

SENATE BILL NO. 226—SENATOR CANNIZZARO

MARCH 7, 2023

JOINT SPONSOR: ASSEMBLYMAN YEAGER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works. (BDR 28-494)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 3, 5) (NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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

AN ACT relating to public works; providing a declaration of legislative intent regarding the payment of prevailing wages on public works projects; providing that certain projects require the payment of prevailing wages; revising the definition of “public work”; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law provides that every contract to which a public body of this State is  
2 a party, requiring the employment of skilled mechanics, skilled workers,  
3 semiskilled mechanics, semiskilled workers or unskilled labor in the performance  
4 of a public work, must contain in express terms the hourly and daily rate of wages  
5 to be paid to each of the classes of mechanics and workers. The hourly and daily  
6 rate of wages must not be less than the prevailing wage in the region in which the  
7 public work is located, as determined by the Labor Commissioner. (NRS 338.020)  
8 **Section 2** of this bill makes a declaration of legislative intent finding that: (1)  
9 the payment of prevailing wages to workers on public works projects that are  
10 funded in whole or in part by public money is essential to the economic well-being  
11 of this State, increasing the number of skilled construction workers in this State,  
12 enhancing the workforce of the State and increasing redevelopment opportunities in  
13 the State; and (2) careful scrutiny of novel leasing and financial arrangements  
14 entered into and incentives offered by a public body is necessary to ensure workers  
15 are paid the prevailing wage. **Section 8** of this bill provides that any regulation



16 adopted by the Labor Commissioner relating to public works must be consistent  
17 with the declaration of legislative intent set forth in **section 2**.

18 Existing law makes the prevailing wage requirements applicable to certain,  
19 specific construction projects. (NRS 244.286, 244A.058, 244A.763, 268.568,  
20 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 321.416, 332.390,  
21 333A.120, 349.670, 349.956, 349.981, 388A.635, 408.3886, 543.545, 701B.265,  
22 701B.625) **Section 3** of this bill requires, with certain exceptions, the payment of  
23 prevailing wages on any project if, pursuant to certain agreements or partnerships  
24 between a developer and a public body: (1) the property or premises on which the  
25 project will be constructed or developed is owned by a public body; (2) the  
26 property or premises on which a project will be constructed or developed is, in  
27 whole or in part, subject to a lease or lease-purchase agreement by a public body;  
28 (3) a public body pays money or other compensation directly to or on behalf of the  
29 developer or contractor of the project or any subcontractor who performs any work  
30 on the project; (4) a public body pays, credits, reduces, forgives or waives any fee,  
31 cost, rent, insurance premium, bond premium, obligation or expense, including,  
32 without limitation, an incidental expense, in relation to the project that is normally  
33 required in the execution of a contract for a public work on which the estimated  
34 cost exceeds \$100,000; (5) a public body loans money in relation to the project that  
35 is required to be repaid to the public body; (6) a public body retains any right to  
36 ownership of the property or premises after construction work begins on the  
37 project; (7) in relation to the project, a public body sells, leases or otherwise  
38 transfers for less than fair market value any developed or undeveloped real property  
39 or any other property or asset; or (8) in relation to the project, a public body  
40 transfers property of the State or political subdivision for less than fair market  
41 value. **Section 3** exempts from these provisions airport authorities, single-family  
42 residential housing and certain projects relating to affordable housing.

43 Existing law defines the term "public work" to mean any project for the new  
44 construction, repair or reconstruction of a project financed in whole or in part from  
45 public money for certain publicly owned works and property. (NRS 338.010)  
46 **Section 5** of this bill amends the definition of "public work" to include a project  
47 financed in whole or in part from public money.

