

SENATE BILL NO. 77—COMMITTEE ON
GROWTH AND INFRASTRUCTURE

(ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION)

PREFILED NOVEMBER 20, 2024

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions relating to highways.
(BDR 35-302)

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

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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 transportation; revising the required qualifications of a Deputy Director of the Department of Transportation; revising the highway projects for which the Department is required to prepare a written cost-benefit analysis; revising provisions governing the award of contracts by the Department; increasing the maximum cost of a project for which the Department may use informal bidding procedures; revising provisions relating to advertisement and submission of bids for work; increasing the amount that the Department may spend to purchase equipment without approval from the Board of Directors of the Department; revising requirements for the provision of certain notices by the Department; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law creates the Department of Transportation, which is administered
2 by a seven-member Board of Directors and has various powers and duties relating
3 to the construction, improvement and maintenance of the highways in this State.
4 (Chapter 408 of NRS) Under existing law, the Department consists of a Director,
5 three Deputy Directors, a Chief Engineer and certain Divisions, which are headed
6 by assistant directors. (NRS 408.111) **Section 1** of this bill revises the education
7 and experience required for appointment as a Deputy Director.

8 Existing law requires the Department to prepare a written analysis of the costs
9 and benefits of certain highway projects expected to cost at least \$25 million before



10 the Department submits a proposal for the project to the Board of Directors. (NRS
11 408.3195) **Section 2** of this bill increases the minimum expected cost of a project
12 from \$25 million to \$50 million for which the Department is required to prepare a
13 cost-benefit analysis.

14 Existing law, with certain exceptions, requires the Director of the Department
15 to use a process of competitive bidding to contract for work to construct,
16 reconstruct, improve or maintain highways. (NRS 408.323, 408.327, 408.367,
17 408.3875-408.3888) Under existing law, the Director is authorized, with the
18 approval of the Board, to execute certain work or improvements with facilities and
19 employees of the Department rather than through competitive bidding. (NRS
20 408.323) **Section 3** of this bill eliminates the requirement for the Director to obtain
21 the approval of the Board when the Director is authorized by existing law to
22 execute work or improvements with facilities and employees of the Department
23 rather than through competitive bidding. **Section 3:** (1) further eliminates the
24 requirement for the Director to obtain the approval of the Board to hire, employ or
25 contract for labor, materials or equipment without the use of competitive bidding in
26 a disaster or great emergency; and (2) instead, requires the Director to report each
27 such hiring, employment or contract to the Board at its next regularly scheduled
28 meeting.

29 Existing law authorizes the Director to use an informal bidding process to
30 award contracts for highway construction, reconstruction, improvements or
31 maintenance if the project is estimated to cost \$250,000 or less and the Director
32 obtains the approval of the Board to use such an informal bidding process. (NRS
33 408.367) **Sections 4 and 8** of this bill increase the maximum cost of a project for
34 which the Director may use an informal bidding process from \$250,000 to
35 \$750,000. **Section 8** also eliminates the requirement for the Director to obtain the
36 approval of the Board to use an informal bidding process. Finally, **section 8**
37 increases the cost of a project for which the Director may solicit a bid from only
38 one properly licensed contractor from \$50,000 or less to less than \$100,000.

39 Under existing law, when the Director is required to use a competitive bidding
40 process to contract for work to construct, reconstruct, improve or maintain
41 highways, the Director is required to advertise for bids for such work by satisfying
42 certain requirements for publishing the advertisement in newspapers. (NRS
43 408.327) **Section 4** removes requirements for publishing an advertisement for bids
44 in certain newspapers and, instead, **section 4** requires the Department to post an
45 advertisement for bids on the Internet website of the Department for a certain
46 period. **Section 11** of this bill similarly removes the requirement for the Department
47 to advertise in certain newspapers for preliminary proposals for the design and
48 construction of a project when the Department uses a design-build team to design
49 and construct a project and, instead, requires the Department to post such an
50 advertisement for preliminary proposals on its Internet website for a certain period.

51 Under existing law, before the Director may furnish plans and specifications for
52 an advertised work to a person proposing to bid for the work, the person is required
53 to become qualified to bid by establishing to the satisfaction of the Director that the
54 person has the financial ability and experience to perform the work. (NRS 408.333)
55 Instead of requiring a person proposing to bid for work to become qualified to bid
56 before the Director furnishes plans and specifications for the work to that person,
57 **section 5** of this bill requires the person to become qualified by the Director before
58 submitting a bid. **Section 8** similarly requires that when the Director is using the
59 informal bidding procedure to award a contract, a person wishing to bid is required
60 to submit certain information to the Director before submitting a bid rather than
61 before the Director furnishes the person with plans and specifications for the work.

