

---

---

ASSEMBLY BILL NO. 282—ASSEMBLYMEN  
GIUNCHIGLIANI AND CLABORN

MARCH 11, 2003

---

Referred to Committee on Commerce and Labor

SUMMARY—Requires that bidder participate in certain programs of training and apprenticeship to be qualified to bid on public works projects. (BDR 28-727)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

---

---

AN ACT relating to public works projects; requiring that a bidder participate in certain programs of training and apprenticeship to be qualified to bid on public works projects; 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 338.1375 is hereby amended to read as  
2 follows:  
3     338.1375 1. The State Public Works Board shall not accept a  
4 bid on a contract for a public work unless the person who submits  
5 the bid has qualified pursuant to NRS 338.1379 to bid on that  
6 contract.  
7     2. The State Public Works Board shall by regulation adopt  
8 criteria for the qualification of bidders on contracts for public works  
9 of this state. The criteria adopted by the State Public Works Board  
10 pursuant to this section must be used by the State Public Works  
11 Board to determine the qualification of bidders on contracts for  
12 public works of this state.  
13     3. The criteria adopted by the State Public Works Board  
14 pursuant to this section:



1 (a) Must be adopted in such a form that the determination of  
2 whether an applicant is qualified to bid on a contract for a public  
3 work does not require or allow the exercise of discretion by any one  
4 person.

5 (b) ~~May~~ *Must require that an applicant participate in*  
6 *programs of training and apprenticeship that are registered and*  
7 *approved by the State Apprenticeship Council pursuant to chapter*  
8 *610 of NRS.*

9 (c) *In addition to the requirements of paragraphs (a) and (b),*  
10 *may* include only:

11 (1) The financial ability of the applicant to perform a  
12 contract;

13 (2) The principal personnel of the applicant;

14 (3) Whether the applicant has breached any contracts with a  
15 public agency or person in this state or any other state;

16 (4) Whether the applicant has been disqualified from being  
17 awarded a contract pursuant to NRS 338.017 or 338.1387; and

18 (5) The performance history of the applicant concerning  
19 other recent, similar contracts, if any, completed by the applicant.

20 **Sec. 2.** NRS 338.1377 is hereby amended to read as follows:

21 338.1377 1. Except as otherwise provided in NRS 338.1383,  
22 the governing body of each local government that sponsors or  
23 finances a public work shall adopt criteria for the qualification of  
24 bidders on contracts for public works of the local government. The  
25 governing body shall use the criteria to determine the qualification  
26 of bidders on contracts for public works of the local government.

27 2. Before adopting criteria pursuant to this section, the  
28 governing body of a local government shall hold at least one public  
29 hearing to solicit and evaluate public opinion regarding the criteria  
30 to be adopted. Notice of such a hearing must be provided by mail at  
31 least 10 days before the hearing to:

32 (a) Construction trade associations in this state; and

33 (b) Labor unions representing trades in the building industry in  
34 this state.

35 3. The criteria adopted by a governing body pursuant to this  
36 section to determine whether an applicant is qualified to bid on a  
37 contract for a public work:

38 (a) Must be adopted in such a form that the determination of  
39 whether an applicant is qualified to bid on a contract for a public  
40 work does not require or allow the exercise of discretion by any one  
41 person.

42 (b) ~~May~~ *Must require that an applicant participate in*  
43 *programs of training and apprenticeship that are registered and*  
44 *approved by the State Apprenticeship Council pursuant to chapter*  
45 *610 of NRS.*



1 *(c) In addition to the requirements of paragraphs (a) and (b),*  
2 *may include only:*

- 3 (1) The financial ability of the applicant to perform a
- 4 contract;
- 5 (2) The principal personnel of the applicant;
- 6 (3) Whether the applicant has breached any contracts with a
- 7 public agency or person in this state or any other state; and
- 8 (4) Whether the applicant has been disqualified from being
- 9 awarded a contract pursuant to NRS 338.017 or 338.1387.

