

(REPRINTED WITH ADOPTED AMENDMENTS)
SECOND REPRINT

S.B. 63

SENATE BILL NO. 63—COMMITTEE ON GOVERNMENT AFFAIRS

PREFILED JANUARY 31, 2001

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to bidding on and awarding contracts for public works projects. (BDR 28-754)

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

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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 projects; authorizing public bodies and local governments to award contracts for certain public works projects to specialty contractors; specifying that certain requirements for receiving a certificate for preference in bidding must be satisfied while licensed as a general contractor or specialty contractor; requiring the state contractors' board to issue a certificate of eligibility to receive a preference in bidding to a specialty contractor under certain circumstances; allowing general contractors and specialty contractors to receive a preference for bidding on public works by purchasing a contractor that possesses such a preference; 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 338 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2. 1. *A public body may award a contract for the construction,***
4 *alteration or repair of a public work pursuant to NRS 338.1375 to*
5 *338.1389, inclusive, to a specialty contractor if:*
6 *(a) The majority of the work to be performed on the project to which*
7 *the contract pertains consists of specialty contracting for which the*
8 *specialty contractor is licensed; and*
9 *(b) The project to which the contract pertains is not part of a larger*
10 *public work.*
11 **2. *If a public body awards a contract to a specialty contractor***
12 *pursuant to NRS 338.1375 to 338.1389, inclusive, all work to be*
13 *performed on the project to which the contract pertains that is outside the*
14 *scope of the license of the specialty contractor must be performed by a*
15 *subcontractor who is licensed to perform such work.*
16 **Sec. 3.** (Deleted by amendment.)



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1 **Sec. 4. 1. A local government may award a contract for the**
2 **construction, alteration or repair of a public work to a specialty**
3 **contractor pursuant to NRS 338.147 if:**

4 **(a) The majority of the work to be performed on the project to which**
5 **the contract pertains consists of specialty contracting for which the**
6 **specialty contractor is licensed; and**

7 **(b) The project to which the contract pertains is not part of a larger**
8 **public work.**

9 **2. If a local government awards a contract to a specialty contractor**
10 **pursuant to NRS 338.147, all work to be performed on the project to**
11 **which the contract pertains that is outside the scope of the license of the**
12 **specialty contractor must be performed by a subcontractor who is**
13 **licensed to perform such work.**

14 **Sec. 5. NRS 338.010 is hereby amended to read as follows:**

15 338.010 As used in this chapter:

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

20 2. "Design-build contract" means a contract between a public body
21 and a design-build team in which the design-build team agrees to design
22 and construct a public work.

23 3. "Design-build team" means an entity that consists of:

24 (a) At least one person who is licensed as a general engineering
25 contractor or a general building contractor pursuant to chapter 624 of NRS;
26 and

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

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

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

34 4. "Design professional" means a person with a professional license or
35 certificate issued pursuant to chapter 623, 623A or 625 of NRS.

36 5. "Eligible bidder" means a person who is:

37 (a) Found to be a responsible and responsive contractor by a local
38 government which requests bids for a public work in accordance with
39 paragraph (b) of subsection 1 of NRS 338.1373; or

40 (b) Determined by a public body which awarded a contract for a public
41 work pursuant to NRS 338.1375 to 338.1389, inclusive, to be qualified to
42 bid on that contract pursuant to NRS 338.1379 or was exempt from
43 meeting such qualifications pursuant to NRS 338.1383.

44 6. **"General contractor" means a person who is licensed to conduct**
45 **business in one, or both, of the following branches of the contracting**
46 **business:**

47 **(a) General engineering contracting, as described in subsection 2 of**
48 **NRS 624.215.**



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1 *(b) General building contracting, as described in subsection 3 of NRS*
2 *624.215.*

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

11 ~~17-1~~ 8. "Offense" means failing to:

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

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

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

17 (d) Comply with subsection 4 or 5 of NRS 338.070.

18 ~~18-1~~ 9. "Prime contractor" means a person who:

19 (a) Contracts to construct an entire project;

20 (b) Coordinates all work performed on the entire project;

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

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

26 ~~19-1~~

27 *The term includes, without limitation, a general contractor or a specialty*
28 *contractor who is authorized to bid on a project pursuant to section 2 or*
29 *4 of this act.*

30 10. "Public body" means the state, county, city, town, school district or
31 any public agency of this state or its political subdivisions sponsoring or
32 financing a public work.

33 ~~10-1~~ 11. "Public work" means any project for the new construction,
34 repair or reconstruction of:

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

36 (1) Public buildings;

37 (2) Jails and prisons;

38 (3) Public roads;

39 (4) Public highways;

40 (5) Public streets and alleys;

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

43 (7) Publicly owned water mains and sewers;

44 (8) Public parks and playgrounds;

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

47 (10) All other publicly owned works and property whose cost as a
48 whole exceeds \$20,000. Each separate unit that is a part of a project is



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1 included in the cost of the project to determine whether a project meets that
2 threshold.

