

STATE OF NEVADA

JOE LOMBARDO
Governor



DR. KRISTOPHER SANCHEZ
Director

BRETT K. HARRIS, ESQ.
Labor Commissioner

DEPARTMENT OF BUSINESS AND INDUSTRY
OFFICE OF THE LABOR COMMISSIONER

May 12, 2025

Via Email and U.S. Mail

Joseph P. Waldman, Esq.
The Bourassa Law Group
2350 W. Charleston Blvd.
Suite 100
Las Vegas, Nevada 89128

Re: Request for Advisory Opinion—Shift Differential Pay Rate for Prevailing Wage Paid on Public Work Projects

Dear Mr. Waldman,

Pursuant to Nevada Administrative Code (“NAC”) Section 607.650, an Advisory Opinion has been requested clarifying Shift Differential pay for Electrician Wireman on Public Work Projects in the Clark Prevailing Wage Region.

ADVISORY OPINION REQUEST

Specifically, in your Request for Advisory Opinion you ask:

1. Whether the Labor Commissioner has fully adopted and incorporated by reference the Inside Construction Agreement for the Craft of “Electrician Wireman” in each year’s prevailing wage rates?
2. Are non-union members working on public works projects entitled to shift differentials for shifts that fall within the “second shift” or “third shift” as defined in the Inside Construction Agreement, regardless of how an employer may classify their shifts internally?
3. How to calculate whether shift differentials are applicable [to work on public works projects].

...

SHORT ANSWERS

1. No. The Labor Commissioner incorporates only the parts of a collective bargaining agreement relevant to the prevailing wage under NRS and NAC 338.
2. Yes. Payment of the proper prevailing wage calculation includes paying the published premium shift differential rates for both union and non-union workers on public work projects under NRS 338.
3. Shift differentials published on the prevailing wage for a classification apply to all workers employed on public work projects under NRS 338.

LEGAL AUTHORITY

Pursuant to NRS 338.015, the Labor Commissioner is tasked with enforcing the provisions of NRS 338.010 to NRS 338.130, inclusive. NRS 338.020 requires the payment of prevailing wage to skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers, or unskilled labor on public works projects in Nevada. Wages on public work projects include the base rate of pay plus bona fide fringe benefits. *See* NRS 338.010(26).

In determining prevailing wage rates, the Nevada Labor Commissioner surveys worker classifications and publishes the prevailing wage survey for all regions in Nevada, which includes shift differential, weekend, and holiday premium pay rates and zone pay when the rate prevails from a collective bargaining agreement. *See* NRS 338.030, NAC 338.010, NAC 338.020. NRS 338.030(6)(a) specifies what information the Labor Commissioner's prevailing wage determination shall include when the wage prevails from a collective bargaining agreement as:

[A]ny compensation in addition to the basic hourly wage or benefit for the craft or type of work required...including, without limitation, premium pay for hours worked in excess of a shift of 8 hours or 12 hours or such other time increment set forth in the agreement or on a weekend or holiday and zone pay. As used in this paragraph, "zone pay" means additional pay for performing work at a work site that is located in a zone established in a collective bargaining agreement.

Workers employed at the site of a public work who are necessary in the execution of the contract for the public work are deemed employed on public work projects and entitled to the payment of the correct prevailing wage. *See* NRS 338.040.

ANALYSIS

1. Whether the Labor Commissioner has fully adopted and incorporated by reference the Inside Construction Agreement for the Craft of "Electrician Wireman" in each year's prevailing wage rates [for the Clark County Prevailing Wage Region in Nevada]?

No. The Labor Commissioner does not fully adopt and incorporate the entirety of a collective bargaining agreement when the agreement's wage prevails for a Nevada prevailing wage classification. Instead, the Labor Commissioner's determination adopts only the terms and conditions relevant to the calculation of the prevailing wage pursuant to NRS and NAC 338. Therefore, terms regarding premium pay and zone pay are relevant to determining prevailing wage

while terms addressing matters like disciplinary or grievance procedures are irrelevant to prevailing wage.

2. Are non-union members working on public works projects entitled to shift differentials for shifts that fall within the “second shift” or “third shift” as defined in the Inside Construction Agreement, regardless of how an employer may classify their shifts internally?

Yes. Pursuant to NRS 338.020 and NRS 338.040, workers employed on public work projects who are necessary in the execution of the contract for the project are entitled to prevailing wage as published by the Nevada Labor Commissioner. Since the prevailing wage determination includes shift differential, premium pay, weekend and holidays rates, and zone pay, all workers on public works of that classification in that jurisdiction, regardless of their status in organized labor, are entitled to premium rates and zone pay.

3. How to calculate whether shift differentials are applicable [to prevailing wage rates on public works projects].

If the published prevailing wage rate on the determination includes shift differential pay, that pay is applicable to calculating the prevailing wage rate for workers employed on public work projects working Second (Swing) or Third (Graveyard) shift, as those terms are understood by industry standard—not an individual contractor’s scheduling. To the extent a contractor or subcontractor requires clarity for the rate, they should contact the Public Body that owns the project and/or the Office of the Labor Commissioner.

Please be advised that this Advisory Opinion is limited to the specific facts and circumstances described herein. The Office of the Labor Commissioner may revisit this issue through the Administrative Rulemaking Process. Please be further advised that subsequent statutory or administrative rule changes or judicial interpretation of the statutes or rules upon which any opinion is based may require that this Advisory Opinion be modified or abandoned. Should you need additional clarification, please do not hesitate to contact our office at (702) 486-2650.

Sincerely,



Brett K. Harris, Esq.
Labor Commissioner