

ASSEMBLY BILL NO. 215—COMMITTEE
ON GOVERNMENT AFFAIRS

MARCH 3, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works.
(BDR 28-540)

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

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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 the definition of the term “public work” for the purpose of contracts for the construction, repair or reconstruction of a building of the Nevada System of Higher Education; revising provisions governing the evaluation of public work proposals involving construction managers at risk; providing for independent evaluation of those proposals; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law defines the term “public work” for certain purposes, including
2 bidding for a contract for the construction of a public work, to include any
3 construction project financed in whole or in part by public money, or any building
4 of the Nevada System of Higher Education of which 25 percent or more of the costs
5 are financed with state or federal money. (NRS 338.010) **Section 1** of this bill
6 amends this definition as it pertains to buildings of the System to include a building
7 which is financed with any state or federal money. Existing law provides for a
8 preference in bidding for a public work if an applicant meets certain requirements.
9 (NRS 338.0117) **Section 2** of this bill amends these requirements to provide that a
10 bid submitted as a construction manager at risk must utilize Nevada residents for 50
11 percent of their design team in order to receive a bidding preference. Existing law
12 provides for the procedure for evaluating and ranking proposals submitted by
13 construction managers at risk. (NRS 338.1693) **Section 4** of this bill requires that a
14 panel that reviews the bid proposals and the applicant interviews must contain some
15 independent members who are not employed by the awarding agency. **Section 4**
16 also provides that a preference in bidding must be given to an applicant which is
17 headquartered or maintains a permanently staffed office in this State. **Section 4**
18 further provides that if a proposal or interview requires the applicant to provide a
19 proposed amount of compensation for managing the preconstruction and



20 construction of the public work, the compensation must be calculated as at least 5
21 percent, but not more than 20 percent of the bid scoring. Finally, **section 4** provides
22 that the rankings of applicants compiled by the review panel must be reviewed and
23 certified by the State Public Works Board.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 338.010 is hereby amended to read as follows:
2 338.010 As used in this chapter:

3 1. "Authorized representative" means a person designated by a
4 public body to be responsible for the development, solicitation,
5 award or administration of contracts for public works pursuant to
6 this chapter.

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

10 3. "Contractor" means:

11 (a) A person who is licensed pursuant to the provisions of
12 chapter 624 of NRS.

13 (b) A design-build team.

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

18 5. "Design-build contract" means a contract between a public
19 body and a design-build team in which the design-build team agrees
20 to design and construct a public work.

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

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

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

26 (1) A building and its site, at least one person who holds a
27 certificate of registration to practice architecture pursuant to chapter
28 623 of NRS.

29 (2) Anything other than a building and its site, at least one
30 person who holds a certificate of registration to practice architecture
31 pursuant to chapter 623 of NRS or landscape architecture pursuant
32 to chapter 623A of NRS or who is licensed as a professional
33 engineer pursuant to chapter 625 of NRS.

34 7. "Design professional" means:

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



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

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

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

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

11 8. "Division" means the State Public Works Division of the
12 Department of Administration.

13 9. "Eligible bidder" means a person who is:

14 (a) Found to be a responsible and responsive contractor by a
15 local government or its authorized representative which requests
16 bids for a public work in accordance with paragraph (b) of
17 subsection 1 of NRS 338.1373; or

18 (b) Determined by a public body or its authorized representative
19 which awarded a contract for a public work pursuant to NRS
20 338.1375 to 338.139, inclusive, to be qualified to bid on that
21 contract pursuant to NRS 338.1379 or 338.1382.

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

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

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

29 11. "Governing body" means the board, council, commission
30 or other body in which the general legislative and fiscal powers of a
31 local government are vested.