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

6 ~~11.1~~ 12. "Specialty contractor" means a ~~contractor whose operations~~
7 ~~as such are the performance of construction work requiring special skill~~
8 ~~and whose principal contracting business involves the use of specialized~~
9 ~~building trades or crafts.~~

10 ~~12.1~~ *12. person who is licensed to conduct business as described in*
11 *subsection 4 of NRS 624.215.*

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

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

17 (b) A project for the construction or installation of a storm drain,
18 including facilities appurtenant thereto,
19 that is not located at the site of a public work for the design and
20 construction of which a public body is authorized to contract with a design-
21 build team pursuant to subsection 2 of NRS 338.1711.

22 ~~13.1~~ 14. "Wages" means:

23 (a) The basic hourly rate of pay; and

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

27 ~~14.1~~ 15. "Workman" means a skilled mechanic, skilled workman,
28 semiskilled mechanic, semiskilled workman or unskilled workman. The
29 term does not include a design professional.

30 **Sec. 6.** NRS 338.010 is hereby amended to read as follows:

31 338.010 As used in this chapter:

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

36 2. "Eligible bidder" means a person who is:

37 (a) Found to be a responsible and responsive contractor by a local
38 government which requests bids for a public work in accordance with
39 paragraph (b) of subsection 1 of NRS 338.1373; or

40 (b) Determined by a public body which awarded a contract for a public
41 work pursuant to NRS 338.1375 to 338.1389, inclusive, to be qualified to
42 bid on that contract pursuant to NRS 338.1379 or was exempt from
43 meeting such qualifications pursuant to NRS 338.1383.

44 3. *"General contractor" means a person who is licensed to conduct*
45 *business in one, or both, of the following branches of the contracting*
46 *business:*

47 (a) *General engineering contracting, as described in subsection 2 of*
48 *NRS 624.215.*



1 *(b) General building contracting, as described in subsection 2 of NRS*
2 *624.215.*

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

11 ~~14-1~~ 5. “Offense” means failing to:

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

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

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

17 (d) Comply with subsection 4 or 5 of NRS 338.070.

18 ~~15-1~~ 6. “Prime contractor” means a person who:

19 (a) Contracts to complete an entire project;

20 (b) Coordinates all work performed on the entire project;

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

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

26 ~~16-1~~

27 *The term includes, without limitation, a general contractor or a specialty*
28 *contractor who is authorized to bid on a project pursuant to section 2 or*
29 *4 of this act.*

30 7. “Public body” means the state, county, city, town, school district or
31 any public agency of this state or its political subdivisions sponsoring or
32 financing a public work.

33 ~~17-1~~ 8. “Public work” means any project for the new construction,
34 repair or reconstruction of:

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

36 (1) Public buildings;

37 (2) Jails and prisons;

38 (3) Public roads;

39 (4) Public highways;

40 (5) Public streets and alleys;

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

43 (7) Publicly owned water mains and sewers;

44 (8) Public parks and playgrounds;

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

47 (10) Any other publicly owned works and property whose cost as a
48 whole exceeds \$20,000. Each separate unit that is a part of a project is



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1 included in the cost of the project to determine whether a project meets that
2 threshold.

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

6 ~~8-1~~ 9. *"Specialty contractor" means a person who is licensed to*
7 *conduct business as described in subsection 4 of NRS 624.215.*

8 10. "Wages" means:

9 (a) The basic hourly rate of pay; and

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

13 ~~9-1~~ 11. "Workman" means a skilled mechanic, skilled workman,
14 semiskilled mechanic, semiskilled workman or unskilled workman. The
15 term does not include a "design professional" as that term is defined in
16 NRS 338.155.

17 **Sec. 7.** NRS 338.1373 is hereby amended to read as follows:

18 338.1373 1. A local government shall award a contract for the
19 construction, alteration or repair of a public work pursuant to the
20 provisions of:

21 (a) NRS 338.1375 to 338.1389, inclusive ~~1-1~~, *and sections 2 and 3 of*
22 *this act;* or

23 (b) NRS 338.143, 338.145 and 338.147 ~~1-1~~ *and section 4 of this act.*

24 2. The provisions of NRS 338.1375 to 338.1383, inclusive, *and*
25 *section 2 of this act* do not apply with respect to contracts for the
26 construction, reconstruction, improvement and maintenance of highways
27 that are awarded by the department of transportation pursuant to NRS
28 408.313 to 408.433, inclusive, and section 1 of *Assembly Bill No. 86 of*
29 *this ~~act~~ session.*

30 **Sec. 8.** NRS 338.1389 is hereby amended to read as follows:

31 338.1389 1. Except as otherwise provided in NRS 338.1385 and
32 338.1711 to 338.1727, inclusive, a public body shall award a contract for a
33 public work to the contractor who submits the best bid.

