

ASSEMBLY BILL NO. 401—ASSEMBLYMEN HARDY, GRADY,  
BROWN, ANDONOV, BEERS, CHRISTENSEN, GEDDES,  
GIBBONS, GOICOECHEA, GRIFFIN, GUSTAVSON, HETRICK,  
MABEY, MCCLAIN AND WEBER

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Allows public body or Department of Transportation  
to authorize private entity to develop, construct,  
improve, maintain or operate transportation facility.  
(BDR 28-798)

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

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

AN ACT relating to public works; providing that a public body or  
the Department of Transportation may authorize a private  
entity to develop, construct, improve, maintain or operate,  
or any combination thereof, a transportation facility;  
providing that certain contracts awarded to a design-build  
team must comply with the provisions relating to paying a  
prevailing wage 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.** Chapter 338 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this  
3 act.

4     **Sec. 2.** *“Transportation facility” means a road, railroad,*  
5 *bridge, tunnel, overpass, airport, mass transit facility, parking*  
6 *facility for vehicles or similar commercial facility used for the*  
7 *support of or the transportation of persons or goods, including,*  
8 *without limitation, any other property that is needed to operate the*  
9 *facility.*



\* A B 4 0 1 R 1 \*

1       **Sec. 3.** *A public body may authorize a person to develop,*  
2 *construct, improve, maintain or operate, or any combination*  
3 *thereof, a transportation facility pursuant to section 4 or 5 of this*  
4 *act.*

5       **Sec. 4. 1.** *A person may submit a request to a public body to*  
6 *develop, construct, improve, maintain or operate, or any*  
7 *combination thereof, a transportation facility.*

8       **2.** *The request must be accompanied by the following*  
9 *information, unless waived by the public body:*

10       **(a)** *A topographic map indicating the location of the*  
11 *transportation facility.*

12       **(b)** *A description of the transportation facility, including,*  
13 *without limitation, the conceptual design of the facility and all*  
14 *proposed interconnections with other transportation facilities.*

15       **(c)** *The projected total cost of the transportation facility over*  
16 *its life and the proposed date for development of, commencement*  
17 *of the construction of, or improvements to the transportation*  
18 *facility.*

19       **(d)** *A statement setting forth the method by which the operator*  
20 *of the transportation facility proposes to secure all property*  
21 *interests required for the transportation facility. The statement*  
22 *must include, without limitation:*

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

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

26               **(3)** *Any property that the person submitting the request*  
27 *proposes that the public body condemn.*

28       **(e)** *Information relating to the current transportation plans, if*  
29 *any, of any governmental entity in the jurisdiction of which any*  
30 *portion of the transportation facility is located.*

31       **(f)** *A list of all permits and approvals required for the*  
32 *development or construction of or improvement to the*  
33 *transportation facility from local, state or federal agencies and a*  
34 *projected schedule for obtaining those permits and approvals.*

35       **(g)** *A list of the facilities of any utility or existing*  
36 *transportation facility that will be crossed by the transportation*  
37 *facility and a statement of the plans of the operator to*  
38 *accommodate such crossings.*

39       **(h)** *A statement setting forth the general plans of the person*  
40 *submitting the request for financing and operating the*  
41 *transportation facility, which must include, without limitation:*

42               **(1)** *A plan for the development, financing and operation of*  
43 *the transportation facility, including, without limitation, an*  
44 *indication of the proposed sources of money for the development*  
45 *and operation of the transportation facility, the anticipated use of*



1 *such money and the anticipated schedule for the receipt of such*  
2 *money;*

3 (2) *A list of any assumptions made by the person about the*  
4 *anticipated use of the transportation facility, including, without*  
5 *limitation, the fees that will be charged for the use of the*  
6 *transportation facility, and a discussion of those assumptions;*

7 (3) *The identification of any risk factors identified by the*  
8 *person that are associated with developing, constructing or*  
9 *improving the transportation facility and the plan for addressing*  
10 *those risk factors; and*

