

ASSEMBLY BILL NO. 356—ASSEMBLYWOMAN GIUNCHIGLIANI

MARCH 17, 2003

---

Referred to Committee on Commerce and Labor

SUMMARY—Revises various provisions relating to determination of livable wages and establishment of certain benefits for certain employees in private employment. (BDR 18-682)

FISCAL NOTE: Effect on Local Government: Yes.  
Effect on the State: Yes.

~

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

---

AN ACT relating to labor; requiring the Department of Employment, Training and Rehabilitation to perform certain calculations with respect to the cost of living for working families within the State; requiring the Commission on Economic Development to determine the efficacy of certain tax incentives and other incentives with respect to the creation of jobs within this state that pay livable wages; imposing certain requirements relating to the provision of family health care to the employees and dependents of certain larger grocery stores; providing a penalty; and providing other matters properly relating thereto.

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

- 1     **Secs. 1 and 2.** (Deleted by amendment.)
- 2     **Sec. 2.5.** Chapter 231 of NRS is hereby amended by adding a
- 3 new section to read as follows:
- 4     *To determine the efficacy of tax incentives and other incentives*
- 5 *with respect to the creation of jobs within this state that pay livable*
- 6 *wages, as determined pursuant to subsection 4 of section 3 of this*
- 7 *act, the Commission on Economic Development shall, on or*
- 8 *before January 31 of each year:*



\* A B 3 5 6 R 2 \*

1 *1. Identify each business, company or corporation that has*  
2 *received an incentive, including, without limitation, a tax*  
3 *abatement, to relocate within this state or to expand its operations*  
4 *within this state; and*

5 *2. Calculate the number of jobs created within this state by*  
6 *each of the businesses, companies and corporations that received*  
7 *the incentives described in subsection 1. The calculations required*  
8 *pursuant to this paragraph must include or be accompanied by an*  
9 *assessment of:*

10 *(a) The average wage of nonmanagerial employees paid by the*  
11 *applicable business, company or corporation that received the*  
12 *incentive;*

13 *(b) The health care benefits offered to nonmanagerial*  
14 *employees by the applicable business, company or corporation that*  
15 *received the incentive; and*

16 *(c) The particular type of incentive and amount of incentive*  
17 *received by the applicable business, company or corporation.*

18 **Sec. 2.7.** NRS 231.020 is hereby amended to read as follows:

19 231.020 As used in NRS 231.020 to 231.139, inclusive, *and*  
20 *section 2.5 of this act*, unless the context otherwise requires,  
21 “motion pictures” includes feature films, movies made for broadcast  
22 on television and programs made for broadcast on television in  
23 episodes.

24 **Sec. 3.** Chapter 232 of NRS is hereby amended by adding  
25 thereto a new section to read as follows:

26 *1. For the purpose of determining the cost of living for*  
27 *working families within this state, the Department shall, on or*  
28 *before January 31 of each year, calculate budgets, based upon*  
29 *acceptable self-sufficiency standards, for six separate types of*  
30 *family units:*

31 *(a) A family unit consisting of a single person;*

32 *(b) A family unit consisting of two adult persons;*

33 *(c) A family unit consisting of one parent and one child;*

34 *(d) A family unit consisting of one parent and two children;*

35 *(e) A family unit consisting of two parents and one child; and*

36 *(f) A family unit consisting of two parents and two children.*

37 *2. The budgets calculated pursuant to subsection 1 must*  
38 *measure living expenses in the following areas:*

39 *(a) Food;*

40 *(b) Housing and utilities;*

41 *(c) Health care;*

42 *(d) Transportation;*

43 *(e) Child care;*



1 (f) *Miscellaneous expenses, including, without limitation,*  
2 *expenses for cleaning products, clothing and personal spending;*  
3 *and*

4 (g) *Taxes, including, without limitation, federal, sales and*  
5 *payroll taxes.*

6 3. *The Department shall, on or before May 31 of each year:*

7 (a) *Using the budgets calculated pursuant to subsection 1,*  
8 *determine an estimated livable wage for each of the types of family*  
9 *units described in that subsection; and*

10 (b) *Identify the percentage of jobs within this state that pay the*  
11 *estimated livable wages determined pursuant to paragraph (a).*

12 4. *The Department shall, by regulation, set forth its*  
13 *assumptions and methodology with respect to the calculations and*  
14 *determinations required pursuant to this section.*

15 5. *As used in this section, "livable wage" means a wage*  
16 *sufficient to support a family unit without public assistance based*  
17 *upon an acceptable self-sufficiency standard.*

18 **Sec. 4.** NRS 232.900 is hereby amended to read as follows:  
19 232.900 As used in NRS 232.900 to 232.960, inclusive, *and*  
20 *section 3 of this act*, unless the context otherwise requires:

21 1. "Department" means the Department of Employment,  
22 Training and Rehabilitation.

