

SENATE BILL NO. 19—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF LEGISLATIVE COMMITTEE TO STUDY  
COMPETITION BETWEEN LOCAL GOVERNMENTS  
AND PRIVATE ENTERPRISES)

PREFILED JANUARY 24, 2003

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Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to advertising and awarding contracts for certain smaller public works projects and requires Department of Transportation to follow contracting procedures used by other state agencies. (BDR 28-409)

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 public works; providing for an expedited process by which the State or a local government solicits bids and awards contracts for certain smaller public works projects to properly licensed contractors or completes such projects itself; providing that such an expedited process does not relieve the State or a local government from certain duties; requiring the Department of Transportation to follow the same provisions relating to contracting and design-build projects which other state agencies are required to follow; and providing other matters properly relating thereto.

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



\* S B 1 9 R 1 \*

1       **Section 1.** Chapter 338 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this  
3 act.

4       **Sec. 2.** *If the estimated cost of a public work is \$100,000 or*  
5 *less, this state or a local government shall:*

6       1. *Award a contract for the completion of the project to a*  
7 *properly licensed contractor in accordance with section 3 of this*  
8 *act; or*

9       2. *Perform the project itself in accordance with section 4 of*  
10 *this act.*

11       **Sec. 3.** 1. *Before this state or a local government awards a*  
12 *contract for the completion of a public works project in*  
13 *accordance with subsection 1 of section 2 of this act, the State or*  
14 *the local government must:*

15       (a) *If the estimated cost of the public work is more than*  
16 *\$25,000 but not more than \$100,000, solicit bids from at least*  
17 *three properly licensed contractors; and*

18       (b) *If the estimated cost of the public work is \$25,000 or less,*  
19 *solicit a bid from at least one properly licensed contractor.*

20       2. *Any bids received in response to a solicitation for bids*  
21 *made pursuant to this section may be rejected if the State or the*  
22 *local government determines that:*

23       (a) *The quality of the services, materials, equipment or labor*  
24 *offered does not conform to the approved plan or specifications;*

25       (b) *The bidder is not responsive or responsible; or*

26       (c) *The public interest would be served by such a rejection.*

27       3. *At least once each quarter, the State and each local*  
28 *government shall prepare a report detailing, for each public works*  
29 *project over \$25,000 for which a contract for its completion is*  
30 *awarded pursuant to paragraph (a) of subsection 1, if any:*

31       (a) *The name of the contractor to whom the contract was*  
32 *awarded;*

33       (b) *The amount of the contract awarded;*

34       (c) *A brief description of the project; and*

35       (d) *The names of all contractors from whom bids were*  
36 *solicited.*

37       4. *A report prepared pursuant to subsection 3 is a public*  
38 *record and must be maintained on file at the administrative offices*  
39 *of the applicable public body.*

40       5. *The provisions of this section do not relieve this state from*  
41 *the duty to award the contract for the public work to a bidder who*  
42 *is:*

43       (a) *Qualified pursuant to the applicable provisions of NRS*  
44 *338.1375 to 338.1383, inclusive; and*



1       **(b) The lowest responsive and responsible bidder, if bids are**  
2 **required to be solicited from more than one properly licensed**  
3 **contractor pursuant to subsection 1.**

4       **Sec. 4. 1. If the State or a local government proposes to**  
5 **perform a public works project itself in accordance with**  
6 **subsection 2 of section 2 of this act, the public officer responsible**  
7 **for the management of the public works projects of the State or the**  
8 **local government, as applicable, must, if the estimated cost of the**  
9 **public work is more than \$25,000 but not more than \$100,000 and**  
10 **before work on the project is commenced, prepare a signed**  
11 **attestation regarding the decision of the State or the local**  
12 **government to perform the project itself.**

13       **2. An attestation prepared pursuant to subsection 1:**

14       **(a) Must set forth:**

15           **(1) The estimated cost of the project;**

16           **(2) A general statement as to why the State or the local**  
17 **government has decided to perform the project itself; and**

18           **(3) A general statement that the project will adhere to the**  
19 **same quality and standards as would be required of a properly**  
20 **licensed contractor if the project had been awarded to a properly**  
21 **licensed contractor;**

22       **(b) Is a public record and must be maintained on file at the**  
23 **administrative offices of the applicable public body.**

24       **Sec. 5. If the estimated cost of a public work is \$100,000 or**  
25 **less, a local government shall:**

26       **1. Award a contract for the completion of the project to a**  
27 **properly licensed contractor in accordance with section 6 of this**  
28 **act; or**

29       **2. Perform the project itself in accordance with section 7 of**  
30 **this act.**

31       **Sec. 6. 1. Before a local government awards a contract for**  
32 **the completion of a public works project in accordance with**  
33 **subsection 1 of section 5 of this act, the local government must:**

34       **(a) If the estimated cost of the public work is more than**  
35 **\$25,000 but not more than \$100,000, solicit bids from at least**  
36 **three properly licensed contractors; and**

37       **(b) If the estimated cost of the public work is \$25,000 or less,**  
38 **solicit a bid from at least one properly licensed contractor.**

39       **2. Any bids received in response to a solicitation for bids**  
40 **made pursuant to this section may be rejected if the local**  
41 **government determines that:**

42       **(a) The quality of the services, materials, equipment or labor**  
43 **offered does not conform to the approved plan or specifications;**

44       **(b) The bidder is not responsive or responsible; or**

45       **(c) The public interest would be served by such a rejection.**



1       3. *At least once each quarter, a local government shall*  
2 *prepare a report detailing, for each public works project over*  
3 *\$25,000 for which a contract for its completion is awarded*  
4 *pursuant to paragraph (a) of subsection 1, if any:*

5       (a) *The name of the contractor to whom the contract was*  
6 *awarded;*

7       (b) *The amount of the contract awarded;*

8       (c) *A brief description of the project; and*

9       (d) *The names of all contractors from whom bids were*  
10 *solicited.*

11       4. *A report prepared pursuant to subsection 3 is a public*  
12 *record and must be maintained on file at the administrative offices*  
13 *of the applicable public body.*

14       5. *The provisions of this section do not relieve a local*  
15 *government from the duty to award the contract for the public*  
16 *work to a bidder who is the lowest responsive and responsible*  
17 *bidder, if bids are required to be solicited from more than one*  
18 *properly licensed contractor pursuant to subsection 1 of this*  
19 *section.*

20       **Sec. 7. 1.** *If a local government proposes to perform a*  
21 *public works project itself in accordance with subsection 2 of*  
22 *section 5 of this act, the public officer responsible for the*  
23 *management of the public works projects of the local government*  
24 *must, if the estimated cost of the public work is more than \$25,000*  
25 *but not more than \$100,000 and before work on the project is*  
26 *commenced, prepare a signed attestation regarding the decision of*  
27 *the local government to perform the project itself.*

28       2. *An attestation prepared pursuant to subsection 1:*

29       (a) *Must set forth:*

30       (1) *The estimated cost of the project;*

31       (2) *A general statement as to why the local government has*  
32 *decided to perform the project itself; and*

33       (3) *A general statement that the project will adhere to the*  
34 *same quality and standards as would be required of a properly*  
35 *licensed contractor if the project had been awarded to a properly*  
36 *licensed contractor;*

37       (b) *Is a public record and must be maintained on file at the*  
38 *administrative offices of the local government.*

39       **Sec. 8.** NRS 338.010 is hereby amended to read as follows:  
40 338.010 As used in this chapter:

41       1. "Day labor" means all cases where public bodies, their  
42 officers, agents or employees, hire, supervise and pay the wages  
43 thereof directly to a workman or workmen employed by them on  
44 public works by the day and not under a contract in writing.