32 12. "Horizontal construction" means the construction of any
33 fixed work, including any irrigation, drainage, water supply, flood
34 control, harbor, railroad, highway, tunnel, airport or airway, sewer,
35 sewage disposal plant or water treatment facility and any ancillary
36 vertical components thereof, bridge, inland waterway, pipeline for
37 the transmission of petroleum or any other liquid or gaseous
38 substance, pier, and work incidental thereto. The term does not
39 include vertical construction, the construction of any terminal or
40 other building of an airport or airway, or the construction of any
41 other building.

42 13. "Local government" means every political subdivision or
43 other entity which has the right to levy or receive money from ad
44 valorem or other taxes or any mandatory assessments, and includes,
45 without limitation, counties, cities, towns, boards, school districts



1 and other districts organized pursuant to chapters 244A, 309, 318,
2 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,
3 inclusive, and any agency or department of a county or city which
4 prepares a budget separate from that of the parent political
5 subdivision. The term includes a person who has been designated by
6 the governing body of a local government to serve as its authorized
7 representative.

8 14. "Offense" means failing to:

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

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

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

14 (d) Comply with subsection 5 or 6 of NRS 338.070.

15 15. "Prime contractor" means a contractor who:

16 (a) Contracts to construct an entire project;

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

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

20 (d) Contracts for the services of any subcontractor or
21 independent contractor or is responsible for payment to any
22 contracted subcontractors or independent contractors.

23 ↪ The term includes, without limitation, a general contractor or a
24 specialty contractor who is authorized to bid on a project pursuant to
25 NRS 338.139 or 338.148.

26 16. "Public body" means the State, county, city, town, school
27 district or any public agency of this State or its political subdivisions
28 sponsoring or financing a public work.

29 17. "Public work" means any project for the new construction,
30 repair or reconstruction of:

31 (a) A project financed in whole or in part from public money
32 for:

33 (1) Public buildings;

34 (2) Jails and prisons;

35 (3) Public roads;

36 (4) Public highways;

37 (5) Public streets and alleys;

38 (6) Public utilities;

39 (7) Publicly owned water mains and sewers;

40 (8) Public parks and playgrounds;

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

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

44 (b) A building for the Nevada System of Higher Education of
45 which ~~25 percent or more~~ any of the costs of the building ~~as a~~



1 ~~whole~~ are paid from money appropriated by this State or from
2 federal money.

3 18. "Specialty contractor" means a person who is licensed to
4 conduct business as described in subsection 4 of NRS 624.215.

5 19. "Stand-alone underground utility project" means an
6 underground utility project that is not integrated into a larger
7 project, including, without limitation:

8 (a) An underground sewer line or an underground pipeline for
9 the conveyance of water, including facilities appurtenant thereto;
10 and

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

13 ↪ that is not located at the site of a public work for the design and
14 construction of which a public body is authorized to contract with a
15 design-build team pursuant to subsection 2 of NRS 338.1711.

16 20. "Subcontract" means a written contract entered into
17 between:

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

19 (b) A subcontractor and another subcontractor or supplier,
20 ↪ for the provision of labor, materials, equipment or supplies for a
21 construction project.

22 21. "Subcontractor" means a person who:

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

26 (b) Contracts with a contractor, another subcontractor or a
27 supplier to provide labor, materials or services for a construction
28 project.

29 22. "Supplier" means a person who provides materials,
30 equipment or supplies for a construction project.

31 23. "Vertical construction" means the construction or
32 remodeling of any building, structure or other improvement that is
33 predominantly vertical, including, without limitation, a building,
34 structure or improvement for the support, shelter and enclosure of
35 persons, animals, chattels or movable property of any kind, and any
36 improvement appurtenant thereto.

37 24. "Wages" means:

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

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

43 25. "Worker" means a skilled mechanic, skilled worker,
44 semiskilled mechanic, semiskilled worker or unskilled worker in the
45 service of a contractor or subcontractor under any appointment or



1 contract of hire or apprenticeship, express or implied, oral or
2 written, whether lawfully or unlawfully employed. The term does
3 not include a design professional.

