

Senate Bill No. 475—Committee on Government Affairs

CHAPTER.....

AN ACT relating to public works; authorizing a public body to contract with a design-build team or specialty contractor for the design and construction of a public work in certain circumstances; authorizing a public body to contract with a nonprofit organization for the design and construction of a project to restore, enhance or develop wetlands; authorizing the department of transportation to contract with a design-build team with respect to a project for the design and construction, reconstruction or improvement of highways in certain circumstances; setting forth the method in which proposals for a design-build contract must be solicited; setting forth the method in which a design-build team must be selected; authorizing a public body or the department of transportation to employ an architect or engineer to oversee the construction of a public work or project; creating an interim advisory committee to study the use of design-build contracting; 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. Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 9, inclusive, of this act.

Sec. 2. 1. *Except as otherwise provided in this section, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.*

2. *A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body determines that:*

(a) The public work is:

(1) A plant or facility for the treatment and pumping of water or the treatment and disposal of wastewater or sewage, the estimated cost of which exceeds \$100,000,000; or

(2) Any other type of public work, except a stand-alone underground utility project, the estimated cost of which exceeds \$30,000,000; and

(b) Contracting with a design-build team will enable the public body to:

(1) Design and construct the public work at a cost that is significantly lower than the cost that the public body would incur to design and construct the public work using a different method;

(2) Design and construct the public work in a shorter time than would be required to design and construct the public work using a different method, if exigent circumstances require that the public work be designed and constructed within a short time; or

(3) Ensure that the design and construction of the public work is properly coordinated, if the public work is unique, highly technical and complex in nature.

3. In a county whose population is 400,000 or more, a public body that is responsible for financing public works may, for its own public works and those financed by a different public body, including, without limitation, an airport if the airport is owned and operated as a department of the public body, contract with a design-build team once in each fiscal year for the design and construction of a public work if the public body determines that:

(a) The estimated cost of the public work is at least \$5,000,000 but less than \$30,000,000; and

(b) Contracting with a design-build team will enable the public body to:

(1) Design and construct the public work at a cost that is significantly lower than the cost that the public body would incur to design and construct the public work using a different method;

(2) Design and construct the public work in a shorter time than would be required to design and construct the public work using a different method, if exigent circumstances require that the public work be designed and constructed within a short time; or

(3) Ensure that the design and construction of the public work is properly coordinated, if the public work is unique, highly technical and complex in nature.

4. Notwithstanding the provisions of subsections 1, 2 and 3, a public body may contract with:

(a) A nonprofit organization for the design and construction of a project to restore, enhance or develop wetlands.

(b) A prime contractor, specialty contractor or design-build team with respect to a public work if the public body determines that the public work is:

(1) Not part of a larger public work; and

(2) Limited in scope to:

(I) Removal of asbestos;

(II) Replacement of equipment or systems for heating, ventilation and air-conditioning;

(III) Replacement of a roof;

(IV) Landscaping; or

(V) Restoration, enhancement or development of wetlands.

Sec. 3. 1. A public body shall not contract with a design-build team with respect to a public work unless the governing body of the public body makes the determinations, at a public hearing, that are required pursuant to subsection 2, 3 or 4 of section 2 of this act, as applicable.

2. A public body that is required to hold a public hearing pursuant to this section shall publish notice of the hearing at least once each week for 3 consecutive weeks in:

(a) A newspaper of general circulation published in the county in which the public work is proposed to be constructed or, if there is no such

newspaper, in a newspaper of general circulation in the county published in this state; and

(b) A newspaper of general circulation in this state.

Sec. 4. 1. A public body that is required to contract with a prime contractor pursuant to subsection 1 of section 2 of this act or elects to contract with a specialty contractor pursuant to subsection 4 of section 2 of this act shall select the prime contractor or specialty contractor, as appropriate, in accordance with the procedures for bidding that are set forth in:

(a) The provisions of sections 3 to 11, inclusive, of Assembly Bill No. 298 of this session; or

(b) NRS 338.140 to 338.147, inclusive, if the public body is a local government that elects to award a contract for a public work in accordance with paragraph (b) of subsection 1 of section 2 of Assembly Bill No. 298 of this session.

2. A public body that contracts with a design-build team pursuant to sections 2 and 3 of this act shall select the design-build team in accordance with sections 5 to 8, inclusive, of this act.

Sec. 5. 1. A public body shall advertise for preliminary proposals for the design and construction of a public work by a design-build team at least twice each week for 3 consecutive weeks in:

(a) A newspaper of general circulation published in the county in which the public work is proposed to be constructed or, if there is no such newspaper, in a newspaper of general circulation in the county published in this state; and

(b) A newspaper of general circulation in this state.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work to be designed and constructed;

(b) Separate estimates of the costs of designing and constructing the public work;

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

(d) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the public work may obtain the information necessary to submit a proposal, including, without limitation, the extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the public work that the public body determines to be necessary;

(e) A list of the requirements set forth in section 6 of this act;

(f) A list of the factors that the public body will use to evaluate design-build teams who submit a proposal for the public work, including, without limitation:

(1) The relative weight to be assigned to each factor; and
d

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

(g) Notice that a design-build team desiring to submit a proposal for the public work must include with its proposal the information used by the public body to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of section 7 of this act and a description of that information;

(h) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.147 should submit a copy of the certificate of eligibility with its proposal;

(i) A statement as to whether a design-build team that is selected as a finalist pursuant to section 7 of this act but is not awarded the design-build contract pursuant to section 8 of this act will be partially reimbursed for the cost of preparing a final proposal and, if so, an estimate of the amount of the partial reimbursement; and

(j) The date by which preliminary proposals must be submitted to the public body, which must not be less than 30 days or more than 60 days after the date on which the request for preliminary proposals is first published in a newspaper pursuant to subsection 1.

