

STATE OF NEVADA

BRIAN SANDOVAL
GOVERNOR

C. J. MANTHE
DIRECTOR

SHANNON CHAMBERS
LABOR COMMISSIONER



Department of Business & Industry OFFICE OF THE LABOR COMMISSIONER

www.LaborCommissioner.com

OFFICE OF THE LABOR COMMISSIONER
3300 W. SAHARA AVENUE, SUITE 225
LAS VEGAS, NEVADA 89102
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1818 COLLEGE PARKWAY, SUITE 102
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NOTICE OF INTENT TO ACT UPON REGULATIONS AND HEARING AGENDA

Notice of Hearing for the Adoption, Amendment, or Repeal of Regulations of the
Department of Business and Industry, Office of the Labor Commissioner.

The State of Nevada, Department of Business and Industry, Office of the Labor Commissioner (OLC), will hold a public hearing at **10:00 AM on Wednesday, May 30, 2018**, in the following locations:

Division of Insurance
Conference Room -1st Floor
1818 College Parkway
Carson City, Nevada 89706

Nevada State Business Center
Office of the Labor Commissioner
Nevada Room – 4th Floor
3300 West Sahara Avenue
Las Vegas, Nevada 89102

Interested persons may also participate through a simultaneous videoconference conducted in both of the above-noted locations. The purpose of the hearing is to receive comments from all interested persons regarding the adoption, amendment, or repeal of regulations pertaining to Chapter 338 of the Nevada Administrative Code (NAC).

The following information is provided pursuant to the requirements of the Nevada Revised Statutes (NRS) 233B.0603 and the directives of the Nevada State Governor:

LCB File No. R018-18.– THE LABOR COMMISSIONER.

A regulation relating to public works; interpreting certain terms relating to the applicability of the prevailing wage requirement; revising provisions governing complaints, investigations, determinations and hearings related to prevailing wage violations; revises provisions governing the establishment of a prevailing wage; revises provisions governing payroll reports; and providing other matters properly related thereto.

- (1) Why are the Regulations necessary and what are their purposes

The Regulations set up the necessary framework to help ensure that the Office of the Labor Commissioner and/or Awarding Bodies as applicable, enforce the laws and regulations relating to Public Works Projects and the payment of the prevailing wage in an efficient and timely manner and ensure that the public funds being used to fund these projects are expended in accordance with the law. In addition, these

regulations ensure that workers are paid the applicable prevailing wage based on the work being performed and the applicable job classification and job description. The regulations also provide the necessary clarity for Contractors, Subcontractors, workers, and other persons employed on Public Works Projects as to when payment of the prevailing wage is required, along with the reporting requirements.

These regulations are necessary to clarify and provide certain definitions and guidelines for enforcement by the Office of the Labor Commissioner and/or Awarding Bodies as applicable, and Contractors, Subcontractors, and other workers/persons on Public Works Projects where there is a prevailing wage requirement.

The regulations will provide a definition for Normal Maintenance and Normal Operations; clarify the definition of Recognized Class of Worker; and enforcement of Prevailing Wage laws by the Labor Commissioner.

The regulations will also clarify when workers including, Truck Drivers, are deemed to be employed on a Public Work Project and subject to the prevailing wage requirement.

The regulations clarify the method of determining the prevailing wage consistent with Assembly Bill 172 passed during the 2015 Legislative Session and set forth the job classifications and job descriptions subject to prevailing wage.

Finally, the regulations revise the provisions governing payroll reports on Public Works Projects and clarify the requirements governing complaints, investigations, determinations and hearings relating to potential prevailing wage violations.

(2) What are the terms or substance of the proposed Regulations?

The proposed regulations clarify certain requirements and definitions relating to Public Works Projects and prevailing wage and the responsibility of enforcement by the Office of the Labor Commissioner and/or Awarding Bodies as applicable. These regulations clarify the method for calculation of the prevailing wage and when workers, who fall under the applicable job classifications and job descriptions, including, Truck Drivers, are deemed to be employed on a Public Works Project and subject to the prevailing wage requirement. The regulations also streamline the complaint, investigation, determination, and hearing process, along with payroll reporting requirements.

(3) What is the anticipated impact of the Regulations on the problem(s)?

These regulations will create the necessary definitions and rules for enforcement by the Office of the Labor Commissioner and/or Awarding Bodies as applicable, governing when payment of the prevailing wage is required based on the recognized class of worker, job classifications and job descriptions. These regulations will also streamline the complaint, investigation, determination, and hearing process for potential violations, along with payroll reporting requirements on Public Works Projects subject to the prevailing wage requirement.

