

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 **fomitted-material** is material to be omitted.

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.

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.

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, *including, without limitation, a public body*, violates any provision of NRS 338.010 to 338.130, inclusive, or any regulation adopted pursuant thereto, the Labor Commissioner may, *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.

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. ~~[Aa]~~ *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.*

Sec. 3. This act becomes effective upon passage and approval.



