STATE OF NEVADA
EMPLOYMENT SECURITY DIVISION (ESD)
WORKSHOP TO ADDRESS THE IMPACT OF A PROPOSED REGULATION ON SMALL BUSINESSES

2017 TAX RATE SMALL BUSINESS WORKSHOP

Thursday, October 27, 2016; 10:00 A.M.

Place of Meeting:

Live Meeting:
DETR – SAO Building
500 E. Third Street
Carson City, Nevada 89713

Video Conference to:
DETR – Stan Jones Building, Conf. Rm. C
2800 E. St. Louis Avenue
Las Vegas, Nevada 89104

Department of Employment, Training and Rehabilitation (DETR) Staff Present in Carson City
Renee Olson, Employment Security Division (ESD) Administrator
Edgar Roberts, Chief of Contributions, ESD/DETR
Dave Schmidt, Bureau of Research & Analysis, DETR
Alessandro Capello, Bureau of Research & Analysis, DETR
Laurie Trotter, ESD Senior Attorney
Scott Kennedy, ESD/DETR
Jeffrey Frischmann, ESD/DETR
Christina Guzman, ESD/DETR
Joyce Golden, Administrative Office, ESD/DETR
Mikki Reed, ESD/DETR
Sonia Pravak, ESD/DETR
Martha Simas, ESD/DETR

Department of Employment, Training and Rehabilitation (DETR) Staff Present in Las Vegas
Art Martinez, Contributions, ESD/DETR

Members of the Public, Media and Other Agencies Present in Carson City
Anna Thornley, Nevada Taxpayers Association

Members of the Public, Media and Other Agencies Present in Las Vegas
Justin Harrison, Las Vegas Metro Chamber of Commerce

STATE OF NEVADA

EMPLOYMENT SECURITY DIVISION

SMALL BUSINESS WORKSHOP

October 27, 2016

OLSON: We're going to go ahead and get started. I'm going to start by calling this meeting to order. My name is Renee Olson. I am the Administrator of the Employment Security Division. Sitting to my left is Laurie Trotter. She's the Senior Attorney for the Employment Security Division. I packed the room with staff and down South, you have someone from my staff as well. If you need anything, please let him know.

This Small Business Workshop is being conducted in compliance with Nevada Revised Statute Section 233B.0608, to solicit public comment on a proposed amendment to the regulation contained in Nevada Administrative Code 612.270; thereby establishing the Unemployment Insurance Tax Schedule for calendar year 2017.

With that we'll move on to Agenda Item 2 which is Public Comment. I'd invite members of the public forward to make public comment now. We can start with public comment from Las Vegas and then move to Carson City. You will have another opportunity for public comment at the end of the meeting, after you've heard information and been presented with some additional details. There is no action to be taken at this meeting, except at the end when we adjourn. We offer public comment because we consider public comment as we move towards the hearing in December which will be when we actually adopt the new rate.

Do I have anybody that would like to present public comment? Please come forward and state your name and who you represent and if you could please limit your comments to the issues being considered under today's agenda. Thank you.

HARRISON: Sure. Thank you Ms. Olson. For the record, Justin Harrison with the Las Vegas Metro Chamber of Commerce. I'll make my comments very brief. Thank you again for holding this here today and giving the opportunity for small business to voice their opinion regarding the proposed schedule for Unemployment Insurance Rates, moving into 2017.

The Las Vegas Metro Chamber and on behalf of our many members is very supportive of maintaining the current rate as laid out in the proposed schedule before us. With that, I'd be happy to answer any questions you have for me, but just to reiterate, we are very supportive of maintaining the fee schedule as presented. Thank you.

OLSON: Thank you. I don't have any questions but I appreciate you being here today and providing public comment. Thank you.

HARRISON: Thank you.

OLSON: Okay. We'll move to Carson City. No. Okay. All right. So we'll go on to—I think we're at Agenda Item

3. Ms. Simas, for the record, was proper notice for this meeting given and did you receive proper confirmation for posting in accordance with Nevada Revised Statute 241.020, Sub 3?

