

ASSEMBLY BILL NO. 48—ASSEMBLYWOMAN GIUNCHIGLIANI

FEBRUARY 5, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Provides expressly that certain provisions related to labor include persons unlawfully employed. (BDR 53-601)

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.

AN ACT relating to labor; clarifying that the duties of the Labor Commissioner include the enforcement of certain provisions related to labor without regard to whether a person is lawfully or unlawfully employed; clarifying that the provisions relating to compensation, wages and hours include persons unlawfully employed by revising the definition of “employee”; clarifying that the provisions relating to occupational safety and health include persons unlawfully employed by revising the definition of “employee”; clarifying that the provisions relating to public works projects include persons unlawfully employed by revising the definition of “workman”; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 607.160 is hereby amended to read as follows:
2 607.160 1. The Labor Commissioner:
3 (a) Shall enforce all labor laws of the State of Nevada ~~the~~ :
4 ***(1) Without regard to whether an employee or workman is***
5 ***lawfully or unlawfully employed, to the extent that doing so does***
6 ***not conflict with or infringe upon federal law; and***



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1 (2) *The* enforcement of which is not specifically and
2 exclusively vested in any other officer, board or commission . ~~†~~
3 ~~and~~

4 (b) May adopt regulations to carry out the provisions of
5 paragraph (a).

6 2. Whenever after due inquiry the Labor Commissioner
7 believes that a person financially unable to employ counsel has a
8 valid and enforceable claim for wages, commissions or other
9 demands, he may present the facts to the Attorney General showing:

10 (a) The names of the claimant and his alleged debtor.

11 (b) A description and the location of the property on which the
12 labor was performed, if the claim is for wages, or which is the office
13 or place of business of the debtor if the claim is for a commission,
14 and the right, title and interest of the debtor therein.

15 (c) Other property, if any, owned by the debtor and the probable
16 value thereof.

17 (d) The time the claimant began and the time he ceased the
18 labor.

19 (e) The number of days' labor performed by him during the
20 employment and the rate of wages or commission arrangement and
21 terms of the employment.

22 (f) The date or dates and the amount, if any, paid on the claim.

23 (g) The balance due, owing and unpaid on the claim.

24 (h) The date on which a demand for payment was made upon
25 the debtor or his agent or representative, and the response, if any, to
26 that demand.

27 (i) The names of the witnesses upon whom the claimant expects
28 to rely to provide facts and to what facts each of the witnesses is
29 expected to testify.

30 3. The Attorney General shall prosecute the claim if he
31 determines that the claim is valid and enforceable.

32 **Sec. 2.** NRS 608.010 is hereby amended to read as follows:

33 608.010 "Employee" includes both male and female persons ~~†~~
34 *in the service of an employer under any appointment or contract*
35 *of hire or apprenticeship, express or implied, oral or written,*
36 *whether lawfully or unlawfully employed, to the extent that doing*
37 *so does not conflict with or infringe upon federal law.*

38 **Sec. 3.** NRS 618.085 is hereby amended to read as follows:

39 618.085 "Employee" means every person who is required,
40 permitted or directed by any employer to engage in any
41 employment, or to go to work or be at any time in any place of
42 employment ~~†~~ , *under any appointment or contract of hire or*
43 *apprenticeship, express or implied, oral or written, whether*
44 *lawfully or unlawfully employed, to the extent that doing so does*
45 *not conflict with or infringe upon federal law.*



1 **Sec. 4.** NRS 338.010 is hereby amended to read as follows:
2 338.010 As used in this chapter:
3 1. “Day labor” means all cases where public bodies, their
4 officers, agents or employees, hire, supervise and pay the wages
5 thereof directly to a workman or workmen employed by them on
6 public works by the day and not under a contract in writing.
7 2. “Design-build contract” means a contract between a public
8 body and a design-build team in which the design-build team agrees
9 to design and construct a public work.
10 3. “Design-build team” means an entity that consists of:
11 (a) At least one person who is licensed as a general engineering
12 contractor or a general building contractor pursuant to chapter 624
13 of NRS; and
14 (b) For a public work that consists of:
15 (1) A building and its site, at least one person who holds a
16 certificate of registration to practice architecture pursuant to chapter
17 623 of NRS.
18 (2) Anything other than a building and its site, at least one
19 person who holds a certificate of registration to practice architecture
20 pursuant to chapter 623 of NRS or is licensed as a professional
21 engineer pursuant to chapter 625 of NRS.
22 4. “Design professional” means:
23 (a) A person who is licensed as a professional engineer pursuant
24 to chapter 625 of NRS;
25 (b) A person who is licensed as a professional land surveyor
26 pursuant to chapter 625 of NRS;
27 (c) A person who holds a certificate of registration to engage in
28 the practice of architecture pursuant to chapter 623 of NRS;
29 (d) A person who holds a certificate of registration to engage in
30 the practice of landscape architecture pursuant to chapter 623A of
31 NRS; or
32 (e) A business entity that engages in the practice of professional
33 engineering, land surveying, architecture or landscape architecture.
34 5. “Eligible bidder” means a person who is:
35 (a) Found to be a responsible and responsive contractor by a
36 local government which requests bids for a public work in
37 accordance with paragraph (b) of subsection 1 of NRS 338.1373; or
38 (b) Determined by a public body which awarded a contract for a
39 public work pursuant to NRS 338.1375 to 338.139, inclusive, to be
40 qualified to bid on that contract pursuant to NRS 338.1379 or was
41 exempt from meeting such qualifications pursuant to
42 NRS 338.1383.
43 6. “General contractor” means a person who is licensed to
44 conduct business in one, or both, of the following branches of the
45 contracting business:



- 1 (a) General engineering contracting, as described in subsection 2
2 of NRS 624.215.
- 3 (b) General building contracting, as described in subsection 3 of
4 NRS 624.215.
- 5 7. "Local government" means every political subdivision or
6 other entity which has the right to levy or receive money from ad
7 valorem or other taxes or any mandatory assessments, and includes,
8 without limitation, counties, cities, towns, boards, school districts
9 and other districts organized pursuant to chapters 244A, 309, 318,
10 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,
11 inclusive, and any agency or department of a county or city which
12 prepares a budget separate from that of the parent political
13 subdivision.
- 14 8. "Offense" means failing to:
- 15 (a) Pay the prevailing wage required pursuant to this chapter;
- 16 (b) Pay the contributions for unemployment compensation
17 required pursuant to chapter 612 of NRS;
- 18 (c) Provide and secure compensation for employees required
19 pursuant to chapters 616A to 617, inclusive, of NRS; or
- 20 (d) Comply with subsection 4 or 5 of NRS 338.070.
- 21 9. "Prime contractor" means a person who:
- 22 (a) Contracts to construct an entire project;
- 23 (b) Coordinates all work performed on the entire project;
- 24 (c) Uses his own workforce to perform all or a part of the
25 construction, repair or reconstruction of the project; and
- 26 (d) Contracts for the services of any subcontractor or
27 independent contractor or is responsible for payment to any
28 contracted subcontractors or independent contractors.
- 29 The term includes, without limitation, a general contractor or a
30 specialty contractor who is authorized to bid on a project pursuant to
31 NRS 338.139 or 338.148.
- 32 10. "Public body" means the State, county, city, town, school
33 district or any public agency of this state or its political subdivisions
34 sponsoring or financing a public work.
- 35 11. "Public work" means any project for the new construction,
36 repair or reconstruction of:
- 37 (a) A project financed in whole or in part from public money
38 for:
- 39 (1) Public buildings;
- 40 (2) Jails and prisons;
- 41 (3) Public roads;
- 42 (4) Public highways;
- 43 (5) Public streets and alleys;
- 44 (6) Public utilities which are financed in whole or in part by
45 public money;



- 1 (7) Publicly owned water mains and sewers;
- 2 (8) Public parks and playgrounds;
- 3 (9) Public convention facilities which are financed at least in
- 4 part with public funds; and

5 (10) All other publicly owned works and property whose cost
 6 as a whole exceeds \$20,000. Each separate unit that is a part of a
 7 project is included in the cost of the project to determine whether a
 8 project meets that threshold.

9 (b) A building for the University and Community College
 10 System of Nevada of which 25 percent or more of the costs of the
 11 building as a whole are paid from money appropriated by this state
 12 or from federal money.

13 12. "Specialty contractor" means a person who is licensed to
 14 conduct business as described in subsection 4 of NRS 624.215.

15 13. "Stand-alone underground utility project" means an
 16 underground utility project that is not integrated into a larger
 17 project, including, without limitation:

18 (a) An underground sewer line or an underground pipeline for
 19 the conveyance of water, including facilities appurtenant thereto;
 20 and

21 (b) A project for the construction or installation of a storm drain,
 22 including facilities appurtenant thereto,
 23 that is not located at the site of a public work for the design and
 24 construction of which a public body is authorized to contract with a
 25 design-build team pursuant to subsection 2 of NRS 338.1711.

26 14. "Wages" means:

27 (a) The basic hourly rate of pay; and

28 (b) The amount of pension, health and welfare, vacation and
 29 holiday pay, the cost of apprenticeship training or other similar
 30 programs, or other bona fide fringe benefits which are a benefit to
 31 the workman.

32 15. "Workman" means a skilled mechanic, skilled workman,
 33 semiskilled mechanic, semiskilled workman or unskilled workman
 34 *[-] in the service of a contractor or subcontractor under any*
 35 *appointment or contract of hire or apprenticeship, express or*
 36 *implied, oral or written, whether lawfully or unlawfully employed,*
 37 *to the extent that doing so does not conflict with or infringe upon*
 38 *federal law.* The term does not include a design professional.

39 **Sec. 5.** This act becomes effective upon passage and approval.