10 **Sec. 3.** NRS 338.1383 is hereby amended to read as follows:

11 338.1383 **1.** If a local government does not adopt criteria for  
12 the qualification of bidders on a public work pursuant to NRS  
13 338.1377, the governing body may only accept a bid on a contract  
14 for a public work from a person who holds:

15 ~~[(a)]~~ **(a)** An unlimited contractor’s license issued by the State  
16 Contractors’ Board in the branch of general engineering contracting  
17 or general building contracting, or in both branches, and:

18 ~~[(a)]~~ **(1)** At the time he submits his bid, he provides a bid bond  
19 equal to 10 percent of the amount of the bid; and

20 ~~[(b)]~~ **(2)** At the time the contract is awarded, he provides a  
21 performance bond, a labor and material bond and a guaranty bond,  
22 each equal to 100 percent of the amount of the contract; or

23 ~~[(2)]~~ **(b)** A contractor’s license issued by the State Contractors’  
24 Board that is designated in any classification if he:

25 ~~[(a)]~~ **(1)** Has, in the 5 years immediately preceding the  
26 submission of the bid, been found to be a responsible contractor in  
27 the classification in which his contractor’s license is designated;

28 ~~[(b)]~~ **(2)** Provides a bid bond, a performance bond, a guaranty  
29 bond, and a labor and material bond in such amounts as the  
30 governing body may require; and

31 ~~[(c)]~~ **(3)** Employs a person determined by the State Contractors’  
32 Board to be qualified to supervise each classification of construction  
33 upon which the person submitting the bid is bidding.

34 **2.** *In addition to the requirements of subsection 1, if a local*  
35 *government does not adopt criteria for the qualification of bidders*  
36 *on a public work pursuant to NRS 338.1377, the governing body*  
37 *may only accept a bid on a contract for a public work from a*  
38 *person who participates in programs of training and*  
39 *apprenticeship that are registered and approved by the State*  
40 *Apprenticeship Council pursuant to chapter 610 of NRS.*

41 **Sec. 4.** NRS 338.1385 is hereby amended to read as follows:

42 338.1385 **1.** Except as otherwise provided in subsection 7  
43 and NRS 338.1906 and 338.1907, this state, or a local government  
44 that awards a contract for the construction, alteration or repair of a  
45 public work in accordance with paragraph (a) of subsection 1 of



1 NRS 338.1373, or a public officer, public employee or other person  
2 responsible for awarding a contract for the construction, alteration  
3 or repair of a public work who represents the State or the local  
4 government, shall not:

5 (a) Commence such a project for which the estimated cost  
6 exceeds \$100,000 unless it advertises in a newspaper of general  
7 circulation in this state for bids for the project; or

8 (b) Divide such a project into separate portions to avoid the  
9 requirements of paragraph (a).

10 2. Except as otherwise provided in subsection 7, a public body  
11 that maintains a list of properly licensed contractors who are  
12 interested in receiving offers to bid on public works projects for  
13 which the estimated cost is more than \$25,000 but less than  
14 \$100,000 shall solicit bids from not more than three of the  
15 contractors on the list for a contract of that value for the  
16 construction, alteration or repair of a public work. The public body  
17 shall select contractors from the list in such a manner as to afford  
18 each contractor an equal opportunity to bid on a public works  
19 project. A properly licensed contractor must submit a written  
20 request annually to the public body to remain on the list. Offers for  
21 bids which are made pursuant to this subsection must be sent by  
22 certified mail.

23 3. Each advertisement for bids must include a provision that  
24 sets forth:

25 (a) The requirement that a contractor must be qualified pursuant  
26 to NRS 338.1379 to bid on the contract or must be exempt from  
27 meeting such qualifications pursuant to NRS 338.1383; and

28 (b) The period during which an application to qualify as a bidder  
29 on the contract must be submitted.

30 4. Approved plans and specifications for the bids must be on  
31 file at a place and time stated in the advertisement for the inspection  
32 of all persons desiring to bid thereon and for other interested  
33 persons. Contracts for the project must be awarded on the basis of  
34 bids received.