34 2. Except as otherwise provided in subsection ~~1-1~~ 10 or limited by
35 subsection ~~1-1~~ 11, for the purposes of this section, a contractor who:

36 (a) Has been determined by the public body to be a qualified bidder
37 pursuant to NRS 338.1379 or is exempt from meeting such requirements
38 pursuant to NRS 338.1373 or 338.1383; and

39 (b) At the time he submits his bid, provides to the public body a copy of
40 a certificate of eligibility to receive a preference in bidding on public works
41 issued to him by the state contractors' board pursuant to subsection 3 ~~1-1~~
42 *or 4,*

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

47 3. The state contractors' board shall issue a certificate of eligibility to
48 receive a preference in bidding on public works to a general contractor who
49 is licensed pursuant to the provisions of chapter 624 of NRS and submits to



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1 the board an affidavit from a certified public accountant setting forth that
2 the general contractor has ~~†~~ , *while licensed as a general contractor in*
3 *this state:*

4 (a) Paid ~~†~~ *directly, on his own behalf:*

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

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

18 (3) Any combination of such sales and use taxes and governmental
19 services tax; or

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

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

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

27 4. *The state contractors' board shall issue a certificate of eligibility to*
28 *receive a preference in bidding on public works to a specialty contractor*
29 *who is licensed pursuant to the provisions of chapter 624 of NRS and*
30 *submits to the board an affidavit from a certified public accountant*
31 *setting forth that the specialty contractor has, while licensed as a*
32 *specialty contractor in this state:*

33 (a) *Paid directly, on his own behalf:*

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

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

47 (3) *Any combination of such sales and use taxes and governmental*
48 *services tax; or*



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

4 (1) *License as a specialty contractor pursuant to the provisions of*
5 *chapter 624 of NRS; and*

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

8 5. For the purposes of complying with the requirements set forth in
9 paragraph (a) of subsection 3 ~~1-a general~~ and paragraph (a) of subsection
10 4, a contractor shall be deemed to have paid:

11 (a) Sales and use taxes and governmental services taxes that were paid
12 in this state by an affiliate or parent company of the contractor, if the
13 affiliate or parent company is also a general contractor ~~1-a~~ or specialty
14 contractor, as applicable; and

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

18 ~~15-1~~ 6. A contractor who has received a certificate of eligibility to
19 receive a preference in bidding on public works from the state contractors'
20 board pursuant to subsection 3 or 4 shall, at the time for the annual renewal
21 of his contractor's license pursuant to NRS 624.283, submit to the board an
22 affidavit from a certified public accountant setting forth that the contractor
23 has, during the immediately preceding 12 months, paid the taxes required
24 pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4,
25 as applicable, to maintain his eligibility to hold such a certificate.

26 ~~16-1~~ 7. A contractor who fails to submit an affidavit to the board
27 pursuant to subsection ~~15-1~~ 6 ceases to be eligible to receive a preference in
28 bidding on public works unless he reapplies for and receives a certificate of
29 eligibility pursuant to subsection 3 ~~1-a~~

30 ~~7-1~~ or 4, as applicable.

31 8. *If a contractor holds more than one contractor's license, he must*
32 *submit a separate application for each license pursuant to which he*
33 *wishes to qualify for a preference in bidding. Upon issuance, the*
34 *certificate of eligibility to receive a preference in bidding on public works*
35 *becomes part of the contractor's license for which the contractor*
36 *submitted the application.*

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

43 ~~18-1~~ 10. If any federal statute or regulation precludes the granting of
44 federal assistance or reduces the amount of that assistance for a particular
45 public work because of the provisions of subsection 2, those provisions do
46 not apply insofar as their application would preclude or reduce federal
47 assistance for that work. The provisions of subsection 2 do not apply to any
48 contract for a public work which is expected to cost less than \$250,000.



1 ~~19.1~~ 11. Except as otherwise provided in subsection 2 of NRS
2 338.1727, if a bid is submitted by two or more contractors as a joint
3 venture or by one of them as a joint venturer, the provisions of subsection 2
4 apply only if both or all of the joint venturers separately meet the
5 requirements of that subsection.

6 ~~10.1~~ 12. The state contractors' board shall adopt regulations and may
7 assess reasonable fees relating to the certification of contractors for a
8 preference in bidding on public works.

9 ~~11.1~~ 13. A person or entity who believes that a contractor wrongfully
10 holds a certificate of eligibility to receive a preference in bidding on public
11 works may challenge the validity of the certificate by filing a written
12 objection with the public body to which the contractor has submitted a bid
13 or proposal on a contract for the construction of a public work. A written
14 objection authorized pursuant to this subsection must:

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

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

22 ~~12.1~~ 14. If a public body receives a written objection pursuant to
23 subsection ~~11.1~~ 13, the public body shall determine whether the objection
24 is accompanied by the proof or substantiating evidence required pursuant
25 to paragraph (a) of that subsection. If the public body determines that the
26 objection is not accompanied by the required proof or substantiating
27 evidence, the public body shall dismiss the objection and may proceed
28 immediately to award the contract. If the public body determines that the
29 objection is accompanied by the required proof or substantiating evidence,
30 the public body shall determine whether the contractor qualifies for the
31 certificate pursuant to the provisions of this section and may proceed to
32 award the contract accordingly.

33 **Sec. 9.** NRS 338.1389 is hereby amended to read as follows:

34 338.1389 1. Except as otherwise provided in NRS 338.1385, a public
35 body shall award a contract for a public work to the contractor who
36 submits the best bid.

