

ASSEMBLY BILL NO. 461—ASSEMBLYMAN PARKS

MARCH 19, 2001

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to qualification of bidders on certain contracts for public works in this state. (BDR 28-591)

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 public works; authorizing the state public works board to adopt by regulation criteria for the qualification of bidders on a contract for a public work; eliminating the provision providing an exemption from qualifying to bid for a public work of this state; requiring the governing body of a local government to accept a bid on a contract for a public work from certain persons who do not otherwise qualify to bid for public works; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 338.1373 is hereby amended to read as follows:
2 338.1373 1. A local government shall award a contract for the
3 construction, alteration or repair of a public work pursuant to the
4 provisions of:
5 (a) NRS ~~338.1375~~ **338.1377** to 338.1389, inclusive; or
6 (b) NRS 338.143, 338.145 and 338.147.
7 2. The provisions of NRS 338.1375 to 338.1383, inclusive, do not
8 apply with respect to contracts for the construction, reconstruction,
9 improvement and maintenance of highways that are awarded by the
10 department of transportation pursuant to NRS 408.313 to 408.433,
11 inclusive.
12 **Sec. 2.** NRS 338.1375 is hereby amended to read as follows:
13 338.1375 1. ~~Except as otherwise provided in NRS 338.1383, a public~~
14 ~~body~~ **The state public works board** shall not accept a bid on a contract for
15 a public work unless the person who submits the bid has qualified pursuant
16 to NRS 338.1379 to bid on that contract.
17 2. ~~The governing body of each local government that sponsors or~~
18 ~~finances a public work may adopt criteria for the qualification of bidders~~
19 ~~on contracts for public works of the local government. If a governing body~~



1 ~~adopts criteria pursuant to this subsection, the governing body shall use the~~
2 ~~criteria to determine the qualification of bidders on contracts for public~~
3 ~~works of the local government.~~

4 ~~—3.1~~ The state public works board shall *by regulation* adopt criteria for
5 the qualification of bidders on contracts for public works of this state. The
6 criteria adopted by the state public works board pursuant to this
7 ~~{subsection}~~ *section* must be used by the state public works board to
8 determine the qualification of bidders on contracts for public works of this
9 state.

10 *3. The criteria adopted by the state public works board pursuant to*
11 *this section must:*

12 *(a) Be adopted in such a form that the determination of whether an*
13 *applicant is qualified to bid on a contract for a public work does not*
14 *require or allow the exercise of discretion by any one person.*

15 *(b) Include:*

16 *(1) The financial ability of the applicant to perform a contract;*

17 *(2) The principal personnel of the applicant;*

18 *(3) Whether the applicant has breached any contracts with a public*
19 *agency or person in this state or any other state; and*

20 *(4) Whether the applicant has been disqualified from being*
21 *awarded a contract pursuant to NRS 338.017 or 338.1387.*

22 ~~{4. Before adopting criteria pursuant to this section, the state public~~
23 ~~works board or a governing body shall hold at least one public hearing to~~
24 ~~solicit and evaluate public opinion regarding the criteria to be adopted.~~
25 ~~Notice of such a hearing must be provided by mail at least 10 days before~~
26 ~~the hearing to:~~

27 ~~—(a) Construction trade associations; and~~

28 ~~—(b) Labor unions representing trades in the building industry.~~

29 **Sec. 3.** NRS 338.1377 is hereby amended to read as follows:

30 338.1377 *1. Except as otherwise provided in NRS 338.1383, the*
31 *governing body of each local government that sponsors or finances a*
32 *public work shall adopt criteria for the qualification of bidders on*
33 *contracts for public works of the local government. The governing body*
34 *shall use the criteria to determine the qualification of bidders on*
35 *contracts for public works of the local government.*

36 *2. Before adopting criteria pursuant to this section, the governing*
37 *body of a local government shall hold at least one public hearing to*
38 *solicit and evaluate public opinion regarding the criteria to be adopted.*
39 *Notice of such a hearing must be provided by mail at least 10 days before*
40 *the hearing to:*

41 *(a) Construction trade associations in this state; and*

42 *(b) Labor unions representing trades in the building industry in this*
43 *state.*