62 **Section 6** of this bill updates statutory language to clarify that a person
63 submitting a bid for work to construct, reconstruct, improve or maintain a highway
64 may be a business entity.



65 **Section 7** of this bill removes the authority of an authorized representative of a
66 bidder to execute a document to withdraw a bid and, instead, requires the bidder to
67 execute such a withdrawal.

68 Existing law requires the successful bidder for a contract for work to construct,
69 reconstruct, improve or maintain a highway to furnish one or more surety bonds to
70 secure: (1) faithful performance of the contract; and (2) payment of workers and
71 suppliers used for the performance of the contract. (NRS 408.357) Under existing
72 law, any such worker or supplier who has not been paid by a contractor or
73 subcontractor and who wishes to recover from the surety bond is required to file a
74 claim with the Department within 30 days from the date of final acceptance of the
75 contract. (NRS 408.363) To provide notice of the final acceptance of the contract,
76 the Department is required to publish a notice of the final acceptance of the contract
77 in certain newspapers. (NRS 408.387) **Section 9** of this bill removes the
78 requirement to publish this notice in certain newspapers and, instead, requires the
79 Department to post notice of the date of final acceptance of a contract on
80 the Internet website of the Department.

81 Existing law requires the Department to obtain the approval of the Board before
82 purchasing any equipment which exceeds \$50,000. (NRS 408.389) **Section 12** of
83 this bill increases the purchase price of equipment which requires approval of the
84 Board from \$50,000 to \$150,000.

85 Under existing law, any legal notice or advertisement required by law to be
86 published in a newspaper is a legal notice or advertisement and must be published
87 in a newspaper that satisfies certain requirements. (NRS 238.010-238.080) **Section**
88 **10** of this bill clarifies that the notice of a public meeting at which the Board makes
89 the determinations that are necessary to authorize the Department to contract with a
90 design-build team for the design and construction of a project is a legal notice that
91 must be published in a newspaper that satisfies the requirements of existing law.
92 (NRS 408.3881) **Sections 13 and 14** of this bill clarify that notices of certain
93 dispositions of property of the Department are legal notices that must be published
94 in a newspaper that satisfies the requirements of existing law. (NRS 408.507,
95 408.533) **Section 15** of this bill clarifies that notice of a public hearing required
96 upon an application to close a public road on public land is a legal notice that must
97 be published in a newspaper that satisfies the requirements of existing law.
98 (NRS 408.537)

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

1 **Section 1.** NRS 408.178 is hereby amended to read as follows:

2 408.178 1. Each Deputy Director:

3 (a) Is in the unclassified service of the State.

4 (b) Must ~~hold~~ :

5 (1) ~~Hold~~ a ~~master's~~ *bachelor's* degree in *business*, public
6 or business administration, ~~hold the~~ *economics or any other field*
7 *related to a field described in this subparagraph;*

8 (2) ~~Hold~~ a degree of bachelor of science in civil, structural,
9 mechanical, *environmental, traffic* or industrial engineering ; ~~is~~ or
10 ~~be~~

11 (3) *Be* a licensed professional engineer.

12 (c) Must have at least:



1 (1) Two years of administrative experience as an assistant
2 director or the Chief Engineer; or

3 (2) Fifteen years of progressively responsible experience in
4 engineering, ~~for~~ project management ~~or~~ *or a related field.*

5 2. The Chief Engineer:

6 (a) Is in the unclassified service of the State.

7 (b) Must be a licensed professional engineer.

8 (c) Except as otherwise provided in subsection 3, must have at
9 least 3 years of experience as the final engineering authority for a
10 state's agency which has duties similar to those of the Department.

11 3. If the Director or the Deputy Director appointed pursuant to
12 paragraph (a) of subsection 1 of NRS 408.175 is a licensed
13 professional engineer, he or she may also act as the Department's
14 Chief Engineer.

15 **Sec. 2.** NRS 408.3195 is hereby amended to read as follows:

16 408.3195 1. Before the Department submits a proposal for a
17 highway project to the Board for approval, the Department shall
18 prepare a written analysis of the costs and benefits of the project.
19 The analysis must state, for each highway district in which the
20 project is proposed:

21 (a) The limits of the project;

22 (b) The period of analysis;

23 (c) The discount rate used in the analysis;

24 (d) The initial costs of the Department for the project, including
25 any costs for design, engineering, the acquisition of land and
26 construction;

27 (e) The future costs of the Department to preserve and maintain
28 the project, discounted to present value;

29 (f) Any other costs of the Department for any other construction
30 or any mitigation associated with the project;

31 (g) The costs to highway users for any loss of safety, delays in
32 the time of travel and costs for the operation of vehicles that are
33 associated with the project;

34 (h) The costs of any environmental impacts, including vehicle
35 emissions and noise, that are associated with the project; and

36 (i) The value of the benefits of the project, including the value of
37 any:

38 (1) Savings in the time of travel;

39 (2) Improvements to safety; and

40 (3) Savings in the cost of operating vehicles.

