



Dora Lane

Partner

775.327.3045

Reno, Las Vegas

dlane@hollandhart.com

What Did the Nevada Legislature Change for Employers this Session?

Insight — July 5, 2023

In 2023, the Nevada Legislature passed employment-related bills on various subjects including employee leave entitlements, final wage payment, and employee misclassification. Some of these bills are discussed below.

AB 163 (Leave for Sexual Assault Victims)

Under existing Nevada law (NRS 608.0198 and NRS 613.222), employees who are domestic violence victims (or whose qualifying family/household members are domestic violence victims) are entitled to 160 hours of job-protected leave under certain circumstances. Such employees are also entitled to reasonable accommodations (e.g., reassignment or transfer, modified schedule, new phone number, etc.) that do not impose an undue hardship on the employer. AB 163 extends the same rights and protections to employees who are sexual assault victims (or whose qualifying family/household members are victims of sexual assault).

AB 163 becomes effective on January 1, 2024 for compliance purposes and can be found here:

<https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/AB163/Text>

SB 145 (Employee Misclassification)

SB 145 makes amendments to current Nevada law pertaining to employee misclassification.

1. Existing Nevada law requires various Nevada administrative bodies (the Labor Commissioner, the Division of Industrial Relations of the Department of Business and Industry, the Employment Security Division of the Department of Employment, Training and Rehabilitation, the Department of Taxation and the Attorney General) to share information relating to suspected employee misclassification which is not otherwise declared by law to be confidential. These offices are currently authorized—but not required—to share information relating to employee misclassification, which is declared by law to be confidential, if the confidentiality of the information is otherwise preserved.

SB 145 *requires* these administrative bodies referenced above to share information relating to suspected or actual employee misclassification, regardless of whether the information is otherwise

deemed confidential. SB 145 also imposes a requirement that if shared information is deemed confidential by law, its confidentiality must be preserved.

2. Existing law permits the Labor Commissioner to impose administrative penalties in cases of employee misclassification as follows: (i) a warning for a first offense where the misclassification was unintentional; (ii) a \$2,500 fine for a first offense where the misclassification was willful; and (iii) a \$5,000 fine for a second or subsequent offense for each employee who was willfully misclassified.

SB 145 modifies the administrative penalties as follows: (i) a warning for the first offense and (ii) a \$5,000 fine for a second or subsequent offense for each employee who was willfully misclassified.

3. Existing law created a Task Force on Employee Misclassification, consisting of Governor appointees. The Task Force was expected to, among other things, evaluate state agencies' policies and practices relating to employee misclassification; evaluate existing fines, penalties or other disciplinary steps stemming from employee misclassification; and develop steps to combat employee misclassification.

SB 145 eliminates the Task Force and its duties.

SB 145 is effective July 1, 2023 and can be found here:

<https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/SB145/Text>

SB 147 (Immediate Payment of Wages to Laid-Off Employees)

Current Nevada law mandates that the earned and unpaid wages of a terminated employee must be paid immediately upon termination. If an employer fails to pay the wages of a discharged employee within 3 days of termination, the employee's wages continue to accrue for up to 30 days. SB 147 imposes the same requirement in circumstances where the employer places the employee in a “nonworking status”—i.e., temporary layoff during which the employee remains employed and may be called back to work at some point in the future. “Nonworking status” does not include circumstances where: (i) the employer places the employee on an investigatory or disciplinary suspension; (ii) the employer places the employee “on call”; or (iii) the employee is on an approved leave of absence.

SB 147 goes into effect on July 1, 2023 and can be found here:

<https://www.leg.state.nv.us/App/NELIS/REL/82nd2023/Bill/9836/Text>

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.