Sec. 6. To qualify to participate in a project for the design and construction of a public work, a design-build team must:

1. Obtain a performance bond and payment bond as required pursuant to NRS 339.025;
2. Obtain insurance covering general liability and liability for errors and omissions;
3. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause;
4. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.145 or 408.333; and
5. Ensure that the members of the design-build team possess the licenses and certificates required to carry out the functions of their respective professions within this state.

Sec. 7. 1. At least 30 days after the date by which preliminary proposals must be submitted to the public body, the public body shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the public body does not receive at least three preliminary proposals from design-build teams that the public body determines to be qualified pursuant to this section and section 6 of this act, the public body may not contract with a design-build team for the design and construction of the public work.

2. The public body shall select finalists pursuant to subsection 1 by :

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of section 6 of this act; and

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the public work that sets forth in detail the ability of the design-build team to design and construct the public work.

Sec. 8. 1. After selecting the finalists pursuant to section 7 of this act, the public body shall provide to each finalist a request for final proposals for the public work. The request for final proposals must:

(a) Set forth the factors that the public body will use to select a design-build team to design and construct the public work, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the public body.

2. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the public body will use to select a design-build team to design and construct the public work described in subsection 1 and comply with the provisions of NRS 338.144. If the cost of construction is a factor in the selection of a design-build team, a design-build team whose prime contractor has submitted with its proposal a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.147 or section 11 of Assembly Bill No. 298 of this session shall be deemed to have submitted a better proposal than a competing design-build team whose prime contractor has not submitted such a certificate of eligibility if the amount proposed by the design-build team is not more than 5 percent higher than the amount proposed by the competing design-build team.

3. At least 30 days after receiving the final proposals for the public work, the public body shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsection 1; or

(b) Reject all the final proposals.

4. If a public body selects a final proposal pursuant to paragraph (a) of subsection 3, the public body shall, at its next regularly scheduled meeting:

- (a) *Review and ratify the selection.*
- (b) *Award the design-build contract to the design-build team whose proposal is selected.*
- (c) *Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (i) of subsection 2 of section 5 of this act. The amount of reimbursement must not exceed, for each unsuccessful finalist, three percent of the total amount to be paid to the design-build team as set forth in the design-build contract.*

(d) *Make available to the public a summary setting forth the factors used by the public body to select the successful design-build team and the ranking of the design-build teams who submitted final proposals. The public body shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.*

5. *A contract awarded pursuant to this section must specify:*

(a) *An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;*

(b) *An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and*

(c) *A date by which performance of the work required by the contract must be completed.*

6. *A design-build team to whom a contract is awarded pursuant to this section shall:*

(a) *Assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner; and*

(b) *Use the work force of the prime contractor on the design-build team to construct at least 15 percent of the public work.*

Sec. 9. *A public body may employ a registered architect or licensed professional engineer as a consultant to assist the public body in overseeing the construction of a public work. An architect or engineer so employed shall not:*

1. *Construct the public work; or*

2. *Assume overall responsibility for ensuring that the construction of the public work is completed in a satisfactory manner.*

Sec. 10. *NRS 338.010 is hereby amended to read as follows:*

338.010 *As used in this chapter:*

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

2. *“Design-build contract” means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.*

3. *“Design-build team” means an entity that consists of:*

(a) *At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to NRS 624.230 to 624.320, inclusive; and*

(b) *For a public work that consists of:*

(1) *A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.*

(2) *Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or is licensed as a professional engineer pursuant to chapter 625 of NRS.*

4. *“Design professional” means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.*

5. *“Eligible bidder” means a person who is:*

(a) Found to be a responsible and responsive contractor by a local government which requests bids for a public work in accordance with paragraph (b) of subsection 1 of section 2 of ~~this act;~~ *Assembly Bill No. 298 of this session;* or

(b) Determined by a public body which awarded a contract for a public work pursuant to sections 3 to 11, inclusive, of ~~this act;~~ *Assembly Bill No. 298 of this session,* to be qualified to bid on that contract pursuant to section 5 of ~~this act;~~ *Assembly Bill No. 298 of this session* or was exempt from meeting such qualifications pursuant to section 6 of ~~this act;~~ *—3.— Assembly Bill No. 298 of this session.*

6. *“Local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.*

~~4.~~ 7. *“Offense” means failing to:*

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS; or

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS.

~~5.~~ 8. *“Prime contractor” means a person who:*

(a) Contracts to ~~complete~~ *construct* an entire project;

(b) Coordinates all work performed on the entire project

;

(c) Uses his own work force to perform all or a part of the construction, repair or reconstruction of the project; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

~~16.1~~ 9. "Public body" means the state, county, city, town, school district or any public agency of this state or its political subdivisions sponsoring or financing a public work.

~~17.1~~ 10. "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities which are financed in whole or in part by public money;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public funds; and

(10) Any other publicly owned works and property whose cost as a whole exceeds \$20,000.

Each separate unit that is a part of a project is included in the cost of the project to determine whether a project meets that threshold.

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

~~18.1~~ 11. "*Specialty contractor*" means a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

12. "*Stand-alone underground utility project*" means an underground utility project that is not integrated into a larger project, including, without limitation:

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

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of section 2 of this act.

