

Assembly Bill No. 172–Assemblymen O’Neill,
Oscarson; Kirner and Stewart

Joint Sponsors: Senators Goicoechea;
and Settelmeyer

CHAPTER.....

AN ACT relating to public works; revising the manner in which the prevailing wage is determined; requiring the Labor Commissioner to determine the prevailing wage to be a certain percentage for certain public works of school districts and the Nevada System of Higher Education; raising the estimated thresholds at or above which prevailing wage requirements apply to certain public work construction projects; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires that mechanics and workers employed on certain public works be paid at least the wage prevailing for the type of work that the mechanic or worker performs in the locale in which the public work is located. (NRS 338.020) **Section 2.3** of this bill prescribes the manner in which the Labor Commissioner must determine the prevailing wage for such a public work.

Senate Bill No. 119 of this legislative session exempted public works of school districts and the Nevada System of Higher Education from the requirement to pay prevailing wage. **Section 6.7** of this bill repeals those provisions of Senate Bill No. 119, thereby making school districts and the Nevada System of Higher Education subject to that requirement. **Section 2.3** of this bill provides that the Labor Commissioner must set the prevailing wage on these public works at 90 percent of the rate of prevailing wage on other public works.

Under existing law, any contract for a public work whose cost is \$100,000 or more is subject to the prevailing wage requirements. (NRS 338.080) **Section 3** of this bill raises the threshold for the applicability of prevailing wage requirements from \$100,000 to \$250,000. **Section 3** also exempts charter schools from prevailing wage requirements.

Section 5 of this bill provides that the amendatory provisions of this bill do not apply to a public work awarded before the effective date of this bill.

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

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

Sections 1 and 2. (Deleted by amendment.)

Sec. 2.3. 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 in



which the public work is to be performed for each craft or type of work.

2. ~~§ 6~~ ~~To establish a~~ *The prevailing wage in each county, including Carson City, ~~the~~ must be established as follows:*

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

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

3. Within 30 days after the determination is issued:

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

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

~~§ 4~~ 4. The Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if the Labor Commissioner:

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

(b) Receives an objection or information pursuant to subsection

~~§ 3~~ 3.

↳ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.



~~4.1~~ 5. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

~~5.1~~ 6. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

~~6.1~~ 7. The wages so determined must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

~~7.1~~ 8. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 2.7. NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds ~~100,000~~ **\$250,000** even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

Sec. 3. NRS 338.080 is hereby amended to read as follows:

338.080 None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than ~~100,000~~ **\$250,000**. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below ~~100,000~~ **\$250,000**.

4. *Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a charter school is a party, notwithstanding any other provision of law.*



5. *A public work of, or constructed by, a charter school, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a charter school, notwithstanding any other provision of law.*

Secs. 3.3, 3.5, 3.6, 3.7, 3.8, 4 and 4.5. (Deleted by amendment.)

Sec. 5. 1. The amendatory provisions of this act do not apply to a public work or other project of construction, repair or reconstruction that is awarded before the effective date of this act.

2. As used in this section, "public work" has the meaning ascribed to it in NRS 338.010.

Sec. 6. (Deleted by amendment.)

Sec. 6.3. The Labor Commissioner shall, as soon as practicable on or after the effective date of this act, adopt regulations to carry out the provisions of this act. The Labor Commissioner shall prepare, distribute and administer the current prevailing wage survey and all subsequent surveys conducted to establish a prevailing wage in each county in strict compliance with the amendatory provisions of this act.

Sec. 6.7. Sections 1 and 3 to 6, inclusive, of Senate Bill No. 119 (Chapter 5, Statutes of Nevada 2015, at page 27) are hereby repealed.

Sec. 7. This act becomes effective upon passage and approval.