11 (4) *The identification of any local, state or federal*  
12 *resources that the person anticipates requesting for development*  
13 *and operation of the transportation facility, including, without*  
14 *limitation, an anticipated schedule for the receipt of those*  
15 *resources.*

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

18 (j) *Any additional material and information that the public*  
19 *body may request.*

20 **Sec. 5.** *If a public body receives a request regarding a*  
21 *transportation facility pursuant to section 4 of this act and the*  
22 *public body determines that the transportation facility serves a*  
23 *public purpose, the public body may request other persons to*  
24 *submit proposals to develop, construct, improve, maintain or*  
25 *operate, or any combination thereof, the transportation facility.*

26 **Sec. 6. 1.** *A public body may approve a request or proposal*  
27 *submitted pursuant to section 4 or 5 of this act if the public body*  
28 *determines that the transportation facility serves a public purpose.*  
29 *In determining whether the transportation facility serves a public*  
30 *purpose, the public body shall consider whether:*

31 (a) *There is a public need for the type of transportation facility*  
32 *that is proposed;*

33 (b) *The proposed interconnections between the transportation*  
34 *facility and existing transportation facilities and the plans of*  
35 *the person submitting the request for the operation of the*  
36 *transportation facility are reasonable and compatible with any*  
37 *statewide or regional program for the improvement of*  
38 *transportation and with the transportation plans of any other*  
39 *governmental entity in the jurisdiction of which any portion of the*  
40 *transportation facility will be located;*

41 (c) *The estimated cost of the transportation facility is*  
42 *reasonable in relation to similar transportation facilities;*

43 (d) *The plans of the person submitting the request will result*  
44 *in the timely development or construction of, or improvement to*  
45 *the transportation facility or its more efficient operation; and*



- 1       (e) *The long-term quality of the transportation facility will*  
2 *meet a level of performance over a sufficient duration of time to*  
3 *provide value to the public.*
- 4       2. *In evaluating a request or proposal submitted pursuant to*  
5 *section 4 or 5 of this act, the public body may rely on internal staff*  
6 *reports prepared by personnel of the public body who are familiar*  
7 *with the operation of similar transportation facilities or the advice*  
8 *of outside advisors or consultants with relevant experience.*
- 9       3. *The public body may request that a person who submitted a*  
10 *request or proposal pursuant to section 4 or 5 of this act furnish a*  
11 *copy of the request or proposal to each governmental entity that*  
12 *has jurisdiction over an area in which any part of the*  
13 *transportation facility is located. Within 30 days after receipt of*  
14 *such a request or proposal, the governmental entity shall submit in*  
15 *writing to the public body any comments it has concerning the*  
16 *transportation facility and shall indicate whether the*  
17 *transportation facility is compatible with any local, regional or*  
18 *statewide transportation plan or program that is applicable to the*  
19 *governmental entity.*
- 20       4. *A public body may charge a reasonable fee to cover the*  
21 *costs of processing, reviewing and evaluating a request or*  
22 *proposal submitted pursuant to section 4 or 5 of this act,*  
23 *including, without limitation, reasonable fees for the services of*  
24 *an attorney or a financial or other consultant or advisor.*
- 25       5. *The approval of a request or proposal by the public body is*  
26 *contingent on the person who submitted the request or proposal*  
27 *entering into an agreement with the public body. In such an*  
28 *agreement, the public body shall include criteria that address the*  
29 *long-term quality of the transportation facility.*
- 30       6. *In connection with the approval of a transportation*  
31 *facility, the public body shall establish a date for the development*  
32 *of, commencement of the construction of, or improvements to the*  
33 *transportation facility. The public body may extend the date from*  
34 *time to time.*
- 35       **Sec. 7.** *A public body may contract with a person whose*  
36 *request or proposal is approved pursuant to section 6 of this act*  
37 *for transportation services to be provided by the transportation*  
38 *facility in exchange for such payments for service and other*  
39 *consideration as the public body may deem appropriate.*
- 40       **Sec. 8.** *The public body may take any action necessary to*  
41 *obtain federal, state or local assistance for a transportation facility*  
42 *that it approves and may enter into any contracts required to*  
43 *receive such assistance. The public body may determine if it serves*  
44 *the public purpose for all or a portion of the costs of the*  
45 *transportation facility to be paid, directly or indirectly, from the*



