

Amendment No. 753

Senate Amendment to Senate Bill No. 226 First Reprint (BDR 28-494)
Proposed by: Senate Committee on Finance
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the unfunded mandate not requested by the affected local government to S.B. 226 R1 (§§ 3, 5).
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ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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.

AMD/HAC



Date: 5/26/2023

S.B. No. 226—Revises provisions governing public works. (BDR 28-494)



SENATE BILL NO. 226—SENATOR CANNIZZARO

MARCH 7, 2023

JOINT SPONSOR: ASSEMBLYMAN YEAGER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works. (BDR 28-494)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

CONTAINS UNFUNDED MANDATE (§§ 3, 5)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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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; providing a declaration of legislative intent regarding the payment of prevailing wages on public works projects; providing that certain projects require the payment of prevailing wages; revising the definition of “public work”; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of a public work, must contain in express terms the hourly and daily rate of wages to be paid to each of the classes of mechanics and workers. The hourly and daily rate of wages must not be less than the prevailing wage in the region in which the public work is located, as determined by the Labor Commissioner. (NRS 338.020)

Section 2 of this bill makes a declaration of legislative intent finding that: (1) the payment of prevailing wages to workers on public works projects that are funded in whole or in part by public money is essential to the economic well-being of this State, increasing the number of skilled construction workers in this State, enhancing the workforce of the State and increasing redevelopment opportunities in the State; and (2) careful scrutiny of novel leasing and financial arrangements entered into and incentives offered by a public body is necessary to ensure workers are paid the prevailing wage. **Section 8** of this bill provides that any regulation adopted by the Labor Commissioner relating to public works must be consistent with the declaration of legislative intent set forth in **section 2**.

Existing law makes the prevailing wage requirements applicable to certain, specific construction projects. (NRS 244.286, 244A.058, 244A.763, 268.568, 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 321.416, 332.390, 333A.120, 349.670, 349.956, 349.981, 388A.635, 408.3886, 543.545, 701B.265, 701B.625) **Section 3** of this bill requires, with certain exceptions, the payment of prevailing wages on any project if, pursuant to certain agreements or partnerships between a developer and a public body: (1) the property or premises on which the project will be constructed or developed is owned by a public body; (2)

24 the property or premises on which a project will be constructed or developed is, in whole or in
 25 part, subject to a lease or lease-purchase agreement by a public body; (3) a public body pays
 26 money or other compensation directly to or on behalf of the developer or contractor of the
 27 project or any subcontractor who performs any work on the project; (4) a public body pays,
 28 credits, reduces, forgives or waives any fee, cost, rent, insurance premium, bond premium,
 29 obligation or expense, including, without limitation, an incidental expense, in relation to the
 30 project that is normally required in the execution of a contract for a public work on which the
 31 estimated cost exceeds \$100,000; (5) a public body loans money in relation to the project that
 32 is required to be repaid to the public body; (6) a public body retains any right to ownership of
 33 the property or premises after construction work begins on the project; (7) in relation to the
 34 project, a public body sells, leases or otherwise transfers for less than fair market value any
 35 developed or undeveloped real property or any other property or asset; or (8) in relation to the
 36 project, a public body transfers property of the State or political subdivision for less than fair
 37 market value. **Section 3** exempts from these provisions airport authorities, single-family
 38 residential housing and certain projects relating to affordable housing.

39 Existing law defines the term “public work” to mean any project for the new construction,
 40 repair or reconstruction of a project financed in whole or in part from public money for certain
 41 publicly owned works and property. (NRS 338.010) **Section 5** of this bill amends the
 42 definition of “public work” to include a project financed in whole or in part from public
 43 money.

