

Senate Bill No. 341–Committee on Government Affairs

CHAPTER.....

AN ACT relating to local governmental purchasing; limiting the time certain local governments are required to maintain a record of requests for bids and bids received; authorizing the authorized representative of a local government to let contracts in an emergency and to assign awarded contracts; authorizing local governments to reaward contracts; prohibiting the sale of personal property of a local government unless the property is no longer required for public use; authorizing local governments to join or use the contracts of the State of Nevada; and providing other matters properly relating thereto.

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

Section 1. NRS 332.039 is hereby amended to read as follows:

332.039 1. Except as otherwise provided by specific statute:

(a) A governing body or its authorized representative in a county whose population is 100,000 or more shall advertise all contracts for which the estimated amount required to perform the contract exceeds \$25,000.

(b) Such a governing body or its authorized representative may enter into a contract of any nature without advertising if the estimated amount required to perform the contract is \$25,000 or less.

(c) If the estimated amount required to perform the contract is more than \$10,000 but not more than \$25,000, requests for bids must be submitted to two or more persons capable of performing the contract, if available. The governing body or its authorized representative shall maintain a

~~{permanent}~~ record of all requests for bids and all bids received ~~{-~~
~~2. Nothing in this section prohibits} for at least 7 years after the date of execution of the contract.~~

2. This section does not prohibit a governing body or its authorized representative from advertising for or requesting bids regardless of the estimated amount to perform the contract.

Sec. 2. NRS 332.055 is hereby amended to read as follows:

332.055 1. For the purposes of this section, an “emergency” is one which:

(a) Results from the occurrence of a disaster ~~{such as,}~~ **including**, but not limited to, fire, flood, hurricane, riot, power outage or disease; or

(b) May lead to impairment of the health, safety or welfare of the public if not immediately attended to.

2. If the **authorized representative**, chief administrative officer or ~~{the}~~ governing body of the local government determines that an emergency exists affecting the public health, safety or welfare, a contract or contracts necessary to contend with ~~{such}~~ **the** emergency may be let without complying with the requirements of this chapter. If such emergency action was taken by the **authorized representative or** chief administrative officer,

he shall report it to the governing body at its next regularly scheduled meeting.

Sec. 3. NRS 332.065 is hereby amended to read as follows:

332.065 1. ~~When~~ **If** a governing body or its authorized representative has advertised for or requested bids in letting a contract, the award must, except as otherwise provided in subsection 2, be made to the lowest responsive and responsible bidder. The lowest responsive and responsible bidder must be judged on the basis of price, conformance to specifications, bidders' qualifications, including the bidders' past performance in such matters, quality and utility of services, supplies, materials or equipment offered and their adaptability to the required purpose and in the best interest of the public, each of the factors being considered.

2. The governing body:

(a) Shall give preference to recycled products if:

- (1) The product meets the applicable standards;
- (2) The product can be substituted for a comparable nonrecycled product; and
- (3) The product costs no more than a comparable nonrecycled product.

(b) May give preference to recycled products if:

- (1) The product meets the applicable standards;
- (2) The product can be substituted for a comparable nonrecycled product; and
- (3) The product costs no more than 5 percent more than a comparable nonrecycled product.

(c) May purchase recycled paper products if the specific recycled paper product is:

- (1) Available at a price **which is** not more than 10 percent higher than that of paper products made from virgin material;
- (2) Of adequate quality; and
- (3) Available to the purchaser within a reasonable period.

3. If after the lowest responsive and responsible bidder has been awarded the contract, during the term of the contract he does not supply goods or services in accordance with the bid specifications, or if he repudiates the contract, the governing body ~~{of any hospital}~~ may reaward the contract to the next lowest responsive and responsible bidder without requiring that new bids be submitted. Reawarding the contract to the next lowest responsive and responsible bidder is not a waiver of any liability of the initial bidder awarded the contract.

4. As used in this section:

(a) "Post-consumer waste" means a finished material which would normally be disposed of as a solid waste having completed its life cycle as a consumer item.

(b) "Recycled paper product" means all paper and wood-pulp products containing in some combination at least 50 percent of its total weight:

- (1) Post-consumer waste; and
- (2) Secondary waste,

but does not include fibrous waste generated during the manufacturing process such as fibers recovered from waste water or trimmings of paper machine rolls, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

(c) "Secondary waste" means fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value.

Sec. 4. NRS 332.095 is hereby amended to read as follows:

332.095 1. No contract awarded may be assigned to any other person without the consent of the governing body ~~or its authorized representative.~~

2. No contract awarded or any portion thereof may be assigned to any person who was declared by the governing body not to be a responsible person to perform the particular contract.

