

SENATE BILL NO. 209—SENATORS DONATE; HARDY,
LANGE, NEAL, OHRENSCHALL AND RATTI

MARCH 11, 2021

JOINT SPONSORS: ASSEMBLYMEN GONZÁLEZ, BRITTNEY
MILLER, ORENTLICHER, THOMAS, TORRES 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; (2) includes requirements which
22 mirror those in existing law in **section 1.5** of this bill; and (3) provides that an
23 employer is not required to provide such paid leave for the first 2 years of
24 operation.

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

30 Existing law creates the Legislative Committee on Health Care. (NRS
31 439B.200) **Section 2** of this bill requires the Committee to: (1) conduct a study
32 during the 2021-2022 interim concerning the response by this State to SARS-CoV-
33 2; and (2) make recommendations for legislation to the Governor and the 82nd
34 Session of the Nevada Legislature concerning the response by this State to future
35 public health crises. **Section 2** authorizes the Committee to examine and consider
36 various items and recommendations related to the public health infrastructure in
37 this State and to SARS-CoV-2. **Section 2** requires the Committee to submit a report
38 of the results of the study and recommendations for legislation concerning the
39 response by this State to future public health crises to the Governor and to the
40 Director of the Legislative Counsel Bureau for transmittal to the 82nd Session of
41 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 and 10, in*
4 *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.*



1 3. An employee shall, at least 12 hours before using paid
2 leave provided to the employee pursuant to this section, give notice
3 to his or her employer that the employee intends to use the paid
4 leave.

5 4. An employer, and any agent, representative, supervisory
6 employee or other person acting on behalf of or under the
7 authority of the employer, shall not:

8 (a) Deny an employee the right to use the paid leave provided
9 to the employee pursuant to this section;

10 (b) Require an employee to find a replacement worker as a
11 condition of using the paid leave provided to the employee
12 pursuant to this section; or

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

16 (1) Discharging or firing the employee;

17 (2) Penalizing the employee in any fashion; and

18 (3) Deducting the paid leave provided to the employee
19 pursuant to this section from the salary or wages of the employee.

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

23 6. This section does not apply to an employer who provides a
24 clinic on the premises of the employer where an employee may
25 receive a vaccination for COVID-19 during the regular hours of
26 work of the employee.

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

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

40 9. The provisions of this section do not:

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

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



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

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

6 11. *As used in this section:*

7 (a) *“COVID-19” means:*

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

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

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

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

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

16 608.0197 1. Except as otherwise provided in this section,
17 every employer in private employment shall provide paid leave to
18 each employee of the employer as follows:

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

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

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

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

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

34 (d) Except as otherwise provided in paragraph (i), an employer
35 shall:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (4) *Participating in caregiving; or*

43 (5) *Addressing other personal needs related to the health of
44 the employee.*



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

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

7 3. An employer shall not:

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

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

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

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

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

28 6. The provisions of this section do not:

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

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

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

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

38 8. This section does not apply to:

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

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

45 9. As used in this section:



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 (a) The Governor; and

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

43 4. As used in this section:

44 (a) "COVID-19" means:

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



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

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

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

11 **Sec. 2.5.** 1. This act becomes effective upon passage and
12 approval.

13 2. Section 1 of this act expires by limitation on
14 December 31, 2023.