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 thereto the
 2 provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *The Legislature hereby finds and declares that:*

4 *1. The payment of prevailing wages to workers on public works projects that*
 5 *are funded in whole or in part by public money is essential to:*

- 6 *(a) The economic well-being of this State;*
 7 *(b) Increasing the number of skilled construction workers in this State;*
 8 *(c) Enhancing the workforce in this State; and*
 9 *(d) Increasing redevelopment opportunities in this State.*

10 *2. To ensure the intentions set forth in subsection 1 are upheld, careful*
 11 *scrutiny of novel leasing and financing arrangements entered into or incentives*
 12 *offered by public bodies for the construction of public works is necessary to*
 13 *ensure that workers on public works projects are paid prevailing wages.*

14 **Sec. 3.** *1. The provisions of NRS 338.013 to 338.090, inclusive, apply to*
 15 *any project if, pursuant to the provisions of a contract or a lease agreement,*
 16 *lease-purchase agreement, development agreement, improvement district,*
 17 *redevelopment project or public-private partnership between a private developer*
 18 *and a public body:*

19 *(a) The property or premises on which a project will be constructed or*
 20 *developed is owned by a public body;*

21 *(b) The property or premises on which a project will be constructed or*
 22 *developed are, in whole or in part, subject to a lease or lease-purchase agreement*
 23 *by a public body;*

24 *(c) A public body pays money or other compensation directly to or on behalf*
 25 *of the developer or contractor of the project or any subcontractor who performs*
 26 *any work on the project; or*

27 *(d) Except as otherwise provided in subsection 2, a public body:*

28 *(1) Pays, credits, reduces, forgives or waives any fee, cost, rent,*
 29 *insurance premium, bond premium, obligation or expense, including, without*

1 limitation, an incidental expense, in relation to the project that is normally
 2 required in the execution of a contract for a public work on which the estimated
 3 cost exceeds \$100,000;

4 (2) Loans money in relation to the project that is required to be repaid to
 5 the public body, regardless of the terms of the loan or the interest charged;

6 (3) Retains any right, including, without limitation, a contingent right, to
 7 retake ownership of the property or premises after construction work begins on
 8 the project;

9 (4) In relation to the project, a public body sells, leases or otherwise
 10 transfers for less than fair market value any developed or undeveloped real
 11 property or any other property or asset; or

12 (5) In relation to the project, a public body transfers property for less
 13 than fair market value.

14 2. The provisions of paragraph (d) of subsection 1 are not applicable ~~if a~~
 15 to:

16 (a) A local government that takes an action set forth in paragraph (d) of
 17 subsection 1 for the construction of ~~affordable~~ :

18 (1) Single-family residential housing; or

19 (2) Affordable housing ~~if~~ if such affordable housing is ~~less than three~~
 20 four floors ~~if~~ or less, regardless of whether each or any floor is above or below
 21 ground ~~if~~ ; or

22 (b) An airport authority operating in this State or a department of aviation
 23 which is operated by a political subdivision of this State.

24 3. As used in this section:

25 (a) "Affordable housing" means ~~f~~

26 ~~(1) Multifamily~~ multifamily housing that is:

27 ~~(I)~~ (I) Tier one affordable housing or tier two affordable housing;

28 and

29 ~~(II)~~ (2) Subject to a legally binding agreement or other instrument
 30 that includes restrictions for the resale of the property to require that such
 31 property continue to be used as tier one affordable housing ~~,~~ ~~or~~ tier two
 32 affordable housing ~~f~~ or

33 ~~(2) Single family residential housing that is:~~

34 ~~(I) Built on property that the homeowner leases under an agreement~~
 35 ~~that includes restrictions for the resale of the property to require that such~~
 36 ~~property continue to be used as tier two affordable housing, or tier three~~
 37 ~~affordable housing .f~~

38 ~~(II) Owned by a household that qualifies for tier two affordable~~
 39 ~~housing or tier three affordable housing; and~~

40 ~~(III) Subject to a legally binding agreement or other instrument that~~
 41 ~~includes restrictions for the resale of the property to require that such property~~
 42 ~~continue to be used as tier two affordable housing or tier three affordable~~
 43 ~~housing.~~

44 (b) "Improvement district" has the meaning ascribed to it in NRS 271.130.

45 (c) "Tier one affordable housing" has the meaning ascribed to it in NRS
 46 278.01902.

47 (d) "Tier three affordable housing" has the meaning ascribed to it in NRS
 48 278.01904.

49 (e) "Tier two affordable housing" has the meaning ascribed to it in NRS
 50 278.01906.

51 Sec. 4. (Deleted by amendment.)

52 Sec. 5. NRS 338.010 is hereby amended to read as follows:

53 338.010 As used in this chapter:

1 1. “Authorized representative” means a person designated by a public body to
2 be responsible for the development, solicitation, award or administration of
3 contracts for public works pursuant to this chapter.

