

ASSEMBLY BILL NO. 210—ASSEMBLYMEN DURAN, TORRES, GONZÁLEZ; CARTER, GORELOW, LA RUE HATCH, MARZOLA, NEWBY, NGUYEN AND THOMAS

FEBRUARY 22, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works. (BDR 28-832)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: Yes.

~

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

AN ACT relating to public works; requiring a contractor or subcontractor on a public work to provide a worker with written notice of certain information in the primary language of the worker; requiring the Labor Commissioner to prepare template forms for such notice; requiring a contractor or subcontractor on a public work to provide certain information to workers regarding leave; requiring a person found by the Labor Commissioner to have failed to pay prevailing wages to a worker to pay certain damages to the affected worker; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires every contract to which a public body of this State is a
2 party that requires the employment of certain skilled, semiskilled and unskilled
3 workers to contain in express terms the hourly and daily rate of wages to be paid to
4 each class of applicable workers. The hourly and daily rate must not be less than
5 the prevailing wage in the region in which the public work is located, as determined
6 by the Labor Commissioner. (NRS 338.020) **Section 2** of this bill requires each
7 contractor and subcontractor engaged on a public work to provide each worker at
8 the time of hiring with written notice in English and the worker’s primary language
9 that sets forth for the worker to whom the notice is given: (1) the normal hourly
10 wage rate or rates that the worker will be paid for working on the public work,
11 based on the relevant prevailing wages; (2) the overtime hourly wage rate or rates
12 that the worker will be paid for working any overtime on the public work, based on
13 the relevant prevailing wages; (3) the amount by which the Labor Commissioner
14 has discharged the requirement to pay prevailing wages for the contractor or



15 subcontractor providing bona fide fringe benefits, if applicable; (4) certain  
16 information relating to the contractor or subcontractor; and (5) any other such  
17 information required by the Labor Commissioner. **Section 2** further requires the  
18 contractor or subcontractor to obtain from each worker a written acknowledgment  
19 of receipt of the written notice, to be maintained by the contractor or subcontractor  
20 for a period of at least 3 years.

21 **Section 3** of this bill requires the Labor Commissioner to prepare template  
22 forms of the notice required pursuant to **section 2**. Each template form must contain  
23 the necessary information in both English and one other language. The Labor  
24 Commissioner shall determine, at his or her discretion, the languages other than  
25 English in which the template forms will be prepared. **Section 3** also provides that  
26 if a notice required pursuant to **section 2** must be provided to a worker in a  
27 language that is not provided by the Labor Commissioner, the contractor or  
28 subcontractor must have the notice translated into the primary language of the  
29 worker.

30 **Section 4** of this bill requires each contractor or subcontractor engaged on a  
31 public work to notify his or her workers of the policy of the contractor or  
32 subcontractor, as applicable, relating to sick leave, vacation leave, personal leave,  
33 holiday leave and holiday hours.

34 Existing law requires a contractor engaged on a public work and a  
35 subcontractor engaged on a public work to keep accurate records that include  
36 certain information for each worker employed by the contractor or subcontractor in  
37 connection with the public work. (NRS 338.070) **Section 5** of this bill requires such  
38 accurate records to also contain the primary language of the worker, as identified  
39 by the worker.

40 Existing law requires, with certain exception, the Labor Commissioner, after an  
41 opportunity for a hearing, to assess a person found to have failed to pay the  
42 required prevailing wage an amount equal to the difference between the prevailing  
43 wages required to be paid and the wages that the contractor or subcontractor  
44 actually paid. (NRS 338.090) **Section 6** of this bill requires, without exception, a  
45 person found to have failed to pay the prevailing wage to pay an affected worker  
46 damages in an amount that is equal to the difference between the prevailing wages  
47 required to be paid and the wages that the contractor or subcontractor actually paid  
48 to the affected worker.

