

SB447 Testimony 4/7/25

We are concerned about situations when public works law is not followed and causes a detriment to someone.

This is most dire and can rise to legal action when compensation, safety, or the well-being of taxpayers is concerned.

Currently, reasonable legal fees can already be recovered under NRS 338 by a contractor, subcontractor, or supplier when a party prevails in a breach of contract dispute.

In a breach dispute against an awarding body, a court or arbitrator shall award to the prevailing party

- a. the amount that was required to be paid to him or her pursuant NRS 338; and
- b. his or her reasonable costs and attorney's fees. [NRS 338.640]

That is already a legal requirement.

This bill will broaden that standard to include all prevailing parties that successfully bring legal action to enforce public works law.

A few scenarios:

An individual who was not paid correctly because of an administrative error could bring action, prevail, get all back pay, only to then still be at a detrimental deficit when legal fees need to be paid out of the amount he or she already earned through an honest day's work.

A similar situation could impact a management entity or contractor when an administrative error violates these laws and legal action is needed to correct it. Under current law, a contractor, subcontractor, or supplier takes a risk to correct a mistake and can only recover reasonable legal fees if it is a breach of contract, as mentioned earlier.

This bill will allow judges to consider awarding reasonable costs and attorney fees for all prevailing parties when there is a writ action to enforce the provisions of the NRS 338.

Timeline:

1. There needs to be a mistake by an awarding body;
2. The mistake is not corrected;
3. A court is asked to help correct the mistake by issuing a writ of mandamus;
4. The court decides two questions
 - a. Does the party have legal standing?; AND
 - b. Should the court order the awarding body to correct the mistake?

Both of these questions need to be answered "YES" and each step needs to happen before the court considers awarding the costs it took to correct a mistake. So no damages, no profits for anyone, just sound public administration and participation.