35 5. Any bids received in response to an advertisement for bids :

36 (a) *Must be rejected if the person responsible for awarding the*  
37 *contract determines that the bidder does not participate in*  
38 *programs of training and apprenticeship that are registered and*  
39 *approved by the State Apprenticeship Council pursuant to chapter*  
40 *610 of NRS.*

41 (b) *Except as otherwise provided in paragraph (a),* may be  
42 rejected if the person responsible for awarding the contract  
43 determines that:



1       ~~[(a)]~~ (1) The bidder is not a qualified bidder pursuant to NRS  
2 338.1379, unless the bidder is exempt from meeting such  
3 qualifications pursuant to NRS 338.1383;  
4       ~~[(b)]~~ (2) The bidder is not responsive;  
5       ~~[(c)]~~ (3) The quality of the services, materials, equipment or  
6 labor offered does not conform to the approved plan or  
7 specifications; or  
8       ~~[(d)]~~ (4) The public interest would be served by such a rejection.  
9       6. Before the State or a local government may commence a  
10 project subject to the provisions of this section, based upon a  
11 determination that the public interest would be served by rejecting  
12 any bids received in response to an advertisement for bids, it shall  
13 prepare and make available for public inspection a written statement  
14 containing:  
15       (a) A list of all persons, including supervisors, whom the State  
16 or the local government intends to assign to the project, together  
17 with their classifications and an estimate of the direct and indirect  
18 costs of their labor;  
19       (b) A list of all equipment that the State or the local government  
20 intends to use on the project, together with an estimate of the  
21 number of hours each item of equipment will be used and the hourly  
22 cost to use each item of equipment;  
23       (c) An estimate of the cost of administrative support for the  
24 persons assigned to the project;  
25       (d) An estimate of the total cost of the project; and  
26       (e) An estimate of the amount of money the State or the local  
27 government expects to save by rejecting the bids and performing the  
28 project itself.  
29       7. This section does not apply to:  
30       (a) Any utility subject to the provisions of chapter 318 or 710 of  
31 NRS;  
32       (b) Any work of construction, reconstruction, improvement and  
33 maintenance of highways subject to NRS 408.323 or 408.327;  
34       (c) Normal maintenance of the property of a school district;  
35       (d) The Las Vegas Valley Water District created pursuant to  
36 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
37 District created pursuant to chapter 477, Statutes of Nevada 1983 or  
38 the Virgin Valley Water District created pursuant to chapter 100,  
39 Statutes of Nevada 1993; or  
40       (e) The design and construction of a public work for which a  
41 public body contracts with a design-build team pursuant to NRS  
42 338.1711 to 338.1727.  
43       **Sec. 5.** NRS 338.1385 is hereby amended to read as follows:  
44       338.1385 1. Except as otherwise provided in subsection 8,  
45 this state, or a local government that awards a contract for the



1 construction, alteration or repair of a public work in accordance with  
2 paragraph (a) of subsection 1 of NRS 338.1373, or a public officer,  
3 public employee or other person responsible for awarding a contract  
4 for the construction, alteration or repair of a public work who  
5 represents the State or the local government, shall not:

- 6 (a) Commence such a project for which the estimated cost  
7 exceeds \$100,000 unless it advertises in a newspaper of general  
8 circulation in this state for bids for the project; or  
9 (b) Divide such a project into separate portions to avoid the  
10 requirements of paragraph (a).

11 2. Except as otherwise provided in subsection 8, a public body  
12 that maintains a list of properly licensed contractors who are  
13 interested in receiving offers to bid on public works projects for  
14 which the estimated cost is more than \$25,000 but less than  
15 \$100,000 shall solicit bids from not more than three of the  
16 contractors on the list for a contract of that value for the  
17 construction, alteration or repair of a public work. The public body  
18 shall select contractors from the list in such a manner as to afford  
19 each contractor an equal opportunity to bid on a public works  
20 project. A properly licensed contractor must submit a written  
21 request annually to the public body to remain on the list. Offers for  
22 bids which are made pursuant to this subsection must be sent by  
23 certified mail.

24 3. Each advertisement for bids must include a provision that  
25 sets forth:

26 (a) The requirement that a contractor must be qualified pursuant  
27 to NRS 338.1379 to bid on the contract or must be exempt from  
28 meeting such qualifications pursuant to NRS 338.1383; and

29 (b) The period during which an application to qualify as a bidder  
30 on the contract must be submitted.

