

ASSEMBLY BILL NO. 186—COMMITTEE
ON COMMERCE AND LABOR

MARCH 1, 2013

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to compensation.
(BDR 53-796)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; creating the Wage Claim Restitution Account; requiring an employer to provide to his or her employees at the time of hire written notice containing certain employment-related information on a form prescribed by the Labor Commissioner; requiring an employer to obtain from an employee acknowledgment of receipt of the notice; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires an employer in this State to conspicuously post on the premises where any person is employed a printed abstract of chapter 608 of NRS, which governs compensation, wages and hours. (NRS 608.013) **Sections 3 and 5** of this bill require an employer also to provide to his or her employees at the time of hire written notice containing certain employment-related information on a form prescribed by the Labor Commissioner. Each time an employer provides such notice to an employee, **section 5** requires the employer to obtain from the employee and maintain a signed and dated acknowledgment of receipt of the notice.

Section 4 of this bill creates the Wage Claim Restitution Account into which must be deposited 25 percent of the amount of certain administrative penalties collected by the Labor Commissioner. The money in the Account must be used only to provide restitution to certain employees who are underpaid by their employers in violation of certain provisions of existing law when no other source of restitution is available.



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

1 **Section 1.** NRS 607.160 is hereby amended to read as follows:
2 607.160 1. The Labor Commissioner:

3 (a) Shall enforce all labor laws of the State of Nevada:

4 (1) Without regard to whether an employee or worker is
5 lawfully or unlawfully employed; and

6 (2) The enforcement of which is not specifically and
7 exclusively vested in any other officer, board or commission.

8 (b) May adopt regulations to carry out the provisions of
9 paragraph (a).

10 2. If the Labor Commissioner has reason to believe that a
11 person is violating or has violated a labor law or regulation, the
12 Labor Commissioner may take any appropriate action against the
13 person to enforce the labor law or regulation whether or not a claim
14 or complaint has been made to the Labor Commissioner concerning
15 the violation.

16 3. Before the Labor Commissioner may enforce an
17 administrative penalty against a person who violates a labor law or
18 regulation, the Labor Commissioner must provide the person with
19 notice and an opportunity for a hearing as set forth in NRS 607.207.

20 4. In determining the amount of any administrative penalty to
21 be imposed against a person who violates a labor law or regulation,
22 the Labor Commissioner shall consider the person's previous record
23 of compliance with the labor laws and regulations and the severity
24 of the violation.

25 5. ~~§~~ *Except as otherwise provided in section 4 of this act,*
26 *all* money collected by the Labor Commissioner as an
27 administrative penalty must be deposited in the State General Fund.

28 6. The actions and remedies authorized by the labor laws are
29 cumulative. If a person violates a labor law or regulation, the Labor
30 Commissioner may seek a civil remedy, impose an administrative
31 penalty or take other administrative action against the person
32 whether or not the person is prosecuted, convicted or punished for
33 the violation in a criminal proceeding. The imposition of a civil
34 remedy, an administrative penalty or other administrative action
35 against the person does not operate as a defense in any criminal
36 proceeding brought against the person.

37 7. If, after due inquiry, the Labor Commissioner believes that a
38 person who is financially unable to employ counsel has a valid and
39 enforceable claim for wages, commissions or other demands, the
40 Labor Commissioner may present the facts to the Attorney General.
41 The Attorney General shall prosecute the claim if the Attorney
42 General determines that the claim is valid and enforceable.



1 **Sec. 2.** Chapter 608 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 3 and 4 of this act.

3 **Sec. 3. 1. The Labor Commissioner shall:**

4 ***(a) Prescribe by regulation the forms on which an employer***
5 ***may provide the notice required by subsection 2 of NRS 608.013***
6 ***and obtain the acknowledgment required by subsection 3 of NRS***
7 ***608.013. Each form must be printed in English and may be***
8 ***printed in one or more additional languages as determined by the***
9 ***Labor Commissioner pursuant to paragraph (b).***

10 ***(b) Determine the languages, in addition to English, in which***
11 ***to provide the forms described in paragraph (a), taking into***
12 ***account the population of persons working within the State of***
13 ***Nevada who speak languages other than English and any other***
14 ***factors the Labor Commissioner deems relevant.***

15 **2. An employer may not be penalized for errors or omissions**
16 ***in the non-English portions of any notice provided on a form***
17 ***prescribed by the Labor Commissioner pursuant to subsection 1.***

