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ASSEMBLY BILL NO. 147—ASSEMBLYMEN OCEGUERA, CLABORN,  
BROWN, CHRISTENSEN, CONKLIN, GIUNCHIGLIANI, HORNE,  
MCCLAIN, MCCLEARY AND PIERCE

FEBRUARY 14, 2003

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to purchasing by local governments. (BDR 27-799)

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.

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AN ACT relating to local governmental purchasing; providing for the consideration of the performance or delivery date in awarding contracts; exempting certain purchases of certain safety equipment for use by a local fire department or law enforcement agency from the requirements of competitive bidding; and providing other matters properly relating thereto.

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

- 1     **Section 1.** NRS 332.065 is hereby amended to read as follows:  
2     332.065 1. If a governing body or its authorized  
3 representative has advertised for or requested bids in letting a  
4 contract, the governing body or its authorized representative must,  
5 except as otherwise provided in subsection 2, award the contract to  
6 the lowest responsive and responsible bidder. The lowest responsive  
7 and responsible bidder ~~must~~ *may* be judged on the basis of ~~price,~~  
8 ~~conformance~~ ;  
9     (a) *Price*;  
10    (b) *Conformance* to specifications ~~[, qualifications, including,~~  
11 ~~without limitation, past performance, quality]~~ ;  
12    (c) *Qualifications*;  
13    (d) *Past performance*;



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- 1       (e) *Performance or delivery date;*  
2       (f) *Quality* and utility of services, supplies, materials or  
3 equipment offered and *the* adaptability *of those services, supplies,*  
4 *materials or equipment* to the required purpose *of the contract;* and  
5 ~~{the}~~  
6       (g) *The* best interests of the public.  
7       2. The governing body or its authorized representative:  
8       (a) Shall give preference to recycled products if:  
9           (1) The product meets the applicable standards;  
10           (2) The product can be substituted for a comparable  
11 nonrecycled product; and  
12           (3) The product costs no more than a comparable  
13 nonrecycled product.  
14       (b) May give preference to recycled products if:  
15           (1) The product meets the applicable standards;  
16           (2) The product can be substituted for a comparable  
17 nonrecycled product; and  
18           (3) The product costs no more than 5 percent more than a  
19 comparable nonrecycled product.  
20       (c) May purchase recycled paper products if the specific  
21 recycled paper product is:  
22           (1) Available at a price which is not more than 10 percent  
23 higher than that of paper products made from virgin material;  
24           (2) Of adequate quality; and  
25           (3) Available to the purchaser within a reasonable period.  
26       3. If , after the lowest responsive and responsible bidder has  
27 been awarded the contract, during the term of the contract he does  
28 not supply goods or services in accordance with the bid  
29 specifications, or if he repudiates the contract, the governing body  
30 or its authorized representative may reaward the contract to the next  
31 lowest responsive and responsible bidder without requiring that new  
32 bids be submitted. Reawarding the contract to the next lowest  
33 responsive and responsible bidder is not a waiver of any liability of  
34 the initial bidder awarded the contract.  
35       4. As used in this section:  
36       (a) "Postconsumer waste" means a finished material which  
37 would normally be disposed of as a solid waste having completed its  
38 life cycle as a consumer item.  
39       (b) "Recycled paper product" means all paper and wood-pulp  
40 products containing in some combination at least 50 percent of its  
41 total weight:  
42           (1) Postconsumer waste; and  
43           (2) Secondary waste,  
44 but does not include fibrous waste generated during the  
45 manufacturing process such as fibers recovered from wastewater or



1 trimmings of paper machine rolls, wood slabs, chips, sawdust or  
2 other wood residue from a manufacturing process.

3 (c) "Secondary waste" means fragments of products or finished  
4 products of a manufacturing process ~~[.]~~ which has converted a virgin  
5 resource into a commodity of real economic value.

6 **Sec. 2.** NRS 332.085 is hereby amended to read as follows:

7 332.085 In determining the responsibility of any bidder, the  
8 governing body or its authorized representative ~~[shall]~~ :

9 **1. Shall** consider the possession of and limit on any required  
10 license *of the bidder*; and ~~[may]~~

11 **2. May** consider the ~~[financial responsibility, experience,~~  
12 ~~adequacy]~~ :

13 (a) *Financial responsibility of the bidder*;

14 (b) *Experience of the bidder*;

15 (c) *Adequacy of the* equipment ~~[-, past performance and ability]~~  
16 of the bidder ;

17 (d) *Past performance of the bidder*;

18 (e) *Performance or delivery date*; and

19 (f) *Ability of the bidder* to perform the contract.

