
ASSEMBLY BILL NO. 172—ASSEMBLYMEN O’NEILL,
OSCARSON; KIRNER AND STEWART

FEBRUARY 17, 2015

JOINT SPONSORS: SENATORS GOICOECHEA;
AND SETTELMAYER

Referred to Committee on Government Affairs

SUMMARY—Requires contractors and subcontractors on a public work to use the federal E-Verify system to verify eligibility for employment for workers on the public work and revises prevailing wage requirements for public works. (BDR 28-565)

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 works; requiring contractors and subcontractors on a public work to use the federal E-Verify system to verify eligibility for employment for workers on the public work; raising the estimated thresholds at or above which prevailing wage requirements apply to certain public work construction projects; specifying that certain provisions governing the payment of prevailing wage do not apply to a school district, a charter school or the Nevada System of Higher Education; repealing provisions governing the payment of such wages by the Nevada System of Higher Education; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Under existing law, a contractor or subcontractor on a public work must
- 2 comply with certain requirements, such as making employment decisions without
- 3 discrimination based on race, color, creed, national origin, sex, sexual orientation,
- 4 gender identity or expression, or age. (NRS 338.125) **Section 1** of this bill requires
- 5 a contractor or subcontractor on a public work to use the federal E-Verify system to
- 6 verify the employment eligibility of all workers on the public work.



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7 Under existing law, any contract for a public work whose cost is \$100,000 or
8 more is subject to the prevailing wage requirements. (NRS 338.080) The prevailing
9 wage requirements also apply if a redevelopment agency provides financial
10 incentives to the developer with a value of more than \$100,000. (NRS 279.500)
11 Existing law also provides specifically that contracts for construction work of the
12 Nevada System of Education for which the estimated cost exceeds \$100,000
13 require the payment of prevailing wage even if the construction work does not
14 qualify as a public work. (NRS 338.075) **Sections 3 and 4** of this bill raise the
15 threshold for the applicability of prevailing wage requirements from \$100,000 to
16 \$5,000,000, and also make a technical correction in **section 4** clarifying that if the
17 relevant work will cost exactly \$5,000,000, the work is subject to the prevailing
18 wage requirements. **Section 3** also excludes from the prevailing wage requirement:
19 (1) any contract for a public work to which a school district, a charter school or the
20 Nevada System of Higher Education is a party; and (2) a public work of, or
21 constructed by, a school district, a charter school or the Nevada System of Higher
22 Education. **Section 6** of this bill eliminates the requirement that the Nevada System
23 of Higher Education pay prevailing wage on certain construction work that does not
24 qualify as a public 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. Each contractor and subcontractor on a public work shall*
4 *register and participate in the E-Verify system to verify the*
5 *employment eligibility of all workers on the public work.*

6 *2. As used in this section, "E-Verify system" means an*
7 *electronic program through which employers verify the*
8 *employment eligibility of their employees administered through*
9 *the United States Department of Homeland Security and*
10 *established pursuant to 8 U.S.C. § 1324a.*

11 **Sec. 2.** NRS 338.015 is hereby amended to read as follows:

12 338.015 1. The Labor Commissioner shall enforce the
13 provisions of NRS 338.010 to 338.130, inclusive **H**, *and section 1*
14 *of this act.*

15 2. In addition to any other remedy or penalty provided in this
16 chapter, if any person, including, without limitation, a public body,
17 violates any provision of NRS 338.010 to 338.130, inclusive, *and*
18 *section 1 of this act* or any regulation adopted pursuant thereto, the
19 Labor Commissioner may, after providing the person with notice
20 and an opportunity for a hearing, impose against the person an
21 administrative penalty of not more than \$5,000 for each such
22 violation.

23 3. The Labor Commissioner may, by regulation, establish a
24 sliding scale based on the severity of the violation to determine the



1 amount of the administrative penalty to be imposed against the
2 person pursuant to this section.

3 4. The Labor Commissioner shall report the violation to the
4 Attorney General, and the Attorney General may prosecute the
5 person in accordance with law.

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

7 338.080 None of the provisions of NRS 338.020 to 338.090,
8 inclusive, apply to:

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

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

17 3. Any contract for a public work whose cost is less than
18 ~~[\$100,000.]~~ **\$5,000,000.** A unit of the project must not be separated
19 from the total project, even if that unit is to be completed at a later
20 time, in order to lower the cost of the project below ~~[\$100,000.]~~
21 **\$5,000,000.**

22 4. *Any contract for a public work to which a school district, a*
23 *charter school or the Nevada System of Higher Education is a*
24 *party.*

25 5. *A public work of, or constructed by, a school district, a*
26 *charter school or the Nevada System of Higher Education.*

27 **Sec. 4.** NRS 279.500 is hereby amended to read as follows:

28 279.500 1. The provisions of NRS 338.010 to 338.090,
29 inclusive, apply to any contract for new construction, repair or
30 reconstruction which is awarded on or after October 1, 1991, by an
31 agency for work to be done in a project.

32 2. If an agency:

33 (a) Provides property for development at less than the fair
34 market value of the property;

35 (b) Provides a loan to a small business pursuant to NRS 279.700
36 to 279.740, inclusive; or

37 (c) Provides financial incentives to a developer with a value of
38 ~~more than \$100,000.]~~ **\$5,000,000 or more,**

39 ↪ regardless of whether the project is publicly or privately owned,
40 the agency must provide in the loan agreement with the small
41 business or the agreement with the developer, as applicable, that the
42 development project is subject to the provisions of NRS 338.010 to
43 338.090, inclusive, to the same extent as if the agency had awarded
44 the contract for the project. This subsection applies only to the
45 project covered by the loan agreement between the agency and the



1 small business or the agreement between the agency and the
2 developer, as applicable. This subsection does not apply to future
3 development of the property unless an additional loan, or additional
4 financial incentives with a value of ~~more than \$100,000,~~
5 **\$5,000,000 or more**, are provided to the small business or
6 developer, as applicable.

7 **Sec. 5.** 1. The amendatory provisions of sections 3 and 4 of
8 this act do not apply to a public work or other project of
9 construction, repair or reconstruction that is awarded before July 1,
10 2015.

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

13 **Sec. 6.** NRS 338.075 is hereby repealed.

14 **Sec. 7.** 1. This section and sections 3 to 6, inclusive, of this
15 act become effective on July 1, 2015.

16 2. Sections 1 and 2 of this act become effective on October 1,
17 2015.

TEXT OF REPEALED SECTION

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. 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 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

