

ASSEMBLY BILL NO. 252—ASSEMBLYMEN GERHARDT, PARKS,
MANENDO, CONKLIN, ALLEN, ATKINSON, BOBZIEN,
BUCKLEY, CLABORN, DENIS, GOEDHART, HOGAN, HORNE,
KIHUEN, KIRKPATRICK, MORTENSON, MUNFORD,
OCEGUERA, OHRENSCHALL, PARNELL, SEGERBLOM,
STEWART AND WOMACK

MARCH 6, 2007

Referred to Committee on Taxation

SUMMARY—Authorizes deductions from the state taxes on financial institutions and other businesses for payments on behalf of employees to certain pension plans and apprenticeship programs. (BDR 32-883)

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

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

AN ACT relating to the taxation of businesses; authorizing deductions from the state taxes on financial institutions and other businesses for payments on behalf of employees to certain pension plans and apprenticeship programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law imposes excise taxes on financial institutions and other businesses based upon the amount of wages they pay to their employees each calendar quarter. (NRS 363A.130, 363B.110) Existing law authorizes deductions from these taxes for certain amounts paid for health insurance and health benefit plans for employees and their dependents. (NRS 363A.135, 363B.115)

This bill authorizes additional deductions from these taxes for amounts paid on behalf of employees to certain pension plans regulated under the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq., and apprenticeship programs approved by the State Apprenticeship Council. This bill allows any unused amount of such a deduction to be carried forward each calendar quarter until exhausted and requires an employer who claims such a deduction to provide an explanation and appropriate documentation of the amount claimed upon the request of the Department of Taxation.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 363A of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. 1. *Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363A.130 any amount paid by the employer into a qualified pension plan for its employees in the calendar quarter for which the tax is paid.*

2. An employer may not deduct from the wages upon which the excise tax is imposed pursuant to NRS 363A.130 any payments made by employees into a qualified pension plan or amounts deducted from the wages of employees for a qualified pension plan.

3. As used in this section:

(a) "Employees" means employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363A.130.

(b) "Qualified pension plan" means an employee pension benefit plan that qualifies as a defined benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

Sec. 3. 1. *Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363A.130 any amount paid by the employer on behalf of its employees to a qualified apprenticeship program in the calendar quarter for which the tax is paid.*

2. An employer may not deduct from the wages upon which the excise tax is imposed pursuant to NRS 363A.130 any payments made by employees to a qualified apprenticeship program or amounts deducted from the wages of employees for a qualified apprenticeship program.

3. As used in this section:

(a) "Employees" means employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363A.130.

(b) "Qualified apprenticeship program" means an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS.

Sec. 4. 1. *If the amount of the deductions allowed pursuant to NRS 363A.135 and sections 2 and 3 of this act to an employer for a calendar quarter exceeds the amount of reported wages for*



1 *that calendar quarter, the excess amount of those deductions may*
2 *be carried forward to the following calendar quarter until the*
3 *deductions are exhausted.*

4 *2. An employer claiming a deduction allowed pursuant to*
5 *NRS 363A.135 or section 2 or 3 of this act shall, upon the request*
6 *of the Department, explain the amount claimed to the satisfaction*
7 *of the Department and provide the Department with such*
8 *documentation as the Department deems appropriate for that*
9 *purpose.*

10 **Sec. 5.** NRS 363A.135 is hereby amended to read as follows:

11 363A.135 1. Except as otherwise provided in subsection 2,
12 an employer may deduct from the total amount of wages reported
13 and upon which the excise tax is imposed pursuant NRS 363A.130
14 any amount authorized pursuant to this section that is paid by the
15 employer for health insurance or a health benefit plan for its
16 employees in the calendar quarter for which the tax is paid. The
17 amounts for which the deduction is allowed include:

18 (a) For a self-insured employer, all amounts paid during the
19 calendar quarter for claims, direct administrative services costs,
20 including such services provided by the employer, and any
21 premiums paid for individual or aggregate stop-loss insurance
22 coverage. An employer is not authorized to deduct the costs of a
23 program of self-insurance unless the program is a qualified
24 employee welfare benefit plan pursuant to the Employee Retirement
25 Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

26 (b) The premiums for a policy of health insurance or reinsurance
27 for a health benefit plan for employees.

28 (c) Any amounts which are:

29 (1) Paid by an employer to a Taft-Hartley trust which:

30 (I) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

31 (II) Qualifies as an employee welfare benefit plan; and

32 (2) Considered by the Internal Revenue Service to be fully
33 tax deductible pursuant to the provisions of the Internal Revenue
34 Code.