4 2. “Bona fide fringe benefit” means a benefit in the form of a contribution
5 that is made not less frequently than monthly to an independent third party pursuant
6 to a fund, plan or program:

7 (a) Which is established for the sole and exclusive benefit of a worker and his
8 or her family and dependents; and

9 (b) For which none of the assets will revert to, or otherwise be credited to, any
10 contributing employer or sponsor of the fund, plan or program.

11 ➤ The term includes, without limitation, benefits for a worker that are determined
12 pursuant to a collective bargaining agreement and included in the determination of
13 the prevailing wage by the Labor Commissioner pursuant to NRS 338.030.

14 3. “Contract” means a written contract entered into between a contractor and
15 a public body for the provision of labor, materials, equipment or supplies for a
16 public work.

17 4. “Contractor” means:

18 (a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

19 (b) A design-build team.

20 5. “Day labor” means all cases where public bodies, their officers, agents or
21 employees, hire, supervise and pay the wages thereof directly to a worker or
22 workers employed by them on public works by the day and not under a contract in
23 writing.

24 6. “Design-build contract” means a contract between a public body and a
25 design-build team in which the design-build team agrees to design and construct a
26 public work.

27 7. “Design-build team” means an entity that consists of:

28 (a) At least one person who is licensed as a general engineering contractor or a
29 general building contractor pursuant to chapter 624 of NRS; and

30 (b) For a public work that consists of:

31 (1) A building and its site, at least one person who holds a certificate of
32 registration to practice architecture pursuant to chapter 623 of NRS.

33 (2) Anything other than a building and its site, at least one person who
34 holds a certificate of registration to practice architecture pursuant to chapter 623 of
35 NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed
36 as a professional engineer pursuant to chapter 625 of NRS.

37 8. “Design professional” means:

38 (a) A person who is licensed as a professional engineer pursuant to chapter 625
39 of NRS;

40 (b) A person who is licensed as a professional land surveyor pursuant to
41 chapter 625 of NRS;

42 (c) A person who holds a certificate of registration to engage in the practice of
43 architecture, interior design or residential design pursuant to chapter 623 of NRS;

44 (d) A person who holds a certificate of registration to engage in the practice of
45 landscape architecture pursuant to chapter 623A of NRS; or

46 (e) A business entity that engages in the practice of professional engineering,
47 land surveying, architecture or landscape architecture.

48 9. “Discrete project” means one or more public works which are undertaken
49 on a single construction site for a single public body. The term does not include one
50 or more public works that are undertaken on multiple construction sites regardless
51 of whether the public body which sponsors or finances the public works bundles the
52 public works together.

1 10. "Division" means the State Public Works Division of the Department of
2 Administration.

3 11. "Eligible bidder" means a person who is:

4 (a) Found to be a responsible and responsive contractor by a local government
5 or its authorized representative which requests bids for a public work in accordance
6 with paragraph (b) of subsection 1 of NRS 338.1373; or

7 (b) Determined by a public body or its authorized representative which
8 awarded a contract for a public work pursuant to NRS 338.1375 to 338.139,
9 inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or
10 338.1382.

11 12. "General contractor" means a person who is licensed to conduct business
12 in one, or both, of the following branches of the contracting business:

13 (a) General engineering contracting, as described in subsection 2 of NRS
14 624.215.

15 (b) General building contracting, as described in subsection 3 of NRS 624.215.

16 13. "Governing body" means the board, council, commission or other body in
17 which the general legislative and fiscal powers of a local government are vested.

18 14. "Horizontal construction" means any construction, alteration, repair,
19 renovation, demolition or remodeling necessary to complete a public work,
20 including, without limitation, any irrigation, drainage, water supply, flood control,
21 harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or
22 water treatment facility and any ancillary vertical components thereof, bridge,
23 inland waterway, pipeline for the transmission of petroleum or any other liquid or
24 gaseous substance, pier, and any other work incidental thereto. The term does not
25 include vertical construction, the construction of any terminal or other building of
26 an airport or airway, or the construction of any other building.

27 15. "Local government" means every political subdivision or other entity
28 which has the right to levy or receive money from ad valorem or other taxes or any
29 mandatory assessments, and includes, without limitation, counties, cities, towns,
30 boards, school districts and other districts organized pursuant to chapters 244A,
31 318, 318A, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,
32 inclusive, and any agency or department of a county or city which prepares a
33 budget separate from that of the parent political subdivision. The term includes a
34 person who has been designated by the governing body of a local government to
35 serve as its authorized representative.