1 *proceeds of a grant or loan made by the local, state or Federal*  
2 *Government or any agency or instrumentality thereof.*

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

4 338.1711 1. Except as otherwise provided in this section ~~and~~  
5 *and sections 2 to 8, inclusive, of this act*, a public body shall  
6 contract with a prime contractor for the construction of a public  
7 work for which the estimated cost exceeds \$100,000.

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

11 (a) The public work is:

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

15 (2) Any other type of public work, except a stand-alone  
16 underground utility project, the estimated cost of which exceeds  
17 ~~[\$30,000,000;]~~ *\$20,000,000*; and

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

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

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

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

30 3. ~~Each~~ *Except as otherwise provided in subsection 4, each*  
31 *state agency and each department, division, board, unit or agency*  
32 *of a local government may contract with a design-build team* ~~once~~  
33 ~~in each fiscal year~~ for the design and construction of a public work  
34 if the governing body of the entity that is responsible for financing  
35 the public work determines that:

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

37 (1) At least \$250,000 but less than ~~[\$30,000,000]~~  
38 *\$20,000,000* if the public work is the construction of a park and  
39 appurtenances thereto, the rehabilitation or remodeling of a public  
40 building, or the construction of an addition to a public building;

41 (2) At least \$500,000 but less than ~~[\$30,000,000]~~  
42 *\$20,000,000* if the public work is the construction of a new public  
43 building;

44 (3) At least \$5,000,000 but less than \$100,000,000 if the  
45 public work is the construction, alteration or repair of a plant or



1 facility for the treatment and pumping of water or the treatment and  
2 disposal of wastewater or sewage; or

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

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

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

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

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

19 4. *Each state agency and each department, division, board,  
20 unit or agency of a local government may contract with a design-  
21 build team once during each fiscal year for the design and  
22 construction of a public work subject to the provisions of  
23 subparagraph (4) or paragraph (a) of subsection 3.*

24 5. Notwithstanding the provisions of subsections 1 ~~[, 2 and 3,]~~  
25 *to 4, inclusive*, a public body may contract with:

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

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

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

31 (2) Limited in scope to:

32 (I) Removal of asbestos;

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

35 (III) Replacement of a roof;

36 (IV) Landscaping; or

37 (V) Restoration, enhancement or development of  
38 wetlands.

39 ~~[5.]~~ 6. As used in this section, "state agency" includes an  
40 agency, bureau, board, commission, department, division or any  
41 other unit of the Legislative Department, Judicial Department or  
42 Executive Department of State Government or the University and  
43 Community College System of Nevada.



1       **Sec. 9.5.** NRS 338.1727 is hereby amended to read as follows:  
2       338.1727 1. After selecting the finalists pursuant to NRS  
3 338.1725, the public body shall provide to each finalist a request for  
4 final proposals for the public work. The request for final proposals  
5 must:

- 6       (a) Set forth the factors that the public body will use to select a  
7 design-build team to design and construct the public work, including  
8 the relative weight to be assigned to each factor; and  
9       (b) Set forth the date by which final proposals must be  
10 submitted to the public body.

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

24       3. A final proposal submitted by a design-build team pursuant  
25 to this section must be prepared thoroughly, be responsive to the  
26 criteria that the public body will use to select a design-build team to  
27 design and construct the public work described in subsection 1 and  
28 comply with the provisions of NRS 338.141.

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

- 31       (a) Select the most cost-effective and responsive final proposal,  
32 using the criteria set forth pursuant to subsections 1 and 2; or  
33       (b) Reject all the final proposals.

