

SENATE BILL NO. 224—COMMITTEE ON
COMMERCE, LABOR AND ENERGY

MARCH 6, 2015

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions relating to employment.
(BDR 53-985)

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 employment; excluding the relationship between a principal and an independent contractor from certain provisions governing the payment of minimum wage to an employee; prohibiting a person from recovering unpaid wages in certain proceedings unless the person consents to his or her participation in writing; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Section 16 of Article 15 of the Nevada Constitution defines the term
2 “employee” and requires each employer to pay a certain minimum wage to each
3 employee. Existing law imposes certain additional requirements relating to
4 compensation, wages and hours of employees. (Chapter 608 of NRS) **Section 2** of
5 this bill defines the term “independent contractor.” **Section 5** of this bill excludes
6 the relationship between a principal and an independent contractor from those
7 relationships that constitute employment relationships for the purpose of requiring
8 the payment of a minimum wage. **Section 3** of this bill prohibits a person from
9 recovering unpaid wages in a proceeding relating to the payment of a minimum
10 wage unless the person consents in writing to become a plaintiff in such a
11 proceeding and such a consent is filed with the court or agency in which the
12 proceeding is brought. **Section 7** of this bill applies the provisions of this bill to any
13 action or proceeding to recover unpaid wages pursuant to a requirement to pay a
14 minimum wage in which a final decision has not been rendered as of the effective
15 date of this bill.



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 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *“Independent contractor” means any person who*
4 *renders service for a specified recompense or no recompense for a*
5 *specified result, under the control of the person’s principal as to*
6 *the result of the person’s work only and not as to the means by*
7 *which such result is accomplished. Factors that must be*
8 *considered to determine whether a person is an independent*
9 *contractor are whether the person:*

10 1. *Is free to establish his or her days and hours of*
11 *performance and is substantially free from the control and*
12 *direction of the person’s principal.*

13 2. *Is customarily engaged in a trade or business of the work*
14 *being performed which is established independently of the*
15 *principal.*

16 3. *Is free to offer the same services to competitors of the*
17 *principal or to customers of the competitors of the principal.*

18 4. *Receives compensation from the principal or from some*
19 *other person or entity and is a tenant or customer of the principal.*

20 5. *Holds a current state business license issued by the*
21 *Secretary of State pursuant to chapter 76 of NRS.*

22 6. *Intended to be an independent contractor rather than an*
23 *employee of the principal at the time the person’s services were*
24 *engaged.*

25 7. *Does not have contributions, premiums or taxes imposed*
26 *pursuant to chapters 363A, 363B, 612 and 616A to 617, inclusive,*
27 *of NRS withheld or paid on his or her behalf by the principal.*

28 8. *Leases space or equipment from the principal.*

29 **Sec. 3.** *A person may not recover unpaid wages in a*
30 *proceeding pursuant to Section 16 of Article 15 of the Nevada*
31 *Constitution or this section and NRS 608.250 to 608.290,*
32 *inclusive, unless he or she gives his or her consent in writing to*
33 *become a plaintiff and his or her consent is filed with the court or*
34 *agency in which the proceeding is brought.*

35 **Sec. 4.** NRS 608.007 is hereby amended to read as follows:
36 608.007 As used in this chapter, unless the context otherwise
37 requires, the words and terms defined in NRS 608.010 to 608.0126,
38 inclusive, *and section 2 of this act* have the meanings ascribed to
39 them in those sections.

40 **Sec. 5.** NRS 608.255 is hereby amended to read as follows:
41 608.255 For the purposes of this chapter and any other
42 statutory or constitutional provision governing the minimum wage



1 paid to an employee, the following relationships do not constitute
2 employment relationships and are therefore not subject to those
3 provisions:

4 1. The relationship between a rehabilitation facility or
5 workshop established by the Department of Employment, Training
6 and Rehabilitation pursuant to chapter 615 of NRS and an individual
7 with a disability who is participating in a training or rehabilitative
8 program of such a facility or workshop.

9 2. The relationship between a provider of jobs and day training
10 services which is recognized as exempt pursuant to the provisions of
11 26 U.S.C. § 501(c)(3) and which has been issued a certificate by the
12 Division of Public and Behavioral Health of the Department of
13 Health and Human Services pursuant to NRS 435.130 to 435.310,
14 inclusive, and a person with an intellectual disability or a person
15 with a related condition participating in a jobs and day training
16 services program.

17 **3. *Relationship between a principal and an independent***
18 ***contractor.***

19 **Sec. 6.** NRS 444.300 is hereby amended to read as follows:

20 444.300 Any person employed by a children's camp on a
21 written contract basis for a specified term longer than 1 week is
22 exempt from the provisions of NRS 608.250 to 608.290, inclusive,
23 ***and section 3 of this act*** and chapter 609 of NRS relating to daily
24 and weekly hours of labor only if such camp is operated by a
25 nonprofit organization which is exempt from federal income tax
26 under I.R.C. § 501.

27 **Sec. 7.** The amendatory provisions of this act apply to an
28 action or proceeding to recover unpaid wages pursuant to Section 16
29 of Article 15 of the Nevada Constitution or NRS 608.250 to
30 608.290, inclusive, and section 3 of this act in which a final decision
31 has not been rendered before, on or after the effective date of this
32 act.

33 **Sec. 8.** This act becomes effective upon passage and approval.

