

ASSEMBLY BILL NO. 210—ASSEMBLYMEN HOGAN, GIUNCHIGLIANI, OCEGUERA, OHRENSCHALL, PARKS, ARBERRY JR., ATKINSON, BUCKLEY, CONKLIN, DENIS, GERHARDT, HORNE, KIRKPATRICK, KOIVISTO, LESLIE, MANENDO, MCCLAIN, MUNFORD, PARNELL, PERKINS AND SMITH

MARCH 16, 2005

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JOINT SPONSORS: SENATORS TITUS AND CARLTON

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Referred to Committee on Government Affairs

**SUMMARY**—Requires contractor and subcontractor on certain public works to submit monthly report on demographics of persons employed on public work. (BDR 28-872)

**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.

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AN ACT relating to public works; requiring a contractor and subcontractor on certain public works in larger counties to submit a monthly report concerning the demographics of certain employees to the public body that awarded the contract; requiring that a committee be established for certain public works; requiring such a committee to meet monthly to discuss the monthly report; requiring that advertisements for bids for certain public works include a provision that the contractor and subcontractor will be required to comply with such requirements; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Existing law governs contracts between a contractor and a public body
- 2 awarding a contract for a public works project. (Chapter 338 of NRS) Under
- 3 existing law, an advertisement for bids on a public work is required. (NRS
- 4 338.1385, 338.143, 338.1723, 338.1906)



5 This bill directs each contractor and subcontractor engaged on certain public  
6 works projects to prepare a report on the demographics of the ethnicity, race and  
7 gender of the workers employed on the public works project. Information contained  
8 in the report must include only aggregate information for statistical purposes and  
9 must not identify the particular race, ethnicity or gender of any individual worker.  
10 Contractors and subcontractors must make a copy of the report available for  
11 inspection by the public body that awarded the contract. In addition, contractors  
12 and subcontractors must submit monthly a copy of the report to the public body.  
13 These requirements apply to a project that has an estimated cost of \$20 million or  
14 more and that is located in a county with a population of 100,000 or more  
15 (currently Clark and Washoe Counties).

16 This bill further directs a public body awarding a contract for such a public  
17 works project to establish a committee to meet monthly to discuss the  
18 demographics report for the previous month. The meeting must be open and public,  
19 but is not required to be conducted in accordance with the Open Meeting Law.  
20 (Chapter 241 of NRS)

21 This bill makes it mandatory for the contract for such a public works project to  
22 include a clause which provides that the contract becomes void if the contractor  
23 does not comply with the provisions of the law concerning the keeping of the  
24 demographic report. In addition, this bill prohibits payment for a public works  
25 project unless the contractor complies with these requirements.

26 This bill requires that each advertisement for bids on such a public works  
27 project include a provision which informs contractors of the duty to comply with  
28 the requirements concerning the demographic report.

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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  
2 thereto a new section to read as follows:

3 *1. A contractor engaged on a public work which has an*  
4 *estimated cost of \$20,000,000 or more and which is located in a*  
5 *county whose population is 100,000 or more, and each*  
6 *subcontractor engaged on such a public work, shall prepare a*  
7 *report, on the form prescribed by the Labor Commissioner*  
8 *pursuant to subsection 7, concerning the demographics of the*  
9 *workmen employed by the contractor and subcontractor in*  
10 *connection with the public work during each calendar month the*  
11 *contractor or subcontractor is engaged on the public work. The*  
12 *report must include only aggregate information for statistical*  
13 *purposes concerning the races, ethnicities and genders of the*  
14 *workmen employed by the contractor and subcontractor in*  
15 *connection with the public work in a manner which excludes any*  
16 *identifying information related to a particular person. The*  
17 *contractor and each subcontractor shall submit the report to the*  
18 *public body awarding the contract not later than 15 days after the*  
19 *end of the month to which the report pertains.*



1       2. A contractor and any subcontractor who prepares a report  
2 pursuant to subsection 1 shall maintain a record of the  
3 information used to prepare the report and, upon request, make  
4 that information available to the public body awarding the  
5 contract for inspection. The contractor or subcontractor may  
6 discard the record of information 2 years after final payment is  
7 made by the public body for the public work.