37 2. Except as otherwise provided in subsection ~~18.1~~ 10 or limited by
38 subsection ~~19.1~~ 11, for the purposes of this section, a contractor who:

39 (a) Has been determined by the public body to be a qualified bidder
40 pursuant to NRS 338.1379 or is exempt from meeting such requirements
41 pursuant to NRS 338.1373 or 338.1383; and

42 (b) At the time he submits his bid, provides to the public body a copy of
43 a certificate of eligibility to receive a preference in bidding on public works
44 issued to him by the state contractors' board pursuant to subsection 3 ~~11.1~~
45 ~~or 4,~~

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



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1 3. The state contractors' board shall issue a certificate of eligibility to
2 receive a preference in bidding on public works to a general contractor who
3 is licensed pursuant to the provisions of chapter 624 of NRS and submits to
4 the board an affidavit from a certified public accountant setting forth that
5 the general contractor has ~~H~~, *while licensed as a general contractor in*
6 *this state:*

7 (a) Paid ~~H~~ *directly, on his own behalf:*

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

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

21 (3) Any combination of such sales and use taxes and governmental
22 services tax; or

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

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

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

30 4. *The state contractors' board shall issue a certificate of eligibility to*
31 *receive a preference in bidding on public works to a specialty contractor*
32 *who is licensed pursuant to the provisions of chapter 624 of NRS and*
33 *submits to the board an affidavit from a certified public accountant*
34 *setting forth that the specialty contractor has, while licensed as a*
35 *specialty contractor in this state:*

36 (a) *Paid directly, on his own behalf:*

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

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



1 (3) *Any combination of such sales and use taxes and governmental*
2 *services tax; or*

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

6 (1) *License as a specialty contractor pursuant to the provisions of*
7 *chapter 624 of NRS; and*

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

10 5. For the purposes of complying with the requirements set forth in
11 paragraph (a) of subsection 3 ~~1, a general~~ *and paragraph (a) of subsection*
12 *4, a* contractor shall be deemed to have paid:

13 (a) Sales and use taxes and governmental services taxes that were paid
14 in this state by an affiliate or parent company of the contractor, if the
15 affiliate or parent company is also a general contractor ~~1~~ *or specialty*
16 *contractor, as applicable;* and

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

20 ~~5-1~~ 6. A contractor who has received a certificate of eligibility to
21 receive a preference in bidding on public works from the state contractors'
22 board pursuant to subsection 3 *or 4* shall, at the time for the annual renewal
23 of his contractor's license pursuant to NRS 624.283, submit to the board an
24 affidavit from a certified public accountant setting forth that the contractor
25 has, during the immediately preceding 12 months, paid the taxes required
26 pursuant to paragraph (a) of subsection 3 *or paragraph (a) of subsection 4,*
27 *as applicable,* to maintain his eligibility to hold such a certificate.

28 ~~16-1~~ 7. A contractor who fails to submit an affidavit to the board
29 pursuant to subsection ~~15-1~~ 6 ceases to be eligible to receive a preference in
30 bidding on public works unless he reapplies for and receives a certificate of
31 eligibility pursuant to subsection 3 ~~1~~
32 ~~—7-1~~ *or 4, as applicable.*

33 8. *If a contractor holds more than one contractor's license, he must*
34 *submit a separate application for each license pursuant to which he*
35 *wishes to qualify for a preference in bidding. Upon issuance, the*
36 *certificate of eligibility to receive a preference in bidding on public works*
37 *becomes part of the contractor's license for which the contractor*
38 *submitted the application.*

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

45 ~~18-1~~ 10. If any federal statute or regulation precludes the granting of
46 federal assistance or reduces the amount of that assistance for a particular
47 public work because of the provisions of subsection 2, those provisions do
48 not apply insofar as their application would preclude or reduce federal



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

3 ~~19-1~~ 11. If a bid is submitted by two or more contractors as a joint
4 venture or by one of them as a joint venturer, the provisions of subsection 2
5 apply only if both or all of the joint venturers separately meet the
6 requirements of that subsection.

7 ~~10-1~~ 12. The state contractors' board shall adopt regulations and may
8 assess reasonable fees relating to the certification of contractors for a
9 preference in bidding on public works.

10 ~~11-1~~ 13. A person or entity who believes that a contractor wrongfully
11 holds a certificate of eligibility to receive a preference in bidding on public
12 works may challenge the validity of the certificate by filing a written
13 objection with the public body to which the contractor has submitted a bid
14 or proposal on a contract for the construction of a public work. A written
15 objection authorized pursuant to this subsection must:

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

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

23 ~~12-1~~ 14. If a public body receives a written objection pursuant to
24 subsection ~~11-1~~ 13, the public body shall determine whether the objection
25 is accompanied by the proof or substantiating evidence required pursuant
26 to paragraph (a) of that subsection. If the public body determines that the
27 objection is not accompanied by the required proof or substantiating
28 evidence, the public body shall dismiss the objection and may proceed
29 immediately to award the contract. If the public body determines that the
30 objection is accompanied by the required proof or substantiating evidence,
31 the public body shall determine whether the contractor qualifies for the
32 certificate pursuant to the provisions of this section and may proceed to
33 award the contract accordingly.