- (4) Do other regulations address the same problem(s)?

There are no other regulations that specifically address these issues set forth above relating to Public Works Projects and the prevailing wage requirement, reporting requirements, recognized class of worker, job classifications, job descriptions, and the enforcement requirements relating to these projects.

- (5) Are alternate forms of regulation sufficient to address the problem(s)?

There are no alternative forms of regulations sufficient to address the issues set forth above relating to the prevailing wage requirement on Public Works Projects.

- (6) What value do the Regulations have to the public?

The Regulations set up the necessary framework to help ensure that the Office of the Labor Commissioner and/or Awarding Bodies as applicable, enforce the laws and regulations relating to Public Works Projects and the payment of the prevailing wage in an efficient and timely manner and ensure that the public funds being used to fund these projects are expended in accordance with the law. In addition, these regulations ensure that workers are paid the applicable prevailing wage based on the work being performed and the applicable job classification and job description. The regulations also provide the necessary clarity for Contractors, Subcontractors, workers, and other persons employed on Public Works Projects as to when payment of the prevailing wage is required, along with the reporting requirements.

- (7) What is the anticipated economic benefit of the Regulations?

- a. Public
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- b. Office of the Labor Commissioner.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- c. Small Business.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- d. Small Communities.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- e. Government Entities.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*

(8) What is the anticipated adverse impact, if any?

- a. Public
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- b. Office of the Labor Commissioner.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- c. Small Business.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- d. Small Communities.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
- e. Government Entities.
 - 1. Immediate. *None.*
 - 2. Long Term: *None.*
 - 3.

(9) What is the anticipated cost of the Regulations, both direct and indirect?

- a. *Enactment:* *None.*
- b. *Enforcement:* *None.*
- c. *Compliance:* *None.*

(10) Do the Regulations establish a new fee or increase an existing fee?

The Regulations do not establish a new fee or increase an existing fee.

(11) Provide a statement that identifies the methods used by the agency in determining the impact of the proposed regulation on small business, prepared pursuant to subsection 3 of NRS 233B.0608.

(See attached Small Business Impact Statement) – if applicable.

(12) Provide a description of any regulations of the other state or local governmental agencies for which the proposed regulation overlaps or duplicates, and a statement explaining why the duplication or overlapping is necessary. If the Regulations overlap or duplicate a federal regulation, state the name of the regulating federal agency.

Not applicable, as the Regulations as drafted do not appear to overlap or duplicate existing state, local, or federal laws and/or agencies.

- (13) If the Regulations are required pursuant to federal law, provide a citation and description of the federal law.

Not applicable, as the Regulations are not required pursuant to federal law.

- (14) If the Regulations includes provisions that are more stringent than a federal regulation, which regulates the same activity, provide a summary of such provisions.

Not applicable, as the Regulations are not more stringent and only govern state and/or local projects.

Persons wishing to comment upon the proposed actions of the Office of the Labor Commissioner may appear at the scheduled public hearing or may address their comments, data, views, or arguments, in written form, to the Office of the Labor Commissioner, 1818 College Parkway, Suite 102, Carson City, Nevada 89706. **Written submissions must be received by the Office of the Labor Commissioner on or before MAY 25, 2018.** If no person who is affected by the proposed action appears to request time to make an oral presentation, the Office of the Labor Commissioner may proceed immediately to act upon any written submissions.

A copy of this Notice and the Regulations to be adopted, amended, or repealed will be on file at the State Library, 100 North Stewart Street, Carson City, Nevada, for inspection by members of the public during business hours. Additional copies of the Notice and the Regulations will be available at the Office of the Labor Commissioner, 1818 College Parkway, Suite 102, Carson City, Nevada 89706, and 3300 West Sahara Avenue, Suite 225, Las Vegas, Nevada 89102, and in all counties where an office of the Agency is not maintained at the main public library, for inspection and copying by members of the public during business hours. This notice and the text of the proposed Regulations are also available in the State of Nevada Register of Administrative Regulations, which is prepared and published monthly by the Legislative Counsel Bureau pursuant to NRS 233B.0653, and on the internet at <http://labor.nv.gov>. Copies of this Notice and the proposed Regulations will be mailed to members of the public upon request. A reasonable fee may be charged for copies if it is deemed necessary. This does not apply to a public body subject to the Open Meeting Law.