SIMAS: Yes, proper notice was provided for this meeting, pursuant to Nevada's Open Meeting Law, NRS 241.020 and confirmation of posting was received.

OLSON: Thank you. Agenda Item 4, Review Public Comments. Ms. Golden, did the Division receive written comments submitted in response to this posting?

GOLDEN: Joyce Golden for the record, Assistant to the Administrator. No written comments were received for this meeting.

OLSON: Okay, thank you. Under Agenda Item 5, I'm going to open the workshop to consider the proposed regulation to establish the UI Tax Rate Schedule for the Nevada employers—for Nevada employers for calendar year 2017. I had my notes wrong, I'm glad I caught myself.

As part of the regulatory process a meeting of the Employment Security Council was held on October 3, 2016. After listening to information regarding the status of the Unemployment Insurance Trust Fund, the status of non-collections and the calculated rate for the bond assessment for 2017. Also the effect to the solvency of the trust fund of various—based on various tax rate scenarios, the Employment Security Council voted to recommend that the Division's Administrator set the average

State Unemployment Insurance Tax Rate at 1.95% for calendar year 2017. This rate continues to build solvency of the trust fund while maintaining a stable overall tax rate to employers. The Division is optimistic that we’ll be able to call the bonds early and pay the final payment in December of 2017, making 2017—if we call the bonds and pay those off early, 2017 would be the last year we would need to collect the bond assessment.

The overall tax rate is comprised of the UI Tax Rate, the Career Enhancement Tax Rate and the Bond Assessment Rate. The bond rate is calculated annually according to statutory guidelines. For 2017, will be 0.63%. The statutory Career Enhancement Program Rate is set in statute at 0.05%. Therefore, with the 1.95% average State UI Tax Rate, the overall tax rate would be 2.63%.

As some historic information, for 2015, the overall tax rate to employers was 2.61%. For 2016, the overall tax rate to employers was 2.62%. I just bring that up to remind everyone that when the Division proposed bonding the debt that was in the trust fund back in 2013, we testified that one of the major goals of bonding this debt was not only to save employers money but to stabilize the tax rate. I think if you look back at the years, that we’ve been able to achieve that goal.

Without further ado, we’re going to move on to some presentations under Item 5A. The first presentation will be a review of the Unemployment Insurance Benefit Payment Trust Fund and an economic analysis and review of the small business impact. Presenting this information for us today is Mr. Alex Capello. He is an Economist with the Department's Research and Analysis Bureau. Thank you.

CAPELLO: Thank you Ms. Olson. Again, for the record, my name is Alex Capello. I am an Economist with the Research and Analysis Bureau. I'm just going to get started.

This first slide just breaks down the 2017 Bond Contribution Rates by the different tiers. There are four different tiers. Tier 1 is for new employers, which is the largest share of Nevada's employers. Tier 2 is for negatively rated employers. Tier 3 and 4 are for positively rated employers. The biggest deal, I guess, on this slide is just the average cost per employee this year. Which at the 0.63% tax rate that the Administrator mentioned, we'll be at $185.85 per employee. Slight raise, obviously there's a mild increase in the bond rate, but a lot of that comes from the increase in the maximum taxable wage limit, which increased to $29,500 for 2017.

As mentioned, also by the Administrator, 2017 should be the final year of the bond. We expect to call the final payment in December 2017. This chart just kind of shows where we're at currently, the payments that have yet to be made. The blue shaded area represents what we've paid to date. The dark gray is the next payment in December. Then the middle gray, I guess I would say is the 2017 scheduled payments. As mentioned, the final payment is expected to be called. This should be the last time that this sort of bond contribution rate is included in this workshop.

Also mentioned by the Administrator was the goal of stability. This looks at the last four years of total employer costs. It breaks down the SUTA rate, the bond assessment rate and the CEP rate by year. As you can tell, we’ve done a pretty good job of keeping them flat. In years where the assessment rate decreased, we increased the SUTA rate and vice versa, when the assessment rate increased, we decreased the SUTA rate. As you can see on the bottom, we’ve stuck pretty good, or pretty well to the stability goal, which is average between 2.61% and 2.63% over the last four years.