- 1 2. "Design-build contract" means a contract between a public  
2 body and a design-build team in which the design-build team agrees  
3 to design and construct a public work.
- 4 3. "Design-build team" means an entity that consists of:  
5 (a) At least one person who is licensed as a general engineering  
6 contractor or a general building contractor pursuant to chapter 624  
7 of NRS; and  
8 (b) For a public work that consists of:  
9 (1) A building and its site, at least one person who holds a  
10 certificate of registration to practice architecture pursuant to chapter  
11 623 of NRS.  
12 (2) Anything other than a building and its site, at least one  
13 person who holds a certificate of registration to practice architecture  
14 pursuant to chapter 623 of NRS or is licensed as a professional  
15 engineer pursuant to chapter 625 of NRS.
- 16 4. "Design professional" means:  
17 (a) A person who is licensed as a professional engineer pursuant  
18 to chapter 625 of NRS;  
19 (b) A person who is licensed as a professional land surveyor  
20 pursuant to chapter 625 of NRS;  
21 (c) A person who holds a certificate of registration to engage in  
22 the practice of architecture pursuant to chapter 623 of NRS;  
23 (d) A person who holds a certificate of registration to engage in  
24 the practice of landscape architecture pursuant to chapter 623A of  
25 NRS; or  
26 (e) A business entity that engages in the practice of professional  
27 engineering, land surveying, architecture or landscape architecture.
- 28 5. "Eligible bidder" means a person who is:  
29 (a) Found to be a responsible and responsive contractor by a  
30 local government which requests bids for a public work in  
31 accordance with ~~paragraph (b) of subsection 1~~ **subsection 2** of  
32 NRS 338.1373; or  
33 (b) Determined by a public body which awarded a contract for a  
34 public work pursuant to NRS 338.1375 to 338.139, inclusive, to be  
35 qualified to bid on that contract pursuant to NRS 338.1379 or was  
36 exempt from meeting such qualifications pursuant to  
37 NRS 338.1383.
- 38 6. "General contractor" means a person who is licensed to  
39 conduct business in one, or both, of the following branches of the  
40 contracting business:  
41 (a) General engineering contracting, as described in subsection 2  
42 of NRS 624.215.  
43 (b) General building contracting, as described in subsection 3 of  
44 NRS 624.215.



1 7. "Local government" means every political subdivision or  
2 other entity which has the right to levy or receive money from ad  
3 valorem or other taxes or any mandatory assessments, and includes,  
4 without limitation, counties, cities, towns, boards, school districts  
5 and other districts organized pursuant to chapters 244A, 309, 318,  
6 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,  
7 inclusive, and any agency or department of a county or city which  
8 prepares a budget separate from that of the parent political  
9 subdivision. *The term includes a person who has been designated  
10 by a local government to serve as the authorized representative of  
11 the local government in developing and awarding contracts for  
12 public works projects on behalf of the local government.*

13 8. "Offense" means failing to:  
14 (a) Pay the prevailing wage required pursuant to this chapter;  
15 (b) Pay the contributions for unemployment compensation  
16 required pursuant to chapter 612 of NRS;  
17 (c) Provide and secure compensation for employees required  
18 pursuant to chapters 616A to 617, inclusive, of NRS; or  
19 (d) Comply with subsection 4 or 5 of NRS 338.070.

20 9. "Prime contractor" means a person who:  
21 (a) Contracts to construct an entire project;  
22 (b) Coordinates all work performed on the entire project;  
23 (c) Uses his own workforce to perform all or a part of the  
24 construction, repair or reconstruction of the project; and  
25 (d) Contracts for the services of any subcontractor or  
26 independent contractor or is responsible for payment to any  
27 contracted subcontractors or independent contractors.

28 The term includes, without limitation, a general contractor or a  
29 specialty contractor who is authorized to bid on a project pursuant to  
30 NRS 338.139 or 338.148.

31 10. "Public body" means the State, county, city, town, school  
32 district or any public agency of this state or its political subdivisions  
33 sponsoring or financing a public work.

34 11. "Public work" means any project for the new construction,  
35 repair or reconstruction of:

- 36 (a) A project financed in whole or in part from public money  
37 for:
- 38 (1) Public buildings;
  - 39 (2) Jails and prisons;
  - 40 (3) Public roads;
  - 41 (4) Public highways;
  - 42 (5) Public streets and alleys;
  - 43 (6) Public utilities which are financed in whole or in part by  
44 public money;
  - 45 (7) Publicly owned water mains and sewers;



1 (8) Public parks and playgrounds;  
2 (9) Public convention facilities which are financed at least in  
3 part with public  ~~funds;~~  *money*; and

4 (10) All other publicly owned works and property .  ~~whose~~  
5  ~~cost as a whole exceeds \$20,000. Each separate unit that is a part of~~  
6  ~~a project is included in the cost of the project to determine whether a~~  
7  ~~project meets that threshold.~~

8 (b) A building for the University and Community College  
9 System of Nevada of which 25 percent or more of the costs of the  
10 building as a whole are paid from money appropriated by this state  
11 or from federal money.

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

14 13. "Stand-alone underground utility project" means an  
15 underground utility project that is not integrated into a larger  
16 project, including, without limitation:

17 (a) An underground sewer line or an underground pipeline for  
18 the conveyance of water, including facilities appurtenant thereto;  
19 and

20 (b) A project for the construction or installation of a storm drain,  
21 including facilities appurtenant thereto,  
22 that is not located at the site of a public work for the design and  
23 construction of which a public body is authorized to contract with a  
24 design-build team pursuant to subsection 2 of NRS 338.1711.

25 14. "Wages" means:

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

27 (b) The amount of pension, health and welfare, vacation and  
28 holiday pay, the cost of apprenticeship training or other similar  
29 programs or other bona fide fringe benefits which are a benefit to  
30 the workman.

31 15. "Workman" means a skilled mechanic, skilled workman,  
32 semiskilled mechanic, semiskilled workman or unskilled workman.  
33 The term does not include a design professional.