41 2. The analysis required by this section:

42 (a) Must include a discussion of any additional increases in costs
43 that would result from any delays in the performance of any routine
44 maintenance scheduled under the maintenance program of the
45 Department;



1 (b) May include a discussion of:

2 (1) The costs of the project for any other persons and
3 governmental agencies;

4 (2) The value of any other social, economic or environmental
5 benefits or costs of the project; and

6 (3) Any costs or benefits which may result from the use of
7 any alternative design, construction or financing practices; and

8 (c) Must be prepared in a format that allows for the comparison
9 of proposed highway projects.

10 3. The analysis required by this section must be made available
11 to the Board and the public when the agenda is posted for the
12 meeting at which the proposal will be submitted to the Board for its
13 approval.

14 4. As used in this section, "highway project" means a project
15 that is expected to increase the capacity of the state highway system
16 and cost at least ~~[\$25 million.]~~ ***\$50,000,000.***

17 **Sec. 3.** NRS 408.323 is hereby amended to read as follows:

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

23 2. In the event of disaster or great emergency the Director may
24 ~~[, with the approval of the Board,]~~ hire, employ or contract for such
25 labor, materials and equipment as are in the Director's opinion
26 necessary to reroute, repair or replace any highway threatened or
27 damaged by the emergency or disaster, and the provisions of NRS
28 408.327 and 408.367 do not apply. ***The Director shall report each
29 such hiring, employment and contract to the Board at the next
30 regularly scheduled meeting of the Board.***

31 **Sec. 4.** NRS 408.327 is hereby amended to read as follows:

32 408.327 Except as otherwise provided in NRS 408.3875 to
33 408.3888, inclusive:

34 1. Whenever the provisions of NRS 408.323 do not apply, the
35 Director shall advertise for bids for such work ***on projects estimated
36 to cost in excess of \$750,000*** according to the plans and
37 specifications prepared by the Director. ***The Department shall post
38 such an advertisement for bids on the Internet website of the
39 Department for a period beginning at the time the solicitation is
40 released until the time set for opening bids, which must not be less
41 than 15 days after the release of the solicitation.***

42 2. The advertisement must state the place where the bidders
43 may obtain or inspect the plans and specifications and the time and
44 place for opening the plans and specifications.



1 ~~{3. Publication of the advertisement must be made at least once~~
2 ~~a week for 2 consecutive weeks for a total of at least two~~
3 ~~publications in a newspaper of general circulation in the county in~~
4 ~~which the major portion of the proposed improvement or~~
5 ~~construction is to be made, and the advertisement must also be~~
6 ~~published at least once a week for 2 consecutive weeks for a total of~~
7 ~~at least two publications in one or more daily papers of general~~
8 ~~circulation throughout the State. The first publication of the~~
9 ~~advertisement in the daily newspapers having general circulation~~
10 ~~throughout the State must be made not less than 15 days before the~~
11 ~~time set for opening bids.]~~

12 **Sec. 5.** NRS 408.333 is hereby amended to read as follows:

13 408.333 Except as otherwise provided in NRS 408.367 or
14 408.3875 to 408.3888, inclusive:

15 1. Before ~~{furnishing}~~ any person ~~{proposing to}~~ *may* bid on
16 any advertised ~~{work with the plans and specifications for such}~~
17 work, the Director shall require from the person a statement,
18 verified under oath, in the form of answers to questions contained in
19 a standard form of questionnaire and financial statement, which
20 must include a complete statement of the person's financial ability
21 and experience in performing public work and any other comparable
22 experience.

23 2. Such statements must be filed with the Director in ample
24 time to permit the Department to verify the information contained
25 therein in advance of ~~{furnishing proposal forms, plans and~~
26 ~~specifications to}~~ any person ~~{proposing to bid}~~ *bidding* on the
27 advertised public work, in accordance with the regulations of the
28 Department.

