

Amendment No. 481

Assembly Amendment to Assembly Bill No. 186

(BDR 53-796)

Proposed by: Assembly Committee on Commerce and Labor**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

KRO/TMC



Date: 4/17/2013

A.B. No. 186—Revises provisions relating to compensation. (BDR 53-796)



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 2 and 3 of this bill require~~ **requires** 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:**Section 1.** NRS 607.160 is hereby amended to read as follows:

607.160 1. The Labor Commissioner:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~2. An employer may not be penalized for errors or omissions in the non-English portions of any notice provided on a form prescribed by the Labor Commissioner pursuant to subsection 1.~~ (Deleted by amendment.)

Sec. 4. 1. The Wage Claim Restitution Account is hereby created in the State General Fund. The Labor Commissioner shall administer the Account. Twenty-five percent of the amount of each administrative penalty collected by the Labor Commissioner pursuant to NRS 608.195 ~~and 608.200~~ for a violation of NRS 608.040 must be delivered to the custody of the State Treasurer for deposit to the credit of the Account.

2. The money in the Account must be used only to provide restitution to an employee who is underpaid by an employer in violation of the provisions of NRS 608.017, 608.100 or 608.250 when no other source of restitution is available. An

employee who is underpaid by an employer in violation of the provisions of NRS 608.017, 608.100 or 608.250 may make a claim against the Account, and the Labor Commissioner may approve such a claim in accordance with regulations adopted by the Labor Commissioner.

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

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

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

608.013 Every employer shall ~~conspicuously~~:

1. Conspicuously post and keep so posted on the premises where any person is employed a printed abstract of this chapter to be 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 ~~that~~, that are applicable to the employee at the time of hire;

(b) ~~For any employee eligible for~~ The provisions concerning overtime compensation pursuant to set forth in NRS 608.018, the regular hourly rate of pay and the overtime rate of pay, if applicable;

(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; and

(i) The name, address and telephone number of the workers' compensation insurance carrier of the employer. It 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 than 3 years after the date the employer obtained the acknowledgment.~~

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

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

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

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

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

4. The special counsel, as provided in NRS 607.065,

shall prosecute the action for enforcement according to law.

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

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