

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:**

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

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



16 adopted by the Labor Commissioner relating to public works must be consistent  
17 with the declaration of legislative intent set forth in **section 2**.

18 Existing law makes the prevailing wage requirements applicable to certain,  
19 specific construction projects. (NRS 244.286, 244A.058, 244A.763, 268.568,  
20 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 321.416, 332.390,  
21 333A.120, 349.670, 349.956, 349.981, 388A.635, 408.3886, 543.545, 701B.265,  
22 701B.625) **Section 3** of this bill requires, with certain exceptions, the payment of  
23 prevailing wages on any project if, pursuant to certain agreements or partnerships  
24 between a developer and a public body: (1) the property or premises on which the  
25 project will be constructed or developed is owned by a public body; (2) the  
26 property or premises on which a project will be constructed or developed is, in  
27 whole or in part, subject to a lease or lease-purchase agreement by a public body;  
28 (3) a public body pays money or other compensation directly to or on behalf of the  
29 developer or contractor of the project or any subcontractor who performs any work  
30 on the project; (4) a public body pays, credits, reduces, forgives or waives any fee,  
31 cost, rent, insurance premium, bond premium, obligation or expense, including,  
32 without limitation, an incidental expense, in relation to the project that is normally  
33 required in the execution of a contract for a public work on which the estimated  
34 cost exceeds \$100,000; (5) a public body loans money in relation to the project that  
35 is required to be repaid to the public body; (6) a public body retains any right to  
36 ownership of the property or premises after construction work begins on the  
37 project; (7) in relation to the project, a public body sells, leases or otherwise  
38 transfers for less than fair market value any developed or undeveloped real property  
39 or any other property or asset; or (8) in relation to the project, a public body  
40 transfers property of the State or political subdivision for less than fair market  
41 value. **Section 3** exempts from these provisions certain projects relating to  
42 affordable housing.

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

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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, 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***  
5 ***works projects that are funded in whole or in part by public money***  
6 ***is essential to:***

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

12 ***2. To ensure the intentions set forth in subsection 1 are***  
13 ***upheld, careful scrutiny of novel leasing and financing***  
14 ***arrangements entered into or incentives offered by public bodies***



1 *for the construction of public works is necessary to ensure that*  
2 *workers on public works projects are paid prevailing wages.*

3 **Sec. 3. 1.** *The provisions of NRS 338.013 to 338.090,*  
4 *inclusive, apply to any project if, pursuant to the provisions of a*  
5 *contract or a lease agreement, lease-purchase agreement,*  
6 *development agreement, improvement district, redevelopment*  
7 *project or public-private partnership between a private developer*  
8 *and a public body:*

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

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

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

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

19 (1) *Pays, credits, reduces, forgives or waives any fee, cost,*  
20 *rent, insurance premium, bond premium, obligation or expense,*  
21 *including, without limitation, an incidental expense, in relation to*  
22 *the project that is normally required in the execution of a contract*  
23 *for a public work on which the estimated cost exceeds \$100,000;*

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

27 (3) *Retains any right, including, without limitation, a*  
28 *contingent right, to retake ownership of the property or premises*  
29 *after construction work begins on the project;*

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

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

35 2. *The provisions of paragraph (d) of subsection 1 are not*  
36 *applicable if a local government takes an action set forth in*  
37 *paragraph (d) of subsection 1 for the construction of affordable*  
38 *housing, if such affordable housing is less than three floors,*  
39 *regardless of whether each or any floor is above or below ground.*

40 3. *As used in this section:*

41 (a) *“Affordable housing” means:*

42 (1) *Multifamily housing that is:*

43 (I) *Tier one affordable housing or tier two affordable*  
44 *housing; and*



1           (ii) *Subject to a legally binding agreement or other*  
2 *instrument that includes restrictions for the resale of the property*  
3 *to require that such property continue to be used as tier one*  
4 *affordable housing or tier two affordable housing; or*

5           (2) *Single-family residential housing that is:*

6           (i) *Built on property that the homeowner leases under*  
7 *an agreement that includes restrictions for the resale of the*  
8 *property to require that such property continue to be used as tier*  
9 *two affordable housing or tier three affordable housing;*

10           (ii) *Owned by a household that qualifies for tier two*  
11 *affordable housing or tier three affordable housing; and*

12           (iii) *Subject to a legally binding agreement or other*  
13 *instrument that includes restrictions for the resale of the property*  
14 *to require that such property continue to be used as tier two*  
15 *affordable housing or tier three affordable housing.*

