

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

JOINT SPONSORS: SENATORS TITUS AND CARLTON

Referred to Committee on Government Affairs

SUMMARY—Requires contractor and certain subcontractors 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.

AN ACT relating to public works; requiring a contractor and certain subcontractors on certain public works in larger counties to submit a monthly report concerning the demographics of the workmen employed on the public work to the public body that awarded the contract; requiring the establishment of a committee for each such public work to discuss the monthly reports; 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 work. (Chapter 338 of NRS) Under existing law,
- 3 an advertisement for bids on a public work is required. (NRS 338.1385, 338.143,
- 4 338.1723, 338.1906)



* A B 2 1 0 R 1 *

This bill requires each contractor and certain subcontractors engaged on certain public works to prepare and submit a monthly report to the public body that awarded the contract on the demographics of the ethnicity, race and gender of the workers employed on the public work. Information contained in the report must include only aggregate information for statistical purposes and must not identify the particular race, ethnicity or gender of any individual worker. This reporting requirement applies only to a project that has an estimated cost of \$25 million or more and that is located in a county with a population of 100,000 or more (currently Clark and Washoe Counties) and to subcontractors who provide labor or a portion of the work on the public work that is estimated to exceed 1 percent of the estimated cost of the public work.

This bill further directs a public body awarding a contract for such a public work to establish a committee to meet monthly to discuss the demographic report for the previous month. The meeting must be open and public, but does not have to be conducted in accordance with the Open Meeting Law. (Chapter 241 of NRS)

This bill authorizes a public body to withhold payment from a contractor or subcontractor engaged on such a public work for failure to comply with the requirements relating to the demographic reports until the contractor or subcontractor complies.

This bill also requires that each advertisement for bids on such a public work or request for proposals for a retrofit include a provision which informs contractors of the duty to comply with the requirements relating to the demographic report.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A contractor engaged on a public work which has an estimated cost of \$25,000,000 or more and which is located in a county whose population is 100,000 or more, and each subcontractor engaged on such a public work who provides labor or a portion of the work on the public work which is estimated to exceed 1 percent of the estimated cost of the public work, shall prepare a report, on the form prescribed by the Labor Commissioner pursuant to subsection 8, concerning the demographics of the workmen employed by the contractor and subcontractor in connection with the public work during each calendar month the contractor or subcontractor is engaged on the public work. The report must include only aggregate information for statistical purposes concerning the races, ethnicities and genders of the workmen employed by the contractor and subcontractor in connection with the public work in a manner which excludes any identifying information related to a particular person. The contractor and each subcontractor who is required to prepare such a report shall submit the report to the public body awarding the contract not later than 15 days after the 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 \$25,000,000 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 who
16 provides labor or a portion of the work on the public work which
17 is estimated to exceed 1 percent of the estimated cost of the public
18 work; and

19 (d) Representatives appointed by the contractor engaged on the
20 public work from a variety of groups that represent or promote the
21 interests of minorities or women who are qualified to perform
22 work on the public work.

23 4. The committee established pursuant to subsection 3 shall
24 meet monthly to discuss the reports submitted pursuant to
25 subsection 1 for the previous month, unless conditions affecting
26 the public work would make the holding of a meeting impractical,
27 including, without limitation, delays on the public work caused by
28 weather. Any such meeting must be open and public, but is not
29 subject to any provision of chapter 241 of NRS.

30 5. A public body may withhold payment from a contractor or
31 subcontractor engaged on a public work for failure to comply with
32 the provisions of this section until such compliance is obtained.
33 Upon compliance, the public body shall promptly pay the amount
34 of money withheld pursuant to this subsection, without interest, to
35 the contractor or subcontractor.

36 6. A public body awarding a contract for a public work which
37 has an estimated cost of \$25,000,000 or more and which is located
38 in a county whose population is 100,000 or more shall cause a
39 stipulation setting forth the penalty specified in subsection 5 to be
40 inserted in the contract.

41 7. The public body shall not divide a public work into
42 separate portions to avoid the requirements of this section.

43 8. The Labor Commissioner shall, by regulation, prescribe a
44 form for the report required pursuant to subsection 1.



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

2 338.1385 1. Except as otherwise provided in subsection 8
3 and NRS 338.1906 and 338.1907, this State, or a governing body or
4 its authorized representative that awards a contract for a public work
5 in accordance with paragraph (a) of subsection 1 of NRS 338.1373
6 shall not:

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

15 (b) Commence a public work for which the estimated cost is
16 \$100,000 or less unless it complies with the provisions of NRS
17 338.1386, 338.13862 and 338.13864.

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

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

24 3. Each advertisement for bids must include a provision that
25 sets forth the ~~[requirement]~~ *requirements* that a contractor ~~[must]~~ :

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

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

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

36 5. Except as otherwise provided in subsection 6 and NRS
37 338.1389, a public body shall award a contract to the lowest
38 responsive and responsible bidder.

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

42 (a) The bidder is not a qualified bidder pursuant to NRS
43 338.1379 or 338.1382;

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



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

(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



1 pursuant to chapter 238 of NRS that is published in the county
2 where the public work will be performed for bids for the public
3 work. If no qualified newspaper is published in the county where the
4 public work will be performed, the required advertisement must be
5 published in some qualified newspaper that is printed in the State of
6 Nevada and having a general circulation within the county.

7 (b) Commence a public work for which the estimated cost is
8 \$100,000 or less unless it complies with the provisions of NRS
9 338.1386, 338.13862 and 338.13864.

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

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

16 3. Each advertisement for bids must include a provision that
17 sets forth the ~~[requirement]~~ *requirements* that a contractor ~~[must]~~ :

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

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

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

28 5. Except as otherwise provided in subsection 6 and NRS
29 338.1389, a public body shall award a contract to the lowest
30 responsive and responsible bidder.

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

34 (a) The bidder is not a qualified bidder pursuant to NRS
35 338.1379 or 338.1382;

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

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

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

40 7. Before a public body may commence the performance of a
41 public work itself pursuant to the provisions of this section, based
42 upon a determination that the public interest would be served by
43 rejecting any bids received in response to an advertisement for bids,
44 the public body shall prepare and make available for public
45 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; or

(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. 4. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 7 and NRS 338.1907, 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 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. *If the public work has an estimated cost of \$25,000,000 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 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 \$25,000,000 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.



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



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 \$25,000,000 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 \$25,000,000 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:



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

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

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

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

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

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

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

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

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

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

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

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

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

(a) The name and location of the coordinator;



(b) *If the retrofit has an estimated cost of \$25,000,000 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.



8. Before approving a retrofit pursuant to this section, the governing body shall evaluate any projects that would utilize shared savings as a method of payment or any method of financing that would 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 to ensure that:

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

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

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

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

Sec. 9. The Legislative Auditor shall conduct an audit during the interim immediately following the fourth year after the commencement of the first public work that requires the filing of a report pursuant to section 1 of this act. The audit must assess:

1. The level of compliance with section 1 of this act;

2. The effectiveness of section 1 of this act in increasing the rate of employment of minorities and women on public works; and

3. The degree of burden, if any, experienced by public bodies, contractors and subcontractors as a result of compliance with section 1 of this act.

Sec. 10. 1. This section and sections 1, 2, 4, 6, 7 and 8 of this act become effective on October 1, 2005.

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

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