36 16. "Offense" means:

37 (a) Failing to:

38 (1) Pay the prevailing wage required pursuant to this chapter;

39 (2) Pay the contributions for unemployment compensation required
40 pursuant to chapter 612 of NRS;

41 (3) Provide and secure compensation for employees required pursuant to
42 chapters 616A to 617, inclusive, of NRS; or

43 (4) Comply with subsection 5 or 6 of NRS 338.070.

44 (b) Discharging an obligation to pay wages in a manner that violates the
45 provisions of NRS 338.035.

46 17. "Prime contractor" means a contractor who:

47 (a) Contracts to construct an entire project;

48 (b) Coordinates all work performed on the entire project;

49 (c) Uses his or her own workforce to perform all or a part of the public work;
50 and

51 (d) Contracts for the services of any subcontractor or independent contractor or
52 is responsible for payment to any contracted subcontractors or independent
53 contractors.

1 ↳ The term includes, without limitation, a general contractor or a specialty
2 contractor who is authorized to bid on a project pursuant to NRS 338.139 or
3 338.148.

4 18. “Public body” means the State, county, city, town, school district or any
5 public agency of this State or its political subdivisions sponsoring or financing a
6 public work.

7 19. “Public work” means any project ~~for the new construction, repair or~~
8 ~~reconstruction of a project~~ financed in whole or in part from public money for:

9 (a) Public buildings;

10 (b) Jails and prisons;

11 (c) Public roads;

12 (d) Public highways;

13 (e) Public streets and alleys;

14 (f) Public utilities;

15 (g) Publicly owned water mains and sewers;

16 (h) Public parks and playgrounds;

17 (i) Public convention facilities which are financed at least in part ~~with~~ *from*
18 public money; and

19 (j) All other publicly owned works and property.

20 20. “Specialty contractor” means a person who is licensed to conduct business
21 as described in subsection 4 of NRS 624.215.

22 21. “Stand-alone underground utility project” means an underground utility
23 project that is not integrated into a larger project, including, without limitation:

24 (a) An underground sewer line or an underground pipeline for the conveyance
25 of water, including facilities appurtenant thereto; and

26 (b) A project for the construction or installation of a storm drain, including
27 facilities appurtenant thereto,

28 ↳ that is not located at the site of a public work for the design and construction of
29 which a public body is authorized to contract with a design-build team pursuant to
30 subsection 2 of NRS 338.1711.

31 22. “Subcontract” means a written contract entered into between:

32 (a) A contractor and a subcontractor or supplier; or

33 (b) A subcontractor and another subcontractor or supplier,

34 ↳ for the provision of labor, materials, equipment or supplies for a construction
35 project.

36 23. “Subcontractor” means a person who:

37 (a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs
38 such work that the person is not required to be licensed pursuant to chapter 624 of
39 NRS; and

40 (b) Contracts with a contractor, another subcontractor or a supplier to provide
41 labor, materials or services for a construction project.

42 24. “Supplier” means a person who provides materials, equipment or supplies
43 for a construction project.

44 25. “Vertical construction” means any construction, alteration, repair,
45 renovation, demolition or remodeling necessary to complete a public work for any
46 building, structure or other improvement that is predominantly vertical, including,
47 without limitation, a building, structure or improvement for the support, shelter and
48 enclosure of persons, animals, chattels or movable property of any kind, and any
49 other work or improvement appurtenant thereto.

50 26. “Wages” means:

51 (a) The basic hourly rate of pay; and

1 (b) The amount of pension, health and welfare, vacation and holiday pay, the
2 cost of apprenticeship training or other bona fide fringe benefits which are a benefit
3 to the worker.

4 27. "Worker" means a skilled mechanic, skilled worker, semiskilled
5 mechanic, semiskilled worker or unskilled worker in the service of a contractor or
6 subcontractor under any appointment or contract of hire or apprenticeship, express
7 or implied, oral or written, whether lawfully or unlawfully employed. The term
8 does not include a design professional.

