

CHAPTER.....

AN ACT relating to state financial administration; authorizing the State Controller to withhold income from the wages of a person who owes a debt to a state agency after a judgment has been obtained against the person; authorizing the imposition of a fine and punitive damages against an employer under certain circumstances; requiring the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to furnish certain records to the State Controller upon request; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law provides a procedure by which the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation may require any employer to withhold income from a person's wages to satisfy certain judgments. (NRS 612.7102-612.7116) This bill authorizes the State Controller to use the same procedure to withhold income from the wages of certain persons who owe a debt to a state agency.

Existing law requires the State Controller to act as the collection agent for each agency, bureau, board, commission, department and division of the Executive Department of State Government. (NRS 353C.195) In doing so, the State Controller is authorized to request the Attorney General to bring an action against a person who owes a debt to such an agency, bureau, board, commission, department or division or, in certain circumstances, request a court to enter summary judgment against such a debtor. (NRS 353C.140, 353C.150) **Section 2** of this bill provides that if the State Controller obtains a judgment against a person for a debt, the State Controller may, in addition to any other manner of executing the judgment provided by law, require each employer of the person to withhold income from the person's wages and pay it over to the State Controller. Before the State Controller may require an employer to withhold income from the person's wages, **section 2** requires the State Controller to send a notice to the person explaining that wages will be withheld unless the person: (1) enters into an installment agreement for the payment of the debt; or (2) pays the debt in full. If the person does not enter into an installment agreement or pay the debt in full, **section 3** of this bill requires the State Controller to provide additional notice to the person that wages will be withheld from the person's income to pay the debt. **Section 3.5** of this bill authorizes a person to contest the withholding of income on the grounds that the withholding of income will cause a financial hardship to the person and sets forth the procedure for the State Controller to determine the contest. **Section 4** of this bill requires the State Controller to provide to the employer of such a person notice to withhold income. **Section 5** of this bill requires an employer to: (1) calculate the amount of the withholding; or (2) request that the State Controller calculate the amount of the withholding. **Section 5** also requires the employer to withhold the amount of income calculated by the employer or State Controller, as applicable, and deliver the money to the State Controller. **Section 6** of this bill prescribes procedures concerning the delivery of the money. **Section 7** of this bill: (1) prohibits an employer from using the withholding of income to collect an obligation to pay money to the State Controller as a basis for refusing to hire a potential employee,



discharging an employee or taking disciplinary action against an employee; and (2) provides an administrative fine of \$1,000 for the violation of this prohibition. **Section 7** also provides for the imposition of punitive damages against an employer who wrongfully refuses to withhold income after receiving a notice from the State Controller requiring the employer to do so or knowingly misrepresents the income of an employee. **Section 8** of this bill authorizes a court to issue an order directing such an employer to appear and show cause why he or she should not be subject to the imposition of certain penalties and, after such a hearing, to take certain action against the employer, including requiring the employer to pay those penalties. **Section 9** of this bill exempts certain persons from civil liability under certain circumstances. **Section 10** of this bill authorizes an agency, bureau, board, commission, department or division of the Executive Department of State Government to exercise any right or remedy conferred on the State Controller pursuant to **sections 2-9** if the State Controller waives certain provisions or if the agency, bureau, board, commission, department or division does not assign a debt to the State Controller for collection. **Section 11.5** of this bill requires the Administrator of the Employment Security Division of the Department of Employment, Training and Rehabilitation to furnish to the State Controller, upon request, the name, address and place of employment of any person listed in the records of the Division.

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.** Chapter 353C of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

**Sec. 2. 1. *If an agency or the State Controller obtains a judgment against a person for a debt owed to an agency that has been assigned to the State Controller for collection pursuant to NRS 353C.195, the State Controller may, in addition to any other manner of executing the judgment provided by law, require each employer of the person to withhold income from the person's wages and pay it over to the State Controller in accordance with the provisions of sections 2 to 9, inclusive, of this act.***

**2. *Before the State Controller may require an employer of a person to withhold income from the person's wages and pay it over to the State Controller, the State Controller shall provide to the person a notice, sent by certified mail to the person's last known address, explaining that if the person does not:***

**(a) *Enter into an agreement with the State Controller pursuant to NRS 353C.130 to provide for the payment of the debt, and any penalty and interest, on an installment basis; or***

**(b) *Pay the debt in full, including, without limitation, any penalty and interest,***



↪ *within 15 days after the date on which the notice is postmarked, the State Controller will require each employer of the person to withhold income from the person's wages and turn it over to the State Controller in accordance with sections 2 to 9, inclusive, of this act.*

