

ASSEMBLY BILL NO. 84—ASSEMBLYMAN SEGERBLOM

PREFILED JANUARY 7, 2011

Referred to Committee on Commerce and Labor

SUMMARY—Authorizes the commencement of a civil action against an employer under certain circumstances. (BDR 28-529)

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 employment; authorizing an employee or a labor-management committee established under federal law to commence a civil action against an employer for failing to pay certain wages under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires employers to comply with various provisions regarding
2 hourly and daily wages that are paid to an employee who is hired for a public work.
3 (NRS 338.020) This bill authorizes such an employee, or a labor-management
4 committee that is established under the federal Labor Management Cooperation Act
5 of 1978 (29 U.S.C. § 175a), to commence a civil action against an employer who
6 violates such existing law.

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

1 **Section 1.** Chapter 338 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. The following persons may commence an action in a court*
4 *of competent jurisdiction against an employer for a violation of*
5 *NRS 338.020:*

6 *(a) An employee; or*

7 *(b) A labor-management committee established pursuant to*
8 *the federal Labor Management Cooperation Act of 1978, 29*
9 *U.S.C. § 175a.*



2. An employee or a labor-management committee that commences an action against an employer pursuant to this section shall serve the Labor Commissioner with copies of the pleadings of the employee or the labor-management committee.

3. If the court finds that the employer violated NRS 338.020, the court shall award to the employee or to the labor-management committee:

(a) All appropriate back pay due the employee;

(b) Injunctive relief; and

(c) Reasonable attorney's fees and costs.

4. If the court finds that the employer did not violate NRS 338.020 and that the action commenced by the employee or the labor-management committee was not substantially justified, the court may award reasonable attorney's fees and costs to the employer. For the purposes of this subsection, an action is "substantially justified" if the action had a reasonable basis in law or fact at the time the action was commenced.

Sec. 2. NRS 338.050 is hereby amended to read as follows:

338.050 For the purpose of NRS 338.010 to 338.090, inclusive, **and section 1 of this act**, except as otherwise provided by specific statute, every worker who performs work for a public work covered by a contract therefor is subject to all of the provisions of NRS 338.010 to 338.090, inclusive, **and section 1 of this act** regardless of any contractual relationship alleged to exist between such worker and his or her employer.

Sec. 3. NRS 338.080 is hereby amended to read as follows:

338.080 None of the provisions of NRS 338.020 to 338.090, inclusive, **and section 1 of this act** apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than \$100,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below \$100,000.