Moving on to the next slide. This looks at contribution rates and benefit cost rates over the last year. Average tax rates would be contribution rates for laymen terms. Basically, the gist of this slide is when the blue is above the red line, the UI Trust Fund is increasing or replenishing in our case and the opposite when the red line is above the blue line. We obviously see spikes when there are shaded areas, which generally mean recession, so the red line spikes which causes us to see a large outflow of benefit payments. That recently caused our Trust Fund to fall to its low levels. Recently we’ve seen the flat average tax rates that we just showed, which is that flat area of the blue line in the recent period and the significant declines in the average benefit cost rate which continues to trend down.

Moving on to the next slide. This looks at the expected cash flows for the next year. The top area in blue just is a—is the Nevada state solvency target. I'm going to go into a little more detail on that in a little bit. In the middle area, it looks at the cash flows. This highlighted area is the 1.95% recommended tax rate, just as a refresher.

Looking at the intake into the fund, we expect approximately $600M in tax contributions, $17.7M earned in interest for a total intake into the UI Trust Fund of $618M. We expect to payout around $331M in benefit payments with the result at the end of September 2017 having a Trust Fund balance of $954M. Then looking on the lower line, that breaks down the total tax rate and shows in 2017, the average cost per employee at the taxable wage base will be $775.85. Again, that increase is a little bit up from last year, up $37, but that is primarily just due to the increase in the taxable wage base.

Moving on to the next slide. This kind of breaks down where the taxes are going. About 40% goes to cover the UI benefit payments in 2017. A third of the taxes go to rebuilding the Trust Fund. A quarter goes to paying off the UI Bonds. Then just 2% goes to the CEP Program.

Moving on to the next slide. It just shows the two different solvency measured levels—measures that we use. The one on the left is the state solvency measure which I had just mentioned a little bit ago. This measure uses a 10-year window to kind of estimate what we need for one year of benefit payments during a recession. If we kind of think about these last 10 years, we know in Nevada they were quite bad so it’s kind of a worse case scenario. Under this measure, we need almost $1.3B and we currently have about 52% of that. The federal measure, which is the bar on the right is a little more conservative and a little more stable. Over time, it has a longer window. It looks at the last 20 years or the last three recessions. It kind of gives a better picture of—or more balanced picture, I don’t want to say better necessarily. It’s a little unsteady here as I said. So, under this measure, we need a little more than $1B in the Trust Fund to cover one year of benefit payments. Currently we’re approximately at 63%.

On the next slide, so this is kind of starting to look ahead. One of the things that R&A likes to do is, kind of remind everyone that there is some [inaudible 14:25] in an economy. So over time we can see the different stretches of economic growth or periods between no recession is what this chart really shows. If you look in the 90s, we saw 120 months of no recession. A little shorter period of time in the 2000s, early 2000s. Then currently, we’re in a period of growth for nearly 90 months. That’s kind of in the middle looking at the four periods, or four recessions. So, it’s kind of a reminder of where we’re at, that we kind of have to be thinking that it’s out there. A recession is possible. It’s not necessarily something that we’re trying to predict or anything, but it’s in our minds.

Again, looking ahead to—using that moving ahead theme. This chart looks at estimates for the future, going to the end of 2018. You can kind of see, looking at the first half, you can see the Trust Fund balance and that little blue dotted line represents the—what an average high cost multiple of one, which is that federal solvency measure. You see that first half going, prior to the recession, we were at that level. We obviously went way, way below. The spike that you see towards—from negative to positive is when we received the Trust Fund bond payment. Then from then, we’ve seen growth.

So, the red line is the forecasted amount. The shaded area is just kind of the distribution of benefit payment random—well, deviation from the estimate. It covers two-thirds of the expected or likely results. Then obviously when the red line crosses the blue dotted line, towards the end, that’s when we expect to be considered—or to have an average high cost multiple of one. That’s in 2018.