34 **Sec. 10.** NRS 338.141 is hereby amended to read as follows:

35 338.141 1. Except as otherwise provided in subsection 2, each bid
36 submitted to any officer, department, board or commission for the
37 construction of any public work or improvement must include:

38 (a) The name of each subcontractor who will provide labor or a portion
39 of the work or improvement to the contractor for which he will be paid an
40 amount exceeding 5 percent of the prime contractor's total bid. Within 2
41 hours after the completion of the opening of the bids, the ~~general~~
42 contractors who submitted the three lowest bids must submit a list
43 containing the name of each subcontractor who will provide labor or a
44 portion of the work or improvement to the contractor for which he will be
45 paid an amount exceeding 1 percent of the prime contractor's total bid or
46 \$50,000, whichever is greater, and the number of the license issued to the
47 subcontractor pursuant to chapter 624 of NRS. If a ~~general~~ contractor
48 fails to submit such a list within the required time, his bid shall be deemed
49 not responsive.



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

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

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

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

11 (b) The substitution is approved by the awarding authority or an
12 authorized representative of the awarding authority. The substitution must
13 be approved if the awarding authority or authorized representative of the
14 awarding authority determines that:

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

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

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

24 4. As used in this section, "general terms" means the terms and
25 conditions of a contract that set the basic requirements for a project and
26 apply without regard to the particular trade or specialty of a subcontractor,
27 but does not include any provision that controls or relates to the specific
28 portion of the project that will be completed by a subcontractor, including,
29 without limitation, the materials to be used by the subcontractor or other
30 details of the work to be performed by the subcontractor.

31 **Sec. 11.** NRS 338.147 is hereby amended to read as follows:

32 338.147 1. Except as otherwise provided in NRS 338.143 and
33 338.1711 to 338.1727, inclusive, a local government shall award a contract
34 for a public work to the contractor who submits the best bid.

35 2. Except as otherwise provided in subsection ~~9~~ 10 or limited by
36 subsection ~~9~~ 11, for the purposes of this section, a contractor who:

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

39 (b) At the time he submits his bid, provides to the local government a
40 copy of a certificate of eligibility to receive a preference in bidding on
41 public works issued to him by the state contractors' board pursuant to
42 subsection 3 ~~4~~ or 4,

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

47 3. The state contractors' board shall issue a certificate of eligibility to
48 receive a preference in bidding on public works to a general contractor who
49 is licensed pursuant to the provisions of chapter 624 of NRS and submits to



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1 the board an affidavit from a certified public accountant setting forth that
2 the general contractor has ~~†~~ , *while licensed as a general contractor in*
3 *this state:*

4 (a) Paid ~~†~~ *directly, on his own behalf:*

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

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

18 (3) Any combination of such sales and use taxes and governmental
19 services tax; or

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

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

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

27 4. *The state contractors' board shall issue a certificate of eligibility to*
28 *receive a preference in bidding on public works to a specialty contractor*
29 *who is licensed pursuant to the provisions of chapter 624 of NRS and*
30 *submits to the board an affidavit from a certified public accountant*
31 *setting forth that the specialty contractor has, while licensed as a*
32 *specialty contractor in this state:*

33 (a) *Paid directly, on his own behalf:*

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

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

47 (3) *Any combination of such sales and use taxes and governmental*
48 *services tax; or*



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

4 (1) *License as a specialty contractor pursuant to the provisions of*
5 *chapter 624 of NRS; and*

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

8 5. For the purposes of complying with the requirements set forth in
9 paragraph (a) of subsection 3 ~~1-a general~~ and paragraph (a) of subsection
10 4, a contractor shall be deemed to have paid:

11 (a) Sales and use taxes and governmental services taxes that were paid
12 in this state by an affiliate or parent company of the contractor, if the
13 affiliate or parent company is also a general contractor ~~1-a~~ or specialty
14 contractor, as applicable; and

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

18 ~~15-1~~ 6. A contractor who has received a certificate of eligibility to
19 receive a preference in bidding on public works from the state contractors'
20 board pursuant to subsection 3 or 4 shall, at the time for the annual renewal
21 of his contractor's license pursuant to NRS 624.283, submit to the board an
22 affidavit from a certified public accountant setting forth that the contractor
23 has, during the immediately preceding 12 months, paid the taxes required
24 pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4,
25 as applicable, to maintain his eligibility to hold such a certificate.

26 ~~16-1~~ 7. A contractor who fails to submit an affidavit to the board
27 pursuant to subsection ~~15-1~~ 6 ceases to be eligible to receive a preference in
28 bidding on public works unless he reapplies for and receives a certificate of
29 eligibility pursuant to subsection 3 ~~1-a~~

30 ~~7-1~~ or 4, as applicable.

31 8. *If a contractor holds more than one contractor's license, he must*
32 *submit a separate application for each license pursuant to which he*
33 *wishes to qualify for a preference in bidding. Upon issuance, the*
34 *certificate of eligibility to receive a preference in bidding on public works*
35 *becomes part of the contractor's license for which the contractor*
36 *submitted the application.*

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

43 ~~18-1~~ 10. If any federal statute or regulation precludes the granting of
44 federal assistance or reduces the amount of that assistance for a particular
45 public work because of the provisions of subsection 2, those provisions do
46 not apply insofar as their application would preclude or reduce federal
47 assistance for that work. The provisions of subsection 2 do not apply to any
48 contract for a public work which is expected to cost less than \$250,000.



