

SENATE BILL NO. 394—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 28, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the liability of a general contractor or subcontractor for certain benefit payments. (BDR 28-744)

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

~

EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to employment; revising provisions governing the liability of a general contractor or subcontractor for certain benefit payments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing federal law, an employer is authorized to make payments for employee benefit plans to a trust fund pursuant to a negotiated agreement between the employer and employee. (29 U.S.C. § 186) **Section 1** of this bill requires the administrator of the trust fund to notify the general contractor and the subcontractor on a public work if the required payment has not been received within 30 days after the payment is due.

Under existing law, a general contractor is required to assume and is liable for the debts incurred by a subcontractor or another contractor working under the general contractor while the subcontractor or contractor was working for the general contractor. (NRS 608.150) **Section 2** of this bill excludes from such assumption and liability payments to a health or welfare fund or any other plan for the benefit of employees in accordance with a collective bargaining agreement.

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

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

1. If an administrator of a Taft-Hartley trust formed pursuant to 29 U.S.C. § 186(c)(5) does not receive a benefit payment for that trust within 30 days after the date it is due, the administrator shall



* S B 3 9 4 *

1 *provide a notice of that fact to the general contractor and*
2 *subcontractor pursuant to subsection 2.*

3 2. *The notice required pursuant to subsection 1 must be given*
4 *by electronic mail, telephone and:*

5 (a) *Delivery in person; or*

6 (b) *A registered or certified letter to the last known address of*
7 *the general contractor or subcontractor.*

8 3. *The notice must include, without limitation:*

9 (a) *The amount owed;*

10 (b) *The name and address of the general contractor and*
11 *subcontractor responsible for the benefit payment; and*

12 (c) *A demand for full payment.*

13 **Sec. 2.** NRS 608.150 is hereby amended to read as follows:

14 608.150 1. Every original contractor making or taking any
15 contract in this State for the erection, construction, alteration or
16 repair of any building or structure, or other work, shall assume and
17 is liable for the indebtedness for labor incurred by any subcontractor
18 or any contractors acting under, by or for the original contractor in
19 performing any labor, construction or other work included in the
20 subject of the original contract, for labor, and for the requirements
21 imposed by chapters 616A to 617, inclusive, of NRS.

22 2. *The provisions of subsection 1 do not require an original*
23 *contractor to assume any liability for failure by a subcontractor or*
24 *contractor specified in that subsection to make any contributions*
25 *or other payments to a health or welfare fund or any other plan*
26 *for the benefit of employees in accordance with a collective*
27 *bargaining agreement.*

28 3. It is unlawful for any contractor or any other person to fail to
29 comply with the provisions of subsection 1, or to attempt to evade
30 the responsibility imposed thereby, or to do any other act or thing
31 tending to render nugatory the provisions of this section.

32 ~~13-1~~ 4. The district attorney of any county wherein the
33 defendant may reside or be found shall institute civil proceedings
34 against any such original contractor failing to comply with the
35 provisions of this section in a civil action for the amount of all
36 wages and damage that may be owing or have accrued as a result of
37 the failure of any subcontractor acting under the original contractor,
38 and any property of the original contractor, not exempt by law, is
39 subject to attachment and execution for the payment of any
40 judgment that may be recovered in any action under the provisions
41 of this section.

