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FIRST REPRINT

A.B. 210

ASSEMBLY BILL NO. 210—ASSEMBLYMEN DURAN, TORRES,
GONZÁLEZ; CARTER, GORELOW, LA RUE HATCH,
MARZOLA, NEWBY, NGUYEN AND THOMAS

FEBRUARY 22, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works.
(BDR 28-832)

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

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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; requiring a contractor on a public work to provide a worker with written or electronic notice of certain information; requiring a person found by the Labor Commissioner to have willfully and repeatedly failed to pay prevailing wages to a worker to pay certain damages to the affected worker; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires every contract to which a public body of this State is a
2 party that requires the employment of certain skilled, semiskilled and unskilled
3 workers to contain in express terms the hourly and daily rate of wages to be paid to
4 each class of applicable workers. The hourly and daily rate must not be less than
5 the prevailing wage in the region in which the public work is located, as determined
6 by the Labor Commissioner. (NRS 338.020, 338.030) **Section 5.5** of this bill
7 requires each contractor engaged on a public work to provide his or her workers
8 assigned to the public work with a written or electronic notice that sets forth: (1) the
9 Internet website of the Labor Commissioner where the prevailing wage rates for the
10 public work project are posted; (2) the name of the contractor; and (3) the physical
11 address of the principal place of business of the contractor. **Section 5.5** further
12 requires the contractor to obtain from each worker a written or electronic
13 acknowledgment of receipt of the notice, to be maintained by the contractor for a
14 period of at least 2 years and made available to the Labor Commissioner upon
15 request.

16 Existing law requires, with certain exception, the Labor Commissioner, after an
17 opportunity for a hearing, to assess a person found to have failed to pay the
18 required prevailing wage an amount equal to the difference between the prevailing
19 wages required to be paid and the wages that the contractor or subcontractor



20 actually paid. (NRS 338.090) **Section 6** of this bill requires, without exception, a
21 person found to have willfully and repeatedly failed to pay the prevailing wage to
22 pay an affected worker damages in an amount that is equal to the difference
23 between the prevailing wages required to be paid and the wages that the contractor
24 or subcontractor actually paid to the affected worker.

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 to 5.5, inclusive, of this
3 act.

4 **Sec. 2.** (Deleted by amendment.)

5 **Sec. 3.** (Deleted by amendment.)

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

7 **Sec. 5.** (Deleted by amendment.)

8 **Sec. 5.5. 1.** *A contractor engaged on a public work shall*
9 *provide to his or her workers assigned to the public work a written*
10 *or electronic notice that includes, without limitation:*

11 *(a) The Internet website of the Labor Commissioner where the*
12 *prevailing wage rates for the public work are posted;*

13 *(b) The name of the contractor; and*

14 *(c) The physical address of the principal place of business of*
15 *the contractor.*

16 *2. A contractor shall obtain a written or electronic*
17 *acknowledgement of receipt of the notice pursuant to this section*
18 *from each worker assigned to the public work. Each*
19 *acknowledgement of notice must be maintained by the contractor*
20 *for at least 2 years, made available to the Labor Commissioner*
21 *upon request and include, without limitation:*

22 *(a) The worker's name, contact information and signature;*
23 *and*

24 *(b) The date on which the worker received the notice.*

25 **Sec. 6.** NRS 338.090 is hereby amended to read as follows:

26 338.090 1. Except as otherwise provided in subsection 5, any
27 person, including the officers, agents or employees of a public body,
28 who violates any provision of NRS 338.010 to 338.090, inclusive,
29 or any regulation adopted pursuant thereto, is guilty of a
30 misdemeanor.

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

33 (a) Shall, except as otherwise provided in subsection 4, assess a
34 person who, after an opportunity for a hearing, is found to have
35 failed to pay the prevailing wage required pursuant to NRS 338.020
36 to 338.090, inclusive, an amount equal to the difference between the



1 prevailing wages required to be paid and the wages that the
2 contractor or subcontractor actually paid; ~~and~~

3 (b) *Shall require a person found to have willfully and*
4 *repeatedly failed to pay the prevailing wage required pursuant to*
5 *NRS 338.020 to 338.090, inclusive, to pay damages to each*
6 *affected worker in an amount equal to the difference between the*
7 *prevailing wages required to be paid and the wages that the*
8 *contractor or subcontractor actually paid to the worker; and*

9 (c) May, in addition to any other administrative penalty, impose
10 an administrative penalty not to exceed the costs incurred by the
11 Labor Commissioner to investigate and prosecute the matter.

12 3. If the Labor Commissioner finds that a person has failed to
13 pay the prevailing wage required pursuant to NRS 338.020 to
14 338.090, inclusive, the public body may, in addition to any other
15 remedy or penalty provided in this chapter, require the person to pay
16 the actual costs incurred by the public body to investigate the
17 matter.

18 4. The Labor Commissioner is not required to assess a person
19 an amount equal to the difference between the prevailing wages
20 required to be paid and the wages that the contractor or
21 subcontractor actually paid if the contractor or subcontractor has
22 already paid that amount to a worker pursuant to paragraph (c) of
23 subsection 4 of NRS 338.035.

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

26 **Sec. 7.** 1. This section becomes effective upon passage and
27 approval.

28 2. Sections 1 to 6, inclusive, of this act become effective:

29 (a) Upon passage and approval for the purpose of adopting
30 regulations and performing any other preparatory administrative
31 tasks that are necessary to carry out the provisions of this act; and

32 (b) On January 1, 2024, for all other purposes.

