EMPLOYMENT SECURITY DIVISION

Office of the Administrator

DETR
Nevada Department of Employment, Training and Rehabilitation

BRIAN SANDOVAL
Governor

FRANK R. WOODBECK
Director

RENEE L. OLSON
Administrator

State of Nevada
Department of Employment, Training and Rehabilitation
Employment Security Division

Small Business Impact Statement
NRS 233B.0609

For the Adoption of Nevada Administrative Code 612.270
For Calendar Year 2014

DESCRIPTION OF HOW COMMENT WAS SOLICITED FROM AFFECTED SMALL BUSINESSES

The Department of Employment, Training and Rehabilitation, Employment Security Division has held one public meeting, where comments from the public were solicited. A second public meeting is being conducted on October 29, 2013 where small businesses are particularly invited to provide their input into the process of setting the Unemployment Tax rate for 2014.

On October 2, 2013, the Employment Security Council conducted a Meeting and Regulation Workshop. In compliance with NRS 233B.061, this public meeting was a workshop to review, discuss, and solicit comment on a proposed adoption of a regulation that will establish the Unemployment Insurance tax rate schedule for Nevada employers for the 2014 calendar year.

The live meeting was held at the Legislative Building, 401 South Carson Street, Room 2135, Carson City, Nevada with a video conference to the Grant Sawyer Building, 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada. The meeting was also broadcast on the Internet at www.leg.state.nv.us.

In accordance with NRS 241.020, a meeting notice and agenda was posted for this meeting at the principal office of the Employment Security Division (ESD) in Carson City, Nevada as well as numerous ESD offices throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library and Archives, and all county libraries in the state, as well as published in three newspapers. Also, the notice appeared on the websites of the Department of Employment, Training and Rehabilitation at www.nvdetr.org and the Legislative Counsel Bureau website at http://leg.state.nv.us. Also, the meeting notice and agenda was mailed to all persons on the division's mailing list.

Summary of Comments:
No written comments were received.

Public testimony was provided by Bob Ostrovsky representing the Nevada Resort Association, seeking clarification that in the case of the bonding scenario and the 2.10% average rate, there would no longer be a need for the Special Interest Assessment created under AB 482. No other public comment was offered.

The Employment Security Council, after hearing analysis of the financial situation from Employment Security Division staff economists and other staff, and considering the public comment, unanimously recommended two unemployment compensation tax rate scenarios for the 2014 calendar year (Bonding Scenario and Non-Bonding Scenario).

The council determined that these two approaches were necessary at this time to address the insolvency of the trust fund and decrease the amount of borrowing from the federal government account to pay Nevada unemployment insurance benefit payments.

> ***Bonding Scenario:***
> This recommendation assumes the Division will secure a bond to refinance the current UI trust fund debt. This recommendation decreases the average unemployment compensation tax rate to 2.10% for experience rated employers. The Employment Security Council also included the flexibility of the Administrator to adjust the unemployment compensation tax rate as needed, depending on the final bond assessment rate. The unemployment compensation tax rate of 2.10% combined with the bond assessment rate, would approximate combined overall taxes including the 2.25% SUTA rate, FUTA, and Special Interest Assessment for the calendar year 2013, thus limiting increased costs to Nevada employers.
>
> ***Non-Bonding Scenario:***
> The second recommendation assumes the Division will not secure bonds for the Current UI trust fund debt and maintains the average rate at the present 2.25% level.

Copies of the minutes from this meeting will be available from the Employment Security Division, 500 East Third Street, Carson City, Nevada 89713, or call Joyce Golden at (775) 684-3909. Minutes of the meeting will also be posted to the Department of Employment, Training and Rehabilitation website.

In compliance with NRS 233B.0608, the Employment Security Division is conducting a Small Business Workshop on Tuesday, October 29, 2013 at 10:00 A.M. The live meeting location is the Legislative Building, 401 South Carson Street, Room 2135, Carson City, Nevada with a video conference to the Grant Sawyer Building, 555 East Washington Avenue, Room 4412E, Las Vegas, Nevada. The meeting will also be broadcast on the Internet at www.leg.state.nv.us.

A meeting notice and agenda along with a Request for Comments from Small Businesses was posted at the principal office of the Employment Security Division (ESD) in Carson City, Nevada as well as numerous ESD offices throughout the state. In addition, the notice was submitted to the Legislative Counsel Bureau, the Nevada State Library and Archives, and all county libraries in the state, and published in three newspapers. Also, the notice appeared on the websites of the Department of Employment, Training and Rehabilitation at www.nvdetr.org and the Legislative Counsel Bureau at http://leg.state.nv.us. Additionally, the meeting notice and agenda was mailed to all persons on the division's mailing list.

ESTIMATED ECONOMIC IMPACT OF THE PROPOSED REGULATION

Bonding Scenario:

Nevada Businesses
All Nevada employers subject to Nevada Unemployment Compensation Law that pay an unemployment insurance tax rate subject to the experience rating system are affected by the proposed regulation. This constitutes approximately 36,310 or 63% of total registered businesses. However, the tax rate for individual small businesses may either increase or decrease, depending primarily upon each individual business' experience record within the program. Employers who lay off employees will be more likely to shift into a higher tax rate, while those who retain their employees may not have an increase in their tax rate.

Beneficial Effects
If bonds are issued, the 2.10% average rate will contribute toward an anticipated reduction in the overall average cost to employers over the life of the bonds while allowing the state to immediately begin to rebuild the Unemployment Trust Fund reserves.