31 4. Approved plans and specifications for the bids must be on  
32 file at a place and time stated in the advertisement for the inspection  
33 of all persons desiring to bid thereon and for other interested  
34 persons. Contracts for the project must be awarded on the basis of  
35 bids received.

36 5. Any bids received in response to an advertisement for bids :

37 *(a) Must be rejected if the person responsible for awarding the*  
38 *contract determines that the bidder does not participate in*  
39 *programs of training and apprenticeship that are registered and*  
40 *approved by the State Apprenticeship Council pursuant to chapter*  
41 *610 of NRS.*

42 *(b) Except as otherwise provided in paragraph (a),* may be  
43 rejected if the person responsible for awarding the contract  
44 determines that:



- 1 ~~(a)~~ (1) The bidder is not a qualified bidder pursuant to NRS  
2 338.1379, unless the bidder is exempt from meeting such  
3 qualifications pursuant to NRS 338.1383;  
4 ~~(b)~~ (2) The bidder is not responsive;  
5 ~~(c)~~ (3) The quality of the services, materials, equipment or  
6 labor offered does not conform to the approved plan or  
7 specifications; or  
8 ~~(d)~~ (4) The public interest would be served by such a rejection.
- 9 6. Before the State or a local government may commence a  
10 project subject to the provisions of this section, based upon a  
11 determination that the public interest would be served by rejecting  
12 any bids received in response to an advertisement for bids, it shall  
13 prepare and make available for public inspection a written statement  
14 containing:
- 15 (a) A list of all persons, including supervisors, whom the State  
16 or the local government intends to assign to the project, together  
17 with their classifications and an estimate of the direct and indirect  
18 costs of their labor;
  - 19 (b) A list of all equipment that the State or the local government  
20 intends to use on the project, together with an estimate of the  
21 number of hours each item of equipment will be used and the hourly  
22 cost to use each item of equipment;
  - 23 (c) An estimate of the cost of administrative support for the  
24 persons assigned to the project;
  - 25 (d) An estimate of the total cost of the project; and
  - 26 (e) An estimate of the amount of money the State or the local  
27 government expects to save by rejecting the bids and performing the  
28 project itself.
- 29 7. In preparing the estimated cost of a project pursuant to  
30 subsection 6, the State or a local government must include the fair  
31 market value of, or, if known, the actual cost of, all materials,  
32 supplies, labor and equipment to be used for the project.
- 33 8. This section does not apply to:
- 34 (a) Any utility subject to the provisions of chapter 318 or 710 of  
35 NRS;
  - 36 (b) Any work of construction, reconstruction, improvement and  
37 maintenance of highways subject to NRS 408.323 or 408.327;
  - 38 (c) Normal maintenance of the property of a school district; ~~(e)~~
  - 39 (d) The Las Vegas Valley Water District created pursuant to  
40 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
41 District created pursuant to chapter 477, Statutes of Nevada 1983 or  
42 the Virgin Valley Water District created pursuant to chapter 100,  
43 Statutes of Nevada 1993; or



1 (e) The design and construction of a public work for which a  
2 public body contracts with a design-build team pursuant to NRS  
3 338.1711 to 338.1727, inclusive.

4 **Sec. 6.** NRS 338.143 is hereby amended to read as follows:

5 338.143 1. Except as otherwise provided in subsection 6 and  
6 NRS 338.1907, a local government that awards a contract for the  
7 construction, alteration or repair of a public work in accordance with  
8 paragraph (b) of subsection 1 of NRS 338.1373, or a public officer,  
9 public employee or other person responsible for awarding a contract  
10 for the construction, alteration or repair of a public work who  
11 represents that local government, shall not:

12 (a) Commence such a project for which the estimated cost  
13 exceeds \$100,000 unless it advertises in a newspaper of general  
14 circulation in this state for bids for the project; or

15 (b) Divide such a project into separate portions to avoid the  
16 requirements of paragraph (a).

