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**Subcommittee on Assembly Bill 141**  
**March 17, 2003**

Major Issues	In Favor Of	Opposed To	References and Notes
1. On page 2, line 17, return to current statutory wording of subsection 2(b) of NRS 338.030. Return wording to "support" instead of "substantiate."	<ul style="list-style-type: none"> <li>▪ Labor Commissioner</li> <li>▪ Laborer's Union</li> <li>▪ Carpenter's Union</li> </ul>		Exhibits A, B, & D
2. On page 2, line 10, amend subsection 2 of NRS 338.030 to change the frequency of the prevailing wage survey from annually to biannually.	<ul style="list-style-type: none"> <li>▪ Carpenter's Union</li> <li>▪ Labor Commissioner</li> </ul>		Note: Danny Thompson indicated that this proposal has not been discussed with a majority of labor organizations.
3. On page 2, lines 33-34, leave in the bill current proposed wording regarding "any matters officially noticed."	<ul style="list-style-type: none"> <li>▪ Labor Commissioner</li> </ul>	<ul style="list-style-type: none"> <li>▪ Laborer's Union</li> <li>▪ Carpenter's Union</li> </ul>	A.B. 141
4. Add a new provision to the bill to amend NRS 338.060 to indicate that 50 percent of the forfeitures collected pursuant to Section 1 will be deposited with the Office of the State Treasurer for credit to the construction education account created pursuant to NRS 624.580.	<ul style="list-style-type: none"> <li>▪ Associated General Contractors—Nevada Chapter</li> </ul>	<ul style="list-style-type: none"> <li>▪ Labor Commissioner</li> </ul>	Exhibit C

Other Issues	In Favor Of	Opposed To	Reference
5. On page 2, lines 9-12, amend subsection 2 of NRS 338.030 to expand the survey to include labor organizations under certain circumstances.	<ul style="list-style-type: none"> <li>▪ Laborer's Union ("This could be left out.")</li> </ul>	<ul style="list-style-type: none"> <li>▪ Labor Commissioner</li> </ul>	Exhibit B
6. On page 2, after line 24, and a provision requiring that evidence be liberally construed when the Labor Commissioner receives an objection to ensure that a disputed determination will be decided based on the evidence presented at a hearing.	<ul style="list-style-type: none"> <li>▪ Laborer's Union</li> </ul>	<ul style="list-style-type: none"> <li>▪ Labor Commissioner</li> </ul>	Exhibit B

All other provisions in the bill appear to be non-controversial.

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SUBCOMMITTEE Commerce & Labor  
DATE: 3/24/03 EXHIBIT D  
SUBMITTED BY: Vance Hughey, LCB

Office of the Labor Commissioner  
Terry Johnson, Labor Commissioner

**PROPOSED AMENDMENTS TO AB 141**

1. Page 2, Line 17: Replace the word "*substantiate*" with "*support*" so that NRS 338.030(2)(b) reads as follows:

Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

**NRS 338.030 Procedure for determination of prevailing wage in county.**

1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the labor commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. To establish a prevailing wage in each county, including Carson City, the labor commissioner shall, annually, survey contractors, and labor organizations that represent the employees who have performed private and public nonresidential construction work on projects where the total value of the construction is \$100,000 or more in the county. Residential construction shall mean construction inside the property line of single family residences and multi family residences under 4 stories. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection 5 to be heard may submit an objection to the labor commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the labor commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

3. The labor commissioner shall hold a hearing in the locality in which the work is to be executed if he:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to subsection 2.

(c) Evidence to "substantiate" or "information" as used in this section must be liberally construed when the Labor Commissioner receives an objection or information pursuant to subsection 2 so that any disputed determination will be decided based on the evidence presented at the hearing.

The labor commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

4. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

5. At the hearing, any public body, the crafts affiliated with the state federation of labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the labor commissioner shall determine the prevailing wage.

6. The wages so determined must be filed by the labor commissioner and must be available to any public body which awards a contract for any public work.

7. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any political subdivision of the State of Nevada.

[2:139:1937; 1931 NCL § 6179.52]—(NRS A 1985, 2040; 2001, 1147)

**Proposed Amendment to AB 141**  
**Submitted by Associated General Contractors - Nevada Chapter**  
**March 17, 2003**

Amend NRS 338.060 to indicate that 50% of the forfeitures collected pursuant to section 1 will be deposited with the State Treasurer for credit to the construction education account created pursuant to NRS 624.580.

March 14, 2003

Dear Assemblyman Ocegüera, Assemblyman Parks and Assemblyman Beers,

We, the Southwest Regional Council of Carpenters, wish to enter the following amendments and comments for your consideration on AB 143, which is to be heard in your scheduled sub-committee meeting on Monday March 17<sup>th</sup>.

## **AB 141**

**Section 2 subsection 2 (b) and subsection 5** - Explanation: Matters in (1) *green bold italic underlining* is new language proposed in this amendment; (2) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment.

2. To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually *bi-annually*, survey contractors who have performed work in the county. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection 5 to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would ~~[support]~~ *substantiate support* a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

5. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented~~[,]~~ ~~and any matters officially noticed~~, the Labor Commissioner shall determine the prevailing wage.

We can concur with the rest of the changes proposed in AB 141 with the exception of the amendments as stated above. We have included the verbiage "bi-annually" to section 2 even though this had not been addressed in the existing Bill. On more than one occasion during the interim we have raised this issue with both industry representatives and the Labor Commissioner and did not receive any adverse comments. Since there are budget shortages and the annual survey requires extensive staff time and resources we felt this would be beneficial to all involved.

In Section 2 subsection (b) we still feel that the word "support" should not be changed! We believe that subsection (a) addresses the need of substantiating that a different wage prevails and that subsection (b) addresses additional evidence that may be presented to support the prior.

In all our biggest concern is with the proposed language to Section 5. We feel adamantly that this verbiage should be removed in its entirety. If you remember from the Labor Commissioners

testimony during the hearing he would not state for the record that this was not his attempt to obtain records from other public sources that are currently not used in the determination of the prevailing wage! Our concern is that he is moving to circumvent the existing process that uses the wage surveys to determine the prevailing wage by accessing unreliable and/or unverifiable information that may or may not be available to the public for review. We are concerned that this is being done to undermine the determination during the hearing process. If Mr. Johnson feels that the system is flawed than we would recommend that he work during the interim with all the interested parties to reach consensus on those concerns and not hastily implement a change in Statute without allowing input from those most affected. Therefore we believe that this section should revert to the existing language, as it exists currently in Statutes.

We would respectfully request that these proposals, especially that related to Section 5, be recommended to the full committee. Mr. Steve Muchicko – District Representative for the Southwest Regional Council of Carpenters will be present during the subcommittee hearings should you need any clarification.

Respectfully Submitted,

Lori Ashton – Representative  
Southwest Regional Council of Carpenters