29 3. Whenever the Director is not satisfied with the sufficiency
30 of the answers contained in the questionnaire and financial
31 statement, the Director may ~~{refuse to furnish}~~ *disqualify* the person
32 ~~{with plans and specifications and the official proposal forms}~~ *from*
33 *bidding* on the advertised project. If the Director determines that the
34 person has, within the preceding year, materially breached a contract
35 for a public work for which the cost exceeds \$25,000,000, the
36 Director shall ~~{refuse to furnish}~~ *disqualify* the person ~~{with plans~~
37 ~~and specifications and the official proposal forms}~~ *from bidding* on
38 the advertised project. ~~{Any bid of any person to whom plans and~~
39 ~~specifications and the official proposal forms have not been issued~~
40 ~~in accordance with this section must be disregarded, and the~~
41 ~~certified check, cash or undertaking of such a bidder returned~~
42 ~~forthwith.]~~

43 4. Any person who is disqualified by the Director, in
44 accordance with the provisions of this section, may request, in
45 writing, a hearing before the Director and present again the person's



1 check, cash or undertaking and such further evidence with respect to
2 the person's financial responsibility, organization, plant and
3 equipment, or experience, as might tend to justify, in his or her
4 opinion, ~~[issuance to him or her of the plans and specifications]~~
5 *authorizing the person to bid* for the work.

6 5. Such a person may appeal the decision of the Director to the
7 Board no later than 5 days before the opening of the bids on the
8 project. If the appeal is sustained by the Board, the person must be
9 granted the rights and privileges of all other bidders.

10 **Sec. 6.** NRS 408.337 is hereby amended to read as follows:

11 408.337 Except as otherwise provided in NRS 408.3875 to
12 408.3888, inclusive:

13 1. All bids must be accompanied by an undertaking executed
14 by a corporate surety authorized to do business in the State, or by
15 cash or a certified check in an amount equal to at least 5 percent of
16 the amount bid. Such undertaking, cash or check furnished to
17 accompany a bid submitted on-line pursuant to NRS 408.343 must
18 be furnished in accordance with the procedures set forth by the
19 Director.

20 2. If the successful bidder fails to execute the contract in
21 accordance with ~~[his or her]~~ *the successful* bid and give any bond
22 required by law and the contract and bond are not postmarked or
23 delivered to the Department within 20 days after award of the
24 contract, the undertaking, cash or certified check is forfeited and the
25 proceeds must be paid into the State Highway Fund.

26 3. The failure of the successful bidder to furnish any bond
27 required of the bidder by law within the time fixed for ~~[his or her]~~
28 *the bidder's* execution of the contract constitutes a failure to execute
29 the contract.

30 4. If the Director deems it is for the best interests of the State,
31 the Director may, on refusal or failure of the successful bidder to
32 execute the contract, award it to the second lowest responsible
33 bidder. If the second lowest responsible bidder fails or refuses to
34 execute the contract, the Director may likewise award it to the third
35 lowest responsible bidder. On the failure or refusal to execute the
36 contract of the second or third lowest bidder to whom a contract is
37 so awarded, their bidder's security is likewise forfeited to the State.

38 5. The bidder's security of the second and third lowest
39 responsible bidders may be withheld by the Department until the
40 contract has been finally executed and the bond given as required
41 under the provisions of the contract, at which time the security must
42 be returned. The bidder's security submitted by all other
43 unsuccessful bidders must be returned to them within 10 days after
44 the contract is awarded.



1 **Sec. 7.** NRS 408.343 is hereby amended to read as follows:
2 408.343 1. Except as otherwise provided in NRS 408.3875 to
3 408.3888, inclusive:

4 (a) All bids must be submitted:

5 (1) Under sealed cover and received at the address in Nevada
6 stated in the advertisement for bids and must be opened publicly and
7 read at the time stated in the advertisement; or

8 (2) Pursuant to the process of on-line bidding established by
9 the Director.

10 (b) No bids may be received after the time stated in the
11 advertisement even though bids are not opened exactly at the time
12 stated in the advertisement. No bid, whether submitted in
13 accordance with subparagraph (1) or (2) of paragraph (a), may be
14 opened before that time.

15 (c) Any bid may be withdrawn ~~[by request]~~ at any time before
16 the time stated in the advertisement. The withdrawal must be ~~[filed~~
17 ~~with the Director and]~~ executed by the *authorized* bidder . ~~[or the~~
18 ~~bidder's duly authorized representative. The withdrawal may be~~
19 ~~filed electronically.]~~ The withdrawal of a bid does not prejudice the
20 right of the bidder to file a new bid before the time stated in the
21 advertisement.

22 (d) The Department may reject any bid or all bids if, in the
23 opinion of the Department, the bids are unbalanced, incomplete,
24 contain irregularities of any kind or for any good cause.