1 ~~19.1~~ 11. Except as otherwise provided in subsection 2 of NRS
2 338.1727 and subsection 2 of NRS 408.3886 if a bid is submitted by two or
3 more contractors as a joint venture or by one of them as a joint venturer,
4 the provisions of subsection 2 apply only if both or all of the joint venturers
5 separately meet the requirements of that subsection.

6 ~~110.1~~ 12. The state contractors' board shall adopt regulations and may
7 assess reasonable fees relating to the certification of contractors for a
8 preference in bidding on public works.

9 ~~111.1~~ 13. A person or entity who believes that a contractor wrongfully
10 holds a certificate of eligibility to receive a preference in bidding on public
11 works may challenge the validity of the certificate by filing a written
12 objection with the public body to which the contractor has submitted a bid
13 or proposal on a contract for the completion of a public work. A written
14 objection authorized pursuant to this subsection must:

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

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

22 ~~112.1~~ 14. If a public body receives a written objection pursuant to
23 subsection ~~111.1~~ 13, the public body shall determine whether the objection
24 is accompanied by the proof or substantiating evidence required pursuant
25 to paragraph (a) of that subsection. If the public body determines that the
26 objection is not accompanied by the required proof or substantiating
27 evidence, the public body shall dismiss the objection and may proceed
28 immediately to award the contract. If the public body determines that the
29 objection is accompanied by the required proof or substantiating evidence,
30 the public body shall determine whether the contractor qualifies for the
31 certificate pursuant to the provisions of this section and may proceed to
32 award the contract accordingly.

33 **Sec. 12.** NRS 338.147 is hereby amended to read as follows:

34 338.147 1. Except as otherwise provided in NRS 338.143, a local
35 government shall award a contract for a public work to the contractor who
36 submits the best bid.

37 2. Except as otherwise provided in subsection ~~18.1~~ 10 or limited by
38 subsection ~~19.1~~ 11, for the purposes of this section, a contractor who:

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

41 (b) At the time he submits his bid, provides to the local government a
42 copy of a certificate of eligibility to receive a preference in bidding on
43 public works issued to him by the state contractors' board pursuant to
44 subsection 3 ~~1.1~~ or 4,
45 shall be deemed to have submitted a better bid than a competing contractor
46 who has not provided a copy of such a valid certificate of eligibility if the
47 amount of his bid is not more than 5 percent higher than the amount bid by
48 the competing contractor.



1 3. The state contractors' board shall issue a certificate of eligibility to
2 receive a preference in bidding on public works to a general contractor who
3 is licensed pursuant to the provisions of chapter 624 of NRS and submits to
4 the board an affidavit from a certified public accountant setting forth that
5 the general contractor has ~~H~~, *while licensed as a general contractor in*
6 *this state:*

7 (a) Paid ~~H~~ *directly, on his own behalf:*

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

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

21 (3) Any combination of such sales and use taxes and governmental
22 services tax; or

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

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

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

30 4. *The state contractors' board shall issue a certificate of eligibility to*
31 *receive a preference in bidding on public works to a specialty contractor*
32 *who is licensed pursuant to the provisions of chapter 624 of NRS and*
33 *submits to the board an affidavit from a certified public accountant*
34 *setting forth that the specialty contractor has, while licensed as a*
35 *specialty contractor in this state:*

36 (a) *Paid directly, on his own behalf:*

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

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



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1 (3) *Any combination of such sales and use taxes and governmental*
2 *services tax; or*

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

6 (1) *License as a specialty contractor pursuant to the provisions of*
7 *chapter 624 of NRS; and*

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

10 5. For the purposes of complying with the requirements set forth in
11 paragraph (a) of subsection 3 ~~1, a general~~ *and paragraph (a) of subsection*
12 *4, a* contractor shall be deemed to have paid:

13 (a) Sales and use taxes and governmental services taxes that were paid
14 in this state by an affiliate or parent company of the contractor, if the
15 affiliate or parent company is also a general contractor ~~1~~ *or specialty*
16 *contractor, as applicable;* and

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

20 ~~5-1~~ 6. A contractor who has received a certificate of eligibility to
21 receive a preference in bidding on public works from the state contractors'
22 board pursuant to subsection 3 *or 4* shall, at the time for the annual renewal
23 of his contractor's license pursuant to NRS 624.283, submit to the board an
24 affidavit from a certified public accountant setting forth that the contractor
25 has, during the immediately preceding 12 months, paid the taxes required
26 pursuant to paragraph (a) of subsection 3 *or paragraph (a) of subsection 4,*
27 *as applicable,* to maintain his eligibility to hold such a certificate.

