
SENATE BILL NO. 413—SENATOR JACOBSEN (BY REQUEST)

MARCH 15, 1999

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to state public works board. (BDR 28-1042)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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

AN ACT relating to public works; exempting the state public works board from the competitive bidding process for awarding certain contracts; revising the duties of the manager of the board; authorizing the manager of the board to charge fees for certain services; authorizing the manager of the board to delegate certain powers; clarifying that the board is the final authority to review certain plans and conduct certain inspections with regard to construction on certain buildings; 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 338.143 is hereby amended to read as follows:
2 338.143 1. Except as otherwise provided in subsection 6 and NRS
3 338.1906 and 338.1907, an agency or political subdivision of the state, or a
4 public officer, public employee or other person responsible for awarding a
5 contract for the construction, alteration or repair of a public work, shall not:
6 (a) Commence such a project, for which the estimated cost exceeds
7 \$100,000, unless it advertises in a newspaper of general circulation in the
8 state for bids for the project; or
9 (b) Divide such a project into separate portions to avoid the
10 requirements of paragraph (a).
11 2. Except as otherwise provided in subsection 6, a public body that
12 maintains a list of properly licensed contractors who are interested in
13 receiving offers to bid on public works projects for which the estimated
14 cost is more than \$25,000 but less than \$100,000 shall solicit bids from not
15 more than three of the contractors on the list for a contract of that value for
16 the construction, alteration or repair of a public work. The public body

1 shall select contractors from the list in such a manner as to afford each
2 contractor an equal opportunity to bid on a public works project. A
3 properly licensed contractor must submit a written request annually to the
4 public body to remain on the list. Offers for bids which are made pursuant
5 to this subsection must be sent by certified mail.

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

10 4. Any or all bids received in response to an advertisement for bids
11 may be rejected if the person responsible for awarding the contract
12 determines that:

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

14 (b) The quality of the services, materials, equipment or labor offered
15 does not conform to the approved plan or specifications; or

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

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

22 (a) A list of all persons, including supervisors, who the agency or
23 political subdivision intends to assign to the project, together with their
24 classifications and an estimate of the direct and indirect costs of their labor;

25 (b) A list of all equipment that the agency or political subdivision
26 intends to use on the project, together with an estimate of the number of
27 hours each item of equipment will be used and the hourly cost to use each
28 item of equipment;

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

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

32 (e) An estimate of the amount of money the agency or political
33 subdivision expects to save by rejecting the bids and performing the project
34 itself.

35 6. This section does not apply to:

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

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

39 (c) Normal maintenance of the property of a school district; ~~or~~

40 (d) The Las Vegas Valley water district created pursuant to chapter 167,
41 Statutes of Nevada 1947 ~~H~~; **or**

42 **(e) The state public works board when selecting a contractor pursuant**
43 **to** **NRS** **341.161.**

1 **Sec. 2.** NRS 338.143 is hereby amended to read as follows:

2 338.143 1. Except as otherwise provided in subsection 6, an agency
3 or political subdivision of the state, or a public officer, public employee or
4 other person responsible for awarding a contract for the construction,
5 alteration or repair of a public work, shall not:

6 (a) Commence such a project, for which the estimated cost exceeds
7 \$100,000, unless it advertises in a newspaper of general circulation in the
8 state for bids for the project; or

9 (b) Divide such a project into separate portions to avoid the
10 requirements of paragraph (a).

11 2. Except as otherwise provided in subsection 6, a public body that
12 maintains a list of properly licensed contractors who are interested in
13 receiving offers to bid on public works projects for which the estimated
14 cost is more than \$25,000 but less than \$100,000 shall solicit bids from not
15 more than three of the contractors on the list for a contract of that value for
16 the construction, alteration or repair of a public work. The public body
17 shall select contractors from the list in such a manner as to afford each
18 contractor an equal opportunity to bid on a public works project. A
19 properly licensed contractor must submit a written request annually to the
20 public body to remain on the list. Offers for bids which are made pursuant
21 to this subsection must be sent by certified mail.