44 *3. The criteria adopted by ~~{the state public works board or}~~ a*
45 *governing body pursuant to ~~{NRS 338.1375}~~ this section to determine*
46 *whether an applicant is qualified to bid on a contract for a public work:*

47 ~~{1.}~~ *(a) Must be adopted in such a form that the determination of*
48 *whether an applicant is qualified to bid on a contract for a public work does*
49 *not require or allow the exercise of discretion by any one person.*



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1 ~~(2-)~~ (b) May include only:
2 ~~(a-)~~ (1) The financial ability of the applicant to perform ~~the~~ a
3 contract;
4 ~~(b-)~~ (2) The principal personnel of the applicant;
5 ~~(c-)~~ (3) Whether the applicant has breached any contracts with a public
6 agency or person in this state or any other state; and
7 ~~(d-)~~ (4) Whether the applicant has been disqualified from being
8 awarded ~~the~~ a contract pursuant to NRS 338.017 or 338.1387.

9 **Sec. 4.** NRS 338.1379 is hereby amended to read as follows:
10 338.1379 1. Except as otherwise provided in NRS 338.1383, a
11 person who wishes to qualify as a bidder on a contract for a public work
12 must submit an application to the state public works board or the governing
13 body.

14 2. Upon receipt of an application pursuant to subsection 1, the state
15 public works board or the governing body shall:

16 (a) Investigate the applicant to determine whether he is qualified to bid
17 on ~~the~~ a contract; and

18 (b) After conducting the investigation, determine whether the applicant
19 is qualified to bid on ~~the~~ a contract. The determination must be made
20 within 30 days after receipt of the application.

21 3. The state public works board or the governing body shall notify
22 each applicant in writing of its determination. If an application is denied,
23 the notice must set forth the reasons for the denial and inform the applicant
24 of his right to a hearing pursuant to NRS 338.1381.

25 4. *The state public works board or the governing body of a local
26 government may determine an applicant is qualified to bid:*

27 *(a) On a specific project;*

28 *(b) On more than one project over a period of 12 months; or*

29 *(c) On more than one project over a period of 24 months.*

30 5. *The state public works board shall not use any criteria other than
31 criteria adopted by regulation pursuant to NRS 338.1375 in determining
32 whether to approve or deny an application.*

33 6. The ~~{state public works board or the}~~ governing body *of a local
34 government* shall not use any criteria other than the criteria described in
35 NRS 338.1377 in determining whether to approve or deny an application.

36 ~~(5-)~~ 7. Financial information and other data pertaining to the net worth
37 of an applicant which is gathered by or provided to the state public works
38 board or a governing body to determine the financial ability of an applicant
39 to perform a contract is confidential and not open to public inspection.

40 **Sec. 5.** NRS 338.1383 is hereby amended to read as follows:

41 338.1383 ~~{A public body may}~~ *If a local government does not adopt
42 criteria for the qualification of bidders on a public work pursuant to NRS
43 338.1377, the governing body shall* accept a bid on a contract for a public
44 work from a person who ~~{does not qualify pursuant to NRS 338.1379 if the
45 person}~~ holds:

46 1. An unlimited contractor's license issued by the state contractors'
47 board in the branch of general engineering contracting or general building
48 contracting, or in both branches, and:



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- 1 (a) At the time he submits his bid, he provides a bid bond equal to 10
2 percent of the amount of the bid; and
3 (b) At the time the contract is awarded, he provides a performance
4 bond, a labor and material bond, and a guaranty bond, each equal to 100
5 percent of the amount of the contract; or
6 2. A contractor's license issued by the state contractors' board that is
7 designated in any classification if he:
8 (a) Has, in the 5 years immediately preceding the submission of the bid,
9 been found to be a responsible contractor in the classification in which his
10 contractor's license is designated;
11 (b) Provides a bid bond, a performance bond, a guaranty bond, and a
12 labor and material bond in such amounts as the ~~state public works board~~
13 ~~or~~ governing body may require; and
14 (c) Employs a person determined by the state contractors' board to be
15 qualified to supervise each classification of construction upon which the
16 person submitting the bid is bidding.
17 **Sec. 6.** This bill becomes effective on July 1, 2001.