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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. *The Legislature hereby finds and declares that:***

4 ***1. The payment of prevailing wages to workers on public***  
5 ***works projects that are funded in whole or in part by public money***  
6 ***is essential to:***

7 ***(a) The economic well-being of this State;***

8 ***(b) Increasing the number of skilled construction workers in***  
9 ***this State;***

10 ***(c) Enhancing the workforce in this State; and***

11 ***(d) Increasing redevelopment opportunities in this State.***

12 ***2. To ensure the intentions set forth in subsection 1 are***  
13 ***upheld, careful scrutiny of novel leasing and financing***  
14 ***arrangements entered into or incentives offered by public bodies***



1 *for the construction of public works is necessary to ensure that*  
2 *workers on public works projects are paid prevailing wages.*

3 **Sec. 3. 1.** *The provisions of NRS 338.013 to 338.090,*  
4 *inclusive, apply to any project if, pursuant to the provisions of a*  
5 *contract or a lease agreement, lease-purchase agreement,*  
6 *development agreement, improvement district, redevelopment*  
7 *project or public-private partnership between a private developer*  
8 *and a public body:*

9 (a) *The property or premises on which a project will be*  
10 *constructed or developed is owned by a public body;*

11 (b) *The property or premises on which a project will be*  
12 *constructed or developed are, in whole or in part, subject to a lease*  
13 *or lease-purchase agreement by a public body;*

14 (c) *A public body pays money or other compensation directly to*  
15 *or on behalf of the developer or contractor of the project or any*  
16 *subcontractor who performs any work on the project; or*

17 (d) *Except as otherwise provided in subsection 2, a public*  
18 *body:*

19 (1) *Pays, credits, reduces, forgives or waives any fee, cost,*  
20 *rent, insurance premium, bond premium, obligation or expense,*  
21 *including, without limitation, an incidental expense, in relation to*  
22 *the project that is normally required in the execution of a contract*  
23 *for a public work on which the estimated cost exceeds \$100,000;*

24 (2) *Loans money in relation to the project that is required*  
25 *to be repaid to the public body, regardless of the terms of the loan*  
26 *or the interest charged;*

27 (3) *Retains any right, including, without limitation, a*  
28 *contingent right, to retake ownership of the property or premises*  
29 *after construction work begins on the project;*

30 (4) *In relation to the project, a public body sells, leases or*  
31 *otherwise transfers for less than fair market value any developed*  
32 *or undeveloped real property or any other property or asset; or*

33 (5) *In relation to the project, a public body transfers*  
34 *property for less than fair market value.*

35 2. *The provisions of paragraph (d) of subsection 1 are not*  
36 *applicable to:*

37 (a) *A local government that takes an action set forth in*  
38 *paragraph (d) of subsection 1 for the construction of:*

39 (1) *Single-family residential housing; or*

40 (2) *Affordable housing if such affordable housing is four*  
41 *floors or less, regardless of whether each or any floor is above or*  
42 *below ground; or*

43 (b) *An airport authority operating in this State or a department*  
44 *of aviation which is operated by a political subdivision of this*  
45 *State.*



1       **3. As used in this section:**

2       **(a) "Affordable housing" means multifamily housing that is:**

3           **(1) Tier one affordable housing or tier two affordable**  
4 **housing; and**

5           **(2) Subject to a legally binding agreement or other**  
6 **instrument that includes restrictions for the resale of the property**  
7 **to require that such property continue to be used as tier one**  
8 **affordable housing, tier two affordable housing or tier three**  
9 **affordable housing.**

10       **(b) "Improvement district" has the meaning ascribed to it in**  
11 **NRS 271.130.**

12       **(c) "Tier one affordable housing" has the meaning ascribed to**  
13 **it in NRS 278.01902.**

14       **(d) "Tier three affordable housing" has the meaning ascribed**  
15 **to it in NRS 278.01904.**

16       **(e) "Tier two affordable housing" has the meaning ascribed to**  
17 **it in NRS 278.01906.**

18       **Sec. 4.** (Deleted by amendment.)

19       **Sec. 5.** NRS 338.010 is hereby amended to read as follows:

20       338.010 As used in this chapter:

21       1. "Authorized representative" means a person designated by a  
22 public body to be responsible for the development, solicitation,  
23 award or administration of contracts for public works pursuant to  
24 this chapter.

25       2. "Bona fide fringe benefit" means a benefit in the form of a  
26 contribution that is made not less frequently than monthly to an  
27 independent third party pursuant to a fund, plan or program:

28           (a) Which is established for the sole and exclusive benefit of a  
29 worker and his or her family and dependents; and

30           (b) For which none of the assets will revert to, or otherwise be  
31 credited to, any contributing employer or sponsor of the fund, plan  
32 or program.

