

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Commerce and Labor

This measure may be considered for action during today's work session.

SENATE BILL 245 (R1)

Makes changes regarding employment. (BDR 53-829)

Sponsored By: Senator Lange
Date Heard: May 3, 2021
Fiscal Notes: Effect on Local Government: No.
Effect on the State: No.

Senate Bill 245 requires that the labor commissioner decline jurisdiction of a claim for wages or other complaint if the claimant is covered by a collective bargaining agreement that provides the claimant with an exclusive remedy or other relief for a violation of its terms until the remedies, other relief, and appeals are exhausted. The labor commissioner may, however, take jurisdiction of such a claim or complaint under certain circumstances.

The bill also revises the definition of "wages" to include amounts owed to a discharged employee or an employee who resigns or quits and whose former employer fails to pay the employee by the statutory deadlines.

Amendments:

Senator Lange proposes the following amendment (mock-up attached, which was prepared by the Legal Division of the Legislative Counsel Bureau):

1. Amend the bill to authorize an employee to bring a civil action against an employer for up to two years after the employer's failure to pay wages, compensation, or salary to an employee upon termination as required under existing law. The labor commissioner is prohibited from taking jurisdiction of a claim for unpaid wages upon termination during the pendency of a civil action for the same wages.

MOCK-UP

PROPOSED AMENDMENT 3353 TO SENATE BILL NO. 245 FIRST REPRINT

PREPARED FOR SENATOR LANGE
MAY 6, 2021

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

Legislative Counsel's Digest:

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

Under existing law, whenever an employer discharges an employee, the wages and compensation earned and unpaid at the time of such discharge become due and payable immediately. (NRS 608.020) Whenever an employee resigns or quits his or her employment, the wages and compensation earned and unpaid at the time of the employee's resignation or quitting must be paid no later than the day on which the employee would have regularly been paid or 7 days after the employee resigns or quits, whichever is earlier. (NRS 608.030) If the employer fails to pay the wages or compensation earned by the employee within the periods established by statute, the employee is entitled to continue to receive his or her customary compensation until he or she is paid in full or for 30 days, whichever is less. (NRS 608.040) Finally, whenever an employer of labor discharges or lays off an employee who is covered by a contract of employment, including a collective bargaining agreement, without first paying the employee, in cash or its equivalent, the amount of any wages or salary then due under

the terms of the contract, the employee is entitled to charge and collect wages in the amount set forth in the contract for each day the employer is in default, until the employee is paid in full, but not for more than 30 days. (NRS 608.050) If an employer fails to pay wages, compensation or salary to an employee upon termination as required under existing law, section 1.3 of this bill authorizes the employee to bring a civil action against the employer for up to 2 years after the employer's failure. Section 1.3 also prohibits the Labor Commissioner from taking jurisdiction of a claim for unpaid wages upon termination during the pendency of a civil action for the same wages.

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

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

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

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

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

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

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

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

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

29 2. The Labor Commissioner shall not take jurisdiction of a claim
30 for wages during the pendency of a civil action for the same wages
31 brought pursuant to subsection 1.

- 1 **Sec. 1.5.** NRS 608.012 is hereby amended to read as follows:
2 608.012 “Wages” means:
3 1. The amount which an employer agrees to pay an employee for the
4 time the employee has worked, computed in proportion to time; ~~and~~
5 2. Commissions owed the employee ~~;~~ *and*
6 3. *Amounts due to a discharged employee or to an employee who*
7 *resigns or quits pursuant to NRS 608.040,*
8 ↳ but excludes any bonus or arrangement to share profits.
9 **Sec. 2.** (Deleted by amendment.)
10 **Sec. 3.** This act becomes effective on July 1, 2021.

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