

ASSEMBLY BILL NO. 86—ASSEMBLYMEN DALY, CARRILLO; ELLIOT
ANDERSON, BENITEZ-THOMPSON, BOBZIEN, COHEN,
HANSEN, HEALEY AND SPRINKLE

FEBRUARY 11, 2013

JOINT SPONSOR: SENATOR SMITH

Referred to Committee on Commerce and Labor

SUMMARY—Requires the State Contractors’ Board to suspend or
revoke the license of a contractor for failure to
comply with certain provisions governing
unemployment compensation, industrial insurance
and insurance for occupational diseases.
(BDR 54-276)

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 contractors; requiring the State Contractors’
Board to notify a licensed contractor who is not in
compliance with certain provisions governing
unemployment compensation, industrial insurance and
insurance for occupational diseases; requiring the Board
to suspend or revoke the license of a contractor who fails
to demonstrate compliance with such provisions;
restricting the actions of a contractor whose license has
been suspended for failure to demonstrate compliance
with such provisions; requiring the Board to further
suspend or revoke the license of a contractor who engages
in prohibited activity; and providing other matters
properly relating thereto.

Legislative Counsel’s Digest:

- 1 With certain exceptions, each employer, including each contractor, is required
- 2 to contribute to the Unemployment Compensation Fund. (NRS 612.535) Each
- 3 contractor who has employees, is a subcontractor for a principal contractor, or



submits a bid on a job for a principal contractor or subcontractor is also required to: (1) maintain industrial insurance and insurance for occupational diseases; (2) obtain a certificate of qualification as a self-insured employer from the Commissioner of Insurance; or (3) maintain membership in an association of self-insured employers. (Chapters 616A-617 of NRS, NRS 624.256) Existing law requires: (1) the Administrator of the Division of Industrial Relations of the Department of Business and Industry to provide timely notice to the State Contractors' Board if a contractor's industrial insurance coverage has lapsed; and (2) the Commissioner of Insurance to provide timely notice to both the Administrator and the Board if a contractor's certificate of qualification as a self-insured employer is cancelled or withdrawn, or the contractor is no longer a member of an association of self-insured public or private employers. (NRS 616B.630)

Section 8 of this bill requires the Board, if applicable, to notify each licensed contractor who fails to meet the requirements to contribute to the Unemployment Compensation Fund and to provide and maintain industrial insurance and insurance for occupational diseases that the contractor's license will be suspended if the contractor fails to furnish proof by a certain date that he or she is in compliance with these requirements. **Section 8** also requires that the Board suspend the license of any contractor who fails to furnish proof by a certain date that the contractor is in compliance with these requirements until the contractor whose license has been suspended demonstrates compliance with those requirements. **Section 8** further provides that if a contractor's license is suspended for failure to meet these requirements: (1) the contractor is required to submit to the Board a list of all the projects for which a contract was entered into before the date of the notice of the suspension; (2) the contractor is prohibited from submitting any bids for any new work or beginning work on a project not described on the list; and (3) the contractor's name is removed from certain lists of contractors eligible to bid on public works projects until the suspension is lifted. **Section 8** provides for the extended suspension or revocation of the license of a contractor who fails to submit a complete list of projects, submits an unauthorized bid or begins work on an unauthorized project. Finally, **section 8** provides for the suspension and revocation of the license of a contractor who fails to meet the requirements to contribute to the Unemployment Compensation Fund and to provide and maintain industrial insurance and insurance for occupational diseases twice within a 5-year period.

Section 8.5 of this bill requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to provide quarterly to the Board a list of contractors who have failed to make the required contribution to the Unemployment Compensation Fund.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 5. (Deleted by amendment.)

Sec. 6. (Deleted by amendment.)

Sec. 7. (Deleted by amendment.)