Sec. 5. NRS 332.115 is hereby amended to read as follows:

332.115 1. Contracts which by their nature are not adapted to award by competitive bidding, including contracts for:

- (a) Items which may only be contracted from a sole source;
- (b) Professional services;
- (c) Additions to and repairs and maintenance of equipment which may be more efficiently added to, repaired or maintained by a certain person;
- (d) Equipment which, by reason of the training of the personnel or of an inventory of replacement parts maintained by the local government is compatible with existing equipment;
- (e) ~~Purchases of perishable goods by a county or district hospital;~~ **Perishable goods;**
- (f) Insurance;
- (g) Hardware and associated peripheral equipment and devices for computers;
- (h) Software for computers;
- (i) Books, library materials and subscriptions;
- (j) Motor vehicle fuel purchased by a local law enforcement agency for use in an undercover investigation;
- (k) Motor vehicle fuel for use in a vehicle operated by a local law enforcement agency or local fire department if such fuel is not available within the vehicle's assigned service area from a fueling station owned by the State of Nevada or a local government;
- (l) Purchases made with money in a store fund for prisoners in a jail or local detention facility for the provision and maintenance of a canteen for the prisoners; ~~and~~
- (m) Supplies, materials or equipment that are available from the General Services Administration or another governmental agency in the regular course of its business ~~or~~ **; and**

(n) Items for resale through a retail outlet operated in this state by a local government or the State of Nevada,

are not subject to the requirements of this chapter for competitive bidding as determined by the governing body or its authorized representative.

2. The purchase of equipment for use by a local law enforcement agency in the course of an undercover investigation is not subject to the requirements of this chapter for competitive bidding if:

(a) The equipment is an electronic or mechanical device which by design is intended to monitor and document in a clandestine manner suspected criminal activity; and

(b) Purchasing the equipment pursuant to such requirements would limit or compromise the use of such equipment by an agency authorized to conduct such investigations.

3. The governing body of a hospital required to comply with the provisions of this chapter, or its authorized representative, may purchase goods commonly used by the hospital, under a contract properly awarded pursuant to NRS 332.065, without additional competitive bidding even if at the time the contract was awarded:

(a) The vendor supplying such goods to the person awarded the contract was not identified as a supplier to be used by the person awarded the contract; or

(b) The vendor was identified as a supplier but was not identified as the supplier of such goods.

The governing body of the hospital shall make available for public inspection each such contract and records related to those purchases.

4. Except in cases of emergency, at least 60 days before the expiration of an existing contract for insurance in which the local government is the insured, the governing body shall cause to be given, by advertising or in another manner deemed adequate and desirable by the governing body, notice of the date the contract for insurance expires.

5. ~~{Nothing in this section prohibits}~~ ***This section does not prohibit*** a governing body or its authorized representative from advertising for or requesting bids.

Sec. 6. NRS 332.148 is hereby amended to read as follows:

332.148 1. Except as ***otherwise*** provided in subsection 2, when a governing body or its authorized representative has advertised for or requested bids in letting a contract and no responsible bids are received, the governing body ***or its authorized representative*** may let the contract without competitive bidding not less than 7 days after it publishes a notice stating that no bids were received on the contract and that the contract may be let without further bidding.

2. A governing body or its authorized representative shall entertain any bid which is submitted after it publishes ***such*** notice and before the expiration of the waiting period.

Sec. 7. NRS 332.175 is hereby amended to read as follows:

332.175 When purchasing personal property, the governing body or its authorized representative may solicit and accept advantageous trade-in allowances for personal property of the public entity which has been determined by the governing body *or its authorized representative* to be no longer required for public use, and may award any bid to the bidder submitting the lowest net bid after deduction of ~~[such]~~ *the* trade-in allowance.

Sec. 8. NRS 332.185 is hereby amended to read as follows:

332.185 1. Except as otherwise provided in NRS 334.070, all sales or leases of personal property of the local government must be made, as nearly as possible, under the same conditions and limitations as required by this chapter in the purchase of personal property. ~~[; but the]~~ *The* governing body or its authorized representative may sell any such personal property at public auction if it *determines that the property is no longer required for public use and* deems such a sale desirable and in the best interests of the local government.

2. The provisions of this chapter do not apply to the purchase, sale, lease or transfer of real property by the governing body.

Sec. 9. NRS 332.195 is hereby amended to read as follows:

332.195 *1.* Local governments and the State of Nevada may join or use the contracts of other local governments within this state with the authorization of the contracting vendor. The originally contracting local government is not liable for the obligations of the local government which joins or uses the contract.

2. Local governments may join or use the contracts of the State of Nevada with the authorization of the contracting vendor. The State of Nevada is not liable for the obligations of the local government which joins or uses the contract.

Sec. 10. Section 5 of this act becomes effective at 12:01 a.m. on October 1, 1999.

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