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NEVADA ADMINISTRATIVE CODE (NAC) CHAPTER 338 – PUBLIC WORKS PROJECTS WORKSHOP TO SOLICIT COMMENTS ON CURRENT REGULATIONS – JANUARY 20, 2022 MEETING MINUTES

Shannon Chambers, Nevada State Labor Commissioner (Commissioner Chambers) called the meeting to order at 9:01 a.m. The purpose of the workshop is to solicit comments from interested persons on Nevada Administrative Code (NAC) section 338 and provide the opportunity to submit written comments. Potential changes to NAC section 338 may be submitted by the Labor Commissioner to the Legislative Counsel Bureau. A previous regulation package on NAC section 338 became effective on June 5, 2020, and those regulations have not been codified in the actual administrative code. Regulations are available at www.labor.nv.gov.

1. NAC 338.005-338.008 – Adding/revising definitions for normal maintenance and normal operations; apprentice; and recognized class of worker.

Commissioner Chambers noted that this item is potentially adding and/or revising definition(s) for normal maintenance and normal operations, and potential revisions to the definition of a recognized class of worker. Commissioner Chambers did have a draft of a definition of normal maintenance and normal operations for the previous regulation package that was ultimately pulled from the package that became effective on June 5, 2020. The definition of an apprentice is defined in NAC section 610 the Legislative Counsel Bureau is finalizing the language for NAC section 610 for a regulation package that may be brought before the Nevada State Apprenticeship Council (NSAC).

2. NAC 338.090 – Recognition of Collective Bargaining Agreement (CBA) Job Classifications, Groups, Job Descriptions, and wages and/or premium pay through CBAs; and list of Job Classifications and Descriptions with possible additions, changes and/or deletions.

Commissioner Chambers said that modifying, changing, or eliminating job classifications must go through a formal public hearing process. After the passage of Assembly Bill 190 (2019), when the Labor Commissioner started recognizing Collective Bargaining Agreement (CBAs) Job Classifications, Groups, Job Descriptions, and wages and/or premium pay through CBA's, it was noted that some of the Job Classifications and Job Descriptions that are being surveyed fork may fit better into other classifications. When the Office of the Labor Commissioner published our prevailing wage rates October 1, 2021, we did receive objections to the prevailing wage rates and that has initiated the discussion about moving some Job Classifications and Job Descriptions (Fence Erectors, Highway Stripers, and Flaggers). If these changes are made, they could affect the 2023 Prevailing Wage Survey. A copy of the current regulations and Prevailing Wage Rates and Job Classifications and Descriptions are available on our website at www.labor.nv.gov. There was public comment supporting the movement of some Job Classifications and Job Descriptions based on CBAs and what rate typically prevails.

3. NAC 338.092-338.100 – Certified Payroll Reports.

Commissioner Chambers signed a contract with LPCTracker, Inc., for Workforce Manager in December 2021. The Office of the Labor Commissioner is working with some Awarding Bodies in gaining LPCTracker access. It is the responsibility of the Awarding Bodies to monitor their certified payroll reports and to investigate potential issues and discrepancies on the reports. There was public comment about the need to improve access and transparency for certified payroll reports.

4. NAC 338.105-338.116 – Complaint and Determination Procedures.

The new process for answering complaints has not been codified in the NAC but became effective June 6, 2020. The Office of the Labor Commissioner believes it is working well, and our office would be happy to provide any entity training on properly submitting a complaint. Reference the formal complaint process that is laid out very specifically in NAC section 338.107.

5. Apprenticeship Utilization Act (Senate Bill 207 of the 80th Regular Session of the Nevada Legislature (2019) – Nevada Revised Statutes (NRS) section 338.01165.

The Nevada State Apprenticeship Council moved back to the Office of the Labor Commissioner on July 1, 2021 (Assembly Bill 459 – 2021). Nevada Revised Statute (NRS) section 338.01165 – Apprenticeship Utilization Act (AUA) provides the authority for the Labor Commissioner, in collaboration with the Nevada State Apprenticeship Council, to potentially increase the percentages for apprenticeship utilization as set forth in NRS section 338.01165 by not more than two percentage points. Advisory Opinions have been issued on NRS section 338.01165 – AUA and our available at www.labor.nv.gov on the AUT Tab. Any comments submitted regarding a minimum number of hours worked to trigger NRS section 338.01165 - AUA will be reviewed.

If anyone would like to submit comments, and/or schedule an appointment to speak with Commissioner Chambers offline, please do so by February 18, 2022, by emailing mail1@labor.nv.gov.

Commissioner Chambers adjourned the Nevada Administrative Code (NAC) Chapter 338 – Public Works Projects Workshop at 9:59 a.m.

Copies of this Notice of Public Meeting and Agenda are posted at the following locations:
Office of the Labor Commissioner's website <https://labor.nv.gov>
Nevada's Public Notice website <https://notice.nv.gov/>