

ASSEMBLY BILL No. 428—ASSEMBLYMAN HETTRICK

MARCH 19, 2001

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing state public works board. (BDR 28-229)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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

AN ACT relating to the state public works board; authorizing the board to enter into a contract with a contractor to assist the board in the development and review of designs, plans, specifications and estimates of costs for a proposed construction project; requiring the board to notify the governor if a member of the board fails to attend three successive meetings of the board; authorizing the governor to replace such a member for the unexpired term of the member; establishing qualifications for appointed members of the board; requiring the board to obtain the approval of the legislature or interim finance committee for certain changes to a project; requiring the inclusion of certain provisions concerning change orders in a contract with a design professional; removing the provision requiring the director of the department of administration to serve as the chairman of the board; requiring the chairman of the board to be elected from among the appointed members of the board; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 341 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1. *The board may, with the approval of the interim finance***
4 ***committee when the legislature is not in regular or special session, or***
5 ***with the approval of the legislature by concurrent resolution when the***
6 ***legislature is in regular or special session, enter into a contract for***
7 ***services with a contractor licensed pursuant to chapter 624 of NRS to***
8 ***assist the board:***

9 ***(a) In the development of designs, plans, specifications and estimates***
10 ***of costs for a proposed construction project.***

11 ***(b) In the review of designs, plans, specifications and estimates of***
12 ***costs for a proposed construction project to ensure that the designs,***
13 ***plans, specifications and estimates of costs are complete and that the***
14 ***project is feasible to construct.***



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- 1 2. *The board is not required to advertise for bids for a contract for*
2 *services pursuant to subsection 1, but may solicit bids from not fewer*
3 *than three licensed contractors and may award the contract to the lowest*
4 *responsible and responsive bidder.*
5 3. *The board shall adopt regulations establishing procedures for:*
6 *(a) The determination of the qualifications of contractors to bid for*
7 *the contracts for services described in subsection 1.*
8 *(b) The bidding and awarding of such contracts.*
9 4. *If a proposed construction project for which a contractor is*
10 *awarded a contract for services by the board pursuant to subsection 1 is*
11 *advertised pursuant to NRS 341.148, that contractor may submit a bid for*
12 *the contract for the proposed construction project if he is qualified*
13 *pursuant to NRS 338.1377.*
14 Sec. 3. *If an appointed member of the board fails to attend three*
15 *successive meetings of the board, the board shall notify the governor of*
16 *that fact, in writing, within 5 days after the third successive meeting that*
17 *the member fails to attend. Upon receipt of the notice, the governor may*
18 *appoint a person to replace the member for the unexpired term of that*
19 *member.*
20 Sec. 4. NRS 341.020 is hereby amended to read as follows:
21 341.020 1. The state public works board, consisting of the director of
22 the department of administration and six members ~~to be~~ appointed by the
23 governor, is hereby created within the department of administration.
24 2. *At least one of the appointed members must have a comprehensive*
25 *knowledge of the principles of administration and at least one of the*
26 *appointed members must have a working knowledge of the principles of*
27 *engineering or architecture.*
28 Sec. 5. NRS 341.060 is hereby amended to read as follows:
29 341.060 Within a reasonable time after the appointment of the
30 members of the board, the board shall meet upon the call of the governor
31 and shall organize and elect a *chairman and* vice chairman ~~to be~~ *from among*
32 *the members appointed pursuant to NRS 341.020.*
33 Sec. 6. NRS 341.070 is hereby amended to read as follows:
34 341.070 The board shall ~~adopt~~ :
35 1. *Adopt* such rules for the regulation of its proceedings and the
36 transaction of its business as it deems proper.
37 2. *Meet at least once every 3 months.*
38 Sec. 7. NRS 341.145 is hereby amended to read as follows:
39 341.145 The board:
40 1. ~~After consulting with the interim finance committee, has~~ *Has* final
41 authority ~~for approval as~~ to *approve* the architecture of all buildings,
42 plans, designs, types of construction, major repairs and designs of
43 landscaping.
44 2. Shall determine whether any rebates are available from a public
45 utility for installing devices in any state building which are designed to
46 decrease the use of energy in the building. If such a rebate is available, the
47 board shall apply for the rebate.
48 3. Shall solicit bids for and let all contracts for new construction or
49 major repairs.