34 **Sec. 9.** NRS 338.1373 is hereby amended to read as follows:

35 338.1373  ~~H-~~  A local government shall award a contract for the  
36 construction, alteration or repair of a public work pursuant to the  
37 provisions of:

38  ~~(a) 1.~~ NRS 338.1377 to 338.139, inclusive  ~~-; or~~  
39  ~~(b)~~ , and sections 2, 3 and 4 of this act; or

40 2. NRS 338.143 to 338.148, inclusive  ~~-.~~  
41  ~~2. The provisions of NRS 338.1375 to 338.1383, inclusive, and~~  
42  ~~338.139 do not apply with respect to contracts for the construction,~~  
43  ~~reconstruction, improvement and maintenance of highways that are~~  
44  ~~awarded by the Department of Transportation pursuant to NRS~~  
45  ~~408.313 to 408.433, inclusive. ], and sections 5, 6 and 7 of this act.~~



1       **Sec. 10.** NRS 338.1385 is hereby amended to read as follows:  
 2       338.1385 1. Except as otherwise provided in subsection ~~7~~ **6**  
 3 and NRS 338.1906 and 338.1907, this state, or a local government  
 4 that awards a contract for the construction, alteration or repair of a  
 5 public work in accordance with ~~paragraph (a) of~~ subsection 1 of  
 6 NRS 338.1373, or a public officer, public employee or other person  
 7 responsible for awarding a contract for the construction, alteration  
 8 or repair of a public work who represents the State or the local  
 9 government, shall not:

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

13       (b) *Commence such a project for which the estimated cost is*  
 14 *\$100,000 or less unless it complies with the provisions of sections*  
 15 *2, 3 and 4 of this act; or*

16       (c) Divide such a project into separate portions to avoid the  
 17 requirements of paragraph (a) ~~;~~

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

31 ~~—3.] or (b).~~

32       **2.** Each advertisement for bids must include a provision that  
 33 sets forth:

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

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

39       ~~4.]~~ **3.** Approved plans and specifications for the bids must be  
 40 on file at a place and time stated in the advertisement for the  
 41 inspection of all persons desiring to bid thereon and for other  
 42 interested persons. Contracts for the project must be awarded on the  
 43 basis of bids received.





1 ~~5.1~~ 4. Any bids received in response to an advertisement for  
2 bids may be rejected if the person responsible for awarding the  
3 contract determines that:

4 (a) The bidder is not a qualified bidder pursuant to NRS  
5 338.1379, unless the bidder is exempt from meeting such  
6 qualifications pursuant to NRS 338.1383;

7 (b) The bidder is not responsive ~~4~~ *or responsible*;

8 (c) The quality of the services, materials, equipment or labor  
9 offered does not conform to the approved plan or specifications; or

10 (d) The public interest would be served by such a rejection.

11 ~~6.1~~ 5. Before the State or a local government may commence a  
12 project subject to the provisions of this section, based upon a  
13 determination that the public interest would be served by rejecting  
14 any bids received in response to an advertisement for bids, it shall  
15 prepare and make available for public inspection a written statement  
16 containing:

17 (a) A list of all persons, including supervisors, whom the State  
18 or the local government intends to assign to the project, together  
19 with their classifications and an estimate of the direct and indirect  
20 costs of their labor;

21 (b) A list of all equipment that the State or the local government  
22 intends to use on the project, together with an estimate of the  
23 number of hours each item of equipment will be used and the hourly  
24 cost to use each item of equipment;

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

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

28 (e) An estimate of the amount of money the State or the local  
29 government expects to save by rejecting the bids and performing the  
30 project itself.

31 ~~7.1~~ 6. This section does not apply to:

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

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

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

37 (d) The Las Vegas Valley Water District created pursuant to  
38 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
39 District created pursuant to chapter 477, Statutes of Nevada 1983 or  
40 the Virgin Valley Water District created pursuant to chapter 100,  
41 Statutes of Nevada 1993; or

42 (e) The design and construction of a public work for which a  
43 public body contracts with a design-build team pursuant to NRS  
44 338.1711 to 338.1727.



1     **Sec. 11.** NRS 338.1385 is hereby amended to read as follows:

2     338.1385 1. Except as otherwise provided in subsection ~~{8,}~~  
3     7, this state, or a local government that awards a contract for the  
4     construction, alteration or repair of a public work in accordance with  
5     ~~{paragraph (a) of}~~ subsection 1 of NRS 338.1373, or a public  
6     officer, public employee or other person responsible for awarding a  
7     contract for the construction, alteration or repair of a public work  
8     who represents the State or the local government, shall not:

9     (a) Commence such a project for which the estimated cost  
10    exceeds \$100,000 unless it advertises in a newspaper of general  
11    circulation in this state for bids for the project; ~~{or}~~

12    (b) *Commence such a project for which the estimated cost is*  
13    *\$100,000 or less unless it complies with the provisions of sections*  
14    *2, 3 and 4 of this act; or*

15    (c) Divide such a project into separate portions to avoid the  
16    requirements of paragraph (a) ~~{-~~

17    ~~2. Except as otherwise provided in subsection 8, a public body~~  
18    ~~that maintains a list of properly licensed contractors who are~~  
19    ~~interested in receiving offers to bid on public works projects for~~  
20    ~~which the estimated cost is more than \$25,000 but less than~~  
21    ~~\$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 public body~~  
24    ~~shall select contractors from the list in such a manner as to afford~~  
25    ~~each contractor an equal opportunity to bid on a public works~~  
26    ~~project. A properly licensed contractor must submit a written~~  
27    ~~request annually to the public body to remain on the list. Offers for~~  
28    ~~bids which are made pursuant to this subsection must be sent by~~  
29    ~~certified mail.~~

30    ~~3.} or (b).~~

31    2. Each advertisement for bids must include a provision that  
32    sets forth:

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

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

38    ~~{4.}~~ 3. Approved plans and specifications for the bids must be  
39    on file at a place and time stated in the advertisement for the  
40    inspection of all persons desiring to bid thereon and for other  
41    interested persons. Contracts for the project must be awarded on the  
42    basis of bids received.

43    ~~{5.}~~ 4. Any bids received in response to an advertisement for  
44    bids may be rejected if the person responsible for awarding the  
45    contract determines that:



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



1     **Sec. 12.** NRS 338.1389 is hereby amended to read as follows:  
2     338.1389 1. Except as otherwise provided in *sections 2 and 4*  
3 *of this act*, NRS 338.1385 and 338.1711 to 338.1727, inclusive, a  
4 public body shall award a contract for a public work to the  
5 contractor who submits the best bid.  
6     2. Except as otherwise provided in subsection 10 or limited by  
7 subsection 11, for the purposes of this section, a contractor who:  
8     (a) Has been determined by the public body to be a qualified  
9 bidder pursuant to NRS 338.1379 or is exempt from meeting such  
10 requirements pursuant to NRS 338.1373 or 338.1383; and  
11     (b) At the time he submits his bid, provides to the public body a  
12 copy of a certificate of eligibility to receive a preference in bidding  
13 on public works issued to him by the State Contractors' Board  
14 pursuant to subsection 3 or 4,  
15 shall be deemed to have submitted a better bid than a competing  
16 contractor who has not provided a copy of such a valid certificate of  
17 eligibility if the amount of his bid is not more than 5 percent higher  
18 than the amount bid by the competing contractor.  
19     3. The State Contractors' Board shall issue a certificate of  
20 eligibility to receive a preference in bidding on public works to a  
21 general contractor who is licensed pursuant to the provisions of  
22 chapter 624 of NRS and submits to the Board an affidavit from a  
23 certified public accountant setting forth that the general contractor  
24 has, while licensed as a general contractor in this state:  
25     (a) Paid directly, on his own behalf:  
26         (1) The sales and use taxes imposed pursuant to chapters  
27 372, 374 and 377 of NRS on materials used for construction in this  
28 state, including, without limitation, construction that is undertaken  
29 or carried out on land within the boundaries of this state that is  
30 managed by the Federal Government or is on an Indian reservation  
31 or Indian colony, of not less than \$5,000 for each consecutive  
32 12-month period for 60 months immediately preceding the  
33 submission of the affidavit from the certified public accountant;  
34         (2) The governmental services tax imposed pursuant to  
35 chapter 371 of NRS on the vehicles used in the operation of his  
36 business in this state of not less than \$5,000 for each consecutive  
37 12-month period for 60 months immediately preceding the  
38 submission of the affidavit from the certified public accountant; or  
39         (3) Any combination of such sales and use taxes and  
40 governmental services tax; or  
41     (b) Acquired, by purchase, inheritance, gift or transfer through a  
42 stock option plan, all the assets and liabilities of a viable, operating  
43 construction firm that possesses a:  
44         (1) License as a general contractor pursuant to the provisions  
45 of chapter 624 of NRS; and



1 (2) Certificate of eligibility to receive a preference in bidding  
2 on public works.

3 4. The State Contractors' Board shall issue a certificate of  
4 eligibility to receive a preference in bidding on public works to a  
5 specialty contractor who is licensed pursuant to the provisions of  
6 chapter 624 of NRS and submits to the Board an affidavit from a  
7 certified public accountant setting forth that the specialty contractor  
8 has, while licensed as a specialty contractor in this state:

9 (a) Paid directly, on his own behalf:

10 (1) The sales and use taxes pursuant to chapters 372, 374 and  
11 377 of NRS on materials used for construction in this state,  
12 including, without limitation, construction that is undertaken or  
13 carried out on land within the boundaries of this state that is  
14 managed by the Federal Government or is on an Indian reservation  
15 or Indian colony, of not less than \$5,000 for each consecutive  
16 12-month period for 60 months immediately preceding the  
17 submission of the affidavit from the certified public accountant;

18 (2) The governmental services tax imposed pursuant to  
19 chapter 371 of NRS on the vehicles used in the operation of his  
20 business in this state of not less than \$5,000 for each consecutive  
21 12-month period for 60 months immediately preceding the  
22 submission of the affidavit from the certified public accountant; or

23 (3) Any combination of such sales and use taxes and  
24 governmental services tax; or

25 (b) Acquired, by purchase, inheritance, gift or transfer through a  
26 stock option plan, all the assets and liabilities of a viable, operating  
27 construction firm that possesses a:

28 (1) License as a specialty contractor pursuant to the  
29 provisions of chapter 624 of NRS; and

30 (2) Certificate of eligibility to receive a preference in bidding  
31 on public works.

32 5. For the purposes of complying with the requirements set  
33 forth in paragraph (a) of subsection 3 and paragraph (a) of  
34 subsection 4, a contractor shall be deemed to have paid:

35 (a) Sales and use taxes and governmental services taxes that  
36 were paid in this state by an affiliate or parent company of the  
37 contractor, if the affiliate or parent company is also a general  
38 contractor or specialty contractor, as applicable; and

39 (b) Sales and use taxes that were paid in this state by a joint  
40 venture in which the contractor is a participant, in proportion to the  
41 amount of interest the contractor has in the joint venture.

42 6. A contractor who has received a certificate of eligibility to  
43 receive a preference in bidding on public works from the State  
44 Contractors' Board pursuant to subsection 3 or 4 shall, at the time  
45 for the annual renewal of his contractor's license pursuant to NRS



1 624.283, submit to the Board an affidavit from a certified public  
2 accountant setting forth that the contractor has, during the  
3 immediately preceding 12 months, paid the taxes required pursuant  
4 to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as  
5 applicable, to maintain his eligibility to hold such a certificate.

6 7. A contractor who fails to submit an affidavit to the Board  
7 pursuant to subsection 6 ceases to be eligible to receive a preference  
8 in bidding on public works unless he reapplies for and receives a  
9 certificate of eligibility pursuant to subsection 3 or 4, as applicable.

10 8. If a contractor holds more than one contractor's license, he  
11 must submit a separate application for each license pursuant to  
12 which he wishes to qualify for a preference in bidding. Upon  
13 issuance, the certificate of eligibility to receive a preference in  
14 bidding on public works becomes part of the contractor's license for  
15 which the contractor submitted the application.

16 9. If a contractor who applies to the State Contractors' Board  
17 for a certificate of eligibility to receive a preference in bidding on  
18 public works submits false information to the Board regarding the  
19 required payment of taxes, the contractor is not eligible to receive a  
20 preference in bidding on public works for a period of 5 years after  
21 the date on which the Board becomes aware of the submission of the  
22 false information.

23 10. If any federal statute or regulation precludes the granting of  
24 federal assistance or reduces the amount of that assistance for a  
25 particular public work because of the provisions of subsection 2,  
26 those provisions do not apply insofar as their application would  
27 preclude or reduce federal assistance for that work. The provisions  
28 of subsection 2 do not apply to any contract for a public work which  
29 is expected to cost less than \$250,000.

30 11. If a bid is submitted by two or more contractors as a joint  
31 venture or by one of them as a joint venturer, the provisions of  
32 subsection 2 apply only if both or all of the joint venturers  
33 separately meet the requirements of that subsection.

34 12. The State Contractors' Board shall adopt regulations and  
35 may assess reasonable fees relating to the certification of contractors  
36 for a preference in bidding on public works.

37 13. A person or entity who believes that a contractor  
38 wrongfully holds a certificate of eligibility to receive a preference in  
39 bidding on public works may challenge the validity of the certificate  
40 by filing a written objection with the public body to which the  
41 contractor has submitted a bid or proposal on a contract for the  
42 construction of a public work. A written objection authorized  
43 pursuant to this subsection must:

44 (a) Set forth proof or substantiating evidence to support the  
45 belief of the person or entity that the contractor wrongfully holds a



1 certificate of eligibility to receive a preference in bidding on public  
2 works; and

3 (b) Be filed with the public body at or after the time at which the  
4 contractor submitted the bid or proposal to the public body and  
5 before the time at which the public body awards the contract for  
6 which the bid or proposal was submitted.

7 14. If a public body receives a written objection pursuant to  
8 subsection 13, the public body shall determine whether the objection  
9 is accompanied by the proof or substantiating evidence required  
10 pursuant to paragraph (a) of that subsection. If the public body  
11 determines that the objection is not accompanied by the required  
12 proof or substantiating evidence, the public body shall dismiss the  
13 objection and may proceed immediately to award the contract. If the  
14 public body determines that the objection is accompanied by the  
15 required proof or substantiating evidence, the public body shall  
16 determine whether the contractor qualifies for the certificate  
17 pursuant to the provisions of this section and may proceed to award  
18 the contract accordingly.

