

ASSEMBLY BILL NO. 222—ASSEMBLYMEMBER JACKSON

PREFILED FEBRUARY 3, 2025

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works. (BDR 28-675)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. 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, with certain exceptions, a contractor or subcontractor to comply with certain requirements relating to the employment of workers and apprentices on a public work; providing certain penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth general provisions applicable to public works, including preferences in the employment of workers and requirements for the use of apprentices. (Chapter 338 of NRS) **Section 2** of this bill prescribes an order of preference in the employment of workers and apprentices on certain public works. The order of preference is: (1) persons who are women and are citizens of this State; (2) persons who have been honorably discharged from the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, a reserve component thereof or the National Guard and are citizens of this State; (3) persons who are residents of historically underserved communities and are citizens of this State; (4) persons who are residents of rural areas of this State and are citizens of this State; (5) persons who were formerly incarcerated and are citizens of this State; and (6) persons who are under 26 years of age and are citizens of this State.

Section 3 of this bill requires a contractor or subcontractor engaged in: (1) vertical construction who employs workers on one or more public works during a calendar year to employ persons in accordance with the prescribed order of preference in **section 2** for at least 10 percent of the total hours of labor worked for each public work; and (2) horizontal construction who employs workers on one or more public works during a calendar year to employ persons in accordance with the prescribed order of preference in **section 2** for at least 3 percent of the total hours of labor worked for each public work.

Existing law requires a contractor or subcontractor engaged in: (1) vertical construction who employs workers on one or more public works during a calendar year to use one or more apprentices for at least 10 percent of the total hours of labor



24 worked for each apprenticed craft or type of work to be performed on those public
25 works; and (2) horizontal construction who employs workers on one or more public
26 works during a calendar year to use one or more apprentices for at least 3 percent of
27 the total hours of labor worked for each apprenticed craft or type of work to be
28 performed on those public works. (NRS 338.01165) **Section 4** of this bill
29 additionally requires such a contractor or subcontractor engaged in: (1) vertical
30 construction that requires at least 400 hours of any apprenticed craft or type of
31 work to be performed on the public work, to use apprentices employed in
32 accordance with the prescribed order of preference in **section 2** for at least 10
33 percent of the hours required to be performed by an apprentice; and (2) horizontal
34 construction that requires at least 800 hours of any apprenticed craft or type of
35 work to be performed on the public work, to use apprentices employed in
36 accordance with the prescribed order of preference in **section 2** for at least 3
37 percent of the hours required to be performed by an apprentice.

38 **Sections 3 and 4** authorize the Labor Commissioner to adjust the percentage of
39 total hours of labor prescribed in those sections. **Sections 3 and 4** require a
40 contractor or subcontractor to: (1) maintain and provide to the Labor Commissioner
41 certain information and documentation to show that the contractor or subcontractor
42 made a good faith effort to comply with the annual requirements regarding
43 employment of persons in accordance with the prescribed order of preference in
44 **section 2**; and (2) on or before February 15 of each year, submit certain information
45 to the Labor Commissioner regarding the hours that were worked in a calendar year
46 on certain public works.

47 **Sections 3 and 4** authorize a maximum administrative fine of \$1,000 for a
48 contractor or subcontractor who violates the requirements of those sections and a
49 maximum period of disqualification from bidding on public works for second and
50 subsequent such violations. **Section 7** of this bill makes an exception to the
51 provision in existing law governing the imposition of administrative penalties by
52 the Labor Commissioner for this new penalty.

53 **Sections 5 and 6** of this bill make certain definitions in existing law relating to
54 apprentices applicable to **sections 2-4**.

55 Existing law requires public bodies to investigate possible violations of certain
56 provisions governing public works. Under existing law, any contractor or
57 subcontractor who fails to comply with such an investigation is guilty of a
58 misdemeanor. (NRS 338.070) **Section 8** of this bill makes the requirement for
59 public bodies to investigate such possible violations, and the criminal penalty for
60 noncompliance with such an investigation, apply to possible violations of
61 **sections 2-4**.

62 **Section 9** of this bill makes the administrative penalties for costs of
63 investigation and prosecution and the criminal penalty in existing law for violating
64 certain provisions governing public works apply to a person who violates
65 **sections 2-4**.

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 the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2.** *Preference in the employment of workers and*
4 *apprentices for the purposes of sections 3 and 4 of this act must be*
5 *given:*



1 *1. First: To persons who are women and are citizens of this*
2 *State.*

3 *2. Second: To persons who:*

4 *(a) Have been honorably discharged from the Army, Navy, Air*
5 *Force, Marine Corps or Coast Guard of the United States, a*
6 *reserve component thereof or the National Guard; and*

7 *(b) Are citizens of this State.*

8 *3. Third: To persons who are residents of historically*
9 *underserved communities and are citizens of this State.*

10 *4. Fourth: To persons who are residents of rural areas of this*
11 *State and are citizens of this State.*

12 *5. Fifth: To persons who were formerly incarcerated and are*
13 *citizens of this State.*

14 *6. Sixth: To persons who are under 26 years of age and are*
15 *citizens of this State.*

16 **Sec. 3. 1.** *Notwithstanding any other provision of this*
17 *chapter and except as otherwise provided in this section, a*
18 *contractor or subcontractor engaged in vertical construction who*
19 *employs workers on one or more public works during a calendar*
20 *year pursuant to NRS 338.040 shall employ persons in accordance*
21 *with the provisions of section 2 of this act for at least 10 percent,*
22 *or any percentage established pursuant to subsection 3, of the total*
23 *hours of labor worked for each public work.*