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

- 37       (a) Review and ratify the selection.  
38       (b) Award the design-build contract to the design-build team  
39 whose proposal is selected.

40       (c) Partially reimburse the unsuccessful finalists if partial  
41 reimbursement was provided for in the request for preliminary  
42 proposals pursuant to paragraph (f) of subsection 3 of NRS  
43 338.1723. The amount of reimbursement must not exceed, for each  
44 unsuccessful finalist, 3 percent of the total amount to be paid to the  
45 design-build team as set forth in the design-build contract.



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

7 6. A contract awarded pursuant to this section:

8 (a) *Must comply with the provisions of NRS 338.020 to*  
9 *338.090, inclusive;*

10 (b) Must specify:

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

16 (2) An amount that is the maximum amount that the public  
17 body will pay for the performance of the professional services  
18 required by the contract; and

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

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

25 ~~(e)~~ (d) Except as otherwise provided in paragraph ~~(d)~~ (e),  
26 must not require the design professional to defend, indemnify or  
27 hold harmless the public body or the employees, officers or agents  
28 of that public body from any liability, damage, loss, claim, action or  
29 proceeding caused by the negligence, errors, omissions, recklessness  
30 or intentional misconduct of the employees, officers and agents of  
31 the public body.

32 ~~(d)~~ (e) May require the design-build team to defend, indemnify  
33 and hold harmless the public body, and the employees, officers and  
34 agents of the public body from any liabilities, damages, losses,  
35 claims, actions or proceedings, including, without limitation,  
36 reasonable attorneys' fees, that are caused by the negligence, errors,  
37 omissions, recklessness or intentional misconduct of the design-  
38 build team or the employees or agents of the design-build team in  
39 the performance of the contract.

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

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





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

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

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

9 **Sec. 11.** *“Transportation facility” means a road, railroad,*  
10 *bridge, tunnel, overpass, airport, mass transit facility, parking*  
11 *facility for vehicles or similar commercial facility used for the*  
12 *support of or the transportation of persons or goods, including,*  
13 *without limitation, any other property that is needed to operate the*  
14 *facility.*

15 **Sec. 12.** *The Department may authorize a person to develop,*  
16 *construct, improve, maintain or operate, or any combination*  
17 *thereof, a transportation facility pursuant to section 13 or 14 of*  
18 *this act.*

19 **Sec. 13. 1.** *A person may submit a request to the*  
20 *Department to develop, construct, improve, maintain or operate, or*  
21 *any combination thereof, a transportation facility.*

22 **2.** *The request must be accompanied by the following*  
23 *information, unless waived by the Department:*

24 (a) *A topographic map indicating the location of the*  
25 *transportation facility.*

26 (b) *A description of the transportation facility, including,*  
27 *without limitation, the conceptual design of the facility and all*  
28 *proposed interconnections with other transportation facilities.*

29 (c) *The projected total cost of the transportation facility over*  
30 *its life and the proposed date for development of, commencement*  
31 *of the construction of, or improvements to the transportation*  
32 *facility.*

33 (d) *A statement setting forth the method by which the operator*  
34 *of the transportation facility proposes to secure all property*  
35 *interests required for the transportation facility. The statement*  
36 *must include, without limitation:*

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

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

40 (3) *Any property that the person submitting the request*  
41 *proposes that the Department condemn.*

42 (e) *Information relating to the current transportation plans, if*  
43 *any, of any governmental entity in the jurisdiction of which any*  
44 *portion of the transportation facility is located.*



1 (f) A list of all permits and approvals required for the  
2 development or construction of or improvement to the  
3 transportation facility from local, state or federal agencies and a  
4 projected schedule for obtaining those permits and approvals.

5 (g) A list of the facilities of any utility or existing  
6 transportation facility that will be crossed by the transportation  
7 facility and a statement of the plans of the operator to  
8 accommodate such crossings.