33       ↪ The term includes, without limitation, benefits for a worker that  
34 are determined pursuant to a collective bargaining agreement and  
35 included in the determination of the prevailing wage by the Labor  
36 Commissioner pursuant to NRS 338.030.

37       3. "Contract" means a written contract entered into between a  
38 contractor and a public body for the provision of labor, materials,  
39 equipment or supplies for a public work.

40       4. "Contractor" means:

41           (a) A person who is licensed pursuant to the provisions of  
42 chapter 624 of NRS.

43           (b) A design-build team.

44       5. "Day labor" means all cases where public bodies, their  
45 officers, agents or employees, hire, supervise and pay the wages



1 thereof directly to a worker or workers employed by them on public  
2 works by the day and not under a contract in writing.

3 6. "Design-build contract" means a contract between a public  
4 body and a design-build team in which the design-build team agrees  
5 to design and construct a public work.

6 7. "Design-build team" means an entity that consists of:

7 (a) At least one person who is licensed as a general engineering  
8 contractor or a general building contractor pursuant to chapter 624  
9 of NRS; and

10 (b) For a public work that consists of:

11 (1) A building and its site, at least one person who holds a  
12 certificate of registration to practice architecture pursuant to chapter  
13 623 of NRS.

14 (2) Anything other than a building and its site, at least one  
15 person who holds a certificate of registration to practice architecture  
16 pursuant to chapter 623 of NRS or landscape architecture pursuant  
17 to chapter 623A of NRS or who is licensed as a professional  
18 engineer pursuant to chapter 625 of NRS.

19 8. "Design professional" means:

20 (a) A person who is licensed as a professional engineer pursuant  
21 to chapter 625 of NRS;

22 (b) A person who is licensed as a professional land surveyor  
23 pursuant to chapter 625 of NRS;

24 (c) A person who holds a certificate of registration to engage in  
25 the practice of architecture, interior design or residential design  
26 pursuant to chapter 623 of NRS;

27 (d) A person who holds a certificate of registration to engage in  
28 the practice of landscape architecture pursuant to chapter 623A of  
29 NRS; or

30 (e) A business entity that engages in the practice of professional  
31 engineering, land surveying, architecture or landscape architecture.

32 9. "Discrete project" means one or more public works which  
33 are undertaken on a single construction site for a single public body.  
34 The term does not include one or more public works that are  
35 undertaken on multiple construction sites regardless of whether the  
36 public body which sponsors or finances the public works bundles  
37 the public works together.

38 10. "Division" means the State Public Works Division of the  
39 Department of Administration.

40 11. "Eligible bidder" means a person who is:

41 (a) Found to be a responsible and responsive contractor by a  
42 local government or its authorized representative which requests  
43 bids for a public work in accordance with paragraph (b) of  
44 subsection 1 of NRS 338.1373; or



1 (b) Determined by a public body or its authorized representative  
2 which awarded a contract for a public work pursuant to NRS  
3 338.1375 to 338.139, inclusive, to be qualified to bid on that  
4 contract pursuant to NRS 338.1379 or 338.1382.

5 12. "General contractor" means a person who is licensed to  
6 conduct business in one, or both, of the following branches of the  
7 contracting business:

8 (a) General engineering contracting, as described in subsection 2  
9 of NRS 624.215.

10 (b) General building contracting, as described in subsection 3 of  
11 NRS 624.215.

12 13. "Governing body" means the board, council, commission  
13 or other body in which the general legislative and fiscal powers of a  
14 local government are vested.

15 14. "Horizontal construction" means any construction,  
16 alteration, repair, renovation, demolition or remodeling necessary to  
17 complete a public work, including, without limitation, any  
18 irrigation, drainage, water supply, flood control, harbor, railroad,  
19 highway, tunnel, airport or airway, sewer, sewage disposal plant or  
20 water treatment facility and any ancillary vertical components  
21 thereof, bridge, inland waterway, pipeline for the transmission of  
22 petroleum or any other liquid or gaseous substance, pier, and any  
23 other work incidental thereto. The term does not include vertical  
24 construction, the construction of any terminal or other building of an  
25 airport or airway, or the construction of any other building.

