

ASSEMBLY BILL NO. 607—COMMITTEE ON WAYS AND MEANS

(ON BEHALF OF DEPARTMENT OF ADMINISTRATION—BUDGET DIVISION)

MARCH 26, 2001

Referred to Committee on Ways and Means

SUMMARY—Makes various changes relating to unemployment compensation affecting Indian tribes to comply with federal law. (BDR 53-1313)

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

~

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

AN ACT relating to unemployment compensation; authorizing federally recognized Indian tribes to elect to become liable for payments by way of reimbursement in lieu of contributions to comply with federal law; increasing the daily compensation for service for members of the Nevada employment security council; 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.** Chapter 612 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Indian tribe” has the meaning ascribed to it in 26 U.S.C. §*
4 *3306(u), as amended.*

5 **Sec. 3.** *1. “Employment” includes service performed in the employ*
6 *of an Indian tribe, or of any political subdivision thereof, or of any*
7 *subsidiary or business enterprise wholly owned by an Indian tribe alone*
8 *or in conjunction with one or more other Indian tribes or political*
9 *subdivisions thereof, which is excluded from the definition of*
10 *“employment” by the provisions of 26 U.S.C. § 3306(c)(7), as amended,*
11 *except service:*

12 *(a) As an elected official;*

13 *(b) As a council member or a member of the judiciary of a tribe or a*
14 *political subdivision thereof;*

15 *(c) In employment serving on a temporary basis in case of fire, storm,*
16 *snow, earthquake, flood or similar emergency;*



* A B 6 0 7 *

1 (d) In a position which, pursuant to tribal law, is designated as a
2 major nontenured policymaking or advisory position, or a policymaking
3 or advisory position the performance of the duties of which ordinarily
4 does not require more than 8 hours per week; or

5 (e) By an inmate of a custodial or penal institution.

6 2. "Employment" does not include service performed:

7 (a) In a facility conducted for the purpose of carrying out a program
8 of rehabilitation for persons whose earning capacity is impaired by age
9 or physical or mental deficiency or injury, or providing remunerative
10 work for persons who, because of their impaired physical or mental
11 capacity, cannot be readily absorbed in the competitive labor market, by a
12 person receiving such rehabilitation or remunerative work; or

13 (b) As part of an unemployment work-relief or work-training program
14 assisted or financed in whole or in part by any federal agency or an
15 agency of a state or political subdivision thereof, by a person receiving
16 such work relief or work training.

17 Sec. 4. NRS 612.015 is hereby amended to read as follows:

18 612.015 As used in this chapter, unless the context clearly requires
19 otherwise, the words and terms defined in NRS 612.016 to 612.200,
20 inclusive, *and section 2 of this act* have the meanings ascribed to them in
21 those sections.

22 Sec. 5. NRS 612.055 is hereby amended to read as follows:

23 612.055 "Employer" means:

24 1. Any employing unit which for any calendar quarter has paid or is
25 liable to pay wages of \$225 or more, and which employs during ~~such~~ *that*
26 period one or more persons in an employment subject to this chapter.

27 2. Any person or employing unit which acquired the organization,
28 trade or business, or substantially all the assets thereof, of another which at
29 the time of ~~such~~ *the* acquisition was an employer subject to this chapter.

30 3. Any person or employing unit which acquired the organization,
31 trade or business, or substantially all of the assets thereof, of another
32 employing unit if the employment record of ~~such~~ *the* person or
33 employing unit subsequent to ~~such~~ *the* acquisition, together with the
34 employment record of the acquired unit, ~~prior to such~~ *before the*
35 acquisition, both within the same calendar quarter, would be sufficient to
36 constitute such *an* employing unit as an employer subject to this chapter
37 under subsection 1.

38 4. Any employing unit not an employer by reason of any other
39 subsection of this section, for which within either the current or preceding
40 year service in employment is or was performed with respect to which such
41 *an* employing unit is liable for any federal tax against which credit may be
42 taken for contributions required to be paid into a state unemployment fund.