8       3. For each public work which has an estimated cost of  
9 \$20,000,000 or more and which is located in a county whose  
10 population is 100,000 or more, the public body awarding the  
11 contract for the public work shall establish a committee consisting  
12 of:

13       (a) The public body;  
14       (b) The contractor engaged on the public work;  
15       (c) Each subcontractor engaged on the public work; and  
16       (d) Representatives of a variety of groups which represent or  
17 promote the interests of minorities who are qualified to perform  
18 work on the public work who are appointed by the contractor  
19 engaged on the public work.

20       4. The committee established pursuant to subsection 3 may  
21 meet monthly to discuss the reports submitted pursuant to  
22 subsection 1 for the previous month. Any such meeting must be  
23 open and public, but is not subject to any provision of chapter 241  
24 of NRS.

25       5. The contractor or any subcontractor engaged on a public  
26 work shall forfeit, as a penalty, to the public body which awarded  
27 the contract for the public work:

28       (a) For the first violation of a provision of this section during  
29 the term of the contract for the public work, \$25;

30       (b) For the second violation of a provision of this section  
31 during the term of the contract for the public work, \$50; and

32       (c) For the third and each subsequent violation of a provision  
33 of this section during the term of the contract for the public work,  
34 \$100.

35       6. A public body awarding a contract for a public work which  
36 has an estimated cost of \$20,000,000 or more and which is located  
37 in a county whose population is 100,000 or more shall cause a  
38 stipulation setting forth the penalties specified in subsection 5 to  
39 be inserted in the contract.

40       7. The Labor Commissioner shall, by regulation, prescribe a  
41 form for the report required pursuant to subsection 1.

42       **Sec. 2.** NRS 338.1385 is hereby amended to read as follows:

43       338.1385 1. Except as otherwise provided in subsection 8  
44 and NRS 338.1906 and 338.1907, this State, or a governing body or



1 its authorized representative that awards a contract for a public work  
2 in accordance with paragraph (a) of subsection 1 of NRS 338.1373  
3 shall not:

4 (a) Commence a public work for which the estimated cost  
5 exceeds \$100,000 unless it advertises in a newspaper qualified  
6 pursuant to chapter 238 of NRS that is published in the county  
7 where the public work will be performed for bids for the public  
8 work. If no qualified newspaper is published in the county where the  
9 public work will be performed, the required advertisement must be  
10 published in some qualified newspaper that is printed in the State of  
11 Nevada and has a general circulation in the county.

12 (b) Commence a public work for which the estimated cost is  
13 \$100,000 or less unless it complies with the provisions of NRS  
14 338.1386, 338.13862 and 338.13864.

15 (c) Divide a public work into separate portions to avoid the  
16 requirements of paragraph (a) or (b).

17 2. At least once each quarter, the authorized representative of a  
18 public body shall report to the public body any contract that he  
19 awarded pursuant to subsection 1 in the immediately preceding  
20 quarter.

21 3. Each advertisement for bids must include a provision that  
22 sets forth the ~~requirement~~ *requirements* that a contractor ~~must~~ :

23 (a) *Must* be qualified pursuant to NRS 338.1379 or 338.1382 to  
24 bid on the contract ~~[-]~~ ; and

25 (b) *If the public work has an estimated cost of \$20,000,000 or  
26 more and is located in a county whose population is 100,000 or  
27 more, shall comply with the provisions of section 1 of this act.*

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

33 5. Except as otherwise provided in subsection 6 and NRS  
34 338.1389, a public body shall award a contract to the lowest  
35 responsive and responsible bidder.

36 6. Any bids received in response to an advertisement for bids  
37 may be rejected if the public body or its authorized representative  
38 responsible for awarding the contract determines that:

39 (a) The bidder is not a qualified bidder pursuant to NRS  
40 338.1379 or 338.1382;

41 (b) The bidder is not responsive or responsible;

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

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



7. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

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

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

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

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

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

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

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive.

**Sec. 3.** NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 8, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the



1 public work will be performed, the required advertisement must be  
2 published in some qualified newspaper that is printed in the State of  
3 Nevada and having a general circulation within the county.

4 (b) Commence a public work for which the estimated cost is  
5 \$100,000 or less unless it complies with the provisions of NRS  
6 338.1386, 338.13862 and 338.13864.

7 (c) Divide a public work into separate portions to avoid the  
8 requirements of paragraph (a) or (b).

9 2. At least once each quarter, the authorized representative of a  
10 public body shall report to the public body any contract that he  
11 awarded pursuant to subsection 1 in the immediately preceding  
12 quarter.