24 *2. Notwithstanding any other provision of this chapter and*
25 *except as otherwise provided in this section, a contractor or*
26 *subcontractor engaged in horizontal construction who employs*
27 *workers on one or more public works during a calendar year*
28 *pursuant to NRS 338.040 shall employ persons in accordance with*
29 *the provisions of section 2 of this act for at least 3 percent, or any*
30 *percentage established pursuant to subsection 3, of the total hours*
31 *of labor worked for each public work.*

32 *3. The Labor Commissioner may adopt regulations to revise*
33 *the percentage of total hours of labor required to be performed*
34 *pursuant to subsection 1 or 2.*

35 *4. A contractor or subcontractor engaged on a public work*
36 *shall maintain and provide to the Labor Commissioner any*
37 *supporting documentation to show that the contractor or*
38 *subcontractor made a good faith effort to comply with subsection 1*
39 *or 2, as applicable, as determined by the Labor Commissioner. For*
40 *the purposes of this section, a contractor or subcontractor makes a*
41 *good faith effort to comply with subsection 1 or 2, as applicable, if*
42 *the contractor or subcontractor submits to the Labor*
43 *Commissioner:*

44 *(a) Documentation of conversations with community*
45 *organizations; or*



1 (b) Records that applicants or employees from the groups
2 described in section 2 of this act refused employment offers or
3 were unavailable or absent.

4 5. On or before February 15 of each year, a contractor or
5 subcontractor engaged in vertical or horizontal construction, as
6 applicable, who employs a worker on one or more public works
7 pursuant to NRS 338.040 shall report to the Labor Commissioner,
8 on the form prescribed by the Labor Commissioner, the following
9 information regarding those public works for the previous
10 calendar year:

11 (a) For each public work, the total number of hours worked on
12 vertical construction.

13 (b) For each public work, the total number of hours worked on
14 horizontal construction.

15 (c) For each public work, the total number of hours worked by
16 the persons employed in accordance with the provisions of section
17 2 of this act on vertical construction.

18 (d) For each public work, the total number of hours worked by
19 the persons employed in accordance with the provisions of section
20 2 of this act on horizontal construction.

21 (e) For each public work, the percentage of the total number
22 of hours worked on vertical construction that were worked by the
23 persons employed in accordance with the provisions of section 2 of
24 this act.

25 (f) For each public work, the percentage of the total number of
26 hours worked on horizontal construction that were worked by the
27 persons employed in accordance with the provisions of section 2 of
28 this act.

29 (g) The outreach efforts of the contractor or subcontractor to
30 employ persons in accordance with the provisions of section 2 of
31 this act and the results of such efforts.

32 6. The information required to be reported pursuant to
33 subsection 5 must not include any identifying information about a
34 public work or an apprentice or employee.

35 7. If the Labor Commissioner, on his or her own initiative or
36 based on a complaint, makes a determination based on the
37 information submitted pursuant to subsection 5 that a contractor
38 or subcontractor did not make a good faith effort to comply with
39 the provisions of subsection 1 or 2, as applicable, the Labor
40 Commissioner shall:

41 (a) Impose a penalty of not more than \$1,000; and

42 (b) For a second or subsequent violation, disqualify the
43 contractor or subcontractor from being awarded a contract for a
44 period of not longer than 2 years.



1 8. A contractor or subcontractor may request a hearing on
2 the determination of the Labor Commissioner pursuant to
3 subsection 7 within 10 days after receipt of the determination of
4 the Labor Commissioner. The hearing must be conducted in
5 accordance with regulations adopted by the Labor Commissioner.
6 If the Labor Commissioner does not receive a request for a
7 hearing pursuant to this subsection, the determination of the
8 Labor Commissioner is a final decision for the purposes of
9 judicial review pursuant to chapter 233B of NRS.

10 **Sec. 4. 1.** In addition to the requirements of subsection 1 of
11 NRS 338.01165, if any apprenticed craft or type of work to be
12 performed on those public works includes at least 400 hours of
13 such craft or type of work, a contractor or subcontractor shall use
14 apprentices employed in accordance with the provisions of section
15 2 of this act, for at least 10 percent, or any percentage established
16 pursuant to subsection 3, of the total hours required to be
17 performed by apprentices pursuant to subsection 1 of
18 NRS 338.01165.

19 2. In addition to the requirements of subsection 2 of NRS
20 338.01165, if any apprenticed craft or type of work to be
21 performed on those public works includes at least 800 hours of
22 such craft or type of work, a contractor or subcontractor shall use
23 apprentices employed in accordance with the provisions of section
24 2 of this act, for at least 3 percent, or any percentage established
25 pursuant to subsection 3, of the total hours required to be
26 performed by apprentices pursuant to subsection 2 of
27 NRS 338.01165.

28 3. The Labor Commissioner may adopt regulations to revise
29 the percentage of total hours of labor required to be performed
30 pursuant to subsection 1 or 2.

31 4. A contractor or subcontractor engaged on a public work
32 shall maintain and provide to the Labor Commissioner any
33 supporting documentation to show that the contractor or
34 subcontractor made a good faith effort to comply with subsection 1
35 or 2, as applicable, as determined by the Labor Commissioner. For
36 the purposes of this section, a contractor or subcontractor makes a
37 good faith effort to comply with subsection 1 or 2 if the contractor
38 or subcontractor submits to the Labor Commissioner:

39 (a) Documentation of conversations with apprenticeship
40 programs and community organizations; or

41 (b) Records that apprentices from the groups described in
42 section 2 of this act refused employment offers or were
43 unavailable or absent.