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

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

11 **Sec. 8.** NRS 338.012 is hereby amended to read as follows:

12 338.012 1. The Labor Commissioner may adopt such regulations as are
13 necessary to enable the Labor Commissioner to carry out his or her duties pursuant
14 to the provisions of this chapter.

15 2. *Any regulation adopted by the Labor Commissioner pursuant to this*
16 *chapter must be consistent with the declaration of legislative intent set forth in*
17 *section 2 of this act.*

18 **Sec. 9.** (Deleted by amendment.)

19 **Sec. 10.** NRS 338.050 is hereby amended to read as follows:

20 338.050 For the purpose of NRS 338.010 to 338.090, inclusive, *and sections*
21 *2 and 3 of this act*, except as otherwise provided by specific statute, every worker
22 who performs work for a public work covered by a contract therefor is subject to all
23 of the provisions of NRS 338.010 to 338.090, inclusive, *and sections 2 and 3 of*
24 *this act*, regardless of any contractual relationship alleged to exist between such
25 worker and his or her employer.

26 **Sec. 11.** NRS 338.070 is hereby amended to read as follows:

27 338.070 1. Any public body awarding a contract shall:

28 (a) Investigate possible violations of the provisions of NRS 338.010 to
29 338.090, inclusive, *and sections 2 and 3 of this act* committed in the course of the
30 execution of the contract, and determine whether a violation has been committed
31 and inform the Labor Commissioner of any such violations; and

32 (b) When making payments to the contractor engaged on the public work of
33 money becoming due under the contract, withhold and retain all sums forfeited
34 pursuant to the provisions of NRS 338.010 to 338.090, inclusive ~~§~~, *and sections 2*
35 *and 3 of this act.*

36 2. No sum may be withheld, retained or forfeited, except from the final
37 payment, without a full investigation being made by the awarding public body.

38 3. Except as otherwise provided in subsection 7, it is lawful for any contractor
39 engaged on a public work to withhold from any subcontractor engaged on the
40 public work sufficient sums to cover any penalties withheld from the contractor by
41 the awarding public body on account of the failure of the subcontractor to comply
42 with the terms of NRS 338.010 to 338.090, inclusive ~~§~~, *and sections 2 and 3 of*
43 *this act*. If payment has already been made to the subcontractor, the contractor may
44 recover from the subcontractor the amount of the penalty or forfeiture in a suit at
45 law.

46 4. A contractor engaged on a public work and each subcontractor engaged on
47 the public work shall:

48 (a) Inquire of each worker employed by the contractor or subcontractor in
49 connection with the public work:

50 (1) Whether the worker wishes to specify voluntarily his or her gender; and

51 (2) Whether the worker wishes to specify voluntarily his or her ethnicity;

52 and

1 (b) For each response the contractor or subcontractor receives pursuant to
2 paragraph (a):

3 (1) If the worker chose voluntarily to specify his or her gender or ethnicity,
4 or both, record the worker's responses; and

5 (2) If the worker declined to specify his or her gender or ethnicity, or both,
6 record that the worker declined to specify such information.

7 ▶ A contractor or subcontractor shall not compel or coerce a worker to specify his
8 or her gender or ethnicity and shall not penalize or otherwise take any adverse
9 action against a worker who declines to specify his or her gender or ethnicity.
10 Before inquiring as to whether a worker wishes to specify voluntarily his or her
11 gender or ethnicity, the applicable contractor or subcontractor must inform the
12 worker that such information, if provided, will be open to public inspection as set
13 forth in subsection 6.

14 5. A contractor engaged on a public work and each subcontractor engaged on
15 the public work shall keep or cause to be kept:

16 (a) An accurate record showing, for each worker employed by the contractor or
17 subcontractor in connection with the public work:

18 (1) The name of the worker;

19 (2) The occupation of the worker;

20 (3) The gender of the worker, if the worker voluntarily agreed to specify
21 that information pursuant to subsection 4, or an entry indicating that the worker
22 declined to specify such information;

23 (4) The ethnicity of the worker, if the worker voluntarily agreed to specify
24 that information pursuant to subsection 4, or an entry indicating that the worker
25 declined to specify such information;

26 (5) If the worker has a driver's license or identification card, an indication
27 of the state or other jurisdiction that issued the license or card; and

28 (6) The actual per diem, wages and benefits paid to the worker; and

29 (b) An additional accurate record showing, for each worker employed by the
30 contractor or subcontractor in connection with the public work who has a driver's
31 license or identification card:

32 (1) The name of the worker;

33 (2) The driver's license number or identification card number of the
34 worker; and

35 (3) The state or other jurisdiction that issued the license or card.