28 ~~16-1~~ 7. A contractor who fails to submit an affidavit to the board
29 pursuant to subsection ~~15-1~~ 6 ceases to be eligible to receive a preference in
30 bidding on public works unless he reapplies for and receives a certificate of
31 eligibility pursuant to subsection 3 ~~1~~
32 ~~—7-1~~ *or 4, as applicable.*

33 8. *If a contractor holds more than one contractor's license, he must*
34 *submit a separate application for each license pursuant to which he*
35 *wishes to qualify for a preference in bidding. Upon issuance, the*
36 *certificate of eligibility to receive a preference in bidding on public works*
37 *becomes part of the contractor's license for which the contractor*
38 *submitted the application.*

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

45 ~~18-1~~ 10. If any federal statute or regulation precludes the granting of
46 federal assistance or reduces the amount of that assistance for a particular
47 public work because of the provisions of subsection 2, those provisions do
48 not apply insofar as their application would preclude or reduce federal



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

3 ~~19-1~~ 11. If a bid is submitted by two or more contractors as a joint
4 venture or by one of them as a joint venturer, the provisions of subsection 2
5 apply only if both or all of the joint venturers separately meet the
6 requirements of that subsection.

7 ~~10-1~~ 12. The state contractors' board shall adopt regulations and may
8 assess reasonable fees relating to the certification of contractors for a
9 preference in bidding on public works.

10 ~~11-1~~ 13. A person or entity who believes that a contractor wrongfully
11 holds a certificate of eligibility to receive a preference in bidding on public
12 works may challenge the validity of the certificate by filing a written
13 objection with the public body to which the contractor has submitted a bid
14 or proposal on a contract for the completion of a public work. A written
15 objection authorized pursuant to this subsection must:

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

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

23 ~~12-1~~ 14. If a public body receives a written objection pursuant to
24 subsection ~~11-1~~ 13, the public body shall determine whether the objection
25 is accompanied by the proof or substantiating evidence required pursuant
26 to paragraph (a) of that subsection. If the public body determines that the
27 objection is not accompanied by the required proof or substantiating
28 evidence, the public body shall dismiss the objection and may proceed
29 immediately to award the contract. If the public body determines that the
30 objection is accompanied by the required proof or substantiating evidence,
31 the public body shall determine whether the contractor qualifies for the
32 certificate pursuant to the provisions of this section and may proceed to
33 award the contract accordingly.

34 **Sec. 13.** NRS 338.1711 is hereby amended to read as follows:

35 338.1711 1. Except as otherwise provided in this section, a public
36 body shall contract with a prime contractor for the construction of a public
37 work for which the estimated cost exceeds \$100,000.

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

41 (a) The public work is:

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

39 (2) Limited in scope to:

40 (I) Removal of asbestos;

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

43 (III) Replacement of a roof;

44 (IV) Landscaping; or

45 (V) Restoration, enhancement or development of wetlands.

46 **Sec. 14.** NRS 338.1715 is hereby amended to read as follows:

47 338.1715 1. A public body that is required to contract with a prime
48 contractor pursuant to subsection 1 of NRS 338.1711 or elects to contract
49 with a ~~specialty~~ prime contractor pursuant to subsection 4 of NRS



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1 338.1711 shall select the prime contractor ~~for specialty contractor, as~~
2 ~~appropriate,~~ in accordance with the procedures for bidding that are set
3 forth in:

4 (a) The provisions of NRS 338.1375 to 338.1389, inclusive ~~and~~ *and*
5 *sections 2 and 3 of this act;* or

6 (b) NRS 338.143, 338.145 and 338.147 ~~and section 4 of this act,~~ if
7 the public body is a local government that elects to award a contract for a
8 public work in accordance with paragraph (b) of subsection 1 of NRS
9 338.1373.

10 2. A public body that contracts with a design-build team pursuant to
11 NRS 338.1711 and 338.1713 shall select the design-build team in
12 accordance with NRS 338.1721 to 338.1727, inclusive.

13 **Sec. 14.5.** Section 1 of Senate Bill No. 255 of this session is hereby
14 amended to read as follows:

15 Section 1. NRS 338.010 is hereby amended to read as follows:

16 338.010 As used in this chapter:

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

21 2. "Design-build contract" means a contract between a public
22 body and a design-build team in which the design-build team agrees
23 to design and construct a public work.

24 3. "Design-build team" means an entity that consists of:

25 (a) At least one person who is licensed as a general engineering
26 contractor or a general building contractor pursuant to chapter 624 of
27 NRS; and

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

29 (1) A building and its site, at least one person who holds a
30 certificate of registration to practice architecture pursuant to chapter
31 623 of NRS.

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

36 4. "Design professional" means ~~la person with a professional~~
37 ~~license or certificate issued pursuant to chapter 623, 623A or 625 of~~
38 ~~NRS.~~ :

39 (a) *A person who is licensed as a professional engineer pursuant*
40 *to chapter 625 of NRS;*

41 (b) *A person who is licensed as a professional land surveyor*
42 *pursuant to chapter 625 of NRS;*

43 (c) *A person who holds a certificate of registration to engage in*
44 *the practice of architecture pursuant to chapter 623 of NRS;*

45 (d) *A person who holds a certificate of registration to engage in*
46 *the practice of landscape architecture pursuant to chapter 623A of*
47 *NRS; or*

48 (e) *A business entity that engages in the practice of professional*
49 *engineering, land surveying, architecture or landscape architecture.*