25 (e) Until the final award of the contract, the Department may
26 reject or accept any bids and may waive technical errors contained
27 in the bids, as may be deemed best for the interests of the State.

28 (f) In awarding a contract, the Department shall make the award
29 to the lowest responsible bidder who has qualified and submitted his
30 or her bid in accordance with the provisions of this chapter.

31 2. The Director may adopt regulations to carry out the
32 provisions of this section.

33 3. As used in this section, "on-line bidding" means a process:

34 (a) That is established by the Director; and

35 (b) By which bidders submit proposals or bids for contracts on a
36 secure website on the Internet or its successor, if any, which is
37 established and maintained by the Department for that purpose.

38 **Sec. 8.** NRS 408.367 is hereby amended to read as follows:

39 408.367 1. ~~[With the approval of the Board, the]~~ *The*
40 Director may receive informal bids and award contracts for highway
41 construction, reconstruction, improvements, and maintenance on
42 projects estimated to cost not in excess of ~~[\$250,000.]~~ *\$750,000.*

43 2. Before ~~[furnishing]~~ any person ~~[proposing to]~~ *may* bid on
44 any solicited ~~[work with the plans and specifications for such]~~ work,
45 the Director shall require from the person a statement, verified under



1 oath, in the form of answers to questions contained in a standard
2 form of questionnaire, which must include information describing:

3 (a) The geographical regions of this State in which the person is
4 willing to perform the public work;

5 (b) The type of license and classification, if any, held by the
6 person; and

7 (c) The state business license held by the person and its
8 expiration date.

9 3. Before awarding a contract pursuant to subsection 1, the
10 Director must:

11 (a) If the estimated cost of the project is ~~[\$50,000 or]~~ less ~~[,]~~
12 *than \$100,000*, solicit a bid from at least one properly licensed
13 contractor; and

14 (b) If the estimated cost of the project is *\$100,000 or more* ~~[than~~
15 ~~\$50,000]~~ but not more than ~~[\$250,000,]~~ *\$750,000*, solicit bids from
16 at least three properly licensed contractors.

17 4. Any bids received in response to a solicitation for bids made
18 pursuant to subsection 3 may be rejected if the Director determines
19 that:

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

22 (b) The bidder is not responsive or responsible; or

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

24 5. At least once each quarter, the Director shall prepare a report
25 detailing, for each project for which a contract for its completion is
26 awarded pursuant to paragraph (b) of subsection 3, if any:

27 (a) The name of the contractor to whom the contract was
28 awarded;

29 (b) The amount of the contract awarded;

30 (c) A brief description of the project; and

31 (d) The names of all contractors from whom bids were solicited.

32 6. A report prepared pursuant to subsection 5 is a public record
33 and must be maintained on file at the principal offices of the
34 Department.

35 7. Except as otherwise provided in NRS 408.354, contracts
36 awarded pursuant to the provisions of this section must be
37 accompanied by bonds and conditioned and executed in the name of
38 the State of Nevada, and must be signed by the Director under the
39 seal of the Department, and by the contracting party or parties. The
40 form and legality of those contracts must be approved by the
41 Attorney General or Chief Counsel of the Department.

42 **Sec. 9.** NRS 408.387 is hereby amended to read as follows:

43 408.387 1. Before making final payment on any contract as
44 provided in this chapter the Director shall cause the ~~[publication]~~
45 *posting* of a notice of the date of final acceptance of the contract for



1 a period of at least 2 weeks ~~in every issue of a newspaper of~~
2 ~~general circulation in the county wherein the major portion of the~~
3 ~~contract work was performed, and such notice may also be~~
4 ~~published each day for a period of at least 10 days in one or more~~
5 ~~daily newspapers of general circulation throughout the State.]~~ *on the*
6 *Internet website of the Department.*

7 2. No final settlement of the contract may be made with the
8 contractor until 30 days after the date of such final acceptance of the
9 contract.

10 **Sec. 10.** NRS 408.3881 is hereby amended to read as follows:

11 408.3881 1. The Department shall not contract with a design-
12 build team with respect to a project unless the Board makes the
13 determinations, at a public meeting, that are required pursuant to
14 NRS 408.388.