---

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

1 **Section 1.** Chapter 338 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2. 1. Each contractor and subcontractor engaged on a**  
4 **public work shall, at the time that the contractor or subcontractor,**  
5 **as applicable, hires a worker in connection with the public work:**

6 (a) **Ask the worker what his or her primary language is; and**

7 (b) **Provide the worker with a written notice that:**

8 (1) **Contains the information required pursuant to**  
9 **subsection 2; and**

10 (2) **Is prepared on the template form created by the Labor**  
11 **Commissioner that is in the primary language of the worker and**  
12 **English or, if a notice is required in a language for which the**



1 *Labor Commissioner has not created a template form, is translated*  
2 *into the required primary language of the worker.*

3 2. *The written notice required pursuant to subsection 1 must*  
4 *set forth for the worker to whom the notice is given:*

5 (a) *The normal hourly wage rate or rates that the worker will*  
6 *be paid for working on the public work, based on the applicable*  
7 *prevailing wage or wages for the worker;*

8 (b) *The overtime hourly wage rate or rates that the worker will*  
9 *be paid for working any overtime on the public work, based on the*  
10 *applicable prevailing wage or wages for the worker;*

11 (c) *If, pursuant to NRS 338.035, the Labor Commissioner has*  
12 *discharged any part of the obligation of the contractor or*  
13 *subcontractor to pay the prevailing wage because the contractor or*  
14 *subcontractor provides bona fide fringe benefits, the amount by*  
15 *which the prevailing wage is discharged;*

16 (d) *The following information related to the contractor or*  
17 *subcontractor:*

18 (1) *The name of the contractor or subcontractor and all*  
19 *other names under which the contractor or subcontractor does*  
20 *business;*

21 (2) *The physical address of the principal place of business*  
22 *of the contractor or subcontractor;*

23 (3) *The mailing address of the contractor or subcontractor;*  
24 *and*

25 (4) *The telephone number of the contractor or*  
26 *subcontractor; and*

27 (e) *Any other information that is required to be included by the*  
28 *Labor Commissioner.*

29 3. *The contractor or subcontractor, as applicable, shall*  
30 *obtain a written acknowledgement of receipt of the notice required*  
31 *pursuant to this section from each worker. Each written*  
32 *acknowledgment must be maintained by the contractor or*  
33 *subcontractor for at least 3 years, made available to the Labor*  
34 *Commissioner upon request and include, without limitation:*

35 (a) *The worker's name and signature;*

36 (b) *The date on which the worker received the notice;*

37 (c) *The worker's primary language, as indicated by the*  
38 *worker;*

39 (d) *An indication from the worker as to whether the worker*  
40 *received the notice in his or her primary language; and*

41 (e) *Any other information required by the Labor*  
42 *Commissioner.*

43 **Sec. 3. 1.** *The Labor Commissioner shall prepare template*  
44 *forms of the notice required pursuant to section 2 of this act.*



1       2. *Each template form prepared pursuant to subsection 1*  
2 *must contain the necessary information in both English and one*  
3 *other language. The Labor Commissioner shall determine, at his*  
4 *or her discretion, the languages other than English in which the*  
5 *template forms will be prepared. Such determination by the Labor*  
6 *Commissioner must be based upon the major languages used in*  
7 *this State and any other factor the Labor Commissioner*  
8 *determines is relevant.*

9       3. *If the Labor Commissioner has not created a template*  
10 *form in the primary language of a worker of a contractor or*  
11 *subcontractor, the contractor or subcontractor shall have the*  
12 *template form created pursuant to this section by the Labor*  
13 *Commissioner in English translated into the primary language of*  
14 *the worker.*

15       4. *The Labor Commissioner shall make the template forms*  
16 *created pursuant to this section available to contractors and*  
17 *subcontractors engaged on a public work in any manner*  
18 *determined appropriate by the Labor Commissioner.*

19       **Sec. 4. 1.** *Each contractor or subcontractor engaged on a*  
20 *public work shall notify his or her workers of the policy of the*  
21 *contractor or subcontractor, as applicable, relating to sick leave,*  
22 *vacation leave, personal leave, holiday leave and holiday hours.*  
23 *The notice must be:*

24       (a) *In writing; and*

25       (b) *Personally given to each worker or posted in a conspicuous*  
26 *place where workers can reasonably be expected to see the notice.*

27       2. *If a contractor or subcontractor makes any change to the*  
28 *policy of the contractor or subcontractor, as applicable, described*  
29 *in subsection 1, the contractor or subcontractor shall, not later*  
30 *than 7 calendar days before any change is effective, notify his or*  
31 *her workers of the change. The notice must be:*