13 3. Each advertisement for bids must include a provision that  
14 sets forth the ~~requirement~~ *requirements* that a contractor ~~must~~ :

15 (a) *Must* be qualified pursuant to NRS 338.1379 or 338.1382 to  
16 bid on the contract ~~[-]~~ ; and

17 (b) *If the public work has an estimated cost of \$20,000,000 or*  
18 *more and is located in a county whose population is 100,000 or*  
19 *more, shall comply with the provisions of section 1 of this act.*

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

25 5. Except as otherwise provided in subsection 6 and NRS  
26 338.1389, a public body shall award a contract to the lowest  
27 responsive and responsible bidder.

28 6. Any bids received in response to an advertisement for bids  
29 may be rejected if the public body or its authorized representative  
30 responsible for awarding the contract determines that:

31 (a) The bidder is not a qualified bidder pursuant to NRS  
32 338.1379 or 338.1382;

33 (b) The bidder is not responsive or responsible;

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

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

37 7. Before a public body may commence the performance of a  
38 public work itself pursuant to the provisions of this section, based  
39 upon a determination that the public interest would be served by  
40 rejecting any bids received in response to an advertisement for bids,  
41 the public body shall prepare and make available for public  
42 inspection a written statement containing:

43 (a) A list of all persons, including supervisors, whom the public  
44 body intends to assign to the public work, together with their



1 classifications and an estimate of the direct and indirect costs of  
2 their labor;

3 (b) A list of all equipment that the public body intends to use on  
4 the public work, together with an estimate of the number of hours  
5 each item of equipment will be used and the hourly cost to use each  
6 item of equipment;

7 (c) An estimate of the cost of administrative support for the  
8 persons assigned to the public work;

9 (d) An estimate of the total cost of the public work, including,  
10 the fair market value of or, if known, the actual cost of all materials,  
11 supplies, labor and equipment to be used for the public work; and

12 (e) An estimate of the amount of money the public body expects  
13 to save by rejecting the bids and performing the public work itself.

14 8. This section does not apply to:

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

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

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

20 (d) The Las Vegas Valley Water District created pursuant to  
21 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water  
22 District created pursuant to chapter 477, Statutes of Nevada 1983,  
23 or the Virgin Valley Water District created pursuant to chapter 100,  
24 Statutes of Nevada 1993; or

25 (e) The design and construction of a public work for which a  
26 public body contracts with a design-build team pursuant to NRS  
27 338.1711 to 338.1727, inclusive.

28 **Sec. 4.** NRS 338.143 is hereby amended to read as follows:

29 338.143 1. Except as otherwise provided in subsection 7 and  
30 NRS 338.1907, a local government or its authorized representative  
31 that awards a contract for a public work in accordance with  
32 paragraph (b) of subsection 1 of NRS 338.1373 shall not:

33 (a) Commence a public work for which the estimated cost  
34 exceeds \$100,000 unless it advertises in a newspaper qualified  
35 pursuant to chapter 238 of NRS that is published in the county  
36 where the public work will be performed for bids for the public  
37 work. If no qualified newspaper is published in the county where the  
38 public work will be performed, the required advertisement must be  
39 published in some qualified newspaper that is printed in the State of  
40 Nevada and has a general circulation in the county. *If the public  
41 work has an estimated cost of \$20,000,000 or more and is located  
42 in a county whose population is 100,000 or more, each  
43 advertisement for bids must include a provision that sets forth the  
44 requirement that a contractor shall comply with the provisions of  
45 section 1 of this act.*



(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 and 338.1446.

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

2. At least once each quarter, the authorized representative of a local government shall report to the local government any contract that he awarded pursuant to subsection 1 in the immediately preceding quarter.

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

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

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

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

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

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

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

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

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and





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

7. This section does not apply to:

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

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

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

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

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive.

**Sec. 5.** NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 7, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county. *If the public work has an estimated cost of \$20,000,000 or more and is located in a county whose population is 100,000 or more, each advertisement for bids must include a provision that sets forth the requirement that a contractor shall comply with the provisions of section 1 of this act.*

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the local government any contract that he awarded pursuant to subsection 1 in the immediately preceding quarter.



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

6       4. Except as otherwise provided in subsection 5 and NRS  
7 338.147, the local government or its authorized representative shall  
8 award a contract to the lowest responsive and responsible bidder.