23 2. "Director" means the Director of the Department.

24 **Sec. 5.** (Deleted by amendment.)

25 **Sec. 6.** Chapter 446 of NRS is hereby amended by adding  
26 thereto the provisions set forth as sections 7 and 8 of this act.

27 **Sec. 7.** *The Legislature hereby finds and declares that:*

28 1. *It is vital to public health to ensure that workers who*  
29 *handle food for retail sale are not afflicted with contagious*  
30 *illnesses. However, the resources available to state and local*  
31 *agencies and officers who regulate health are insufficient to*  
32 *ensure that those workers do not work during such times as they*  
33 *may be afflicted with contagious illnesses. Furthermore, the larger*  
34 *the store or business in which workers handle food for retail sale,*  
35 *the more difficult it is for state and local agencies and officers who*  
36 *regulate health to ensure that workers who handle food for retail*  
37 *sale are healthy. Thus, it is the sense of the Legislature on this*  
38 *matter that preventing contagious illness among such workers is*  
39 *more efficacious than efforts related to inspection.*

40 2. *Most retailers of food prevent the problems described in*  
41 *subsection 1 by providing their employees and the families of their*  
42 *employees with full medical benefits and paid sick leave. However,*  
43 *a small number of retailers of food do not provide such benefits,*  
44 *resulting in a concomitant ability of those retailers to sell food at a*  
45 *lower price which, in turn, exerts pressure on the retailers of food*



1 *who do provide such benefits to cease providing those benefits in*  
2 *an effort to remain competitive with respect to the price at which*  
3 *they are able to sell food. As a result, workers who handle food for*  
4 *retail sale and are not afforded such benefits or lose such benefits*  
5 *may, through contracting contagious illnesses, impose a burden*  
6 *upon charitable institutions and programs of health that are*  
7 *financed publicly.*

8 *3. The selling of food at retail can be a profitable business*  
9 *and it is therefore unfair that certain retailers of food, through a*  
10 *policy of not providing their employees and the families of their*  
11 *employees with full medical benefits and paid sick leave, shift the*  
12 *burden of paying for such health care to charitable institutions*  
13 *and programs of health that are supported by the contributions of*  
14 *taxpayers.*

15 *4. It is a common practice for governmental agencies to*  
16 *condition the granting of permits or contracts to businesses on the*  
17 *basis of such businesses indemnifying the agency or providing*  
18 *proof of insurance, or both. The Legislature further finds that a*  
19 *similar approach is warranted with respect to the granting of*  
20 *business licenses by a political subdivision of this state to large*  
21 *grocery stores.*

22 *5. This section and section 8 of this act do not require a*  
23 *retailer of food to establish a health plan or to modify an existing*  
24 *health plan, because the responsibilities of such a retailer*  
25 *pursuant to those provisions may be met instead from the general*  
26 *assets of the retailer.*

27 **Sec. 8. 1.** *As a condition to receiving or renewing a valid*  
28 *business license issued by a political subdivision of this state, a*  
29 *food establishment that is a large grocery store must:*

30 *(a) Indemnify all potentially affected governmental agencies*  
31 *for any significant expense incurred by those agencies in*  
32 *providing family health care; and*

33 *(b) Provide to the political subdivision proof of the*  
34 *indemnification required pursuant to paragraph (a).*

35 *2. The proof required to be provided pursuant to paragraph*  
36 *(b) of subsection 1 may be presented in one of the following forms:*

37 *(a) Evidence that the large grocery store has established a*  
38 *benefits plan that provides for family health care;*

39 *(b) Evidence that the large grocery store is signatory to a*  
40 *collective bargaining agreement that provides for family health*  
41 *care;*

42 *(c) Documentary proof from each employee of the large*  
43 *grocery store, demonstrating that the store provides insurance for*  
44 *family health care; or*



1       (d) *A written commitment from the large grocery store to*  
2 *provide the indemnification required pursuant to paragraph (a) of*  
3 *subsection 1, accompanied by proof of assets deemed sufficient by*  
4 *the Attorney General to cover any significant expense incurred by*  
5 *governmental agencies in providing family health care.*