Upon adoption of any regulation, the Agency, if requested to do so by an interested person, either before adoption or within 30 days thereafter, shall issue a concise statement of the principal reasons for and against its adoption, and incorporate therein its reason for overruling the consideration urged against its adoption.

Notice of hearing was provided via electronic means to all persons on the Agency's List; either via email or the United States Postal Service, and this Notice of Intent to Act upon Regulations was posted to the Agency's internet website at <http://labor.nv.gov> and was provided to or posted at the following locations:

Office of the Labor Commissioner-Lobby
3300 West Sahara Street, Suite 225
Las Vegas, Nevada 89102

Legislative Building, State of Nevada
401 So. Carson Street, 1st Floor
Carson City, Nevada 89701

Office of the Labor Commissioner - Lobby
1818 College Parkway, Suite 102
Carson City, Nevada 89706

Nevada State Business Center
3300 West Sahara Street
Las Vegas, Nevada 89102

Nevada Public Notice website – notice.nv.gov

Carson City District Courthouse
885 E. Musser Street, First Floor
Carson City, Nevada 89701

Grant Sawyer Office Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Douglas County Library
P. O. Box 337
Minden, Nevada 89423

Esmeralda County Library
P. O. Box 430
Goldfield, Nevada 89013

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Las Vegas-Clark county Library District
7060 W. Windmill Lane
Las Vegas, Nevada 89113

Lyon County Library
20 Nevin Way
Yerington, Nevada 894

Pershing County Library
P. O. Box 781
Lovelock, Nevada 89419

Tonopah Public Library
P. O. Box 449
Tonopah, Nevada 89049

Nevada State Capitol
101 N. Carson Street
Carson City, Nevada 89701

Office of the Labor Commissioner
website
<http://labor.nv.gov>

Nevada Legislature website
www.leg.state.nv.us/App/Notice/A/

Blasdel State Office Building
209 E. Musser Street
Carson City, NV 89701

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Elko County Library
720 Court Street
Elko, Nevada 89801

Eureka Branch Library
P. O. Box 293
Eureka, Nevada 89316

Lander County Library
P. O. Box 141
Pioche, Nevada 89043-0330

Lincoln County Library
P. O. Box 330
Pioche, Nevada 89043-0330

Mineral County Public Library
P. O. Box 1390
Hawthorne, Nevada 89415

Storey County Clerk
P. O. Box D
Virginia City, Nevada 89440

Washoe County/Downtown Reno Library
P. O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who would like additional information about the proposed Regulations may contact Chief Assistant Rosiland Hooper at (775) 684-1892, or via email to rhooper@labor.nv.gov.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify Chief Assistant, Rosiland Hooper, in writing at 1818 College Parkway, Suite 102, Carson City, Nevada 89701 or at rhooper@labor.nv.gov, no later than five (5) working days before the hearing, or Ionela Dragomirescu, Administrative Assistant IV, at the Las Vegas Office at 3300 West Sahara Avenue, Suite 225, Las Vegas, Nevada 89102, or via email to idragomirescu@labor.nv.gov.

DATED this 30th day of April, 2018.



SHANNON M. CHAMBERS
Labor Commissioner
State of Nevada

HEARING AGENDA

The State of Nevada, Department of Business and Industry, Office of the Labor Commissioner

May 30, 2018 at 10:00 a.m.

Location of Hearing and Available via Videoconference in both locations:

Division of Insurance
Conference Room -1st Floor
1818 College Parkway
Carson City, Nevada 89706

Nevada State Business Center
Office of the Labor Commissioner
Nevada Room – 4th Floor
3300 West Sahara Avenue
Las Vegas, Nevada 89102

1. Open Hearing: R018-18
2. Presentation, Discussion, and Adoption of Proposed Regulations. (For Possible Action)

LCB File No. R018-18. THE LABOR COMMISSIONER.

A regulation relating to public works; interpreting certain terms relating to the applicability of the prevailing wage requirement; revising provisions governing complaints, investigations, determinations and hearings related to prevailing wage violations; revises provisions governing the establishment of a prevailing wage; revises provisions governing payroll reports; and providing other matters properly related thereto.

