

SENATE BILL NO. 35—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

(ON BEHALF OF THE EMPLOYMENT SECURITY DIVISION)

PREFILED DECEMBER 20, 2012

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Makes various changes concerning the Employment Security Division of the Department of Employment, Training and Rehabilitation. (BDR 53-372)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 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:

- 1 Existing law includes various references describing the Unemployment
2 Compensation Service and the State Employment Service as administrative
3 subdivisions within the Employment Security Division of the Department of
4 Employment, Training and Rehabilitation. (NRS 612.210, 612.215, 612.260,
5 612.265, 612.330, 612.392, 612.630, 612.645) **Sections 1-7 and 9** of this bill
6 eliminate those references because they no longer accurately describe the
7 administrative organization of the Division and are therefore obsolete.
8 Existing law authorizes the Division to bring civil actions to collect amounts
9 owed to the Division. (NRS 612.625-612.640) Existing law also provides that no
10 costs or filing fees may be charged to the State in any such action, but does not
11 specifically provide that no fees for recording, copying or certifying documents
12 may be charged to the State. (NRS 612.645) **Section 7** of this bill requires the
13 Administrator of the Division to charge to the employer against whom such an
14 action is brought an additional fee to defray the cost for recording, copying or
15 certifying documents in such actions. **Section 7** also provides that the additional fee
16 must be charged to the employer in accordance with the fees otherwise charged by



17 county recorders for such services and that the additional fee must be paid into the
18 Unemployment Compensation Administration Fund.

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

1 **Section 1.** NRS 612.215 is hereby amended to read as follows:
2 612.215 1. The Division is administered by a full-time
3 salaried Administrator, who is appointed by the Director of the
4 Department of Employment, Training and Rehabilitation and who
5 serves at the pleasure of the Director.

6 2. The Administrator:
7 (a) Is in the unclassified service of the State.
8 (b) Has full administrative authority with respect to the
9 operation and functions of the ~~{Unemployment Compensation~~
10 ~~Service and the State Employment Service.}~~ **Division.**

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

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

16 612.260 1. Each employing unit shall keep true and accurate
17 work records, containing such information as the Administrator may
18 prescribe. Such records must be open to inspection and may be
19 copied by the Administrator or the Administrator's authorized
20 representatives or the Department of Taxation at any reasonable
21 time and as often as may be necessary.

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

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

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

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



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

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

5 612.265 1. Except as otherwise provided in this section and
6 NRS 239.0115, information obtained from any employing unit or
7 person pursuant to the administration of this chapter and any
8 determination as to the benefit rights of any person is confidential
9 and may not be disclosed or be open to public inspection in any
10 manner which would reveal the person's or employing unit's
11 identity.

12 2. Any claimant or a legal representative of a claimant is
13 entitled to information from the records of the Division, to the
14 extent necessary for the proper presentation of the claimant's claim
15 in any proceeding pursuant to this chapter. A claimant or an
16 employing unit is not entitled to information from the records of the
17 Division for any other purpose.

18 3. Subject to such restrictions as the Administrator may by
19 regulation prescribe, the information obtained by the Division may
20 be made available to:

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

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

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

30 (d) The Department of Taxation; and

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

33 ➤ Information obtained in connection with the administration of the
34 ~~{Employment Service}~~ **Division** may be made available to persons
35 or agencies for purposes appropriate to the operation of a public
36 employment service or a public assistance program.

37 4. Upon written request made by a public officer of a local
38 government, the Administrator shall furnish from the records of the
39 Division the name, address and place of employment of any person
40 listed in the records of employment of the Division. The request
41 must set forth the social security number of the person about whom
42 the request is made and contain a statement signed by the proper
43 authority of the local government certifying that the request is made
44 to allow the proper authority to enforce a law to recover a debt or
45 obligation owed to the local government. Except as otherwise



1 provided in NRS 239.0115, the information obtained by the local
2 government is confidential and may not be used or disclosed for any
3 purpose other than the collection of a debt or obligation owed to that
4 local government. The Administrator may charge a reasonable fee
5 for the cost of providing the requested information.

6 5. The Administrator may publish or otherwise provide
7 information on the names of employers, their addresses, their type
8 or class of business or industry, and the approximate number of
9 employees employed by each such employer, if the information
10 released will assist unemployed persons to obtain employment or
11 will be generally useful in developing and diversifying the economic
12 interests of this State. Upon request by a state agency which is able
13 to demonstrate that its intended use of the information will benefit
14 the residents of this State, the Administrator may, in addition to the
15 information listed in this subsection, disclose the number of
16 employees employed by each employer and the total wages paid by
17 each employer. The Administrator may charge a fee to cover the
18 actual costs of any administrative expenses relating to the disclosure
19 of this information to a state agency. The Administrator may require
20 the state agency to certify in writing that the agency will take all
21 actions necessary to maintain the confidentiality of the information
22 and prevent its unauthorized disclosure.