19 **Sec. 13.** NRS 338.143 is hereby amended to read as follows:

20 338.143 1. Except as otherwise provided in subsection ~~6~~ 5  
21 and NRS 338.1907, a local government that awards a contract for  
22 the construction, alteration or repair of a public work in accordance  
23 with ~~paragraph (b) of subsection 1~~ **subsection 2** of NRS 338.1373,  
24 or a public officer, public employee or other person responsible for  
25 awarding a contract for the construction, alteration or repair of a  
26 public work who represents that local government, shall not:

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

30 (b) *Commence such a project for which the estimated cost is*  
31 *\$100,000 or less unless it complies with the provisions of sections*  
32 *5, 6 and 7 of this act; or*

33 (c) Divide such a project into separate portions to avoid the  
34 requirements of paragraph (a) ~~;~~

35 ~~2. Except as otherwise provided in subsection 6, a local~~  
36 ~~government that maintains a list of properly licensed contractors~~  
37 ~~who are interested in receiving offers to bid on public works~~  
38 ~~projects for which the estimated cost is more than \$25,000 but less~~  
39 ~~than \$100,000 shall solicit bids from not more than three of the~~  
40 ~~contractors on the list for a contract of that value for the~~  
41 ~~construction, alteration or repair of a public work. The local~~  
42 ~~government shall select contractors from the list in such a manner as~~  
43 ~~to afford each contractor an equal opportunity to bid on a public~~  
44 ~~works project. A properly licensed contractor must submit a written~~  
45 ~~request annually to the local government to remain on the list.~~



1 ~~Offers for bids which are made pursuant to this subsection must be~~  
2 ~~sent by certified mail.~~

3 ~~—3.] or (b).~~

4 2. Approved plans and specifications for the bids must be on  
5 file at a place and time stated in the advertisement for the inspection  
6 of all persons desiring to bid thereon and for other interested  
7 persons. Contracts for the project must be awarded on the basis of  
8 bids received.

9 ~~[4.]~~ 3. Any bids received in response to an advertisement for  
10 bids may be rejected if the person responsible for awarding the  
11 contract determines that:

- 12 (a) The bidder is not responsive or responsible;
- 13 (b) The quality of the services, materials, equipment or labor  
14 offered does not conform to the approved plan or specifications; or
- 15 (c) The public interest would be served by such a rejection.

16 ~~[5.]~~ 4. Before a local government may commence a project  
17 subject to the provisions of this section, based upon a determination  
18 that the public interest would be served by rejecting any bids  
19 received in response to an advertisement for bids, it shall prepare  
20 and make available for public inspection a written statement  
21 containing:

- 22 (a) A list of all persons, including supervisors, whom the local  
23 government intends to assign to the project, together with their  
24 classifications and an estimate of the direct and indirect costs of  
25 their labor;
- 26 (b) A list of all equipment that the local government intends to  
27 use on the project, together with an estimate of the number of hours  
28 each item of equipment will be used and the hourly cost to use each  
29 item of equipment;
- 30 (c) An estimate of the cost of administrative support for the  
31 persons assigned to the project;
- 32 (d) An estimate of the total cost of the project; and
- 33 (e) An estimate of the amount of money the local government  
34 expects to save by rejecting the bids and performing the project  
35 itself.

36 ~~[6.]~~ 5. This section does not apply to:

- 37 (a) Any utility subject to the provisions of chapter 318 or 710 of  
38 NRS;
- 39 (b) Any work of construction, reconstruction, improvement and  
40 maintenance of highways subject to NRS 408.323 ; ~~[or 408.327;]~~
- 41 (c) Normal maintenance of the property of a school district;
- 42 (d) The Las Vegas Valley Water District created pursuant to  
43 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
44 District created pursuant to chapter 477, Statutes of Nevada 1983 or





1 the Virgin Valley Water District created pursuant to chapter 100,  
2 Statutes of Nevada 1993; or

3 (e) The design and construction of a public work for which a  
4 public body contracts with a design-build team pursuant to NRS  
5 338.1711 to 338.1727, inclusive.

6 **Sec. 14.** NRS 338.143 is hereby amended to read as follows:

7 338.143 1. Except as otherwise provided in subsection ~~[7.]~~ **6**,  
8 a local government that awards a contract for the construction,  
9 alteration or repair of a public work in accordance with ~~[paragraph~~  
10 ~~(b) of subsection 1]~~ **subsection 2** of NRS 338.1373, or a public  
11 officer, public employee or other person responsible for awarding a  
12 contract for the construction, alteration or repair of a public work  
13 who represents that local government, shall not:

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

17 (b) *Commence such a project for which the estimated cost is*  
18 *\$100,000 or less unless it complies with the provisions of sections*  
19 *5, 6 and 7 of this act; or*

20 (c) Divide such a project into separate portions to avoid the  
21 requirements of paragraph (a) ~~[-~~

22 ~~—2. Except as otherwise provided in subsection 7, a local~~  
23 ~~government that maintains a list of properly licensed contractors~~  
24 ~~who are interested in receiving offers to bid on public works~~  
25 ~~projects for which the estimated cost is more than \$25,000 but less~~  
26 ~~than \$100,000 shall solicit bids from not more than three of the~~  
27 ~~contractors on the list for a contract of that value for the~~  
28 ~~construction, alteration or repair of a public work. The local~~  
29 ~~government shall select contractors from the list in such a manner as~~  
30 ~~to afford each contractor an equal opportunity to bid on a public~~  
31 ~~works project. A properly licensed contractor must submit a written~~  
32 ~~request annually to the local government to remain on the list.~~  
33 ~~Offers for bids which are made pursuant to this subsection must be~~  
34 ~~sent by certified mail.~~

35 ~~—3.] or (b).~~

36 **2.** Approved plans and specifications for the bids must be on  
37 file at a place and time stated in the advertisement for the inspection  
38 of all persons desiring to bid thereon and for other interested  
39 persons. Contracts for the project must be awarded on the basis of  
40 bids received.

