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MOCK-UP

PROPOSED AMENDMENT TO
ASSEMBLY BILL NO. 401

PREPARED FOR COMMITTEE ON COMMERCE AND LABOR
APRIL 9, 2003

PREPARED BY THE LEGAL DIVISION

NOTE: THIS DOCUMENT SHOWS PROPOSED AMENDMENTS IN CONCEPTUAL FORM. THE LANGUAGE AND ITS PLACEMENT IN THE OFFICIAL AMENDMENT MAY DIFFER.

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~green bold double strikethrough~~ is language proposed to be deleted in this amendment and (5) green bold dashed underlining is deleted language in the original bill that is proposed to be retained in this amendment.

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 thereto
2 the provisions set forth as sections 2 to 8, inclusive, of this act.
3 **Sec. 2.** "*Transportation facility*" means a road, railroad, bridge,
4 tunnel, overpass, airport, mass transit facility, parking facility for
5 vehicles or similar commercial facility used for the support of or the
6 transportation of persons or goods, including, without limitation, any
7 other property that is needed to operate the facility.
8 **Sec. 3.** A public body may authorize a person to ~~acquire,~~ develop,
9 construct, improve, maintain or operate, or any combination thereof, a
10 transportation facility pursuant to section 4 or 5 of this act.
11 **Sec. 4. 1.** A person may submit a request to a public body to
12 ~~acquire,~~ develop, construct, improve, maintain or operate, or any
13 combination thereof, a transportation facility.
14 **2.** The request must be accompanied by the following information,
15 unless waived by the public body:
16 (a) A topographic map indicating the location of the transportation
17 facility.

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ASSEMBLY COMMERCE & LABOR 1 08 13
DATE: 4/09/03 ROOM: 4100 EXHIBIT JJ
SUBMITTED BY: Assemblyman Joe Hardy

PROPOSED AMENDMENT TO AB401

1 (b) A description of the transportation facility, including, without
2 limitation, the conceptual design of the facility and all proposed
3 interconnections with other transportation facilities.

4 (c) The projected total cost of the transportation facility over its life
5 and the proposed date for ~~acquisition~~ development of, commencement of
6 the construction of, or improvements to the transportation facility.

7 (d) A statement setting forth the method by which the operator of the
8 transportation facility proposes to secure all property interests required
9 for the transportation facility. The statement must include, without
10 limitation:

11 (1) The names and addresses, if known, of the current owners of
12 any property needed for the transportation facility;

13 (2) The nature of the property interests to be acquired; and

14 (3) Any property that ~~requires condemnation~~ by the person
15 submitting the request may propose that the public body condemn.

16 (e) Information relating to the current transportation plans, if any, of
17 any governmental entity in the jurisdiction of which any portion of the
18 transportation facility is located.

19 (f) A list of all permits and approvals required for the ~~acquisition~~
20 development or construction of or improvement to the transportation
21 facility from local, state or federal agencies and a projected schedule for
22 obtaining those permits and approvals.

23 (g) A list of the facilities of any public utility or existing
24 transportation facility that will be crossed by the transportation facility
25 and a statement of the plans of the operator to accommodate such
26 crossings.

27 (h) A statement setting forth the general plans of the person
28 submitting the request for financing and operating the transportation
29 facility, which must include, without limitation:

30 (1) A plan for the development, financing and operation of the
31 transportation facility, including, without limitation, an indication of the
32 proposed sources and uses of money for the transportation facility and
33 the anticipated schedule for the receipt of those funds;

34 (2) A list and discussion of the assumptions related to the use of
35 the transportation facility, including, without limitation, the fees charged
36 for such use;

37 (3) Identification of any risk factors associated with developing or
38 constructing or improving the transportation facility and methods for
39 addressing those factors; and

40 (4) Identification of any local, state or federal resources that the
41 person anticipates requesting for the transportation facility, including,
42 without limitation, an anticipated schedule for the receipt of those
43 resources.

44 (i) The names and addresses of the persons who may be contacted for
45 further information concerning the request.

1 (j) Any additional material and information that the public body may
2 request.