4 **Sec. 2.** NRS 338.0117 is hereby amended to read as follows:

5 338.0117 1. To qualify to receive a preference in bidding
6 pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS
7 338.147, subsection 3 of NRS 338.1693, subsection 3 of NRS
8 338.1727 or subsection 2 of NRS 408.3886, a contractor, an
9 applicant or a design-build team, respectively, must submit to the
10 public body sponsoring or financing a public work a signed affidavit
11 which certifies that, for the duration of the project, collectively, and
12 not on any specific day:

13 (a) At least 50 percent of the workers employed on the public
14 work, including, without limitation, any employees of the
15 contractor, applicant or design-build team and of any subcontractor
16 engaged on the public work, will hold a valid driver's license or
17 identification card issued by the Department of Motor Vehicles of
18 the State of Nevada;

19 (b) All vehicles used primarily for the public work will be:

20 (1) Registered and partially apportioned to Nevada pursuant
21 to the International Registration Plan, as adopted by the Department
22 of Motor Vehicles pursuant to NRS 706.826; or

23 (2) Registered in this State;

24 (c) If applying to receive a preference in bidding pursuant to
25 **subsection 3 of NRS 338.1693**, subsection 3 of NRS 338.1727 or
26 subsection 2 of NRS 408.3886, at least 50 percent of the design
27 professionals working on the public work, including, without
28 limitation, employees of the design-build team and of any
29 subcontractor or consultant engaged in the design of the public
30 work, will have a valid driver's license or identification card issued
31 by the Department of Motor Vehicles of the State of Nevada; and

32 (d) The contractor, applicant or design-build team and any
33 subcontractor engaged on the public work will maintain and make
34 available for inspection within this State his or her records
35 concerning payroll relating to the public work.

36 2. Any contract for a public work that is awarded to a
37 contractor, applicant or design-build team who submits the affidavit
38 described in subsection 1 as a result of the contractor, applicant or
39 design-build team receiving a preference in bidding described in
40 subsection 1 must:

41 (a) Include a provision in the contract that substantially
42 incorporates the requirements of paragraphs (a) to (d), inclusive, of
43 subsection 1; and



1 (b) Provide that a failure to comply with any requirement of
2 paragraphs (a) to (d), inclusive, of subsection 1 entitles the public
3 body to a penalty only as provided in subsections 5 and 6.

4 3. A person who submitted a bid on the public work or an
5 entity who believes that a contractor, applicant or design-build team
6 has obtained a preference in bidding as described in subsection 1 but
7 has failed to comply with a requirement of paragraphs (a) to (d),
8 inclusive, of subsection 1 may file, before the substantial completion
9 of the public work, a written objection with the public body for
10 which the contractor, applicant or design-build team is performing
11 the public work. A written objection authorized pursuant to this
12 subsection must set forth proof or substantiating evidence to support
13 the belief of the person or entity that the contractor, applicant or
14 design-build team has failed to comply with a requirement of
15 paragraphs (a) to (d), inclusive, of subsection 1.

16 4. If a public body receives a written objection pursuant to
17 subsection 3, the public body shall determine whether the objection
18 is accompanied by the proof or substantiating evidence required
19 pursuant to that subsection. If the public body determines that the
20 objection is not accompanied by the required proof or substantiating
21 evidence, the public body shall dismiss the objection. If the public
22 body determines that the objection is accompanied by the required
23 proof or substantiating evidence or if the public body determines on
24 its own initiative that proof or substantiating evidence of a failure to
25 comply with a requirement of paragraphs (a) to (d), inclusive, of
26 subsection 1 exists, the public body shall determine whether the
27 contractor, applicant or design-build team has failed to comply with
28 a requirement of paragraphs (a) to (d), inclusive, of subsection 1 and
29 the public body or its authorized representative may proceed to
30 award the contract accordingly or, if the contract has already been
31 awarded, seek the remedy authorized in subsection 5.

