

SENATE BILL NO. 243--SENATOR HARDY

FEBRUARY 28, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to prevailing wages.  
(BDR 28-768)

FISCAL NOTE: Effect on Local Government: No.  
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 public construction; revising the procedure for determining the prevailing rate of wages; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law requires that mechanics and workers employed on certain public  
2 construction projects be paid at least the wage prevailing in the county in which the  
3 project is located for the type of work that the mechanic or worker performs. (NRS  
4 338.020) The prevailing rate of such wages for each county is determined by the  
5 Labor Commissioner pursuant to a procedure prescribed in existing law. (NRS  
6 338.030) **Section 3** of this bill changes the geographical area for which the  
7 prevailing rate of wages is determined from a county to a region. **Section 1** of this  
8 bill requires the Labor Commissioner to establish not more than four such regions.  
9 **Section 2** of this bill makes a conforming change. Thus, mechanics and workers  
10 employed on public construction projects on which prevailing wages are required to  
11 be paid must be paid at least the wage prevailing in the region in which the project  
12 is located for their craft or type of work.

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 Labor Commissioner shall divide the State into not***  
4 ***more than four regions for the purpose of determining the***  
5 ***prevailing wage for each craft or type of work within those regions***  
6 ***pursuant to NRS 338.030.***



2. When establishing the regions pursuant to subsection 1, the Labor Commissioner shall, to the extent practicable, ensure that the area within the boundaries of each such region is substantially similar with regard to:

(a) Population density; and

(b) The demographic characteristics of the communities within the area.

3. The Labor Commissioner shall review the regions established pursuant to subsection 1 periodically for compliance with the requirements of subsection 2 and, if necessary to comply with subsection 2, shall revise those regions.

**Sec. 2.** 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~~ region 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 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 a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.



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~~ *region* where the work is performed.

6. 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. 3.** NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the ~~county~~ *region established pursuant to section 1 of this act* in which the public work is to be performed for each craft or type of work.

2. The prevailing wage in each ~~county, including Carson City,~~ *such region* must be ~~established~~ *determined* as follows:

(a) The Labor Commissioner shall, annually, survey contractors who have performed work in the ~~county~~ *region*.

(b) Based on the survey conducted pursuant to paragraph (a), where the rate of wages is the same for more than 50 percent of the total hours worked by each craft or type of work in that ~~county~~ *region* on construction similar to the proposed construction, that rate will be determined as the prevailing wage.

(c) Where no such rate can be determined, the prevailing wage for a craft or type of work will be determined as the average rate of wages paid per hour based on the number of hours worked per rate, to that craft or type of work.

(d) The Labor Commissioner shall determine the prevailing wage to be 90 percent of the rate determined pursuant to paragraphs (a), (b) and (c) for:

(1) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district or the Nevada System of Higher Education is a party; and

(2) A public work of, or constructed by, a school district or the Nevada System of Higher Education, or any other construction,



1 alteration, repair, remodeling or reconstruction of an improvement  
2 or property of or constructed by a school district or the Nevada  
3 System of Higher Education.

4 3. Within 30 days after the determination is issued:

5 (a) A public body or person entitled under subsection 6 to be  
6 heard may submit an objection to the Labor Commissioner with  
7 evidence to substantiate that a different wage prevails; and

8 (b) Any person may submit information to the Labor  
9 Commissioner that would support a change in the prevailing wage  
10 of a craft or type of work by 50 cents or more per hour in any  
11 ~~{county-}~~ **region.**

12 4. The Labor Commissioner shall hold a hearing in the  
13 ~~{locality}~~ **region** in which the work is to be executed if the Labor  
14 Commissioner:

15 (a) Is in doubt as to the prevailing wage; or

16 (b) Receives an objection or information pursuant to  
17 subsection 3.

18 ➔ The Labor Commissioner may hold only one hearing a year on  
19 the prevailing wage of any craft or type of work in any ~~{county-}~~  
20 **region.**

21 5. Notice of the hearing must be advertised in a newspaper  
22 ~~{nearest to the locality of}~~ **in the region in which** the work **is to be**  
23 **executed** once a week for 2 weeks before the time of the hearing.

24 6. At the hearing, any public body, the crafts affiliated with the  
25 State Federation of Labor or other recognized national labor  
26 organizations, and the contractors of the ~~{locality}~~ **region** or their  
27 representatives must be heard. From the evidence presented, the  
28 Labor Commissioner shall determine the prevailing wage.

29 7. The wages so determined must be filed by the Labor  
30 Commissioner and must be available to any public body which  
31 awards a contract for any public work.

32 8. Nothing contained in NRS 338.020 to 338.090, inclusive,  
33 **and section 1 of this act** may be construed to authorize the fixing of  
34 any wage below any rate which may now or hereafter be established  
35 as a minimum wage for any person employed upon any public work,  
36 or employed by any officer or agent of any public body.

37 **Sec. 4.** The Labor Commissioner shall establish the regions  
38 required by section 1 of this act before July 1, 2019.

39 **Sec. 5.** The provisions of NRS 338.030, as amended by  
40 section 3 of this act, apply to any rate of prevailing wages  
41 determined by the Labor Commissioner pursuant to that section on  
42 or after July 1, 2019.

43 **Sec. 6.** The amendatory provisions of this act do not apply to  
44 any contract to which the provisions of NRS 338.020 to 338.090,  
45 inclusive, apply, that is awarded before July 1, 2019.



1     **Sec. 7.** 1. This section and sections 1 and 4 of this act  
2 become effective upon passage and approval.  
3     2. Sections 2, 3, 5 and 6 of this act become effective on July 1,  
4 2019.