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

12 (1) A plan for the development, financing and operation of  
13 the transportation facility, including, without limitation, an  
14 indication of the proposed sources of money for the development  
15 and operation of the transportation facility, the anticipated use of  
16 such money and the anticipated schedule for the receipt of such  
17 money;

18 (2) A list of any assumptions made by the person about the  
19 anticipated use of the transportation facility, including, without  
20 limitation, the fees that will be charged for the use of the  
21 transportation facility, and a discussion of those assumptions;

22 (3) The identification of any risk factors identified by the  
23 person submitting the request that are associated with developing,  
24 constructing or improving the transportation facility and the plan  
25 for addressing those risk factors; and

26 (4) The identification of any local, state or federal  
27 resources that the person anticipates requesting for development  
28 and operation of the transportation facility, including, without  
29 limitation, an anticipated schedule for the receipt of those  
30 resources.

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

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

35 **Sec. 14. 1.** If the Department receives a request regarding a  
36 transportation facility pursuant to section 13 of this act and the  
37 Department determines pursuant to the provisions of subsection 1  
38 of section 15 of this act that the transportation facility serves a  
39 public purpose, the Department may request other persons to  
40 submit proposals to develop, construct, improve, maintain or  
41 operate, or any combination thereof, the transportation facility.

42 2. The Department shall adopt regulations establishing:

43 (a) The procedures for requesting other persons to submit  
44 proposals to the Department; and



1       ***(b) The procedures for other persons to submit proposals to the***  
2 ***Department.***

3       **Sec. 15. 1. The Department may approve a request or**  
4 ***proposal submitted pursuant to section 13 or 14 of this act if the***  
5 ***Department determines that the transportation facility serves a***  
6 ***public purpose. In determining whether the transportation facility***  
7 ***serves a public purpose, the Department shall consider whether:***

8       ***(a) There is a public need for the type of transportation facility***  
9 ***that is proposed;***

10       ***(b) The proposed interconnections between the transportation***  
11 ***facility and existing transportation facilities and the plans of***  
12 ***the person submitting the request for the operation of the***  
13 ***transportation facility are reasonable and compatible with any***  
14 ***statewide or regional program for the improvement of***  
15 ***transportation and with the transportation plans of any other***  
16 ***governmental entity in the jurisdiction of which any portion of the***  
17 ***transportation facility will be located;***

18       ***(c) The estimated cost of the transportation facility is***  
19 ***reasonable in relation to similar transportation facilities;***

20       ***(d) The plans of the person submitting the request will result***  
21 ***in the timely development or construction of, or improvement to***  
22 ***the transportation facility or its more efficient operation; and***

23       ***(e) The long-term quality of the transportation facility will***  
24 ***meet a level of performance over a sufficient duration of time to***  
25 ***provide real value to the public.***

26       **2. In evaluating a request or proposal submitted pursuant to**  
27 ***section 13 or 14 of this act, the Department may rely on internal***  
28 ***staff reports prepared by personnel of the Department who are***  
29 ***familiar with the operation of similar transportation facilities or***  
30 ***the advice of outside advisors or consultants with relevant***  
31 ***experience.***

32       **3. The Department may request that a person who submitted**  
33 ***a request or proposal pursuant to section 13 or 14 of this act***  
34 ***furnish a copy of the request or proposal to each governmental***  
35 ***entity that has jurisdiction over an area in which any part of the***  
36 ***transportation facility is located. Within 30 days after receipt of***  
37 ***such a request or proposal, the governmental entity shall submit in***  
38 ***writing to the Department any comments it has concerning the***  
39 ***transportation facility and shall indicate whether the***  
40 ***transportation facility is compatible with any local, regional or***  
41 ***statewide transportation plan or program that is applicable to the***  
42 ***governmental entity.***

43       **4. The Department may charge a reasonable fee to cover the**  
44 ***costs of processing, reviewing and evaluating a request or***  
45 ***proposal submitted pursuant to section 13 or 14 of this act,***



1 *including, without limitation, reasonable fees for the services of*  
2 *an attorney or a financial or other consultant or advisor.*