43 5. Any employing unit which, having become an employer under
44 subsection 1, 2 or 3, has not, under NRS 612.555 to 612.580, inclusive,
45 ceased to be an employer subject to this chapter.

46 6. For the effective period of its election pursuant to NRS 612.565 ~~to~~
47 ~~612.580, inclusive,~~ *, 612.570 and 612.580*, any other employing unit
48 which has elected to become fully subject to this chapter.



* A B 6 0 7 *

1 7. In the case of domestic service in a private home, local college club
2 or local chapter of a college fraternity or sorority, with respect to any
3 calendar year, any person or employing unit who during any calendar
4 quarter in the current calendar year or the preceding calendar year paid
5 cash wages of \$1,000 or more for such service.

6 8. In the case of agricultural labor, with respect to any calendar year,
7 any person or employing unit who:

8 (a) During any calendar quarter in the current calendar year or the
9 preceding calendar year paid cash wages of \$20,000 or more for
10 agricultural labor; or

11 (b) On at least 20 days during the current calendar year or preceding
12 calendar year, each day being in a different calendar week, employed at
13 least 10 persons in agricultural labor for some portion of the day, whether
14 or not:

15 (1) The weeks were consecutive; or

16 (2) The persons were employed at the same moment of
17 time.

18 For purposes of this subsection agricultural labor does not include the
19 wages earned by or the employment of any employee performing domestic
20 service.

21 9. This state, or any political subdivision thereof, or any
22 instrumentality of this state or its political subdivision which is owned by
23 this state or one or more of its political subdivisions alone or in conjunction
24 with one or more other states or political subdivisions thereof.

25 *10. An Indian tribe, or any political subdivision thereof, or any*
26 *subsidiary or business enterprise wholly owned by an Indian tribe alone*
27 *or in conjunction with one or more other Indian tribes or political*
28 *subdivisions thereof.*

29 **Sec. 6.** NRS 612.065 is hereby amended to read as follows:

30 612.065 Subject to the provisions of NRS 612.070 to 612.145,
31 inclusive, *and section 3 of this act*, "employment" means service,
32 including service in interstate commerce, performed for wages or under
33 any contract of hire, written or oral, express or implied.

34 **Sec. 7.** NRS 612.305 is hereby amended to read as follows:

35 612.305 1. The Nevada employment security council, consisting of
36 nine members appointed by the governor, is hereby created to assure an
37 impartial development of administrative policies within the division.

38 2. The governor shall appoint members who represent an equal
39 number of employer representatives and employee representatives who
40 may fairly be regarded as representative because of their vocation,
41 employment or affiliations, and members who are representatives of the
42 general public.

43 3. The governor shall appoint three of the nine members of the
44 employment security council to serve as a board of review. The board must
45 be comprised of:

46 (a) One member who is a representative of labor;

47 (b) One member who is a representative of employers; and

48 (c) One member who is a representative of the general public.



* A B 6 0 7 *

1 4. The governor may remove any member of the employment security
2 council or board of review for cause.

3 5. Members of the employment security council are entitled to receive
4 ~~150~~ \$80 per day for each day of actual service on the employment
5 security council or board of review.

6 6. Regular meetings of the employment security council may be held
7 twice in each calendar year. Special meetings, not to exceed six in number
8 during any calendar year, may be held at the call of the chairman.

9 7. The administrator is an ex officio member of the employment
10 security council and is its secretary. The secretary is not entitled to
11 compensation for his services on the employment security council, but he
12 is entitled to be reimbursed for his necessary traveling and other expenses.

13 **Sec. 8.** NRS 612.553 is hereby amended to read as follows:

14 612.553 1. For the purposes of this section:

15 (a) *"Indian tribe" includes any entity described in subsection 10 of*
16 *NRS 612.055.*

17 (b) "Nonprofit organization" means any entity described in subsection 1
18 of NRS 612.121.

