

**PROPOSED REGULATION OF THE ADMINISTRATOR OF THE
EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT
OF EMPLOYMENT, TRAINING AND REHABILITATION**

LCB File No. R086-24

May 8, 2024

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

AUTHORITY: § 1, NRS 612.220.

A REGULATION relating to unemployment compensation; exempting certain employing units from the prohibition against payrolling; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

The Unemployment Compensation Law requires employers to make contributions to the Unemployment Compensation Fund for the purpose of providing temporary benefits to persons who become involuntarily unemployed. In general, existing law requires employers to pay contributions to the Fund at a certain rate of the wages paid by the employer for employment. (Chapter 612 of NRS) Existing regulations: (1) define the term “payrolling” to mean the practice of designating one employing unit to report the wages of an employee who performs services for another employing unit; and (2) prohibit an employing unit from engaging in payrolling. (NAC 612.258) This regulation exempts an employing unit from this prohibition if: (1) the employing unit reporting the wages of an employee pays certain contribution rates; and (2) the contribution rate paid by the employing unit reporting the wages of an employee is equal to or greater than the contribution rate paid by the employing unit for whom the employee performs services.

Section 1. NAC 612.258 is hereby amended to read as follows:

612.258 1. *Except as otherwise provided in subsection 2:*

(a) An employing unit shall not engage in payrolling.

(b) Wages must be reported by the employing unit:

~~(a)~~ (1) That has the right to hire and fire the employee;

~~(b)~~ (2) That has the responsibility to control and direct the employee; and

~~(e)~~ (3) For which the employee performs services.

2. *The provisions of subsection 1 do not apply to an employing unit that reports the wages of an employee who performs services for another employing unit if:*

(a) The employing unit pays the standard contribution rate or is assigned a contribution rate in classes 10 to 18, inclusive, pursuant to NAC 612.270; and

(b) The contribution rate paid by the employing unit reporting the wages of the employee is equal to or greater than the contribution rate paid by the employing unit for whom the employee performs services.

3. As used in this section ~~is, “payrolling”~~:

(a) “Payrolling” means the practice of designating one employing unit to report the wages of an employee who performs services for another employing unit.

(b) “Standard contribution rate” means the rate of contribution prescribed by NRS 612.540.