13. "Wages" means:

(a) The basic hourly rate of pay; an

d

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

~~[9.]~~ 14. "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman. The term does not include a design professional . ~~[as that term is defined in NRS 338.155.]~~

Sec. 11. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 6 and NRS 338.1907, a local government that awards a contract for the construction, alteration or repair of a public work in accordance with paragraph (b) of subsection 1 of section 2 of ~~[this act,]~~ *Assembly Bill No. 298 of this session*, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work who represents that local government, shall not:

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

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

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

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

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

(a) The bidder is not responsive or responsible;

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

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

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

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

6. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district; ~~or~~
- (d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley water district created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley water district created pursuant to chapter 100, Statutes of Nevada 1993 ~~or~~; *or*
- (e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to sections 2 to 9, inclusive, of this act.*

Sec. 12. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 6, a local government that awards a contract for the construction, alteration or repair of a public work in accordance with paragraph (b) of subsection 1 of section 2 of ~~this act~~; *Assembly Bill No. 298 of this session*, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work who represents that local government, shall not:

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

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

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

annually to the local government to remain on the list. Offers for bids which are made pursuant to this subsection must be sent by certified mail.

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

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

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

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

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

6. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district; ~~for~~
- (d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley water district created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley water district created pursuant to chapter 100, Statutes of Nevada 1993.

Sec. 13. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in NRS 338.143 ~~and~~ *and sections 2 to 9, inclusive, of this act*, a local government shall award a contract for a public work to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 8 or limited by subsection 9, for the purposes of this section, a contractor who:

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

(b) At the time he submits his bid, provides to the local government a copy of a certificate of eligibility to receive a preference in bidding on public works issued to him by the state contractors' board pursuant to subsection 3, shall be deemed to have submitted a better bid than a competing contractor who has not provided a copy of such a valid certificate of eligibility if the amount of his bid is not more than 5 percent higher than the amount bid by the competing contractor.

3. The state contractors' board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the board an affidavit from a certified public accountant setting forth that the general contractor has:

(a) Paid:

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

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

(3) Any combination of such sales and use taxes and motor vehicle privilege tax; or

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

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

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

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

(a) Sales and use taxes and motor vehicle privilege taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor; and

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

5. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the state contractors' board pursuant to subsection 3 shall, at the time for the annual renewal of his contractors' license pursuant to NRS 624.283, submit to the board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 to maintain his eligibility to hold such a certificate.

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

7. If a contractor who applies to the state contractors' board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the board becomes aware of the submission of the false information.

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

9. ~~HH~~ *Except as otherwise provided in subsection 2 of section 8 of this act and subsection 2 of section 27 of this act, if* a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the provisions of subsection 2 apply only if both or all of the joint venturers separately meet the requirements of that subsection.

10. The state contractors' board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

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

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

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

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

Sec. 13.5. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in NRS 338.143, ~~and sections 2 to 9, inclusive, of this act,~~ a local government shall award a contract for a public work to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 8 or limited by subsection 9, for the purposes of this section, a contractor who:

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

(b) At the time he submits his bid, provides to the local government a copy of a certificate of eligibility to receive a preference in bidding on public works issued to him by the state contractors' board pursuant to subsection 3,

shall be deemed to have submitted a better bid than a competing contractor who has not provided a copy of such a valid certificate of eligibility if the amount of his bid is not more than 5 percent higher than the amount bid by the competing contractor.

3. The state contractors' board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the board an affidavit from a certified public accountant setting forth that the general contractor has:

(a) Paid:

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

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

(3) Any combination of such sales and use taxes and motor vehicle privilege tax; or

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

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

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

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

(a) Sales and use taxes and motor vehicle privilege taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor; and

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

5. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the state contractors' board pursuant to subsection 3 shall, at the time for the annual renewal of his contractors' license pursuant to NRS 624.283, submit to the board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 to maintain his eligibility to hold such a certificate.

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

7. If a contractor who applies to the state contractors' board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the board becomes aware of the submission of the false information.

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

9. ~~{Except as otherwise provided in subsection 2 of section 8 of this act and subsection 2 of section 27 of this act, if}~~ **If** a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer,

the provisions of subsection 2 apply only if both or all of the joint venturers separately meet the requirements of that subsection.

10. The state contractors' board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

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

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

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

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

Sec. 14. NRS 338.155 is hereby amended to read as follows:

338.155 ~~1.1.~~ If a public body enters into a contract with a design professional *who is not a member of a design-build team* for the provision of services in connection with a public work, the contract:

~~1(a)~~ **1.** Must set forth:

~~1(1)~~ **(a)** The specific period within which the public body must pay the design professional.

~~1(2)~~ **(b)** The specific period and manner in which the public body may dispute a payment or portion thereof that the design professional alleges is due.

~~1(3)~~ **(c)** The terms of any penalty that will be imposed upon the public body if the public body fails to pay the design professional within the specific period set forth in the contract pursuant to ~~subparagraph (1).~~

~~1(4)~~ **paragraph (a).**

(d) That the prevailing party in an action to enforce the contract is entitled to reasonable attorney's fees and costs.

~~[(b)]~~ 2. May set forth the terms of any discount that the public body will receive if the public body pays the design professional within the specific period set forth in the contract pursuant to ~~{subparagraph (1) of}~~ paragraph (a) ~~[-~~

~~2. As used in this section, “design professional” means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.] of subsection 1.~~

Sec. 14.5. NRS 341.161 is hereby amended to read as follows:

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

2. The board shall adopt regulations establishing procedures for:

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

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

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

(d) The scheduling and controlling of projects.