18 **Sec. 4. 1. The Wage Claim Restitution Account is hereby**
19 ***created in the State General Fund. The Labor Commissioner shall***
20 ***administer the Account. Twenty-five percent of the amount of***
21 ***each administrative penalty collected by the Labor Commissioner***
22 ***pursuant to NRS 608.195 and 608.290 must be delivered to the***
23 ***custody of the State Treasurer for deposit to the credit of the***
24 ***Account.***

25 **2. The money in the Account must be used only to provide**
26 ***restitution to an employee who is underpaid by an employer in***
27 ***violation of the provisions of NRS 608.017, 608.100 or 608.250***
28 ***when no other source of restitution is available. An employee who***
29 ***is underpaid by an employer in violation of the provisions of NRS***
30 ***608.017, 608.100 or 608.250 may make a claim against the***
31 ***Account, and the Labor Commissioner may approve such a claim***
32 ***in accordance with regulations adopted by the Labor***
33 ***Commissioner.***

34 **3. The State Treasurer may disburse money from the Account**
35 ***only upon written order of the State Controller.***

36 **4. Any interest earned on the money in the Account must be**
37 ***credited to the Account. Any money remaining in the Account at***
38 ***the end of any fiscal year does not revert to the State General***
39 ***Fund.***

40 **Sec. 5.** NRS 608.013 is hereby amended to read as follows:

41 608.013 Every employer shall ~~inconspicuously~~ :

42 **1. Conspicuously** post and keep so posted on the premises
43 where any person is employed a printed abstract of this chapter to be
44 furnished by the Labor Commissioner.



2. At the time of hire, provide to each employee, in the language the employer normally uses to communicate employment-related information to the employee, written notice containing the following information:

(a) The rate or rates of pay and basis thereof, whether paid by the hour, shift, day, week, salary, piece, commission or otherwise;

(b) For any employee eligible for overtime compensation pursuant to NRS 608.018, the regular hourly rate of pay and the overtime rate of pay;

(c) Allowances, if any, claimed as part of the minimum wage, including tip, meal or lodging allowances;

(d) The regular paydays established by the employer in accordance with the provisions of NRS 608.080;

(e) The name of the employer;

(f) The physical address of the employer's main office or principal place of business;

(g) If different from the address described in paragraph (f), a mailing address of the employer;

(h) The telephone number of the employer;

(i) The name, address and telephone number of the workers' compensation insurance carrier of the employer; and

(j) Any other information the Labor Commissioner may prescribe.

3. Obtain from each employee a written acknowledgment that the employee has received the notice required by subsection 2, which must:

(a) Be signed and dated by the employee; and

(b) Include an affirmation by the employee that the employee accurately identified his or her primary language to the employer and that the notice provided by the employer to the employee pursuant to subsection 2 contained the information required by subsection 2.

4. Provide the notice required by subsection 2 and obtain the acknowledgment required by subsection 3 in English and the primary language of the employee, if that language is a language other than English and the Labor Commissioner has prescribed a form in that language pursuant to section 3 of this act. If the Labor Commissioner has not prescribed such a form in the language the employee has identified as his or her primary language, the employer may provide the notice required by subsection 2 and obtain the acknowledgment required by subsection 3 in English only.

5. Maintain a copy of each notice provided pursuant to subsection 2 and the original or a signed and dated copy of the acknowledgment required by subsection 3 for a period of not less



1 *than 3 years after the date the employer obtained the*
2 *acknowledgment.*

3 **Sec. 6.** NRS 608.180 is hereby amended to read as follows:

4 608.180 The Labor Commissioner or the representative of the
5 Labor Commissioner shall cause the provisions of NRS 608.005 to
6 608.195, inclusive, *and sections 3 and 4 of this act* to be enforced,
7 and upon notice from the Labor Commissioner or the representative:

8 1. The district attorney of any county in which a violation of
9 those sections has occurred;

10 2. The Deputy Labor Commissioner, as provided in
11 NRS 607.050;

12 3. The Attorney General, as provided in NRS 607.160 or
13 607.220; or

14 4. The special counsel, as provided in NRS 607.065,
15 ➔ shall prosecute the action for enforcement according to law.

16 **Sec. 7.** 1. This section and sections 1 to 4, inclusive, and 6 of
17 this act become effective upon passage and approval.

18 2. Section 5 of this act becomes effective on October 1, 2013.

