

LCB File No. R128-07

**PROPOSED REGULATION OF THE
LABOR COMMISSIONER**

**Notice of Hearing and Intent to Act upon Regulations
December 27, 2007**

The Office of the Nevada Labor Commissioner is proposing the amendment of regulations pertaining to Chapter 338 of Nevada Administrative Code. Workshops were held on December 18, 2007 in Carson City, Nevada and on December 12, 2007 in Las Vegas, Nevada for the purpose of soliciting comments and information from persons interested in the proposed regulations.

A public hearing will be held on February 6, 2008 at 9:00 am at Nevada Department of Business and Industry Hearing Room located at 788 Fairview Drive, Carson City, Nevada and teleconferenced to the Nevada Department of Business and Industry Hearing Room located at the Bradley Building, 2501 East Sahara Avenue, Real Estate Conference Room, Las Vegas, Nevada.

The purpose of the hearing is to solicit testimony from all interested persons regarding the amendment of regulations that pertain to Chapter 338 of NAC.

The due date for submitting written information will be February 5, 2008.

A copy of all materials relating to the proposal may be obtained at the Labor Commissioner's website, www.laborcommissioner.com.

This Notice of Hearing and Intent to Act upon Regulations has been sent to all persons on the agency's mailing list for administrative regulations pertaining to Nevada Administrative Code Chapter 338 and posted at the following locations:

Office of the Labor Commissioner
555 W. Washington Avenue Suite 4100
Las Vegas, Nevada

Carson City District Courthouse
885 E. Musser Street
Carson City, Nevada

Grant Sawyer State Office Building (Lobby)
555 E. Washington Avenue
Las Vegas, Nevada

Legislative Building
401 S. Carson Street
Carson City, Nevada

Office of the Labor Commissioner
675 Fairview Drive, Suite 226
Carson City, Nevada 89701

State of Nevada Bradley Building
2501 Sahara Avenue
Las Vegas, Nevada

IMPACT STATEMENT-EFFECT OF THE REGULATION ON BUSINESSES, THE PUBLIC AND THE AGENCY

The following information is provided pursuant to the requirements of NRS 233B.0603:

1. The need for and the purpose of the proposed regulation or amendment.

Regulations are needed to codify a “baseline” of prevailing wage classifications in order to meet the requirements of the Nevada Supreme Court’s decision in the case of Littlefield v. Labor Commissioner. In that case, the Court determined that the classifications are regulations as defined in NRS 233B even though they have never been formally adopted. The classifications are currently embedded in the prevailing wage rate tables for 2006-2007. Once the classifications are formally adopted and the baseline established, additions, deletions, and changes to the classifications can be made through the rulemaking process established in NRS Chapter 233B in an orderly fashion.

2. Either the terms or the substance of the regulations to be adopted, amended, or repealed, or a description of the subjects and issues involved.

Subjects involved include a comprehensive listing of recognized job classifications for which the Labor Commissioner determines annual rates for all of Nevada’s counties.

3. The estimated economic effect of the regulation on the businesses which it is to regulate and on the public.

- a. Adverse Effects:** No adverse effects are contemplated.
- b. Beneficial Effects:** In the past, classifications that were added through collective bargaining agreements were added, modified, and deleted on an ad hoc basis without any public participation. This rule would make the process more transparent by permitting public participation and input through 233B rulemaking before the classifications are added, modified, or deleted.
- c. Immediate effects:** The regulation will create a baseline within which changes to job classifications can be addressed.
- d. Long term effects:** Provides a more public process for making changes to prevailing wage classifications.

4. The estimated cost to the agency for enforcement of the proposed regulation.

There could be a minimal increase in costs to the agency because an annual rulemaking process may be necessary to adjust the classifications on a going forward basis.

5. A description of and citation to any regulations of other state or local governmental agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the proposed regulation overlaps or

duplicates a federal regulation, the notice must include the name of the regulating federal agency.

The proposed regulations would not duplicate the regulations of any other state or federal agency.

6. If the regulation is required pursuant to federal law, a citation and description of the federal law.

The proposed regulations are not required pursuant to federal law.

7. If the regulation includes provisions which are more stringent than a federal regulation that regulates the same activity, a summary of such provisions.

The proposed regulations are not more stringent than federal regulations governing the same activities.

8. Whether the proposed regulation establishes a new fee or increases an existing fee.

The proposed regulation does not establish a new fee nor increases an existing fee.

Persons wishing to comment upon the proposed action of Office of the Labor Commissioner may appear at the scheduled hearing or may address their comments, data, views, or arguments, in written form, to Michael Tanchek, Nevada Labor Commissioner, 675 Fairview Drive, Suite 226, Carson City, Nevada 89701. Written submissions must be received by the Labor Commissioner on or before **February 5, 2008**. If no person who is directly affected by the proposed action appears to request time to make an oral presentation, the Labor Commissioner may proceed immediately to act upon any written submissions.

A copy of this notice and the regulation to be adopted will be on file at the State Library, 100 Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the notice and the regulation to be adopted will be available at the Labor Commissioner's website located at www.laborcommissioner.com, at the offices of the Labor Commissioner, located at 555 E. Washington Avenue, Suite 4100, Las Vegas, Nevada and 675 Fairview Drive, Suite 226, Carson City, Nevada, respectively. This notice and the text of the proposed regulation are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the Internet at <http://www.leg.state.nv.us>. Copies of this notice and the proposed regulation will also be mailed to members of the public upon request. A fee of \$75.00 (20¢ per page) will be charged for copies.

Upon adoption of any regulation, the agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, will issue a concise statement of the principal reasons for and against its adoption and incorporate therein its reason for overruling the consideration urged against its adoption.

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Carson City, NV

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Office of the Labor Commissioner
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Carson City, Nevada 89701

State of Nevada Bradley Building
2501 Sahara Avenue
Las Vegas, NV

MICHAEL TANCHEK
Nevada Labor Commissioner

Dated this ____ day of December, 2007