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

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

(b) Obtaining all bids for subcontracts.

(c) Administering the construction contract.

4. ~~{A contractor who is:~~

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

~~—(b) Awarded that contract,~~

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

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

Sec. 15. Chapter 408 of NRS is hereby amended by adding thereto the provisions set forth as sections 16 to 28, inclusive, of this act.

Sec. 16. *As used in sections 16 to 28, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 17 to 20, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 17. *“Design-build contract” means a contract between the department and a design-build team in which the design-build team agrees to design and construct a project.*

Sec. 18. *“Design-build team” means an entity that consists of:*

1. At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to NRS 624.230 to 624.320, inclusive; and

2. At least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or is licensed as a professional engineer pursuant to chapter 625 of NRS.

Sec. 19. *“Prime contractor” means a person who:*

1. Contracts to construct an entire project;

2. Coordinates all work performed on the entire project;

3. Uses his own workforce to perform all or a part of the construction of the project; and

4. Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

Sec. 20. *“Project” means a project for the construction, reconstruction or improvement of a highway.*

Sec. 21. *1. The department may contract with a design-build team for the design and construction of a project if the department determines that:*

(a) Except as otherwise provided in subsection 2, the estimated cost of the project exceeds \$30,000,000; and

(b) Contracting with a design-build team will enable the department to:

(1) Design and construct the project at a cost that is significantly lower than the cost that the department would incur to design and construct the project using a different method;

(2) Design and construct the project in a shorter time than would be required to complete the project using a different method, if exigent circumstances require that the project be designed and constructed within a short time; or

(3) Ensure that the design and construction of the project is properly coordinated, if the project is unique, highly technical and complex in nature.

2. Notwithstanding the provisions of subsection 1, the department may, once in each fiscal year, contract with a design-build team for the design and construction of a project the estimated cost of which is at least \$5,000,000 but less than \$30,000,000 if the department makes the

determinations otherwise required pursuant to paragraph (b) of subsection 1.

Sec. 22. 1. The department shall not contract with a design-build team with respect to a project unless the board makes the determinations, at a public meeting, that are required pursuant to section 21 of this act.

2. If the department is required to hold a public meeting pursuant to this section, the department shall publish notice of the meeting at least once each week for 3 consecutive weeks in:

(a) A newspaper of general circulation published in each county in which the project is proposed to be constructed or, if there is no such newspaper, in a newspaper of general circulation in each county published in this state; and

(b) A newspaper of general circulation in this state.

Sec. 23. If the department desires to contract with a design-build team pursuant to sections 21 and 22 of this act, the department must select the design-build team in accordance with sections 24 to 27, inclusive, of this act.

Sec. 24. 1. The department shall advertise for preliminary proposals for the design and construction of a project by a design-build team at least twice each week for 3 consecutive weeks in:

(a) A newspaper of general circulation published in each county in which the project is proposed to be constructed or, if there is no such newspaper, in a newspaper of general circulation in each county published in this state; and

(b) A newspaper of general circulation in this state.

2. A request for preliminary proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the proposed project;

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

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

(d) A statement setting forth the place and time in which a design-build team desiring to submit a proposal for the project may obtain the information necessary to submit a proposal, including, without limitation, the extent to which designs must be completed for both preliminary and final proposals and any other requirements for the design and construction of the project that the department determines to be necessary;

(e) A list of the requirements set forth in section 25 of this act;

(f) A list of the factors that the department will use to evaluate design-build teams who submit a proposal for the project, including, without limitation:

(1) The relative weight to be assigned to each factor; and
d

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

(g) Notice that a design-build team desiring to submit a proposal for the project must include with its proposal the information used by the department to determine finalists among the design-build teams submitting proposals pursuant to subsection 2 of section 26 of this act and a description of that information;

(h) A statement that a design-build team whose prime contractor holds a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.147 should submit a copy of the certificate of eligibility with its proposal;

(i) A statement as to whether a bidding design-build team that is selected as a finalist pursuant to section 26 of this act but is not awarded the design-build contract pursuant to section 27 of this act will be partially reimbursed for the cost of preparing a final proposal and, if so, an estimate of the amount of the partial reimbursement; and

(j) The date by which preliminary proposals must be submitted to the department, which must not be less than 30 days or more than 60 days after the date on which the request for preliminary proposals is first published in a newspaper pursuant to subsection 1.

Sec. 25. To qualify to participate in the design and construction of a project for the department, a design-build team must:

1. Obtain a performance bond and payment bond as the department may require;
2. Obtain insurance covering general liability and liability for errors and omissions;
3. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause;
4. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.145 or 408.333; and
5. Ensure that the members of the design-build team possess the licenses and certificates required to carry out the functions of their respective professions within this state.

Sec. 26. 1. At least 30 days after the date by which preliminary proposals must be submitted to the department, the department shall select at least three but not more than five finalists from among the design-build teams that submitted preliminary proposals. If the department does not receive at least three preliminary proposals from design-build teams that the department determines to be qualified pursuant to this section and section 25 of this act, the department may not contract with a design-build team for the design and construction of the project.

2. The department shall select finalists pursuant to subsection 1 by
:

(a) Verifying that each design-build team which submitted a preliminary proposal satisfies the requirements of section 25 of this act; and

(b) Conducting an evaluation of the qualifications of each design-build team that submitted a preliminary proposal, including, without limitation, an evaluation of:

(1) The professional qualifications and experience of the members of the design-build team;

(2) The performance history of the members of the design-build team concerning other recent, similar projects completed by those members, if any;

(3) The safety programs established and the safety records accumulated by the members of the design-build team; and

(4) The proposed plan of the design-build team to manage the design and construction of the project that sets forth in detail the ability of the design-build team to design and construct the project.