41 ~~[4.]~~ **3.** Any bids received in response to an advertisement for  
42 bids may be rejected if the person responsible for awarding the  
43 contract determines that:

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



- 1 (b) The quality of the services, materials, equipment or labor  
2 offered does not conform to the approved plan or specifications; or  
3 (c) The public interest would be served by such a rejection.
- 4 ~~[5.]~~ **4.** Before a local government may commence a project  
5 subject to the provisions of this section, based upon a determination  
6 that the public interest would be served by rejecting any bids  
7 received in response to an advertisement for bids, it shall prepare  
8 and make available for public inspection a written statement  
9 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.]~~ **5.** In preparing the estimated cost of a project pursuant to  
25 subsection ~~[5.]~~ **4**, a local government must include the fair market  
26 value of, or, if known, the actual cost of, all materials, supplies,  
27 labor and equipment to be used for the project.
- 28 ~~[7.]~~ **6.** This section does not apply to:
- 29 (a) Any utility subject to the provisions of chapter 318 or 710 of  
30 NRS;
- 31 (b) Any work of construction, reconstruction, improvement and  
32 maintenance of highways subject to NRS 408.323 ; ~~[or 408.327.]~~
- 33 (c) Normal maintenance of the property of a school district;
- 34 (d) The Las Vegas Valley Water District created pursuant to  
35 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
36 District created pursuant to chapter 477, Statutes of Nevada 1983 or  
37 the Virgin Valley Water District created pursuant to chapter 100,  
38 Statutes of Nevada 1993; or
- 39 (e) The design and construction of a public work for which a  
40 public body contracts with a design-build team pursuant to NRS  
41 338.1711 to 338.1727, inclusive.
- 42 **Sec. 15.** NRS 338.147 is hereby amended to read as follows:  
43 338.147 1. Except as otherwise provided in *sections 5 and 7*  
44 *of this act*, NRS 338.143 and 338.1711 to 338.1727, inclusive, a



1 local government shall award a contract for a public work to the  
2 contractor who submits the best bid.

3 2. Except as otherwise provided in subsection 10 or limited by  
4 subsection 11, for the purposes of this section, a contractor who:

5 (a) Has been found to be a responsible and responsive contractor  
6 by the local government; and

7 (b) At the time he submits his bid, provides to the local  
8 government a copy of a certificate of eligibility to receive a  
9 preference in bidding on public works issued to him by the State  
10 Contractors' Board pursuant to subsection 3 or 4,  
11 shall be deemed to have submitted a better bid than a competing  
12 contractor who has not provided a copy of such a valid certificate of  
13 eligibility if the amount of his bid is not more than 5 percent higher  
14 than the amount bid by the competing contractor.

15 3. The State Contractors' Board shall issue a certificate of  
16 eligibility to receive a preference in bidding on public works to a  
17 general contractor who is licensed pursuant to the provisions of  
18 chapter 624 of NRS and submits to the Board an affidavit from a  
19 certified public accountant setting forth that the general contractor  
20 has, while licensed as a general contractor in this state:

21 (a) Paid directly, on his own behalf:

22 (1) The sales and use taxes imposed pursuant to chapters  
23 372, 374 and 377 of NRS on materials used for construction in this  
24 state, including, without limitation, construction that is undertaken  
25 or carried out on land within the boundaries of this state that is  
26 managed by the Federal Government or is on an Indian reservation  
27 or Indian colony, of not less than \$5,000 for each consecutive  
28 12-month period for 60 months immediately preceding the  
29 submission of the affidavit from the certified public accountant;

30 (2) The governmental services tax imposed pursuant to  
31 chapter 371 of NRS on the vehicles used in the operation of his  
32 business in this state of not less than \$5,000 for each consecutive  
33 12-month period for 60 months immediately preceding the  
34 submission of the affidavit from the certified public accountant; or

35 (3) Any combination of such sales and use taxes and  
36 governmental services tax; or

37 (b) Acquired, by purchase, inheritance, gift or transfer through a  
38 stock option plan, all the assets and liabilities of a viable, operating  
39 construction firm that possesses a:

40 (1) License as a general contractor pursuant to the provisions  
41 of chapter 624 of NRS; and

42 (2) Certificate of eligibility to receive a preference in bidding  
43 on public works.

44 4. The State Contractors' Board shall issue a certificate of  
45 eligibility to receive a preference in bidding on public works to a



1 specialty contractor who is licensed pursuant to the provisions of  
2 chapter 624 of NRS and submits to the Board an affidavit from a  
3 certified public accountant setting forth that the specialty contractor  
4 has, while licensed as a specialty contractor in this state:

5 (a) Paid directly, on his own behalf:

6 (1) The sales and use taxes pursuant to chapters 372, 374 and  
7 377 of NRS on materials used for construction in this state,  
8 including, without limitation, construction that is undertaken or  
9 carried out on land within the boundaries of this state that is  
10 managed by the Federal Government or is on an Indian reservation  
11 or Indian colony, of not less than \$5,000 for each consecutive  
12 12-month period for 60 months immediately preceding the  
13 submission of the affidavit from the certified public accountant;

14 (2) The governmental services tax imposed pursuant to  
15 chapter 371 of NRS on the vehicles used in the operation of his  
16 business in this state of not less than \$5,000 for each consecutive  
17 12-month period for 60 months immediately preceding the  
18 submission of the affidavit from the certified public accountant; or

19 (3) Any combination of such sales and use taxes and  
20 governmental services tax; or

21 (b) Acquired, by purchase, inheritance, gift or transfer through a  
22 stock option plan, all the assets and liabilities of a viable, operating  
23 construction firm that possesses a:

24 (1) License as a specialty contractor pursuant to the  
25 provisions of chapter 624 of NRS; and

26 (2) Certificate of eligibility to receive a preference in bidding  
27 on public works.

28 5. For the purposes of complying with the requirements set  
29 forth in paragraph (a) of subsection 3 and paragraph (a) of  
30 subsection 4, a contractor shall be deemed to have paid:

31 (a) Sales and use taxes and governmental services taxes paid in  
32 this state by an affiliate or parent company of the contractor, if the  
33 affiliate or parent company is also a general contractor or specialty  
34 contractor, as applicable; and

35 (b) Sales and use taxes paid in this state by a joint venture in  
36 which the contractor is a participant, in proportion to the amount of  
37 interest the contractor has in the joint venture.

38 6. A contractor who has received a certificate of eligibility to  
39 receive a preference in bidding on public works from the State  
40 Contractors' Board pursuant to subsection 3 or 4 shall, at the time  
41 for the annual renewal of his contractor's license pursuant to NRS  
42 624.283, submit to the Board an affidavit from a certified public  
43 accountant setting forth that the contractor has, during the  
44 immediately preceding 12 months, paid the taxes required pursuant



1 to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as  
2 applicable, to maintain his eligibility to hold such a certificate.

3 7. A contractor who fails to submit an affidavit to the Board  
4 pursuant to subsection 6 ceases to be eligible to receive a preference  
5 in bidding on public works unless he reapplies for and receives a  
6 certificate of eligibility pursuant to subsection 3 or 4, as applicable.

7 8. If a contractor holds more than one contractor's license, he  
8 must submit a separate application for each license pursuant to  
9 which he wishes to qualify for a preference in bidding. Upon  
10 issuance, the certificate of eligibility to receive a preference in  
11 bidding on public works becomes part of the contractor's license for  
12 which the contractor submitted the application.

13 9. If a contractor who applies to the State Contractors' Board  
14 for a certificate of eligibility to receive a preference in bidding on  
15 public works submits false information to the Board regarding the  
16 required payment of taxes, the contractor is not eligible to receive a  
17 preference in bidding on public works for a period of 5 years after  
18 the date on which the Board becomes aware of the submission of the  
19 false information.