22 3. Approved plans and specifications for the bids must be on file at a
23 place and time stated in the advertisement for the inspection of all persons
24 desiring to bid thereon and for other interested persons. Contracts for the
25 project must be awarded on the basis of bids received.

26 4. Any or all bids received in response to an advertisement for bids
27 may be rejected if the person responsible for awarding the contract
28 determines that:

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

30 (b) The quality of the services, materials, equipment or labor offered
31 does not conform to the approved plan or specifications; or

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

33 5. Before an agency or political subdivision of the state may commence
34 a project subject to the provisions of this section, based upon a
35 determination that the public interest would be served by rejecting any bids
36 received in response to an advertisement for bids, it shall prepare and make
37 available for public inspection a written statement containing:

38 (a) A list of all persons, including supervisors, who the agency or
39 political subdivision intends to assign to the project, together with their
40 classifications and an estimate of the direct and indirect costs of their labor;

41 (b) A list of all equipment that the agency or political subdivision
42 intends to use on the project, together with an estimate of the number of

1 hours each item of equipment will be used and the hourly cost to use each
2 item of equipment;

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

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

6 (e) An estimate of the amount of money the agency or political
7 subdivision expects to save by rejecting the bids and performing the project
8 itself.

9 6. This section does not apply to:

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

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

13 (c) Normal maintenance of the property of a school district; ~~for~~

14 (d) The Las Vegas Valley water district created pursuant to chapter 167,
15 Statutes of Nevada 1947 ~~H~~; or

16 *(e) The state public works board when selecting a contractor pursuant*
17 *to NRS 341.161.*

18 **Sec. 3.** NRS 341.100 is hereby amended to read as follows:

19 341.100 1. The board may appoint a manager. The manager, with the
20 approval of the board, may appoint a deputy for professional services and a
21 deputy for administrative, fiscal and constructional services. In addition,
22 the manager may appoint such other technical and clerical assistants as may
23 be necessary to carry into effect the provisions of this chapter.

24 2. The manager and his deputies are in the unclassified service of the
25 state. Except as otherwise provided in NRS 284.143, the manager and each
26 deputy shall devote his entire time and attention to the business of his office
27 and shall not pursue any other business or occupation or hold any other
28 office of profit.

29 3. The manager and his deputy for professional services must each be a
30 licensed professional engineer pursuant to the provisions of chapter 625 of
31 NRS or an architect registered pursuant to the provisions of chapter 623 of
32 NRS. The deputy manager for administrative, fiscal and constructional
33 services must have a comprehensive knowledge of principles of
34 administration and a working knowledge of principles of engineering or
35 architecture as determined by the board.

36 4. The manager shall:

37 (a) Serve as the secretary of the board.

38 (b) Manage the daily affairs of the board.

39 (c) Represent the board before the legislature.

40 (d) Prepare and submit to the board, for its approval, the recommended
41 priority for proposed capital improvement projects and provide the board
42 with an estimate of the cost of each project.

1 (e) Make recommendations to the board for the selection of architects,
2 engineers and contractors.

3 (f) Make recommendations to the board concerning the acceptance of
4 completed projects.

5 (g) Advise the board and the legislature, or the interim finance
6 committee if the legislature is not in session, on a monthly basis of the
7 progress of all public works projects which are a part of the approved
8 capital improvement program.

9 **5. The manager is ex officio the state building officer, and when**
10 **acting in that capacity, shall:**

11 **(a) Review and approve the architecture, plans, designs, types of**
12 **construction and major repairs of; and**

13 **(b) Supervise and inspect such construction and repairs of,**
14 **buildings constructed on state property or for which money has been**
15 **appropriated by the legislature, except buildings excluded pursuant to**
16 **subsection 1 of NRS 341.141. Except as otherwise provided in subsection**
17 **6 of NRS 341.145, the state building officer may charge a reasonable fee**
18 **for services performed pursuant to this subsection. The state building**
19 **officer may delegate the powers conferred pursuant to this subsection to**
20 **a political subdivision of this state.**