15 2. If the Department is required to hold a public meeting
16 pursuant to this section, the Department shall publish notice of the
17 meeting in a newspaper *qualified under chapter 238 of NRS that is*
18 *of general circulation in this state.*

19 **Sec. 11.** NRS 408.3883 is hereby amended to read as follows:

20 408.3883 1. The Department shall advertise for preliminary
21 proposals for the design and construction of a project by a design-
22 build team ~~in a newspaper of general circulation in this State.]~~ *by*
23 *posting a request for preliminary proposals on the Internet website*
24 *of the Department.*

25 2. A request for preliminary proposals ~~published~~ *posted*
26 pursuant to subsection 1 must include, without limitation:

27 (a) A description of the proposed project;

28 (b) Separate estimates of the costs of designing and constructing
29 the project;

30 (c) The dates on which it is anticipated that the separate phases
31 of the design and construction of the project will begin and end;

32 (d) The date by which preliminary proposals must be submitted
33 to the Department, which must not be less than 30 days after the
34 date that the request for preliminary proposals is first ~~published in a~~
35 ~~newspaper~~ *posted* pursuant to subsection 1; and

36 (e) A statement setting forth the place and time in which a
37 design-build team desiring to submit a proposal for the project may
38 obtain the information necessary to submit a proposal, including,
39 without limitation, the information set forth in subsection 3.

40 3. The Department shall maintain at the time and place set
41 forth in the request for preliminary proposals the following
42 information for inspection by a design-build team desiring to submit
43 a proposal for the project:

44 (a) The extent to which designs must be completed for both
45 preliminary and final proposals and any other requirements for the



1 design and construction of the project that the Department
2 determines to be necessary;

3 (b) A list of the requirements set forth in NRS 408.3884;

4 (c) A list of the factors that the Department will use to evaluate
5 design-build teams who submit a proposal for the project, including,
6 without limitation:

7 (1) The relative weight to be assigned to each factor pursuant
8 to NRS 408.3886; and

9 (2) A disclosure of whether the factors that are not related to
10 cost are, when considered as a group, more or less important in the
11 process of evaluation than the factor of cost;

12 (d) Notice that a design-build team desiring to submit a proposal
13 for the project must include with its proposal the information used
14 by the Department to determine finalists among the design-build
15 teams submitting proposals pursuant to subsection 2 of NRS
16 408.3885 and a description of that information;

17 (e) A statement that a design-build team whose prime contractor
18 holds a certificate of eligibility to receive a preference in bidding on
19 public works issued pursuant to NRS 338.1389 or 338.147 and
20 whose members who hold a certificate of registration to practice
21 architecture or a license as a professional engineer and who hold a
22 certificate of eligibility to receive a preference when competing for
23 public works issued pursuant to NRS 338.173 should submit with its
24 proposal a copy of each certificate of eligibility and a signed
25 affidavit that meets the requirements of subsection 1 of NRS
26 338.0117; and

27 (f) A statement as to whether a design-build team that is selected
28 as a finalist pursuant to NRS 408.3885 but is not awarded the
29 design-build contract pursuant to NRS 408.3886 will be partially
30 reimbursed for the cost of preparing a final proposal or best and
31 final offer, or both, and, if so, an estimate of the amount of the
32 partial reimbursement.

33 **Sec. 12.** NRS 408.389 is hereby amended to read as follows:

34 408.389 1. Except as otherwise provided in subsection 2, the
35 Department shall not purchase any equipment which exceeds
36 ~~[\$50,000,]~~ **\$150,000**, unless the purchase is first approved by the
37 Board.

38 2. Before the Board may approve the purchase of any mobile
39 equipment which exceeds ~~[\$50,000,]~~ **\$150,000**, the Department
40 shall:

41 (a) Prepare and present to the Board an analysis of the costs and
42 benefits, including, without limitation, all related personnel costs,
43 that are associated with:

44 (1) Purchasing, operating and maintaining the same item of
45 equipment;



1 (2) Leasing, operating and maintaining the same item of
2 mobile equipment; or

3 (3) Contracting for the performance of the work which would
4 have been performed using the mobile equipment; and

5 (b) Justify the need for the purchase based on that analysis.

6 3. The Board shall not:

7 (a) Delegate to the Director its authority to approve purchases of
8 equipment pursuant to subsection 1; or

9 (b) Approve any purchase of mobile equipment which exceeds
10 ~~[\$50,000]~~ **\$150,000** and for which the Department is unable to
11 provide justification pursuant to subsection 2.

12 **Sec. 13.** NRS 408.507 is hereby amended to read as follows:

13 408.507 1. Except as otherwise provided in subsection 2, real
14 property held in fee or improvements on the property acquired by
15 the Department in advance of the actual construction, reconstruction
16 or improvement of highways or in order to avoid the payment of
17 excessive damages, or held by the Department pending a
18 determination in the future on its use or disposal may be leased or
19 rented by the Department for fair market value in such manner and
20 for such periods as are determined by the Director to be in the best
21 interests of the State.