20 10. If any federal statute or regulation precludes the granting of  
21 federal assistance or reduces the amount of that assistance for a  
22 particular public work because of the provisions of subsection 2,  
23 those provisions do not apply insofar as their application would  
24 preclude or reduce federal assistance for that work. The provisions  
25 of subsection 2 do not apply to any contract for a public work which  
26 is expected to cost less than \$250,000.

27 11. If a bid is submitted by two or more contractors as a joint  
28 venture or by one of them as a joint venturer, the provisions of  
29 subsection 2 apply only if both or all of the joint venturers  
30 separately meet the requirements of that subsection.

31 12. The State Contractors' Board shall adopt regulations and  
32 may assess reasonable fees relating to the certification of contractors  
33 for a preference in bidding on public works.

34 13. A person or entity who believes that a contractor  
35 wrongfully holds a certificate of eligibility to receive a preference in  
36 bidding on public works may challenge the validity of the certificate  
37 by filing a written objection with the public body to which the  
38 contractor has submitted a bid or proposal on a contract for the  
39 completion of a public work. A written objection authorized  
40 pursuant to this subsection must:

41 (a) Set forth proof or substantiating evidence to support the  
42 belief of the person or entity that the contractor wrongfully holds a  
43 certificate of eligibility to receive a preference in bidding on public  
44 works; and



1 (b) Be filed with the public body at or after the time at which the  
2 contractor submitted the bid or proposal to the public body and  
3 before the time at which the public body awards the contract for  
4 which the bid or proposal was submitted.

5 14. If a public body receives a written objection pursuant to  
6 subsection 13, the public body shall determine whether the objection  
7 is accompanied by the proof or substantiating evidence required  
8 pursuant to paragraph (a) of that subsection. If the public body  
9 determines that the objection is not accompanied by the required  
10 proof or substantiating evidence, the public body shall dismiss the  
11 objection and may proceed immediately to award the contract. If  
12 the public body determines that the objection is accompanied by the  
13 required proof or substantiating evidence, the public body shall  
14 determine whether the contractor qualifies for the certificate  
15 pursuant to the provisions of this section and may proceed to award  
16 the contract accordingly.

17 **Sec. 16.** NRS 338.1715 is hereby amended to read as follows:

18 338.1715 1. A public body that is required to contract with a  
19 prime contractor pursuant to subsection 1 of NRS 338.1711 or elects  
20 to contract with a prime contractor pursuant to subsection 4 of NRS  
21 338.1711 shall select the prime contractor in accordance with the  
22 procedures for bidding that are set forth in:

23 (a) The provisions of NRS 338.1375 to 338.139, inclusive; or

24 (b) NRS 338.143 to 338.148, inclusive, if the public body is a  
25 local government that elects to award a contract for a public work in  
26 accordance with ~~[paragraph (b) of subsection 1]~~ **subsection 2** of  
27 NRS 338.1373.

28 2. A public body that contracts with a design-build team  
29 pursuant to NRS 338.1711 and 338.1713 shall select the design-  
30 build team in accordance with NRS 338.1721 to 338.1727,  
31 inclusive.

32 **Sec. 17.** NRS 338.1721 is hereby amended to read as follows:

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

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

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

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

42 4. Not have been disqualified from being awarded a contract  
43 pursuant to NRS 338.017, 338.1387 ~~[, 338.145 or 408.333;]~~ **or**  
44 **338.145;** and



1 5. Ensure that the members of the design-build team possess  
2 the licenses and certificates required to carry out the functions of  
3 their respective professions within this state.

4 **Sec. 18.** NRS 341.148 is hereby amended to read as follows:

5 341.148 ~~{1. Except as otherwise provided in subsection 2,~~  
6 ~~the}~~ **The** Board shall advertise in a newspaper of general circulation  
7 in the State of Nevada for separate sealed bids for each construction  
8 project ~~{}~~ **whose estimated cost is more than \$100,000.** Approved  
9 plans and specifications for the construction must be on file at a  
10 place and time stated in the advertisement for the inspection of all  
11 persons desiring to bid thereon and for other interested persons. The  
12 Board may accept bids on either the whole or a part of the  
13 construction, equipment and furnishings ~~{}~~ **of a construction**  
14 **project** and may let separate contracts for different and separate  
15 portions of any project, or a combination contract for structural,  
16 mechanical and electrical construction if savings will result to the  
17 lowest responsible and responsive bidder.

18 ~~{2. The Board is not required to advertise for sealed bids for~~  
19 ~~construction projects if the estimated cost is less than \$25,000, but~~  
20 ~~the Board may solicit firm written bids from not less than two~~  
21 ~~licensed contractors doing business in the area and may award the~~  
22 ~~contract to the lowest responsible and responsive bidder or reject all~~  
23 ~~bids.}~~

24 **Sec. 19.** NRS 341.166 is hereby amended to read as follows:

25 341.166 1. The Board may, with the approval of the Interim  
26 Finance Committee when the Legislature is not in regular or special  
27 session, or with the approval of the Legislature by concurrent  
28 resolution when the Legislature is in regular or special session, enter  
29 into a contract for services with a contractor licensed pursuant to  
30 chapter 624 of NRS to assist the Board:

31 (a) In the development of designs, plans, specifications and  
32 estimates of costs for a proposed construction project.

33 (b) In the review of designs, plans, specifications and estimates  
34 of costs for a proposed construction project to ensure that the  
35 designs, plans, specifications and estimates of costs are complete  
36 and that the project is feasible to construct.

37 2. The Board is not required to advertise for bids for a contract  
38 for services pursuant to subsection 1, but may solicit bids from not  
39 fewer than three licensed contractors and may award the contract to  
40 the lowest responsible and responsive bidder.

41 3. The Board shall adopt regulations establishing procedures  
42 for:

43 (a) The determination of the qualifications of contractors to bid  
44 for the contracts for services described in subsection 1.

45 (b) The bidding and awarding of such contracts.



1 4. If a proposed construction project for which a contractor is  
2 awarded a contract for services by the Board pursuant to subsection  
3 1 is advertised pursuant to NRS ~~[341.148,]~~ **338.1385**, that contractor  
4 may submit a bid for the contract for the proposed construction  
5 project if he is qualified pursuant to NRS ~~[338.1377,]~~ **338.1375**.

6 **Sec. 20.** NRS 408.205 is hereby amended to read as follows:  
7 408.205 1. With the approval of the Board, the Director may  
8 execute all plans, specifications, contracts and instruments in the  
9 name of the State of Nevada necessary for the carrying out of the  
10 provisions of this chapter . ~~[, except those construction contracts as~~  
11 ~~provided in NRS 408.327 and 408.347.]~~

12 2. The Director has such other power and authority as is  
13 necessary and proper under the provisions of this chapter, or as the  
14 Board delegates to him.

15 3. The Director shall provide for the purchase of United States  
16 Savings Bonds or similar United States obligations by salary or  
17 wage deductions for officers and employees of the Department who  
18 make written requests for such deductions and purchases. To allow  
19 all Department officers and employees the opportunity of requesting  
20 salary or wage deductions for the purchase of United States  
21 obligations, the Director shall provide forms authorizing the  
22 deductions and purchases and shall make them readily available to  
23 all Department officers and employees.