Sec. 27. 1. After selecting the finalists pursuant to section 26 of this act, the department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:

(a) Set forth the factors that the department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and

(b) Set forth the date by which final proposals must be submitted to the department.

2. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.144. If the cost of construction is a factor in the selection of a design-build team, a design-build team whose prime contractor has submitted with its proposal a certificate of eligibility to receive a preference in bidding on public works issued pursuant to NRS 338.147 shall be deemed to have submitted a better proposal than a competing design-build team whose prime contractor has not submitted such a certificate of eligibility if the amount proposed by the design-build team is not more than 5 percent higher than the amount proposed by the competing design-build team.

3. At least 30 days after receiving the final proposals for the project, the department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsection 1; or

(b) Reject all the final proposals.

4. If the department selects a final proposal pursuant to paragraph

(a) of subsection 3, the department shall hold a public meeting to:

(a) Review and ratify the selection

.

(b) Award the design-build contract to the design-build team whose proposal is selected.

(c) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (i) of subsection 2 of section 24 of this act. The amount of reimbursement must not exceed, for each unsuccessful finalist, three percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(d) Make available to the public a summary setting forth the factors used by the department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals. The department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

5. A contract awarded pursuant to this section must specify:

(a) An amount that is the maximum amount that the department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(b) An amount that is the maximum amount that the department will pay for the performance of the professional services required by the contract; and

(c) A date by which performance of the work required by the contract must be completed.

6. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the work force of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 28. *The department may employ a registered architect or licensed professional engineer as a consultant to assist the department in overseeing the construction of a project. An architect or engineer so employed shall not:*

1. Construct, reconstruct or improve the highway; or

2. Assume overall responsibility for ensuring that the construction of the project is completed in a satisfactory manner.

Sec. 29. *NRS 408.215 is hereby amended to read as follows:*

408.215 1. The director has charge of all the records of the department, keeping records of all proceedings pertaining to the department and keeping on file information, plans, specifications, estimates, statistics and records prepared by the department, except those financial statements described in NRS 408.333 ~~and~~ *and the financial or proprietary information described in paragraph (d) of subsection 4 of section 27 of this act*, which must not become matters of public record.

2. The director may photograph, microphotograph or film or dispose of the records of the department referred to in subsection 1 as provided in NRS 239.051, 239.080 and 239.085.

3. The director shall maintain an index or record of deeds or other references of title or interests in and to all lands or interests in land owned or acquired by the department.

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

Sec. 30. NRS 408.317 is hereby amended to read as follows:

408.317 1. ~~[(A)]~~ *Except as otherwise provided in sections 16 to 28, inclusive, of this act, all* work of construction, reconstruction, improvement and maintenance of highways as provided under the provisions of this chapter is under the supervision and direction of the director and must be performed in accordance with the plans, specifications and contracts prepared by him.

2. All maintenance and repair of highways when performed by the department must be paid out of the state highway fund.

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

408.327 *Except as otherwise provided in sections 16 to 28, inclusive, of this act:*

1. Whenever the provisions of NRS 408.323 do not apply, the director shall advertise for bids for such work according to the plans and specifications prepared by him.

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

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

Sec. 32. NRS 408.333 is hereby amended to read as follows:

408.333 *Except as otherwise provided in sections 16 to 28, inclusive, of this act:*

1. Before furnishing any person proposing to bid on any advertised work with the plans and specifications for such work, the director shall require from the person a statement, verified under oath, in the form of answers to questions contained in a standard form of questionnaire and financial statement, which must include a complete statement of the person's financial ability and experience in performing public work of a similar nature.

2. Such statements must be filed with the director in ample time to permit the department to verify the information contained therein in advance of furnishing proposal forms, plans and specifications to any person proposing to bid on the advertised public work, in accordance with the regulations of the department.

3. Whenever the director is not satisfied with the sufficiency of the answers contained in the questionnaire and financial statement, he may refuse to furnish the person with plans and specifications and the official proposal forms on the advertised project. Any bid of any person to whom plans and specifications and the official proposal forms have not been issued in accordance with this section must be disregarded, and the certified check, cash or undertaking of such a bidder returned forthwith.

4. Any person who is disqualified by the director, in accordance with the provisions of this section, may request, in writing, a hearing before the director and present again his check, cash or undertaking and such further evidence with respect to his financial responsibility, organization, plant and equipment, or experience, as might tend to justify, in his opinion, issuance to him of the plans and specifications for the work.

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

Sec. 33. NRS 408.337 is hereby amended to read as follows:

408.337 *Except as otherwise provided in sections 16 to 28, inclusive, of this act:*

1. All bids must be accompanied by an undertaking executed by a corporate surety authorized to do business in the state, or by cash or a certified check in an amount equal to at least 5 percent of the amount bid.

2. If the successful bidder fails to execute the contract in accordance with his bid and give any bond required by law and the contract and bond are not postmarked or delivered to the department within 20 days after award of the contract, the undertaking, cash or certified check is forfeited and the proceeds must be paid into the state highway fund.

3. The failure of the successful bidder to furnish any bond required of him by law within the time fixed for his execution of the contract constitutes a failure to execute the contract.