32 5. A public body may recover, by civil action against the party
33 responsible for a failure to comply with a requirement of paragraphs
34 (a) to (d), inclusive, of subsection 1, a penalty as described in
35 subsection 6 for a failure to comply with a requirement of
36 paragraphs (a) to (d), inclusive, of subsection 1. If a public body
37 recovers a penalty pursuant to this subsection, the public body shall
38 report to the State Contractors' Board the date of the failure to
39 comply, the name of each entity which failed to comply and the cost
40 of the contract to which the entity that failed to comply was a party.
41 The Board shall maintain this information for not less than 6 years.
42 Upon request, the Board shall provide this information to any public
43 body or its authorized representative.

44 6. If a contractor, applicant or design-build team submits the
45 affidavit described in subsection 1, receives a preference in bidding



1 described in subsection 1 and is awarded the contract as a result of
2 that preference, the contract between the contractor, applicant or
3 design-build team and the public body, each contract between the
4 contractor, applicant or design-build team and a subcontractor and
5 each contract between a subcontractor and a lower tier subcontractor
6 must provide that:

7 (a) If a party to the contract causes the contractor, applicant or
8 design-build team to fail to comply with a requirement of
9 paragraphs (a) to (d), inclusive, of subsection 1, the party is liable to
10 the public body for a penalty in the amount of 1 percent of the cost
11 of the largest contract to which he or she is a party;

12 (b) The right to recover the amount determined pursuant to
13 paragraph (a) by the public body pursuant to subsection 5 may be
14 enforced by the public body directly against the party that caused
15 the failure to comply with a requirement of paragraphs (a) to (d),
16 inclusive, of subsection 1; and

17 (c) No other party to the contract is liable to the public body for
18 a penalty.

19 7. A public body that awards a contract for a public work to a
20 contractor, applicant or design-build team who submits the affidavit
21 described in subsection 1 and who receives a preference in bidding
22 described in subsection 1 shall, on or before July 31 of each year,
23 submit a written report to the Director of the Legislative Counsel
24 Bureau for transmittal to the Legislative Commission. The report
25 must include information on each contract for a public work
26 awarded to a contractor, applicant or design-build team who submits
27 the affidavit described in subsection 1 and who receives a
28 preference in bidding described in subsection 1, including, without
29 limitation, the name of the contractor, applicant or design-build
30 team who was awarded the contract, the cost of the contract, a brief
31 description of the public work and a description of the degree to
32 which the contractor, applicant or design-build team and each
33 subcontractor complied with the requirements of paragraphs (a) to
34 (d), inclusive, of subsection 1.

35 8. As used in this section:

36 (a) "Lower tier subcontractor" means a subcontractor who
37 contracts with another subcontractor to provide labor, materials or
38 services to the other subcontractor for a construction project.

39 (b) "Vehicle used primarily for the public work" does not
40 include any vehicle that is present at the site of the public work only
41 occasionally and for a purpose incidental to the public work
42 including, without limitation, the delivery of materials.
43 Notwithstanding the provisions of this paragraph, the term includes
44 any vehicle which is:



1 (1) Owned or operated by the contractor or any subcontractor
2 who is engaged on the public work; and

3 (2) Present at the site of the public work.

4 **Sec. 3.** NRS 338.1692 is hereby amended to read as follows:

5 338.1692 1. A public body or its authorized representative
6 shall advertise for proposals for a construction manager at risk in a
7 newspaper qualified pursuant to chapter 238 of NRS that is
8 published in the county where the public work will be performed. If
9 no qualified newspaper is published in the county where the public
10 work will be performed, the required advertisement must be
11 published in some qualified newspaper that is printed in the State of
12 Nevada and has a general circulation in the county.