19 ~~(b)~~ (c) "Political subdivision" means any entity described in
20 subsection 9 of NRS 612.055.

21 2. Any nonprofit organization, ~~for any~~ political subdivision *or Indian*
22 *tribe* which is subject to this chapter:

23 (a) Shall pay contributions to the unemployment compensation fund in
24 the manner provided in NRS 612.535 to 612.550, inclusive, unless it elects,
25 in accordance with this section, to pay into the unemployment
26 compensation fund, in lieu of contributions, as reimbursement an amount
27 equivalent to the amount of regular unemployment compensation benefits
28 and one-half of the extended benefits paid to claimants that is attributable
29 to wages paid, except that after December 31, 1978, a political subdivision
30 *, and after December 21, 2000, an Indian tribe*, shall reimburse an amount
31 equal to the regular unemployment compensation benefits and all of the
32 extended benefits. *An Indian tribe may elect to become liable for*
33 *payments by way of reimbursement in lieu of contributions for the tribe*
34 *as a whole, or for any political subdivision, subsidiary, wholly owned*
35 *business, or any combination thereof.* The amount of benefits payable by
36 each employer who elects to make payments by way of reimbursement in
37 lieu of contributions must be an amount which bears the same ratio to the
38 total benefits paid to a person as the total base-period wages paid to that
39 person by the employer bear to the total base-period wages paid to that
40 person by all of his base-period employers. Two or more employers who
41 have become liable for payments by way of reimbursement in lieu of
42 contributions may file a joint application, in accordance with regulations of
43 the administrator, for the establishment of a group account for the purpose
44 of sharing the cost of benefits paid that are attributable to service in the
45 employ of such employers.

46 (b) ~~May elect to become liable for payments by way of reimbursement~~
47 ~~in lieu of contributions, for a period of not less than 1 taxable year~~
48 ~~beginning with January 1, 1972, provided it files with the administrator a~~
49 ~~written notice of such election within the 30 day period immediately~~



* A B 6 0 7 *

1 ~~following such date. Such organization remains liable for payments by way~~
2 ~~of reimbursement in lieu of contributions until it files with the~~
3 ~~administrator a written notice terminating its election not later than 30 days~~
4 ~~before the beginning of the taxable year for which such termination is first~~
5 ~~effective.~~
6 ~~—(e)~~ May elect to become liable for payments by way of reimbursement
7 in lieu of contributions for a period of not less than 4 consecutive calendar
8 quarters beginning with the first day of the calendar quarter on which it
9 became subject to this chapter by filing a written notice with the
10 administrator not later than 30 days immediately following the date of the
11 determination that it is subject to this chapter. The organization remains
12 liable for payments by way of reimbursement in lieu of contributions until
13 it files with the administrator a written notice terminating its election not
14 later than 30 days before the beginning of the taxable year for which the
15 termination is first effective.
16 3. Any nonprofit organization, ~~for any~~ political subdivision *or Indian*
17 *tribe* which is paying contributions as provided in NRS 612.535 to
18 612.550, inclusive, may change to a reimbursement-in-lieu-of-
19 contributions basis by filing with the administrator not later than 30 days
20 before the beginning of any taxable year a written notice of its election to
21 become liable for payments by way of reimbursements in lieu of
22 contributions. The election is not terminable by the organization for that
23 and the next taxable year.
24 4. The administrator may for a good cause extend the period in which
25 a notice of election or a notice of termination must be filed and may permit
26 an election to be retroactive, but not any earlier than with respect to
27 benefits paid after December 31, 1970, for a nonprofit organization, ~~for~~
28 December 31, 1976, for a political entity ~~H~~, *or December 21, 2000, for an*
29 *Indian tribe.*
30 5. The administrator shall notify each nonprofit organization, ~~and~~
31 ~~each~~ political subdivision *and Indian tribe* of any determination which he
32 may make of its status as an employer and of the effective date of any
33 election which it makes and of any termination of such election. His
34 determination is subject to reconsideration, petitions for hearing and
35 judicial review in accordance with the provisions of this chapter.
36 6. The amount of reimbursement in lieu of contributions due from each
37 employing unit which elects to make reimbursement in lieu of
38 contributions ~~shall~~ *must* be determined by the administrator as soon as
39 practicable after the end of each calendar quarter or at the end of any other
40 period as determined by the administrator. The administrator shall bill each
41 employing unit which makes reimbursement in lieu of contributions for an
42 amount determined pursuant to paragraph (a) of subsection 2. Amounts due
43 under this subsection must be paid not later than 30 days after a bill is
44 mailed to the last known address of the employing unit. If payment is not
45 made on or before the date due and payable, the whole or any part
46 thereafter remaining unpaid bears interest at the rate of one-half percent per
47 month or fraction thereof, from and after the due date until payment is
48 received by the administrator. The amount of payments due, ~~hereunder,~~
49 but not paid, may be collected by the administrator, together with interest