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

30 7. To further a current criminal investigation, the chief
31 executive officer of any law enforcement agency of this State may
32 submit a written request to the Administrator that the Administrator
33 furnish, from the records of the Division, the name, address and
34 place of employment of any person listed in the records of
35 employment of the Division. The request must set forth the social
36 security number of the person about whom the request is made and
37 contain a statement signed by the chief executive officer certifying
38 that the request is made to further a criminal investigation currently
39 being conducted by the agency. Upon receipt of such a request, the
40 Administrator shall furnish the information requested. The
41 Administrator may charge a fee to cover the actual costs of any
42 related administrative expenses.

43 8. In addition to the provisions of subsection 5, the
44 Administrator shall provide lists containing the names and addresses
45 of employers, and information regarding the wages paid by each



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1 employer to the Department of Taxation, upon request, for use in
2 verifying returns for the taxes imposed pursuant to chapters 363A
3 and 363B of NRS. The Administrator may charge a fee to cover the
4 actual costs of any related administrative expenses.

5 9. A private carrier that provides industrial insurance in this
6 State shall submit to the Administrator a list containing the name of
7 each person who received benefits pursuant to chapters 616A to
8 616D, inclusive, or chapter 617 of NRS during the preceding month
9 and request that the Administrator compare the information so
10 provided with the records of the Division regarding persons
11 claiming benefits pursuant to this chapter for the same period. The
12 information submitted by the private carrier must be in a form
13 determined by the Administrator and must contain the social
14 security number of each such person. Upon receipt of the request,
15 the Administrator shall make such a comparison and, if it appears
16 from the information submitted that a person is simultaneously
17 claiming benefits under this chapter and under chapters 616A to
18 616D, inclusive, or chapter 617 of NRS, the Administrator shall
19 notify the Attorney General or any other appropriate law
20 enforcement agency. The Administrator shall charge a fee to cover
21 the actual costs of any related administrative expenses.

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

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

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

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

44 612.330 1. The Administrator shall establish and maintain
45 free public employment offices in such number and in such places



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1 as may be necessary for the proper administration of this chapter
2 and for the purposes of performing such duties as are within the
3 purview of the Wagner-Peyser Act, being c. 49, 48 Stat. 113,
4 approved June 6, 1933, as amended, and entitled "An Act to provide
5 for the establishment of a national employment system and for
6 cooperation with the states in the promotion of such system, and for
7 other purposes," and also designated as 29 U.S.C. §§ 49 et seq.

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

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

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

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

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

36 612.392 1. Except as otherwise provided in subsection 4, a
37 person is not eligible to receive extended benefits for any week of
38 unemployment in the person's eligibility period if the Administrator
39 finds that during the period he or she failed to:

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

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

44 (c) Furnish tangible evidence that he or she had made such
45 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



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1 which must specify the amount of contribution, interest and forfeit
2 due, the name and last known place of business of the employer
3 liable for the same, and which must contain a statement that the
4 ~~{Unemployment Compensation Service}~~ **Division** has complied with
5 all the provisions of this chapter in relation to the computation and
6 levy of the contribution, together with the request that judgment be
7 entered for the State of Nevada, and against the employer named, in
8 the amount of the contribution, interest and forfeit set forth in the
9 certificate.

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

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

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

29 612.645 1. In all proceedings under NRS 612.625 to 612.640,
30 inclusive, the ~~{Unemployment Compensation Service}~~ **Division**
31 shall be authorized to act in its name on behalf of the State of
32 Nevada.

33 2. No costs or filing fees shall be charged to the State of
34 Nevada in any proceedings brought under any provision of NRS
35 612.625 to 612.640, inclusive, nor shall any bond or undertaking be
36 required of the State of Nevada, either in proceedings in the district
37 court or on appeal to the Supreme Court.

38 *3. In any proceedings brought under any provision of NRS*
39 *612.625 to 612.640, inclusive, the Administrator shall charge to*
40 *the employer against whom the proceeding is brought an*
41 *additional fee to defray the cost for recording, copying or*
42 *certifying documents, as applicable. Any such fee must be:*

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



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

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

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

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

TEXT OF REPEALED SECTION

612.210 Unemployment Compensation Service and State Employment Service created within Employment Security Division of Department of Employment, Training and Rehabilitation. The functions exercised by the Nevada Unemployment Compensation Division and the Nevada State Employment Service Division before March 20, 1941, shall be exercised, after March 20, 1941, by the Unemployment Compensation Service and the State Employment Service, which services are hereby created within the Division.

