

SENATE BILL NO. 326—SENATORS FARLEY; AND GOICOECHEA

MARCH 16, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works.
(BDR 28-792)

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 public works; revising the provisions governing the wages paid on public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that skilled mechanics and workers employed on certain public works must be paid overtime wages for hours worked in excess of 40 hours in a week or hours in excess of 8 hours in a day, unless the mechanic or worker, pursuant to a collective bargaining agreement or a mutual agreement with the contractor or subcontractor employing the mechanic or worker, works a modified schedule of 10 hours per day, 4 calendar days per week. (NRS 338.020) **Section 1** of this bill revises the provisions governing the circumstances under which such a modified schedule may be worked.

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

Section 1. NRS 338.020 is hereby amended to read as follows:
338.020 1. Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of public work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workers. The hourly and daily rate of wages must:
(a) Not be less than the rate of such wages then prevailing in the county in which the public work is located, which prevailing rate of



wages must have been determined in the manner provided in NRS 338.030; and

(b) Be posted on the site of the public work in a place generally visible to the workers.

2. When public work is performed by day labor, the prevailing wage for each class of mechanics and workers so employed applies and must be stated clearly to such mechanics and workers when employed.

3. ~~{Except as otherwise provided in subsection 4, a}~~ A contractor or subcontractor shall pay to a mechanic or worker employed by the contractor or subcontractor on the public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker for each hour the mechanic or worker works on the public work in excess of:

(a) Forty hours in any scheduled week of work by the mechanic or worker for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work; or

(b) Eight hours in any workday that the mechanic or worker was employed by the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work, unless ~~{by mutual agreement the mechanic or worker works}~~ *prior written notice of at least 5 calendar days has been given to the authorized representative of the intent to work* a scheduled 10 hours per day for 4 calendar days within any scheduled week of work ~~{}~~ *, unless prevented from working by conditions beyond the control of the contractor or subcontractor.*

4. ~~{The provisions of subsection 3 do not apply to a mechanic or worker who is covered by a collective bargaining agreement that provides for the payment of wages at not less than one and one half times the rate of wages set forth in the collective bargaining agreement for work in excess of:~~

~~—(a) Forty hours in any scheduled week of work; or~~

~~—(b) Eight hours in any workday unless the collective bargaining agreement provides that the mechanic or worker shall work a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.~~

~~—5.~~ The prevailing wage and any wages paid for overtime pursuant to subsection 3 ~~{or 4}~~ to each class of mechanics or workers must be in accordance with the jurisdictional classes recognized in the locality where the work is performed.

~~{6.}~~ 5. Nothing in this section prevents an employer who is signatory to a collective bargaining agreement from assigning such work in accordance with established practice.



Sec. 2. NRS 608.018 is hereby amended to read as follows:

608.018 1. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works:

(a) More than 40 hours in any scheduled week of work; or

(b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

2. An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

3. The provisions of subsections 1 and 2 do not apply to:

(a) Employees who are not covered by the minimum wage provisions of NRS 608.250;

(b) Outside buyers;

(c) Employees in a retail or service business if their regular rate is more than 1 1/2 times the minimum wage, and more than half their compensation for a representative period comes from commissions on goods or services, with the representative period being, to the extent allowed pursuant to federal law, not less than 1 month;

(d) Employees who are employed in bona fide executive, administrative or professional capacities;

(e) Employees covered by collective bargaining agreements which provide otherwise for overtime;

(f) Drivers, drivers' helpers, loaders and mechanics for motor carriers subject to the Motor Carrier Act of 1935, as amended;

(g) Employees of a railroad;

(h) Employees of a carrier by air;

(i) Drivers or drivers' helpers making local deliveries and paid on a trip-rate basis or other delivery payment plan;

(j) Drivers of taxicabs or limousines;

(k) Agricultural employees;

(l) Employees of business enterprises having a gross sales volume of less than \$250,000 per year;

(m) Any salesperson or mechanic primarily engaged in selling or servicing automobiles, trucks or farm equipment; and

(n) A mechanic or worker for any hours to which the provisions of subsection 3 ~~for 4~~ of NRS 338.020 apply.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a collective bargaining agreement that is entered into before July 1, 2015.



1 **Sec. 4.** This act becomes effective on July 1, 2015.

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