Moving on to the next and final slide. This is a breakdown of—well, this kind of just shows where we would be at under the average high cost multiple measure at the end of every September. So, as you can see, currently we have a 0.63 average high cost multiple. Next year, at the end of September, we expect to have a 0.86 average high cost multiple. Then we expect to be solvent by 2018. This then obviously continues on through 2020, but it's not—by that point, there's other options. That's kind of the number that I would focus on here is that 2018 number.

The other thing that's obviously on here is the average length of time between recessions and the longest time between recessions. 5.4 years would've brought us to December 2014, so that's the average length of time between different recessions. We've obviously passed that. The next bullet point is the longest time which is 10 years, which is June 2019. If we find ourselves in a recession in the next period of time, which is not what I'm trying to do but we would be there—I'm sorry, we would be at the solvency level that we would at least try to—the minimum solvency level that we try to be at by 2018.

OLSON: Can I ask you a question?

CAPELLO: Sure.

OLSON: This is Renee Olson for the record. So just so I make sure I understand, what you're saying is, we're not predicting a recession at this time, we're just saying that based on averages, if we went just by the average number of years between recessions, that's this picture that we're looking at right now but we're not necessarily predicting—right?

CAPELLO: True.

OLSON: And I've already said that we can't have a recession until the bonds are paid off, so.

CAPELLO: Right. And under this measure, we hopefully—or this baseline, I guess that's what I would say—I hope I didn't say that I hope there to be a recession. If I did, it wasn't intention.

OLSON: I just want to get it clear on the record.

CAPELLO: Yeah, yeah. I thank you for that. Yeah, so it's more—trust me that there is no forecast for a recession. It's just looking at historical trends and seeing where we were at relative to those historical trends.

OLSON: Great, thanks.

CAPELLO: And, I think that's all I have. Any other questions?

OLSON: No. Okay, so I didn't mean to preempt some of your presentation there, Alex, but I'm just going to tell myself I gave you a good segue. We'll go with that.

The next presentation we have is from our Chief of Contributions, Edgar Roberts.

ROBERTS: Good morning. For the record, my name is Edgar Roberts and I serve as the Chief of Contributions. We'll move to Slide 2 of my presentation. This Workshop is held to discuss the recommended UI Tax Rate for Calendar Year 2017 for Small Businesses. A small business is defined in statute as having 149 employees or less. Employer data from this Workshop comes from the records of the Division through reports filed by employers.

Moving on to Slide 3. All Nevada employers subject to UI contributions and eligible for experience rating will be affected by this proposed regulation. This regulation represents maintaining an average UI contribution rate at 1.95% in 2017 as recommended by the Employment Security Council on October 3rd. Small business constitutes approximately 43,061 employers or 96% of the 44,831 eligible experience rated employers.

Moving on to Slide 4 of the presentation. With a 1.95% average contribution rate, the total cost per employee will rise from 2.62% to 2.63% of wages subject to contribution. This increase is attributed to an increase in the UI Bond contribution from 0.62% in 2016 to 0.63% in 2017. Additionally, an increase in the maximum wages subject to UI contribution from $28,200 in 2016 to $29,500 in 2017, affects the average cost per employee earning $29,500 in 2017 to rise from $738.84 to $775.85.

Moving on to Slide 5. This is the estimated revenue and employer distribution. If you look over on the classes, we have 18 different classes. Then for the small businesses will be in the yellow aspect. At the top rate, Class 18, a tax rate of 5.40%, 6.7% of small businesses will fall into the highest tax rate. In the lowest tax rate of 0.25%, 13.42% fall into the low. The total eligible experience rated employers of the 44,800, 43,000 are small employers that will contribute $176.5M of the $596M with an average UI Tax Rate of 1.95%.

Moving to Slide No. 6. Beneficial Impacts. This regulation will lead to a continued increase in reserves in the trust fund which is expected to grow by $286M from September 2016 through September 2017, bringing the State closer to solvency. This regulation will continue to allow many experience rated employers to pay contribution rates at a lower rate than the new employer rate of 2.95%.