Adverse Effects
The possible adverse impact on each individual business will vary based on each employer's experience record with the Unemployment Compensation Program.

Direct Effect
If the bonding approach is used, decreasing the average tax rate to 2.10% is expected to generate revenue of about $541 million to the Unemployment Compensation Trust Fund in calendar year 2014. The decrease in rate will be offset by the bonding assessment, resulting in a small difference in the total burden on employers.

Indirect Effect
Decreasing the average rate to 2.10% in a bonding scenario will lessen the financial burden on employers and bonding would lead to removal of the 0.9% FUTA offset presently in place for 2013, saving Nevada employers about $105 per employee. The bonds would help restore solvency to the unemployment trust fund.

Non-Bonding Scenario:

Nevada Businesses
All Nevada employers subject to Nevada Unemployment Compensation Law that pay an unemployment insurance tax rate subject to the experience rating system are affected by the proposed regulation. This constitutes approximately 36,310 or 63% of total registered

businesses. However, the tax rate for individual small businesses may either increase or decrease, depending primarily upon each individual business' experience record within the program. Employers who lay off employees will be more likely to shift into a higher tax rate, while those who retain their employees may not have an increase in their tax rate.

Beneficial Effects

If bonds are not issued, the 2.25% average rate recommended will continue to bring in sufficient revenue to pay estimated benefit costs and continue paying down the federal loan, progressing toward an estimated loan repayment in 2016.

Adverse Effects

The possible adverse impact on each individual business will vary based on each employer's experience record with the Unemployment Compensation Program.

Direct Effect

If bonding is not pursued, and the rate is maintained at the 2.25%, the income to the trust fund is anticipated to be $580 million, thus reducing the need to borrow Title XII funds.

Indirect Effect

Leaving the rate at the present level of 2.25% in a non-bonding scenario would produce additional income to help retire the federal loans. However, as this scenario does not include bonding, the Division would still be in Federal debt and the FUTA offset would increase to 1.2% for 2014.

METHODS CONSIDERED TO ASCERTAIN THE IMPACT OF INCREASING THE PROPOSED RATE ON SMALL BUSINESSES

The tax methodology used for the Nevada Unemployment Compensation Program is based on an experience rating system approved by the U.S. Department of Labor. This system is designed to ensure that employers are fairly rated based on their unique experience with unemployment, regardless of size or industry type. Having a federally approved rate system allows employers an offset credit against the Federal Unemployment Tax (§3302 FUTA). This credit constitutes a savings of about $400 million per year to all Nevada employers. The Federal tax rate is 6.0% and the maximum allowable credit available to employers is 5.4%, lowering the FUTA tax paid by employers to 0.06% when maximum credit of 5.4% is earned. However, due to the state's outstanding Title XII loans, the federal credit reduction will increase to 0.9% for 2013, for an effective rate of 1.5%. The Division is currently pursuing refinancing of the Title XII loans through issuing tax-exempt special revenue bonds. If the Division is successful in securing a bond to repay the debt, the credit reduction of 0.9% will be removed, lowering the FUTA rate to 0.6%. If Nevada were to take any measures to exacerbate the deficit condition of the trust fund, the state would be in jeopardy of additional federal sanctions in the future.

METHODS USED TO ASSESS IMPACT ON SMALL BUSINESS

Multiple computer simulations were conducted, using a process of successive approximation, to arrive at tax rate tables reflecting a range of average tax rates. These were evaluated by the Employment Security Council in its deliberation to arrive at its recommendation for rates which would minimize the financial effect on employers while still providing sufficient revenue to the Employment Security Trust Fund to achieve an eventual return of the fund to solvency.

ESTIMATED COST FOR ENFORCEMENT

There is no additional cost for enforcement of this regulation. NAC 612.270 is adopted each year to set employer contribution rates, and is required by NRS 612.550. Funds for the administration of the Unemployment Compensation program are provided by the U.S. Department of Labor.

ANTICIPATED REVENUE AND USE

Bonding Scenario:
In a bonding scenario, the rate of 2.10% produces approximately $541 million in trust fund revenue in calendar year 2014. Small businesses will account for approximately $223 million of those revenues. Federal and state laws mandate that these funds can be used only to pay unemployment benefits for those who have become unemployed through no fault of their own.

An additional assessment will be imposed to service the bond debt. However, paying off the federal loans would restore the FUTA tax credit to its full level of 5.40%, thus lessening that burden on employers. The net effect is expected to be advantageous to Nevada's employers.

Non-Bonding Scenario:
Maintaining the average tax rate at 2.25% in a non-bonding scenario will produce approximately $580 million in trust fund revenue in calendar year 2014. Small businesses will account for approximately $238 million of those revenues. As explained above, these funds can be used only for the payment of unemployment benefits. Maintaining this rate in the absence of bonding is necessary to reduce the amount of federal borrowing required to fund unemployment insurance benefit payments to Nevada workers.

DUPLICATION OR MORE STRINGENT STANDARDS OF FEDERAL, STATE OR LOCAL GOVERNMENTS

This regulation does not duplicate or overlap any other regulation of federal, state or local governments. The provisions are not more stringent than are considered necessary to maintain a fund balance that ensures solvency over the course of the next ten-year business cycle.

CERTIFICATION

I certify that the information contained in this statement was prepared properly and is accurate to the best of my knowledge or belief.

Renée Olson, Administrator
Employment Security Division
Nevada Department of Employment, Training and Rehabilitation