16           (b) *“Improvement district” has the meaning ascribed to it in*  
17 *NRS 271.130.*

18           (c) *“Tier one affordable housing” has the meaning ascribed to*  
19 *it in NRS 278.01902.*

20           (d) *“Tier three affordable housing” has the meaning ascribed*  
21 *to it in NRS 278.01904.*

22           (e) *“Tier two affordable housing” has the meaning ascribed to*  
23 *it in NRS 278.01906.*

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

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

26       338.010 As used in this chapter:

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

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

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

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

39       ↪ The term includes, without limitation, benefits for a worker that  
40 are determined pursuant to a collective bargaining agreement and  
41 included in the determination of the prevailing wage by the Labor  
42 Commissioner pursuant to NRS 338.030.

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



1 4. "Contractor" means:

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

4 (b) A design-build team.

5 5. "Day labor" means all cases where public bodies, their  
6 officers, agents or employees, hire, supervise and pay the wages  
7 thereof directly to a worker or workers employed by them on public  
8 works by the day and not under a contract in writing.

9 6. "Design-build contract" means a contract between a public  
10 body and a design-build team in which the design-build team agrees  
11 to design and construct a public work.

12 7. "Design-build team" means an entity that consists of:

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

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

17 (1) A building and its site, at least one person who holds a  
18 certificate of registration to practice architecture pursuant to chapter  
19 623 of NRS.

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

25 8. "Design professional" means:

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

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

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

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

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

38 9. "Discrete project" means one or more public works which  
39 are undertaken on a single construction site for a single public body.  
40 The term does not include one or more public works that are  
41 undertaken on multiple construction sites regardless of whether the  
42 public body which sponsors or finances the public works bundles  
43 the public works together.

44 10. "Division" means the State Public Works Division of the  
45 Department of Administration.



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

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

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

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

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

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

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

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

31 15. "Local government" means every political subdivision or  
32 other entity which has the right to levy or receive money from ad  
33 valorem or other taxes or any mandatory assessments, and includes,  
34 without limitation, counties, cities, towns, boards, school districts  
35 and other districts organized pursuant to chapters 244A, 318, 318A,  
36 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,  
37 inclusive, and any agency or department of a county or city which  
38 prepares a budget separate from that of the parent political  
39 subdivision. The term includes a person who has been designated by  
40 the governing body of a local government to serve as its authorized  
41 representative.

42 16. "Offense" means:

43 (a) Failing to:

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



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

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

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

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

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

9 (a) Contracts to construct an entire project;

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

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

13 (d) Contracts for the services of any subcontractor or  
14 independent contractor or is responsible for payment to any  
15 contracted subcontractors or independent contractors.

16 ↪ The term includes, without limitation, a general contractor or a  
17 specialty contractor who is authorized to bid on a project pursuant to  
18 NRS 338.139 or 338.148.

19 18. "Public body" means the State, county, city, town, school  
20 district or any public agency of this State or its political subdivisions  
21 sponsoring or financing a public work.

22 19. "Public work" means any project ~~[for the new construction,~~  
23 ~~repair or reconstruction of a project]~~ financed in whole or in part  
24 from public money for:

25 (a) Public buildings;

26 (b) Jails and prisons;

27 (c) Public roads;

28 (d) Public highways;

29 (e) Public streets and alleys;

30 (f) Public utilities;

31 (g) Publicly owned water mains and sewers;

32 (h) Public parks and playgrounds;

33 (i) Public convention facilities which are financed at least in part  
34 ~~[with]~~ from public money; and

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

36 20. "Specialty contractor" means a person who is licensed to  
37 conduct business as described in subsection 4 of NRS 624.215.

38 21. "Stand-alone underground utility project" means an  
39 underground utility project that is not integrated into a larger  
40 project, including, without limitation:

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

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



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

4 22. "Subcontract" means a written contract entered into  
5 between:

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

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

8 ➤ for the provision of labor, materials, equipment or supplies for a  
9 construction project.

10 23. "Subcontractor" means a person who:

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

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

17 24. "Supplier" means a person who provides materials,  
18 equipment or supplies for a construction project.

19 25. "Vertical construction" means any construction, alteration,  
20 repair, renovation, demolition or remodeling necessary to complete  
21 a public work for any building, structure or other improvement that  
22 is predominantly vertical, including, without limitation, a building,  
23 structure or improvement for the support, shelter and enclosure of  
24 persons, animals, chattels or movable property of any kind, and any  
25 other work or improvement appurtenant thereto.

