

Senate Bill No. 293—Senators Cannizzaro; Denis, Donate,
Lange, Neal, Ohrenschall, Ratti and Scheible

Joint Sponsor: Assemblywoman Duran

CHAPTER.....

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; requiring an employer, an employment agency, the governing body of a county, incorporated city or unincorporated town and an appointing authority to provide the wage or salary range or rate for a position, promotion or transfer to a new position if certain conditions are satisfied; providing that an employer, an employment agency, the 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 a person may file a complaint for a violation of such provisions; 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:

Existing law deems certain employment practices as unlawful and prohibits certain employers, employment agencies and labor organizations from engaging in such practices. (NRS 613.330-613.345) **Section 1.3** of this bill prohibits an employer or an employment agency from: (1) seeking the wage or salary history of an applicant for employment; (2) relying on the wage or salary history of an applicant to determine whether to offer employment to the applicant or to determine the rate of pay for the applicant; or (3) refusing to interview, hire, promote or employ an applicant or discriminating or retaliating against an applicant if the applicant does not provide wage or salary history. **Section 1.3** requires an employer or employment agency to provide to an applicant for employment who has completed an interview for a position: (1) the wage or salary range or rate for the position; and (2) the wage or salary range or rate for a promotion or transfer to a new position if certain conditions are satisfied. Additionally, **section 1.3** provides that an employer or employment agency may ask an applicant for employment about his or her wage or salary expectation for the position for which the applicant



is applying. Furthermore, **section 1.3** provides that: (1) a violation of **section 1.3** is an unlawful employment practice; (2) a person may file a complaint with the Labor Commissioner concerning such a violation; and (3) a violation of **section 1.3** may be subject to administrative penalties. If a person files such a complaint, **section 1.7** of this act requires the Labor Commissioner to issue, upon request, a right-to-sue notice if at least 180 days have passed after the complaint was filed. **Sections 2-8** of this bill make conforming changes by applying certain provisions and prohibitions to **section 1.3**. **Section 5** of this bill provides that nothing contained in **section 1.3** applies to certain businesses or enterprises on or near an Indian reservation.

Section 9 of this bill prohibits the governing body of a county, a county officer or other person acting on behalf of a county from: (1) seeking the wage or salary history of an applicant for employment; (2) relying on the wage or salary history of an applicant to determine whether to offer employment to the applicant or to determine the rate of pay for the applicant; or (3) refusing to interview, hire, promote or employ an applicant or discriminating or retaliating against an applicant because the applicant does not provide wage or salary history. **Section 9** requires the governing body of a county, a county officer or other person acting on behalf of a county to provide to an applicant for employment who has completed an interview for a position: (1) the wage or salary range or rate for the position; and (2) the wage or salary range or rate for a promotion or transfer to a new position if certain conditions are satisfied. Finally, **section 9** provides that the governing body of a county, county officer or other person may ask an applicant for employment about his or her wage or salary expectation for the position for which the applicant is applying. **Sections 10-12** of this bill establish similar provisions for the governing body of an incorporated city, a city officer, the governing body of an unincorporated town or any other person acting on behalf of an unincorporated town and an appointing authority. **Section 1.3** provides that it is an unlawful employment practice for the governing body of a county, incorporated city or unincorporated town or for an appointing authority to violate any provision of **sections 9-12**, as applicable.

EXPLANATION – Matter in *bolded italics* is new; matter between brackets *[omitted material]* is material to be omitted.

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

Section 1. Chapter 613 of NRS is hereby amended by adding thereto the provisions set forth as sections 1.3 and 1.7 of this act.

Sec. 1.3. 1. *An employer or an employment agency shall not, orally or in writing, personally or through an agent:*

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

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

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

(2) The rate of pay for the applicant; or

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



2. *An employer or an employment agency, as applicable, shall provide:*

(a) To an applicant for employment who has completed an interview for a position, the wage or salary range or rate for the position; and

(b) The wage or salary range or rate for a promotion or transfer to a new position if an employee has:

(1) Applied for the promotion or transfer;

(2) Completed an interview for the promotion or transfer or been offered the promotion or transfer; and

(3) Requested the wage or salary range or rate for the promotion or transfer.

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

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

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

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

5. *A person may file with the Labor Commissioner a complaint against an employer or employment agency, as applicable, for engaging in an unlawful employment practice specified in subsection 4.*

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

7. *If an administrative penalty is imposed pursuant to this section, the costs of the proceeding, including, without limitation, investigative costs and attorney's fees, may be recovered by the Labor Commissioner.*

8. *As used in this section:*

(a) "Employer" means a public or private employer in this State, including, without limitation:

(1) The State of Nevada;

(2) An agency of this State;

(3) A political subdivision of this State; and



(4) Any entity governed by section 9, 10, 11 or 12 of this act.

(b) "Employment agency" means any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer.

(c) "Wage or salary history" means the wages or salary paid to an applicant for employment by the current or former employer of the applicant. The term includes, without limitation, any compensation and benefits received by the applicant from his or her current or former employer.

