

SENATE BILL NO. 293—SENATOR CANNIZZARO

MARCH 22, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to employment.
(BDR 53-907)

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

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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; prohibiting an employer or employment agency from seeking, or relying on the wage or salary history of an applicant for employment; prohibiting an employer or employment agency from refusing to interview, hire, promote or employ an applicant or from discriminating or retaliating against an applicant if the applicant does not provide wage or salary history; prohibiting the governing body of a county, incorporated city or unincorporated town or an appointing authority from performing such actions; providing that an applicant may voluntarily disclose his or her wage or salary history and that an employer, employment agency, governing body of a county, incorporated city or unincorporated town or an appointing authority may consider such voluntarily disclosed wage or salary history in determining the rate of pay for the applicant; providing that an employer, employment agency, governing body of a county, incorporated city or unincorporated town or an appointing authority may ask an applicant about his or her wage or salary expectations; providing that a violation of such provisions is an unlawful employment practice; providing that an employer or employment agency that violates such provisions may be subject to certain administrative penalties; and providing other matters properly relating thereto.



Legislative Counsel's Digest:

1 Existing law deems certain employment practices as unlawful and prohibits
2 certain employers, employment agencies and labor organizations from engaging in
3 such practices. (NRS 613.330-613.345) With certain exceptions, this prohibition
4 only applies to employers who have 15 or more employees for each working day in
5 each of 20 or more calendar weeks, either in the same or the preceding calendar
6 year as when an unlawful employment practice occurred. (NRS 613.310) **Section 1**
7 of this bill prohibits such an employer or an employment agency from: (1) seeking
8 the wage or salary history of an applicant for employment; (2) relying on the wage
9 or salary history of an applicant to determine whether to offer employment to the
10 applicant or to determine the rate of pay for the applicant; or (3) refusing to
11 interview, hire, promote or employ an applicant or discriminate or retaliate against
12 an applicant if the applicant does not provide wage or salary history. **Section 1** does
13 not prohibit an applicant for employment from voluntarily and without prompting
14 disclosing his or her wage or salary history to a prospective employer or to an
15 employment agency. If an applicant for employment makes such a voluntary
16 disclosure, an employer or employment agency may consider or rely on that
17 voluntarily disclosed wage or salary history in determining the rate of pay for the
18 applicant. Additionally, **section 1** provides that an employer or employment agency
19 may ask an applicant for employment about his or her wage or salary expectation
20 for the position for which the applicant is applying. Furthermore, **section 1**
21 provides that a violation of **section 1** is an unlawful employment practice and that a
22 violation of **section 1** may be subject to administrative penalties. **Sections 2-8** of
23 this bill make conforming changes by indicating the proper placement of **section 1**
24 in the Nevada Revised Statutes. **Section 5** of this bill provides that nothing
25 contained in **section 1** applies to certain businesses or enterprises on or near an
26 Indian reservation. Additionally, **sections 6-8** of this bill apply certain procedures
27 involving complaints filed with the Nevada Equal Rights Commission to a violation
28 of **section 1**.

29 **Section 9** of this bill prohibits the governing body of a county, a county officer
30 or other person acting on behalf of a county from: (1) seeking the wage or salary
31 history of an applicant for employment; (2) relying on the wage or salary history of
32 an applicant to determine whether to offer employment to the applicant or to
33 determine the rate of pay for the applicant; or (3) refusing to interview, hire,
34 promote or employ an applicant or discriminate or retaliate against an applicant
35 because the applicant does not provide wage or salary history. **Section 9** does not
36 prohibit an applicant for employment from voluntarily and without prompting
37 disclosing his or her wage or salary history to the governing body of a county, a
38 county officer or other person acting on behalf of a county. If an applicant for
39 employment makes such a voluntary disclosure, the governing body of a county,
40 county officer or other person may consider or rely on that voluntarily disclosed
41 wage or salary history in determining the rate of pay for the applicant. Finally,
42 **section 9** provides that the governing body of a county, county officer or other
43 person may ask an applicant for employment about his or her wage or salary
44 expectation for the position for which the applicant is applying. **Sections 10-12** of
45 this bill establish similar provisions for the governing body of an incorporated city,
46 city officer, unincorporated town or other person acting on behalf of an
47 unincorporated town and appointing authority. **Section 1** provides that it is an
48 unlawful employment practice for the governing body of a county, incorporated
49 city or unincorporated town or for an appointing authority to violate any provision
50 of **sections 9-12**, as applicable.