Moving to Slide No. 7. Direct Impacts. Any change in an employer's SUTA tax rate is due to changes in their own reserve ratio and experience with unemployment. Rates that employers pay are fixed in statute. The average rate is adjusted each year in the regulatory process by adopting a range of reserve ratios that apply to the rates. Each employer’s ratio changes each year and can rise or fall depending on the balance of UI contributions and benefit charges from and to their account.

Moving on to Slide No. 8 of the presentation is Indirect Impacts. This regulation complies with the federal regulations governing unemployment insurance rates. Therefore, employers maintain eligibility for a full 5.4% credit toward their federal unemployment insurance taxes. This regulation adds to Nevada’s solvency, which helps pay for unemployment benefits in the future. On average, for each dollar in UI benefits, $2 dollars or more in economic activity results. Thus employers benefit as funds are returned to the economy through UI Benefit payments, helping to mitigate drops in consumption.

Moving on to Slide No. 9. It’s continued Indirect Impacts. A 1.95% average rate will continue the stability of the overall tax for employers. The UI system helps to maintain the attachment of workers to the local workforce and facilitates a faster return to work, both through job search and training services and through mandatory work search requirements.

Moving to Slide No. 10. The Rate Impact on Small Businesses. The tax methodology used for Nevada’s Unemployment Compensation Program is based on an experience rating system approved by the U.S. Department of Labor. This rating system is designed to ensure that employers are fairly rated based on their unique experience with unemployment, regardless of size or industry type.

Moving on to Slide 11. The Estimated Cost for Enforcement. There is no additional cost for the enforcement of this regulation. Funding for the UI program is provided to the Department by the US Department of Labor. NAC 612.270 is adopted each year to set employer contribution rates and is required by NRS 612.550. This regulation complies with the federal regulations governing unemployment insurance contribution rates.

Moving on to Slide 12, Anticipated Revenue. Maintaining the average UI tax rate of 1.95% is expected to produce $596.85M for the Trust Fund in 2017. Small businesses will account for $176.52 million of the total revenues. This regulation does not duplicate or provide a more stringent standard than any other regulation of federal, state, or local governments.

Slide No. 13 is Conclusion of the Impact of the Regulation. Due to the distribution of small business employers closely matching the overall distribution of all experience rated employers in the state and the fact that the US Unemployment Insurance law does not allow states to assign rates of less than 5.4%, except on the basis of an employer’s prior experience with respect to unemployment; the agency believes that there is no contrasting impact to small businesses due to this regulation.

This concludes my presentation. I’d be happy to answer any questions.

OLSON: Okay, it doesn’t look like we have any questions. Thanks Edgar.

ROBERTS: Thank you.

OLSON: Okay. I’d like to thank everyone who has participated today. If you have or you want to provide written testimony, you can provide that to staff. We’re going to open again for public comment. I’d invite anybody that would like to come forward at this time for public comment again. It doesn’t look like we have any takers so I’ll close public comment.

I just wanted to take a minute to thank everyone for their participation. We’ve made great strides since the—having such a hard economic downturn in the State with the Trust Fund and bringing our trust back into, you know, what is considered a healthy condition. We're going to get there. We're going to get there even closer next year. I want to thank employers for their support and participation and helping us to achieve what we've done with the Trust Fund and the system. I just offer my appreciation out there for everyone working together to get this done.

With that, I'm going to adjourn the meeting and say thank you again.

[end of meeting]

DETR

Nevada Department of Employment, Training and Rehabilitation

MEMORANDUM

RE: 2017 Tax Rate – Small Business Workshop Public Notice

FROM: Martha Simas, Administrative Assistant III, ESD mS

POST DATE: October 11, 2016; 8:00AM

MEETING DATE: October 27, 2016

Proper notice according to NRS 241- Open Meeting Law, for the 2017 Tax Rate – Small Business Workshop was provided and properly documented in compliance with NRS 241.020(4).