1 4. May negotiate with the lowest responsible *and responsive* bidder on
2 any contract to obtain a revised bid if:
3 (a) The bid is less than the appropriation made by the legislature for that
4 building project; and
5 (b) The bid does not exceed the relevant budget item for that building
6 project as established by the board by more than 10 percent.
7 5. May reject any or all bids.
8 6. After the contract is let, shall supervise and inspect construction and
9 major repairs. The cost of supervision and inspection must be financed
10 from the capital construction program approved by the legislature.
11 7. *Shall obtain approval from the interim finance committee when*
12 *the legislature is not in regular or special session, or from the legislature*
13 *by concurrent resolution when the legislature is in regular or special*
14 *session, for any change in the scope of the design or construction of a*
15 *project as that project was authorized by the legislature. The board shall*
16 *adopt by regulation criteria for determining whether a change in the*
17 *scope of the design or construction of a project requires such approval.*
18 8. May authorize change orders, before or during construction:
19 (a) In any amount, where the change represents a reduction in the
20 awarded contract price.
21 (b) Not to exceed in the aggregate 10 percent of the total awarded
22 contract price, where the change represents an increase in that price.
23 ~~8-1~~ 9. *Shall specify in any contract with a design professional the*
24 *period within which the design professional must prepare and submit to*
25 *the board a change order that has been authorized by the design*
26 *professional. As used in this subsection, "design professional" means a*
27 *person with a professional license or certificate issued pursuant to*
28 *chapter 623, 623A or 625 of NRS.*
29 10. Has final authority to accept each building as completed or to
30 require necessary alterations to conform to the contract, and to file the
31 notice of completion.
32 **Sec. 8.** NRS 341.148 is hereby amended to read as follows:
33 341.148 1. Except as *otherwise* provided in subsection 2, the board
34 shall advertise in a newspaper of general circulation in the State of Nevada
35 for separate sealed bids for each construction project. Approved plans and
36 specifications for the construction must be on file at a place and time stated
37 in the advertisement for the inspection of all persons desiring to bid thereon
38 and for other interested persons. The board may accept bids on either the
39 whole or a part of the construction, equipment and furnishings, and may let
40 separate contracts for different and separate portions of any project, or a
41 combination contract for structural, mechanical and electrical construction
42 if savings will result to the lowest *responsible and responsive* bidder.
43 2. The board is not required to advertise for sealed bids for
44 construction projects if the estimated cost is less than \$25,000, but the
45 board may solicit firm written bids from not less than two licensed
46 contractors doing business in the area and may award the contract to the
47 lowest *responsible and responsive* bidder or reject all bids.



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1 **Sec. 9.** NRS 341.161 is hereby amended to read as follows:
2 341.161 1. The board may, with the approval of the interim finance
3 committee when the legislature is not in regular or special session, or with
4 the approval of the legislature by concurrent resolution when the legislature
5 is in regular or special session, let to a contractor licensed under chapter
6 624 of NRS a contract for services which assist the ~~architect~~ **board** in the
7 design **and construction** of a project of capital improvement. ~~{The board~~
8 ~~shall for that purpose participate in the development of plans, outlines of~~
9 ~~specifications and estimates of costs.}~~
10 2. The board shall adopt regulations establishing procedures for:
11 (a) The determination of the qualifications of contractors to bid for
12 contracts for services described in subsection 1.
13 (b) The bidding and awarding of such contracts, subject to the
14 provisions of subsection 3.
15 (c) The awarding of construction contracts based on a final cost of the
16 project which the contractor guarantees will not be exceeded.
17 (d) The scheduling and controlling of projects.
18 3. Bids on contracts for services which assist the ~~architect~~ **board** in
19 the design **and construction** of a project of capital improvement must state
20 separately the contractor's cost for:
21 (a) Assisting the ~~architect~~ **board** in the design **and construction** of the
22 project.
23 (b) Obtaining all bids for subcontracts.
24 (c) Administering the construction contract.
25 4. A person who furnishes services under a contract awarded pursuant
26 to subsection 1 is a contractor subject to all provisions pertaining to a
27 contractor in Title 28 of NRS.
28 **Sec. 10.** NRS 341.161 is hereby amended to read as follows:
29 341.161 1. The board may, with the approval of the interim finance
30 committee when the legislature is not in regular or special session, or with
31 the approval of the legislature by concurrent resolution when the legislature
32 is in regular or special session, let to a contractor licensed under chapter
33 624 of NRS a contract for services which assist the ~~architect~~ **board** in the
34 design **and construction** of a project of capital improvement. ~~{The board~~
35 ~~shall for that purpose participate in the development of plans, outlines of~~
36 ~~specifications and estimates of costs.}~~
37 2. The board shall adopt regulations establishing procedures for:
38 (a) The determination of the qualifications of contractors to bid for
39 contracts for services described in subsection 1.
40 (b) The bidding and awarding of such contracts, subject to the
41 provisions of subsection 3.
42 (c) The awarding of construction contracts, subject to the provisions of
43 subsection 4, based on a final cost of the project which the contractor
44 guarantees will not be exceeded.
45 (d) The scheduling and controlling of projects.
46 3. Bids on contracts for services which assist the ~~architect~~ **board** in
47 the design **and construction** of a project of capital improvement must state
48 separately the contractor's cost for:



