

Assembly Bill No. 83—Assemblymen McCleary, Manendo
and Munford

CHAPTER.....

AN ACT relating to public works; revising the requirements relating to the payment of overtime to certain mechanics and workmen employed on public works; revising the manner in which a contractor or subcontractor engaged on a public work may discharge his obligation to pay wages to workmen; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that the hourly and daily wage paid to a workman or mechanic on a public work must be no less than the prevailing wage applicable to the class of the workman or mechanic in the county where the public work is located, as established by the Labor Commissioner. Existing law requires payment of not less than one and one-half times the prevailing rate of wages or, if applicable, one and one-half times the rate of wages set forth in a collective bargaining agreement, if the workman or mechanic works more than 8 hours in a day or more than 40 hours in a week. (NRS 338.020)

This bill clarifies that a contractor or subcontractor on a public work is only required to pay a workman or mechanic who is not subject to a collective bargaining agreement overtime compensation at the rate of one and one-half times the prevailing rate of wages for each overtime hour worked by the workman or mechanic on the public work. For overtime hours worked by the worker or mechanic for the contractor or subcontractor on work other than the public work, the rate of overtime compensation to be paid to the workman or mechanic is one and one-half times the regular wage rate for that work.

Existing law provides that a contractor or subcontractor may discharge his obligation to pay a workman's or mechanic's wages by making payments in cash or by making contributions to a fund, plan or program in the name of the workman. (NRS 338.035)

This bill provides that a contractor or subcontractor on a public work may discharge his obligation to pay the wages of the workmen on the public work in part by making contributions to a third person pursuant to a fund, plan or program in the name of the workman.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 338.020 is hereby amended to read as follows:
338.020 1. Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workmen, semiskilled mechanics, semiskilled workmen or unskilled labor in the performance of public work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workmen. The hourly and daily rate of wages must:

(a) Not be less than the rate of such wages then prevailing in the county in which the public work is located, which prevailing rate of

wages must have been determined in the manner provided in NRS 338.030; and

(b) Be posted on the site of the public work in a place generally visible to the workmen.

2. When public work is performed by day labor, the prevailing wage for each class of mechanics and workmen so employed applies and must be stated clearly to such mechanics and workmen when employed.

3. Except as otherwise provided in subsection 4, a contractor or subcontractor shall pay to a mechanic or workman employed by the contractor or subcontractor on the public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or workman ~~{whenever}~~ *for each hour* the mechanic or workman works ~~};~~

~~—(a) More than 40} on the public work in excess of:~~

(a) Forty hours in any scheduled week of work ~~};~~ by the mechanic or workman for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work; or

(b) ~~{More than 8}~~ Eight hours in any workday that the mechanic or workman was employed by the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work, unless by mutual agreement the mechanic or workman works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

4. The provisions of subsection 3 do not apply to a mechanic or workman who is covered by a collective bargaining agreement that provides for the payment of wages at not less than one and one-half times the rate of wages set forth in the collective bargaining agreement for work in excess of:

(a) Forty hours in any scheduled week of work; or

(b) Eight hours in any workday unless the collective bargaining agreement provides that the mechanic or workman shall work a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

5. The prevailing wage and any wages paid for overtime pursuant to subsection 3 or 4 to each class of mechanics or workmen must be in accordance with the jurisdictional classes recognized in the locality where the work is performed.

6. Nothing in this section prevents an employer who is signatory to a collective bargaining agreement from assigning such work in accordance with established practice.

Sec. 2. NRS 338.035 is hereby amended to read as follows:

338.035 The obligation of a contractor engaged on a public work or *a* subcontractor engaged on a public work to pay wages in

accordance with the determination of the Labor Commissioner may be discharged ~~{by the making of payments in cash, or}~~ *in part* by making contributions to a third person pursuant to a fund, plan or program in the name of the workman.

Sec. 3. This act becomes effective on July 1, 2005.