26 15. "Local government" means every political subdivision or  
27 other entity which has the right to levy or receive money from ad  
28 valorem or other taxes or any mandatory assessments, and includes,  
29 without limitation, counties, cities, towns, boards, school districts  
30 and other districts organized pursuant to chapters 244A, 318, 318A,  
31 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,  
32 inclusive, and any agency or department of a county or city which  
33 prepares a budget separate from that of the parent political  
34 subdivision. The term includes a person who has been designated by  
35 the governing body of a local government to serve as its authorized  
36 representative.

37 16. "Offense" means:

38 (a) Failing to:

- 39 (1) Pay the prevailing wage required pursuant to this chapter;  
40 (2) Pay the contributions for unemployment compensation  
41 required pursuant to chapter 612 of NRS;  
42 (3) Provide and secure compensation for employees required  
43 pursuant to chapters 616A to 617, inclusive, of NRS; or  
44 (4) Comply with subsection 5 or 6 of NRS 338.070.



1 (b) Discharging an obligation to pay wages in a manner that  
2 violates the provisions of NRS 338.035.

3 17. "Prime contractor" means a contractor who:

4 (a) Contracts to construct an entire project;

5 (b) Coordinates all work performed on the entire project;

6 (c) Uses his or her own workforce to perform all or a part of the  
7 public work; and

8 (d) Contracts for the services of any subcontractor or  
9 independent contractor or is responsible for payment to any  
10 contracted subcontractors or independent contractors.

11 ➤ The term includes, without limitation, a general contractor or a  
12 specialty contractor who is authorized to bid on a project pursuant to  
13 NRS 338.139 or 338.148.

14 18. "Public body" means the State, county, city, town, school  
15 district or any public agency of this State or its political subdivisions  
16 sponsoring or financing a public work.

17 19. "Public work" means any project ~~for the new construction,~~  
18 ~~repair or reconstruction of a project~~ financed in whole or in part  
19 from public money for:

20 (a) Public buildings;

21 (b) Jails and prisons;

22 (c) Public roads;

23 (d) Public highways;

24 (e) Public streets and alleys;

25 (f) Public utilities;

26 (g) Publicly owned water mains and sewers;

27 (h) Public parks and playgrounds;

28 (i) Public convention facilities which are financed at least in part  
29 ~~with~~ from public money; and

30 (j) All other publicly owned works and property.

31 20. "Specialty contractor" means a person who is licensed to  
32 conduct business as described in subsection 4 of NRS 624.215.

33 21. "Stand-alone underground utility project" means an  
34 underground utility project that is not integrated into a larger  
35 project, including, without limitation:

36 (a) An underground sewer line or an underground pipeline for  
37 the conveyance of water, including facilities appurtenant thereto;  
38 and

39 (b) A project for the construction or installation of a storm drain,  
40 including facilities appurtenant thereto,

41 ➤ that is not located at the site of a public work for the design and  
42 construction of which a public body is authorized to contract with a  
43 design-build team pursuant to subsection 2 of NRS 338.1711.

44 22. "Subcontract" means a written contract entered into  
45 between:



- 1 (a) A contractor and a subcontractor or supplier; or
- 2 (b) A subcontractor and another subcontractor or supplier,
- 3 ↪ for the provision of labor, materials, equipment or supplies for a
- 4 construction project.

5 23. "Subcontractor" means a person who:

6 (a) Is licensed pursuant to the provisions of chapter 624 of NRS

7 or performs such work that the person is not required to be licensed

8 pursuant to chapter 624 of NRS; and

9 (b) Contracts with a contractor, another subcontractor or a

10 supplier to provide labor, materials or services for a construction

11 project.

12 24. "Supplier" means a person who provides materials,

13 equipment or supplies for a construction project.

14 25. "Vertical construction" means any construction, alteration,

15 repair, renovation, demolition or remodeling necessary to complete

16 a public work for any building, structure or other improvement that

17 is predominantly vertical, including, without limitation, a building,

18 structure or improvement for the support, shelter and enclosure of

19 persons, animals, chattels or movable property of any kind, and any

20 other work or improvement appurtenant thereto.

