

SENATE BILL NO. 487—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 28, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to the award of a contract for a public work to a specialty contractor. (BDR 28-394)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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; revising provisions relating to the award of a contract for a public work to a specialty contractor; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, a specialty contractor, which is defined as a contractor  
2 whose operations consist of the performance of construction work requiring special  
3 skill and whose principal contracting business involves the use of specialized  
4 building trades or craft, is allowed to take and execute a contract involving the use  
5 of two or more crafts or trades if the work performed in the crafts or trades, other  
6 than the crafts or trades in which the specialty contractor is licensed, is incidental  
7 and supplemental to the performance of the work in the craft for which the  
8 specialty contractor is licensed. (NRS 624.215, 624.220) With respect to public  
9 works, existing law authorizes the State or a local government to award a contract  
10 for a public work to a specialty contractor if: (1) the majority of the work  
11 performed under the contract consists of the specialty contracting for which the  
12 specialty contractor is licensed; and (2) the public work is not part of a larger public  
13 work. However, any work to be performed under such a contract that is outside the  
14 scope of the license of the specialty contractor is required to be performed by an  
15 appropriate subcontractor. (NRS 338.139, 338.148) This bill limits the applicability  
16 of those provisions to public works for which the cost is less than \$250,000. This  
17 bill also prescribes the circumstances under which a public body may award a  
18 contract to a specialty contractor for a public work for which the cost is \$250,000  
19 or more and which involves the performance of work that is outside the scope of  
20 the specialty contractor’s license. This bill also provides for the certification of  
21 specialty contractors by the State Contractors’ Board with respect to such contracts.



\* S B 4 8 7 R 1 \*

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 and 3 of this act.

3       **Sec. 2. 1.** *Except as otherwise provided in this section, a*  
4 *public body or its authorized representative may award a contract*  
5 *for a public work for which the cost is \$250,000 or more pursuant*  
6 *to NRS 338.1375 to 338.13895, inclusive, to a specialty contractor*  
7 *if the public body or its authorized representative determines that:*

8       (a) *The majority of the work to be performed on the public*  
9 *work to which the contract pertains consists of specialty*  
10 *contracting for which the specialty contractor is licensed pursuant*  
11 *to chapter 624 of NRS; and*

12       (b) *The public work to which the contract pertains is not part*  
13 *of a larger public work.*

14       2. *If a public work for which the cost is \$250,000 or more*  
15 *involves the performance of work outside the scope of the specialty*  
16 *contractor's license, the public body or its authorized*  
17 *representative may not award a contract for the public work to the*  
18 *specialty contractor unless the public body or its authorized*  
19 *representative determines that:*

20       (a) *The work that is outside the scope of the specialty*  
21 *contractor's license is incidental and supplemental to the*  
22 *performance of the work that the specialty contractor is licensed to*  
23 *perform, as provided for in subsection 4 of NRS 624.220;*

24       (b) *The State Contractors' Board has issued a certification to*  
25 *the specialty contractor pursuant to subsection 3; or*

26       (c) *The specialty contractor is also licensed as a general*  
27 *building contractor pursuant to chapter 624 of NRS.*

28       3. *Upon application by a specialty contractor, the State*  
29 *Contractors' Board may issue to a qualified specialty contractor a*  
30 *certification which allows the specialty contractor to enter into*  
31 *contracts to be awarded pursuant to NRS 338.1375 to 338.13895,*  
32 *inclusive, for public works for which the cost is \$250,000 or more*  
33 *and which involve the performance of work which is outside the*  
34 *scope of the specialty contractor's license and which is more than*  
35 *incidental and supplemental to the performance of the work that*  
36 *the specialty contractor is licensed to perform. A specialty*  
37 *contractor is qualified to receive a certification pursuant to this*  
38 *subsection if:*

39       (a) *The specialty contractor is licensed for his or her specialty*  
40 *pursuant to chapter 624 of NRS; and*

41       (b) *The specialty contractor has successfully completed at least*  
42 *one public work in the State of Nevada pursuant to NRS 338.1375*



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1 to 338.13895, inclusive, which involved the use of two or more  
2 crafts or trades unrelated to his or her specialty.

