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A.B. 598

ASSEMBLY BILL NO. 598—COMMITTEE ON WAYS AND MEANS

MARCH 17, 1999

Referred to Concurrent Committees on Government Affairs
and Ways and Means

SUMMARY—Revises provisions regarding public works projects. (BDR 28-1669)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: 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 public works; providing in skeleton form for the revision of provisions governing public works projects; requiring the state public works board to certify persons as experts in accessible design; requiring the submission of plans and specifications for public buildings and facilities to the state public works board to ensure compliance with certain federal requirements; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 338.180 is hereby amended to read as follows:
2 338.180 1. The legislature of the State of Nevada declares that:
3 (a) The primary purpose of this section is to provide, subject to the
4 limitations set forth in this section, for the removal and elimination of
5 architectural barriers to the physically handicapped in public buildings and
6 facilities designed after July 1, 1973, in order to encourage and facilitate
7 the employment of the physically handicapped and to make public
8 buildings accessible to and usable by the physically handicapped; and
9 (b) It is the intent of the legislature that insofar as possible all buildings
10 and facilities used by the public be accessible to, and functional for, the
11 physically handicapped, without loss of function, space or facility where
12 the general public is concerned.
13 2. ***The state public works board shall certify qualified persons to***
14 ***serve as experts in accessible design.***

1 **3.** All plans and specifications for the construction of public buildings
2 and facilities by the state or by a political subdivision, district, authority,
3 board or public corporation or entity of the state after July 1, 1973, must
4 provide facilities and features for the physically handicapped so that
5 buildings which are normally used by the public are constructed with
6 entrance ramps, toilet facilities, drinking fountains, doors and public
7 telephones accessible to and usable by the physically handicapped. Such
8 *plans and specifications must be submitted before the commencement of*
9 *construction to the state public works board for review by an expert in*
10 *accessible design. Upon receipt of the plans and specifications, the expert*
11 *shall review the plans and specifications to determine whether they*
12 *comply with the applicable requirements of the Fair Housing Act, 42*
13 *U.S.C. §§ 3601 et seq., the Americans with Disabilities Act of 1990, 42*
14 *U.S.C. §§ 12101 et seq. and the Minimum Guidelines and Requirements*
15 *for Accessible Design, 36 C.F.R. §§ 1190.1 et seq. If the plans and*
16 *specifications comply with the federal requirements, the expert shall*
17 *notify the state public works board of that compliance and provide his*
18 *written approval for the project to commence. The expert may physically*
19 *inspect the project during and after construction to ensure actual*
20 *compliance with the Fair Housing Act, the Americans with Disabilities*
21 *Act of 1990 and the Minimum Guidelines and Requirements for*
22 *Accessible Design. The state public works board may impose a*
23 *reasonable fee to cover the costs of the expert in reviewing plans and*
24 *specifications and conducting any necessary physical inspections of a*
25 *project.*

26 **4.** All buildings and facilities must conform with the *applicable*
27 *requirements of the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., the*
28 *Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq. and*
29 *the Minimum ~~[Federal]~~ Guidelines and Requirements for Accessible*
30 *Design, ~~[as issued by the United States Architectural and Transportation~~*
31 *~~Barriers Compliance Board in the Federal Register of January 16, 1981.]~~*
32 *36 C.F.R. §§ 1190.1 et seq.*

33 **Sec. 2.** NRS 341.161 is hereby amended to read as follows:

34 341.161 1. The board may, with the approval of the interim finance
35 committee when the legislature is not in regular or special session, or with
36 the approval of the legislature by concurrent resolution when the
37 legislature is in regular or special session, let to a contractor *who is an*
38 *eligible bidder and* licensed under chapter 624 of NRS a contract for
39 services which assist the architect in the design of a project of capital
40 improvement. The board shall for that purpose participate in the
41 development of plans, outlines of specifications and estimates of costs.

1 2. The board shall adopt regulations establishing procedures for:

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

4 (b) The bidding and awarding of such contracts, subject to the
5 provisions of subsection 3.

6 (c) The awarding of construction contracts, subject to the provisions of
7 subsection 4, based on a final cost of the project which the contractor
8 guarantees will not be exceeded.

9 (d) The scheduling and controlling of projects.

10 3. Bids on contracts for services which assist the architect in the design
11 of a project of capital improvement must state separately the contractor's
12 cost for:

13 (a) Assisting the architect in the design of the project.

14 (b) Obtaining all bids for subcontracts.

15 (c) Administering the construction contract.

16 4. A contractor who is:

17 (a) Qualified under the regulations of the board to bid for a contract for
18 services described in subsection 1; and

19 (b) Awarded that contract,

20 is entitled to be awarded the construction contract for the project if his
21 work under the contract for services is satisfactory to the board and he
22 guarantees a final cost for the project which the board is willing to accept.

23 5. A person who furnishes services under a contract awarded pursuant
24 to subsection 1 is a contractor subject to all provisions pertaining to a
25 contractor in Title 28 of NRS.