Sec. 8. NRS 624.256 is hereby amended to read as follows:

624.256 1. Before granting an original or renewal of a contractor's license to any applicant, the Board shall require that the applicant submit to the Board:

(a) Proof of industrial insurance and insurance for occupational diseases which covers the applicant's employees;

(b) A copy of the applicant's certificate of qualification as a self-insured employer which was issued by the Commissioner of Insurance;

(c) If the applicant is a member of an association of self-insured public or private employers, a copy of the certificate issued to the association by the Commissioner of Insurance; or

(d) An affidavit signed by the applicant affirming that he or she is not subject to the provisions of chapters 616A to 616D, inclusive, or chapter 617 of NRS because the applicant:

(1) Has no employees;

(2) Is not or does not intend to be a subcontractor for a principal contractor; and

(3) Has not or does not intend to submit a bid on a job for a principal contractor or subcontractor.

2. The Board shall notify the Fraud Control Unit for Industrial Insurance established pursuant to NRS 228.420 whenever the Board learns that an applicant or holder of a contractor's license has engaged in business as or acted in the capacity of a contractor within this State without having obtained *or maintained* industrial insurance or insurance for occupational diseases in violation of the provisions of chapters 616A to 617, inclusive, of NRS.

3. Failure by an applicant or holder of a contractor's license to file or maintain in full force the required industrial insurance and insurance for occupational diseases constitutes cause for the Board to deny, revoke, suspend, refuse to renew or otherwise discipline the person, unless the person has complied with the provisions set forth in paragraph (d) of subsection 1.

4. Within 30 days after receiving notice from the Department of Employment, Training and Rehabilitation pursuant to section 8.5 of this act or the Division of Industrial Relations of the Department of Business and Industry pursuant to NRS 616B.630 that a contractor is not in full compliance with the requirements of chapters 612 and 616A to 617, inclusive, of NRS, the Board shall immediately notify the contractor by mail at the last known address of the contractor, as it appears in the records of the Board, that the Board will suspend the license of the contractor if the contractor does not furnish proof, within 30 days after the date of the notice sent by the Board, that the contractor is in full



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1 *compliance with the requirements of chapters 612 and 616A to*
2 *617, inclusive, of NRS.*

3 *5. If the contractor fails to furnish proof, within 30 days after*
4 *the date of the notice sent by the Board pursuant to subsection 4,*
5 *that the contractor is in full compliance with the requirements of*
6 *chapters 612 and 616A to 617, inclusive, of NRS, the Board shall,*
7 *for a first offense:*

8 *(a) Immediately summarily suspend the license of the*
9 *contractor without further notice pursuant to subsection 4 of NRS*
10 *624.291; and*

11 *(b) Immediately require the contractor to submit to the Board*
12 *a list of all projects for which the contractor has unfulfilled*
13 *contractual obligations where the contract was entered into on or*
14 *before the date of the notice sent by the Board pursuant to*
15 *subsection 4.*

16 *6. If a contractor's license is suspended pursuant to*
17 *paragraph (a) of subsection 5:*

18 *(a) The suspension must continue until the contractor*
19 *furnishes proof that the contractor is in full compliance with the*
20 *requirements of chapters 612 and 616A to 617, inclusive, of NRS;*

21 *(b) During the term of the suspension, the contractor shall not*
22 *submit any bids for any new work or begin work on any project*
23 *not described in the list submitted to the Board pursuant to*
24 *paragraph (b) of subsection 5; and*

25 *(c) The Board shall notify:*

26 *(1) The Office of the Labor Commissioner, which shall,*
27 *immediately upon receipt of the notice, add the name of the*
28 *contractor to the list of contractors who are disqualified to bid on*
29 *public works; and*

30 *(2) The State Public Works Board, which shall,*
31 *immediately upon receipt of the notice, add the name of the*
32 *contractor to the list of contractors who are not prequalified to bid*
33 *on public works.*

34 *7. If the name of a contractor is added to a list pursuant to*
35 *paragraph (c) of subsection 6, the Office of the Labor*
36 *Commissioner or the State Public Works Board, as applicable,*
37 *shall remove the name from the list when notified by the Board*
38 *that the suspension has been lifted pursuant to paragraph (a) of*
39 *subsection 6.*