3 Sec. 5. ~~A~~ If a public body receives a request pursuant to section 4 of
4 this act that meets the requirements of section 6 of this act, the public
5 body may request other persons to submit proposals to ~~acquire,~~ develop,
6 construct, improve, maintain or operate, or any combination thereof, ~~a~~
7 the transportation facility.

8 Sec. 6. 1. A public body may approve a request or proposal
9 submitted pursuant to section 4 or 5 of this act if the public body
10 determines that the transportation facility serves a public purpose. ~~To~~
11 ~~determine~~ In determining whether the transportation facility serves a
12 public purpose, the public body shall consider whether:

13 (a) There is a public need for the type of transportation facility that is
14 proposed;

15 (b) The proposed interconnections between the transportation facility
16 and existing transportation facilities and the plans of
17 the person submitting the request for the operation of the transportation
18 facility are reasonable and compatible with ~~the transportation plan of the~~
19 State any statewide and regional program for the improvement of
20 transportation and with the transportation plans of any other
21 governmental entity in the jurisdiction of which any portion of the
22 transportation facility will be located;

23 (c) The estimated cost of the transportation facility is reasonable in
24 relation to similar transportation facilities;

25 (d) The plans of the person submitting the request will result in the
26 timely ~~acquisition~~ development or construction of, or improvement to the
27 transportation facility or its more efficient operation; and

28 (e) The long-term quality of the transportation facility will meet a
29 level of performance over a sufficient duration of time to provide ~~real~~
30 value to the public.

31 2. In evaluating a request or proposal submitted pursuant to section
32 4 or 5 of this act, the public body may rely on internal staff reports
33 prepared by personnel of the public body who are familiar with the
34 operation of similar transportation facilities or the advice of outside
35 advisors or consultants with relevant experience.

36 3. The public body may request that a person who submitted a
37 request or proposal pursuant to section 4 or 5 of this act furnish a copy
38 of the request or proposal to each governmental entity in the jurisdiction
39 of which any portion of the transportation facility is located. Within 30
40 days after receipt of such a request or proposal, the governmental entity
41 shall submit its comments, if any, concerning the transportation facility
42 in writing to the public body and indicate whether the transportation
43 facility is compatible with any local, regional and statewide
44 transportation plan or program that is applicable to the governmental
45 entity.

1 4. *A public body may charge a reasonable fee to cover the costs of*
2 *processing, reviewing and evaluating a request or proposal submitted*
3 *pursuant to section 4 or 5 of this act, including, without limitation,*
4 *reasonable fees for the services of an attorney or a financial or other*
5 *consultant or advisor.*

6 ~~4-5.~~ *The approval of a request or proposal by the public body is*
7 *contingent on the person who submitted the request or proposal entering*
8 *into an agreement with the public body. In such an agreement, the public*
9 *body shall include criteria that address the long-term quality of the*
10 *transportation facility.*

11 ~~§-6.~~ *In connection with the approval of a transportation facility, the*
12 *public body shall establish a date for the ~~acquisition~~ development of,*
13 *commencement of the construction of, or improvements to the*
14 *transportation facility. The public body may extend the date from time to*
15 *time.*

16 *Sec. 7. A public body may contract with a person whose request or*
17 *proposal is approved pursuant to section 6 of this act for transportation*
18 *services to be provided by the transportation facility in exchange for such*
19 *payments for service and other consideration as the public body may*
20 *deem appropriate.*

21 *Sec. 8. The public body may take any action necessary to obtain*
22 *federal, state or local assistance for a transportation facility that it*
23 *approves and may enter into any contracts required to receive such*
24 *assistance. The public body may determine if it serves the public purpose*
25 *for all or a portion of the costs of the transportation facility to be paid,*
26 *directly or indirectly, from the proceeds of a grant or loan made by the*
27 *local, state or Federal Government or any agency or instrumentality*
28 *thereof.*

29 *Sec. 9. NRS 338.1711 is hereby amended to read as follows:*

30 338.1711 1. Except as otherwise provided in this section ~~[]~~ and
31 *sections 2 to 8, inclusive, of this act, a public body shall contract with a*
32 *prime contractor for the construction of a public work for which the*
33 *estimated cost exceeds \$100,000.*