20 **Sec. 3.** NRS 332.115 is hereby amended to read as follows:

21 332.115 1. Contracts which by their nature are not adapted to  
22 award by competitive bidding, including contracts for:

23 (a) Items which may only be contracted from a sole source;

24 (b) Professional services;

25 (c) Additions to and repairs and maintenance of equipment  
26 which may be more efficiently added to, repaired or maintained by a  
27 certain person;

28 (d) Equipment which, by reason of the training of the personnel  
29 or of an inventory of replacement parts maintained by the local  
30 government , is compatible with existing equipment;

31 (e) Perishable goods;

32 (f) Insurance;

33 (g) Hardware and associated peripheral equipment and devices  
34 for computers;

35 (h) Software for computers;

36 (i) Books, library materials and subscriptions;

37 (j) Motor vehicle fuel purchased by a local law enforcement  
38 agency for use in an undercover investigation;

39 (k) Motor vehicle fuel for use in a vehicle operated by a local  
40 law enforcement agency or local fire department if such fuel is not  
41 available within the vehicle's assigned service area from a fueling  
42 station owned by the State of Nevada or a local government;

43 (l) Purchases made with money in a store fund for prisoners in a  
44 jail or local detention facility for the provision and maintenance of a  
45 canteen for the prisoners;



1 (m) Supplies, materials or equipment that are available from  
2 contracts with the General Services Administration or another  
3 governmental agency in the regular course of its business;

4 (n) Items for resale through a retail outlet operated in this state  
5 by a local government or the State of Nevada; and

6 (o) Goods or services purchased from organizations or agencies  
7 whose primary purpose is the training and employment of  
8 handicapped persons,  
9 are not subject to the requirements of this chapter for competitive  
10 bidding , as determined by the governing body or its authorized  
11 representative.

12 2. The purchase of equipment for use by a local law  
13 enforcement agency in the course of an undercover investigation is  
14 not subject to the requirements of this chapter for competitive  
15 bidding , *as determined by the governing body or its authorized*  
16 *representative*, if:

17 (a) The equipment is an electronic or mechanical device which  
18 by design is intended to monitor and document in a clandestine  
19 manner suspected criminal activity; or

20 (b) Purchasing the equipment pursuant to such requirements  
21 would limit or compromise the use of such equipment by an agency  
22 authorized to conduct such investigations.

23 3. *The purchase of personal safety equipment for use by a*  
24 *local fire department or local law enforcement agency is not*  
25 *subject to the requirements of this chapter for competitive bidding,*  
26 *as determined by the governing body or its authorized*  
27 *representative, if:*

28 (a) *The personal safety equipment will be used by personnel of*  
29 *the fire department or law enforcement agency in responding to*  
30 *emergencies in which the health, safety or welfare of those*  
31 *personnel may be compromised, impaired or otherwise threatened;*  
32 *and*

33 (b) *The cost of the personal safety equipment is comparable to*  
34 *the cost of similar personal safety equipment that is available for*  
35 *purchase by the public.*

36 4. The governing body of a hospital required to comply with  
37 the provisions of this chapter, or its authorized representative, may  
38 purchase goods commonly used by the hospital, under a contract  
39 awarded pursuant to NRS 332.065, without additional competitive  
40 bidding even if at the time the contract was awarded:

41 (a) The vendor supplying such goods to the person awarded the  
42 contract was not identified as a supplier to be used by the person  
43 awarded the contract; or



1 (b) The vendor was identified as a supplier but was not  
2 identified as the supplier of such goods.  
3 The governing body of the hospital shall make available for public  
4 inspection each such contract and records related to those purchases.  
5 ~~4.1~~ 5. This section does not prohibit a governing body or its  
6 authorized representative from advertising for or requesting bids.  
7 6. *As used in this section, "personal safety equipment" means*  
8 *safety equipment that is worn or otherwise carried on a regular*  
9 *basis by personnel of a fire department or law enforcement*  
10 *agency. The term includes, but is not limited to, firearms, boots,*  
11 *bulletproof vests or other types of body armor, protective*  
12 *garments, gloves and helmets.*  
13 **Sec. 4.** This act becomes effective on July 1, 2003.