35 (d) Such other similar payments for health care or insurance for
36 health care for employees as are authorized by the Department.

37 2. An employer may not deduct from the wages upon which
38 the excise tax is imposed pursuant to NRS 363A.130:

39 (a) Amounts paid for health care or premiums paid for insurance
40 for an industrial injury or occupational disease for which coverage is
41 required pursuant to chapters 616A to 616D, inclusive, or 617 of
42 NRS; or

43 (b) Any payments made by employees for health care or health
44 insurance or amounts deducted from the wages of employees for
45 such health care or insurance.



1 3. ~~If the amount of the deduction allowed pursuant to this~~
2 ~~section to an employer for a calendar quarter exceeds the amount of~~
3 ~~reported wages for that calendar quarter, the excess amount of that~~
4 ~~deduction may be carried forward to the following calendar quarter~~
5 ~~until the deduction is exhausted. An employer claiming the~~
6 ~~deduction allowed pursuant to this section shall, upon the request of~~
7 ~~the Department, explain the amount claimed to the satisfaction of~~
8 ~~the Department and provide the Department with such~~
9 ~~documentation as the Department deems appropriate for that~~
10 ~~purpose.~~

11 ~~4.]~~ As used in this section:

12 (a) "Claims" means claims for those categories of health care
13 expenses that are generally deductible by employees on their
14 individual federal income tax returns pursuant to the provisions of
15 26 U.S.C. § 213 and any federal regulations relating thereto, if those
16 expenses had been borne directly by those employees.

17 (b) "Direct administrative services costs" means, if borne
18 directly by a self-insured employer and reasonably allocated to the
19 direct administration of claims:

20 (1) Payments for medical or office supplies that will be
21 consumed in the course of the provision of medical care or the direct
22 administration of claims;

23 (2) Payments to third-party administrators or independent
24 contractors for the provision of medical care or the direct
25 administration of claims;

26 (3) Rent and utility payments for the maintenance of medical
27 or office space used for the provision of medical care or the direct
28 administration of claims;

29 (4) Payments for the maintenance, repair and upkeep of
30 medical or office space used for the provision of medical care or the
31 direct administration of claims;

32 (5) Salaries and wages paid to medical, clerical and
33 administrative staff and other personnel employed to provide
34 medical care or directly to administer claims; and

35 (6) The depreciation of property other than medical or office
36 supplies, used for the provision of medical care or the direct
37 administration of claims.

38 (c) "Employee welfare benefit plan" has the meaning ascribed to
39 it in 29 U.S.C. § 1002.

40 (d) "Employees" means employees whose wages are included
41 within the measure of the excise tax imposed upon an employer by
42 NRS 363A.130, and their spouses, children and other dependents
43 who qualify for coverage under the terms of the health insurance or
44 health benefit plan provided by that employer.



(e) "Health benefit plan" means a health benefit plan that covers only those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

(f) "Self-insured employer" means an employer that provides a program of self-insurance for its employees.

Sec. 6. Chapter 363B of NRS is hereby amended by adding thereto the provisions set forth as sections 7, 8 and 9 of this act.

Sec. 7. 1. *Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363B.110 any amount paid by the employer into a qualified pension plan for its employees in the calendar quarter for which the tax is paid.*

2. An employer may not deduct from the wages upon which the excise tax is imposed pursuant to NRS 363B.110 any payments made by employees into a qualified pension plan or amounts deducted from the wages of employees for a qualified pension plan.

3. As used in this section:

(a) "Employees" means employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363B.110.

(b) "Qualified pension plan" means an employee pension benefit plan that qualifies as a defined benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

Sec. 8. 1. *Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363B.110 any amount paid by the employer on behalf of its employees to a qualified apprenticeship program in the calendar quarter for which the tax is paid.*

2. An employer may not deduct from the wages upon which the excise tax is imposed pursuant to NRS 363B.110 any payments made by employees to a qualified apprenticeship program or amounts deducted from the wages of employees for a qualified apprenticeship program.

3. As used in this section:

(a) "Employees" means employees whose wages are included within the measure of the excise tax imposed upon an employer by NRS 363B.110.