36 6. The records maintained pursuant to subsection 5 must be open at all
37 reasonable hours to the inspection of the public body awarding the contract. The
38 contractor engaged on the public work or subcontractor engaged on the public work
39 shall ensure that a copy of each record for each calendar month is received by the
40 public body awarding the contract no later than 15 days after the end of the month.
41 The copy of the record maintained pursuant to paragraph (a) of subsection 5 must
42 be open to public inspection as provided in NRS 239.010. The copy of the record
43 maintained pursuant to paragraph (b) of subsection 5 is confidential and not open to
44 public inspection. The records in the possession of the public body awarding the
45 contract may be discarded by the public body 2 years after final payment is made
46 by the public body for the public work. The Labor Commissioner shall adopt
47 regulations authorizing and prescribing the procedures for the electronic filing of
48 the copies of the records required to be provided monthly by a contractor or
49 subcontractor to a public body pursuant to this subsection.

50 7. A contractor engaged on a public work shall not withhold from a
51 subcontractor engaged on the public work the sums necessary to cover any
52 penalties provided pursuant to subsection 3 of NRS 338.060 that may be withheld
53 from the contractor by the public body awarding the contract because the public

1 body did not receive a copy of the record maintained by the subcontractor pursuant
2 to subsection 5 for a calendar month by the time specified in subsection 6 if:

3 (a) The subcontractor provided to the contractor, for submission to the public
4 body by the contractor, a copy of the record not later than the later of:

5 (1) Ten days after the end of the month; or

6 (2) A date agreed upon by the contractor and subcontractor; and

7 (b) The contractor failed to submit the copy of the record to the public body by
8 the time specified in subsection 6.

9 **➤** Nothing in this subsection prohibits a subcontractor from submitting a copy of a
10 record for a calendar month directly to the public body by the time specified in
11 subsection 6.

12 8. Any contractor or subcontractor, or agent or representative thereof,
13 performing work for a public work who neglects to comply with the provisions of
14 this section is guilty of a misdemeanor.

15 **Sec. 12.** NRS 338.090 is hereby amended to read as follows:

16 338.090 1. Except as otherwise provided in subsection 5, any person,
17 including the officers, agents or employees of a public body, who violates any
18 provision of NRS 338.010 to 338.090, inclusive, *and sections 2 and 3 of this act* or
19 any regulation adopted pursuant thereto, is guilty of a misdemeanor.

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

22 (a) Shall, except as otherwise provided in subsection 4, assess a person who,
23 after an opportunity for a hearing, is found to have failed to pay the prevailing wage
24 required pursuant to NRS 338.020 to 338.090, inclusive, an amount equal to the
25 difference between the prevailing wages required to be paid and the wages that the
26 contractor or subcontractor actually paid; and

27 (b) May, in addition to any other administrative penalty, impose an
28 administrative penalty not to exceed the costs incurred by the Labor Commissioner
29 to investigate and prosecute the matter.

30 3. If the Labor Commissioner finds that a person has failed to pay the
31 prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, the public
32 body may, in addition to any other remedy or penalty provided in this chapter,
33 require the person to pay the actual costs incurred by the public body to investigate
34 the matter.

35 4. The Labor Commissioner is not required to assess a person an amount
36 equal to the difference between the prevailing wages required to be paid and the
37 wages that the contractor or subcontractor actually paid if the contractor or
38 subcontractor has already paid that amount to a worker pursuant to paragraph (c) of
39 subsection 4 of NRS 338.035.

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

42 **Sec. 13.** (Deleted by amendment.)

43 **Sec. 14.** (Deleted by amendment.)

44 **Sec. 15.** (Deleted by amendment.)

45 **Sec. 16.** The provisions of NRS 354.599 do not apply to any additional
46 expenses of a local government that are related to the provisions of this act.

47 **Sec. 16.5.** The amendatory provisions of this act do not apply to any contract,
48 lease or other agreement entered into before the effective date of this act.

49 **Sec. 17.** This act becomes effective upon passage and approval.