and Rehabilitation
April 11, 2008 9:00 a.m.
Legislative Building
401 S. Carson Street, Room 2135
Carson City, Nevada 89701

Jones: Good morning. My name is Cindy Jones and I serve as the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation. Welcome to this workshop on proposed Legislative changes to Nevada Revised Statutes Chapter 612, Unemployment Insurance Compensation. The purpose of this workshop and the one that we held two days ago in Las Vegas is to seek public input on proposed changes to unemployment compensation law to ensure that any proposed changes meet the best interests of the business community and the constituents that this program serves. I have with me Steve Zuelke, who is my Manager of my Integrity Program Section and Joan Richards who is a Management Analyst with my Contribution Section. Each is going to discuss areas that proposed legislation is being reviewed to discuss the concepts in order for us to seek public comment on those concepts. One would be strengthening the unemployment insurance fraud prevention statutes in Nevada to protect the interests of Nevada's Unemployment Insurance Trust Fund that the Division administers on behalf of Nevada employers. The second to be discussed by Ms. Richards is to review the tax rate process that Nevada currently utilizes in distributing costs to payers into the Trust Fund to ensure that the structure of such is still an equitable distribution of those costs. And I'd like to turn the presentation over to Mr. Zuelke now. Thank you.

Zuelke: Good morning. For the record, my name is Steve Zuelke. I manage the Unemployment Insurance Benefit Program Integrity Unit here in Carson City. A bill draft request prepared by the Employment Security Division seeks to continue unemployment insurance program improvements as recommended by the Legislative Counsel Bureau in their audit conducted in 2001, as well as by the Department of Administration Internal Audit Division. This legislation is specifically designed to enhance the integrity and sustained viability of the Unemployment Insurance Trust Fund by adding safeguards that protect the stability and appropriate use of the Fund. Concurrent with reductions in federal funding in recent years, there's been a national shift to provide economical service delivery using remote methods, such as the internet or telephone as the primary means to administer UI services. This environment has increased the potential for both claimant and fictitious employer's scheme fraud, including the problematic trend of identity theft. The Division seeks to improve fiscal integrity of the Unemployment Insurance Trust Fund by amending NRS 612.445, through which the Division expects to define the act of filing an unemployment insurance claim while incarcerated, or causing another person to do so on one's behalf, as

misrepresentation of pertinent facts. Incarceration specifically eliminates the person's availability for work during the period of confinement. Through addition of a new section of law, NRS 612.446, the Division anticipates defining fraudulent activity and providing specific penalties for the commission of fraud. These specific penalties include the addition of a financial penalty in the amount of 50% of the benefits illegally obtained, in anticipation of federal legislation requiring a fiscal penalty for the commission of fraud. In order to ensure fiscal integrity of the benefit program, and limit the potential for repeat fraudulent offenders, the Division seeks to prevent a person who has fraudulently claimed unemployment benefits from receiving further payments under the unemployment insurance programs, until which point they have repaid all benefits illegally claimed, plus penalty and any accrued interest. The Division seeks to categorize fraudulent activity resulting in a loss to the Trust Fund of an amount in excess of \$250.00 as a felony. The Nevada Attorney General's Worker's Compensation Prosecution Unit recommends aligning NRS 612.715 through NRS 612.725 with NRS 205.380, obtaining money under false pretenses. The Division seeks to reduce the administrative burden to garnish wages for fraudulent overpayment and unpaid tax amounts due to the Division. This will be accomplished through the addition of several statutes to NRS 612, that mirror those utilized in collecting outstanding child support debt. The garnishment process as it exists is cumbersome and reduces the amount of revenues collected due to fees imposed under NRS 31, for the filing of a civil garnishment.

Finally, through amendment to NRS 612.615, the Division seeks to provide authority to use penalty and interest funding to enhance programs designed to ensure the integrity of the system. The continued reduction in federal support of the program has weakened the Division's ability to properly protect the Unemployment Insurance Trust Fund assets on behalf of Nevada employers.

That concludes my formal statement. At this point, I'd be happy to answer any questions.

Jones: Okay, thank you, Steve. Does anyone have any questions at this point? Okay. Hearing none, I will now turn the presentation over to Ms. Joan Richards who is going to discuss proposed changes to Nevada's Experience Rating System for the collection of unemployment insurance contributions. Thank you.

Richards: Good morning. My name is Joan Richards and I am the Management Analyst with the Employment Security Division presenting for Donna Clark, the Chief of Contributions who unfortunately could not be here today. We are here to receive public comment on Nevada's experience rating system for unemployment insurance contributions. The current structure of experience rating has been in place for approximately 70 years. And with the changing business models, the Division deemed it would be prudent to review the Division's rating system to ensure continued equitable distribution of unemployment insurance benefit costs to the Trust Fund contributors.

First I would like to provide a high level overview of the unemployment tax system and experience rating. The objectives of an experience rating system are to build into the system an equitable distribution of the cost of the program among the employers, to encourage employers to stabilize their workforces and it encourages employers to participate in the unemployment insurance programs since charges to their accounts will directly influence their tax rates. The unemployment insurance program is a joint federal state partnership. The experience rating system is a federal conformity requirement as a condition for allowing the employer to receive an additional credit against the Federal Unemployment Tax Act, or FUTA. The U.S. Secretary of Labor must approve any experience rating system that a state adopts. All employers must be rated over the same time period using the same factors. These factors must bear a direct relationship to the employer's unemployment risk. The result is that employers with the same experience should pay at the same tax rate.

Nevada's experience rating system is based upon the reserve ratio methodology. The purpose of this method is to put both large and small employers on an equal footing without regard to industry type. The reserve ratio is developed by totaling all contributions paid over the life of the account by the employer, and subtracting all of the benefits charged to the employer, with the result divided by the average taxable payroll for the last three completed calendar years. Nevada has 18 tax rates and ranges of reserve ratios are assigned to each tax rate. These tax rates range from a quarter of a percent to 5.4%. New employers pay at a new employer rate of 2.95% for approximately three and a half to four years, until eligible for an experience rating.

Since Nevada has a federally approved experience rating system, the employers in the State are allowed to offset their federal unemployment tax. The Division is considering providing a voluntary election by employers with common ownership, management or control for a combined rating. This would allow related businesses to combine their experience rating into a joint account. There would not be an adjustment to the method of measuring the experience or in the computation of the rate currently in effect. By offering a voluntary election, businesses would be able to choose the option that best suits their business model. Businesses that have common ownership, management or control that have established separate legal entities would be allowed to be treated as a single employer for the purposes of experience rating for unemployment insurance taxes. The Division is seeking your input on this concept and I would be pleased to answer any questions.

Jones: Thank you, Joan. Does anyone have any questions here in Northern Nevada? How about in Southern Nevada?

Simonton: There are no questions here.

Jones;

Okay, thank you, Mr. Simonton. I appreciate everyone's attendance today. The changes the Division seeks serve to further our mission of ensuring a stable and equitable tax system for Nevada employers, which is one of our primary responsibilities, and we certainly seek continued public input. After we've refined what our bill draft requests purport to be, we will post such on our website to ask for additional comment. If anyone on the Internet out there seeks to submit comment, they may do so by sending an e-mail to my Assistant, Joyce Golden. Her e-mail address is jlgolden@nvdepr.org. If there's no other business or comment, I'll adjourn the meeting. Thank you.