44 5. In addition to the report required by subsection 10 of NRS
45 338.01165, on or before February 15 of each year, a contractor or



1 subcontractor engaged in vertical or horizontal construction, as
2 applicable, who is required to comply with subsection 1 or 2, as
3 applicable, on one or more public works, shall report to the Labor
4 Commissioner, on the form prescribed by the Labor
5 Commissioner, the following information regarding those public
6 works for the previous calendar year:

7 (a) For each apprenticed craft or type of work, the total
8 number of hours worked by apprentices who are employed in
9 accordance with the provisions of section 2 of this act on vertical
10 construction.

11 (b) For each apprenticed craft or type of work, the total
12 number of hours worked by apprentices who are employed in
13 accordance with the provisions of section 2 of this act on
14 horizontal construction.

15 (c) For each apprenticed craft or type of work, the percentage
16 of the total number of hours worked on vertical construction that
17 were worked by apprentices who are employed in accordance with
18 the provisions of section 2 of this act.

19 (d) For each apprenticed craft or type of work, the percentage
20 of the total number of hours worked on horizontal construction
21 that were worked by apprentices who are employed in accordance
22 with the provisions of section 2 of this act.

23 (e) The outreach efforts of the contractor or subcontractor to
24 employ apprentices in accordance with the provisions of section 2
25 of this act and the results of such efforts.

26 6. The information required to be reported pursuant to
27 subsection 5 must not include any identifying information about a
28 public work or an apprentice or employee.

29 7. If the Labor Commissioner, on his or her own initiative or
30 based on a complaint, makes a determination based on the
31 information submitted pursuant to subsection 5 that a contractor
32 or subcontractor did not make a good faith effort to comply with
33 the provisions of subsection 1 or 2, as applicable, the Labor
34 Commissioner shall:

35 (a) Impose a penalty of not more than \$1,000; and

36 (b) For a second or subsequent violation, disqualify the
37 contractor or subcontractor from being awarded a contract for a
38 period of not longer than 2 years.

39 8. A contractor or subcontractor may request a hearing on
40 the determination of the Labor Commissioner pursuant to
41 subsection 7 within 10 days after receipt of the determination of
42 the Labor Commissioner. The hearing must be conducted in
43 accordance with regulations adopted by the Labor Commissioner.
44 If the Labor Commissioner does not receive a request for a
45 hearing pursuant to this subsection, the determination of the



1 *Labor Commissioner is a final decision for the purposes of*
2 *judicial review pursuant to chapter 233B of NRS.*

3 *9. To comply with the requirements of subsection 1 or 2, as*
4 *applicable, a contractor or subcontractor may coordinate with a*
5 *union, community organization or educational institution to create*
6 *a training program or establish a mentorship program within an*
7 *apprenticeship program.*

8 **Sec. 5.** NRS 338.010 is hereby amended to read as follows:

9 338.010 As used in this chapter:

10 1. *“Apprentice” means a person enrolled in an*
11 *apprenticeship program recognized by the State Apprenticeship*
12 *Council.*

13 2. *“Apprenticed craft or type of work” means a craft or type*
14 *of work for which there is an existing apprenticeship program.*

15 3. *“Apprenticeship program” means an apprenticeship*
16 *program recognized by the State Apprenticeship Council.*

17 4. “Authorized representative” means a person designated by a
18 public body to be responsible for the development, solicitation,
19 award or administration of contracts for public works pursuant to
20 this chapter.

21 ~~[2:]~~ 5. “Bona fide fringe benefit” means a benefit in the form
22 of a contribution that is made not less frequently than monthly to an
23 independent third party pursuant to a fund, plan or program:

24 (a) Which is established for the sole and exclusive benefit of a
25 worker and his or her family and dependents; and

26 (b) For which none of the assets will revert to, or otherwise be
27 credited to, any contributing employer or sponsor of the fund, plan
28 or program.

29 ↪ The term includes, without limitation, benefits for a worker that
30 are determined pursuant to a collective bargaining agreement and
31 included in the determination of the prevailing wage by the Labor
32 Commissioner pursuant to NRS 338.030.

33 ~~[3:]~~ 6. “Contract” means a written contract entered into
34 between a contractor and a public body for the provision of labor,
35 materials, equipment or supplies for a public work.

36 ~~[4:]~~ 7. “Contractor” means:

37 (a) A person who is licensed pursuant to the provisions of
38 chapter 624 of NRS.

39 (b) A design-build team.

40 ~~[5:]~~ 8. “Day labor” means all cases where public bodies, their
41 officers, agents or employees, hire, supervise and pay the wages
42 thereof directly to a worker or workers employed by them on public
43 works by the day and not under a contract in writing.



1 ~~16.1~~ 9. “Design-build contract” means a contract between a
2 public body and a design-build team in which the design-build team
3 agrees to design and construct a public work.

4 ~~17.1~~ 10. “Design-build team” means an entity that consists of:

5 (a) At least one person who is licensed as a general engineering
6 contractor or a general building contractor pursuant to chapter 624
7 of NRS; and

8 (b) For a public work that consists of:

9 (1) A building and its site, at least one person who holds a
10 certificate of registration to practice architecture pursuant to chapter
11 623 of NRS.

12 (2) Anything other than a building and its site, at least one
13 person who holds a certificate of registration to practice architecture
14 pursuant to chapter 623 of NRS or landscape architecture pursuant
15 to chapter 623A of NRS or who is licensed as a professional
16 engineer pursuant to chapter 625 of NRS.