32       (a) *In writing; and*

33       (b) *Personally given to each worker or posted in a conspicuous*  
34 *place where workers can reasonably be expected to see the notice.*

35       **Sec. 5.** NRS 338.070 is hereby amended to read as follows:

36       338.070 1. Any public body awarding a contract shall:

37       (a) Investigate possible violations of the provisions of NRS  
38 338.010 to 338.090, inclusive, committed in the course of the  
39 execution of the contract, and determine whether a violation has  
40 been committed and inform the Labor Commissioner of any such  
41 violations; and

42       (b) When making payments to the contractor engaged on the  
43 public work of money becoming due under the contract, withhold  
44 and retain all sums forfeited pursuant to the provisions of NRS  
45 338.010 to 338.090, inclusive.



1 2. No sum may be withheld, retained or forfeited, except from  
2 the final payment, without a full investigation being made by the  
3 awarding public body.

4 3. Except as otherwise provided in subsection 7, it is lawful for  
5 any contractor engaged on a public work to withhold from any  
6 subcontractor engaged on the public work sufficient sums to cover  
7 any penalties withheld from the contractor by the awarding public  
8 body on account of the failure of the subcontractor to comply with  
9 the terms of NRS 338.010 to 338.090, inclusive. If payment has  
10 already been made to the subcontractor, the contractor may recover  
11 from the subcontractor the amount of the penalty or forfeiture in a  
12 suit at law.

13 4. A contractor engaged on a public work and each  
14 subcontractor engaged on the public work shall:

15 (a) Inquire of each worker employed by the contractor or  
16 subcontractor in connection with the public work:

17 (1) Whether the worker wishes to specify voluntarily his or  
18 her gender; and

19 (2) Whether the worker wishes to specify voluntarily his or  
20 her ethnicity; and

21 (b) For each response the contractor or subcontractor receives  
22 pursuant to paragraph (a):

23 (1) If the worker chose voluntarily to specify his or her  
24 gender or ethnicity, or both, record the worker's responses; and

25 (2) If the worker declined to specify his or her gender or  
26 ethnicity, or both, record that the worker declined to specify such  
27 information.

28 ➔ A contractor or subcontractor shall not compel or coerce a worker  
29 to specify his or her gender or ethnicity and shall not penalize or  
30 otherwise take any adverse action against a worker who declines to  
31 specify his or her gender or ethnicity. Before inquiring as to whether  
32 a worker wishes to specify voluntarily his or her gender or ethnicity,  
33 the applicable contractor or subcontractor must inform the worker  
34 that such information, if provided, will be open to public inspection  
35 as set forth in subsection 6.

36 5. A contractor engaged on a public work and each  
37 subcontractor engaged on the public work shall keep or cause to be  
38 kept:

39 (a) An accurate record showing, for each worker employed by  
40 the contractor or subcontractor in connection with the public work:

41 (1) The name of the worker;

42 (2) The occupation of the worker;

43 (3) The gender of the worker, if the worker voluntarily  
44 agreed to specify that information pursuant to subsection 4, or an



1 entry indicating that the worker declined to specify such  
2 information;

3 (4) The ethnicity of the worker, if the worker voluntarily  
4 agreed to specify that information pursuant to subsection 4, or an  
5 entry indicating that the worker declined to specify such  
6 information;

7 (5) *The primary language of the worker, as identified by the*  
8 *worker;*

9 (6) If the worker has a driver's license or identification card,  
10 an indication of the state or other jurisdiction that issued the license  
11 or card; and

12 ~~†(6)†~~ (7) The actual per diem, wages and benefits paid to the  
13 worker; and

14 (b) An additional accurate record showing, for each worker  
15 employed by the contractor or subcontractor in connection with the  
16 public work who has a driver's license or identification card:

17 (1) The name of the worker;

18 (2) The driver's license number or identification card number  
19 of the worker; and

20 (3) The state or other jurisdiction that issued the license or  
21 card.