34 2. A public body may contract with a design-build team for the design
35 and construction of a public work that is a discrete project if the public
36 body determines that:

37 (a) The public work is:

38 (1) A plant or facility for the treatment and pumping of water or the
39 treatment and disposal of wastewater or sewage, the estimated cost of
40 which exceeds \$100,000,000; or

41 (2) Any other type of public work, except a stand-alone
42 underground utility project, the estimated cost of which exceeds
43 ~~[\$30,000,000;] \$20,000,000;~~ and

44 (b) Contracting with a design-build team will enable the public body
45 to:

1 (1) Design and construct the public work at a cost that is
2 significantly lower than the cost that the public body would incur to design
3 and construct the public work using a different method;

4 (2) Design and construct the public work in a shorter time than
5 would be required to design and construct the public work using a different
6 method, if exigent circumstances require that the public work be designed
7 and constructed within a short time; or

8 (3) Ensure that the design and construction of the public work is
9 properly coordinated, if the public work is unique, highly technical and
10 complex in nature.

11 3. ~~Each~~ Except as otherwise provided in subsection 4, each state
12 agency and each department, division, board, unit or agency of a local
13 government may contract with a design-build team ~~{once} not more than~~
14 ~~three times or on not more than 20 percent of its projects, whichever is~~
15 ~~greater, in each fiscal year~~ for the design and construction of a public
16 work if the governing body of the entity that is responsible for financing
17 the public work determines that:

18 (a) The estimated cost of the public work is:

19 (1) At least \$250,000 but less than ~~[\$30,000,000]~~ \$20,000,000 if the
20 public work is the construction of a park and appurtenances thereto, the
21 rehabilitation or remodeling of a public building, or the construction of an
22 addition to a public building;

23 (2) At least \$500,000 but less than ~~[\$30,000,000]~~ \$20,000,000 if the
24 public work is the construction of a new public building;

25 (3) At least \$5,000,000 but less than \$100,000,000 if the public
26 work is the construction, alteration or repair of a plant or facility for the
27 treatment and pumping of water or the treatment and disposal of
28 wastewater or sewage; or

29 (4) At least ~~[\$5,000,000]~~ \$2,500,000 but less than ~~[\$30,000,000]~~
30 \$20,000,000 if the public work is the construction, alteration or repair of
31 any other fixed works as described in subsection 2 of NRS 624.215; and

32 (b) Contracting with a design-build team will enable the public body
33 to:

34 (1) Design and construct the public work at a cost that is
35 significantly lower than the cost that the public body would incur to design
36 and construct the public work using a different method;

37 (2) Design and construct the public work in a shorter time than
38 would be required to design and construct the public work using a different
39 method, if exigent circumstances require that the public work be designed
40 and constructed within a short time; or

41 (3) Ensure that the design and construction of the public work is
42 properly coordinated, if the public work is unique, highly technical and
43 complex in nature.

44 4. Each state agency and each department, division, board, unit or
45 agency of a local government may contract with a design-build team

1 once in each fiscal year for the design and construction of a public work
2 pursuant to subparagraph (4) of paragraph (a) of subsection 3.

3 5. Notwithstanding the provisions of subsections 1, 2 and 3, 3 and 4,
4 a public body may contract with:

5 (a) A nonprofit organization for the design and construction of a
6 project to restore, enhance or develop wetlands.

7 (b) A prime contractor or design-build team with respect to a public
8 work if the public body determines that the public work is:

9 (1) Not part of a larger public work; and

10 (2) Limited in scope to:

11 (I) Removal of asbestos;

12 (II) Replacement of equipment or systems for heating,
13 ventilation and air-conditioning;

14 (III) Replacement of a roof;

15 (IV) Landscaping; or

16 (V) Restoration, enhancement or development of wetlands.

17 ~~5.~~ 6. As used in this section, "state agency" includes an agency,
18 bureau, board, commission, department, division or any other unit of the
19 Legislative Department, Judicial Department or Executive Department of
20 State Government or the University and Community College System of
21 Nevada.