17 ~~18.1~~ 11. “Design professional” means:

18 (a) A person who is licensed as a professional engineer pursuant
19 to chapter 625 of NRS;

20 (b) A person who is licensed as a professional land surveyor
21 pursuant to chapter 625 of NRS;

22 (c) A person who holds a certificate of registration to engage in
23 the practice of architecture, interior design or residential design
24 pursuant to chapter 623 of NRS;

25 (d) A person who holds a certificate of registration to engage in
26 the practice of landscape architecture pursuant to chapter 623A of
27 NRS; or

28 (e) A business entity that engages in the practice of professional
29 engineering, land surveying, architecture or landscape architecture.

30 ~~19.1~~ 12. “Discrete project” means one or more public works
31 which are undertaken on a single construction site for a single public
32 body. The term does not include one or more public works that are
33 undertaken on multiple construction sites regardless of whether the
34 public body which sponsors or finances the public works bundles
35 the public works together.

36 ~~110.1~~ 13. “Division” means the State Public Works Division of
37 the Department of Administration.

38 ~~111.1~~ 14. “Eligible bidder” means a person who is:

39 (a) Found to be a responsible and responsive contractor by a
40 local government or its authorized representative which requests
41 bids for a public work in accordance with paragraph (b) of
42 subsection 1 of NRS 338.1373; or

43 (b) Determined by a public body or its authorized representative
44 which awarded a contract for a public work pursuant to



1 NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that
2 contract pursuant to NRS 338.1379 or 338.1382.

3 ~~13.~~ 15. “General contractor” means a person who is licensed
4 to conduct business in one, or both, of the following branches of the
5 contracting business:

6 (a) General engineering contracting, as described in subsection 2
7 of NRS 624.215.

8 (b) General building contracting, as described in subsection 3 of
9 NRS 624.215.

10 ~~13.~~ 16. “Governing body” means the board, council,
11 commission or other body in which the general legislative and fiscal
12 powers of a local government are vested.

13 ~~14.~~ 17. “Horizontal construction” means any construction,
14 alteration, repair, renovation, demolition or remodeling necessary to
15 complete a public work, including, without limitation, any
16 irrigation, drainage, water supply, flood control, harbor, railroad,
17 highway, tunnel, airport or airway, sewer, sewage disposal plant or
18 water treatment facility and any ancillary vertical components
19 thereof, bridge, inland waterway, pipeline for the transmission of
20 petroleum or any other liquid or gaseous substance, pier, and any
21 other work incidental thereto. The term does not include vertical
22 construction, the construction of any terminal or other building of an
23 airport or airway, or the construction of any other building.

24 ~~15.~~ 18. “Local government” means every political
25 subdivision or other entity which has the right to levy or receive
26 money from ad valorem or other taxes or any mandatory
27 assessments, and includes, without limitation, counties, cities,
28 towns, boards, school districts and other districts organized pursuant
29 to chapters 244A, 318, 318A, 379, 474, 538, 541, 543 and 555 of
30 NRS, NRS 450.550 to 450.750, inclusive, and any agency or
31 department of a county or city which prepares a budget separate
32 from that of the parent political subdivision. The term includes a
33 person who has been designated by the governing body of a local
34 government to serve as its authorized representative.

35 ~~16.~~ 19. “Offense” means:

36 (a) Failing to:

37 (1) Pay the prevailing wage required pursuant to this chapter;

38 (2) Pay the contributions for unemployment compensation
39 required pursuant to chapter 612 of NRS;

40 (3) Provide and secure compensation for employees required
41 pursuant to chapters 616A to 617, inclusive, of NRS; or

42 (4) Comply with subsection 5 or 6 of NRS 338.070.

43 (b) Discharging an obligation to pay wages in a manner that
44 violates the provisions of NRS 338.035.

45 ~~17.~~ 20. “Prime contractor” means a contractor who:



- 1 (a) Contracts to construct an entire project;
- 2 (b) Coordinates all work performed on the entire project;
- 3 (c) Uses his or her own workforce to perform all or a part of the
- 4 public work; and
- 5 (d) Contracts for the services of any subcontractor or
- 6 independent contractor or is responsible for payment to any
- 7 contracted subcontractors or independent contractors.

8 ↪ The term includes, without limitation, a general contractor or a
9 specialty contractor who is authorized to bid on a project pursuant to
10 NRS 338.139 or 338.148.

11 ~~{18-}~~ 21. "Public body" means the State, county, city, town,
12 school district or any public agency of this State or its political
13 subdivisions sponsoring or financing a public work.

14 ~~{19-}~~ 22. "Public work" means any project for the new
15 construction, repair or reconstruction of a project financed in whole
16 or in part from public money for:

- 17 (a) Public buildings;
- 18 (b) Jails and prisons;
- 19 (c) Public roads;
- 20 (d) Public highways;
- 21 (e) Public streets and alleys;
- 22 (f) Public utilities;
- 23 (g) Publicly owned water mains and sewers;
- 24 (h) Public parks and playgrounds;
- 25 (i) Public convention facilities which are financed at least in part
- 26 with public money; and
- 27 (j) All other publicly owned works and property.

28 ~~{20-}~~ 23. "Specialty contractor" means a person who is
29 licensed to conduct business as described in subsection 4 of
30 NRS 624.215.

31 ~~{21-}~~ 24. "Stand-alone underground utility project" means an
32 underground utility project that is not integrated into a larger
33 project, including, without limitation:

34 (a) An underground sewer line or an underground pipeline for
35 the conveyance of water, including facilities appurtenant thereto;
36 and

37 (b) A project for the construction or installation of a storm drain,
38 including facilities appurtenant thereto,

39 ↪ that is not located at the site of a public work for the design and
40 construction of which a public body is authorized to contract with a
41 design-build team pursuant to subsection 2 of NRS 338.1711.