4. If the director deems it is for the best interests of the state, he may, on refusal or failure of the successful bidder to execute the contract, award it to the second lowest responsible bidder. If the second lowest responsible bidder fails or refuses to execute the contract, the director may likewise award it to the third lowest responsible bidder. On the failure or refusal to execute the contract of the second or third lowest bidder to whom a contract is so awarded, their bidder's security is likewise forfeited to the state.

5. The bidder's security of the second and third lowest responsible bidders may be withheld by the department until the contract has been

finally executed and the bond given as required under the provisions of the contract, at which time the security must be returned. The bidder's security submitted by all other unsuccessful bidders must be returned to them within 10 days after the contract is awarded.

Sec. 34. NRS 408.343 is hereby amended to read as follows:

408.343 *Except as otherwise provided in sections 16 to 28, inclusive, of this act:*

1. All bids must be submitted under sealed cover and received at the address in Nevada stated in the advertisement for bids and must be opened publicly and read at the time stated in the advertisement.

2. No bids may be received after the time stated in the advertisement even though bids are not opened exactly at the time stated in the advertisement. No bid may be opened before that time.

3. Any bid may be withdrawn at any time before the time stated in the advertisement only by written request or telegram filed with the director and executed by the bidder or his duly authorized representative. The withdrawal of a bid does not prejudice the right of the bidder to file a new bid before the time stated in the advertisement.

4. The department may reject any bid or all bids if, in the opinion of the department, the bids are unbalanced, incomplete, contain irregularities of any kind or for any good cause.

5. Until the final award of the contract, the department may reject or accept any bids and may waive technical errors contained in the bids, as may be deemed best for the interests of the state.

6. In awarding a contract, the department shall make the award to the lowest responsible bidder who has qualified and submitted his bid in accordance with the provisions of this chapter.

Sec. 35. NRS 625.530 is hereby amended to read as follows:

625.530 *Except as otherwise provided in sections 2 to 9, inclusive, and 16 to 28, inclusive, of this act:*

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

2. The provisions of this section do not:

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

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

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

(d) Require the services of an architect registered pursuant to the provisions of chapter 623 of NRS for the erection of buildings or structures

manufactured in an industrial plant, if those buildings or structures meet the requirements of local building codes of the jurisdiction in which they are being erected.

3. The selection of a professional engineer, professional land surveyor or registered architect to perform services pursuant to subsection 1 must be made on the basis of the competence and qualifications of the engineer, land surveyor or architect for the type of services to be performed and not on the basis of competitive fees. If, after selection of the engineer, land surveyor or architect, an agreement upon a fair and reasonable fee cannot be reached with him, the public agency may terminate negotiations and select another engineer, land surveyor or architect.

Sec. 35.2. Section 11 of this act is hereby amended to read as follows:

Sec. 11. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 6 and NRS 338.1907, a local government that awards a contract for the construction, alteration or repair of a public work in accordance with paragraph (b) of subsection 1 of section 2 of this act, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work who represents that local government, shall not:

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

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

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

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

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

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

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

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

6. This section does not apply to:

- (a) Any utility subject to the provisions of chapter 318 or 710 of NRS;
- (b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;
- (c) Normal maintenance of the property of a school district; **or**
- (d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley water district created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley water district created pursuant to chapter 100, Statutes of Nevada 1993 . ~~}; or~~

~~—(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to sections 2 to 9, inclusive, of this act.]~~

Sec. 35.4. Assembly Bill No. 298 of this session is hereby amended by adding thereto new sections designated sections 19.2 through 19.6, following sec. 19, to read as follows:

Sec. 19.2. Section 8 of this act is hereby amended to read as follows:

Sec. 8. 1. Except as otherwise provided in subsection 7 and NRS 338.1906 and 338.1907, this state, or a local government that awards a contract for the construction, alteration or repair of a public work in accordance with paragraph (a) of

subsection 1 of section 2 of this act, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work who represents the state or the local government, shall not:

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

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

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

3. Each advertisement for bids must include a provision that sets forth:

(a) The requirement that a contractor must be qualified pursuant to section 5 of this act to bid on the contract or must be exempt from meeting such qualifications pursuant to section 6 of this act; and

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

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

5. Any bids received in response to an advertisement for bids may be rejected if the person responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to section 5 of this act, unless the bidder is exempt from meeting such qualifications pursuant to section 6 of this act;

(b) The bidder is not responsive;

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

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

.

6. Before the state or a local government may commence a project subject to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, it shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

7. This section does not apply to:

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

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

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

(d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley water district created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley water district created pursuant to chapter 100, Statutes of Nevada 1993 . ~~}; or~~

~~—(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to sections 2 to 9, inclusive, of Senate Bill No. 475 of this session.~~

Sec. 19.4. Section 8 of this act is hereby amended to read as follows:

Sec. 8. 1. Except as otherwise provided in subsection 7 , ~~and NRS 338.1906 and 338.1907,~~ this state, or a local government that awards a contract for the construction, alteration or repair of a public work in accordance with paragraph (a) of subsection 1 of section 2 of this act, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work who represents the state or the local government, shall not:

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

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

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

3. Each advertisement for bids must include a provision that sets forth:

(a) The requirement that a contractor must be qualified pursuant to section 5 of this act to bid on the contract or must be exempt from meeting such qualifications pursuant to section 6 of this act; and

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

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

5. Any bids received in response to an advertisement for bids may be rejected if the person responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to section 5 of this act, unless the bidder is exempt from meeting such qualifications pursuant to section 6 of this act;

(b) The bidder is not responsive;

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

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

6. Before the state or a local government may commence a project subject to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for

bids, it shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

7. This section does not apply to:

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

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

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

(d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley water district created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley water district created pursuant to chapter 100, Statutes of Nevada 1993.