21 26. "Wages" means:

22 (a) The basic hourly rate of pay; and

23 (b) The amount of pension, health and welfare, vacation and

24 holiday pay, the cost of apprenticeship training or other bona fide

25 fringe benefits which are a benefit to the worker.

26 27. "Worker" means a skilled mechanic, skilled worker,

27 semiskilled mechanic, semiskilled worker or unskilled worker in the

28 service of a contractor or subcontractor under any appointment or

29 contract of hire or apprenticeship, express or implied, oral or

30 written, whether lawfully or unlawfully employed. The term does

31 not include a design professional.

32 **Sec. 6.** (Deleted by amendment.)

33 **Sec. 7.** (Deleted by amendment.)

34 **Sec. 8.** NRS 338.012 is hereby amended to read as follows:

35 338.012 **1.** The Labor Commissioner may adopt such

36 regulations as are necessary to enable the Labor Commissioner to

37 carry out his or her duties pursuant to the provisions of this chapter.

38 **2.** *Any regulation adopted by the Labor Commissioner*

39 *pursuant to this chapter must be consistent with the declaration of*

40 *legislative intent set forth in section 2 of this act.*

41 **Sec. 9.** (Deleted by amendment.)

42 **Sec. 10.** NRS 338.050 is hereby amended to read as follows:

43 338.050 For the purpose of NRS 338.010 to 338.090, inclusive,

44 *and sections 2 and 3 of this act*, except as otherwise provided by

45 specific statute, every worker who performs work for a public work





1 covered by a contract therefor is subject to all of the provisions of  
2 NRS 338.010 to 338.090, inclusive, *and sections 2 and 3 of this*  
3 *act*, regardless of any contractual relationship alleged to exist  
4 between such worker and his or her employer.

5 **Sec. 11.** NRS 338.070 is hereby amended to read as follows:

6 338.070 1. Any public body awarding a contract shall:

7 (a) Investigate possible violations of the provisions of NRS  
8 338.010 to 338.090, inclusive, *and sections 2 and 3 of this act*  
9 committed in the course of the execution of the contract, and  
10 determine whether a violation has been committed and inform the  
11 Labor Commissioner of any such violations; and

12 (b) When making payments to the contractor engaged on the  
13 public work of money becoming due under the contract, withhold  
14 and retain all sums forfeited pursuant to the provisions of NRS  
15 338.010 to 338.090, inclusive ~~§~~, *and sections 2 and 3 of this act.*

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

19 3. Except as otherwise provided in subsection 7, it is lawful for  
20 any contractor engaged on a public work to withhold from any  
21 subcontractor engaged on the public work sufficient sums to cover  
22 any penalties withheld from the contractor by the awarding public  
23 body on account of the failure of the subcontractor to comply with  
24 the terms of NRS 338.010 to 338.090, inclusive ~~§~~, *and sections 2*  
25 *and 3 of this act.* If payment has already been made to the  
26 subcontractor, the contractor may recover from the subcontractor the  
27 amount of the penalty or forfeiture in a suit at law.

28 4. A contractor engaged on a public work and each  
29 subcontractor engaged on the public work shall:

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

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

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

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

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

40 (2) If the worker declined to specify his or her gender or  
41 ethnicity, or both, record that the worker declined to specify such  
42 information.

43 ↪ A contractor or subcontractor shall not compel or coerce a worker  
44 to specify his or her gender or ethnicity and shall not penalize or  
45 otherwise take any adverse action against a worker who declines to



1 specify his or her gender or ethnicity. Before inquiring as to whether  
2 a worker wishes to specify voluntarily his or her gender or ethnicity,  
3 the applicable contractor or subcontractor must inform the worker  
4 that such information, if provided, will be open to public inspection  
5 as set forth in subsection 6.

6 5. A contractor engaged on a public work and each  
7 subcontractor engaged on the public work shall keep or cause to be  
8 kept:

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

11 (1) The name of the worker;

12 (2) The occupation of the worker;

13 (3) The gender of the worker, if the worker voluntarily  
14 agreed to specify that information pursuant to subsection 4, or an  
15 entry indicating that the worker declined to specify such  
16 information;

17 (4) The ethnicity of the worker, if the worker voluntarily  
18 agreed to specify that information pursuant to subsection 4, or an  
19 entry indicating that the worker declined to specify such  
20 information;

21 (5) If the worker has a driver's license or identification card,  
22 an indication of the state or other jurisdiction that issued the license  
23 or card; and

24 (6) The actual per diem, wages and benefits paid to the  
25 worker; and

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

29 (1) The name of the worker;

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

32 (3) The state or other jurisdiction that issued the license or  
33 card.