22 **Sec. 9.5.** NRS 338.1727 is hereby amended to read as follows:

23 1. After selecting the finalists pursuant to NRS 338.1725, the public body
24 shall provide to each finalist a request for final proposals for the public
25 work. The request for final proposals must:

26 (a) Set forth the factors that the public body will use to select a design-
27 build team to design and construct the public work, including the relative
28 weight to be assigned to each factor; and

29 (b) Set forth the date by which final proposals must be submitted to the
30 public body.

31 2. Except as otherwise provided in this subsection, in assigning the
32 relative weight to each factor for selecting a design-build team pursuant to
33 subsection 1, the public body shall assign, without limitation, a relative
34 weight of 5 percent to the possession of a certificate of eligibility to
35 receive a preference in bidding on public works and a relative weight of at
36 least 30 percent to the proposed cost of design and construction of the
37 public work. If any federal statute or regulation precludes the granting of
38 federal assistance or reduces the amount of that assistance for a particular
39 public work because of the provisions of this subsection relating to
40 preference in bidding on public works, those provisions of this subsection
41 do not apply insofar as their application would preclude or reduce federal
42 assistance for that public work.

43 3. A final proposal submitted by a design-build team pursuant to this
44 section must be prepared thoroughly, be responsive to the criteria that the
45 public body will use to select a design-build team to design and construct

1 the public work described in subsection 1 and comply with the provisions
2 of NRS 338.141.

3 4. After receiving the final proposals for the public work, the public
4 body shall:

5 (a) Select the most cost-effective and responsive final proposal, using
6 the criteria set forth pursuant to subsections 1 and 2; or

7 (b) Reject all the final proposals.

8 5. If a public body selects a final proposal pursuant to paragraph (a) of
9 subsection 4, the public body shall, at its next regularly scheduled meeting:

10 (a) Review and ratify the selection.

11 (b) Award the design-build contract to the design-build team whose
12 proposal is selected.

13 (c) Partially reimburse the unsuccessful finalists if partial
14 reimbursement was provided for in the request for preliminary proposals
15 pursuant to paragraph (f) of subsection 3 of NRS 338.1723. The amount of
16 reimbursement must not exceed, for each unsuccessful finalist, 3 percent of
17 the total amount to be paid to the design-build team as set forth in the
18 design-build contract.

19 (d) Make available to the public a summary setting forth the factors
20 used by the public body to select the successful design-build team and the
21 ranking of the design-build teams who submitted final proposals. The
22 public body shall not release to a third party, or otherwise make public,
23 financial or proprietary information submitted by a design-build team.

24 6. A contract awarded pursuant to this section:

25 (a) Is subject to the provisions of NRS 338.020 to 338.090, inclusive;

26 (b) Must specify:

27 (1) An amount that is the maximum amount that the public body
28 will pay for the performance of all the work required by the contract,
29 excluding any amount related to costs that may be incurred as a result of
30 unexpected conditions or occurrences as authorized by the contract;

31 (2) An amount that is the maximum amount that the public body
32 will pay for the performance of the professional services required by the
33 contract; and

34 (3) A date by which performance of the work required by the
35 contract must be completed.

36 ~~(c)~~ (c) May set forth the terms by which the design-build team agrees to
37 name the public body, at the cost of the public body, as an additional
38 insured in an insurance policy held by the design-build team.

39 ~~(d)~~ (d) Except as otherwise provided in paragraph ~~(d)~~, (e), must not
40 require the design professional to defend, indemnify or hold harmless the
41 public body or the employees, officers or agents of that public body from
42 any liability, damage, loss, claim, action or proceeding caused by the
43 negligence, errors, omissions, recklessness or intentional misconduct of the
44 employees, officers and agents of the public body.

1 ~~(d)~~ (e) May require the design-build team to defend, indemnify and
2 hold harmless the public body, and the employees, officers and agents of
3 the public body from any liabilities, damages, losses, claims, actions or
4 proceedings, including, without limitation, reasonable attorneys' fees, that
5 are caused by the negligence, errors, omissions, recklessness or intentional
6 misconduct of the design-build team or the employees or agents of the
7 design-build team in the performance of the contract.

