

SENATE BILL NO. 116—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LABOR COMMISSIONER)

FEBRUARY 22, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes to labor laws and powers and duties of Labor Commissioner. (BDR 28-231)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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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 labor; revising provisions related to enforcement of the prevailing rate of wage requirement for public works; providing that if an employer fails to notify an employee that coverage under a policy of group life or health insurance has ceased the employer is liable to the employee for claims for benefits which would have otherwise been payable under that policy; revising provisions related to licensing of an employment agency; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, the Labor Commissioner enforces the laws and regulations
2 governing the payment of prevailing wages for public works projects. The Labor
3 Commissioner is required to report violations to the Attorney General who is
4 required to prosecute the "person" who committed the violation. (NRS 338.015)
5 The term "person" does not include a governmental entity and thus, the Attorney
6 General cannot prosecute such an entity for violation of the prevailing wage laws.
7 (NRS 0.039) The Labor Commissioner is authorized to impose an administrative
8 penalty against a person for a violation of those laws in an amount not to exceed
9 \$5,000 for each violation and may establish a sliding scale for the penalty based on
10 the severity of the violation. (NRS 338.015)

11 This bill removes the limitation on the amount of the penalty as well as the
12 option to create a sliding scale in determining the amount of the penalty. This bill
13 removes the requirement that the Labor Commissioner report violations and that the
14 Attorney General prosecute violations and instead makes the reporting and
15 prosecution of violations discretionary. This bill also makes governmental entities



subject to the enforcement provisions concerning payment of prevailing wages so that the Attorney General may prosecute violations by such entities.

Existing law requires an employer who is a policyholder of his employees' group life or health insurance to notify his employees when he is unable to pay or intends to stop paying the premiums. If deductions are made from an employee's wages to pay the premiums but the money is not used for that purpose, the employer is liable to the employee for the money deducted from his wages. (NRS 608.158)

This bill makes such an employer liable for an additional amount for any claim for a benefit which the employee would have received under the policy if notice was not provided to the employee and the claim was incurred after the employer stopped paying premiums.

Under existing law, an employment agency must deposit a \$1,000 bond with certain sureties and conditions with the Labor Commissioner before the agency can receive its license. An employment agency is given various other options for instrumentalities that it may deposit with the Labor Commissioner in lieu of such a bond. (NRS 611.070)

This bill removes the alternative options in lieu of depositing a bond with the Labor Commissioner, except that the employment agency may deposit an amount of money fixed by the Labor Commissioner in lieu of a bond.

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

Section 1. NRS 338.015 is hereby amended to read as follows:
338.015 1. The Labor Commissioner shall enforce the provisions of NRS 338.010 to 338.130, inclusive.

2. ~~{In addition to any other remedy or penalty provided in this chapter, if any person violates}~~ *When informed of a violation of* any provision of NRS 338.010 to 338.130, inclusive, or any regulation adopted pursuant thereto, the Labor Commissioner may ~~{impose against the person}~~ *hold a hearing on and assess* 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}~~ *may* report the violation to the Attorney General, and the Attorney General ~~{shall}~~ *may* prosecute the ~~{person}~~ *violation* in accordance with law.

Sec. 2. NRS 608.158 is hereby amended to read as follows:

608.158 1. If an employer is the policyholder of a policy of group life or health insurance which covers his employees, he shall notify the employees of his inability to pay a premium when due or of his intention to stop paying premiums. The notice must be:

(a) Given at least 10 days before the coverage will cease; and



(b) Conspicuously posted at the place of employment or given in another manner which ensures that all employees will receive the information.

2. ~~{An}~~ *In addition to any other penalty or remedy provided in this chapter, an* employer is liable to an employee for ~~{any money}~~ :

(a) *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 ~~{;}~~; *and*

(b) *The amount of a claim for a benefit which the employee would have received under the policy of group life or health insurance if the claim was incurred after the employer stopped paying premiums and before notice was provided to the employee.*

Sec. 3. NRS 611.070 is hereby amended to read as follows:

611.070 1. Before a license is issued, the applicant shall deposit with the Labor Commissioner a bond, approved by the Labor Commissioner, in the sum of \$1,000 with two or more sureties or an authorized surety company as surety. A notice of 30 days must be given to the Labor Commissioner before cancellation of the bond.

2. The bond must be conditioned so that the suspension, revocation, surrender or expiration of the license to operate the employment agency does not affect the coverage of the bond as to a claim arising out of acts that occurred before the date of the suspension, revocation, surrender or expiration of the license.

3. In lieu of a bond an applicant may deposit with the Labor Commissioner ~~{~~

~~—(a) An} an~~ amount of money ~~{for bonds of the United States or of the State of Nevada of an actual market value not less than the amount}~~ fixed by the Labor Commissioner. ~~{; or~~

~~—(b) A savings certificate of a bank, credit union or savings and loan association situated in Nevada, which indicates an account containing an amount equal to the amount of the bond which would otherwise be required by this section and that this amount is unavailable for withdrawal except upon order of the Labor Commissioner. Interest earned on this amount accrues to the account of the applicant.}~~

4. The Labor Commissioner may at any time require the licensee to file a new or supplementary bond, or a deposit in lieu thereof, in a form and amount of not more than \$5,000 to conform to the provisions of this section if the Labor Commissioner deems the initial deposit or surety of the initial bond to be unsatisfactory or the amount of the deposit or bond to have become insufficient to satisfy all claims, accrued or contingent, against the licensee.



1 5. Any money received in lieu of a bond must be deposited
2 with the State Treasurer for credit to the Labor Commissioner's
3 Account for Bonds, which is hereby created in the State Agency
4 Fund for Bonds. The deposit must not be released for a period of 90
5 days following the date of suspension, revocation, surrender or
6 expiration of the license.

7 **Sec. 4.** 1. This section and sections 1 and 2 of this act
8 become effective upon passage and approval.

9 2. Section 3 of this act becomes effective on October 1, 2005.