22 2. The Director may lease to a local government for \$1 per year
23 real property held in fee by the Department that has been acquired
24 by the Department in advance of the actual construction,
25 reconstruction or improvement of highways or held by the
26 Department pending a determination in the future on its use or
27 disposal if:

28 (a) Such real property will be used by the local government for a
29 community garden or urban farm;

30 (b) The local government attests in writing that the local
31 government will prioritize community gardens and urban farms that:

32 (1) Hire at least a portion of the employees from residents of
33 the local community;

34 (2) Provide training for members of the local community to
35 participate in gardening or farming;

36 (3) Allow members of the local community to provide input
37 on the foods grown in the community garden or urban farm; and

38 (4) Collaborate with school garden programs in the
39 surrounding community and encourage students from those school
40 garden programs to participate in the community garden or urban
41 farm; and

42 (c) Such real property will use sources of renewable energy,
43 including, without limitation, solar energy, to operate the
44 community garden or urban farm.



1 3. The Director may lease for fair market value space above
2 and below the established grade line of the highway to state and
3 public agencies and private persons in such manner and for such
4 periods as the Director determines are in the best interest of the
5 State, if:

6 (a) The full use and safety of the highway will not be impaired;

7 (b) Vehicular or pedestrian access to that space will not be
8 required or permitted from the established grade line; and

9 (c) The free flow of traffic on the highway is not interfered with
10 in any way.

11 4. All leases of an interest in real property entered into by the
12 Department before April 1, 1985, are hereby ratified. All other
13 leases entered into pursuant to subsection 3 must be approved by the
14 Board subject to the provisions of subsection 5.

15 5. If the Department receives a proposal to negotiate a lease
16 pursuant to subsection 3, it shall publish ~~[a notice]~~ *for not less than*
17 *2 weeks* in a newspaper ~~[of general circulation at least once a week~~
18 ~~for 2 weeks.]~~ *qualified under chapter 238 of NRS that is published*
19 *in the county in which the property to be leased is located, a notice*
20 stating that it has received the proposal and that it will receive other
21 proposals for use of the space for 60 days after the completion of the
22 publication. A copy of the notice must be mailed to each local
23 governmental unit in the affected area. If the property is leased, it
24 must be to the highest bidder for the space. The requirements for
25 publication and notice do not apply if the proposal was received
26 from an owner who controls the property on both sides of the
27 highway.

28 6. All money received for leases and rentals must be deposited
29 with the State Treasurer to be credited to the State Highway Fund.

30 **Sec. 14.** NRS 408.533 is hereby amended to read as follows:

31 408.533 1. Except as otherwise provided in NRS 37.270, all
32 real property, interests therein or improvements thereon and
33 personal property acquired before, on or after April 1, 1957, in
34 accordance with the provisions of NRS 408.487 and 408.489 must,
35 after approval by the Board and if no longer needed for highway
36 purposes, be disposed of by the Director in accordance with the
37 provisions of subsection 2, except that:

38 (a) When the property was originally donated to the State, no
39 charge may be made if it is returned to the original owner or to the
40 holder of the reversionary right.

41 (b) When the property has been wholly or partially paid for by
42 towns, cities or counties, disposal of the property and of money
43 received therefor must be agreed upon by the governing bodies of
44 the towns, cities and counties and the Department.



1 (c) When the title to the real property has been acquired in fee
2 pursuant to NRS 408.487 and 408.489 and, in the opinion of the
3 Board, a sale by means of a public auction or sealed bids is
4 uneconomical or impractical because:

5 (1) There is no access to the property;

6 (2) The property has value or an increased value only to a
7 single adjoining property owner; or

8 (3) Such a sale would work an undue hardship upon a
9 property owner as a result of a severance of the property of that
10 owner or a denial of access to a public highway,

11 ➤ the Board may enter into a direct sale of the property with such
12 an owner or any other person for its fair market value.

13 (d) When the property has been acquired and the property or any
14 portion of the property is no longer needed for highway purposes,
15 the Department shall give notice of its intention to dispose of the
16 property by publication in a newspaper ~~[of general circulation]~~
17 *qualified under chapter 238 of NRS that is published* in the county
18 where the property is situated. The notice must include the
19 Department's appraisal of the fair market value of the property. Any
20 person from whom the property was purchased or the person's heir
21 or grantee may purchase the property at its fair market value by
22 direct sale from the Department within 60 days after the notice is
23 published. If more than one person qualified to purchase the
24 property by direct sale pursuant to this paragraph so requests, the
25 person with the superior claim, as determined by the Department in
26 its sole discretion, is entitled to purchase the property by direct sale.
27 If a person who is entitled to purchase the property by direct sale
28 pursuant to this paragraph reasonably believes that the Department's
29 appraisal of the property is greater than the fair market value of the
30 property, the person may file an objection to the appraisal with the
31 Department. The Department shall set forth the procedure for filing
32 an objection and the process under which a final determination will
33 be made of the fair market value of the property for which an
34 objection is filed. The Department shall sell the property in the
35 manner provided in subsection 2 if:

36 (1) No person requests to purchase the property by direct sale
37 within 60 days after the notice is published pursuant to this
38 paragraph; or

39 (2) A person who files an objection pursuant to this
40 paragraph fails, within 10 business days after receipt of a written
41 notice of the final determination of the fair market value of the
42 property, to notify the Department in writing that he or she wishes to
43 purchase the property at the fair market value set forth in the notice.



1 (e) When the property is sought by another public agency for a
2 reasonable public use, the Department may first offer the property to
3 the public agency at its fair market value.

4 2. All property, interests or improvements not included within
5 the provisions of subsection 1 must first be offered for sale by the
6 Department singly or in combination at public auction or by sealed
7 bids. If the highest bid received is 90 percent or more of the
8 Department's appraisal of the fair market value of the property, the
9 property may be sold to the highest bidder. The notice and the terms
10 of the sale must be published in a newspaper ~~{of general circulation~~
11 ~~in the county where the property is situated.}~~ *qualified under*
12 *chapter 238 of NRS.* The auctions and openings of bids must be
13 conducted by the Department. If the property cannot be sold for 90
14 percent or more of its fair market value, the Department may enter
15 into a written listing agreement with a person licensed pursuant to
16 chapter 645 of NRS to sell or lease the property for 90 percent or
17 more of its fair market value.

18 3. It is conclusively presumed in favor of the Department and
19 any purchaser for value that the Department acted within its lawful
20 authority in acquiring and disposing of the property, and that the
21 Director acted within his or her lawful authority in executing any
22 conveyance vesting title in the purchaser. All such conveyances
23 must be quitclaim in nature and the Department shall not warrant
24 title, furnish title insurance or pay the tax on transfer of real
25 property.

26 4. No person has a right of action against the Department or its
27 employees for a violation of this section. This subsection does not
28 prevent an action by the Attorney General on behalf of the State of
29 Nevada or any aggrieved person.

30 5. All sums of money received by the Department for the sale
31 of real and personal property must be deposited with the State
32 Treasurer to be credited to the State Highway Fund, unless the
33 Federal Highway Administration participated in acquisition of the
34 property, in which case a pro rata share of the money obtained by
35 disposal of the property must be paid to the Federal Highway
36 Administration.

37 6. The Department may reserve and except easements, rights or
38 interests from the conveyance of any real property disposed of in
39 accordance with this section or exchanged pursuant to subsection 5
40 of NRS 408.489. The easements, rights or interests include, but are
41 not limited to:

- 42 (a) Abutter's rights of light, view or air.
- 43 (b) Easements of access to and from abutting land.



1 (c) Covenants prohibiting the use of signs, structures or devices
2 advertising activities not conducted, services not rendered or goods
3 not produced or available on the real property.

4 **Sec. 15.** NRS 408.537 is hereby amended to read as follows:

5 408.537 1. Upon receipt of an application for consent to
6 close a public road on public land, the Department shall give written
7 notice of the application to the planning agencies of the local
8 governments, within 1 week after its receipt of the application.

9 2. Each planning agency so notified shall within 45 days after
10 the notice is sent hold a public hearing on the application at the
11 place where it normally meets. If the road is located within the
12 jurisdiction of two or more planning agencies, each of those
13 agencies must hold a hearing.

14 3. Each planning agency shall notify the public and every
15 person known to have a vested private right-of-way over the road
16 for the purpose of grazing, mining or any other purpose for which
17 such a private right vests, by publication in one issue of a newspaper
18 ~~[of general circulation published in each of the counties in which the~~
19 ~~land is located]~~ *qualified under chapter 238 of NRS* and by mailing
20 to the last known address of each private user of the road. The
21 notice must be published at least 20 days before the date set for the
22 hearing and set forth the location of the road and the purpose for
23 closing it as stated in the application. The cost of publishing the
24 notice must be borne by the United States or by someone in its
25 behalf.

26 4. The planning agency shall deliver its written
27 recommendation on the application, including the reasons for its
28 recommendation, to the Department within 15 days after the
29 conclusion of its hearing on the application.

30 5. The application must contain such information and
31 supporting documents as are prescribed in regulations adopted by
32 the Department with the approval of the Board.

33 **Sec. 16.** This act becomes effective upon passage and
34 approval.