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- 1 5. "Eligible bidder" means a person who is:
2 (a) Found to be a responsible and responsive contractor by a local
3 government which requests bids for a public work in accordance with
4 paragraph (b) of subsection 1 of NRS 338.1373; or
5 (b) Determined by a public body which awarded a contract for a
6 public work pursuant to NRS 338.1375 to 338.1389, inclusive, to be
7 qualified to bid on that contract pursuant to NRS 338.1379 or was
8 exempt from meeting such qualifications pursuant to NRS 338.1383.
9 6. "General contractor" means a person who is licensed to
10 conduct business in one, or both, of the following branches of the
11 contracting business:
12 (a) General engineering contracting, as described in subsection 2 of
13 NRS 624.215.
14 (b) General building contracting, as described in subsection 3 of
15 NRS 624.215.
16 7. "Local government" means every political subdivision or other
17 entity which has the right to levy or receive money from ad valorem
18 or other taxes or any mandatory assessments, and includes, without
19 limitation, counties, cities, towns, boards, school districts and other
20 districts organized pursuant to chapters 244A, 309, 318, 379, 474,
21 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and
22 any agency or department of a county or city which prepares a budget
23 separate from that of the parent political subdivision.
24 8. "Offense" means failing to:
25 (a) Pay the prevailing wage required pursuant to this chapter;
26 (b) Pay the contributions for unemployment compensation required
27 pursuant to chapter 612 of NRS;
28 (c) Provide and secure compensation for employees required
29 pursuant to chapters 616A to 617, inclusive, of NRS; or
30 (d) Comply with subsection 4 or 5 of NRS 338.070.
31 9. "Prime contractor" means a person who:
32 (a) Contracts to construct an entire project;
33 (b) Coordinates all work performed on the entire project;
34 (c) Uses his own work force to perform all or a part of the
35 construction, repair or reconstruction of the project; and
36 (d) Contracts for the services of any subcontractor or independent
37 contractor or is responsible for payment to any contracted
38 subcontractors or independent contractors.
39 The term includes, without limitation, a general contractor or a
40 specialty contractor who is authorized to bid on a project pursuant to
41 section 2 or 4 of *Senate Bill No. 63 of this ~~act~~ session*.
42 10. "Public body" means the state, county, city, town, school
43 district or any public agency of this state or its political subdivisions
44 sponsoring or financing a public work.
45 11. "Public work" means any project for the new construction,
46 repair or reconstruction of:
47 (a) A project financed in whole or in part from public money for:
48 (1) Public buildings;
49 (2) Jails and prisons;



- 1 (3) Public roads;
- 2 (4) Public highways;
- 3 (5) Public streets and alleys;
- 4 (6) Public utilities which are financed in whole or in part by
- 5 public money;
- 6 (7) Publicly owned water mains and sewers;
- 7 (8) Public parks and playgrounds;
- 8 (9) Public convention facilities which are financed at least in
- 9 part with public funds; and
- 10 (10) All other publicly owned works and property whose cost as
- 11 a whole exceeds \$20,000. Each separate unit that is a part of a project
- 12 is included in the cost of the project to determine whether a project
- 13 meets that threshold.
- 14 (b) A building for the University and Community College System
- 15 of Nevada of which 25 percent or more of the costs of the building as
- 16 a whole are paid from money appropriated by this state or from
- 17 federal money.
- 18 12. "Specialty contractor" means a person who is licensed to
- 19 conduct business as described in subsection 4 of NRS 624.215.
- 20 13. "Stand-alone underground utility project" means an
- 21 underground utility project that is not integrated into a larger project,
- 22 including, without limitation:
- 23 (a) An underground sewer line or an underground pipeline for the
- 24 conveyance of water, including facilities appurtenant thereto; and
- 25 (b) A project for the construction or installation of a storm drain,
- 26 including facilities appurtenant thereto,
- 27 that is not located at the site of a public work for the design and
- 28 construction of which a public body is authorized to contract with a
- 29 design-build team pursuant to subsection 2 of NRS 338.1711.
- 30 14. "Wages" means:
- 31 (a) The basic hourly rate of pay; and
- 32 (b) The amount of pension, health and welfare, vacation and
- 33 holiday pay, the cost of apprenticeship training or other similar
- 34 programs or other bona fide fringe benefits which are a benefit to the
- 35 workman.
- 36 15. "Workman" means a skilled mechanic, skilled workman,
- 37 semiskilled mechanic, semiskilled workman or unskilled workman.
- 38 The term does not include a design professional.
- 39 **Sec. 15.** 1. This section and sections 1 to 4, inclusive, 7, 10, 13 and
- 40 14 of this act become effective on July 1, 2001.
- 41 2. Sections 5, 8 and 11 of this act become effective at 12:01 a.m. on
- 42 July 1, 2001.
- 43 3. Section 14.5 of this act becomes effective at 12:02 a.m. on July 1,
- 44 2001.
- 45 4. Sections 6 and 9 of this act become effective at 12:02 a.m. on
- 46 October 1, 2003.
- 47 5. Section 12 of this act becomes effective at 12:03 a.m. on October 1,
- 48 2003.



1 6. Sections 5, 8, 11, 13 and 14 of this act expire by limitation on
2 October 1, 2003.

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* S B 6 3 R 2 *