13 2. A request for proposals published pursuant to subsection 1
14 must include, without limitation:

15 (a) A description of the public work;

16 (b) An estimate of the cost of construction;

17 (c) A description of the work that the public body expects a
18 construction manager at risk to perform;

19 (d) The dates on which it is anticipated that the separate phases
20 of the preconstruction and construction of the public work will
21 begin and end;

22 (e) The date by which proposals must be submitted to the public
23 body;

24 (f) If the project is a public work of the State, a statement setting
25 forth that the construction manager at risk must be qualified to bid
26 on a public work of the State pursuant to NRS 338.1379 before
27 submitting a proposal;

28 (g) The name, title, address and telephone number of a person
29 employed by the public body that an applicant may contact for
30 further information regarding the public work;

31 (h) A list of the selection criteria and relative weight of the
32 selection criteria that will be used to rank proposals pursuant to
33 subsection 2 of NRS 338.1693;

34 (i) A list of the selection criteria and relative weight of the
35 selection criteria that will be used to rank applicants pursuant to
36 subsection ~~7~~ 10 of NRS 338.1693; and

37 (j) A notice that the proposed form of the contract to assist in the
38 preconstruction of the public work or to construct the public work,
39 including, without limitation, the terms and general conditions of the
40 contract, is available from the public body.

41 3. A proposal must include, without limitation:

42 (a) An explanation of the experience that the applicant has with
43 projects of similar size and scope in both the public and private
44 sectors by any delivery method, whether or not that method was the
45 use of a construction manager at risk, and including, without



1 limitation, design-build, design-assist, negotiated work or value-
2 engineered work, and an explanation of the experience that the
3 applicant has in such projects in Nevada;

4 (b) The contact information for references who have knowledge
5 of the background, character and technical competence of the
6 applicant;

7 (c) Evidence of the ability of the applicant to obtain the
8 necessary bonding for the work to be required by the public body;

9 (d) Evidence that the applicant has obtained or has the ability to
10 obtain such insurance as may be required by law;

11 (e) A statement of whether the applicant has been:

12 (1) Found liable for breach of contract with respect to a
13 previous project, other than a breach for legitimate cause, during the
14 5 years immediately preceding the date of the advertisement for
15 proposals; and

16 (2) Disqualified from being awarded a contract pursuant to
17 NRS 338.017, 338.13895, 338.1475 or 408.333;

18 (f) The professional qualifications and experience of the
19 applicant, including, without limitation, the resume of any employee
20 of the applicant who will be managing the preconstruction and
21 construction of the public work;

22 (g) The safety programs established and the safety records
23 accumulated by the applicant;

24 (h) Evidence that the applicant is licensed as a contractor
25 pursuant to chapter 624 of NRS;

26 (i) The proposed plan of the applicant to manage the
27 preconstruction and construction of the public work which sets forth
28 in detail the ability of the applicant to provide preconstruction
29 services and to construct the public work and which includes, if the
30 public work involves predominantly horizontal construction, a
31 statement that the applicant will perform construction work equal in
32 value to at least 25 percent of the estimated cost of construction; and

33 (j) If the project is for the design of a public work of the State,
34 evidence that the applicant is qualified to bid on a public work of the
35 State pursuant to NRS 338.1379.

36 4. The public body or its authorized representative shall make
37 available to the public the name of each applicant who submits a
38 proposal pursuant to this section.

39 **Sec. 4.** NRS 338.1693 is hereby amended to read as follows:

40 338.1693 1. The public body or its authorized representative
41 shall appoint a panel consisting of ~~at least three but not more than~~
42 *three, five or* seven members, a majority of whom must have
43 experience in the construction industry, to rank the proposals
44 submitted to the public body by evaluating the proposals as required
45 pursuant to subsections 2 and 3. *The panel must include*



1 *independent members who are not employed by or otherwise*
2 *represent the public body as follows:*

3 (a) *A panel of three members must include at least one*
4 *independent member;*

5 (b) *A panel of five members must include at least two*
6 *independent members; and*

7 (c) *A panel of seven members must include at least three*
8 *independent members.*

9 2. The panel appointed pursuant to subsection 1 shall rank the
10 proposals by:

11 (a) Verifying that each applicant satisfies the requirements of
12 NRS 338.1691; and

13 (b) ~~[Evaluating]~~ *Objectively evaluating* and assigning a score to
14 each of the proposals received by the public body based on the
15 factors and relative weight assigned to each factor that the public
16 body specified in the request for proposals.