6       3. *It is unlawful for any person to:*

7       (a) *Deprive or threaten to deprive an employee of his*  
8 *employment;*

9       (b) *Take or threaten to take any reprisal or retaliatory action*  
10 *against the employee; or*

11       (c) *Directly or indirectly intimidate, threaten, coerce,*  
12 *command or influence or attempt to intimidate, threaten, coerce,*  
13 *command or influence the employee,*

14 *in an attempt to prevent the employee from receiving family health*  
15 *care pursuant to this section or in an attempt to penalize or punish*  
16 *the employee for receiving family health care pursuant to this*  
17 *section.*

18       4. *In addition to the acts prohibited pursuant to subsection 3,*  
19 *it is unlawful for any person to reduce or otherwise alter the*  
20 *working hours of an employee for the sole purpose of preventing*  
21 *that employee from receiving family health care pursuant to this*  
22 *section.*

23       5. *A person who violates the provisions of subsection 3 or 4 is*  
24 *guilty of a misdemeanor.*

25       6. *Any person, governmental agency or organization may*  
26 *commence an action in any district court in this state to enforce*  
27 *the provisions of this section not less than 1 year after the date of*  
28 *the occurrence or termination of an alleged violation of any of*  
29 *those provisions. If the court determines that any of the provisions*  
30 *of this section have been violated by the defendant and that the*  
31 *plaintiff or the person represented by the plaintiff has been injured*  
32 *thereby, the court may enjoin the defendant from continued*  
33 *violation or may take such other affirmative action as may be*  
34 *appropriate and, in the case of a prevailing plaintiff, may award to*  
35 *the plaintiff actual damages, punitive damages, court costs and a*  
36 *reasonable attorney's fee.*

37       7. *If a food establishment claims that it does not employ a*  
38 *sufficient number of food handlers to be classified as a large*  
39 *grocery store, the political subdivision may, in order to verify or*  
40 *refute the claim, inspect such records of the food establishment as*  
41 *the political subdivision determines necessary.*

42       8. *As used in this section:*

43       (a) *"Employee" means an employee of a large grocery store.*  
44 *The term does not include a person who:*



- 1           (1) *Has been employed by a large grocery store for fewer*
- 2 *than 4 months;*
- 3           (2) *Is employed by a large grocery store for fewer than an*
- 4 *average of 80 hours in any calendar month; or*
- 5           (3) *Is a courtesy clerk.*
- 6           (b) *“Family health care” means, at a minimum, an annual*
- 7 *physical examination, treatment for potentially contagious*
- 8 *illnesses and care for the other medical needs of each employee,*
- 9 *the spouse of the employee and each dependent living in the same*
- 10 *household as the employee. The term does not include any medical*
- 11 *procedure or treatment which is solely optional or solely cosmetic.*
- 12           (c) *“Governmental agency” means an agency of federal, state*
- 13 *or local government.*
- 14           (d) *“Large grocery store” means a food establishment,*
- 15 *including, without limitation, a subcontractor, tenant or subtenant*
- 16 *of a food establishment, that:*
- 17           (1) *Sells food primarily for off-site consumption; and*
- 18           (2) *Employs, in any 1 calendar week, or is likely to employ,*
- 19 *in any 1 calendar year, more than 20 food handlers.*
- 20           (e) *“Reprisal or retaliatory action” includes:*
- 21           (1) *The denial of adequate personnel to perform duties;*
- 22           (2) *Frequent replacement of members of the staff;*
- 23           (3) *Frequent and undesirable changes in the location of an*
- 24 *office;*
- 25           (4) *The refusal to assign meaningful work;*
- 26           (5) *The issuance of letters of reprimand or evaluations of*
- 27 *poor performance;*
- 28           (6) *A demotion;*
- 29           (7) *A reduction in pay;*
- 30           (8) *The denial of a promotion;*
- 31           (9) *A suspension;*
- 32           (10) *A dismissal;*
- 33           (11) *A transfer; or*
- 34           (12) *Frequent changes in working hours or workdays.*
- 35           (f) *“Significant expense” means any costs in excess of \$500*
- 36 *that a governmental agency incurs in any 1 calendar year to pay*
- 37 *for health care for the employees of any one large grocery store,*
- 38 *their spouses or other dependents.*
- 39           **Secs. 9 and 10.** (Deleted by amendment.)
- 40           **Sec. 11.** This act becomes effective on July 1, 2003.