26 6. *As used in this section, "eligible bidder" means a person whom, in*
27 *the judgment of the board, is a responsible contractor.*

28 **Sec. 3.** NRS 341.171 is hereby amended to read as follows:

29 341.171 1. The board may, with the approval of the interim finance
30 committee when the legislature is not in regular or special session, or with
31 the approval of the legislature by concurrent resolution when the
32 legislature is in regular or special session, let to a contractor *who is an*
33 *eligible bidder and* licensed under chapter 624 of NRS a single contract for
34 both the design and construction of a project of capital improvement. The
35 board shall for the purpose prepare a comprehensive sketch plan and
36 narrative of the scope of the work involved in a project.

37 2. The board shall adopt regulations establishing procedures for:

38 (a) The determination of the qualifications of contractors to bid for
39 contracts for the design and construction of such projects. The board shall
40 consult with the American Institute of Architects and the Associated
41 General Contractors, or the successor of either if the named organization
42 ceases to exist, before adopting procedures under this paragraph.

1 (b) The board's approval of designs and architects employed in a
2 project.

3 (c) The bidding and awarding of contracts for the design and
4 construction of projects based on a final cost of the project which the
5 contractor guarantees will not be exceeded.

6 (d) The scheduling and controlling of projects.

7 **3. As used in this section, "eligible bidder" means a person whom, in**
8 **the judgment of the board, is a responsible contractor.**

9 **Sec. 4.** NRS 393.110 is hereby amended to read as follows:

10 393.110 1. Except as otherwise provided in subsection 2:

11 (a) Unless standard plans, designs and specifications are to be used as
12 provided in NRS 385.125, before letting any contract or contracts for the
13 erection of any new school building, the board of trustees of a school
14 district shall submit plans, designs and specifications therefor to ~~and~~
15 ~~obtain the written approval of the plans, designs and specifications by~~ the
16 state public works board. **The state public works board shall provide a**
17 **copy of the plans, designs and specifications to an expert in accessible**
18 **design who is certified by the state public works board pursuant to NRS**
19 **338.180. The expert shall review the plans, designs and specifications to**
20 **determine whether they comply with the applicable requirements of the**
21 **Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq. and**
22 **the Minimum Guidelines and Requirements for Accessible Design, 36**
23 **C.F.R. §§ 1190.1 et seq. If the plans, designs and specifications comply**
24 **with the federal requirements, the expert shall notify the state public**
25 **works board of that compliance and provide his written approval for the**
26 **project to commence. The expert may physically inspect the project**
27 **during and after construction to ensure actual compliance with the**
28 **Americans with Disabilities Act of 1990 and the Minimum Guidelines**
29 **and Requirements for Accessible Design.** The state public works board is
30 authorized to charge and collect, and the board of trustees is authorized to
31 pay, a reasonable fee for the payment of any costs incurred by the state
32 public works board in securing the approval of **an expert in accessible**
33 **design and** qualified architects or engineers of the plans, designs and
34 specifications submitted by the board of trustees in compliance with the
35 provisions of this paragraph.

36 (b) Before letting any contract or contracts for any addition to or
37 alteration of an existing school building which involves structural systems,
38 or exiting, sanitary or fire protection facilities, the board of trustees of a
39 school district shall submit plans, designs and specifications therefor to
40 ~~and obtain the written approval of the plans, designs and specifications~~
41 ~~by~~ the state public works board. **The state public works board shall**
42 **provide a copy of the plans, designs and specifications to an expert in**
43 **accessible design who is certified by the state public works board**

1 *pursuant to NRS 338.180. The expert shall review the plans, designs and*
2 *specifications to determine whether they comply with the applicable*
3 *requirements of the Americans with Disabilities Act of 1990, 42 U.S.C.*
4 *§§ 12101 et seq. and the Minimum Guidelines and Requirements for*
5 *Accessible Design, 36 C.F.R. §§ 1190.1 et seq. If the plans, designs and*
6 *specifications comply with the federal requirements, the expert shall*
7 *notify the state public works board of that compliance and provide his*
8 *written approval for the project to commence. The expert may physically*
9 *inspect the project during and after construction to ensure actual*
10 *compliance with the Americans with Disabilities Act of 1990 and the*
11 *Minimum Guidelines and Requirements for Accessible Design.* The state
12 public works board is authorized to charge and collect, and the board of
13 trustees is authorized to pay, a reasonable fee for the payment of any costs
14 incurred by the state public works board in securing the approval of **an**
15 **expert in accessible design and** qualified architects or engineers of the
16 plans, designs and specifications submitted by the board of trustees in
17 compliance with the provisions of this paragraph.

18 ~~{The state public works board shall ensure that all plans, designs and~~
19 ~~specifications that it reviews pursuant to this section comply with all~~
20 ~~applicable requirements of the Americans with Disabilities Act of 1990 (42~~
21 ~~U.S.C. §§ 12101 to 12213, inclusive).}~~

22 2. Upon the request of a board of trustees of a school district, or its
23 designated representative, the state public works board may waive the
24 requirements specified in subsection 1 and delegate its powers and duties
25 thereunder to the district.

26 3. If the state public works board waives the requirements of
27 subsection 1 and delegates its powers and duties thereunder to a school
28 district, the school district shall submit a copy of its final plans, designs
29 and specifications for any project to which that section applies to the
30 building and planning department of the appropriate city or county before
31 completion of the project.

32 4. No contract for any of the purposes specified in subsection 1 made
33 by a board of trustees of a school district contrary to the provisions of this
34 section is valid, nor ~~{shall}~~ **may** any public money be paid for erecting,
35 adding to or altering any school building in contravention of this section.