42 ~~{22-}~~ 25. *"State Apprenticeship Council" means the State*
43 *Apprenticeship Council created by NRS 610.030.*

44 26. "Subcontract" means a written contract entered into
45 between:



- 1 (a) A contractor and a subcontractor or supplier; or
- 2 (b) A subcontractor and another subcontractor or supplier,
- 3 ↪ for the provision of labor, materials, equipment or supplies for a
- 4 construction project.

5 ~~[23-]~~ 27. "Subcontractor" means a person who:

6 (a) Is licensed pursuant to the provisions of chapter 624 of NRS

7 or performs such work that the person is not required to be licensed

8 pursuant to chapter 624 of NRS; and

9 (b) Contracts with a contractor, another subcontractor or a

10 supplier to provide labor, materials or services for a construction

11 project.

12 ~~[24-]~~ 28. "Supplier" means a person who provides materials,

13 equipment or supplies for a construction project.

14 ~~[25-]~~ 29. "Vertical construction" means any construction,

15 alteration, repair, renovation, demolition or remodeling necessary to

16 complete a public work for any building, structure or other

17 improvement that is predominantly vertical, including, without

18 limitation, a building, structure or improvement for the support,

19 shelter and enclosure of persons, animals, chattels or movable

20 property of any kind, and any other work or improvement

21 appurtenant thereto.

22 ~~[26-]~~ 30. "Wages" means:

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

24 (b) The amount of pension, health and welfare, vacation and

25 holiday pay, the cost of apprenticeship training or other bona fide

26 fringe benefits which are a benefit to the worker.

27 ~~[27-]~~ 31. "Worker" means a skilled mechanic, skilled worker,

28 semiskilled mechanic, semiskilled worker or unskilled worker in the

29 service of a contractor or subcontractor under any appointment or

30 contract of hire or apprenticeship, express or implied, oral or

31 written, whether lawfully or unlawfully employed. The term does

32 not include a design professional.

33 **Sec. 6.** NRS 338.01165 is hereby amended to read as follows:

34 338.01165 1. Notwithstanding any other provision of this

35 chapter and except as otherwise provided in this section, a

36 contractor or subcontractor engaged in vertical construction who

37 employs workers on one or more public works during a calendar

38 year pursuant to NRS 338.040 shall use one or more apprentices for

39 at least 10 percent, or any increased percentage established pursuant

40 to subsection 3, of the total hours of labor worked for each

41 apprenticed craft or type of work to be performed on those public

42 works.

43 2. Notwithstanding any other provision of this chapter and

44 except as otherwise provided in this section, a contractor or

45 subcontractor engaged in horizontal construction who employs



1 workers on one or more public works during a calendar year
2 pursuant to NRS 338.040 shall use one or more apprentices for at
3 least 3 percent, or any increased percentage established pursuant to
4 subsection 3, of the total hours of labor worked for each apprenticed
5 craft or type of work to be performed on those public works.

6 3. On or after January 1, 2021, the Labor Commissioner, in
7 collaboration with the State Apprenticeship Council, may adopt
8 regulations to increase the percentage of total hours of labor
9 required to be performed by an apprentice pursuant to subsection 1
10 or 2 by not more than 2 percentage points.

11 4. An apprentice who graduates from an apprenticeship
12 program while employed on a public work shall:

13 (a) Be deemed an apprentice on the public work for the purposes
14 of subsections 1 and 2.

15 (b) Be deemed a journeyman for all other purposes, including,
16 without limitation, the payment of wages or the payment of wages
17 and benefits to a journeyman covered by a collective bargaining
18 agreement.

19 5. If a contractor or subcontractor who is a signatory to a
20 collective bargaining agreement with a union that sponsors an
21 apprenticeship program for an apprenticed craft or type of work for
22 which the term of apprenticeship is not more than 3 years requests
23 an apprentice from that apprenticeship program and an apprentice in
24 the appropriate craft or type of work is not available, the contractor
25 or subcontractor may utilize a person who graduated from the
26 apprenticeship program in that craft or type of work within the 3
27 years immediately preceding the request from the contractor or
28 subcontractor. Such a person:

29 (a) Shall be deemed an apprentice on the public work for the
30 purposes of subsections 1 and 2.

31 (b) Shall be deemed a journeyman for all other purposes,
32 including, without limitation, the payment of wages and benefits to
33 a journeyman pursuant to the collective bargaining agreement.

34 6. A contractor or subcontractor engaged on a public work is
35 not required to use an apprentice in a craft or type of work
36 performed in a jurisdiction recognized by the State Apprenticeship
37 Council as not having apprentices in that craft or type of work.

38 7. A contractor or subcontractor engaged on a public work
39 shall maintain and provide to the Labor Commissioner any
40 supporting documentation to show that the contractor or
41 subcontractor made a good faith effort to comply with subsection 1
42 or 2, as applicable, as determined by the Labor Commissioner. For
43 purposes of this subsection, a contractor or subcontractor:

44 (a) Makes a good faith effort to comply with subsection 1 or 2,
45 as applicable, if the contractor or subcontractor:



1 (1) Submits to the apprenticeship program, on the form
2 prescribed by the Labor Commissioner, a request for an apprentice
3 not earlier than 10 days before the contractor or subcontractor is
4 scheduled to begin work on the public work and not later than 5
5 days after the contractor or subcontractor actually begins work on
6 the public work.

