

SENATE BILL NO. 209—SENATOR DONATE

MARCH 11, 2021

JOINT SPONSORS: ASSEMBLYMEN GONZÁLEZ AND WATTS

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment.
(BDR 53-953)

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

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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; requiring an employer in private employment to provide paid leave for the purpose of the employee receiving a vaccination for SARS-CoV-2; requiring an employer in private employment to allow certain uses of paid leave; requiring the Legislative Committee on Health Care to conduct an interim study concerning the response by this State to SARS-CoV-2 and to make recommendations for legislation concerning the response by this State to future public health crises; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires an employer in private employment who has 50 or more
2 employees in this State to provide at least 0.01923 hours of paid leave to an
3 employee for each hour worked, which may be used by the employee beginning on
4 the 90th calendar day of his or her employment. Existing law authorizes an
5 employer to impose certain limitations on the accrual and use of paid leave and
6 exempts certain employers from the requirements of existing law. (NRS 608.0197)
7 In addition to this existing paid leave, **section 1** of this bill requires an employer to
8 provide 2 or 4 hours of paid leave to each employee for the purpose of the
9 employee receiving a vaccination for SARS-CoV-2, including a variant of SARS-
10 CoV-2. **Section 1** requires an employee to receive: (1) 2 consecutive hours of paid
11 leave if the vaccination requires only one dose; and (2) 4 hours of paid leave in two
12 allotments of 2 consecutive hours each if the vaccination requires two separate
13 doses on two separate occasions. **Section 1** requires an employee to provide at least
14 12 hours of notice to the employer before using the paid leave to obtain a



15 vaccination for SARS-CoV-2. **Section 1** prohibits an employer from: (1) denying
16 an employee the right to use such paid leave; (2) penalizing the employee for using
17 such paid leave; or (3) retaliating against the employee for using such paid leave.
18 **Section 1** provides that such paid leave must not be used in calculating the number
19 of hours for which an employee is entitled to be compensated for overtime. Finally,
20 **section 1**: (1) provides that an employer who provides an on-premises vaccination
21 clinic is not required to provide such paid leave; and (2) includes requirements and
22 restrictions which mirror those in existing language in **section 1.5** of this act.

23 **Section 1.5** of this bill allows an employee to use paid leave for any use,
24 including: (1) treatment of a medical or physical illness, injury or health condition;
25 (2) receiving a medical diagnosis or medical care; (3) receiving or participating in
26 preventative care; (4) participating in caregiving; or (5) addressing other personal
27 needs related to the health of the employee.

28 Existing law creates the Legislative Committee on Health Care. (NRS
29 439B.200) **Section 2** of this bill requires the Committee to: (1) conduct a study
30 during the 2021-2022 interim concerning the response by this State to SARS-CoV-
31 2; and (2) make recommendations for legislation to the Governor and the 82nd
32 Session of the Nevada Legislature concerning the response by this State to future
33 public health crises. **Section 2** authorizes the Committee to examine and consider
34 various items and recommendations related to the public health infrastructure in
35 this State and to SARS-CoV-2. **Section 2** requires the Committee to submit a report
36 of the results of the study and recommendations for legislation concerning the
37 response by this State to future public health crises to the Governor and to the
38 Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of
39 the Nevada Legislature.

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

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

3 *1. Except as otherwise provided in subsections 6, 10 and 11,*
4 *in addition to the paid leave provided pursuant to NRS 608.0197,*
5 *every employer in private employment shall provide 2 or 4 hours,*
6 *as determined pursuant to subsection 2, of paid leave to each*
7 *employee for the purpose of the employee receiving a vaccination*
8 *for COVID-19.*

9 *2. If an employee is to receive a vaccination for COVID-19*
10 *and the vaccination requires:*

11 *(a) Only one dose, the employee may take 2 consecutive hours*
12 *of paid leave to receive the vaccination for COVID-19.*

13 *(b) Two separate doses that are administered on two separate*
14 *occasions, the employee may take 2 consecutive hours of paid*
15 *leave per absence for a total of 4 hours of paid leave.*