17 3. When ranking the proposals, the panel appointed pursuant to
18 subsection 1 shall assign a relative weight ~~{of}~~ :

19 (a) *Of 5 percent to the applicant's possession of a certificate of*
20 *eligibility to receive a preference in bidding on public works if the*
21 *applicant submits a signed affidavit that meets the requirements of*
22 *subsection 1 of NRS 338.0117 ~~{}~~;*

23 (b) *Of 5 percent to an applicant who is headquartered in this*
24 *State, or for at least 1 year before the submission of the proposal*
25 *has maintained a permanently staffed office in this State, if the*
26 *applicant submits a signed affidavit certifying that the applicant*
27 *meets the requirements of this paragraph; and*

28 (c) *Of not less than 5 percent but not more than 20 percent to*
29 *the preliminary proposed amount of compensation for managing*
30 *the preconstruction and construction of the public work if the*
31 *applicant is required to include that information in the proposal.*

32 4. If any federal statute or regulation precludes the granting of
33 federal assistance or reduces the amount of that assistance for a
34 particular public work because of the provisions of ~~{this}~~ subsection
35 ~~{}~~ 3, those provisions of ~~{this}~~ that subsection do not apply insofar
36 as their application would preclude or reduce federal assistance for
37 that work.

38 ~~{4-}~~ 5. After the panel appointed pursuant to subsection 1 ranks
39 the proposals, the public body or its authorized representative shall,
40 except as otherwise provided in subsection ~~{8-}~~ 12, *submit to the*
41 *State Public Works Board:*

42 (a) *A list setting forth the members of the panel and any*
43 *affiliations of those members;*

44 (b) *A list setting forth the scores given to each proposal by*
45 *each of those members; and*



1 (c) *If applicable, a written explanation of any significant*
2 *discrepancies in the scoring of the same proposal.*

3 6. *The State Public Works Board shall review the materials*
4 *submitted pursuant to subsection 5 and, within 5 business days,*
5 *certify the rankings if, in the judgment of the Board, they were*
6 *completed in compliance with the requirements of this section.*
7 *The Board may adjust the rankings to ensure compliance with this*
8 *section.*

9 7. *After the rankings have been certified by the State Public*
10 *Works Board pursuant to subsection 6, the public body or its*
11 *authorized representative shall* select at least the two but not more
12 than the five applicants whose proposals received the highest scores
13 for interviews.

14 ~~{5.}~~ 8. The public body or its authorized representative may
15 appoint a separate panel to interview and rank the applicants
16 selected pursuant to subsection ~~{4.}~~ 7. If a separate panel is
17 appointed pursuant to this subsection, the panel must ~~{consist of at~~
18 ~~least three but not more than seven members, a majority of whom~~
19 ~~must have experience in the construction industry.}~~ *meet the*
20 *requirements for composition for the panel appointed to evaluate*
21 *and rank the proposals as provided in subsection 1.*

22 ~~{6.}~~ 9. During the interview process, the panel conducting the
23 interview may require the applicants to submit a preliminary
24 proposed amount of compensation for managing the preconstruction
25 and construction of the public work . ~~{, but in no event shall}~~ *If*
26 *required,* the proposed amount of compensation ~~{exceed}~~ *must not*
27 *be less than 5 percent or more than* 20 percent of the scoring for
28 the selection of the most qualified applicant. All presentations made
29 at any interview conducted pursuant to this subsection or subsection
30 ~~{5.}~~ 8 may be made only by key personnel employed by the
31 applicant, as determined by the applicant, and the employees of
32 the applicant who will be directly responsible for managing the
33 preconstruction and construction of the public work.