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1 (a) Assisting the ~~architect~~ board in the design and construction of the
2 project.

3 (b) Obtaining all bids for subcontracts.

4 (c) Administering the construction contract.

5 4. A contractor who is:

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

8 (b) Awarded that contract,

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

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

15 **Sec. 11.** NRS 218.6827 is hereby amended to read as follows:

16 218.6827 1. Except as otherwise provided in subsections 2 and 3, the
17 interim finance committee may exercise the powers conferred upon it by
18 law only when the legislature is not in regular or special session.

19 2. During a regular session, the interim finance committee may also
20 perform the duties imposed on it by subsection 5 of NRS 284.115,
21 subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020,
22 NRS 323.050, subsection 1 of NRS 323.100, ~~subsection 1 of NRS~~
23 ~~341.145,~~ NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and
24 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375,
25 439.630, subsection 6 of NRS 445B.830 and NRS 538.650. In performing
26 those duties, the senate standing committee on finance and the assembly
27 standing committee on ways and means may meet separately and transmit
28 the results of their respective votes to the chairman of the interim finance
29 committee to determine the action of the interim finance committee as a
30 whole.

31 3. During a regular or special session, the interim finance committee
32 may exercise the powers and duties conferred upon it pursuant to the
33 provisions of NRS 353.2705 to 353.2771, inclusive.

34 4. If the interim finance committee determines that a fundamental
35 review of the base budget of a state agency is necessary, it shall, by
36 resolution, notify the legislative commission of that finding for assignment
37 of the review to a legislative committee for the fundamental review of the
38 base budgets of state agencies established pursuant to NRS 218.5382.

39 **Sec. 12.** NRS 232.215 is hereby amended to read as follows:

40 232.215 The director:

41 1. Shall appoint a chief of the:

42 (a) Risk management division;

43 (b) Buildings and grounds division;

44 (c) Purchasing division;

45 (d) State printing division;

46 (e) Administrative services division;

47 (f) Division of internal audits; and

48 (g) Motor pool division, if separately established.



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1 2. Shall appoint a chief of the budget division, or may serve in this
2 position if he has the qualifications required by NRS 353.175.
3 3. Shall serve as chief of the hearings division and shall appoint the
4 hearing officers and compensation officers. The director may designate one
5 of the appeals officers in the division to supervise the administrative,
6 technical and procedural activities of the division.
7 4. ~~{Shall serve as chairman of the state public works board.~~
8 ~~—5.}~~ Is responsible for the administration, through the divisions of the
9 department, of the provisions of chapters 331, 333, 336 and 344 of NRS,
10 NRS 353.150 to 353.246, inclusive, and 353A.031 to 353A.100, inclusive,
11 and all other provisions of law relating to the functions of the divisions of
12 the department.
13 ~~{6.}~~ 5. Is responsible for the administration of the laws of this state
14 relating to the negotiation and procurement of medical services and other
15 benefits for state agencies.
16 ~~{7.}~~ 6. Has such other powers and duties as are provided by law.
17 **Sec. 13.** Notwithstanding the amendatory provisions of NRS 341.020,
18 each member of the state public works board continues to serve on the
19 board until the expiration of his term.
20 **Sec. 14.** 1. This section and sections 1 to 9, inclusive, 11, 12 and 13
21 of this act become effective on July 1, 2001.
22 2. Section 9 of this act expires by limitation on October 1, 2003.
23 3. Section 10 of this act becomes effective at 12:01 a.m. on October 1,
24 2003.