16 *3. An employee shall, at least 12 hours before using paid*
17 *leave provided to the employee pursuant to this section, give notice*
18 *to his or her employer that the employee intends to use the paid*
19 *leave.*



1 4. *An employer, and any agent, representative, supervisory*
2 *employee or other person acting on behalf of or under the*
3 *authority of the employer, shall not:*

4 (a) *Deny an employee the right to use the paid leave provided*
5 *to the employee pursuant to this section;*

6 (b) *Require an employee to find a replacement worker as a*
7 *condition of using the paid leave provided to the employee*
8 *pursuant to this section; or*

9 (c) *Retaliate or take any adverse action against an employee*
10 *for using the paid leave provided to the employee pursuant to this*
11 *section. Such prohibited retaliation includes, without limitation:*

12 (1) *Discharging or firing the employee;*

13 (2) *Penalizing the employee in any fashion; and*

14 (3) *Deducting the paid leave provided to the employee*
15 *pursuant to this section from the salary or wages of the employee.*

16 5. *Any paid leave provided to an employee pursuant to this*
17 *section must not be used in calculating the number of hours for*
18 *which an employee is entitled to be compensated for overtime.*

19 6. *This section does not apply to an employer who provides a*
20 *clinic on the premises of the employer where an employee may*
21 *receive a vaccination for COVID-19 during the regular hours of*
22 *work of the employee.*

23 7. *The Labor Commissioner shall prepare a bulletin which*
24 *clearly sets forth the benefits created by this section. The Labor*
25 *Commissioner shall post the bulletin on the Internet website*
26 *maintained by the Office of Labor Commissioner, if any, and shall*
27 *require all employers to post the bulletin in a conspicuous location*
28 *in each workplace maintained by the employer. The bulletin may*
29 *be included in any printed abstract posted by the employer*
30 *pursuant to NRS 608.013.*

31 8. *An employer shall maintain a record of the receipt or*
32 *accrual and use of paid leave pursuant to this section for each*
33 *employee for a 1-year period following the entry of such*
34 *information in the record and, upon request, shall make those*
35 *records available for inspection by the Labor Commissioner.*

36 9. *The provisions of this section do not:*

37 (a) *Limit or abridge any other rights, remedies or procedures*
38 *available under the law.*

39 (b) *Negate any other rights, remedies or procedures available*
40 *to an aggrieved party.*

41 (c) *Prohibit, preempt or discourage any contract or other*
42 *agreement that provides a more generous paid leave benefit or*
43 *paid time off benefit.*

44 10. *For the first 2 years of operation, an employer is not*
45 *required to comply with the provisions of this section.*



1 **11. This section does not apply to:**

2 (a) *An employer who, pursuant to a contract, policy, collective*
3 *bargaining agreement or other agreement, provides a policy for*
4 *paid leave or a policy for paid time off to all scheduled employees*
5 *at a rate of at least 0.01923 hours of paid leave per hour of work*
6 *performed; and*

7 (b) *Temporary, seasonal or on-call employees.*

8 **12. As used in this section:**

9 (a) **“COVID-19” means:**

10 (1) *The novel coronavirus identified as SARS-CoV-2;*

11 (2) *Any mutation or variant of the novel coronavirus*
12 *identified as SARS-CoV-2; or*

13 (3) *A disease or health condition caused by the novel*
14 *coronavirus identified as SARS-CoV-2.*

15 (b) **“Employer” means a private employer who has 50 or more**
16 **employees in private employment in this State.**

17 **Sec. 1.5.** NRS 608.0197 is hereby amended to read as follows:

18 608.0197 1. Except as otherwise provided in this section,
19 every employer in private employment shall provide paid leave to
20 each employee of the employer as follows:

21 (a) An employee is entitled to at least 0.01923 hours of paid
22 leave for each hour of work performed.

