

**Committee Action:**  
**Do Pass** \_\_\_\_\_  
**Amend & Do Pass** \_\_\_\_\_  
**Other** \_\_\_\_\_

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**Assembly Committee on Commerce and Labor**

This measure may be considered for action during today's work session.

May 15, 2015

**SENATE BILL 193 (R1)**

**Revises provisions governing the payment of minimum wage and compensation for overtime. (BDR 53-989)**

**Sponsored by: Senate Committee on Commerce, Labor and Energy**

**Date Heard: April 22, 2015**

**Fiscal Impact: Effect on Local Government: No.  
Effect on the State: No.**

Senate Bill 193 requires the Labor Commissioner to establish a \$9 per hour minimum wage for an employee in private employment if the employer does not provide health insurance for the employee.

The measure also removes provisions requiring compensation for overtime for hours worked in excess of 8 hours in any workday, while retaining provisions requiring that compensation for overtime be paid to certain employees for hours worked in excess of 40 hours in any week of work.

**Amendments:** The attached amendment proposes to revert Senate Bill 193 to its original version, by removing the requirement that the Labor Commissioner establish the \$9 per hour minimum wage proposed in Section 1.

MOCK-UP

PROPOSED AMENDMENT 7338 TO  
SENATE BILL NO. 193  
FIRST REPRINT

PREPARED FOR ASSEMBLY COMMITTEE ON COMMERCE AND LABOR  
MAY 14, 2015

PREPARED BY THE LEGAL DIVISION

**NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.**

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of **green bold underlining** is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

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

- 1     **Section 1.** ~~{Chapter 608 of NRS is hereby amended by adding~~  
2 ~~thereto a new section to read as follows:~~  
3 ~~— In adopting the regulations establishing the minimum wage which~~  
4 ~~may be paid pursuant to NRS 608.250, the Labor Commissioner shall~~  
5 ~~ensure that the minimum wage for each employee to which those~~  
6 ~~regulations apply is at least \$9 per hour, if the employer of the employee~~  
7 ~~does not offer health insurance for the employee in accordance with~~  
8 ~~regulations adopted by the Labor Commissioner.}~~ **(Deleted by**  
9 **amendment.)**  
10    **Sec. 2.** NRS 608.018 is hereby amended to read as follows:  
11    608.018 1. ~~{An employer shall pay 1 1/2 times an employee's~~  
12 ~~regular wage rate whenever an employee who receives compensation for~~  
13 ~~employment at a rate less than 1 1/2 times the minimum rate prescribed~~  
14 ~~pursuant to NRS 608.250 works:~~  
15 ~~— (a) More than 40 hours in any scheduled week of work; or~~

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

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

9 ~~[3.]~~ 2. The provisions of ~~[subsections]~~ *subsection* 1 ~~[and 2]~~ do not  
10 apply to:

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

13 (b) Outside buyers;

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

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

21 (e) Employees covered by collective bargaining agreements which  
22 provide otherwise for overtime;

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

25 (g) Employees of a railroad;

26 (h) Employees of a carrier by air;

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

29 (j) Drivers of taxicabs or limousines;

30 (k) Agricultural employees;

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

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

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

37 **Sec. 3.** NRS 284.180 is hereby amended to read as follows:

38 284.180 1. The Legislature declares that since uniform salary and  
39 wage rates and classifications are necessary for an effective and efficient  
40 personnel system, the pay plan must set the official rates applicable to all  
41 positions in the classified service, but the establishment of the pay plan in  
42 no way limits the authority of the Legislature relative to budgeted  
43 appropriations for salary and wage expenditures.

44 2. Credit for overtime work directed or approved by the head of an  
45 agency or the representative of the head of the agency must be earned at

1 the rate of time and one-half, except for those employees described in NRS  
2 284.148.

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

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

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

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

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

24 5. The Commission shall adopt regulations to carry out the provisions  
25 of subsection 4.

