



2021 NEVADA LEGISLATIVE ADVOCACY DAY

CARSON CITY, NEVADA

MARCH 10, 2021, 8:00 AM TO 9:30 AM

VIRTUAL EVENT

POSITION PAPERS

S. Brett Sutton, Esq.

Telephone: (775) 284-2770

Email: brett@suttonhague.com



www.suttonhague.com

PRIMARY LEGISLATION OF INTEREST

SB 107 MAKES VARIOUS CHANGES RELATING TO STATUTE OF LIMITATIONS FOR WRONGFUL TERMINATION

*Current Law: Two-year statute of limitations for wrongful termination lawsuits.

*Proposed Legislation: Would change to four-year statute of limitations for wrongful termination lawsuits.

*Recommended Position: OPPOSE

*Reasons for Position: 1) The Nevada Supreme Court unanimously held that a two-year statute of limitations is reasonable; 2) two years is plenty of time for a plaintiff/former employee to decide that they were wrongfully fired, hire a lawyer and sue the former employer; 3) By comparison, the deadline for filing EEOC claims is only 180 days – far less than two years; 4) Also by comparison, the statute of limitations for wrongful termination claims in California, probably the most pro-employee state in the United States, is two years – same as Nevada’s current rule; 5) Allowing an employee to wait four years to bring a wrongful termination lawsuit is unfair to the former employer -- in many cases witnesses’ memories will have faded, key documents will have been lost or destroyed, and some witnesses may have left the former employee and cannot be found.

AB 60 MAKES CERTAIN PROVISIONS OF A CONTRACT OR SETTLEMENT AGREEMENT VOID AND UNENFORCEABLE

*Current Law: The parties to a settlement agreement generally may prohibit one party from testifying against another party relating to sexual harassment, with limited exceptions.

*Proposed Legislation: Such provisions would be void and unenforceable in settlement agreements entered after the effective date of this bill. An exception would exist for agreements resulting from successful mediation or conciliation by the Nevada Equal Rights Commission. The legislation would allow an employee to testify in spite of such an agreement merely at the written request of an administrative agency.

*Recommended Position: OPPOSE, to the extent the bill makes such agreements unenforceable in the context of a mere written request by an administrative agency for testimony (vs. for example, a court order or lawful subpoena).

*Reasons for Position: Not all sexual harassment allegations are valid. Many employers settle such claims even if meritless to avoid future attorneys' fees, disruption to the business, loss of reputation, etc. They settle to buy peace. A plaintiff who has settled and entered into an agreement not to testify, should not be allowed to breach the agreement at the mere written request of an administrative agency. A court order or lawful subpoena compelling testimony should be required.

AB 124 – NEVADA PAY EQUITY ACT – PROHIBITS AMONG OTHER THINGS AN EMPLOYER FROM SEEKING A WAGE RATE HISTORY FROM A PROSPECTIVE EMPLOYEE OR RELYING UPON THE WAGE HISTORY OF A PROSPECTIVE EMPLOYEE

*Current Law: Allows a prospective employer to seek the wage rate history of a prospective employee and allows the prospective employer to rely upon the wage history of a prospective employee in determining the wage rate offered.

*Proposed Legislation: Prohibits the request or reliance upon prior wage history in the application/hiring process, and further requires new and extensive disclosures of minimum wage rate for the position, salary range, wage scale and other information.

*Recommended Position: OPPOSE, to the extent the bill prohibits request/consideration of applicants' prior wage history, and requires disclosures by employers of the information listed in the legislation including minimum wage rate, salary range, wage scale, etc.

*Reasons for Position: Wage history is a relevant factor in determining the strength and value of a past applicant's performance particularly since most employers only provide a neutral reference. The required disclosures in this bill could result in lower pay for prospective employees and is yet another administrative burden on all employers at a time when Nevada is attempting to recover from an economic crisis.

AB 47 - PROHIBITS NON-COMPETES IN MOST CONTEXTS WITH LIMITED EXCEPTIONS

*Current Law: Allows noncompetition agreements between an employer and employee to be enforceable under certain circumstances.

*Proposed Legislation: Makes noncompetition agreements between an employer and employee unlawful except as part of the sale of a business, dissolution of a partnership, or dissolution of or termination of an interest in a limited-liability company.

*Recommended Position: OPPOSE

*Reasons for Position: Nevada hopes to attract innovative employers and particularly those from the tech sector. Many large such employers are leaving California or plan to leave. One significant advantage that makes Nevada attractive is enforceability of non-compete agreements. Nevada law already limits such agreements to a reasonable duration and scope. The current law provides a proper balance between the interests of employers and employees.

AB 185 – ELIMINATES SCHEDULED INCREASES IN MINIMUM WAGE

*Current Law: Minimum wage will increase by 75 cents each year again on July 1, 2021 until it reaches \$12 per hour in 2024.

*Proposed Legislation: This bill eliminates those scheduled increases but allows annual increases based on an increase in the federal minimum wage, or the Consumer Price Index, as provided in the Nevada Constitution.

*Recommended Position: SUPPORT

*Reasons for Position: The Nevada Constitution already provides for annual increases in the minimum wage based on increases in the federal minimum wage, or the Consumer Price Index. The scheduled increases imposed by recent legislation were passed by the Legislature before the unprecedented 2020 Pandemic. Nevada businesses, particularly small business, are struggling. Raising the minimum wage in each of the next three years will only slow the economic recovery. Las Vegas currently has one of the highest unemployment rates of any metropolitan area in the U.S. Raising the minimum wage now will only mean less hiring, more lay-offs and work hour cuts.

OTHER LEGISLATION OF INTEREST

AB 93 & SB 88 – REQUIRES LEGISLATIVE APPROVAL FOR A GOVERNOR’S EXTENDED USE OF
“EMERGENCY POWERS”

AB 190 – REQUIRES EMPLOYERS WHO PROVIDE PAID SICK LEAVE BENEFIT TO ALLOW USE OF THAT
BENEFIT FOR KIN CARE