3 4. Except as otherwise provided in this section, if a public  
4 body or its authorized representative awards a contract to a  
5 specialty contractor pursuant to NRS 338.1375 to 338.13895,  
6 inclusive, for a public work for which the cost is \$250,000 or  
7 more, all work to be performed on the public work that is outside  
8 the scope of the license of the specialty contractor must be  
9 performed by a subcontractor who:

10 (a) Is licensed to perform such work; and

11 (b) At the time of the performance of the work, is not on  
12 disqualified status with the State Public Works Board pursuant to  
13 NRS 338.1376.

14 5. If a specialty contractor is also licensed as a general  
15 building contractor pursuant to chapter 624 of NRS, nothing in  
16 this section shall be construed to prohibit the specialty contractor  
17 who is acting in the capacity of a prime contractor from  
18 performing work himself or herself on the public work that is  
19 outside the scope of the specialty contractor's license as otherwise  
20 allowed by subsection 3 of NRS 624.215.

21 6. The State Contractors' Board shall adopt regulations  
22 prescribing the procedure for the certification of specialty  
23 contractors provided in subsection 3.

24 **Sec. 3.** 1. Except as otherwise provided in this section, a  
25 local government or its authorized representative may award a  
26 contract for a public work for which the cost is \$250,000 or more  
27 pursuant to NRS 338.143 to 338.1475, inclusive, to a specialty  
28 contractor if the local government or its authorized representative  
29 determines that:

30 (a) The majority of the work to be performed on the public  
31 work to which the contract pertains consists of specialty  
32 contracting for which the specialty contractor is licensed pursuant  
33 to chapter 624 of NRS; and

34 (b) The public work to which the contract pertains is not part  
35 of a larger public work.

36 2. If a public work for which the cost is \$250,000 or more  
37 involves the performance of work outside the scope of the specialty  
38 contractor's license, the local government or its authorized  
39 representative may not award a contract for the public work to the  
40 specialty contractor unless the local government or its authorized  
41 representative determines that:

42 (a) The work that is outside the scope of the specialty  
43 contractor's license is incidental and supplemental to the  
44 performance of the work that the specialty contractor is licensed to  
45 perform, as provided for in subsection 4 of NRS 624.220;



1       ***(b) The State Contractors' Board has issued a certification to***  
2 ***the specialty contractor pursuant to subsection 3; or***

3       ***(c) The specialty contractor is also licensed as a general***  
4 ***building contractor pursuant to chapter 624 of NRS.***

5       ***3. Upon application by a specialty contractor, the State***  
6 ***Contractors' Board may issue to a qualified specialty contractor a***  
7 ***certification which allows the specialty contractor to enter into***  
8 ***contracts to be awarded pursuant to NRS 338.143 to 338.1475,***  
9 ***inclusive, for public works for which the cost is \$250,000 or more***  
10 ***and which involve the performance of work which is outside the***  
11 ***scope of the specialty contractor's license and which is more than***  
12 ***incidental and supplemental to the performance of the work that***  
13 ***the specialty contractor is licensed to perform. A specialty***  
14 ***contractor is qualified to receive a certification pursuant to this***  
15 ***subsection if:***

16       ***(a) The specialty contractor is licensed for his or her specialty***  
17 ***pursuant to chapter 624 of NRS; and***

18       ***(b) The specialty contractor has successfully completed at least***  
19 ***one public work in the State of Nevada pursuant to NRS 338.143***  
20 ***to 338.1475, inclusive, which involved the use of two or more***  
21 ***crafts or trades unrelated to his or her specialty.***

22       ***4. Except as otherwise provided in this section, if a local***  
23 ***government or its authorized representative awards a contract to a***  
24 ***specialty contractor pursuant to NRS 338.143 to 338.1475,***  
25 ***inclusive, for a public work for which the cost is \$250,000 or***  
26 ***more, all work to be performed on the public work that is outside***  
27 ***the scope of the license of the specialty contractor must be***  
28 ***performed by a subcontractor who is licensed to perform such***  
29 ***work.***

30       ***5. If a specialty contractor is also licensed as a general***  
31 ***building contractor pursuant to chapter 624 of NRS, nothing in***  
32 ***this section shall be construed to prohibit the specialty contractor***  
33 ***who is acting in the capacity of a prime contractor from***  
34 ***performing work himself or herself on the public work that is***  
35 ***outside the scope of the specialty contractor's license as otherwise***  
36 ***allowed by subsection 3 of NRS 624.215.***

37       ***6. The State Contractors' Board shall adopt regulations***  
38 ***prescribing the procedure for the certification of specialty***  
39 ***contractors provided in subsection 3.***

40       **Sec. 4.** NRS 338.010 is hereby amended to read as follows:

41       338.010 As used in this chapter:

42       1. "Authorized representative" means a person designated by a  
43 public body to be responsible for the development, solicitation,  
44 award or administration of contracts for public works pursuant to  
45 this chapter.



