

SENATE BILL NO. 332—SENATORS SETTELMEYER, CEGAVSKE, HARDY, GUSTAVSON; BROWER, HALSETH, KIECKHEFER, MCGINNESS AND ROBERSON

MARCH 21, 2011

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing compensation for overtime. (BDR 53-708)

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

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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 compensation; revising provisions governing compensation for overtime; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 The Fair Labor Standards Act requires that compensation for overtime be paid  
2 to certain employees for hours worked in excess of 40 hours in any week of work.  
3 (29 U.S.C. § 207) Under existing Nevada law, certain employees, including certain  
4 classified employees of this State, certain employees of contractors working on  
5 public works projects and certain other employees of private employers, are entitled  
6 to compensation for overtime at a rate of 1 1/2 times an employee’s regular wage  
7 rate for any hours worked in excess of 8 hours in any workday or in excess of 40  
8 hours in any week of work. (NRS 284.180, 338.020, 608.018) **Sections 1-3** of this  
9 bill remove the provisions which require payment of compensation for overtime for  
10 hours worked in excess of 8 hours in any workday, while retaining the provisions  
11 which require payment of compensation for overtime for hours worked in excess of  
12 40 hours in any week of work.

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

1 **Section 1.** NRS 608.018 is hereby amended to read as follows:  
2 608.018 1. ~~[An employer shall pay 1 1/2 times an employee’s~~  
3 ~~regular wage rate whenever an employee who receives~~  
4 ~~compensation for employment at a rate less than 1 1/2 times the~~  
5 ~~minimum rate prescribed pursuant to NRS 608.250 works:~~



1 ~~—(a) More than 40 hours in any scheduled week of work; or~~  
2 ~~—(b) More than 8 hours in any workday unless by mutual~~  
3 ~~agreement the employee works a scheduled 10 hours per day for 4~~  
4 ~~calendar days within any scheduled week of work.~~

5 ~~—2.—An}~~ *Except as otherwise provided in subsection 2, an*  
6 employer shall pay 1 1/2 times an employee's regular wage rate  
7 whenever an employee who receives compensation for employment  
8 at a rate not less than 1 1/2 times the minimum rate prescribed  
9 pursuant to NRS 608.250 works more than 40 hours in any  
10 scheduled week of work.

11 ~~[3.] 2.~~ The provisions of ~~[subsections 1 and 2]~~ *subsection 1* do  
12 not apply to:

13 (a) Employees who are not covered by the minimum wage  
14 provisions of NRS 608.250;

15 (b) Outside buyers;

16 (c) Employees in a retail or service business if their regular rate  
17 is more than 1 1/2 times the minimum wage, and more than half  
18 their compensation for a representative period comes from  
19 commissions on goods or services, with the representative period  
20 being, to the extent allowed pursuant to federal law, not less than  
21 ~~[one]~~ 1 month;

22 (d) Employees who are employed in bona fide executive,  
23 administrative or professional capacities;

24 (e) Employees covered by collective bargaining agreements  
25 which provide otherwise for overtime;

26 (f) Drivers, drivers' helpers, loaders and mechanics for motor  
27 carriers subject to the Motor Carrier Act of 1935, as amended;

28 (g) Employees of a railroad;

29 (h) Employees of a carrier by air;

30 (i) Drivers or drivers' helpers making local deliveries and paid  
31 on a trip-rate basis or other delivery payment plan;

32 (j) Drivers of taxicabs or limousines;

33 (k) Agricultural employees;

34 (l) Employees of business enterprises having a gross sales  
35 volume of less than \$250,000 per year;

36 (m) Any salesperson or mechanic primarily engaged in selling  
37 or servicing automobiles, trucks or farm equipment; and

38 (n) A mechanic or worker for any hours to which the provisions  
39 of subsection 3 or 4 of NRS 338.020 apply.

40 **Sec. 2.** NRS 284.180 is hereby amended to read as follows:

41 284.180 1. The Legislature declares that since uniform salary  
42 and wage rates and classifications are necessary for an effective and  
43 efficient personnel system, the pay plan must set the official rates  
44 applicable to all positions in the classified service, but the  
45 establishment of the pay plan in no way limits the authority of the



1 Legislature relative to budgeted appropriations for salary and wage  
2 expenditures.

3 2. Credit for overtime work directed or approved by the head  
4 of an agency or the representative of the head of the agency must be  
5 earned at the rate of time and one-half, except for those employees  
6 described in NRS 284.148.

7 3. Except as otherwise provided in subsections 4, 6 ~~[, 7]~~ and  
8 ~~[9,]~~ 8, overtime is considered time worked in excess of ~~8~~:

- 9 ~~—(a) Eight hours in 1 calendar day;~~  
10 ~~—(b) Eight hours in any 16-hour period; or~~  
11 ~~—(c) A] a 40-hour week.~~

12 4. Firefighters who choose and are approved for a 24-hour shift  
13 shall be deemed to work an average of 56 hours per week and 2,912  
14 hours per year, regardless of the actual number of hours worked or  
15 on paid leave during any biweekly pay period. A firefighter so  
16 assigned is entitled to receive 1/26 of the firefighter's annual salary  
17 for each biweekly pay period. In addition, overtime must be  
18 considered time worked in excess of:

- 19 (a) Twenty-four hours in one scheduled shift; or  
20 (b) Fifty-three hours average per week during one work period  
21 for those hours worked or on paid leave.