23 (b) An employee may, as determined by the employer, obtain
24 paid leave by:

25 (1) Receiving on the first day of each benefit year the total
26 number of hours of paid leave that the employee is entitled to accrue
27 in a benefit year pursuant to paragraph (a); or

28 (2) Accruing over the course of a benefit year the total
29 number of hours of paid leave that the employee is entitled to accrue
30 in a benefit year pursuant to paragraph (a).

31 (c) Paid leave accrued pursuant to subparagraph (2) of paragraph
32 (b) may carry over for each employee between his or her benefit
33 years of employment, except an employer may limit the amount of
34 paid leave for each employee carried over to a maximum of 40
35 hours per benefit year.

36 (d) Except as otherwise provided in paragraph (i), an employer
37 shall:

38 (1) Compensate an employee for the paid leave available for
39 use by that employee at the rate of pay at which the employee is
40 compensated at the time such leave is taken, as calculated pursuant
41 to paragraph (e); and

42 (2) Pay such compensation on the same payday as the hours
43 taken are normally paid.



1 (e) For the purposes of determining the rate of pay at which an
2 employee is compensated pursuant to paragraph (d), the
3 compensation rate for an employee who is paid by:

4 (1) Salary, commission, piece rate or a method other than
5 hourly wage must:

6 (I) Be calculated by dividing the total wages of the
7 employee paid for the immediately preceding 90 days by the
8 number of hours worked during that period;

9 (II) Except as otherwise provided in sub-subparagraph
10 (III), include any bonuses agreed upon and earned by the employee;
11 and

12 (III) Not include any bonuses awarded at the sole
13 discretion of the employer, overtime pay, additional pay for
14 performing hazardous duties, holiday pay or tips earned by the
15 employee.

16 (2) Hourly wage must be calculated by the hourly rate the
17 employee is paid by the employer.

18 (f) An employer may limit the amount of paid leave an
19 employee uses to 40 hours per benefit year.

20 (g) An employer may set a minimum increment of paid leave,
21 not to exceed 4 hours, that an employee may use at any one time.

22 (h) An employer shall provide to each employee on each payday
23 an accounting of the hours of paid leave available for use by that
24 employee. An employer may use the system that the employer uses
25 to pay its employees to provide the accounting of the hours of paid
26 leave available for use by the employee.

27 (i) An employer may, but is not required to, compensate an
28 employee for any unused paid leave available for use by that
29 employee upon separation from employment, except if the employee
30 is rehired by the employer within 90 days after separation from that
31 employer and the separation from employment was not due to the
32 employee voluntarily leaving his or her employment, any previously
33 unused paid leave hours available for use by that employee must be
34 reinstated.

35 2. An employee in private employment may use paid leave
36 available for use by that employee as follows:

37 (a) An employer shall allow an employee to use paid leave
38 beginning on the 90th calendar day of his or her employment.

39 (b) *An employer shall allow an employee to use paid leave for
40 any use, including, without limitation:*

41 (1) *Treatment of a mental or physical illness, injury or
42 health condition;*

43 (2) *Receiving a medical diagnosis or medical care;*

44 (3) *Receiving or participating in preventative care;*

45 (4) *Participating in caregiving; or*



1 ***(5) Addressing other personal needs related to the health of***
2 ***the employee.***

3 **(c)** An employee may use paid leave available for use by that
4 employee without providing a reason to his or her employer for such
5 use.

6 ~~**(c)**~~ **(d)** An employee shall, as soon as practicable, give notice
7 to his or her employer to use the paid leave available for use by that
8 employee.

9 3. An employer shall not:

10 (a) Deny an employee the right to use paid leave available for
11 use by that employee in accordance with the conditions of this
12 section;

13 (b) Require an employee to find a replacement worker as a
14 condition of using paid leave available for use by that employee; or

15 (c) Retaliate against an employee for using paid leave available
16 for use by that employee.

17 4. The Labor Commissioner shall prepare a bulletin which
18 clearly sets forth the benefits created by this section. The Labor
19 Commissioner shall post the bulletin on the Internet website
20 maintained by the Office of Labor Commissioner, if any, and shall
21 require all employers to post the bulletin in a conspicuous location
22 in each workplace maintained by the employer. The bulletin may be
23 included in any printed abstract posted by the employer pursuant to
24 NRS 608.013.