17 2. Except as otherwise provided in subsection 6, a local  
18 government that maintains a list of properly licensed contractors  
19 who are interested in receiving offers to bid on public works  
20 projects for which the estimated cost is more than \$25,000 but less  
21 than \$100,000 shall solicit bids from not more than three of the  
22 contractors on the list for a contract of that value for the  
23 construction, alteration or repair of a public work. The local  
24 government shall select contractors from the list in such a manner as  
25 to afford each contractor an equal opportunity to bid on a public  
26 works project. A properly licensed contractor must submit a written  
27 request annually to the local government to remain on the list.  
28 Offers for bids which are made pursuant to this subsection must be  
29 sent by certified mail.

30 3. Approved plans and specifications for the bids must be on  
31 file at a place and time stated in the advertisement for the inspection  
32 of all persons desiring to bid thereon and for other interested  
33 persons. Contracts for the project must be awarded on the basis of  
34 bids received.

35 4. Any bids received in response to an advertisement for bids  
36 ~~may~~:

37 (a) *Must be rejected if the person responsible for awarding the*  
38 *contract determines that the bidder does not participate in*  
39 *programs of training and apprenticeship that are registered and*  
40 *approved by the State Apprenticeship Council pursuant to chapter*  
41 *610 of NRS.*

42 (b) *May* be rejected if the person responsible for awarding the  
43 contract determines that:

44 ~~(a)~~ (1) The bidder is not responsive or responsible;





1 ~~(b)~~ (2) The quality of the services, materials, equipment or  
2 labor offered does not conform to the approved plan or  
3 specifications; or

4 ~~(c)~~ (3) The public interest would be served by such a rejection.

5 5. Before a local government may commence a project subject  
6 to the provisions of this section, based upon a determination that the  
7 public interest would be served by rejecting any bids received in  
8 response to an advertisement for bids, it shall prepare and make  
9 available for public inspection a written statement containing:

10 (a) A list of all persons, including supervisors, whom the local  
11 government intends to assign to the project, together with their  
12 classifications and an estimate of the direct and indirect costs of  
13 their labor;

14 (b) A list of all equipment that the local government intends to  
15 use on the project, together with an estimate of the number of hours  
16 each item of equipment will be used and the hourly cost to use each  
17 item of equipment;

18 (c) An estimate of the cost of administrative support for the  
19 persons assigned to the project;

20 (d) An estimate of the total cost of the project; and

21 (e) An estimate of the amount of money the local government  
22 expects to save by rejecting the bids and performing the project  
23 itself.

24 6. This section does not apply to:

25 (a) Any utility subject to the provisions of chapter 318 or 710 of  
26 NRS;

27 (b) Any work of construction, reconstruction, improvement and  
28 maintenance of highways subject to NRS 408.323 or 408.327;

29 (c) Normal maintenance of the property of a school district;

30 (d) The Las Vegas Valley Water District created pursuant to  
31 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
32 District created pursuant to chapter 477, Statutes of Nevada 1983 or  
33 the Virgin Valley Water District created pursuant to chapter 100,  
34 Statutes of Nevada 1993; or

35 (e) The design and construction of a public work for which a  
36 public body contracts with a design-build team pursuant to NRS  
37 338.1711 to 338.1727, inclusive.

38 **Sec. 7.** NRS 338.143 is hereby amended to read as follows:

39 338.143 1. Except as otherwise provided in subsection 7, a  
40 local government that awards a contract for the construction,  
41 alteration or repair of a public work in accordance with paragraph  
42 (b) of subsection 1 of NRS 338.1373, or a public officer, public  
43 employee or other person responsible for awarding a contract for the  
44 construction, alteration or repair of a public work who represents  
45 that local government, shall not:



1 (a) Commence such a project for which the estimated cost  
2 exceeds \$100,000 unless it advertises in a newspaper of general  
3 circulation in this state for bids for the project; or

4 (b) Divide such a project into separate portions to avoid the  
5 requirements of paragraph (a).