*3. If, within 15 days after the date on which the notice required pursuant to subsection 2 is postmarked, a person complies with the provisions of paragraph (a) or (b) of subsection 2, the State Controller may not require any employer of the person to withhold income from the person's wages.*

*Sec. 3. Not earlier than 15 days after sending the notice required pursuant to subsection 2 of section 2 of this act, if the State Controller intends to require each employer of a person to withhold income from the person's wages and pay it over to the State Controller in accordance with the provisions of sections 2 to 9, inclusive, of this act, the State Controller must provide to the person who is subject to the withholding of income a notice, sent by certified mail to the person's last known address:*

*1. That his or her income is going to be withheld not earlier than 15 days after the postmark of the notice sent pursuant to this section;*

*2. That a notice to withhold income applies to any current or subsequent employer;*

*3. That a notice to withhold income has been mailed to his or her employer;*

*4. Of the information provided to his or her employer pursuant to section 4 of this act;*

*5. That he or she may contest the withholding pursuant to section 3.5 of this act; and*

*6. Of the grounds and procedures for contesting the withholding.*

*Sec. 3.5. 1. At any time after receiving the notice required pursuant to section 3 of this act, a person may file with the State Controller a contest to the withholding of income. If a person files a contest pursuant to this section, the State Controller must notify each employer of the person to which a notice was sent pursuant to section 4 of this act to discontinue the withholding pending the outcome of the contest.*

*2. The contest must be in writing, in the form prescribed by the State Controller, and include, without limitation:*

*(a) The grounds for contesting the withholding; and*



*(b) If the person is contesting the withholding on the grounds of financial hardship, evidence of how the withholding will cause a financial hardship to the person.*

*3. Upon receipt of a contest to the withholding of income, the State Controller:*

*(a) Shall:*

*(1) Consider the grounds for the contest stated by the person and any evidence submitted by the person, including, without limitation, any evidence submitted by the person that the withholding of income will cause a financial hardship to the person; and*

*(2) Meet with the person to discuss the person's contest of withholding. The meeting may take place in person, by telephone or by videoconference.*

*(b) May request additional information from the person related to whether the withholding of income will be a financial hardship to the person.*

*4. At a meeting held pursuant paragraph (b) of subsection 3, the State Controller shall offer the person an opportunity to:*

*(a) Enter into an agreement with the State Controller pursuant to NRS 353C.130 to provide for the payment of the debt, and any penalty and interest, on an installment basis.*

*(b) Pay the debt in full, including, without limitation, any penalty and interest.*

*(c) Prove to the satisfaction of the State Controller that the withholding of income of the person will cause a financial hardship to the person.*

*5. If a person contests the withholding of income on the grounds that the withholding will be a financial hardship, after the meeting held pursuant to paragraph (b) of subsection 3, the State Controller shall make a determination whether the withholding of income will cause a financial hardship to the person. If the State Controller determines that the withholding of income will cause a financial hardship to the person, the State Controller must reduce the withholding to an amount that will not cause a financial hardship to the person.*

*6. The State Controller shall send a notice, by certified mail, of the determination made by the State Controller related to the contest of withholding to:*

*(a) The person's last known address; and*

*(b) Each employer of the person.*



**Sec. 4. 1.** *The State Controller shall send, by certified mail, a notice to withhold income pursuant to section 2 of this act to each employer of the person who is subject to the withholding.*

*2. If an employer does not begin to withhold income from the person in accordance with section 5 of this act after receiving the notice to withhold income that was mailed pursuant to subsection 1, the State Controller shall send to the employer, by certified mail, return receipt requested, another notice to withhold income. The provisions of this subsection do not apply if the employer requests that the State Controller calculate the amount of the withholding pursuant to section 5 of this act.*

*3. A notice to withhold income pursuant to section 2 of this act must:*

*(a) Contain the social security number of the person who is subject to the withholding;*

*(b) Specify the total amount to be withheld from the income of the person, including any interest, penalties or assessments provided by law or costs incurred by the agency or State Controller in collecting the debt;*

*(c) Describe the limitation for withholding income prescribed in NRS 31.295;*

*(d) Describe the prohibition against terminating the employment of a person because of withholding and the penalties for wrongfully refusing to withhold in accordance with the notice to withhold income;*

*(e) Explain the duties of an employer upon the receipt of the notice to withhold income; and*

*(f) Explain that the employer may request that the State Controller calculate the amount of wages to be withheld from the person, subject to the limitation for withholding income prescribed in NRS 31.295, if the employer submits to the State Controller all information necessary for the State Controller to make the calculation.*