22 ➤ The appointing authority shall designate annually the length of  
23 the work period to be used in determining the work schedules for  
24 such firefighters. In addition to the regular amount paid such a  
25 firefighter for the deemed average of 56 hours per week, the  
26 firefighter is entitled to payment for the hours which comprise the  
27 difference between the 56-hour average and the overtime threshold  
28 of 53 hours average at a rate which will result in the equivalent of  
29 overtime payment for those hours.

30 5. The Commission shall adopt regulations to carry out the  
31 provisions of subsection 4.

32 6. ~~[For employees who choose and are approved for a variable  
33 workday, overtime will be considered only after working 40 hours  
34 in 1 week.~~

35 ~~—7.] Employees who are eligible under the Fair Labor Standards  
36 Act of 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour  
37 work schedule within a biweekly pay period and who choose and  
38 are approved for such a work schedule will be considered eligible  
39 for overtime only after working 80 hours biweekly. ~~[, except those  
40 eligible employees who are approved for overtime in excess of one  
41 scheduled shift of 8 or more hours per day.~~~~

42 ~~—8.] 7.~~ An agency may experiment with innovative workweeks  
43 upon the approval of the head of the agency and after majority  
44 consent of the affected employees. The affected employees are  
45 eligible for overtime only after working 40 hours in a workweek.



1 ~~[9.]~~ 8. This section does not supersede or conflict with existing  
2 contracts of employment for employees hired to work 24 hours a  
3 day in a home setting. Any future classification in which an  
4 employee will be required to work 24 hours a day in a home setting  
5 must be approved in advance by the Commission.

6 ~~[10.]~~ 9. All overtime must be approved in advance by the  
7 appointing authority or the designee of the appointing authority. No  
8 officer or employee, other than a director of a department or the  
9 chair of a board, commission or similar body, may authorize  
10 overtime for himself or herself. The chair of a board, commission or  
11 similar body must approve in advance all overtime worked by  
12 members of the board, commission or similar body.

13 ~~[11.]~~ 10. The Budget Division of the Department of  
14 Administration shall review all overtime worked by employees of  
15 the Executive Department to ensure that overtime is held to a  
16 minimum. The Budget Division shall report quarterly to the State  
17 Board of Examiners the amount of overtime worked in the quarter  
18 within the various agencies of the State.

19 **Sec. 3.** NRS 338.020 is hereby amended to read as follows:

20 338.020 1. Every contract to which a public body of this  
21 State is a party, requiring the employment of skilled mechanics,  
22 skilled workers, semiskilled mechanics, semiskilled workers or  
23 unskilled labor in the performance of public work, must contain in  
24 express terms the hourly and daily rate of wages to be paid each of  
25 the classes of mechanics and workers. The hourly and daily rate of  
26 wages must:

27 (a) Not be less than the rate of such wages then prevailing in the  
28 county in which the public work is located, which prevailing rate of  
29 wages must have been determined in the manner provided in NRS  
30 338.030; and

31 (b) Be posted on the site of the public work in a place generally  
32 visible to the workers.

33 2. When public work is performed by day labor, the prevailing  
34 wage for each class of mechanics and workers so employed applies  
35 and must be stated clearly to such mechanics and workers when  
36 employed.

37 3. Except as otherwise provided in subsection 4, a contractor or  
38 subcontractor shall pay to a mechanic or worker employed by the  
39 contractor or subcontractor on the public work not less than one and  
40 one-half times the prevailing rate of wages applicable to the class of  
41 the mechanic or worker for each hour the mechanic or worker works  
42 on the public work in excess of ~~[~~

43 ~~(a) Forty]~~ 40 hours in any scheduled week of work by the  
44 mechanic or worker for the contractor or subcontractor, including,



1 without limitation, hours worked for the contractor or subcontractor  
2 on work other than the public work . ~~[- or~~  
3 ~~—(b) Eight hours in any workday that the mechanic or worker was~~  
4 ~~employed by the contractor or subcontractor, including, without~~  
5 ~~limitation, hours worked for the contractor or subcontractor on work~~  
6 ~~other than the public work, unless by mutual agreement the~~  
7 ~~mechanic or worker works a scheduled 10 hours per day for 4~~  
8 ~~calendar days within any scheduled week of work.]~~  
9 4. The provisions of subsection 3 do not apply to a mechanic or  
10 worker who is covered by a collective bargaining agreement that  
11 provides for the payment of wages at not less than one and one-half  
12 times the rate of wages set forth in the collective bargaining  
13 agreement for work in excess of ~~[-~~  
14 ~~—(a) Forty] 40~~ hours in any scheduled week of work . ~~[- or~~  
15 ~~—(b) Eight hours in any workday unless the collective bargaining~~  
16 ~~agreement provides that the mechanic or worker shall work a~~  
17 ~~scheduled 10 hours per day for 4 calendar days within any~~  
18 ~~scheduled week of work.]~~  
19 5. The prevailing wage and any wages paid for overtime  
20 pursuant to subsection 3 or 4 to each class of mechanics or workers  
21 must be in accordance with the jurisdictional classes recognized in  
22 the locality where the work is performed.  
23 6. Nothing in this section prevents an employer who is  
24 signatory to a collective bargaining agreement from assigning such  
25 work in accordance with established practice.