8 7. Any provision of a contract that is in violation of paragraph ~~(e)~~ (d)
9 of subsection 6 is declared to be contrary to the public policy of this state
10 and is void.

11 8. A design-build team to whom a contract is awarded pursuant to this
12 section shall:

13 (a) Assume overall responsibility for ensuring that the design and
14 construction of the public work is completed in a satisfactory manner; and

15 (b) Use the work force of the prime contractor on the design-build team
16 to construct at least 15 percent of the public work.

17 Sec. 10. Chapter 408 of NRS is hereby amended by adding thereto
18 the provisions set forth as sections 11 to 17, inclusive, of this act.

19 Sec. 11. "Transportation facility" means a road, railroad, bridge,
20 tunnel, overpass, airport, mass transit facility, parking facility for
21 vehicles or similar commercial facility used for the support of or the
22 transportation of persons or goods, including, without limitation, any
23 other property that is needed to operate the facility.

24 Sec. 12. The Department may authorize a person to ~~acquire,~~
25 develop, construct, improve, maintain or operate, or any combination
26 thereof, a transportation facility pursuant to section 13 or 14 of this act.

27 Sec. 13. 1. A person may submit a request to the Department to
28 ~~acquire, develop, construct, improve, maintain or operate, or any~~
29 combination thereof, a transportation facility.

30 2. The request must be accompanied by the following information,
31 unless waived by the Department:

32 (a) A topographic map indicating the location of the transportation
33 facility.

34 (b) A description of the transportation facility, including, without
35 limitation, the conceptual design of the facility and all proposed
36 interconnections with other transportation facilities.

37 (c) The projected total cost of the transportation facility over its life
38 and the proposed date for ~~acquisition~~ development of, commencement of
39 the construction of, or improvements to the transportation facility.

40 (d) A statement setting forth the method by which the operator of the
41 transportation facility proposes to secure all property interests required
42 for the transportation facility. The statement must include, without
43 limitation:

44 (1) The names and addresses, if known, of the current owners of
45 any property needed for the transportation facility;

1 (2) The nature of the property interests to be acquired; and

2 (3) Any property that ~~requires condemnation by the person~~
3 submitting the request may propose that the Department condemn.

4 (e) Information relating to the current transportation plans, if any, of
5 any governmental entity in the jurisdiction of which any portion of the
6 transportation facility is located.

7 (f) A list of all permits and approvals required for the ~~acquisition~~
8 development or construction of or improvement to the transportation
9 facility from local, state or federal agencies and a projected schedule for
10 obtaining those permits and approvals.

11 (g) A list of the facilities of any ~~public~~ utility or existing
12 transportation facility that will be crossed by the transportation facility
13 and a statement of the plans of the operator to accommodate such
14 crossings.

15 (h) A statement setting forth the general plans of the person
16 submitting the request for financing and operating the transportation
17 facility, which must include, without limitation:

18 - (1) A plan for the development, financing and operation of the
19 transportation facility, including, without limitation, an indication of the
20 proposed sources and uses of money for the transportation facility and
21 the anticipated schedule for the receipt of those funds;

22 (2) A list and discussion of the assumptions related to the use of
23 the transportation facility, including, without limitation, the fees charged
24 for such use;

25 (3) Identification of any risk factors associated with developing or
26 constructing or improving the transportation facility and methods for
27 addressing those factors; and

28 (4) Identification of any local, state or federal resources that the
29 person anticipates requesting for the transportation facility, including,
30 without limitation, an anticipated schedule for the receipt of those
31 resources.

32 (i) The names and addresses of the persons who may be contacted for
33 further information concerning the request.

34 (j) Any additional material and information that the Department may
35 request.

36 Sec. 14. ~~The Department may 1. If the Department receives a~~
37 proposal that meets the requirements of section 15 of this act, the
38 Department may request other persons to submit proposals to ~~acquire,~~
39 develop, construct, improve, maintain or operate, or any combination
40 thereof, of the transportation facility.

41 2. The Department shall adopt procedures for the submission of
42 proposals pursuant to subsection 1.