Sec. 1.7. If a person files a complaint with the Labor Commissioner pursuant to section 1.3 of this act which alleges an unlawful employment practice, the Labor Commissioner shall issue, upon request from the person, a right-to-sue notice if at least 180 days have passed after the complaint was filed. The person may, not later than 90 days after the date of receipt of the right-to-sue notice, bring a civil action in district court against the person named in the complaint, and the notice must so indicate.

Sec. 2. (Deleted by amendment.)

Sec. 3. NRS 613.320 is hereby amended to read as follows:

613.320 1. The provisions of NRS 613.310 to 613.4383, inclusive, *and section 1.3 of this act* do not apply to:

(a) Any employer with respect to employment outside this state.

(b) Any religious corporation, association or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on of its religious activities.

2. The provisions of NRS 613.310 to 613.4383, inclusive, *and section 1.3 of this act* concerning unlawful employment practices related to sexual orientation and gender identity or expression do not apply to an organization that is exempt from taxation pursuant to 26 U.S.C. § 501(c)(3).

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

613.340 1. It is an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any person, or for a labor organization to discriminate against any member thereof or applicant for membership, because the employee, applicant, person or member, as applicable, has opposed any practice made an unlawful employment practice by NRS 613.310 to 613.4383, inclusive, *and section 1.3 of this act* or because he or she has made a charge, testified, assisted or



participated in any manner in an investigation, proceeding or hearing under NRS 613.310 to 613.4383, inclusive ~~H~~, *and section 1.3 of this act.*

2. It is an unlawful employment practice for an employer, labor organization or employment agency to print or publish or cause to be printed or published any notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by such a labor organization, or relating to any classification or referral for employment by such an employment agency, indicating any preference, limitation, specification or discrimination, based on race, color, religion, sex, sexual orientation, gender identity or expression, age, disability or national origin, except that such a notice or advertisement may indicate a preference, limitation, specification or discrimination based on religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin when religion, sex, sexual orientation, gender identity or expression, age, physical, mental or visual condition or national origin is a bona fide occupational qualification for employment.

Sec. 5. NRS 613.390 is hereby amended to read as follows:

613.390 Nothing contained in NRS 613.310 to 613.4383, inclusive, *and section 1.3 of this act* applies to any business or enterprise on or near an Indian reservation with respect to any publicly announced employment practice of such business or enterprise under which a preferential treatment is given to any individual because the individual is an Indian living on or near a reservation.

Secs. 6 and 7. (Deleted by amendment.)

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

613.432 If a court finds that an employee has been injured by an unlawful employment practice within the scope of this section and NRS 613.310 to 613.4383, inclusive, *and section 1.3 of this act*, the court may award the employee the same legal or equitable relief that may be awarded to a person pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., if the employee is protected by Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq., or NRS 613.330.

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

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



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

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

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

(2) The rate of pay for the applicant; or

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

2. A board of county commissioners, a county officer or any other person acting on behalf of a county shall provide:

(a) To an applicant for employment by a county who has completed an interview for a position the wage or salary range or rate for the position; and

(b) The wage or salary range or rate for a promotion or transfer to a new position if an employee of a county has:

(1) Applied for the promotion or transfer;

(2) Completed an interview for the promotion or transfer or been offered the promotion or transfer; and

(3) Requested the wage or salary range or rate for the promotion or transfer.

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

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

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

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

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

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

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

(2) The rate of pay for the applicant; or



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

2. A governing body of an incorporated city or a city officer shall provide:

(a) To an applicant for employment by an incorporated city who has completed an interview for a position the wage or salary range or rate for the position; and

(b) The wage or salary range or rate for a promotion or transfer to a new position if an employee of an incorporated city has:

(1) Applied for the promotion or transfer;

(2) Completed an interview for the promotion or transfer or been offered the promotion or transfer; and

(3) Requested the wage or salary range or rate for the promotion or transfer.

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

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

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

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

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

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

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

(2) The rate of pay for the applicant; or

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

2. A town board, board of county commissioners or any other person acting on behalf of an unincorporated town shall provide:



(a) To an applicant for employment by an unincorporated town who has completed an interview for a position the wage or salary range or rate for the position; and

(b) The wage or salary range or rate for a promotion or transfer to a new position if an employee of an unincorporated town has:

(1) Applied for the promotion or transfer;

(2) Completed an interview for the promotion or transfer or been offered the promotion or transfer; and

(3) Requested the wage or salary range or rate for the promotion or transfer.

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

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

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

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

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

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

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

(2) The rate of pay for the applicant; or

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

2. An appointing authority shall provide:

(a) To an applicant for employment in the unclassified service of the State who has completed an interview for a position the wage or salary range or rate for the position; and

(b) The wage or salary range or rate for a promotion or transfer to a new position if an employee in the unclassified service of the State has:

(1) Applied for the promotion or transfer;



(2) Completed an interview for the promotion or transfer or been offered the promotion or transfer; and

(3) Requested the wage or salary range or rate for the promotion or transfer.

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

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



