
ASSEMBLY BILL NO. 34—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE EMPLOYMENT SECURITY DIVISION)

PREFILED JANUARY 26, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions governing unemployment compensation. (BDR 53-610)

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

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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 unemployment compensation; revising provisions governing the appointment of and procedures relating to Appeal Tribunals for claims relating to unemployment compensation; providing for interlocal agreements to appoint Appeal Tribunals; revising provisions governing the charging of the records for experience ratings of former employers of a discharged employee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law provides for the appointment of Appeal Tribunals to hear appeals
2 of claims relating to unemployment compensation. (NRS 612.490-612.520)
3 **Section 2** of this bill provides that the Administrator of the Employment Security
4 Division of the Department of Employment, Training and Rehabilitation shall
5 appoint the Appeal Tribunals rather than the Appeal Tribunals being appointed by
6 the Board of Review. Further, the Administrator is authorized to enter into an
7 interlocal agreement pursuant to chapter 277 of NRS to provide for the appointment
8 of Appeal Tribunals. **Section 2** also changes the size of an Appeal Tribunal from
9 three persons to one person. (NRS 612.490) **Section 3** of this bill provides that the
10 Administrator rather than the Board of Review shall adopt regulations governing
11 appeals and hearings. (NRS 612.500) **Section 4** of this bill provides that the
12 Administrator rather than the Board of Review may transfer an appeal between
13 Appeal Tribunals. (NRS 612.520)



Section 5 of this bill provides that if an employee leaves his last or his next to last employer to take other employment, and then leaves or is discharged by the latter employer, the benefits paid to him must not be charged against the record for experience rating of the former employer.

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

Section 1. NRS 612.270 is hereby amended to read as follows:
612.270 1. In the discharge of the duties imposed by this chapter, the Administrator, ~~the Chairman of~~ an Appeal Tribunal created by this chapter, the members of the Board of Review ~~and~~ and any authorized representatives of any of them may:

(a) Take depositions.

(b) Certify to official acts.

(c) Issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with an appealed claim or the administration of this chapter.

2. Witness fees may be paid to those witnesses in the amounts provided by law for witnesses in a district court.

Sec. 2. NRS 612.490 is hereby amended to read as follows:

612.490 1. To hear and decide appealed claims, the ~~Board of Review shall appoint~~ **Administrator shall:**

(a) Appoint one or more impartial Appeal Tribunals consisting in each case of ~~either~~ a salaried examiner, selected in accordance with NRS 612.230 ~~or a body consisting of three members, one of whom must be a salaried examiner and who serves as Chairman, one of whom must be a representative of employers and the other of whom must be a representative of employees. Each of the latter two members serves at the pleasure of the Board of Review and each is entitled to be paid a fee of not more than \$80, as fixed by the Board, for each day of active service on the Tribunal.~~

~~2. While engaged in the business of the Tribunal, each member of the Tribunal is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.~~

~~3. ; or~~

(b) Enter into an interlocal agreement with another public agency pursuant to chapter 277 of NRS for the appointment of a single hearing officer.

2. No person may participate on behalf of the Administrator ~~for the Board of Review~~ in any case in which he is an interested party.

~~4. The Board of Review~~

3. **The Administrator** may designate ~~alternates~~ **an alternate** to serve in the absence or disqualification of any ~~member of an~~



1 Appeal Tribunal. ~~{The Chairman shall act alone in the absence or~~
2 ~~disqualification of any other member and his alternates.~~

3 ~~— 5. A hearing may not proceed unless the chairman of the~~
4 ~~Appeal Tribunal is present.~~

5 ~~— 6. The Administrator shall provide the Board of Review and~~
6 ~~the Appeal Tribunal with proper facilities and assistants for the~~
7 ~~execution of their functions.}~~

8 **Sec. 3.** NRS 612.500 is hereby amended to read as follows:

9 612.500 1. A reasonable opportunity for a fair hearing on
10 appeals must be promptly afforded all parties.

11 2. An Appeal Tribunal shall inquire into and develop all facts
12 bearing on the issues and shall receive and consider evidence
13 without regard to statutory and common-law rules. In addition to the
14 issues raised by the appealed determination, the **Appeal** Tribunal
15 may consider all issues affecting the claimant's rights to benefits
16 from the beginning of the period covered by the determination to the
17 date of the hearing.

18 3. ~~{The}~~ **An** Appeal Tribunal shall include in the record and
19 consider as evidence all records of the Administrator that are
20 material to the issues.

21 4. The ~~{Board of Review}~~ **Administrator** shall adopt
22 regulations governing the manner of filing appeals and the conduct
23 of hearings and appeals consistent with the provisions of this
24 chapter.

25 5. A record of all testimony and proceedings on appeal must be
26 kept for 6 months after the date on which a decision of an Appeal
27 Tribunal is mailed, but testimony need not be transcribed unless
28 further review is initiated. If further review is not initiated within
29 that period, the record may be destroyed.

30 6. Witnesses subpoenaed are entitled to fees in the amounts
31 specified in NRS 50.225 and the fees of witnesses so subpoenaed
32 shall be deemed part of the expense of administering this chapter.

33 7. ~~{A member of an}~~ **An** Appeal Tribunal shall not participate
34 in an appeal hearing in which he has a direct or indirect interest.

35 8. If the records of an appeal have been destroyed pursuant to
36 subsection 5, a person aggrieved by the decision in the appeal may
37 petition a district court for a trial de novo. If the district court finds
38 that good cause exists for the party's failure to pursue the
39 administrative remedies provided in NRS 612.510, it may grant the
40 petitioner's request.

41 **Sec. 4.** NRS 612.520 is hereby amended to read as follows:

42 612.520 1. The ~~{Board of Review,}~~ **Administrator**, for cause,
43 may remove or transfer to another Appeal Tribunal any appeal
44 pending before an Appeal Tribunal.



2. The parties to any appeal so removed or transferred by the ~~Board~~ Administrator shall be given a full and fair hearing on the original appeal.

Sec. 5. NRS 612.551 is hereby amended to read as follows:

612.551 1. Except as otherwise provided in subsections 2 and 3, if the Division determines that a claimant has earned 75 percent or more of his wages during his base period from one employer, it shall notify the employer of its determination and advise him that he has a right to protest the charging of benefits to his account pursuant to subsection 4 of NRS 612.550.

2. Benefits paid pursuant to an elected base period in accordance with NRS 612.344 must not be charged against the record for experience rating of the employer.

3. If a claimant leaves ~~and~~ *his last or next to last* employer to take other employment and leaves or is discharged by the latter employer, benefits paid to him must not be charged against the record for experience rating of the former employer.

4. If the employer provides evidence within 10 working days after the notice required by subsection 1 was mailed which satisfies the Administrator that the claimant:

(a) Left his employment voluntarily without good cause or was discharged for misconduct connected with his employment; or

(b) Was the spouse of an active member of the Armed Forces of the United States and left his employment because his spouse was transferred to a different location,

the Administrator shall order that the benefits not be charged against the record for experience rating of the employer.

5. The employer may appeal from the ruling of the Administrator relating to the cause of the termination of the employment of the claimant in the same manner as appeals may be taken from determinations relating to claims for benefits.

6. A determination made pursuant to this section does not constitute a basis for disqualifying a claimant to receive benefits.

Sec. 6. This act becomes effective upon passage and approval.