43 Sec. 15. 1. The Department may approve a request or proposal
44 submitted pursuant to section 13 or 14 of this act if the Department
45 determines that the transportation facility serves a public purpose. ~~To~~

1 ~~determine~~ In determining whether the transportation facility serves a
2 public purpose, the Department shall consider whether:

3 (a) There is a public need for the type of transportation facility that is
4 proposed;

5 (b) The proposed interconnections between the transportation facility
6 and existing transportation facilities and the plans of
7 the person submitting the request for the operation of the transportation
8 facility are reasonable and compatible with the transportation plan of the
9 State any statewide and regional program for the improvement of
10 transportation and with the transportation plans of any other
11 governmental entity in the jurisdiction of which any portion of the
12 transportation facility will be located;

13 (c) The estimated cost of the transportation facility is reasonable in
14 relation to similar transportation facilities;

15 (d) The plans of the person submitting the request will result in the
16 timely acquisition development or construction of, or improvement to the
17 transportation facility or its more efficient operation; and

18 (e) The long-term quality of the transportation facility will meet a
19 level of performance over a sufficient duration of time to provide real
20 value to the public.

21 2. In evaluating a request or proposal submitted pursuant to section
22 13 or 14 of this act, the Department may rely on internal staff reports
23 prepared by personnel of the Department who are familiar with the
24 operation of similar transportation facilities or the advice of outside
25 advisors or consultants with relevant experience.

26 3. The Department may request that a person who submitted a
27 request or proposal pursuant to section 13 or 14 of this act furnish a
28 copy of the request or proposal to each governmental entity in the
29 jurisdiction of which any portion of the transportation facility is located.
30 Within 30 days after receipt of such a request or proposal, the
31 governmental entity shall submit its comments, if any, concerning the
32 transportation facility in writing to the Department and indicate whether
33 the transportation facility is compatible with any local, regional and
34 statewide transportation plan or program that is applicable to the
35 governmental entity.

36 4. The Department may charge a reasonable fee to cover the costs
37 of processing, reviewing and evaluating a request or proposal submitted
38 pursuant to section 13 or 14 of this act, including, without limitation,
39 reasonable fees for the services of an attorney or a financial or other
40 consultant or advisor.

41 ~~4-5.~~ The approval of a request or proposal by the Department is
42 contingent on the person who submitted the request or proposal entering
43 into an agreement with the Department. In such an agreement, the
44 Department shall include criteria that address the long-term quality of
45 the transportation facility.

1 ~~5-6.~~ *In connection with the approval of a transportation facility, the*
2 *Department shall establish a date for the ~~acquisition~~ development of,*
3 *commencement of the construction of, or improvements to, the*
4 *transportation facility. The Department may extend the date from time to*
5 *time.*

6 **Sec. 16.** *The Department may contract with a person whose request*
7 *or proposal is approved pursuant to section 15 of this act for*
8 *transportation services to be provided by the transportation facility in*
9 *exchange for such payments for service and other consideration as the*
10 *Department may deem appropriate.*

11 **Sec. 17.** *The Department may take any action necessary to obtain*
12 *federal, state or local assistance for a transportation facility that it*
13 *approves and may enter into any contracts required to receive such*
14 *assistance. The Department may determine if it serves the public purpose*
15 *for all or a portion of the costs of the transportation facility to be paid,*
16 *directly or indirectly, from the proceeds of a grant or loan made by the*
17 *local, state or Federal Government or any agency or instrumentality*
18 *thereof.*

19 **Sec. 18.** NRS 408.388 is hereby amended to read as follows:

20 408.388 1. ~~{The}~~ *Except as otherwise provided in sections 11 to 17,*
21 *inclusive, of this act, the Department may contract with a design-build*
22 *team for the design and construction of a project if the Department*
23 *determines that:*

24 (a) *Except as otherwise provided in subsection 2, the estimated cost of*
25 *the project exceeds ~~\$30,000,000~~, \$20,000,000; and*

26 (b) *Contracting with a design-build team will enable the Department*
27 *to:*

28 (1) *Design and construct the project at a cost that is significantly*
29 *lower than the cost that the Department would incur to design and*
30 *construct the project using a different method;*

31 (2) *Design and construct the project in a shorter time than would be*
32 *required to complete the project using a different method, if exigent*
33 *circumstances require that the project be designed and constructed within a*
34 *short time; or*