1 2. "Contract" means a written contract entered into between a  
2 contractor and a public body for the provision of labor, materials,  
3 equipment or supplies for a public work.

4 3. "Contractor" means:

5 (a) A person who is licensed pursuant to the provisions of  
6 chapter 624 of NRS or performs such work that the person is not  
7 required to be licensed pursuant to chapter 624 of NRS.

8 (b) A design-build team.

9 4. "Day labor" means all cases where public bodies, their  
10 officers, agents or employees, hire, supervise and pay the wages  
11 thereof directly to a worker or workers employed by them on public  
12 works by the day and not under a contract in writing.

13 5. "Design-build contract" means a contract between a public  
14 body and a design-build team in which the design-build team agrees  
15 to design and construct a public work.

16 6. "Design-build team" means an entity that consists of:

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

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

21 (1) A building and its site, at least one person who holds a  
22 certificate of registration to practice architecture pursuant to chapter  
23 623 of NRS.

24 (2) Anything other than a building and its site, at least one  
25 person who holds a certificate of registration to practice architecture  
26 pursuant to chapter 623 of NRS or landscape architecture pursuant  
27 to chapter 623A of NRS or who is licensed as a professional  
28 engineer pursuant to chapter 625 of NRS.

29 7. "Design professional" means:

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

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

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

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

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

42 8. "Eligible bidder" means a person who is:

43 (a) Found to be a responsible and responsive contractor by a  
44 local government or its authorized representative which requests



1 bids for a public work in accordance with paragraph (b) of  
2 subsection 1 of NRS 338.1373; or

3 (b) Determined by a public body or its authorized representative  
4 which awarded a contract for a public work pursuant to NRS  
5 338.1375 to 338.139, inclusive, *and section 2 of this act* to be  
6 qualified to bid on that contract pursuant to NRS 338.1379  
7 or 338.1382.

8 9. "General contractor" means a person who is licensed to  
9 conduct business in one, or both, of the following branches of the  
10 contracting business:

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

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

15 10. "Governing body" means the board, council, commission  
16 or other body in which the general legislative and fiscal powers of a  
17 local government are vested.

18 11. "Local government" means every political subdivision or  
19 other entity which has the right to levy or receive money from ad  
20 valorem or other taxes or any mandatory assessments, and includes,  
21 without limitation, counties, cities, towns, boards, school districts  
22 and other districts organized pursuant to chapters 244A, 309, 318,  
23 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,  
24 inclusive, and any agency or department of a county or city which  
25 prepares a budget separate from that of the parent political  
26 subdivision. The term includes a person who has been designated by  
27 the governing body of a local government to serve as its authorized  
28 representative.

29 12. "Offense" means failing to:

30 (a) Pay the prevailing wage required pursuant to this chapter;

31 (b) Pay the contributions for unemployment compensation  
32 required pursuant to chapter 612 of NRS;

33 (c) Provide and secure compensation for employees required  
34 pursuant to chapters 616A to 617, inclusive, of NRS; or

35 (d) Comply with subsection 4 or 5 of NRS 338.070.

36 13. "Prime contractor" means a contractor who:

37 (a) Contracts to construct an entire project;

38 (b) Coordinates all work performed on the entire project;

39 (c) Uses his or her own workforce to perform all or a part of the  
40 public work; and

41 (d) Contracts for the services of any subcontractor or  
42 independent contractor or is responsible for payment to any  
43 contracted subcontractors or independent contractors.



1   ↳ The term includes, without limitation, a general contractor or a  
2 specialty contractor who is authorized to bid on a project pursuant to  
3 NRS 338.139 or 338.148 ~~§~~ *or section 2 or 3 of this act.*

4   14. “Public body” means the State, county, city, town, school  
5 district or any public agency of this State or its political subdivisions  
6 sponsoring or financing a public work.

7   15. “Public work” means any project for the new construction,  
8 repair or reconstruction of:

9   (a) A project financed in whole or in part from public money  
10 for:

11       (1) Public buildings;

12       (2) Jails and prisons;

13       (3) Public roads;

14       (4) Public highways;

15       (5) Public streets and alleys;

16       (6) Public utilities;

17       (7) Publicly owned water mains and sewers;

18       (8) Public parks and playgrounds;

19       (9) Public convention facilities which are financed at least in  
20 part with public money; and

21       (10) All other publicly owned works and property.

