

Amendment No. 188

Senate Amendment to Senate Bill No. 116

(BDR 28-231)

Proposed by: Committee on Commerce and Labor**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

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"/>	_____

Amend section 1, page 2, by deleting lines 4 and 5 and inserting:

“2. In addition to any other remedy or penalty provided in this chapter, if any person , *including, without limitation, a public body*, violates”.

Amend section 1, page 2, by deleting lines 8 through 17 and inserting:

“, *after providing the person with notice and an opportunity for a hearing*, impose against the person an administrative penalty of not more than \$5,000 for each such violation.

3. The Labor Commissioner may, by regulation, establish a sliding scale based on the severity of the violation to determine the amount of the administrative penalty to be imposed against the person pursuant to this section.

4. The Labor Commissioner shall report the violation to the Attorney General, and the Attorney General ~~shall~~ *may* prosecute the person in accordance with law.”.

SH/KP

Date: 4/18/2005

S.B. No. 116—Makes various changes to labor laws and powers and duties of Labor Commissioner.

Amend sec. 2, page 3, by deleting lines 4 through 12 and inserting:

“2. ~~[An]~~ *In addition to any other remedy or penalty provided in this chapter, an employer is liable to an employee for any money deducted from the employee’s wages for the payment of premiums on a policy of group life or health insurance if the money was not so used.*

3. In addition to any other remedy or penalty provided in this chapter, if:

(a) An employer knowingly and willfully stops paying premiums on a policy of group life or health insurance and fails to give proper and timely notice to his employees pursuant to subsection 1; and

(b) One or more of his employees, after coverage under the policy ceases and before they are given notice that the employer has stopped paying premiums, incur claims for benefits which those employees would have received under the policy had their coverage not ceased,
↪ the employer is liable to those employees for the amount of the claims incurred, except that the employer’s total liability for all such claims combined must not exceed the amount of the premiums, calculated on a monthly basis, that the employer would have been required to pay under the policy to provide coverage for those employees during the period in which the claims were incurred by the employees.

4. If the Labor Commissioner brings an action pursuant to subsection 3 against an employer on behalf of his employees, any money recovered by the Labor Commissioner must be distributed on a pro rata basis among the employees who have claims against the employer, except that no employee may recover more than the total amount of all claims that the employee has against the employer. If the amount of money recovered by the Labor Commissioner exceeds the total amount

of all claims from all employees, the excess amount must be deposited in the State General Fund.”.

Amend the bill as a whole by deleting sections 3 and 4 and adding a new section designated sec. 3, following sec. 2, to read as follows:

“**Sec. 3.** This act becomes effective upon passage and approval.”.

Amend the title of the bill to read as follows:

“AN ACT relating to labor; revising provisions relating to enforcement by the Labor Commissioner of the prevailing rate of wage requirement for public works; providing for civil liability under certain circumstances for an employer who knowingly and willfully stops paying premiums on a policy of group life or health insurance and fails to give proper and timely notice to his employees; providing for enforcement of such civil liability by the Labor Commissioner; and providing other matters properly relating thereto.”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Under existing law, the Labor Commissioner enforces the laws and regulations governing the payment of prevailing wages for public works projects. If a "person" violates those laws and regulations, the Labor Commissioner may impose against the person an administrative penalty of not more than \$5,000 for each such violation. (NRS 338.015) Generally, the term "person" does not include a governmental entity. (NRS 0.039)

This bill allows the Labor Commissioner to impose an administrative penalty against a governmental entity that violates the laws and regulations governing the payment of prevailing wages for public works projects. This bill also requires the Labor Commissioner to provide notice and an opportunity for a hearing before imposing an administrative penalty against a governmental entity or any other person.

Under existing law, if an employer is the policyholder of a policy of group life or health insurance which covers his employees, the employer must notify his employees when he is unable to pay or intends to stop paying the premiums for the policy. (NRS 608.158)

This bill provides that if an employer knowingly and willfully stops paying premiums on a policy of group life or health insurance and fails to give proper and timely notice to his employees, the employer is liable for any claims for benefits incurred by his employees after coverage under the policy ceases and before the employees are given notice that the employer has stopped paying the premiums. However, the employer's total liability for all claims combined cannot exceed the amount

of the premiums that the employer would have been required to pay under the policy to provide coverage during the period in which the claims were incurred by the employees.

This bill also provides that if the Labor Commissioner brings an action against the employer on behalf of his employees, any money recovered by the Labor Commissioner must be distributed on a pro rata basis among the employees who have claims against the employer. However, no employee may recover more than the total amount of all of his claims. If the amount of money recovered by the Labor Commissioner exceeds the total amount of all claims made by all employees, the excess amount must be deposited in the State General Fund.