35 (3) *Ensure that the design and construction of the project is properly*
36 *coordinated, if the project is unique, highly technical and complex in*
37 *nature.*

38 2. *Notwithstanding the provisions of subsection 1, the Department*
39 *may, once in each fiscal year, contract with a design-build team for the*
40 *design and construction of a project the estimated cost of which is at least*
41 *~~\$5,000,000~~ \$2,500,000 but less than ~~\$30,000,000~~ \$20,000,000 if the*
42 *Department makes the determinations otherwise required pursuant to*
43 *paragraph (b) of subsection 1.*

44 **Sec. 18.5.** NRS 408.3886 is hereby amended to read as follows:

1 1. After selecting the finalists pursuant to NRS 408.3885, the department
2 shall provide to each finalist a request for final proposals for the project.
3 The request for final proposals must:

4 (a) Set forth the factors that the department will use to select a design-
5 build team to design and construct the project, including the relative
6 weight to be assigned to each factor; and

7 (b) Set forth the date by which final proposals must be submitted to the
8 department.

9 2. Except as otherwise provided in this subsection, in assigning the
10 relative weight to each factor for selecting a design-build team pursuant to
11 subsection 1, the department shall assign, without limitation, a relative
12 weight of 5 percent to the possession of a certificate of eligibility to
13 receive a preference in bidding on public works and a relative weight of at
14 least 30 percent for the proposed cost of design and construction of the
15 project. If any federal statute or regulation precludes the granting of federal
16 assistance or reduces the amount of that assistance for a particular project
17 because of the provisions of this subsection relating to preference in
18 bidding on public works, those provisions of this subsection do not apply
19 insofar as their application would preclude or reduce federal assistance for
20 that project.

21 3. A final proposal submitted by a design-build team pursuant to this
22 section must be prepared thoroughly, be responsive to the criteria that the
23 department will use to select a design-build team to design and construct
24 the project described in subsection 1 and comply with the provisions of
25 NRS 338.141.

26 4. After receiving the final proposals for the project, the department
27 shall:

28 (a) Select the most cost-effective and responsive final proposal, using
29 the criteria set forth pursuant to subsections 1 and 2; or

30 (b) Reject all the final proposals.

31 5. If the department selects a final proposal pursuant to paragraph (a)
32 of subsection 4, the department shall hold a public meeting to:

33 (a) Review and ratify the selection.

34 (b) Award the design-build contract to the design-build team whose
35 proposal is selected.

36 (c) Partially reimburse the unsuccessful finalists if partial
37 reimbursement was provided for in the request for preliminary proposals
38 pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of
39 reimbursement must not exceed, for each unsuccessful finalist, three
40 percent of the total amount to be paid to the design-build team as set forth
41 in the design-build contract.

42 (d) Make available to the public a summary setting forth the factors
43 used by the department to select the successful design-build team and the
44 ranking of the design-build teams who submitted final proposals. The

1 department shall not release to a third party, or otherwise make public,
2 financial or proprietary information submitted by a design-build team.

3 6. A contract awarded pursuant to this section ~~must specify~~ :

4 (a) Is subject to the provisions of NRS 338.020 to 338.090, inclusive;
5 and

6 (b) Must specify:

7 ~~(a)~~ (1) An amount that is the maximum amount that the department will
8 pay for the performance of all the work required by the contract, excluding
9 any amount related to costs that may be incurred as a result of unexpected
10 conditions or occurrences as authorized by the contract;

11 ~~(b)~~ (2) An amount that is the maximum amount that the department will
12 pay for the performance of the professional services required by the
13 contract; and

14 ~~(c)~~ (3) A date by which performance of the work required by the
15 contract must be completed.

16 7. A design-build team to whom a contract is awarded pursuant to this
17 section shall:

18 (a) Assume overall responsibility for ensuring that the design and
19 construction of the project is completed in a satisfactory manner; and

20 (b) Use the work force of the prime contractor on the design-build team
21 to construct at least 15 percent of the project.

22 **Sec. 19.** This act becomes effective on July 1, 2003.

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