9       5. Any bids received in response to an advertisement for bids  
10 may be rejected if the local government or its authorized  
11 representative responsible for awarding the contract determines that:

12       (a) The bidder is not responsive or responsible;

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

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

16       6. Before a local government may commence the performance  
17 of a public work itself pursuant to the provisions of this section,  
18 based upon a determination that the public interest would be served  
19 by rejecting any bids received in response to an advertisement for  
20 bids, the local government shall prepare and make available for  
21 public inspection a written statement containing:

22       (a) A list of all persons, including supervisors, whom the local  
23 government intends to assign to the public work, together with their  
24 classifications and an estimate of the direct and indirect costs of  
25 their labor;

26       (b) A list of all equipment that the local government intends to  
27 use on the public work, together with an estimate of the number of  
28 hours each item of equipment will be used and the hourly cost to use  
29 each item of equipment;

30       (c) An estimate of the cost of administrative support for the  
31 persons assigned to the public work;

32       (d) An estimate of the total cost of the public work, including  
33 the fair market value of or, if known, the actual cost of all materials,  
34 supplies, labor and equipment to be used for the public work; and

35       (e) An estimate of the amount of money the local government  
36 expects to save by rejecting the bids and performing the public work  
37 itself.

38       7. This section does not apply to:

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

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

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

44       (d) The Las Vegas Valley Water District created pursuant to  
45 chapter 167, Statutes of Nevada 1947, the Moapa Valley Water



1 District created pursuant to chapter 477, Statutes of Nevada 1983 ,  
2 or the Virgin Valley Water District created pursuant to chapter 100,  
3 Statutes of Nevada 1993; or

4 (e) The design and construction of a public work for which a  
5 public body contracts with a design-build team pursuant to NRS  
6 338.1711 to 338.1727, inclusive.

7 **Sec. 6.** NRS 338.1723 is hereby amended to read as follows:

8 338.1723 1. A public body shall advertise for preliminary  
9 proposals for the design and construction of a public work by a  
10 design-build team in a newspaper qualified pursuant to chapter 238  
11 of NRS that is published in the county where the public work will  
12 be performed. If no qualified newspaper is published in the county  
13 where the public work will be performed, the required  
14 advertisement must be published in some qualified newspaper that is  
15 printed in the State of Nevada and has a general circulation in the  
16 county.

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

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

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

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

26 (d) The date by which preliminary proposals must be submitted  
27 to the public body, which must not be less than 30 days after the  
28 date that the request for preliminary proposals is first published in a  
29 newspaper pursuant to subsection 1;

30 (e) A statement setting forth the place and time in which a  
31 design-build team desiring to submit a proposal for the public work  
32 may obtain the information necessary to submit a proposal,  
33 including, without limitation, the information set forth in subsection  
34 3; ~~and~~

35 (f) If the proposal is for a public work of the State, a statement  
36 setting forth that the prime contractor must be qualified to bid on a  
37 public work of the State pursuant to NRS 338.1379 before  
38 submitting a preliminary proposal ~~and~~ ; and

39 (g) *If the public work has an estimated cost of \$20,000,000 or*  
40 *more and is located in a county whose population is 100,000 or*  
41 *more, a provision that sets forth the requirement that the design-*  
42 *build team shall comply with the provisions of section 1 of this act.*

43 3. A public body shall maintain at the time and place set forth  
44 in the request for preliminary proposals the following information



1 for inspection by a design-build team desiring to submit a proposal  
2 for the public work:

3 (a) The extent to which designs must be completed for both  
4 preliminary and final proposals and any other requirements for the  
5 design and construction of the public work that the public body  
6 determines to be necessary;

7 (b) A list of the requirements set forth in NRS 338.1721;

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

11 (1) The relative weight to be assigned to each factor pursuant  
12 to NRS 338.1727; and

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

16 (d) Notice that a design-build team desiring to submit a proposal  
17 for the public work must include with its proposal the information  
18 used by the public body to determine finalists among the design-  
19 build teams submitting proposals pursuant to subsection 2 of NRS  
20 338.1725 and a description of that information;

21 (e) A statement that a design-build team whose prime contractor  
22 holds a certificate of eligibility to receive a preference in bidding on  
23 public works issued pursuant to NRS 338.1389 or 338.147 should  
24 submit a copy of the certificate of eligibility with its proposal; and

25 (f) A statement as to whether a design-build team that is selected  
26 as a finalist pursuant to NRS 338.1725 but is not awarded the  
27 design-build contract pursuant to NRS 338.1727 will be partially  
28 reimbursed for the cost of preparing a final proposal and, if so, an  
29 estimate of the amount of the partial reimbursement.