22   (b) A building for the Nevada System of Higher Education of  
23 which 25 percent or more of the costs of the building as a whole are  
24 paid from money appropriated by this State or from federal money.

25   16. “Specialty contractor” means a person who is licensed to  
26 conduct business as described in subsection 4 of NRS 624.215.

27   17. “Stand-alone underground utility project” means an  
28 underground utility project that is not integrated into a larger  
29 project, including, without limitation:

30   (a) An underground sewer line or an underground pipeline for  
31 the conveyance of water, including facilities appurtenant thereto;  
32 and

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

35   ↳ that is not located at the site of a public work for the design and  
36 construction of which a public body is authorized to contract with a  
37 design-build team pursuant to subsection 2 of NRS 338.1711.

38   18. “Subcontract” means a written contract entered into  
39 between:

40       (a) A contractor and a subcontractor or supplier; or

41       (b) A subcontractor and another subcontractor or supplier,

42   ↳ for the provision of labor, materials, equipment or supplies for a  
43 construction project.

44   19. “Subcontractor” means a person who:



1 (a) Is licensed pursuant to the provisions of chapter 624 of NRS  
2 or performs such work that the person is not required to be licensed  
3 pursuant to chapter 624 of NRS; and

4 (b) Contracts with a contractor, another subcontractor or a  
5 supplier to provide labor, materials or services for a construction  
6 project.

7 20. "Supplier" means a person who provides materials,  
8 equipment or supplies for a construction project.

9 21. "Wages" means:

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

11 (b) The amount of pension, health and welfare, vacation and  
12 holiday pay, the cost of apprenticeship training or other similar  
13 programs or other bona fide fringe benefits which are a benefit to  
14 the worker.

15 22. "Worker" means a skilled mechanic, skilled worker,  
16 semiskilled mechanic, semiskilled worker or unskilled worker in the  
17 service of a contractor or subcontractor under any appointment or  
18 contract of hire or apprenticeship, express or implied, oral or  
19 written, whether lawfully or unlawfully employed. The term does  
20 not include a design professional.

21 **Sec. 5.** NRS 338.1373 is hereby amended to read as follows:

22 338.1373 1. A local government or its authorized  
23 representative shall award a contract for a public work pursuant to  
24 the provisions of:

25 (a) NRS 338.1377 to 338.139, inclusive ~~§~~, *and section 2 of*  
26 *this act;*

27 (b) NRS 338.143 to 338.148, inclusive ~~§~~, *and section 3 of this*  
28 *act;*

29 (c) NRS 338.169 to 338.1699, inclusive; or

30 (d) NRS 338.1711 to 338.1727, inclusive.

31 2. The provisions of NRS 338.1375 to 338.1382, inclusive,  
32 338.1386, 338.13862, 338.13864, 338.139, 338.142, 338.169 to  
33 338.1699, inclusive, and 338.1711 to 338.1727, inclusive, do not  
34 apply with respect to contracts for the construction, reconstruction,  
35 improvement and maintenance of highways that are awarded by the  
36 Department of Transportation pursuant to NRS 408.313 to 408.433,  
37 inclusive.

38 **Sec. 6.** NRS 338.139 is hereby amended to read as follows:

39 338.139 1. A public body or its authorized representative  
40 may award a contract for a public work *for which the cost is less*  
41 *than \$250,000* pursuant to NRS 338.1375 to 338.13895, inclusive,  
42 to a specialty contractor if ~~§~~ *the public body or its authorized*  
43 *representative determines that:*

44 (a) The majority of the work to be performed on the public work  
45 to which the contract pertains consists of specialty contracting for





1 which the specialty contractor is licensed **[H] pursuant to chapter**  
2 **624 of NRS;** and

3 (b) The public work to which the contract pertains is not part of  
4 a larger public work.

5 2. **Except as otherwise provided in this section, if** a public  
6 body or its authorized representative awards a contract to a specialty  
7 contractor pursuant to NRS 338.1375 to 338.13895, inclusive, all  
8 work to be performed on the public work to which the contract  
9 pertains that is outside the scope of the license of the specialty  
10 contractor must be performed by a subcontractor who:

11 (a) Is licensed to perform such work; and

12 (b) At the time of the performance of the work, is not on  
13 disqualified status with the State Public Works Board pursuant to  
14 NRS 338.1376.