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

1 **Section 1.** Chapter 613 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 **1. An employer or an employment agency shall not, orally or**
4 **in writing, personally or through an agent:**

5 **(a) Seek the wage or salary history of an applicant for**
6 **employment;**

7 **(b) Rely on the wage or salary history of an applicant to**
8 **determine:**

9 **(1) Whether to offer employment to an applicant; or**

10 **(2) Except as otherwise provided in subsection 2, the rate of**
11 **pay for the applicant; or**

12 **(c) Refuse to interview, hire, promote or employ an applicant,**
13 **or discriminate or retaliate against an applicant if the applicant**
14 **does not provide wage or salary history.**

15 **2. Nothing in this section prohibits an applicant for**
16 **employment from voluntarily and without prompting disclosing**
17 **his or her wage or salary history to a prospective employer or to an**
18 **employment agency. If an applicant for employment voluntarily**
19 **and without prompting discloses his or her wage or salary history**
20 **to a prospective employer or to an employment agency, nothing in**
21 **this section prohibits that employer or employment agency from**
22 **considering or relying on that voluntarily disclosed wage or salary**
23 **history in determining the rate of pay for the applicant.**

24 **3. Nothing in this section prohibits an employer or**
25 **employment agency from asking an applicant for employment**
26 **about his or her wage or salary expectation for the position for**
27 **which the applicant is applying.**

28 **4. It is an unlawful employment practice for:**

29 **(a) An employer or an employment agency to violate any**
30 **provision of this section; and**

31 **(b) The governing body of a county, incorporated city or**
32 **unincorporated town or an appointing authority governed by the**
33 **provisions of chapter 284 of NRS to violate any provision of**
34 **section 9, 10, 11 or 12 of this act, as applicable.**

35 **5. In addition to any other remedy or penalty, the Labor**
36 **Commissioner may impose against any employer or employment**
37 **agency or any agent or representative thereof that is found to have**
38 **violated any provision of this section an administrative penalty of**
39 **not more than \$5,000 for each such violation.**

40 **6. If an administrative penalty is imposed pursuant to this**
41 **section, the costs of the proceeding, including, without limitation,**



1 *investigative costs and attorney's fees, may be recovered by the*
2 *Labor Commissioner.*

3 7. *As used in this section, "wage or salary history" means the*
4 *wages or salary paid to an applicant for employment by the*
5 *current or former employer of the applicant. The term includes,*
6 *without limitation, any compensation and benefits received by the*
7 *applicant from his or her current or former employer.*

8 **Sec. 2.** NRS 613.310 is hereby amended to read as follows:

9 613.310 As used in NRS 613.310 to 613.4383, inclusive, *and*
10 *section 1 of this act*, unless the context otherwise requires:

11 1. "Disability" means, with respect to a person:

12 (a) A physical or mental impairment that substantially limits one
13 or more of the major life activities of the person, including, without
14 limitation, the human immunodeficiency virus;

15 (b) A record of such an impairment; or

16 (c) Being regarded as having such an impairment.

17 2. "Employer" means any person who has 15 or more
18 employees for each working day in each of 20 or more calendar
19 weeks in the current or preceding calendar year, but does not
20 include:

21 (a) The United States or any corporation wholly owned by the
22 United States.

23 (b) Any Indian tribe.

24 (c) Any private membership club exempt from taxation pursuant
25 to 26 U.S.C. § 501(c).

26 3. "Employment agency" means any person regularly
27 undertaking with or without compensation to procure employees for
28 an employer or to procure for employees opportunities to work for
29 an employer, but does not include any agency of the United States.

30 4. "Gender identity or expression" means a gender-related
31 identity, appearance, expression or behavior of a person, regardless
32 of the person's assigned sex at birth.

33 5. "Labor organization" means any organization of any kind, or
34 any agency or employee representation committee or plan, in which
35 employees participate and which exists for the purpose, in whole or
36 in part, of dealing with employers concerning grievances, labor
37 disputes, wages, rates of pay, hours of employment or other
38 conditions of employment.

39 6. "Person" includes the State of Nevada and any of its
40 political subdivisions.

41 7. "Sexual orientation" means having or being perceived as
42 having an orientation for heterosexuality, homosexuality or
43 bisexuality.