24 **Sec. 21.** NRS 408.215 is hereby amended to read as follows:

25 408.215 1. The Director has charge of all the records of the  
26 Department, keeping records of all proceedings pertaining to the  
27 Department and keeping on file information, plans, specifications,  
28 estimates, statistics and records prepared by the Department, except  
29 ~~[those financial statements described in NRS 408.333 and]~~ the  
30 financial or proprietary information described in paragraph (d) of  
31 subsection 5 of NRS ~~[408.3886,]~~ **338.1727**, which must not become  
32 matters of public record.

33 2. The Director may photograph, microphotograph or film or  
34 dispose of the records of the Department referred to in subsection 1  
35 as provided in NRS 239.051, 239.080 and 239.085.

36 3. The Director shall maintain an index or record of deeds or  
37 other references of title or interests in and to all lands or interests in  
38 land owned or acquired by the Department.

39 4. The Director shall adopt such regulations as may be  
40 necessary to carry out and enforce the provisions of this chapter.

41 **Sec. 22.** NRS 408.225 is hereby amended to read as follows:

42 408.225 ~~[Except as otherwise provided in NRS 408.323, the]~~  
43 **The** Director, with the approval of the Board, may rent, lease,  
44 purchase and contract for all equipment, materials, supplies,  
45 vehicles, road machinery, tools, implements and technical services





1 required for the purpose of this chapter. Such equipment, supplies  
2 and services must be managed and used under the control of the  
3 Director.

4 **Sec. 23.** NRS 408.317 is hereby amended to read as follows:

5 408.317 1. Except as otherwise provided in NRS ~~[408.3875~~  
6 ~~to 408.3887,]~~ **338.1711 to 338.1727**, inclusive, all work of  
7 construction, reconstruction, improvement and maintenance of  
8 highways as provided under the provisions of this chapter is under  
9 the supervision and direction of the Director and must be performed  
10 in accordance with the plans, specifications and contracts prepared  
11 by him.

12 2. All maintenance and repair of highways when performed by  
13 the Department must be paid out of the State Highway Fund.

14 **Sec. 24.** NRS 408.323 is hereby amended to read as follows:

15 408.323 ~~[1.—Whenever it can be justified by the Director that~~  
16 ~~limited work or improvements can be done in a more economical or~~  
17 ~~other satisfactory manner than by contract under NRS 408.327, the~~  
18 ~~Director may, with the approval of the Board, execute such work or~~  
19 ~~improvements with Department facilities and employees.~~

20 ~~—2.]~~ In the event of disaster or great emergency the Director may,  
21 with the approval of the Board, hire, employ or contract for such  
22 labor, materials and equipment as are in his opinion necessary to  
23 reroute, repair or replace any highway threatened or damaged by the  
24 emergency or disaster . ~~[, and the provisions of NRS 408.327 and~~  
25 ~~408.367 do not apply.]~~

26 **Sec. 25.** NRS 625.530 is hereby amended to read as follows:

27 625.530 Except as otherwise provided in NRS 338.1711 to  
28 338.1727, inclusive : ~~[, and 408.3875 to 408.3887, inclusive:]~~

29 1. The State of Nevada or any of its political subdivisions,  
30 including a county, city or town, shall not engage in any public  
31 work requiring the practice of professional engineering or land  
32 surveying, unless the maps, plans, specifications, reports and  
33 estimates have been prepared by, and the work executed under the  
34 supervision of, a professional engineer, professional land surveyor  
35 or registered architect.

36 2. The provisions of this section do not:

37 (a) Apply to any public work wherein the expenditure for the  
38 complete project of which the work is a part does not exceed  
39 \$35,000.

40 (b) Include any maintenance work undertaken by the State of  
41 Nevada or its political subdivisions.

42 (c) Authorize a professional engineer, registered architect or  
43 professional land surveyor to practice in violation of any of the  
44 provisions of chapter 623 of NRS or this chapter.



1 (d) Require the services of an architect registered pursuant to the  
2 provisions of chapter 623 of NRS for the erection of buildings or  
3 structures manufactured in an industrial plant, if those buildings or  
4 structures meet the requirements of local building codes of the  
5 jurisdiction in which they are being erected.  
6 3. The selection of a professional engineer, professional land  
7 surveyor or registered architect to perform services pursuant to  
8 subsection 1 must be made on the basis of the competence and  
9 qualifications of the engineer, land surveyor or architect for the type  
10 of services to be performed and not on the basis of competitive fees.  
11 If, after selection of the engineer, land surveyor or architect, an  
12 agreement upon a fair and reasonable fee cannot be reached with  
13 him, the public agency may terminate negotiations and select  
14 another engineer, land surveyor or architect.  
15 **Sec. 26.** NRS 408.327, 408.333, 408.337, 408.343, 408.347,  
16 408.357, 408.367, 408.3875, 408.3876, 408.3877, 408.3878,  
17 408.3879, 408.388, 408.3881, 408.3882, 408.3883, 408.3884,  
18 408.3885, 408.3886 and 408.3887 are hereby repealed.  
19 **Sec. 27.** 1. This section and sections 1 to 10, inclusive, 12,  
20 13 and 15 to 26, inclusive, of this act become effective on  
21 October 1, 2003.  
22 2. Sections 10 and 13 of this act expire by limitation on  
23 April 30, 2013.  
24 3. Sections 11 and 14 of this act become effective on May 1,  
25 2013.

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**LEADLINES OF REPEALED SECTIONS**

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**408.327 Advertisement for bids; publication.**  
**408.333 Bids and bidders: Experience and financial ability; hearing upon disqualification; appeal of decision.**  
**408.337 Bids and bidders: Security; forfeiture; refunds.**  
**408.343 Bids and bidders: Procedure for award of contract.**  
**408.347 Execution of contract in name of state; copies filed with department and county commissioners.**  
**408.357 Bids and bidders: Bonds required of successful bidders; exception; conditions; sureties.**  
**408.367 Project not exceeding \$250,000: Informal bids; advertisement; mailing of invitation to bid; contract; bonds; exception.**  
**408.3875 Definitions.**  
**408.3876 "Design-build contract" defined.**



- 408.3877 "Design-build team" defined.
- 408.3878 "Prime contractor" defined.
- 408.3879 "Project" defined.
- 408.388 Projects for which department may contract with design-build team.
- 408.3881 Public meeting; notice.
- 408.3882 Procedure for selecting design-build team.
- 408.3883 Preliminary proposals: Advertisement by department; publication; information available for inspection by design-build teams.
- 408.3884 Qualifications of design-build team.
- 408.3885 Procedure for selecting finalists from among design-build teams that submitted preliminary proposals.
- 408.3886 Request for final proposals; submission of final proposals; selection or rejection of final proposals; awarding contract; duties of design-build team.
- 408.3887 Employment of architect or engineer as consultant during construction.