6 2. Except as otherwise provided in subsection 7, a local  
7 government that maintains a list of properly licensed contractors  
8 who are interested in receiving offers to bid on public works  
9 projects for which the estimated cost is more than \$25,000 but less  
10 than \$100,000 shall solicit bids from not more than three of the  
11 contractors on the list for a contract of that value for the  
12 construction, alteration or repair of a public work. The local  
13 government shall select contractors from the list in such a manner as  
14 to afford each contractor an equal opportunity to bid on a public  
15 works project. A properly licensed contractor must submit a written  
16 request annually to the local government to remain on the list.  
17 Offers for bids which are made pursuant to this subsection must be  
18 sent by certified mail.

19 3. Approved plans and specifications for the bids must be on  
20 file at a place and time stated in the advertisement for the inspection  
21 of all persons desiring to bid thereon and for other interested  
22 persons. Contracts for the project must be awarded on the basis of  
23 bids received.

24 4. Any bids received in response to an advertisement for bids  
25 ~~may~~:

26 (a) *Must be rejected if the person responsible for awarding the*  
27 *contract determines that the bidder does not participate in*  
28 *programs of training and apprenticeship that are registered and*  
29 *approved by the State Apprenticeship Council pursuant to chapter*  
30 *610 of NRS.*

31 (b) *May* be rejected if the person responsible for awarding the  
32 contract determines that:

33 ~~(a)~~ (1) The bidder is not responsive or responsible;

34 ~~(b)~~ (2) The quality of the services, materials, equipment or  
35 labor offered does not conform to the approved plan or  
36 specifications; or

37 ~~(c)~~ (3) The public interest would be served by such a rejection.

38 5. Before a local government may commence a project subject  
39 to the provisions of this section, based upon a determination that the  
40 public interest would be served by rejecting any bids received in  
41 response to an advertisement for bids, it shall prepare and make  
42 available for public inspection a written statement containing:

43 (a) A list of all persons, including supervisors, whom the local  
44 government intends to assign to the project, together with their



1 classifications and an estimate of the direct and indirect costs of  
2 their labor;

3 (b) A list of all equipment that the local government intends to  
4 use on the project, together with an estimate of the number of hours  
5 each item of equipment will be used and the hourly cost to use each  
6 item of equipment;

7 (c) An estimate of the cost of administrative support for the  
8 persons assigned to the project;

9 (d) An estimate of the total cost of the project; and

10 (e) An estimate of the amount of money the local government  
11 expects to save by rejecting the bids and performing the project  
12 itself.

13 6. In preparing the estimated cost of a project pursuant to  
14 subsection 5, a local government must include the fair market value  
15 of, or, if known, the actual cost of, all materials, supplies, labor and  
16 equipment to be used for the project.

17 7. This section does not apply to:

18 (a) Any utility subject to the provisions of chapter 318 or 710 of  
19 NRS;

20 (b) Any work of construction, reconstruction, improvement and  
21 maintenance of highways subject to NRS 408.323 or 408.327;

22 (c) Normal maintenance of the property of a school district;

23 (d) The Las Vegas Valley Water District created pursuant to  
24 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
25 District created pursuant to chapter 477, Statutes of Nevada 1983 or  
26 the Virgin Valley Water District created pursuant to chapter 100,  
27 Statutes of Nevada 1993; or

28 (e) The design and construction of a public work for which a  
29 public body contracts with a design-build team pursuant to NRS  
30 338.1711 to 338.1727, inclusive.

31 **Sec. 8.** NRS 338.1721 is hereby amended to read as follows:

32 338.1721 To qualify to participate in a project for the design  
33 and construction of a public work, a design-build team must:

34 1. Obtain a performance bond and payment bond as required  
35 pursuant to NRS 339.025;

36 2. Obtain insurance covering general liability and liability for  
37 errors and omissions;

38 3. Not have been found liable for breach of contract with  
39 respect to a previous project, other than a breach for legitimate  
40 cause;

41 4. Not have been disqualified from being awarded a contract  
42 pursuant to NRS 338.017, 338.1387, 338.145 or 408.333; ~~and~~

43 5. Ensure that the members of the design-build team possess  
44 the licenses and certificates required to carry out the functions of  
45 their respective professions within this state ~~and~~; *and*



- 1 ***6. Participate in programs of training and apprenticeship that***
- 2 ***are registered and approved by the State Apprenticeship Council***
- 3 ***pursuant to chapter 610 of NRS.***

Ⓢ