34 ~~{7.}~~ 10. After conducting such interviews, the panel that
35 conducted the interviews shall rank the applicants by using a
36 ranking process that is separate from the process used to rank the
37 applicants pursuant to subsection 2 and is based only on information
38 submitted during the interview process. The score to be given for
39 the proposed amount of compensation, if any, must be calculated by
40 dividing the lowest of all the proposed amounts of compensation by
41 the applicant's proposed amount of compensation multiplied by the
42 total possible points available to each applicant. When ranking the
43 applicants, the panel that conducted the interviews shall assign a
44 relative weight ~~{of}~~:



1 (a) *Of 5 percent to the applicant's possession of a certificate of*
2 *eligibility to receive a preference in bidding on public works if the*
3 *applicant submits a signed affidavit that meets the requirements of*
4 *subsection 1 of NRS 338.0117 ~~{};~~ and*

5 (b) *Of 5 percent to an applicant who is headquartered in this*
6 *State, or for at least 1 year before the submission of the proposal*
7 *has maintained a permanently staffed office in this State, if the*
8 *applicant submits a signed affidavit certifying that the applicant*
9 *meets the requirements of this paragraph.*

10 11. If any federal statute or regulation precludes the granting of
11 federal assistance or reduces the amount of that assistance for a
12 particular public work because of the provisions of ~~{this}~~ subsection
13 ~~{} 10~~, those provisions of ~~{this}~~ that subsection do not apply insofar
14 as their application would preclude or reduce federal assistance for
15 that work.

16 ~~{} 12.~~ If the public body did not receive at least two
17 proposals, the public body may not contract with a construction
18 manager at risk.

19 ~~{} 13.~~ Upon receipt of the final rankings of the applicants
20 from the panel that conducted the interviews, the public body or its
21 authorized representative shall *submit to the State Public Works*
22 *Board:*

23 (a) *A list setting forth the members of the panel and any*
24 *affiliations of those members;*

25 (b) *A list setting forth the scores given to each applicant by*
26 *each of those members; and*

27 (c) *If applicable, a written explanation of any significant*
28 *discrepancies in the scoring of the same applicant.*

29 14. *The State Public Works Board shall review the materials*
30 *submitted pursuant to subsection 13 and, within 5 business days,*
31 *certify the rankings if, in the judgment of the Board, they were*
32 *completed in compliance with the requirements of this section.*
33 *The Board may adjust the rankings to ensure compliance with this*
34 *section.*

35 15. *After the rankings have been certified by the State Public*
36 *Works Board pursuant to subsection 14, the public body or its*
37 *authorized representative shall enter into negotiations with the*
38 *most qualified applicant determined pursuant to the provisions of*
39 *this section for a contract for preconstruction services, unless the*
40 *public body required the submission of a proposed amount of*
41 *compensation, in which case the proposed amount of compensation*
42 *submitted by the applicant must be the amount offered for the*
43 *contract. If the public body or its authorized representative is unable*
44 *to negotiate a contract with the most qualified applicant for an*
45 *amount of compensation that the public body or its authorized*



1 representative and the most qualified applicant determine to be fair
2 and reasonable, the public body or its authorized representative shall
3 terminate negotiations with that applicant. The public body or its
4 authorized representative may then undertake negotiations with the
5 next most qualified applicant in sequence until an agreement is
6 reached and, if the negotiation is undertaken by an authorized
7 representative of the public body, approved by the public body or
8 until a determination is made by the public body to reject all
9 applicants.

10 ~~10.~~ 16. The public body or its authorized representative shall
11 make available to all applicants and the public the final rankings of
12 the applicants, as determined by the panel that conducted the
13 interviews, and shall provide, upon request, an explanation to any
14 unsuccessful applicant of the reasons why the applicant was
15 unsuccessful.

16 **Sec. 5.** NRS 338.018 and 338.075 are hereby repealed.

17 **Sec. 6.** 1. This act becomes effective on July 1, 2015.

18 2. Sections 3 and 4 of this act expire by limitation on June 30,
19 2017.

TEXT OF REPEALED SECTIONS

338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