7 (2) If the apprenticeship program does not provide an
8 apprentice for the appropriate apprenticed craft or type of work
9 upon a request pursuant to subparagraph (1), submits additional
10 requests to the apprenticeship program, on the form prescribed by
11 the Labor Commissioner, at least once every 30 days during the
12 period that the contractor or subcontractor is working on the public
13 work. If a contractor or subcontractor does not work continuously
14 on the public work, the contractor or subcontractor shall submit an
15 additional request each time that the contractor or subcontractor
16 resumes work on the public work not earlier than 10 days before the
17 contractor or subcontractor is scheduled to resume work on the
18 public work and not later than 5 days after the contractor or
19 subcontractor actually resumes work on the public work. The
20 requirement for the submission of an additional request in this
21 subparagraph does not apply whenever a contractor or subcontractor
22 has one or more apprentices employed for that apprenticed craft or
23 type of work.

24 (b) Does not make a good faith effort to comply with subsection
25 1 or 2, as applicable, as determined by the Labor Commissioner, if
26 the contractor or subcontractor is required to enter into an
27 apprenticeship agreement pursuant to subsection 16 and refuses to
28 do so.

29 8. The supporting documentation required pursuant to
30 subsection 7 may include, without limitation:

31 (a) Documentation of the submission by the contractor or
32 subcontractor of one or more requests, as applicable, pursuant to
33 subsection 7; and

34 (b) Documentation that the apprenticeship program denied such
35 a request, did not respond to such a request or responded that the
36 program was unable to provide the requested apprentice.

37 9. The contractor or subcontractor and the apprenticeship
38 program shall coordinate the starting date for any apprentice
39 provided by the program.

40 10. On or before February 15 of each year, a contractor or
41 subcontractor engaged in vertical or horizontal construction, as
42 applicable, who employs a worker on one or more public works
43 pursuant to NRS 338.040 shall report to the Labor Commissioner,
44 on the form prescribed by the Labor Commissioner, the following



1 information regarding those public works for the previous calendar
2 year:

3 (a) For each apprenticed craft or type of work, the total number
4 of hours worked on vertical construction.

5 (b) For each apprenticed craft or type of work, the total number
6 of hours worked on horizontal construction.

7 (c) For each apprenticed craft or type of work, the total number
8 of hours worked by apprentices on vertical construction.

9 (d) For each apprenticed craft or type of work, the total number
10 of hours worked by apprentices on horizontal construction.

11 (e) For each apprenticed craft or type of work, the percentage of
12 the total number of hours worked on vertical construction that were
13 worked by apprentices.

14 (f) For each apprenticed craft or type of work, the percentage of
15 the total number of hours worked on horizontal construction that
16 were worked by apprentices.

17 11. The information required to be reported pursuant to
18 subsection 10 must not include any identifying information about a
19 public work or an apprentice or employee.

20 12. If the Labor Commissioner, on his or her own initiative or
21 based on a complaint, makes a determination based on the
22 information submitted pursuant to subsection 10 that a contractor or
23 subcontractor did not make a good faith effort to comply with the
24 provisions of subsection 1 or 2, as applicable, the Labor
25 Commissioner shall notify the contractor or subcontractor in writing
26 of the determination and:

27 (a) Except as otherwise provided in paragraph (b), shall assess a
28 penalty as follows:

29 (1) If the apprentice utilization rate by the contractor or
30 subcontractor on vertical construction of a public work is:

31 (I) Seven and one-half percent or more but less than 10
32 percent of the total hours of labor worked for an apprenticed craft or
33 type of work, a penalty of \$2,500 or \$2 for each hour below the
34 percentage required, whichever is higher.

35 (II) More than 4 percent but less than 7.5 percent of the
36 total hours of labor worked for an apprenticed craft or type of work,
37 a penalty of \$3,000 or \$4 for each hour below the percentage
38 required, whichever is higher.

39 (III) Four percent or less of the total hours of labor
40 worked for an apprenticed craft or type of work, a penalty of \$5,000
41 or \$6 for each hour below the percentage required, whichever is
42 higher.

43 (2) If the apprentice utilization rate by the contractor or
44 subcontractor on horizontal construction of a public work is:



1 (I) Two percent or more but less than 3 percent of the
2 total hours of labor worked for an apprenticed craft or type of work,
3 a penalty of \$2,500 or \$2 for each hour below the percentage
4 required, whichever is higher.

5 (II) More than 1 percent but less than 2 percent of the
6 total hours of labor worked for an apprenticed craft or type of work,
7 a penalty of \$3,000 or \$4 for each hour below the percentage
8 required, whichever is higher.

9 (III) One percent or less of the total hours of labor worked
10 for an apprenticed craft or type of work, a penalty of \$5,000 or \$6
11 for each hour below the percentage required, whichever is higher.

12 (b) Shall not assess a penalty if the total number of hours of
13 labor required to be worked by apprentices:

14 (1) On vertical construction pursuant to subsection 1, as
15 applicable, during the previous calendar year is less than 40 hours.

16 (2) On horizontal construction pursuant to subsection 2, as
17 applicable, during the previous calendar year is less than 24 hours.

18 13. Except for good cause, the Labor Commissioner may not
19 initiate his or her own investigation or accept a complaint based on
20 the information submitted by a contractor or subcontractor pursuant
21 to subsection 10 after May 1 immediately following the date on
22 which the report was received by the Labor Commissioner.