30 **Sec. 7.** NRS 338.1906 is hereby amended to read as follows:

31 338.1906 1. Upon request by or consultation with an officer  
32 or employee of the State who is responsible for the budget of a  
33 department, board, commission, agency or other entity of the State,  
34 the appropriate energy retrofit coordinator may request the approval  
35 of the State Board of Examiners to advertise a request for proposals  
36 to retrofit a building, or any portion thereof, that is occupied by the  
37 department, board, commission, agency or other entity, to make the  
38 use of energy in the building, or portion thereof, more efficient.

39 2. Upon approval of the State Board of Examiners, the  
40 coordinator shall prepare a request for proposals for the retrofitting  
41 of one or more buildings, or any portion thereof, which includes:

42 (a) The name and location of the coordinator;

43 (b) *If the retrofit has an estimated cost of \$20,000,000 or more*  
44 *and is to be completed on one or more buildings or any portion*  
45 *thereof that is located in a county whose population is 100,000 or*



1 *more, a provision that sets forth the requirement that the*  
2 *contractor shall comply with the provisions of section 1 of this act;*

3 (c) A brief description of the requirements for the initial audit of  
4 the use of energy and the retrofitting;

5 ~~[(e)]~~ (d) Where and how specifications of the requirements for  
6 the initial audit of the use of energy and the retrofitting may be  
7 obtained;

8 ~~[(d)]~~ (e) The date and time not later than which proposals must  
9 be received by the coordinator; and

10 ~~[(e)]~~ (f) The date and time when responses will be opened.

11 3. The request for proposals must be published in at least one  
12 newspaper of general circulation in the State.

13 4. After receiving the proposals but before making a decision  
14 on the proposals, the coordinator shall consider:

15 (a) The best interests of the State;

16 (b) The experience and financial stability of the persons  
17 submitting the proposals;

18 (c) Whether the proposals conform with the terms of the request  
19 for proposals;

20 (d) The prices of the proposals; and

21 (e) Any other factor disclosed in the request for proposals.

22 5. The coordinator shall determine the relative weight of each  
23 factor before a request for proposals is advertised. The weight of  
24 each factor must not be disclosed before the date proposals are  
25 required to be submitted to the coordinator.

26 6. After reviewing the proposals, if the coordinator determines  
27 that sufficient energy could be saved to justify retrofitting the  
28 building or buildings, or portion thereof, the coordinator shall select  
29 the best proposal and request the approval of the State Board of  
30 Examiners to award the contract. The request for approval must  
31 include the proposed method of financing the audit and retrofit,  
32 which may include an installment contract, a shared savings contract  
33 or any other contract for a reasonable financing arrangement. Such a  
34 contract may commit the State to make payments beyond the  
35 biennium in which the contract is executed, but the interest due on  
36 any debt created pursuant to this section must be paid at least  
37 semiannually, payments must be made on the principal at least  
38 annually and the debt must be fully repaid on or before May 1,  
39 2013.

40 7. Before approving a retrofit pursuant to this section, the State  
41 Board of Examiners shall evaluate any projects that would utilize  
42 shared savings as a method of payment or any method of financing  
43 that would commit the State to make payments beyond the biennium  
44 in which the contract is executed to ensure that:



1 (a) The amount of energy to be saved will likely justify the cost  
2 of the retrofit;

3 (b) The State is likely to continue to occupy the building for the  
4 entire period required to recoup the cost of the retrofit in energy  
5 savings; and

6 (c) The limitation set forth in subsection 9 will not be exceeded.

7 8. Upon approval of the State Board of Examiners, the  
8 coordinator shall execute the contract and notify:

9 (a) The State Board of Examiners of the total amount of money  
10 committed by the contract per year; and

11 (b) Each officer or employee who is responsible for the budget  
12 of a department, board, commission, agency or other entity which  
13 occupies a portion of a building that will be retrofitted of the amount  
14 of money it will be required to pay annually for its portion of the  
15 retrofit.

16 9. The total amount of money committed beyond the biennium  
17 for all contracts executed pursuant to this section must not exceed  
18 \$15,000,000 at any one time.

