

Senate Bill No. 35—Committee on  
Commerce, Labor and Energy

CHAPTER.....

AN ACT relating to employment; eliminating obsolete references to certain administrative subdivisions within the Employment Security Division of the Department of Employment, Training and Rehabilitation; requiring the Administrator of the Division to charge certain fees to employers under certain circumstances; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law includes various references describing the Unemployment Compensation Service and the State Employment Service as administrative subdivisions within the Employment Security Division of the Department of Employment, Training and Rehabilitation. (NRS 612.210, 612.215, 612.260, 612.265, 612.330, 612.392, 612.630, 612.645) **Sections 1-7 and 9** of this bill eliminate those references because they no longer accurately describe the administrative organization of the Division and are therefore obsolete.

Existing law authorizes the Division to bring civil actions to collect amounts owed to the Division. (NRS 612.625-612.640) Existing law also provides that no costs or filing fees may be charged to the State in any such action, but does not specifically provide that no fees for recording, copying or certifying documents may be charged to the State. (NRS 612.645) **Section 7** of this bill requires the Administrator of the Division to charge to the employer against whom such an action is brought an additional fee to defray the cost for recording, copying or certifying documents in such actions. **Section 7** also provides that the additional fee must be charged to the employer in accordance with the fees otherwise charged by county recorders for such services and that the additional fee must be paid into the Unemployment Compensation Administration Fund.

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

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

**Section 1.** NRS 612.215 is hereby amended to read as follows:  
612.215 1. The Division is administered by a full-time salaried Administrator, who is appointed by the Director of the Department of Employment, Training and Rehabilitation and who serves at the pleasure of the Director.  
2. The Administrator:  
(a) Is in the unclassified service of the State.  
(b) Has full administrative authority with respect to the operation and functions of the ~~{Unemployment Compensation Service and the State Employment Service.}~~ ***Division.***



(c) Except as otherwise provided in NRS 284.143, shall devote his or her entire time and attention to the business of his or her office and shall not pursue any other business or occupation or hold any other office of profit.

**Sec. 2.** NRS 612.260 is hereby amended to read as follows:

612.260 1. Each employing unit shall keep true and accurate work records, containing such information as the Administrator may prescribe. Such records must be open to inspection and may be copied by the Administrator or the Administrator's authorized representatives or the Department of Taxation at any reasonable time and as often as may be necessary.

2. The Administrator, the Board of Review, or any Appeal Tribunal may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Administrator or the Board of Review deems necessary for the effective administration of this chapter.

3. Except as limited by this subsection, the Administrator may:

(a) Destroy any letter of the ~~{Unemployment Compensation Service or Employment Service}~~ **Division** and any form, benefit determination or redetermination, ruling, employer's status or contribution report, wage slip report, claim record, wage list or any auxiliary computer file related thereto at the expiration of 4 years after the record was originated or filed with the ~~{Service;}~~ **Division;** or

(b) Destroy such records at any time after having microfilmed them in the manner and on film or paper that complies with the minimum standards of quality approved for such microfilmed records by the American National Standards Institute. The microfilmed records must be retained for not less than 4 years.

➡ This subsection does not apply to records pertaining to grants, accounts or expenditures for administration, or to the records of the Unemployment Compensation Administration Fund.

**Sec. 3.** NRS 612.265 is hereby amended to read as follows:

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

2. Any claimant or a legal representative of a claimant is entitled to information from the records of the Division, to the extent necessary for the proper presentation of the claimant's claim



in any proceeding pursuant to this chapter. A claimant or an employing unit is not entitled to information from the records of the Division for any other purpose.

3. Subject to such restrictions as the Administrator may by regulation prescribe, the information obtained by the Division may 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}~~ **Division** 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 actions necessary to maintain the confidentiality of the information and prevent its unauthorized disclosure.

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

7. To further a current criminal investigation, the chief executive officer of any law enforcement agency of this State may submit a written request to the Administrator that the Administrator 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 chief executive officer certifying that the request is made to further a criminal investigation currently being conducted by the agency. Upon receipt of such a request, the Administrator shall furnish the information requested. The Administrator may charge a fee to cover the actual costs of any related administrative expenses.

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

9. A private carrier that provides industrial insurance in this State shall submit to the Administrator a list containing the name of each person who received benefits pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS during the preceding month and request that the Administrator compare the information so provided with the records of the Division regarding persons



claiming benefits pursuant to this chapter for the same period. The information submitted by the private carrier must be in a form determined by the Administrator and must contain the social security number of each such person. Upon receipt of the request, the Administrator shall make such a comparison and, if it appears from the information submitted that a person is simultaneously claiming benefits under this chapter and under chapters 616A to 616D, inclusive, or chapter 617 of NRS, the Administrator shall notify the Attorney General or any other appropriate law enforcement agency. The Administrator shall charge a fee to cover the actual costs of any related administrative expenses.

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

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

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

**Sec. 4.** NRS 612.330 is hereby amended to read as follows:

612.330 1. The Administrator shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this chapter and for the purposes of performing such duties as are within the purview of the Wagner-Peyser Act, being c. 49, 48 Stat. 113, approved June 6, 1933, as amended, and entitled "An Act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," and also designated as 29 U.S.C. §§ 49 et seq.



2. The provisions of the Wagner-Peyser Act, as amended, are hereby accepted by this State in conformity with 29 U.S.C. § 49c, and this State will observe and comply with the requirements thereof.

3. The Administrator shall cooperate with any official or agency of the United States having powers or duties under the provisions of the Wagner-Peyser Act, as amended, and shall do and perform all things necessary to secure to this State the benefits of the Wagner-Peyser Act, as amended, in the promotion and maintenance of a system of public employment offices. The Division is hereby designated and constituted the agency of this State for the purposes of the Wagner-Peyser Act, as amended.