1 **Sec. 3.** NRS 613.320 is hereby amended to read as follows:
2 613.320 1. The provisions of NRS 613.310 to 613.4383,
3 inclusive, *and section 1 of this act* do not apply to:

4 (a) Any employer with respect to employment outside this state.
5 (b) Any religious corporation, association or society with
6 respect to the employment of individuals of a particular religion to
7 perform work connected with the carrying on of its religious
8 activities.

9 2. The provisions of NRS 613.310 to 613.4383, inclusive, *and*
10 *section 1 of this act* concerning unlawful employment practices
11 related to sexual orientation and gender identity or expression do not
12 apply to an organization that is exempt from taxation pursuant to 26
13 U.S.C. § 501(c)(3).

14 **Sec. 4.** NRS 613.340 is hereby amended to read as follows:

15 613.340 1. It is an unlawful employment practice for an
16 employer to discriminate against any of his or her employees or
17 applicants for employment, for an employment agency to
18 discriminate against any person, or for a labor organization to
19 discriminate against any member thereof or applicant for
20 membership, because the employee, applicant, person or member, as
21 applicable, has opposed any practice made an unlawful employment
22 practice by NRS 613.310 to 613.4383, inclusive, *and section 1 of*
23 *this act* or because he or she has made a charge, testified, assisted or
24 participated in any manner in an investigation, proceeding or
25 hearing under NRS 613.310 to 613.4383, inclusive **[H]**, *and section*
26 *1 of this act.*

27 2. It is an unlawful employment practice for an employer, labor
28 organization or employment agency to print or publish or cause to
29 be printed or published any notice or advertisement relating to
30 employment by such an employer or membership in or any
31 classification or referral for employment by such a labor
32 organization, or relating to any classification or referral for
33 employment by such an employment agency, indicating any
34 preference, limitation, specification or discrimination, based on race,
35 color, religion, sex, sexual orientation, gender identity or expression,
36 age, disability or national origin, except that such a notice or
37 advertisement may indicate a preference, limitation, specification or
38 discrimination based on religion, sex, sexual orientation, gender
39 identity or expression, age, physical, mental or visual condition or
40 national origin when religion, sex, sexual orientation, gender
41 identity or expression, age, physical, mental or visual condition or
42 national origin is a bona fide occupational qualification for
43 employment.



1 **Sec. 5.** NRS 613.390 is hereby amended to read as follows:
2 613.390 Nothing contained in NRS 613.310 to 613.4383,
3 inclusive, *and section 1 of this act* applies to any business or
4 enterprise on or near an Indian reservation with respect to any
5 publicly announced employment practice of such business or
6 enterprise under which a preferential treatment is given to any
7 individual because the individual is an Indian living on or near a
8 reservation.

9 **Sec. 6.** NRS 613.405 is hereby amended to read as follows:
10 613.405 1. Except as otherwise provided in subsection 2, any
11 person injured by an unlawful employment practice within the scope
12 of NRS 613.310 to 613.4383, inclusive, *and section 1 of this act*
13 may file a complaint to that effect with the Nevada Equal Rights
14 Commission if the complaint is based on discrimination because of
15 race, color, sex, sexual orientation, gender identity or expression,
16 age, disability, religion or national origin.

17 2. Any person injured by an unlawful employment practice
18 within the scope of paragraph (c) of subsection 1, paragraph (c) of
19 subsection 2, paragraph (c) of subsection 3, subsection 7 or
20 subsection 8 of NRS 613.330 may file a complaint to that effect
21 with the Nevada Equal Rights Commission regardless of whether
22 the complaint is based on discrimination because of race, color, sex,
23 sexual orientation, gender identity or expression, age, disability,
24 religion or national origin.

25 3. Any person injured by an unlawful employment practice
26 within the scope of NRS 613.4353 to 613.4383, inclusive, *and*
27 *section 1 of this act* may file a complaint to that effect with the
28 Nevada Equal Rights Commission if the complaint is based on an
29 employer's failure to comply with the provisions of NRS 613.4353
30 to 613.4383, inclusive.