Sec. 19.6. Section 11 of this act is hereby amended to read as follows:

Sec. 11. 1. Except as otherwise provided in section 8 of this act, ~~and sections 2 to 9, inclusive, of Senate Bill No. 475 of this session,~~ a public body shall award a contract for a public work to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 8 or limited by subsection 9, for the purposes of this section, a contractor who:

(a) Has been determined by the public body to be a qualified bidder pursuant to section 5 of this act or is exempt from meeting such requirements pursuant to section 6 of this act; and

(b) At the time he submits his bid, provides to the public body a copy of a certificate of eligibility to receive a preference in bidding on public works issued to him by the state contractors' board pursuant to subsection 3,

shall be deemed to have submitted a better bid than a competing contractor who has not provided a copy of such a valid certificate

of eligibility if the amount of his bid is not more than 5 percent higher than the amount bid by the competing contractor.

3. The state contractors' board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the board an affidavit from a certified public accountant setting forth that the general contractor has:

(a) Paid:

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

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

(3) Any combination of such sales and use taxes and motor vehicle privilege tax; or

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

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

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

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

(a) Sales and use taxes and motor vehicle privilege taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor; and

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

5. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the state contractors' board pursuant to subsection 3 shall, at the time for the annual renewal of his contractors' license pursuant to

NRS 624.283, submit to the board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 to maintain his eligibility to hold such a certificate.

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

7. If a contractor who applies to the state contractors' board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the board becomes aware of the submission of the false information.

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

9. ~~{Except as otherwise provided in subsection 2 of section 8 of Senate Bill No. 475 of this session, if}~~ **If** a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the provisions of subsection 2 apply only if both or all of the joint venturers separately meet the requirements of that subsection.

10. The state contractors' board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

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

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

(b) Be filed with the public body at or after the time at which the contractor submitted the bid or proposal to the public body

and before the time at which the public body awards the contract for which the bid or proposal was submitted.

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

Sec. 35.6. Sections 8, 11, 12 and 21 of Assembly Bill No. 298 of this session are hereby amended to read as follows:

Sec. 8. 1. *Except as otherwise provided in subsection 7 and NRS 338.1906 and 338.1907, this state, or a local government that awards a contract for the construction, alteration or repair of a public work in accordance with paragraph (a) of subsection 1 of section 2 of this act, or a public officer, public employee or other person responsible for awarding a contract for the construction, alteration or repair of a public work who represents the state or the local government, shall not:*

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

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

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

3. *Each advertisement for bids must include a provision that sets forth:*

(a) The requirement that a contractor must be qualified pursuant to section 5 of this act to bid on the contract or must be

exempt from meeting such qualifications pursuant to section 6 of this act; and

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

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

5. Any bids received in response to an advertisement for bids may be rejected if the person responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to section 5 of this act, unless the bidder is exempt from meeting such qualifications pursuant to section 6 of this act;

(b) The bidder is not responsive;

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

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

6. Before the state or a local government may commence a project subject to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, it shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

7. This section does not apply to:

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

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

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

(d) The Las Vegas Valley water district created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley water district created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley water district created pursuant to chapter 100, Statutes of Nevada 1993; or

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to sections 2 to 9, inclusive, of Senate Bill No. 475 of this session.

Sec. 11. *1. Except as otherwise provided in section 8 of this act and sections 2 to 9, inclusive, of Senate Bill No. 475 of this session, a public body shall award a contract for a public work to the contractor who submits the best bid.*

2. Except as otherwise provided in subsection 8 or limited by subsection 9, for the purposes of this section, a contractor who:

(a) Has been determined by the public body to be a qualified bidder pursuant to section 5 of this act or is exempt from meeting such requirements pursuant to section 6 of this act; and

(b) At the time he submits his bid, provides to the public body a copy of a certificate of eligibility to receive a preference in bidding on public works issued to him by the state contractors' board pursuant to subsection 3, shall be deemed to have submitted a better bid than a competing contractor who has not provided a copy of such a valid certificate of eligibility if the amount of his bid is not more than 5 percent higher than the amount bid by the competing contractor.

3. The state contractors' board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the board an affidavit from a certified public accountant setting forth that the general contractor has:

(a) Paid:

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

(2) The motor vehicle privilege tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this state of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the

*submission of the affidavit from the certified public accountant;
or*

(3) Any combination of such sales and use taxes and motor vehicle privilege tax; or

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

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

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

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

(a) Sales and use taxes and motor vehicle privilege taxes paid in this state by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor; and

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

5. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the state contractors' board pursuant to subsection 3 shall, at the time for the annual renewal of his contractors' license pursuant to NRS 624.283, submit to the board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 to maintain his eligibility to hold such a certificate.

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

7. If a contractor who applies to the state contractors' board for a certificate of eligibility to receive a preference in bidding on public works submits false information to the board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the board becomes aware of the submission of the false information.

8. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work. The

provisions of subsection 2 do not apply to any contract for a public work which is expected to cost less than \$250,000.

9. Except as otherwise provided in subsection 2 of section 8 of Senate Bill No. 475 of this session, if a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the provisions of subsection 2 apply only if both or all of the joint venturers separately meet the requirements of that subsection.