**Sec. 5.** *An employer who receives a notice to withhold income pursuant to section 2 of this act:*

*1. Shall:*

*(a) Calculate the amount of income to be withheld from a person's wages during each pay period in accordance with the provisions of NRS 31.295 and subject to the limitation on withholding prescribed in that section; or*

*(b) Request that the State Controller calculate the amount of income to be withheld from a person's wages during each pay*



*period in accordance with the provisions of NRS 31.295 and subject to the limitation on withholding prescribed in that section.*

*↪ For the purposes of this subsection, a withholding of income shall be deemed a garnishment of earnings.*

*2. Shall withhold the amount calculated pursuant to:*

*(a) Paragraph (a) of subsection 1, beginning with the first pay period that occurs within 14 days after the date the notice was mailed to the employer; or*

*(b) Paragraph (b) of subsection 1, beginning with the first pay period that occurs within 14 days after the State Controller notifies the employer of the amount to be withheld,*

*↪ as applicable.*

*3. Shall continue to withhold the amount calculated pursuant to subsection 1 until:*

*(a) The State Controller notifies the employer to discontinue the withholding; or*

*(b) The full amount required to be paid to the State Controller has been paid, as indicated by a written statement to the employer from the State Controller.*

*4. Shall deliver the money withheld to the State Controller within 7 days after the date of each payment of the regularly scheduled payroll of the employer.*

*5. Shall notify the State Controller when the person subject to withholding terminates his or her employment and provide the last known address of the person and the name of any new employer of the person, if known.*

**Sec. 6.** *1. A notice to withhold income pursuant to section 2 of this act is binding upon any employer of the person to whom it is mailed. To reimburse the employer for his or her costs in making the withholding, the employer may deduct \$3 from the amount paid to the person each time the employer makes a withholding.*

*2. Except as otherwise provided in subsection 3:*

*(a) An employer may deliver money withheld to the State Controller by check or electronic transfer of money.*

*(b) If an employer receives notices to withhold income pursuant to section 2 of this act for more than one employee, the employer may consolidate the amounts of money that are payable to the State Controller and pay those amounts with one check, but the employer shall attach to each check a statement identifying by name and social security number each person for whom payment is made and the amount transmitted for that person.*



3. *If the provisions of NRS 353.1467 apply, the employer shall make payment to the State Controller by any method of electronic transfer of money allowed by the State Controller. If an employer makes such payment by electronic transfer of money, the employer shall transmit separately the name and appropriate identification number, if any, of each person for whom payment is made and the amount transmitted for that person.*

4. *As used in this section, "electronic transfer of money" has the meaning ascribed to it in NRS 353.1467.*

**Sec. 7.** 1. *It is unlawful for an employer to use the withholding of income to collect an obligation to pay money to the State Controller as a basis for refusing to hire a potential employee, discharging an employee or taking disciplinary action against an employee. Any employer who violates this section shall hire or reinstate any such employee with no loss of pay or benefits, is liable for any amounts not withheld and must be fined \$1,000. If an employee prevails in an action based on this section, the employer is liable, in an amount not less than \$2,500, for payment of the employee's costs and attorney's fees incurred in that action.*

2. *If an employer wrongfully refuses to withhold income as required pursuant to sections 2 to 9, inclusive, of this act or knowingly misrepresents the income of an employee, the employer shall pay the amount the employer refused to withhold to the State Controller and may be ordered to pay punitive damages to the State Controller in an amount not to exceed \$1,000 for each pay period the employer failed to withhold income as required or knowingly misrepresented the income of the employee.*

**Sec. 8.** 1. *If an employer wrongfully refuses to withhold income as required pursuant to sections 2 to 9, inclusive, of this act after receiving a notice to withhold income that was sent by certified mail pursuant to section 3.5 or 4 of this act, or knowingly misrepresents the income of an employee, the State Controller may apply for and the court may issue an order directing the employer to appear and show cause why he or she should not be subject to the penalties prescribed in subsection 2 of section 7 of this act.*

2. *At the hearing on the order to show cause, the court, upon a finding that the employer wrongfully refused to withhold income as required or knowingly misrepresented an employee's income:*

(a) *May order the employer to comply with the requirements of sections 2 to 9, inclusive, of this act;*

(b) *May order the employer to provide accurate information concerning the employee's income;*



*(c) May impose penalties against the employer pursuant to subsection 2 of section 7 of this act; and*

*(d) Shall require the employer to pay the amount the employer failed or refused to withhold from the employee's income.*

**Sec. 9.** *1. An employer who complies with a notice to withhold income pursuant to section 2 of this act that is regular on its face may not be held liable in any civil action for any conduct taken in compliance with the notice.*

*2. Compliance by an employer with a notice to withhold income pursuant to section 2 of this act is a discharge of the employer's liability to the person as to that portion of the income affected.*

*3. If a court issues an order to stay a withholding of income, the State Controller may not be held liable in any civil action to the person who is the subject of the withholding of income for any money withheld before the stay becomes effective.*

**Sec. 10.** NRS 353C.195 is hereby amended to read as follows:

353C.195 Except as otherwise provided in this section or by a specific statute or federal law:

1. The State Controller shall act as the collection agent for each agency.

2. An agency shall coordinate all its debt collection efforts through the State Controller.

3. Unless an agency and the State Controller agree on a different time, an agency shall assign a debt to the State Controller for collection not later than 60 days after the debt becomes past due.