15 3. **If a specialty contractor is also licensed as a general**  
16 **building contractor pursuant to chapter 624 of NRS, nothing in**  
17 **this section shall be construed to prohibit the specialty contractor**  
18 **who is acting in the capacity of a prime contractor from**  
19 **performing work himself or herself on the public work that is**  
20 **outside the scope of the specialty contractor's license as otherwise**  
21 **allowed by subsection 3 of NRS 624.215.**

22 **Sec. 7.** NRS 338.148 is hereby amended to read as follows:

23 338.148 1. A local government or its authorized  
24 representative may award a contract for a public work **for which the**  
25 **cost is less than \$250,000** to a specialty contractor pursuant to NRS  
26 338.143 to 338.1475, inclusive, if **[H] the local government or its**  
27 **authorized representative determines that:**

28 (a) The majority of the work to be performed on the public work  
29 to which the contract pertains consists of specialty contracting for  
30 which the specialty contractor is licensed **[H] pursuant to chapter**  
31 **624 of NRS;** and

32 (b) The public work to which the contract pertains is not part of  
33 a larger public work.

34 2. **Except as otherwise provided in this section, if** a local  
35 government or its authorized representative awards a contract to a  
36 specialty contractor pursuant to NRS 338.143 to 338.1475,  
37 inclusive, all work to be performed on the public work to which the  
38 contract pertains that is outside the scope of the license of the  
39 specialty contractor must be performed by a subcontractor who is  
40 licensed to perform such work.

41 3. **If a specialty contractor is also licensed as a general**  
42 **building contractor pursuant to chapter 624 of NRS, nothing in**  
43 **this section shall be construed to prohibit the specialty contractor**  
44 **who is acting in the capacity of a prime contractor from**  
45 **performing work himself or herself on the public work that is**



1 *outside the scope of the specialty contractor's license as otherwise*  
2 *allowed by subsection 3 of NRS 624.215.*

3 **Sec. 8.** NRS 624.220 is hereby amended to read as follows:

4 624.220 1. The Board shall adopt regulations necessary to  
5 effect the classification and subclassification of contractors in a  
6 manner consistent with established usage and procedure as found in  
7 the construction business, and may limit the field and scope of the  
8 operations of a licensed contractor to those in which the contractor  
9 is classified and qualified to engage as defined by NRS 624.215 and  
10 the regulations of the Board.

11 2. The Board shall limit the field and scope of the operations of  
12 a licensed contractor by establishing a monetary limit on a  
13 contractor's license, and the limit must be the maximum contract a  
14 licensed contractor may undertake on one or more construction  
15 contracts on a single construction site or subdivision site for a single  
16 client. The Board may take any other action designed to limit the  
17 field and scope of the operations of a contractor as may be necessary  
18 to protect the health, safety and general welfare of the public. The  
19 limit must be determined after consideration of the factors set forth  
20 in NRS 624.260 to 624.265, inclusive.

21 3. A licensed contractor may request that the Board increase  
22 the monetary limit on his or her license, either on a permanent basis  
23 or for a single construction project. A request submitted to the  
24 Board pursuant to this subsection must be in writing on a form  
25 prescribed by the Board and accompanied by such supporting  
26 documentation as the Board may require. If a request submitted  
27 pursuant to this section is for a single construction project, the  
28 request must be submitted to the Board at least 2 working days  
29 before the date on which the licensed contractor intends to submit a  
30 bid for the project.

31 4. ~~Subject~~ *Except as otherwise provided in NRS 338.139*  
32 *and 338.148 and sections 2 and 3 of this act, and subject* to the  
33 provisions of regulations adopted pursuant to subsection 5, nothing  
34 contained in this section prohibits a specialty contractor from taking  
35 and executing a contract involving the use of two or more crafts or  
36 trades, if the performance of the work in the crafts or trades, other  
37 than in which the specialty contractor is licensed, is incidental and  
38 supplemental to the performance of work in the craft for which the  
39 specialty contractor is licensed.

40 5. The Board shall adopt regulations establishing a specific  
41 limit on the amount of asbestos that a licensed contractor with a  
42 license that is not classified for the abatement or removal of asbestos  
43 may abate or remove pursuant to subsection 4.



1     **Sec. 9.** This act becomes effective upon passage and approval  
2 for the purpose of adopting regulations and on January 1, 2012, for  
3 all other purposes.

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\* S B 4 8 7 R 1 \*