3. Public Comment
4. Close Hearing: R018-18
5. Adjournment

Supporting public material for this hearing may be requested from Rosiland M. Hooper, Chief Assistant, Office of the Labor Commissioner, 1818 College Parkway, Suite 102, Carson City, Nevada 89706, or rhooper@labor.nv.gov; or Ionela Dragomirescu, Administrative Assistant IV, Office of the Labor Commissioner, at 3300 West Sahara Avenue, Suite 225, Las Vegas, Nevada 89102, or via email to idragomirescu@labor.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and discussion relating to an item may be delayed or continued at any time. The Labor Commissioner, within her discretion may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

Members of the public who are disabled and require special accommodations or assistance at the hearing are requested to notify Chief Assistant, Rosiland Hooper, within writing at 1818 College Parkway, Suite 102, Carson City, Nevada 89701, or at rhooper@labor.nv.gov no later than five (5) working days before the hearing, or Ionela Dragomirescu, Administrative Assistant IV, Office of the Labor Commissioner, at 3300 West Sahara Avenue, Suite 225, Las Vegas, Nevada 89102, or via email to idragomirescu@labor.nv.gov.

Notices for this Hearing have been posted in accordance with NRS 241 as noted on Notice of Intent to Act upon Regulations.

Office of the Labor Commissioner-Lobby
3300 West Sahara Street, Suite 225
Las Vegas, Nevada 89102

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Hawthorne, Nevada 89415

Storey County Clerk
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Virginia City, Nevada 89440

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P. O. Box 2151
Reno, Nevada 89505-2151

Las Vegas-Clark county Library District
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Las Vegas, Nevada 89113

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Pershing County Library
P. O. Box 781
Lovelock, Nevada 89419

Tonopah Public Library
P. O. Box 449
Tonopah, Nevada 89049

White Pine County Library
950 Campton Street
Ely, Nevada 89301

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
OFFICE OF THE LABOR COMMISSIONER**

**Determination of Necessity – Small Business Impact Statement
NRS 233B.0608(1)**

REGULATIONS relating to the Office of the Labor Commissioner, A regulation relating to public works; interpreting certain terms relating to the applicability of the prevailing wage requirement; revising provisions governing complaints, investigations, determinations and hearings related to prevailing wage violations; revises provisions governing the establishment of a prevailing wage; revises provisions governing payroll reports; and providing other matters properly related thereto.

**EFFECTIVE DATE OF REGULATIONS:
Upon filing with the Nevada Secretary of State**

1. BACKGROUND

Assembly Bill 172 was passed by the 2015 Nevada Legislature and signed into law by Governor Sandoval on June 9, 2015. That bill changed the way the prevailing wage was calculated and increased the Public Works Project amount to \$250,000.

The proposed regulations clarify in regulation certain requirements and definitions relating to Public Works Projects and prevailing wage and the responsibility of enforcement by the Office of the Labor Commissioner and/or Awarding Bodies as applicable. These regulations clarify the method for calculating the prevailing wage and when workers that fall under the applicable job classifications and descriptions, including, Truck Drivers, are deemed to be employed on a Public Works Project and subject to the prevailing wage requirement. The regulations also streamline the complaint, investigation, determination, and hearing process, along with payroll reporting requirements.

**2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT,
NRS 233B.0608(1).**

The impact of the Regulations on small businesses was analyzed by the Office of the Labor Commissioner. A solicitation of this Regulation was not made with small businesses in Nevada, as none of the proposed changes in the Regulations will impact small businesses.

However, the Office of the Labor Commissioner did hold a Public Hearing on September 8, 2017, and sought public comment along with additional written comments on any of the proposed changes that could impact small business. No public or written comments were received that identified an impact to small business.

This regulation will create the necessary definitions and rules for enforcement by the Office of the Labor Commissioner and/or Awarding Bodies as applicable, governing when payment of the prevailing wage is required based on the recognized class of worker, job classifications and job descriptions. These regulations will also streamline the complaint, investigation, determination, and hearing process for potential violations, along with payroll

reporting requirements on Public Works Projects subject to the prevailing wage requirement.

3. DO THE PROPOSED REGULATIONS IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION, OR EXPANSION OF A SMALL BUSINESS? NRS 233B.608(1).

NO YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

The Regulations do not place any additional regulatory or fee requirements on small business. The Regulations streamline and set up the necessary framework to help ensure that the Office of the Labor Commissioner and/or Awarding Bodies as applicable, enforce the laws and regulations relating to Public Works Projects and the payment of the prevailing wage in an efficient and timely manner and ensure that the public funds being used to fund these projects are expended in accordance with the law. In addition, these regulations ensure that workers are paid the applicable prevailing wage based on the work being performed and the applicable job classification and job description. The regulations also provide the necessary clarity for Contractors, Subcontractors, workers, and other persons employed on Public Works Projects as to when payment of the prevailing wage is required, along with the reporting requirements.

