



A Not-So-Merry Christmas in Your Future? Nevada Legislature Limits the Contents of Public-Sector Employment Contracts

Insights

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Beginning on December 1, 2022, Nevada public employers will have new limitations placed on certain common elements contained in employment contracts. Governor Sisolak recently signed Assembly Bill 385 into law, prohibiting a “public body” from entering into employment contracts with officers or employees of the public body that contain any of the following provisions:

- a provision offering “fringe benefit[s], unless the public body has adopted a policy authorizing individuals in a similar position to receive the benefit[s]” at issue;
- A promise to pay a bonus, “unless the bonus is based on merit and awarded at a public meeting”; and
- An agreement to pay wages, salary (other than salary earned prior to termination), benefits, severance pay, bonuses, or any other compensation after the termination of employment for cause or where the employee voluntarily resigns while an investigation relating to his or her employment is pending.

Who Will Be Impacted?

A “public body” is defined in Nevada Revised Statute 241.015 as any “administrative, advisory, executive, or legislative body in the State or local government that expends, disburses, or is supported by tax revenue.” Nevada law has an expansive definition of public body officials and employees, which includes individuals employed by any elected officials, employees of state agencies, board members, commission members, committee members, subcommittee members, or subsidiary members, library and educational foundations, judicial officials, and even limited-purpose associations created for rural agriculture residents. In short, the new law will have a very expansive application to the employment contracts of public employees executed after December 1, 2022.

Underlying Aims

While the restrictions in the first two bullet points are aimed at making sure that fringe benefits and bonuses in public employment contracts are equitable and openly discussed at public meetings, the restriction on post-termination payments are clearly meant to discourage “sweetheart” deals where a public employee could be terminated for cause, or voluntarily resign while under investigation,

and still walk away with a very large haul. The new law also provides that upon termination of employment of a public employee or officer, the employee is entitled to any unused vacation and sick leave and remains entitled to pension or retirement fund benefits accumulated in the Public Employee's Retirement System to the extent required by the law or public policy of the local government.

AB 385 exempts collective bargaining agreements, as well as employment agreements offered to officers and employees of the Nevada System of Higher Education. This law also will not apply retroactively to any contracts, including subsequent renewals or extensions to contracts, that were entered into prior to December of 2022.

Conclusion

Fisher Phillips will continue to monitor employment developments in Nevada and provide updates as appropriate. Make sure you are subscribed to [Fisher Phillips' Insight System](#) to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in our [Las Vegas office](#).

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