10. The state contractors' board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.

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

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

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

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

Sec. 12. NRS 338.010 is hereby amended to read as follows:
338.010 As used in this chapter:

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

2. "Eligible bidder" means a person who was **[found]** :

(a) *Found* to be a responsible contractor by a ~~{public body}~~ *local government* which awarded a contract for a public work ~~{ }~~ *in accordance with paragraph (b) of subsection 1 of section 2 of this act; or*

(b) *Determined by a public body which awarded a contract for a public work pursuant to sections 3 to 11, inclusive, of this act, to be qualified to bid on that contract pursuant to section 5 of this act or was exempt from meeting such qualifications pursuant to section 6 of this act.*

3. *“Local government” means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.*

4. *“Offense” means failing to:*

- (a) Pay the prevailing wage required pursuant to this chapter;
- (b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS; or
- (c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS.

~~{4.}~~ 5. *“Public body” means the state, county, city, town, school district or any public agency of this state or its political subdivisions sponsoring or financing a public work.*

~~{5.}~~ 6. *“Public work” means any project for the new construction, repair or reconstruction of:*

- (a) A project financed in whole or in part from public money for:
 - (1) Public buildings;
 - (2) Jails and prisons;
 - (3) Public roads;
 - (4) Public highways;
 - (5) Public streets and alleys;
 - (6) Public utilities which are financed in whole or in part by public money;
 - (7) Publicly owned water mains and sewers;
 - (8) Public parks and playgrounds;
 - (9) Public convention facilities which are financed at least in part with public funds; and

(10) ~~{Any}~~ *Any* other publicly owned works and property whose cost as a whole exceeds \$20,000. Each separate unit which is a part of a project is included in the cost of the project for the purpose of determining whether a project meets this threshold.

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

~~16.1~~ **7.** “Wages” means:

- (a) The basic hourly rate of pay; and
- (b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

~~17.1~~ **8.** “Workman” means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman.

Sec. 21. 1. This section and sections 2 to 7, inclusive, 10 to 14, inclusive, 16 to 19, inclusive, and 20 of this act become effective on October 1, 1999.

2. Section 8 of this act becomes effective on October 1, 1999, and expires by limitation on October 1, 2003.

3. Sections 19.2 and 19.6 of this act become effective on October 1, 2003.

4. Sections 15 and 19.4 of this act become effective at 12:01 a.m. on May 1, 2013.

5. Sections 14, 18, 19 and 19.2 of this act expire by limitation on May 1, 2013.

Sec. 35.8. Section 4 of Senate Bill No. 144 of this session is hereby amended to read as follows:

Sec. 4. “Contractor” means : ~~{a}~~

1. A person who:

~~1.1~~ **(a)** Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS; and

~~1.2~~ **(b)** Contracts with a public body to provide labor, materials or services for a public work.

2. *A design-build team that contracts with a public body to design and construct a public work pursuant to sections 2 to 9, inclusive, of Senate Bill No. 475 of this session.*

Sec. 36. NRS 341.171 and section 9 of Assembly Bill No. 298 of this session are hereby repealed.

Sec. 37. 1. The interim advisory committee to study the use of design-build contracting within this state is hereby created. The interim advisory committee consists of 16 members who are appointed as follows:

(a) One member appointed by the Northern Nevada Chapter of the Associated General Contractors.

(b) One member appointed by the Southern Nevada Chapter of the Associated General Contractors.

- (c) One member appointed by the Northern Nevada Chapter of the Associated Builders and Contractors.
 - (d) One member appointed by the Southern Nevada Chapter of the Associated Builders and Contractors.
 - (e) One member appointed by the Nevada chapter of the American Institute of Architecture.
 - (f) One member appointed by the American Consulting Engineers Council of Nevada.
 - (g) One member appointed by the Department of Transportation of the State of Nevada.
 - (h) One member appointed by the Southern Nevada Water Authority.
 - (i) One member appointed by the Board of County Commissioners of Clark County.
 - (j) One member appointed by the governing body of the City of Las Vegas.
 - (k) One member appointed by the governing body of the City of Henderson.
 - (l) One member appointed by the governing body of the City of North Las Vegas.
 - (m) One member appointed by the Nevada Contractors Association.
 - (n) One member appointed by the Board of County Commissioners of Washoe County.
 - (o) One member appointed by the governing body of the City of Reno.
 - (p) One member appointed by the governing body of the City of Sparks.
2. Members of the interim advisory committee shall serve without compensation, travel expenses or subsistence allowances, except as they may be provided by the members' respective agencies and organizations.
 3. The interim advisory committee created pursuant to subsection 1 shall:
 - (a) Examine the methods of design-build contracting that are authorized to be used pursuant to the provisions of this act; and
 - (b) Submit a report regarding its findings to the 72nd session of the Nevada Legislature, accompanied by any suggestions for legislation that the interim advisory committee determines to be advisable.
- Sec. 38.** 1. This section and sections 35.4 and 35.6 of this act become effective on October 1, 1999.
2. Sections 1 to 9, inclusive, 14 to 35, inclusive, 36 and 37 of this act become effective on October 1, 1999, and expire by limitation on October 1, 2003.
 3. Sections 10, 13 and 35.8 of this act become effective at 12:01 a.m. on October 1, 1999, and expire by limitation on October 1, 2003.
 4. Section 11 of this act becomes effective at 12:01 a.m. on October 1, 1999, and expires by limitation on May 1, 2013.

5. Section 13.5 of this act becomes effective at 12:01 a.m. on October 1, 2003.

6. Section 35.2 of this act becomes effective at 12:01 a.m. on October 1, 2003 and expires by limitation on May 1, 2013.

7. Section 12 of this act becomes effective at 12:02 a.m. on May 1, 2013.

~