40 *8. If the Board finds that a contractor has failed to provide a*
41 *complete list of projects in accordance with paragraph (b) of*
42 *subsection 5 or has violated paragraph (b) of subsection 6, the*
43 *Board shall:*



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1 (a) For a first offense, suspend the contractor's license for an
2 additional 12 months after the contractor furnishes the proof
3 described in paragraph (a) of subsection 6; and

4 (b) For a second or subsequent offense, conduct a hearing
5 pursuant to NRS 624.291, and, if it is determined at the hearing
6 that a second or subsequent offense has been committed, revoke
7 the contractor's license.

8 9. If a contractor for whom the suspension of a contractor's
9 license has been lifted after providing the proof required pursuant
10 to paragraph (a) of subsection 6 receives notice from the Board
11 pursuant to subsection 4 within 5 years after the date of
12 reinstatement and the contractor fails to furnish proof, within 30
13 days after the date of the notice sent by the Board, that the
14 contractor is in full compliance with the requirements of chapters
15 612 and 616A to 617, inclusive, of NRS, the Board shall conduct a
16 hearing pursuant to NRS 624.291 and, if it is determined at the
17 hearing that a second or subsequent offense has been committed
18 within a 5-year period, revoke the contractor's license.

19 **Sec. 8.5.** Chapter 612 of NRS is hereby amended by adding
20 thereto a new section to read as follows:

21 *The Administrator shall, at least once each calendar quarter,*
22 *provide to the State Contractors' Board a list setting forth each*
23 *contractor who is not in compliance with the provisions of this*
24 *chapter regarding contributions or payments in lieu of*
25 *contributions to the Fund. The list must include, to the extent*
26 *available, the name, address, telephone number, resident agent,*
27 *principal owner and contractor's license number of the*
28 *contractor.*

29 **Sec. 8.6.** NRS 612.265 is hereby amended to read as follows:

30 612.265 1. Except as otherwise provided in this section and
31 NRS 239.0115, *and section 8.5 of this act*, information obtained
32 from any employing unit or person pursuant to the administration of
33 this chapter and any determination as to the benefit rights of any
34 person is confidential and may not be disclosed or be open to public
35 inspection in any manner which would reveal the person's or
36 employing unit's identity.

37 2. Any claimant or a legal representative of a claimant is
38 entitled to information from the records of the Division, to the
39 extent necessary for the proper presentation of the claimant's claim
40 in any proceeding pursuant to this chapter. A claimant or an
41 employing unit is not entitled to information from the records of the
42 Division for any other purpose.

43 3. Subject to such restrictions as the Administrator may by
44 regulation prescribe, the information obtained by the Division may
45 be made available to:



(a) Any agency of this or any other state or any federal agency charged with the administration or enforcement of laws relating to unemployment compensation, public assistance, workers' compensation or labor and industrial relations, or the maintenance of a system of public employment offices;

(b) Any state or local agency for the enforcement of child support;

(c) The Internal Revenue Service of the Department of the Treasury;

(d) The Department of Taxation; and

(e) The State Contractors' Board in the performance of its duties to enforce the provisions of chapter 624 of NRS.

Information obtained in connection with the administration of the Employment Service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or a public assistance program.

4. Upon written request made by a public officer of a local government, the Administrator shall furnish from the records of the Division the name, address and place of employment of any person listed in the records of employment of the Division. The request must set forth the social security number of the person about whom the request is made and contain a statement signed by the proper authority of the local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation owed to the local government. Except as otherwise provided in NRS 239.0115, the information obtained by the local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation owed to that local government. The Administrator may charge a reasonable fee for the cost of providing the requested information.