22 6. The records maintained pursuant to subsection 5 must be  
23 open at all reasonable hours to the inspection of the public body  
24 awarding the contract. The contractor engaged on the public work or  
25 subcontractor engaged on the public work shall ensure that a copy of  
26 each record for each calendar month is received by the public body  
27 awarding the contract no later than 15 days after the end of the  
28 month. The copy of the record maintained pursuant to paragraph (a)  
29 of subsection 5 must be open to public inspection as provided in  
30 NRS 239.010. The copy of the record maintained pursuant to  
31 paragraph (b) of subsection 5 is confidential and not open to public  
32 inspection. The records in the possession of the public body  
33 awarding the contract may be discarded by the public body 2 years  
34 after final payment is made by the public body for the public work.  
35 The Labor Commissioner shall adopt regulations authorizing and  
36 prescribing the procedures for the electronic filing of the copies of  
37 the records required to be provided monthly by a contractor or  
38 subcontractor to a public body pursuant to this subsection.

39 7. A contractor engaged on a public work shall not withhold  
40 from a subcontractor engaged on the public work the sums  
41 necessary to cover any penalties provided pursuant to subsection 3  
42 of NRS 338.060 that may be withheld from the contractor by the  
43 public body awarding the contract because the public body did not  
44 receive a copy of the record maintained by the subcontractor



1 pursuant to subsection 5 for a calendar month by the time specified  
2 in subsection 6 if:

3 (a) The subcontractor provided to the contractor, for submission  
4 to the public body by the contractor, a copy of the record not later  
5 than the later of:

6 (1) Ten days after the end of the month; or

7 (2) A date agreed upon by the contractor and subcontractor;  
8 and

9 (b) The contractor failed to submit the copy of the record to the  
10 public body by the time specified in subsection 6.

11 ↪ Nothing in this subsection prohibits a subcontractor from  
12 submitting a copy of a record for a calendar month directly to the  
13 public body by the time specified in subsection 6.

14 8. Any contractor or subcontractor, or agent or representative  
15 thereof, performing work for a public work who neglects to comply  
16 with the provisions of this section is guilty of a misdemeanor.

17 **Sec. 6.** NRS 338.090 is hereby amended to read as follows:

18 338.090 1. Except as otherwise provided in subsection 5, any  
19 person, including the officers, agents or employees of a public body,  
20 who violates any provision of NRS 338.010 to 338.090, inclusive,  
21 or any regulation adopted pursuant thereto, is guilty of a  
22 misdemeanor.

23 2. The Labor Commissioner, in addition to any other remedy or  
24 penalty provided in this chapter:

25 (a) Shall, except as otherwise provided in subsection 4, assess a  
26 person who, after an opportunity for a hearing, is found to have  
27 failed to pay the prevailing wage required pursuant to NRS 338.020  
28 to 338.090, inclusive, an amount equal to the difference between the  
29 prevailing wages required to be paid and the wages that the  
30 contractor or subcontractor actually paid; ~~and~~

31 (b) *Shall require a person found to have failed to pay the*  
32 *prevailing wage required pursuant to NRS 338.020 to 338.090,*  
33 *inclusive, to pay damages to each affected worker in an amount*  
34 *equal to the difference between the prevailing wages required to be*  
35 *paid and the wages that the contractor or subcontractor actually*  
36 *paid to the worker; and*

37 (c) May, in addition to any other administrative penalty, impose  
38 an administrative penalty not to exceed the costs incurred by the  
39 Labor Commissioner to investigate and prosecute the matter.

40 3. If the Labor Commissioner finds that a person has failed to  
41 pay the prevailing wage required pursuant to NRS 338.020 to  
42 338.090, inclusive, the public body may, in addition to any other  
43 remedy or penalty provided in this chapter, require the person to pay  
44 the actual costs incurred by the public body to investigate the  
45 matter.



1 4. The Labor Commissioner is not required to assess a person  
2 an amount equal to the difference between the prevailing wages  
3 required to be paid and the wages that the contractor or  
4 subcontractor actually paid if the contractor or subcontractor has  
5 already paid that amount to a worker pursuant to paragraph (c) of  
6 subsection 4 of NRS 338.035.

7 5. The provisions of subsection 1 do not apply to a  
8 subcontractor specified in NRS 338.072.

9 **Sec. 7.** 1. This section becomes effective upon passage and  
10 approval.

11 2. Sections 1 to 6, inclusive, of this act become effective:

12 (a) Upon passage and approval for the purpose of adopting  
13 regulations and performing any other preparatory administrative  
14 tasks that are necessary to carry out the provisions of this act; and

15 (b) On January 1, 2024, for all other purposes.