23 14. In addition to the penalties set forth in subsection 12, if the
24 Labor Commissioner, on his or her own initiative or based on a
25 complaint, makes a determination that a contractor or subcontractor
26 did not submit the report required pursuant to subsection 10 or made
27 no attempt to comply with the provisions of subsection 1 or 2, as
28 applicable, the Labor Commissioner shall:

29 (a) Impose a penalty of not less than \$10,000 but not more than
30 \$75,000; or

31 (b) Disqualify the contractor or subcontractor from being
32 awarded a contract for a public work for at least 180 days but not
33 more than 2 years.

34 15. A contractor or subcontractor may request a hearing on the
35 determination of the Labor Commissioner pursuant to subsection 12
36 or 14 within 10 days after receipt of the determination of the Labor
37 Commissioner. The hearing must be conducted in accordance with
38 regulations adopted by the Labor Commissioner. If the Labor
39 Commissioner does not receive a request for a hearing pursuant to
40 this subsection, the determination of the Labor Commissioner is a
41 final decision for the purposes of judicial review pursuant to chapter
42 233B of NRS.

43 16. A contractor or subcontractor who is not a signatory to a
44 collective bargaining agreement with the union sponsoring the
45 apprenticeship program for an apprenticed craft or type of work



1 engaged on a public work shall enter into an apprenticeship
2 agreement for each apprentice required to be used in the
3 construction of a public work.

4 17. As used in this section ~~§~~:

5 ~~—(a) “Apprentice” means a person enrolled in an apprenticeship
6 program recognized by the State Apprenticeship Council.~~

7 ~~—(b) “Apprenticed craft or type of work” means a craft or type of
8 work for which there is an existing apprenticeship program
9 recognized by the State Apprenticeship Council.~~

10 ~~—(c) “Apprenticeship program” means an apprenticeship program
11 recognized by the State Apprenticeship Council.~~

12 ~~—(d) “Journeyman”], “journeyman”~~ has the meaning ascribed to
13 it in NRS 624.260.

14 ~~[(e) “State Apprenticeship Council” means the State
15 Apprenticeship Council created by NRS 610.030.]~~

16 **Sec. 7.** NRS 338.015 is hereby amended to read as follows:

17 338.015 1. The Labor Commissioner shall enforce the
18 provisions of NRS 338.010 to 338.130, inclusive ~~§~~, *and sections*
19 *2, 3 and 4 of this act.*

20 2. Except as otherwise provided in NRS 338.035 *and*
21 *338.01165 and sections 3 and 4 of this act*, and in addition to any
22 other remedy or penalty provided in this chapter, if any person,
23 including, without limitation, a public body, violates any provision
24 of NRS 338.010 to 338.130, inclusive, *and sections 2, 3 and 4 of*
25 *this act*, or any regulation adopted pursuant thereto, the Labor
26 Commissioner may, after providing the person with notice and an
27 opportunity for a hearing, impose against the person an
28 administrative penalty of not more than \$5,000 for each such
29 violation.

30 3. The Labor Commissioner may, by regulation, establish a
31 sliding scale based on the severity of the violation to determine the
32 amount of the administrative penalty to be imposed against the
33 person pursuant to this section.

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

37 **Sec. 8.** NRS 338.070 is hereby amended to read as follows:

38 338.070 1. Any public body awarding a contract shall:

39 (a) Investigate possible violations of the provisions of NRS
40 338.010 to 338.090, inclusive, *and sections 2, 3 and 4 of this act*,
41 committed in the course of the execution of the contract, and
42 determine whether a violation has been committed and inform the
43 Labor Commissioner of any such violations; and

44 (b) When making payments to the contractor engaged on the
45 public work of money becoming due under the contract, withhold



1 and retain all sums forfeited pursuant to the provisions of NRS
2 338.010 to 338.090, inclusive **[H]**, *and sections 2, 3 and 4 of this*
3 *act.*

4 2. No sum may be withheld, retained or forfeited, except from
5 the final payment, without a full investigation being made by the
6 awarding public body.

7 3. Except as otherwise provided in subsection 7, it is lawful for
8 any contractor engaged on a public work to withhold from any
9 subcontractor engaged on the public work sufficient sums to cover
10 any penalties withheld from the contractor by the awarding public
11 body on account of the failure of the subcontractor to comply with
12 the terms of NRS 338.010 to 338.090, inclusive **[H]**, *and sections 2,*
13 *3 and 4 of this act.* If payment has already been made to the
14 subcontractor, the contractor may recover from the subcontractor the
15 amount of the penalty or forfeiture in a suit at law.

16 4. A contractor engaged on a public work and each
17 subcontractor engaged on the public work shall:

18 (a) Inquire of each worker employed by the contractor or
19 subcontractor in connection with the public work:

20 (1) Whether the worker wishes to specify voluntarily his or
21 her gender; and

22 (2) Whether the worker wishes to specify voluntarily his or
23 her ethnicity; and

24 (b) For each response the contractor or subcontractor receives
25 pursuant to paragraph (a):

26 (1) If the worker chose voluntarily to specify his or her
27 gender or ethnicity, or both, record the worker's responses; and

28 (2) If the worker declined to specify his or her gender or
29 ethnicity, or both, record that the worker declined to specify such
30 information.

31 ↪ A contractor or subcontractor shall not compel or coerce a worker
32 to specify his or her gender or ethnicity and shall not penalize or
33 otherwise take any adverse action against a worker who declines to
34 specify his or her gender or ethnicity. Before inquiring as to whether
35 a worker wishes to specify voluntarily his or her gender or ethnicity,
36 the applicable contractor or subcontractor must inform the worker
37 that such information, if provided, will be open to public inspection
38 as set forth in subsection 6.