26 26. "Wages" means:

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

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

31 27. "Worker" means a skilled mechanic, skilled worker,  
32 semiskilled mechanic, semiskilled worker or unskilled worker in the  
33 service of a contractor or subcontractor under any appointment or  
34 contract of hire or apprenticeship, express or implied, oral or  
35 written, whether lawfully or unlawfully employed. The term does  
36 not include a design professional.

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

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

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

40 338.012 **1.** The Labor Commissioner may adopt such  
41 regulations as are necessary to enable the Labor Commissioner to  
42 carry out his or her duties pursuant to the provisions of this chapter.

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





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

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

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

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

11    338.070 1. Any public body awarding a contract shall:

12    (a) Investigate possible violations of the provisions of NRS  
13    338.010 to 338.090, inclusive, *and sections 2 and 3 of this act*  
14    committed in the course of the execution of the contract, and  
15    determine whether a violation has been committed and inform the  
16    Labor Commissioner of any such violations; and

17    (b) When making payments to the contractor engaged on the  
18    public work of money becoming due under the contract, withhold  
19    and retain all sums forfeited pursuant to the provisions of NRS  
20    338.010 to 338.090, inclusive ~~§~~, *and sections 2 and 3 of this act*.

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

24    3. Except as otherwise provided in subsection 7, it is lawful for  
25    any contractor engaged on a public work to withhold from any  
26    subcontractor engaged on the public work sufficient sums to cover  
27    any penalties withheld from the contractor by the awarding public  
28    body on account of the failure of the subcontractor to comply with  
29    the terms of NRS 338.010 to 338.090, inclusive ~~§~~, *and sections 2*  
30    *and 3 of this act*. If payment has already been made to the  
31    subcontractor, the contractor may recover from the subcontractor the  
32    amount of the penalty or forfeiture in a suit at law.

33    4. A contractor engaged on a public work and each  
34    subcontractor engaged on the public work shall:

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

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

39    (2) Whether the worker wishes to specify voluntarily his or  
40    her ethnicity; and

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

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



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

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

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

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

17 (1) The name of the worker;

18 (2) The occupation of the worker;

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

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

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

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

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

35 (1) The name of the worker;

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

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

40 6. The records maintained pursuant to subsection 5 must be  
41 open at all reasonable hours to the inspection of the public body  
42 awarding the contract. The contractor engaged on the public work or  
43 subcontractor engaged on the public work shall ensure that a copy of  
44 each record for each calendar month is received by the public body  
45 awarding the contract no later than 15 days after the end of the



1 month. The copy of the record maintained pursuant to paragraph (a) of subsection 5 must be open to public inspection as provided in NRS 239.010. The copy of the record maintained pursuant to paragraph (b) of subsection 5 is confidential and not open to public inspection. The records in the possession of the public body awarding the contract may be discarded by the public body 2 years after final payment is made by the public body for the public work. The Labor Commissioner shall adopt regulations authorizing and prescribing the procedures for the electronic filing of the copies of the records required to be provided monthly by a contractor or subcontractor to a public body pursuant to this subsection.

7. A contractor engaged on a public work shall not withhold from a subcontractor engaged on the public work the sums necessary to cover any penalties provided pursuant to subsection 3 of NRS 338.060 that may be withheld from the contractor by the public body awarding the contract because the public body did not receive a copy of the record maintained by the subcontractor pursuant to subsection 5 for a calendar month by the time specified in subsection 6 if:

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

- (1) Ten days after the end of the month; or
- (2) A date agreed upon by the contractor and subcontractor;

and

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

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

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

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

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

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

(a) Shall, except as otherwise provided in subsection 4, assess a person who, after an opportunity for a hearing, is found to have failed to pay the prevailing wage required pursuant to NRS 338.020 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) May, in addition to any other administrative penalty, impose  
4 an administrative penalty not to exceed the costs incurred by the  
5 Labor Commissioner to investigate and prosecute the matter.

6 3. If the Labor Commissioner finds that a person has failed to  
7 pay the prevailing wage required pursuant to NRS 338.020 to  
8 338.090, inclusive, the public body may, in addition to any other  
9 remedy or penalty provided in this chapter, require the person to pay  
10 the actual costs incurred by the public body to investigate the  
11 matter.

12 4. The Labor Commissioner is not required to assess a person  
13 an amount equal to the difference between the prevailing wages  
14 required to be paid and the wages that the contractor or  
15 subcontractor actually paid if the contractor or subcontractor has  
16 already paid that amount to a worker pursuant to paragraph (c) of  
17 subsection 4 of NRS 338.035.

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

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

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

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

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

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

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