4. An agency shall not assign a debt to the State Controller for collection if the debt is administratively contested by the debtor. For the purposes of this subsection, a debt is not administratively contested if:

(a) The debtor and the agency have agreed on the existence and amount of the debt;

(b) The debtor has failed to contest timely the existence or amount of the debt in accordance with the administrative procedures prescribed by the agency; or

(c) The debtor has timely contested the debt in accordance with the administrative procedures prescribed by the agency and the agency has issued a final decision concerning the existence and amount of the debt.

5. Upon the request of an agency, the State Controller shall waive a requirement of this section:

(a) If the State Controller determines that the agency has the resources to engage in its own debt collection efforts; or





(b) For good cause shown.

6. If the State Controller waives the requirements of subsection 1 or 2 for an agency, the agency may exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, *and sections 2 to 9, inclusive, of this act* to collect a debt.

7. An agency that is authorized by specific statute to collect a debt on behalf of or in trust for a particular person or entity may assign the debt to the State Controller for collection pursuant to this section. If such an agency does not assign a debt to the State Controller pursuant to this section, the agency may, in addition to any right or remedy conferred on the agency by specific statute to collect a debt, exercise any right or remedy conferred on the State Controller pursuant to the provisions of NRS 353C.130 to 353C.180, inclusive, and 353C.200 to 353C.230, inclusive, *and sections 2 to 9, inclusive, of this act* to collect the debt.

**Sec. 11.** NRS 353C.224 is hereby amended to read as follows:

353C.224 1. If the State Controller collects any money owed to an agency from a debtor or receives any money from *the employer of a debtor or* a private debt collector or other person to whom the State Controller has assigned the collection of a debt owed to an agency, the State Controller shall, unless prohibited by federal law, transfer the net amount of money owed to the agency:

(a) Except as otherwise provided in paragraph (c), to the Debt Recovery Account created by NRS 353C.226 if the debt is owed to an agency whose budget is supported exclusively or in part from the State General Fund.

(b) Except as otherwise provided in paragraph (c), to an account specified by the agency if the debt is owed to an agency whose budget is supported exclusively from sources other than the State General Fund.

(c) If a specific statute requires the money to be deposited in a specific account or used for a specific purpose, to the specific account required by statute or to the account from which money is expended for the purpose specified.

2. If the State Controller is unable to determine where to transfer the net amount of money collected pursuant to subsection 1, the money must be deposited in the Debt Recovery Account. If an agency disputes the decision to deposit the money in the Debt Recovery Account pursuant to this subsection, the agency may, not later than 60 days after the money is deposited in the Debt Recovery Account, submit a written request to the Interim Finance Committee seeking its determination of where the money collected pursuant to



subsection 1 should be deposited. If an agency fails to submit such a written request timely, the money must remain in the Debt Recovery Account and be used in accordance with NRS 353C.226.

3. As used in this section, “net amount of money owed to the agency” means the money owed to an agency by a debtor that is collected or received by the State Controller minus:

(a) Any fees owed pursuant to a specific statute to the State Controller for collection of the debt;

(b) Any costs incurred or fees paid by the State Controller to collect any debt assigned to the State Controller for collection by the agency; and

(c) Any interest on the debt collected by the State Controller under the terms of an agreement with the debtor, pursuant to NRS 353C.130, for the payment of the debt on an installment basis.

**Sec. 11.5.** NRS 612.265 is hereby amended to read as follows:

612.265 1. Except as otherwise provided in this section and NRS 239.0115 and 612.642, 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 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 *the State Controller or* 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 *may be made electronically and* 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 *State Controller or* local government certifying that the request is made to allow the proper authority to enforce a law to recover a debt or obligation *assigned to the State Controller for collection or* owed to the local government *H*, *as applicable*. Except as otherwise provided in NRS 239.0115, the information obtained by the *State Controller or* local government is confidential and may not be used or disclosed for any purpose other than the collection of a debt or obligation *assigned to the State Controller for collection or* 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. 12.** This act becomes effective upon passage and approval.