5. The Administrator may publish or otherwise provide information on the names of employers, their addresses, their type or class of business or industry, and the approximate number of employees employed by each such employer, if the information released will assist unemployed persons to obtain employment or will be generally useful in developing and diversifying the economic interests of this State. Upon request by a state agency which is able to demonstrate that its intended use of the information will benefit the residents of this State, the Administrator may, in addition to the information listed in this subsection, disclose the number of employees employed by each employer and the total wages paid by each employer. The Administrator may charge a fee to cover the actual costs of any administrative expenses relating to the disclosure of this information to a state agency. The Administrator may require the state agency to certify in writing that the agency will take all



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1 actions necessary to maintain the confidentiality of the information
2 and prevent its unauthorized disclosure.

3 6. Upon request therefor, the Administrator shall furnish to any
4 agency of the United States charged with the administration of
5 public works or assistance through public employment, and may
6 furnish to any state agency similarly charged, the name, address,
7 ordinary occupation and employment status of each recipient of
8 benefits and the recipient's rights to further benefits pursuant to this
9 chapter.

10 7. To further a current criminal investigation, the chief
11 executive officer of any law enforcement agency of this State may
12 submit a written request to the Administrator that the Administrator
13 furnish, from the records of the Division, the name, address and
14 place of employment of any person listed in the records of
15 employment of the Division. The request must set forth the social
16 security number of the person about whom the request is made and
17 contain a statement signed by the chief executive officer certifying
18 that the request is made to further a criminal investigation currently
19 being conducted by the agency. Upon receipt of such a request, the
20 Administrator shall furnish the information requested. The
21 Administrator may charge a fee to cover the actual costs of any
22 related administrative expenses.

23 8. In addition to the provisions of subsection 5, the
24 Administrator shall provide lists containing the names and addresses
25 of employers, and information regarding the wages paid by each
26 employer to the Department of Taxation, upon request, for use in
27 verifying returns for the taxes imposed pursuant to chapters 363A
28 and 363B of NRS. The Administrator may charge a fee to cover the
29 actual costs of any related administrative expenses.

30 9. A private carrier that provides industrial insurance in this
31 State shall submit to the Administrator a list containing the name of
32 each person who received benefits pursuant to chapters 616A to
33 616D, inclusive, or chapter 617 of NRS during the preceding month
34 and request that the Administrator compare the information so
35 provided with the records of the Division regarding persons
36 claiming benefits pursuant to this chapter for the same period. The
37 information submitted by the private carrier must be in a form
38 determined by the Administrator and must contain the social
39 security number of each such person. Upon receipt of the request,
40 the Administrator shall make such a comparison and, if it appears
41 from the information submitted that a person is simultaneously
42 claiming benefits under this chapter and under chapters 616A to
43 616D, inclusive, or chapter 617 of NRS, the Administrator shall
44 notify the Attorney General or any other appropriate law



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1 enforcement agency. The Administrator shall charge a fee to cover
2 the actual costs of any related administrative expenses.

3 10. The Administrator may request the Comptroller of the
4 Currency of the United States to cause an examination of the
5 correctness of any return or report of any national banking
6 association rendered pursuant to the provisions of this chapter, and
7 may in connection with the request transmit any such report or
8 return to the Comptroller of the Currency of the United States as
9 provided in section 3305(c) of the Internal Revenue Code of 1954.

10 11. If any employee or member of the Board of Review, the
11 Administrator or any employee of the Administrator, in violation of
12 the provisions of this section, discloses information obtained from
13 any employing unit or person in the administration of this chapter,
14 or if any person who has obtained a list of applicants for work, or of
15 claimants or recipients of benefits pursuant to this chapter uses or
16 permits the use of the list for any political purpose, he or she is
17 guilty of a gross misdemeanor.

18 12. All letters, reports or communications of any kind, oral or
19 written, from the employer or employee to each other or to the
20 Division or any of its agents, representatives or employees are
21 privileged and must not be the subject matter or basis for any
22 lawsuit if the letter, report or communication is written, sent,
23 delivered or prepared pursuant to the requirements of this chapter.

24 **Sec. 9.** This act becomes effective:

25 1. Upon passage and approval for the purpose of performing
26 any preparatory administrative tasks; and

27 2. On January 1, 2014, for all other purposes.