4. All money received by this State under the Wagner-Peyser Act, as amended, must be paid into the Unemployment Compensation Administration Fund, and is hereby made available to the Administrator ~~{for the Nevada State Employment Service,}~~ to be expended as provided by this chapter and by the Wagner-Peyser Act, as amended.

5. For the purpose of establishing and maintaining free public employment offices, the Administrator is authorized to enter into agreements with the Railroad Retirement Board, or any other agency of the United States charged with the administration of an unemployment compensation law, with any political subdivision of this State, or with any private nonprofit organizations, and as a part of any such agreement the Administrator may accept money, services or quarters as a contribution to the Unemployment Compensation Administration Fund.

**Sec. 5.** NRS 612.392 is hereby amended to read as follows:

612.392 1. Except as otherwise provided in subsection 4, a person is not eligible to receive extended benefits for any week of unemployment in the person's eligibility period if the Administrator finds that during the period he or she failed to:

(a) Accept an offer of suitable work or failed to apply for any suitable work to which he or she was referred by the Administrator;

(b) Actively engage in a systematic and sustained effort to obtain work; or

(c) Furnish tangible evidence that he or she had made such efforts.

2. Any person found ineligible for extended benefits pursuant to subsection 1 must also be denied benefits, beginning with the first day of the week after the week in which the person was found ineligible, until he or she has been subsequently employed for 4



weeks and has earned wages equal to not less than four times the weekly amount of the extended benefit.

3. As used in this section, "suitable work" means any work which is within the person's capabilities and for which the gross average weekly wage:

(a) Exceeds the sum of:

(1) The amount, if any, of supplemental unemployment benefits (as defined in 26 U.S.C. § 501) payable to the person for the week; and

(2) The person's weekly amount of extended benefits as determined pursuant to NRS 612.3776; and

(b) Is not less than the higher of:

(1) The minimum wage provided in 29 U.S.C. § 206, without regard to any exemption; or

(2) Any applicable state minimum wage.

4. No person may be denied extended benefits for failure to apply for or accept suitable work if:

(a) The position was not offered to the person in writing or was not listed with the ~~Employment Service;~~ **Division;**

(b) The failure does not result in a denial of benefits pursuant to NRS 612.390 to the extent that the criteria for suitability in that section are not inconsistent with the provisions of this section; or

(c) The person furnishes evidence satisfactory to the Administrator that the person's prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If the evidence is deemed satisfactory, the determination of whether work is suitable for the person must be made pursuant to NRS 612.390.

5. The Administrator shall refer any person entitled to extended benefits to any available suitable work.

**Sec. 6.** NRS 612.630 is hereby amended to read as follows:

612.630 1. In addition to or independently of the remedy by civil action provided in NRS 612.625, the Administrator, or the Administrator's authorized representative, after giving to any employer who defaults in any payment of contributions, interest or forfeit provided by this chapter 15 days' notice by registered or certified mail, addressed to the employer's last known place of business or address, may file in the office of the clerk of the district court in the county in which the employer has his or her principal place of business, or if there is no such principal place of business, then in Carson City, a certificate, which need not be verified, but which must specify the amount of contribution, interest and forfeit due, the name and last known place of business of the employer



liable for the same, and which must contain a statement that the ~~{Unemployment Compensation Service}~~ **Division** has complied with all the provisions of this chapter in relation to the computation and levy of the contribution, together with the request that judgment be entered for the State of Nevada, and against the employer named, in the amount of the contribution, interest and forfeit set forth in the certificate.

2. Within the 15-day period, the employer may pay the amount specified in such notice, under protest, to the Administrator, and thereupon has the right to initiate, within 60 days following such payment, and to maintain his or her action against the ~~{Unemployment Compensation Service}~~ **Division** for a refund of all or any part of any such amount and to recover so much thereof as may have been erroneously assessed or paid. Such an action by the employer must be commenced and maintained in the district court in the county wherein is located the principal place of business of the employer. In the event of entry of judgment for the employer, the ~~{Unemployment Compensation Service}~~ **Division** shall promptly refund such sum without interest as may be determined by the court.

3. If no such payment under protest is made as provided in subsection 2, upon filing the certificate as provided in subsection 1, the clerk of the district court shall immediately enter a judgment in favor of the ~~{Unemployment Compensation Service}~~ **Division** and against the employer in the amount of the contributions, interest and forfeit set forth in the certificate.

**Sec. 7.** NRS 612.645 is hereby amended to read as follows:

612.645 1. In all proceedings under NRS 612.625 to 612.640, inclusive, the ~~{Unemployment Compensation Service}~~ **Division** shall be authorized to act in its name on behalf of the State of Nevada.

2. No costs or filing fees shall be charged to the State of Nevada in any proceedings brought under any provision of NRS 612.625 to 612.640, inclusive, nor shall any bond or undertaking be required of the State of Nevada, either in proceedings in the district court or on appeal to the Supreme Court.

*3. In any proceedings brought under any provision of NRS 612.625 to 612.640, inclusive, the Administrator shall charge to the employer against whom the proceeding is brought an additional fee to defray the cost for recording, copying or certifying documents, as applicable. Any such fee must be:*

*(a) Charged to the employer in accordance with the fees set forth in NRS 247.305; and*





***(b) Paid into the Unemployment Compensation Administration Fund.***

**Sec. 8.** (Deleted by amendment.)

**Sec. 9.** NRS 612.210 is hereby repealed.

**Sec. 10.** This act becomes effective upon passage and approval.