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

29 ~~—7.]~~ Employees who are eligible under the Fair Labor Standards Act of  
30 1938, 29 U.S.C. §§ 201 et seq., to work a variable 80-hour work schedule  
31 within a biweekly pay period and who choose and are approved for such a  
32 work schedule will be considered eligible for overtime only after working  
33 80 hours biweekly. ~~[-, except those eligible employees who are approved~~  
34 ~~for overtime in excess of one scheduled shift of 8 or more hours per day.~~

35 ~~—8.]~~ 7. An agency may experiment with innovative workweeks upon  
36 the approval of the head of the agency and after majority consent of the  
37 affected employees. The affected employees are eligible for overtime only  
38 after working 40 hours in a workweek.

39 ~~[9.]~~ 8. This section does not supersede or conflict with existing  
40 contracts of employment for employees hired to work 24 hours a day in a  
41 home setting. Any future classification in which an employee will be  
42 required to work 24 hours a day in a home setting must be approved in  
43 advance by the Commission.

44 ~~[10.]~~ 9. All overtime must be approved in advance by the appointing  
45 authority or the designee of the appointing authority. No officer or

1 employee, other than a director of a department or the chair of a board,  
2 commission or similar body, may authorize overtime for himself or herself.  
3 The chair of a board, commission or similar body must approve in advance  
4 all overtime worked by members of the board, commission or similar  
5 body.

6 ~~{H1}~~ 10. The Budget Division of the Department of Administration  
7 shall review all overtime worked by employees of the Executive  
8 Department to ensure that overtime is held to a minimum. The Budget  
9 Division shall report quarterly to the State Board of Examiners the amount  
10 of overtime worked in the quarter within the various agencies of the State.

11 ~~{H2}~~ 11. A state employee is entitled to his or her normal rate of pay  
12 for working on a legal holiday unless the employee is entitled to payment  
13 for overtime pursuant to this section and the regulations adopted pursuant  
14 thereto. This payment is in addition to any payment provided for by  
15 regulation for a legal holiday.

16 **Sec. 4.** NRS 338.020 is hereby amended to read as follows:

17 338.020 1. Every contract to which a public body of this State is a  
18 party, requiring the employment of skilled mechanics, skilled workers,  
19 semiskilled mechanics, semiskilled workers or unskilled labor in the  
20 performance of public work, must contain in express terms the hourly and  
21 daily rate of wages to be paid each of the classes of mechanics and  
22 workers. The hourly and daily rate of wages must:

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

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

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

31 3. Except as otherwise provided in subsection 4, a contractor or  
32 subcontractor shall pay to a mechanic or worker employed by the  
33 contractor or subcontractor on the public work not less than one and one-  
34 half times the prevailing rate of wages applicable to the class of the  
35 mechanic or worker for each hour the mechanic or worker works on the  
36 public work in excess of ~~8~~:

37 ~~(a) Forty~~ 40 hours in any scheduled week of work by the mechanic or  
38 worker for the contractor or subcontractor, including, without limitation,  
39 hours worked for the contractor or subcontractor on work other than the  
40 public work. ~~8; or~~

41 ~~(b) Eight hours in any workday that the mechanic or worker was~~  
42 ~~employed by the contractor or subcontractor, including, without limitation,~~  
43 ~~hours worked for the contractor or subcontractor on work other than the~~  
44 ~~public work, unless by mutual agreement the mechanic or worker works a~~

1 ~~scheduled 10 hours per day for 4 calendar days within any scheduled week~~  
2 ~~of work.]~~  
3 4. The provisions of subsection 3 do not apply to a mechanic or  
4 worker who is covered by a collective bargaining agreement that provides  
5 for the payment of wages at not less than one and one-half times the rate of  
6 wages set forth in the collective bargaining agreement for work in excess  
7 of ~~8~~  
8 ~~—(a) Forty]~~ 40 hours in any scheduled week of work. ~~]; or~~  
9 ~~—(b) Eight hours in any workday unless the collective bargaining~~  
10 ~~agreement provides that the mechanic or worker shall work a scheduled 10~~  
11 ~~hours per day for 4 calendar days within any scheduled week of work.]~~  
12 5. The prevailing wage and any wages paid for overtime pursuant to  
13 subsection 3 or 4 to each class of mechanics or workers must be in  
14 accordance with the jurisdictional classes recognized in the locality where  
15 the work is performed.  
16 6. Nothing in this section prevents an employer who is signatory to a  
17 collective bargaining agreement from assigning such work in accordance  
18 with established practice.

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