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SENATE BILL NO. 495—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 27, 2017

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Referred to Committee on Commerce, Labor and Energy

SUMMARY—Provides for certain causes of action against employers. (BDR 53-1153)

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.

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AN ACT relating to employment; authorizing employees and certain labor-management committees to bring actions against employers for certain violations relating to wages and other benefits; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law imposes certain requirements on employers regarding the  
2 treatment of employees, including with respect to wages, benefits, meal and rest  
3 periods and other terms of employment. (NRS 608.005-608.195) Existing law  
4 authorizes the Labor Commissioner to enforce these requirements and provides that  
5 an employer who violates such requirements is guilty of a misdemeanor and subject  
6 to an administrative penalty of \$5,000 per violation. (NRS 608.180, 608.195)  
7 **Section 1** of this bill authorizes employees who are affected by certain violations of  
8 existing law relating to wages and other benefits to bring lawsuits against  
9 employers to recover certain damages.  
10 Existing law imposes certain requirements related to wages on certain contracts  
11 for the performance of a public work. (NRS 338.020) **Section 4** of this bill  
12 authorizes employees and their representatives and certain committees organized  
13 jointly between employers and employees pursuant to the federal Labor  
14 Management Cooperation Act of 1978, 29 U.S.C. § 175a, to bring lawsuits against  
15 employers for violations of that provision of existing law concerning public works  
16 to recover certain damages.



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

1       **Section 1.** Chapter 608 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       1. *Notwithstanding any other provision of this chapter or*  
4 *chapter 607 of NRS, and in addition to any other remedy or*  
5 *penalty provided in this chapter, an employee may bring an action*  
6 *in a court of competent jurisdiction against an employer for a*  
7 *violation of NRS 608.015 to 608.155, inclusive, 608.165 or*  
8 *608.170.*

9       2. *An employee bringing an action against an employer*  
10 *pursuant to this section must serve copies of his or her pleadings*  
11 *upon the Labor Commissioner.*

12       3. *If the employee prevails in establishing a violation of NRS*  
13 *608.015 to 608.155, inclusive, 608.165 or 608.170, the court shall*  
14 *award to the employee all appropriate back pay, injunctive relief,*  
15 *reasonable attorney's fees and costs, in addition to any other*  
16 *remedy provided in this chapter.*

17       **Sec. 2.** NRS 608.180 is hereby amended to read as follows:

18       608.180 The Labor Commissioner or the representative of the  
19 Labor Commissioner shall cause the provisions of NRS 608.005 to  
20 608.195, inclusive, *and section 1 of this act* to be enforced, and  
21 upon notice from the Labor Commissioner or the representative:

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

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

26       3. The Attorney General, as provided in NRS 607.160 or  
27 607.220; or

28       4. The special counsel, as provided in NRS 607.065,  
29 ➔ shall prosecute the action for enforcement according to law.

30       **Sec. 3.** NRS 608.195 is hereby amended to read as follows:

31       608.195 1. Except as otherwise provided in NRS 608.0165,  
32 any person who violates any provision of NRS 608.005 to 608.195,  
33 inclusive, *and section 1 of this act* or any regulation adopted  
34 pursuant thereto, is guilty of a misdemeanor.

35       2. In addition to any other remedy or penalty, the Labor  
36 Commissioner may impose against the person an administrative  
37 penalty of not more than \$5,000 for each such violation.

38       **Sec. 4.** Chapter 338 of NRS is hereby amended by adding  
39 thereto a new section to read as follows:

40       1. *A labor-management committee established pursuant to*  
41 *the federal Labor Management Cooperation Act of 1978, 29*  
42 *U.S.C. § 175a, or an employee or his or her representative may*



1 *bring an action in a court of competent jurisdiction against an*  
2 *employer for a violation of NRS 338.020.*

3 2. *A committee or person bringing an action against an*  
4 *employer pursuant to this section must serve copies of the*  
5 *pleadings upon the Labor Commissioner.*

6 3. *If the committee or person prevails in establishing a*  
7 *violation of NRS 338.020, the court shall award to the committee*  
8 *or person all appropriate back pay, injunctive relief and*  
9 *reasonable attorney's fees and costs.*

10 4. *If the employer prevails and the court finds that the suit*  
11 *was not substantially justified, the court may award reasonable*  
12 *attorney's fees and costs to the employer. For the purposes of this*  
13 *subsection, an action is "substantially justified" if it had a*  
14 *reasonable basis in law or fact at the time that it was brought.*

15 **Sec. 5.** NRS 338.050 is hereby amended to read as follows:

16 338.050 For the purpose of NRS 338.010 to 338.090, inclusive,  
17 *and section 4 of this act*, except as otherwise provided by specific  
18 statute, every worker who performs work for a public work covered  
19 by a contract therefor is subject to all of the provisions of NRS  
20 338.010 to 338.090, inclusive, *and section 4 of this act* regardless  
21 of any contractual relationship alleged to exist between such worker  
22 and his or her employer.

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

24 338.080 None of the provisions of NRS 338.020 to 338.090,  
25 inclusive, *and section 4 of this act* apply to:

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

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

34 3. Any contract for a public work whose cost is less than  
35 \$250,000. A unit of the project must not be separated from the total  
36 project, even if that unit is to be completed at a later time, in order to  
37 lower the cost of the project below \$250,000.

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

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



1       **Sec. 7.** NRS 338.090 is hereby amended to read as follows:  
2       338.090 1. Except as otherwise provided in subsection 4, any  
3 person, including the officers, agents or employees of a public body,  
4 who violates any provision of NRS 338.010 to 338.090, inclusive,  
5 *and section 4 of this act*, or any regulation adopted pursuant thereto,  
6 is guilty of a misdemeanor.  
7       2. The Labor Commissioner, in addition to any other remedy or  
8 penalty provided in this chapter:  
9       (a) Shall assess a person who, after an opportunity for a hearing,  
10 is found to have failed to pay the prevailing wage required pursuant  
11 to NRS 338.020 to 338.090, inclusive, *and section 4 of this act* an  
12 amount equal to the difference between the prevailing wages  
13 required to be paid and the wages that the contractor or  
14 subcontractor actually paid; and  
15       (b) May, in addition to any other administrative penalty, impose  
16 an administrative penalty not to exceed the costs incurred by the  
17 Labor Commissioner to investigate and prosecute the matter.  
18       3. If the Labor Commissioner finds that a person has failed to  
19 pay the prevailing wage required pursuant to NRS 338.020 to  
20 338.090, inclusive, *and section 4 of this act*, the public body may,  
21 in addition to any other remedy or penalty provided in this chapter,  
22 require the person to pay the actual costs incurred by the public  
23 body to investigate the matter.  
24       4. The provisions of subsection 1 do not apply to a  
25 subcontractor specified in NRS 338.072.  
26       **Sec. 8.** This act becomes effective on July 1, 2017.