(b) *“Qualified apprenticeship program” means an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS.*

Sec. 9. 1. *If the amount of the deductions allowed pursuant to NRS 363B.115 and sections 7 and 8 of this act to an employer for a calendar quarter exceeds the amount of reported wages for that calendar quarter, the excess amount of those deductions may be carried forward to the following calendar quarter until the deductions are exhausted.*

2. *An employer claiming a deduction allowed pursuant to NRS 363B.115 or section 7 or 8 of this act shall, upon the request of the Department, explain the amount claimed to the satisfaction of the Department and provide the Department with such documentation as the Department deems appropriate for that purpose.*

Sec. 10. NRS 363B.115 is hereby amended to read as follows:

363B.115 1. Except as otherwise provided in subsection 2, an employer may deduct from the total amount of wages reported and upon which the excise tax is imposed pursuant to NRS 363B.110 any amount authorized pursuant to this section that is paid by the employer for health insurance or a health benefit plan for its employees in the calendar quarter for which the tax is paid. The amounts for which the deduction is allowed include:

(a) For a self-insured employer, all amounts paid during the calendar quarter for claims, direct administrative services costs, including such services provided by the employer, and any premiums paid for individual or aggregate stop-loss insurance coverage. An employer is not authorized to deduct the costs of a program of self-insurance unless the program is a qualified employee welfare benefit plan pursuant to the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001 et seq.

(b) The premiums for a policy of health insurance or reinsurance for a health benefit plan for employees.

(c) Any amounts which are:

(1) Paid by an employer to a Taft-Hartley trust which:

(I) Is formed pursuant to 29 U.S.C. § 186(c)(5); and

(II) Qualifies as an employee welfare benefit plan; and

(2) Considered by the Internal Revenue Service to be fully tax deductible pursuant to the provisions of the Internal Revenue Code.

(d) Such other similar payments for health care or insurance for health care for employees as are authorized by the Department.

2. An employer may not deduct from the wages upon which the excise tax is imposed pursuant to NRS 363B.110:



(a) Amounts paid for health care or premiums paid for insurance for an industrial injury or occupational disease for which coverage is required pursuant to chapters 616A to 616D, inclusive, or 617 of NRS; or

(b) Any payments made by employees for health care or health insurance or amounts deducted from the wages of employees for such health care or insurance.

~~3. If the amount of the deduction allowed pursuant to this section to an employer for a calendar quarter exceeds the amount of reported wages for that calendar quarter, the excess amount of that deduction may be carried forward to the following calendar quarter until the deduction is exhausted. An employer claiming the deduction allowed pursuant to this section shall, upon the request of the Department, explain the amount claimed to the satisfaction of the Department and provide the Department with such documentation as the Department deems appropriate for that purpose.~~

~~4.]~~ As used in this section:

(a) "Claims" means claims for those categories of health care expenses that are generally deductible by employees on their individual federal income tax returns pursuant to the provisions of 26 U.S.C. § 213 and any federal regulations relating thereto, if those expenses had been borne directly by those employees.

(b) "Direct administrative services costs" means, if borne directly by a self-insured employer and reasonably allocated to the direct administration of claims:

(1) Payments for medical or office supplies that will be consumed in the course of the provision of medical care or the direct administration of claims;

(2) Payments to third-party administrators or independent contractors for the provision of medical care or the direct administration of claims;

(3) Rent and utility payments for the maintenance of medical or office space used for the provision of medical care or the direct administration of claims;

(4) Payments for the maintenance, repair and upkeep of medical or office space used for the provision of medical care or the direct administration of claims;

(5) Salaries and wages paid to medical, clerical and administrative staff and other personnel employed to provide medical care or directly to administer claims; and

(6) The depreciation of property other than medical or office supplies, used for the provision of medical care or the direct administration of claims.



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1 (c) “Employee welfare benefit plan” has the meaning ascribed to
2 it in 29 U.S.C. § 1002.

3 (d) “Employees” means employees whose wages are included
4 within the measure of the excise tax imposed upon an employer by
5 NRS 363B.110, and their spouses, children and other dependents
6 who qualify for coverage under the terms of the health insurance or
7 health benefit plan provided by that employer.

8 (e) “Health benefit plan” means a health benefit plan that covers
9 only those categories of health care expenses that are generally
10 deductible by employees on their individual federal income tax
11 returns pursuant to the provisions of 26 U.S.C. § 213 and any
12 federal regulations relating thereto, if those expenses had been borne
13 directly by those employees.

14 (f) “Self-insured employer” means an employer that provides a
15 program of self-insurance for its employees.

16 **Sec. 11.** This act becomes effective on July 1, 2007.

