

SENATE BILL NO. 245—SENATOR LANGE

MARCH 15, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Makes changes regarding employment.
(BDR 53-829)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to employment; establishing provisions governing the exercise of jurisdiction by the Labor Commissioner over certain claims and complaints that arise under certain collective bargaining agreements; establishing a private right of action for certain claims for unpaid wages upon termination; prohibiting the Labor Commissioner from exercising jurisdiction of such claims under certain circumstances; revising the definition of “wages” to include amounts due to certain former employees by employers who fail to pay certain wages within the periods required by law; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, the Labor Commissioner is required to enforce all the labor
2 laws of this State. (NRS 607.160) This includes laws governing the payment of
3 wages, commissions and other benefits. (NRS 607.170, 608.180) **Section 1** of this
4 bill provides, with certain exceptions, that if a person who files a complaint with
5 the Labor Commissioner is covered by a collective bargaining agreement that
6 provides the claimant with a remedy or other relief for a violation of its terms, the
7 Labor Commissioner is required to decline jurisdiction of the claim or complaint
8 until the remedies, other relief and appeals, if any, provided to the claimant by the
9 terms of the agreement are exhausted. **Section 1** requires the Labor Commissioner
10 to take jurisdiction of such a claim or complaint if he or she determines that the
11 remedies or other relief provided to the claimant by the terms of the collective
12 bargaining agreement are inadequate, unavailable or non-binding, and thereafter
13 determine compliance with the labor laws of this State.

14 Under existing law, whenever an employer discharges an employee, the wages
15 and compensation earned and unpaid at the time of the discharge become due and
16 payable immediately. (NRS 608.020) Whenever an employee resigns or quits his or



17 her employment, the wages and compensation earned and unpaid at the time of the
18 employee's resignation or quitting must be paid not later than the day on which the
19 employee would have regularly been paid or 7 days after the employee resigns or
20 quits, whichever is earlier. (NRS 608.030) If the employer fails to pay the wages or
21 compensation earned by the employee within the periods established by statute, the
22 employee is entitled to continue to receive his or her customary compensation until
23 he or she is paid in full or for 30 days, whichever is less. (NRS 608.040) Finally,
24 whenever an employer of labor discharges or lays off an employee who is covered
25 by a contract of employment, including a collective bargaining agreement, without
26 first paying the employee, in cash or its equivalent, the amount of any wages or
27 salary then due under the terms of the contract, the employee is entitled to charge
28 and collect wages in the amount set forth in the contract for each day the employer
29 is in default, until the employee is paid in full, for not more than 30 days. (NRS
30 608.050) If an employer fails to pay wages, compensation or salary to an employee
31 upon termination as required under existing law, **section 1.3** of this bill authorizes
32 the employee to bring a civil action against the employer for up to 2 years after the
33 employer's failure. **Section 1.3** also prohibits the Labor Commissioner from taking
34 jurisdiction of a claim for unpaid wages upon termination during the pendency of a
35 civil action for the same wages.

36 **Section 1.5** of this bill revises the definition of "wages" in existing law to
37 include amounts owed to a discharged employee or an employee who resigns or
38 quits and whose former employer fails to pay the employee by the statutory
39 deadlines. (NRS 608.012)

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

1 **Section 1.** Chapter 607 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. Except as otherwise provided in subsection 2, if a claimant*
4 *is covered by the terms of a collective bargaining agreement that*
5 *provides the claimant with an exclusive remedy or other relief for*
6 *a violation of its terms, the Labor Commissioner shall decline to*
7 *take jurisdiction of the claim or complaint until the remedies,*
8 *other relief and appeals, if any, provided to the claimant by the*
9 *terms of the agreement are exhausted.*

10 *2. The Labor Commissioner shall take jurisdiction of a claim*
11 *or complaint described in subsection 1 if the Labor Commissioner*
12 *determines that the remedies or other relief provided to the*
13 *claimant by the terms of the collective bargaining agreement are*
14 *inadequate, unavailable or non-binding.*

15 *3. Upon taking jurisdiction pursuant to subsection 2, the*
16 *Labor Commissioner shall determine compliance with all labor*
17 *laws of this State, including, without limitation, the provisions of*
18 *chapter 608 of NRS.*

19 *4. As used in this section, "claimant" means a person who*
20 *files a claim for wages or other complaint with the Labor*
21 *Commissioner.*



1 **Sec. 1.3.** Chapter 608 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *If an employer fails to pay wages, compensation or salary*
4 *to an employee in accordance with the requirements set forth in*
5 *NRS 608.020 to 608.050, inclusive, the employee may, at any time*
6 *within 2 years after the employer's failure, bring a civil action*
7 *against the employer.*

8 2. *The Labor Commissioner shall not take jurisdiction of a*
9 *claim for wages during the pendency of a civil action for the same*
10 *wages brought pursuant to subsection 1.*

11 **Sec. 1.5.** NRS 608.012 is hereby amended to read as follows:

12 608.012 "Wages" means:

13 1. The amount which an employer agrees to pay an employee
14 for the time the employee has worked, computed in proportion to
15 time; ~~and~~

16 2. Commissions owed the employee ~~;~~; and

17 3. *Amounts due to a discharged employee or to an employee*
18 *who resigns or quits pursuant to NRS 608.040,*

19 ↳ but excludes any bonus or arrangement to share profits.

20 **Sec. 2.** (Deleted by amendment.)

21 **Sec. 3.** This act becomes effective on July 1, 2021.