* A B 6 0 7 *

1 and penalties, if any, in the same manner and subject to the same
2 conditions as contributions due from other employers. The amount due
3 specified in any bill from the administrator is conclusive and binding on
4 the employing unit, unless not later than 15 days after the bill was mailed
5 to its last known address, the employing unit files an application for
6 redetermination. A redetermination made under this subsection is subject to
7 petition for hearing and judicial review in accordance with the provisions
8 of this chapter. Payments made by any nonprofit organization, *political*
9 *subdivision or Indian tribe* under the provisions of this section must not be
10 deducted, in whole or in part, from the wages of any person employed by
11 that organization.

12 7. *The administrator shall:*

13 (a) *Suspend the election of an Indian tribe to become liable for*
14 *payments by way of reimbursement in lieu of contributions if the tribe*
15 *fails to make payment, together with interest and penalties, if any, within*
16 *90 days after the tribe receives a bill from the administrator.*

17 (b) *Require an Indian tribe whose election to become liable for*
18 *payments by way of reimbursement in lieu of contributions is suspended*
19 *pursuant to subsection 1 to pay contributions as set forth in NRS 612.535*
20 *to 612.550, inclusive, for the following taxable year unless the*
21 *administrator receives its payment in full before he computes the*
22 *contribution rates for that year.*

23 (c) *Reinstate the election of an Indian tribe to become liable for*
24 *payments by way of reimbursement in lieu of contributions that is*
25 *suspended pursuant to subsection 1 if the tribe:*

26 (1) *Has paid all contributions pursuant to NRS 612.535 to 612.550,*
27 *inclusive, including interest and penalties, for not less than 1 year; and*

28 (2) *Has no unpaid balance owing to the administrator for any*
29 *contribution, payment in lieu of contributions, penalty or interest.*

30 8. Benefits are payable on the basis of employment to which this
31 section applies, in the same amount, on the same terms and subject to the
32 same conditions as benefits payable on the basis of other employment
33 subject to this chapter.

34 ~~18.1~~ 9. In determining contribution rates assigned to employers under
35 this chapter, the payrolls of employing units liable for payments in lieu of
36 contributions must not be included in computing the contribution rates to
37 be assigned to employers under this chapter. The reimbursement in lieu of
38 contributions paid by or due from such employing units must be included
39 in the total assets of the fund in the same manner as contributions paid by
40 other employers.

41 ~~19.1~~ 10. The provisions of NRS 612.550 do not apply to employers
42 who elect reimbursement in lieu of contributions.

43 ~~110.1~~ 11. Except as inconsistent with the provisions of this section, the
44 provisions of this chapter and regulations of the administrator apply to any
45 matter arising pursuant to this section.

46 Sec. 9. The amendatory provisions of sections 1 to 6, inclusive, and 8
47 of this act apply retroactively to December 21, 2000.



- 1 **Sec. 10.** 1. This section, sections 1 to 6, inclusive, and 8 of this act
2 become effective upon passage and approval.
3 2. Section 7 of this act becomes effective on July 1, 2001.

