

Assembly Bill No. 155—Committee on Commerce and Labor

CHAPTER.....

AN ACT relating to public works; revising the provisions governing the substitution of a subcontractor who is named in a bid for a public work or improvement; and providing other matters properly relating thereto.

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

Section 1. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in subsection 2, each bid submitted to any officer, department, board or commission for the construction of any public work or improvement must include:

(a) The name of each subcontractor who will provide labor or a portion of the work or improvement to the contractor for which he will be paid an amount exceeding 5 percent of the prime contractor's total bid. Within 2 hours after the completion of the opening of the bids, the general contractors who submitted the three lowest bids must submit a list ~~of~~ *containing* the name of each subcontractor who will provide labor or a portion of the work or improvement to the contractor for which he will be paid an amount exceeding 1 percent of the prime contractor's total bid or \$50,000, whichever is greater, and the number of the license issued to the subcontractor pursuant to chapter 624 of NRS. If a general contractor fails to submit such a list within the required time, his bid shall be deemed not responsive.

(b) A description of the portion of the work or improvement which each subcontractor named in the bid will complete.

2. The contractor shall list in his bid pursuant to subsection 1 the name of a subcontractor for each portion of the project that will be completed by a subcontractor.

3. A contractor whose bid is accepted shall not substitute any person for a subcontractor who is named in the bid, unless:

(a) The awarding authority objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change; or

(b) The substitution is approved by the awarding authority ~~and~~ *or an authorized representative of the awarding authority. The substitution must be approved if the awarding authority or authorized representative of the awarding authority determines that:*

(1) The *named* subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the subcontractor with the same *general* terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent; or

(3) The named subcontractor fails or refuses to perform his subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025.

4. *As used in this section, "general terms" means the terms and conditions of a contract that set the basic requirements for a project and apply without regard to the particular trade or specialty of a*

subcontractor, but does not include any provision that controls or relates to the specific portion of the project that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 2. The amendatory provisions of section 1 of this act do not apply to a public work or improvement for which a bid has been submitted before the effective date of this act.

Sec. 3. This act becomes effective upon passage and approval.