34 6. The records maintained pursuant to subsection 5 must be  
35 open at all reasonable hours to the inspection of the public body  
36 awarding the contract. The contractor engaged on the public work or  
37 subcontractor engaged on the public work shall ensure that a copy of  
38 each record for each calendar month is received by the public body  
39 awarding the contract no later than 15 days after the end of the  
40 month. The copy of the record maintained pursuant to paragraph (a)  
41 of subsection 5 must be open to public inspection as provided in  
42 NRS 239.010. The copy of the record maintained pursuant to  
43 paragraph (b) of subsection 5 is confidential and not open to public  
44 inspection. The records in the possession of the public body  
45 awarding the contract may be discarded by the public body 2 years



1 after final payment is made by the public body for the public work.  
2 The Labor Commissioner shall adopt regulations authorizing and  
3 prescribing the procedures for the electronic filing of the copies of  
4 the records required to be provided monthly by a contractor or  
5 subcontractor to a public body pursuant to this subsection.

6 7. A contractor engaged on a public work shall not withhold  
7 from a subcontractor engaged on the public work the sums  
8 necessary to cover any penalties provided pursuant to subsection 3  
9 of NRS 338.060 that may be withheld from the contractor by the  
10 public body awarding the contract because the public body did not  
11 receive a copy of the record maintained by the subcontractor  
12 pursuant to subsection 5 for a calendar month by the time specified  
13 in subsection 6 if:

14 (a) The subcontractor provided to the contractor, for submission  
15 to the public body by the contractor, a copy of the record not later  
16 than the later of:

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

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

19 and

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

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

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

28 **Sec. 12.** NRS 338.090 is hereby amended to read as follows:

29 338.090 1. Except as otherwise provided in subsection 5, any  
30 person, including the officers, agents or employees of a public body,  
31 who violates any provision of NRS 338.010 to 338.090, inclusive,  
32 *and sections 2 and 3 of this act* or any regulation adopted pursuant  
33 thereto, is guilty of a misdemeanor.

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

36 (a) Shall, except as otherwise provided in subsection 4, assess a  
37 person who, after an opportunity for a hearing, is found to have  
38 failed to pay the prevailing wage required pursuant to NRS 338.020  
39 to 338.090, inclusive, an amount equal to the difference between the  
40 prevailing wages required to be paid and the wages that the  
41 contractor or subcontractor actually paid; and

42 (b) May, in addition to any other administrative penalty, impose  
43 an administrative penalty not to exceed the costs incurred by the  
44 Labor Commissioner to investigate and prosecute the matter.



1 3. If the Labor Commissioner finds that a person has failed to  
2 pay the prevailing wage required pursuant to NRS 338.020 to  
3 338.090, inclusive, the public body may, in addition to any other  
4 remedy or penalty provided in this chapter, require the person to pay  
5 the actual costs incurred by the public body to investigate the  
6 matter.

7 4. The Labor Commissioner is not required to assess a person  
8 an amount equal to the difference between the prevailing wages  
9 required to be paid and the wages that the contractor or  
10 subcontractor actually paid if the contractor or subcontractor has  
11 already paid that amount to a worker pursuant to paragraph (c) of  
12 subsection 4 of NRS 338.035.

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

15 **Sec. 13.** (Deleted by amendment.)

16 **Sec. 14.** (Deleted by amendment.)

17 **Sec. 15.** (Deleted by amendment.)

18 **Sec. 16.** The provisions of NRS 354.599 do not apply to any  
19 additional expenses of a local government that are related to the  
20 provisions of this act.

21 **Sec. 16.5.** The amendatory provisions of this act do not apply  
22 to any contract, lease or other agreement entered into before the  
23 effective date of this act.

24 **Sec. 17.** This act becomes effective upon passage and  
25 approval.