I, SHANNON M. CHAMBERS, Labor Commissioner for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determine the impact of the proposed Regulations on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0608(3)).

April 30, 2018
Date



SHANNON M. CHAMBERS
Labor Commissioner
State of Nevada

Small Business Impact Statement
NRS 233B.0608(2)-(4) and 233B.0609

REGULATIONS relating to the Office of the Labor Commissioner, A regulation relating to public works; interpreting certain terms relating to the applicability of the prevailing wage requirement; revising provisions governing complaints, investigations, determinations and hearings related to prevailing wage violations; revises provisions governing the establishment of a prevailing wage; revises provisions governing payroll reports; and providing other matters properly related thereto.

1. **SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES.**
NRS 233B.0609(1)(a).

No comments were received from small businesses regarding these proposed Regulations

The Regulations do not place any additional regulatory or fee requirements on small business. The Regulations streamline and set up the necessary framework to help ensure that the Office of the Labor Commissioner and/or Awarding Bodies as applicable, enforce the laws and regulations relating to Public Works Projects and the payment of the prevailing wage in an efficient and timely manner and ensure that the public funds being used to fund these projects are expended in accordance with the law. In addition, these regulations ensure that workers are paid the applicable prevailing wage based on the work being performed and the applicable job classification and job description. The regulations also provide the necessary clarity for Contractors, Subcontractors, workers, and other persons employed on Public Works Projects as to when payment of the prevailing wage is required, along with the reporting requirements.

Other interested parties may receive a copy of this summary by contacting Rosiland M. Hooper, Chief Assistant, at (775) 684-1892, or rhooper@labor.nv.gov in Carson City, or Ionela Dragomirescu, Administrative Assistant IV, in Las Vegas at (702) 486-2521 or idragomirescu@labor.nv.gov.

2. **HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).**

The impact of the Regulations on small businesses was analyzed by the Office of the Labor Commissioner. A solicitation of this Regulation was not made with small businesses in Nevada, as none of the proposed changes in the Regulations will impact small businesses.

However, the Office of the Labor Commissioner did hold a Public Hearing on September 8, 2017, and sought public comment along with additional written comments on any of the proposed changes that could impact small business. No public or written comments were received that identified an impact to small business.

This regulation will create the necessary definitions and rules for enforcement by the Office of the Labor Commissioner and/or Awarding Bodies as applicable, governing when payment of the prevailing wage is required based on the recognized class of worker, job classifications and job descriptions. These regulations will also streamline the complaint, investigation, determination, and hearing process for potential violations, along with payroll reporting requirements on Public Works Projects subject to the prevailing wage requirement.

3. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATOR IS TO REGULATE. NRS 233B.0609(1)(c).

The proposed Regulations are not expected to create either an adverse or beneficial effect on any of the small businesses in Nevada, including those regulated by the Office of the Labor Commissioner. These Regulations do not add new costs or expenses for small businesses.

4. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS. 233B.0609(1)(d).

No methods were considered, as there are no new costs or expenses being added as a result of these Regulations.

5. ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).

None.

6. FEE CHANGES. NRS 233B.0609(1)(f).

No new fees are created as a result of these Regulations.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).

These Regulations do not duplicate any existing provision in federal, state, or local laws.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

The Regulations do not place any additional regulatory or fee requirements on small business. The Regulations streamline and set up the necessary framework to help ensure that the Office of the Labor Commissioner and/or Awarding Bodies as applicable, enforce the laws and regulations relating to Public Works Projects and the payment of the prevailing wage in an efficient and timely manner and ensure that the public funds being

used to fund these projects are expended in accordance with the law. In addition, these regulations ensure that workers are paid the applicable prevailing wage based on the work being performed and the applicable job classification and job description. The regulations also provide the necessary clarity for Contractors, Subcontractors, workers, and other persons employed on Public Works Projects as to when payment of the prevailing wage is required, along with the reporting requirements.

I, SHANNON M. CHAMBERS, Labor Commissioner for the State of Nevada, hereby certify to the best of my knowledge or belief a concerted effort was made to determinate the impact of the proposed Regulations on small businesses and that this statement was prepared properly, and that the information contained herein is accurate. (NRS 233B.0609(2)).

DATED this 30th day of April, 2018.



SHANNON M. CHAMBERS
Labor Commissioner
State of Nevada