21 **Sec. 4.** NRS 341.145 is hereby amended to read as follows:

22 341.145 The board:

23 1. After consulting with the interim finance committee, has final
24 authority for approval as to the architecture , ~~{of all buildings,}~~ plans,
25 designs, types of construction, **and major repairs of buildings constructed**
26 **on state property or for which money has been appropriated by the**
27 **legislature, except buildings excluded pursuant to subsection 1 of NRS**
28 **341.141, and for approval of** designs of landscaping ~~{-}~~ **for property upon**
29 **which such buildings are located.**

30 2. Shall determine whether any rebates are available from a public
31 utility for installing devices in any state building which are designed to
32 decrease the use of energy in the building. If such a rebate is available, the
33 board shall apply for the rebate.

34 3. Shall solicit bids for and let all contracts for new construction or
35 major repairs.

36 4. May negotiate with the lowest responsible bidder on any contract to
37 obtain a revised bid if:

38 (a) The bid is less than the appropriation made by the legislature for that
39 building project; and

40 (b) The bid does not exceed the relevant budget item for that building
41 project as established by the board by more than 10 percent.

42 5. May reject any or all bids.

1 6. After the contract is let, shall supervise and inspect construction and
2 major repairs. The cost of supervision and inspection must be financed
3 from the capital construction program approved by the legislature.

4 7. May authorize change orders, before or during construction:

5 (a) In any amount, where the change represents a reduction in the
6 awarded contract price.

7 (b) Not to exceed in the aggregate 10 percent of the total awarded
8 contract price, where the change represents an increase in that price.

9 8. Has final authority to accept each building as completed or to
10 require necessary alterations to conform to the contract, and to file the
11 notice of completion.

12 **Sec. 5.** NRS 341.161 is hereby amended to read as follows:

13 341.161 1. The board may ~~[, with the approval of the interim finance~~
14 ~~committee when the legislature is not in regular or special session, or with~~
15 ~~the approval of the legislature by concurrent resolution when the legislature~~
16 ~~is in regular or special session,]~~ let to a contractor licensed under chapter
17 624 of NRS a contract for services which assist the architect in the design
18 of a project of capital improvement. The board shall for that purpose
19 participate in the development of plans, outlines of specifications and
20 estimates of costs.

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

22 (a) The determination of the qualifications of contractors ~~[to bid]~~ for
23 contracts for services described in subsection 1.

24 (b) The ~~[bidding and]~~ awarding of such contracts, subject to the
25 provisions of subsection 3.

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

29 (d) The scheduling and controlling of projects.

30 3. ~~[Bids on contracts]~~ **Contracts** for services which assist the architect
31 in the design of a project of capital improvement must state separately the
32 contractor's cost for:

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

34 (b) Obtaining all bids for subcontracts.

35 (c) Administering the construction contract.

36 4. A contractor who is:

37 (a) Qualified under the regulations of the board to ~~[bid]~~ **compete** for a
38 contract for services described in subsection 1; and

39 (b) Awarded that contract,
40 is entitled to be awarded the construction contract for the project if his
41 work under the contract for services is satisfactory to the board and he
42 guarantees a final cost for the project which the board is willing to accept.

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

4 **Sec. 6.** NRS 477.030 is hereby amended to read as follows:

5 477.030 1. Except as otherwise provided in this section, the state fire
6 marshal shall enforce all laws and adopt regulations relating to:

7 (a) The prevention of fire.

8 (b) The storage and use of combustibles, flammables and fireworks.

9 (c) The storage and use of explosives in any commercial construction,
10 but not in mining or the control of avalanches.

11 (d) The safety, access, means and adequacy of exit in case of fire from
12 mental and penal institutions, facilities for the care of children, foster
13 homes, residential facilities for groups, facilities for intermediate care,
14 nursing homes, hospitals, schools, all buildings, except private residences,
15 which are occupied for sleeping purposes, buildings used for public
16 assembly and all other buildings where large numbers of persons work, live
17 or congregate for any purpose. As used in this paragraph, "public
18 assembly" means a building or a portion of a building used for the
19 gathering together of 50 or more persons for purposes of deliberation,
20 education, instruction, worship, entertainment, amusement or awaiting
21 transportation, or the gathering together of 100 or more persons in
22 establishments for drinking or dining.