39 5. A contractor engaged on a public work and each
40 subcontractor engaged on the public work shall keep or cause to be
41 kept:

42 (a) An accurate record showing, for each worker employed by
43 the contractor or subcontractor in connection with the public work:

44 (1) The name of the worker;

45 (2) The occupation of the worker;



1 (3) The gender of the worker, if the worker voluntarily
2 agreed to specify that information pursuant to subsection 4, or an
3 entry indicating that the worker declined to specify such
4 information;

5 (4) The ethnicity of the worker, if the worker voluntarily
6 agreed to specify that information pursuant to subsection 4, or an
7 entry indicating that the worker declined to specify such
8 information;

9 (5) If the worker has a driver's license or identification card,
10 an indication of the state or other jurisdiction that issued the license
11 or card; and

12 (6) The actual per diem, wages and benefits paid to the
13 worker; and

14 (b) An additional accurate record showing, for each worker
15 employed by the contractor or subcontractor in connection with the
16 public work who has a driver's license or identification card:

17 (1) The name of the worker;

18 (2) The driver's license number or identification card number
19 of the worker; and

20 (3) The state or other jurisdiction that issued the license or
21 card.

22 6. The records maintained pursuant to subsection 5 must be
23 open at all reasonable hours to the inspection of the public body
24 awarding the contract. The contractor engaged on the public work or
25 subcontractor engaged on the public work shall ensure that a copy of
26 each record for each calendar month is received by the public body
27 awarding the contract no later than 15 days after the end of the
28 month. The copy of the record maintained pursuant to paragraph (a)
29 of subsection 5 must be open to public inspection as provided in
30 NRS 239.010. The copy of the record maintained pursuant to
31 paragraph (b) of subsection 5 is confidential and not open to public
32 inspection. The records in the possession of the public body
33 awarding the contract may be discarded by the public body 2 years
34 after final payment is made by the public body for the public work.
35 The Labor Commissioner shall adopt regulations authorizing and
36 prescribing the procedures for the electronic filing of the copies of
37 the records required to be provided monthly by a contractor or
38 subcontractor to a public body pursuant to this subsection.

39 7. A contractor engaged on a public work shall not withhold
40 from a subcontractor engaged on the public work the sums
41 necessary to cover any penalties provided pursuant to subsection 3
42 of NRS 338.060 that may be withheld from the contractor by the
43 public body awarding the contract because the public body did not
44 receive a copy of the record maintained by the subcontractor



1 pursuant to subsection 5 for a calendar month by the time specified
2 in subsection 6 if:

3 (a) The subcontractor provided to the contractor, for submission
4 to the public body by the contractor, a copy of the record not later
5 than the later of:

6 (1) Ten days after the end of the month; or

7 (2) A date agreed upon by the contractor and subcontractor;

8 and

9 (b) The contractor failed to submit the copy of the record to the
10 public body by the time specified in subsection 6.

11 ↪ Nothing in this subsection prohibits a subcontractor from
12 submitting a copy of a record for a calendar month directly to the
13 public body by the time specified in subsection 6.

14 8. Any contractor or subcontractor, or agent or representative
15 thereof, performing work for a public work who neglects to comply
16 with the provisions of this section is guilty of a misdemeanor.

17 **Sec. 9.** NRS 338.090 is hereby amended to read as follows:

18 338.090 1. Except as otherwise provided in subsection 5, any
19 person, including the officers, agents or employees of a public body,
20 who violates any provision of NRS 338.010 to 338.090, inclusive,
21 *and sections 2, 3 and 4 of this act*, or any regulation adopted
22 pursuant thereto, is guilty of a misdemeanor.

23 2. The Labor Commissioner, in addition to any other remedy or
24 penalty provided in this chapter:

25 (a) Shall, except as otherwise provided in subsection 4, assess a
26 person who, after an opportunity for a hearing, is found to have
27 failed to pay the prevailing wage required pursuant to NRS 338.020
28 to 338.090, inclusive, an amount equal to the difference between the
29 prevailing wages required to be paid and the wages that the
30 contractor or subcontractor actually paid;

31 (b) Shall require a person found to have willfully and repeatedly
32 failed to pay the prevailing wage required pursuant to NRS 338.020
33 to 338.090, inclusive, to pay damages to each affected worker in an
34 amount equal to the difference between the prevailing wages
35 required to be paid and the wages that the contractor or
36 subcontractor actually paid to the worker; and

37 (c) May, in addition to any other administrative penalty, impose
38 an administrative penalty not to exceed the costs incurred by the
39 Labor Commissioner to investigate and prosecute the matter.

40 3. If the Labor Commissioner finds that a person has failed to
41 pay the prevailing wage required pursuant to NRS 338.020 to
42 338.090, inclusive, the public body may, in addition to any other
43 remedy or penalty provided in this chapter, require the person to pay
44 the actual costs incurred by the public body to investigate the
45 matter.



1 4. The Labor Commissioner is not required to assess a person
2 an amount equal to the difference between the prevailing wages
3 required to be paid and the wages that the contractor or
4 subcontractor actually paid if the contractor or subcontractor has
5 already paid that amount to a worker pursuant to paragraph (c) of
6 subsection 4 of NRS 338.035.

7 5. The provisions of subsection 1 do not apply to a
8 subcontractor specified in NRS 338.072.

9 **Sec. 10.** The initial reports required pursuant to subsection 5
10 of section 3 of this act and subsection 5 of section 4 of this act, must
11 be submitted on or before February 15, 2027, and must include
12 information for the period which begins on October 1, 2025, and
13 ends on December 31, 2026.

14 **Sec. 11.** The amendatory provisions of this act do not apply to
15 a contract for a public work for which bids have been submitted
16 before October 1, 2025.