31 **Sec. 7.** NRS 613.420 is hereby amended to read as follows:

32 613.420 1. If the Nevada Equal Rights Commission does not
33 conclude that an unfair employment practice within the scope of
34 NRS 613.310 to 613.4383, inclusive, *and section 1 of this act* has
35 occurred, the Commission shall issue:

36 (a) A letter to the person who filed the complaint pursuant to
37 NRS 613.405 notifying the person of his or her rights pursuant to
38 subsection 2; and

39 (b) A right-to-sue notice. The right-to-sue notice must indicate
40 that the person may, not later than 90 days after the date of receipt
41 of the right-to-sue notice, bring a civil action in district court against
42 the person named in the complaint.

43 2. If the Nevada Equal Rights Commission has issued a right-
44 to-sue notice pursuant to this section or NRS 613.412, the person
45 alleging such a practice has occurred may bring a civil action in the



1 district court not later than 90 days after the date of receipt of the
2 right-to-sue notice for any appropriate relief, including, without
3 limitation, an order granting or restoring to that person the rights to
4 which the person is entitled under those sections.

5 **Sec. 8.** NRS 613.432 is hereby amended to read as follows:

6 613.432 If a court finds that an employee has been injured by
7 an unlawful employment practice within the scope of this section
8 and NRS 613.310 to 613.4383, inclusive, *and section 1 of this act*,
9 the court may award the employee the same legal or equitable relief
10 that may be awarded to a person pursuant to Title VII of the Civil
11 Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., if the employee is
12 protected by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§
13 2000e et seq., or NRS 613.330.

14 **Sec. 9.** Chapter 245 of NRS is hereby amended by adding
15 thereto a new section to read as follows:

16 *1. The board of county commissioners, a county officer or*
17 *any other person acting on behalf of a county shall not, orally or*
18 *in writing, personally or through an agent:*

19 *(a) Seek the wage or salary history of an applicant for*
20 *employment by the county;*

21 *(b) Rely on the wage or salary history of an applicant to*
22 *determine:*

23 *(1) Whether to offer employment to an applicant; or*

24 *(2) Except as otherwise provided in subsection 2, the rate of*
25 *pay for the applicant; or*

26 *(c) Refuse to interview, hire, promote or employ an applicant,*
27 *or discriminate or retaliate against an applicant if the applicant*
28 *does not provide wage or salary history.*

29 *2. Nothing in this section prohibits an applicant for*
30 *employment by a county from voluntarily and without prompting*
31 *disclosing his or her wage or salary history to the board of county*
32 *commissioners, a county officer or any other person acting on*
33 *behalf of the county. If an applicant for employment by a county*
34 *voluntarily and without prompting discloses his or her wage or*
35 *salary history to the board of county commissioners, a county*
36 *officer or any other person acting on behalf of the county, nothing*
37 *in this section prohibits the board of county commissioners, a*
38 *county officer or any other person acting on behalf of the county*
39 *from considering or relying on that voluntarily disclosed wage or*
40 *salary history in determining the rate of pay for the applicant.*

41 *3. Nothing in this section prohibits the board of county*
42 *commissioners, a county officer or any other person acting on*
43 *behalf of the county from asking an applicant for employment by*
44 *the county about his or her wage or salary expectation for the*
45 *position for which the applicant is applying.*



1 4. *As used in this section, “wage or salary history” means the*
2 *wages or salary paid to an applicant for employment by the*
3 *current or former employer of the applicant. The term includes,*
4 *without limitation, any compensation and benefits received by the*
5 *applicant from his or her current or former employer.*

6 **Sec. 10.** Chapter 268 of NRS is hereby amended by adding
7 thereto a new section to read as follows:

8 1. *The governing body of an incorporated city or a city officer*
9 *shall not, orally or in writing, personally or through an agent:*

10 (a) *Seek the wage or salary history of an applicant for*
11 *employment by the incorporated city;*

12 (b) *Rely on the wage or salary history of an applicant to*
13 *determine:*

14 (1) *Whether to offer employment to an applicant; or*

15 (2) *Except as otherwise provided in subsection 2, the rate of*
16 *pay for the applicant; or*

17 (c) *Refuse to interview, hire, promote or employ an applicant,*
18 *or discriminate or retaliate against an applicant if the applicant*
19 *does not provide wage or salary history.*

20 2. *Nothing in this section prohibits an applicant for*
21 *employment by an incorporated city from voluntarily and without*
22 *prompting disclosing his or her wage or salary history to the*
23 *governing body of the incorporated city or a city officer. If an*
24 *applicant for employment by an incorporated city voluntarily and*
25 *without prompting discloses his or her wage or salary history to*
26 *the governing body of the incorporated city or a city officer,*
27 *nothing in this section prohibits the governing body of the*
28 *incorporated city or a city officer from considering or relying on*
29 *that voluntarily disclosed wage or salary history in determining*
30 *the rate of pay for the applicant.*

