

ASSEMBLY BILL NO. 303—ASSEMBLYMEN SUMMERS-ARMSTRONG,
GONZÁLEZ, ANDERSON; CONSIDINE, BRITTNEY MILLER,
C.H. MILLER, PETERS, THOMAS AND WATTS

MARCH 16, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Removes certain exceptions relating to certain requirements for paid leave. (BDR 53-851)

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; removing certain exceptions relating to the requirements for an employer in private employment to provide paid leave to each employee of the employer under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an employer in private employment who has 50 or more employees in this State, at a minimum, to provide employees 0.01923 hours of paid leave for each hour worked that may be used by the employee beginning on the 90th calendar day of employment. Additionally, existing law provides certain limitations and conditions regarding such paid leave. Finally, existing law provides an exception from this requirement for employers who, pursuant to a contract, policy, collective bargaining agreement or other agreement, provide at least an equivalent amount of paid leave or paid time off that may be used for the same purposes and under the same conditions as required by existing law. (NRS 608.0197) This bill: (1) maintains the exception for such collective bargaining agreements; and (2) removes this exception for other contracts, policies or agreements, thereby requiring employers who have such contracts, policies or agreements to comply with the provisions in existing law governing paid leave.



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

Section 1. NRS 608.0197 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

(III) Not include any bonuses awarded at the sole discretion of the employer, overtime pay, additional pay for



performing hazardous duties, holiday pay or tips earned by the employee.

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

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

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

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

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

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

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

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

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

3. An employer shall not:

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

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

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

4. The Labor Commissioner shall prepare a bulletin which clearly sets forth the benefits created by this section. The Labor Commissioner shall post the bulletin on the Internet website maintained by the Office of Labor Commissioner, if any, and shall require all employers to post the bulletin in a conspicuous location in each workplace maintained by the employer. The bulletin may be



1 included in any printed abstract posted by the employer pursuant to
2 NRS 608.013.

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

8 6. The provisions of this section do not:

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

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

13 (c) Prohibit, preempt or discourage any contract or other
14 agreement that provides a more generous paid leave benefit or paid
15 time off benefit.

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

18 8. This section does not apply to:

19 (a) An employer who, pursuant to a ~~contract, policy,~~ collective
20 bargaining agreement , ~~for other agreement,~~ provides employees
21 with a policy for paid leave or a policy for paid time off to all
22 scheduled employees at a rate of at least 0.01923 hours of paid leave
23 per hour of work performed; and

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

25 9. As used in this section:

26 (a) “Benefit year” means a 365-day period used by an employer
27 when calculating the accrual of paid leave.

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

30 **Sec. 2.** This act becomes effective upon passage and approval.