19 10. The Legislature hereby pledges that a tax will be levied to  
20 pay the principal and interest on any indebtedness resulting from a  
21 contract executed pursuant to this section as they become due if the  
22 required payments will not be made by the entity that executed the  
23 contract from its budgeted accounts and the proceeds from any such  
24 taxes are hereby specially appropriated for this purpose.

25 11. NRS 338.1385 does not apply to a project for which a  
26 request for proposals is advertised and the contract is awarded  
27 pursuant to the provisions of this section.

28 **Sec. 8.** NRS 338.1907 is hereby amended to read as follows:

29 338.1907 1. A governing body may designate one or more  
30 energy retrofit coordinators for the buildings occupied by the local  
31 government.

32 2. If such a coordinator is designated, upon request by or  
33 consultation with an officer or employee of the local government  
34 who is responsible for the budget of a department, board,  
35 commission or other entity of the local government, the coordinator  
36 may request the approval of the governing body to advertise a  
37 request for proposals to retrofit a building, or any portion thereof,  
38 that is occupied by the department, board, commission or other  
39 entity, to make the use of energy in the building, or portion thereof,  
40 more efficient.

41 3. Upon approval of the governing body, the coordinator shall  
42 prepare a request for proposals for the retrofitting of one or more  
43 buildings, or any portion thereof, which includes:

44 (a) The name and location of the coordinator;



(b) *If the retrofit has an estimated cost of \$20,000,000 or more and is to be completed on one or more buildings or any portion thereof that is located in a county whose population is 100,000 or more, a provision that sets forth the requirement that the contractor shall comply with the provisions of section 1 of this act;*

(c) A brief description of the requirements for the initial audit of the use of energy and the retrofitting;

~~((e))~~ (d) Where and how specifications of the requirements for the initial audit of the use of energy and the retrofitting may be obtained;

~~((d))~~ (e) The date and time not later than which proposals must be received by the coordinator; and

~~((e))~~ (f) The date and time when responses will be opened.

4. The request for proposals must be published in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county where the public work will be performed.

5. After receiving the proposals but before making a decision on the proposals, the coordinator shall consider:

(a) The best interests of the local government;

(b) The experience and financial stability of the persons submitting the proposals;

(c) Whether the proposals conform with the terms of the request for proposals;

(d) The prices of the proposals; and

(e) Any other factor disclosed in the request for proposals.

6. The coordinator shall determine the relative weight of each factor before a request for proposals is advertised. The weight of each factor must not be disclosed before the date proposals are required to be submitted to the coordinator.

7. After reviewing the proposals, if the coordinator determines that sufficient energy could be saved to justify retrofitting the building or buildings, or portion thereof, the coordinator shall select the best proposal and request the approval of the governing body to award the contract. The request for approval must include the proposed method of financing the audit and retrofit, which may include an installment contract, a shared savings contract or any other contract for a reasonable financing arrangement. Such a contract may commit the local government to make payments beyond the fiscal year in which the contract is executed or beyond the terms of office of the governing body, or both.



1       8. Before approving a retrofit pursuant to this section, the  
2 governing body shall evaluate any projects that would utilize shared  
3 savings as a method of payment or any method of financing that  
4 would commit the local government to make payments beyond the  
5 fiscal year in which the contract is executed or beyond the terms of  
6 office of the governing body to ensure that:

7       (a) The amount of energy to be saved will likely justify the cost  
8 of the retrofit; and

9       (b) The local government is likely to continue to occupy the  
10 building for the entire period required to recoup the cost of the  
11 retrofit in energy savings.

12       9. Upon approval of the governing body, the coordinator shall  
13 execute the contract and notify each officer or employee who is  
14 responsible for the budget of a department, board, commission or  
15 other entity which occupies a portion of a building that will be  
16 retrofitted of the amount of money it will be required to pay  
17 annually for its portion of the retrofit.

18       10. NRS 338.1385 and 338.143 do not apply to a project for  
19 which a request for proposals is advertised and the contract is  
20 awarded pursuant to the provisions of this section.

21       **Sec. 9.** 1. This section and sections 1, 2, 4, 6, 7 and 8 of this  
22 act become effective on October 1, 2005.

23       2. Sections 2, 4, 7 and 8 of this act expire by limitation on  
24 April 30, 2013.

25       3. Sections 3 and 5 of this act become effective on May 1,  
26 2013.