23 (e) The suppression and punishment of arson and fraudulent claims or
24 practices in connection with fire losses.

25 The regulations of the state fire marshal apply throughout the state, but,
26 except with respect to state-owned or state-occupied buildings, his
27 authority to enforce them or conduct investigations under this chapter is
28 limited to those counties whose population is less than 35,000, except in
29 those local jurisdictions in other counties where he is requested to exercise
30 that authority by the chief officer of the organized fire department of that
31 jurisdiction.

32 2. The state fire marshal may set standards for equipment and
33 appliances pertaining to fire safety or to be used for fire protection within
34 this state, including the threads used on fire hose couplings and hydrant
35 fittings.

36 3. The state fire marshal shall cooperate with the state forester
37 firewarden in the preparation of regulations relating to standards for fire
38 retardant roofing materials pursuant to paragraph (e) of subsection 1 of
39 NRS 472.040.

40 4. The state fire marshal shall cooperate with the division of child and
41 family services of the department of human resources in establishing
42 reasonable minimum standards for overseeing the safety of and directing

1 the means and adequacy of exit in case of fire from family foster homes and
2 group foster homes.

3 5. The state fire marshal shall coordinate all activities conducted
4 pursuant to ~~{the Fire Research and Safety Act of 1968,}~~ 15 U.S.C. §§ ~~{278f~~
5 ~~and 278g,}~~ *2201 et seq.*, and receive and distribute money allocated by the
6 United States pursuant to ~~{that act.}~~ *those provisions.*

7 6. Except as otherwise provided in subsection 10, the state fire marshal
8 shall:

9 (a) Investigate any fire which occurs in a county whose population is
10 less than 35,000, and from which a death results or which is of a suspicious
11 nature.

12 (b) Investigate any fire which occurs in a county whose population is
13 35,000 or more, and from which a death results or which is of a suspicious
14 nature, if requested to do so by the chief officer of the fire department in
15 whose jurisdiction the fire occurs.

16 (c) Cooperate with the commissioner of insurance in any investigation of
17 a fraudulent claim under an insurance policy for any fire of a suspicious
18 nature.

19 (d) Cooperate with any local fire department in the investigation of any
20 report received pursuant to NRS 629.045.

21 (e) Provide specialized training in investigating the causes of fires if
22 requested to do so by the chief officer of an organized fire department.

23 7. The state fire marshal shall put the ~~{Uniform}~~ *National* Fire Incident
24 Reporting System into effect throughout the state and publish at least
25 annually a summary of data collected under the system.

26 8. The state fire marshal shall provide assistance and materials to local
27 authorities, upon request, for the establishment of programs for public
28 education and other fire prevention activities.

29 9. The state fire marshal shall:

30 (a) Assist in checking plans and specifications for construction ~~{,}~~,
31 *except for plans and specifications for the construction of a building for*
32 *which the state public works board has final authority for approval*
33 *pursuant to NRS 341.145;*

34 (b) Provide specialized training to local fire departments; and

35 (c) Assist local governments in drafting regulations and ordinances,
36 on request or as he deems necessary.

37 10. In a county whose population is less than 35,000, the state fire
38 marshal shall, upon request by a local government, delegate to the local
39 government by interlocal agreement all or a portion of his authority or
40 duties if the local government's personnel and programs are, as determined
41 by the state fire marshal, equally qualified to perform those functions. If a
42 local government fails to maintain the qualified personnel and programs in

1 accordance with such an agreement, the state fire marshal shall revoke the
2 agreement.

3 **Sec. 7.** 1. This section and sections 3 to 6, inclusive, of this act
4 become effective on October 1, 1999.

5 2. Section 1 of this act expires by limitation on April 30, 2013.

6 3. Section 2 of this act becomes effective at 12:01 a.m. on May 1,
7 2013.

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