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

8 *6. In connection with the approval of a transportation*  
9 *facility, the Department shall establish a date for the development*  
10 *of, commencement of the construction of, or improvements to, the*  
11 *transportation facility. The Department may extend the date from*  
12 *time to time.*

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

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

26 **Sec. 18.** NRS 408.388 is hereby amended to read as follows:  
27 408.388 1. ~~The~~ *Except as otherwise provided in sections*  
28 *11 to 17, inclusive, of this act, the* Department may contract with a  
29 design-build team for the design and construction of a project if the  
30 Department determines that:

31 (a) Except as otherwise provided in subsection 2, the estimated  
32 cost of the project exceeds ~~[\$30,000,000;] \$20,000,000;~~ and

33 (b) Contracting with a design-build team will enable the  
34 Department to:

35 (1) Design and construct the project at a cost that is  
36 significantly lower than the cost that the Department would incur to  
37 design and construct the project using a different method;

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

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



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

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

10 408.3886 1. After selecting the finalists pursuant to NRS  
11 408.3885, the Department shall provide to each finalist a request for  
12 final proposals for the project. The request for final proposals must:

13 (a) Set forth the factors that the Department will use to select a  
14 design-build team to design and construct the project, including the  
15 relative weight to be assigned to each factor; and

16 (b) Set forth the date by which final proposals must be  
17 submitted to the Department.

18 2. Except as otherwise provided in this subsection, in assigning  
19 the relative weight to each factor for selecting a design-build team  
20 pursuant to subsection 1, the Department shall assign, without  
21 limitation, a relative weight of 5 percent to the possession of a  
22 certificate of eligibility to receive a preference in bidding on public  
23 works and a relative weight of at least 30 percent for the proposed  
24 cost of design and construction of the project. If any federal statute  
25 or regulation precludes the granting of federal assistance or reduces  
26 the amount of that assistance for a particular project because of the  
27 provisions of this subsection relating to preference in bidding on  
28 public works, those provisions of this subsection do not apply  
29 insofar as their application would preclude or reduce federal  
30 assistance for that project.

31 3. A final proposal submitted by a design-build team pursuant  
32 to this section must be prepared thoroughly, be responsive to the  
33 criteria that the Department will use to select a design-build team to  
34 design and construct the project described in subsection 1 and  
35 comply with the provisions of NRS 338.141.

36 4. After receiving the final proposals for the project, the  
37 Department shall:

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

40 (b) Reject all the final proposals.

41 5. If the Department selects a final proposal pursuant to  
42 paragraph (a) of subsection 4, the Department shall hold a public  
43 meeting to:

44 (a) Review and ratify the selection.



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

3 (c) Partially reimburse the unsuccessful finalists if partial  
4 reimbursement was provided for in the request for preliminary  
5 proposals pursuant to paragraph (f) of subsection 3 of NRS  
6 408.3883. The amount of reimbursement must not exceed, for each  
7 unsuccessful finalist, three percent of the total amount to be paid to  
8 the design-build team as set forth in the design-build contract.

9 (d) Make available to the public a summary setting forth the  
10 factors used by the Department to select the successful design-build  
11 team and the ranking of the design-build teams who submitted final  
12 proposals. The Department shall not release to a third party, or  
13 otherwise make public, financial or proprietary information  
14 submitted by a design-build team.

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

16 (a) *Must comply with the provisions of NRS 338.020 to*  
17 *338.090, inclusive; and*

18 (b) *Must specify:*

19 (1) An amount that is the maximum amount that the  
20 Department will pay for the performance of all the work required by  
21 the contract, excluding any amount related to costs that may be  
22 incurred as a result of unexpected conditions or occurrences as  
23 authorized by the contract;

24 ~~(b)~~ (2) An amount that is the maximum amount that the  
25 Department will pay for the performance of the professional  
26 services required by the contract; and

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

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

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

34 (b) Use the workforce of the prime contractor on the design-  
35 build team to construct at least 15 percent of the project.

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