25 5. An employer shall maintain a record of the receipt or accrual
26 and use of paid leave pursuant to this section for each employee for
27 a 1-year period following the entry of such information in the record
28 and, upon request, shall make those records available for inspection
29 by the Labor Commissioner.

30 6. The provisions of this section do not:

31 (a) Limit or abridge any other rights, remedies or procedures
32 available under the law.

33 (b) Negate any other rights, remedies or procedures available to
34 an aggrieved party.

35 (c) Prohibit, preempt or discourage any contract or other
36 agreement that provides a more generous paid leave benefit or paid
37 time off benefit.

38 7. For the first 2 years of operation, an employer is not required
39 to comply with the provisions of this section.

40 8. This section does not apply to:

41 (a) An employer who, pursuant to a contract, policy, collective
42 bargaining agreement or other agreement, provides employees with
43 a policy for paid leave or a policy for paid time off to all scheduled
44 employees at a rate of at least 0.01923 hours of paid leave per hour
45 of work performed; and



1 (b) Temporary, seasonal or on-call employees.

2 9. As used in this section:

3 (a) "Benefit year" means a 365-day period used by an employer
4 when calculating the accrual of paid leave.

5 (b) "Employer" means a private employer who has 50 or more
6 employees in private employment in this State.

7 **Sec. 2.** 1. The Legislative Committee on Health Care shall:

8 (a) Conduct a study during the 2021-2022 interim concerning
9 the response by this State to the COVID-19 health crisis, including,
10 without limitation, with regard to employees working in this State;
11 and

12 (b) Make recommendations for legislation to the Governor and
13 to the 82nd Session of the Nevada Legislature concerning future
14 public health crises.

15 2. In conducting the study and making recommendations, the
16 Legislative Committee on Health Care may, without limitation:

17 (a) Examine the public health infrastructure in this State. Such
18 an examination may include, without limitation:

19 (1) An analysis of the strengths and weaknesses of the public
20 health infrastructure in this State;

21 (2) An analysis on how state and local governments
22 responded, delineated duties and jurisdiction and coordinated during
23 the COVID-19 health crisis; and

24 (3) How the items listed in subparagraphs (1) and (2) can be
25 improved for future public health crises.

26 (b) Consider recommendations for increased funding for the
27 public health infrastructure of this State.

28 (c) Examine the long-term impacts of the COVID-19 health
29 crisis on frontline workers and workers commonly considered to be
30 essential workers.

31 (d) Examine the health and economic impacts of the COVID-19
32 health crisis using an equitable perspective.

33 (e) Examine the benefits and challenges of implementing a task
34 force composed of public and private representatives that seeks to
35 support private businesses and the population areas of this State.

36 (f) Consider the creation of a Public Health Service Corps in this
37 State.

38 3. On or before September 1, 2022, the Legislative Committee
39 on Health Care shall submit a report of the results of the study and
40 recommendations for legislation concerning the response by this
41 State to future public health crises to:

42 (a) The Governor; and

43 (b) The Director of the Legislative Counsel Bureau for
44 transmittal to the 82nd Session of the Nevada Legislature.

45 4. As used in this section:



1 (a) "COVID-19" means:

2 (1) The novel coronavirus identified as SARS-CoV-2;

3 (2) Any mutation of the novel coronavirus identified as
4 SARS-CoV-2; or

5 (3) A disease or health condition caused by the novel
6 coronavirus identified as SARS-CoV-2.

7 (b) "Frontline worker" means any person who is at a greater
8 risk of acquiring and transmitting infection due to unavoidable,
9 close and prolonged contact with others required to perform his or
10 her job responsibilities. This term includes, without limitation, any
11 workers that the Legislative Committee on Health Care determines
12 are frontline workers.

13 **Sec. 2.5.** 1. This act becomes effective upon passage and
14 approval.

15 2. Section 1 of this act expires by limitation on
16 December 31, 2023.