31 3. *Nothing in this section prohibits the governing body of an*
32 *incorporated city or a city officer from asking an applicant for*
33 *employment by the incorporated city about his or her wage or*
34 *salary expectation for the position for which the applicant is*
35 *applying.*

36 4. *As used in this section, “wage or salary history” means the*
37 *wages or salary paid to an applicant for employment by the*
38 *current or former employer of the applicant. The term includes,*
39 *without limitation, any compensation and benefits received by the*
40 *applicant from his or her current or former employer.*

41 **Sec. 11.** Chapter 269 of NRS is hereby amended by adding
42 thereto a new section to read as follows:

43 1. *The town board, board of county commissioners or any*
44 *other person acting on behalf of an unincorporated town shall*
45 *not, orally or in writing, personally or through an agent:*



1 (a) Seek the wage or salary history of an applicant for
2 employment by the unincorporated town;

3 (b) Rely on the wage or salary history of an applicant to
4 determine:

5 (1) Whether to offer employment to an applicant; or

6 (2) Except as otherwise provided in subsection 2, the rate of
7 pay for the applicant; or

8 (c) Refuse to interview, hire, promote or employ an applicant,
9 or discriminate or retaliate against an applicant if the applicant
10 does not provide wage or salary history.

11 2. Nothing in this section prohibits an applicant for
12 employment by an unincorporated town from voluntarily and
13 without prompting disclosing his or her wage or salary history to
14 the town board, board of county commissioners or any other
15 person acting on behalf of the unincorporated town. If an
16 applicant for employment by an unincorporated town voluntarily
17 and without prompting discloses his or her wage or salary history
18 to the town board, board of county commissioners or any other
19 person acting on behalf of the unincorporated town, nothing in
20 this section prohibits the town board, board of county
21 commissioners or any other person acting on behalf of the
22 unincorporated town from considering or relying on that
23 voluntarily disclosed wage or salary history in determining the
24 rate of pay for the applicant.

25 3. Nothing in this section prohibits the town board, board of
26 county commissioners or any other person acting on behalf of the
27 unincorporated town from asking an applicant for employment by
28 the unincorporated town about his or her wage or salary
29 expectation for the position for which the applicant is applying.

30 4. As used in this section, "wage or salary history" means the
31 wages or salary paid to an applicant for employment by the
32 current or former employer of the applicant. The term includes,
33 without limitation, any compensation and benefits received by the
34 applicant from his or her current or former employer.

35 **Sec. 12.** Chapter 284 of NRS is hereby amended by adding
36 thereto a new section to read as follows:

37 1. An appointing authority shall not, orally or in writing,
38 personally or through an agent:

39 (a) Seek the wage or salary history of an applicant for
40 employment in the unclassified service of the State;

41 (b) Rely on the wage or salary history of an applicant to
42 determine:

43 (1) Whether to offer employment to an applicant; or

44 (2) Except as otherwise provided in subsection 2, the rate of
45 pay for the applicant; or



1 (c) *Refuse to interview, hire, promote or employ an applicant,*
2 *or discriminate or retaliate against an applicant if the applicant*
3 *does not provide wage or salary history.*

4 2. *Nothing in this section prohibits an applicant for*
5 *employment in the unclassified service of the State from*
6 *voluntarily and without prompting disclosing his or her wage or*
7 *salary history to an appointing authority. If an applicant for*
8 *employment in the unclassified service of the State voluntarily and*
9 *without prompting discloses his or her wage or salary history to an*
10 *appointing authority, nothing in this section prohibits the*
11 *appointing authority from considering or relying on that*
12 *voluntarily disclosed wage or salary history in determining the*
13 *rate of pay for the applicant.*

14 3. *Nothing in this section prohibits an appointing authority*
15 *from asking an applicant for employment in the unclassified*
16 *service of the State about his or her wage or salary expectation for*
17 *the position for which the applicant is applying.*

18 4. *As used in this section, "wage or salary history" means the*
19 *wages or salary paid to an applicant by the current or former*
20 *employer of the applicant. The term includes, without limitation,*
21 *any compensation and benefits received by the applicant from his*
22 *or her current or former employer.*

