

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 2 *

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, or his
15 designee;

16 (c) Each subcontractor engaged on the public work who
17 provides labor or a portion of the work on the public work which
18 is estimated to exceed 1 percent of the estimated cost of the public
19 work, or the designee of such a subcontractor; and

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

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

31 5. A public body may withhold payment in an amount not to
32 exceed \$500 from a contractor or subcontractor engaged on a
33 public work for each failure of the contractor or subcontractor to
34 file a report required pursuant to subsection 1 until such a report
35 is filed. Upon the filing of the report, the public body shall
36 promptly pay the amount of money withheld pursuant to this
37 subsection for the failure to file that report, without interest, to the
38 contractor or subcontractor.

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

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



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

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

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

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

17 (b) Commence a public work for which the estimated cost is
18 \$100,000 or less unless it complies with the provisions of NRS
19 338.1386, 338.13862 and 338.13864.

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

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

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

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

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

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

38 5. Except as otherwise provided in subsection 6 and NRS
39 338.1389, a public body shall award a contract to the lowest
40 responsive and responsible bidder.

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

44 (a) The bidder is not a qualified bidder pursuant to NRS
45 338.1379 or 338.1382;



- 1 (b) The bidder is not responsive or responsible;
- 2 (c) The quality of the services, materials, equipment or labor
- 3 offered does not conform to the approved plans or specifications; or
- 4 (d) The public interest would be served by such a rejection.

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

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

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

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

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

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

26 8. This section does not apply to:

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

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

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

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

37 (e) The design and construction of a public work for which a
38 public body contracts with a design-build team pursuant to NRS
39 338.1711 to 338.1727, inclusive.

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

41 338.1385 1. Except as otherwise provided in subsection 8,
42 this State, or a governing body or its authorized representative that
43 awards a contract for a public work in accordance with paragraph
44 (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 public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

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

(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 public body shall report to the public body any contract that he awarded pursuant to subsection 1 in the immediately preceding quarter.

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

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

(b) *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, shall comply with the provisions of section 1 of this act.*

4. 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.

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

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

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

(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,



1 the public body shall prepare and make available for public
2 inspection a written statement containing:

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

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

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

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

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

18 8. This section does not apply to:

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

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

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

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

29 (e) The design and construction of a public work for which a
30 public body contracts with a design-build team pursuant to NRS
31 338.1711 to 338.1727, inclusive.

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

33 338.143 1. Except as otherwise provided in subsection 7 and
34 NRS 338.1907, a local government or its authorized representative
35 that awards a contract for a public work in accordance with
36 paragraph (b) of subsection 1 of NRS 338.1373 shall not:

37 (a) Commence a public work for which the estimated cost
38 exceeds \$100,000 unless it advertises in a newspaper qualified
39 pursuant to chapter 238 of NRS that is published in the county
40 where the public work will be performed for bids for the public
41 work. If no qualified newspaper is published in the county where the
42 public work will be performed, the required advertisement must be
43 published in some qualified newspaper that is printed in the State of
44 Nevada and has a general circulation in the county. *If the public*
45 *work has an estimated cost of \$25,000,000 or more and is located*



1 *in a county whose population is 100,000 or more, each*
2 *advertisement for bids must include a provision that sets forth the*
3 *requirement that a contractor shall comply with the provisions of*
4 *section 1 of this act.*

5 (b) Commence a public work for which the estimated cost is
6 \$100,000 or less unless it complies with the provisions of NRS
7 338.1442, 338.1444 and 338.1446.

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

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

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

19 4. Except as otherwise provided in subsection 5 and NRS
20 338.147, the local government or its authorized representative shall
21 award a contract to the lowest responsive and responsible bidder.

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

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

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

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

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

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

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

43 (c) An estimate of the cost of administrative support for the
44 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



1 that he awarded pursuant to subsection 1 in the immediately
2 preceding quarter.

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

8 4. Except as otherwise provided in subsection 5 and NRS
9 338.147, the local government or its authorized representative shall
10 award a contract to the lowest responsive and responsible bidder.

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

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

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

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

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

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

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

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

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

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

40 7. This section does not apply to:

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

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

45 (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. 6. NRS 338.1723 is hereby amended to read as follows:

338.1723 1. A public body shall advertise for preliminary proposals for the design and construction of a public work by a design-build team 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.

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

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

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

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

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

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

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

(g) 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, a provision that sets forth the requirement that the design-build team shall comply with the provisions of section 1 of this act.



1 3. A public body shall maintain at the time and place set forth
2 in the request for preliminary proposals the following information
3 for inspection by a design-build team desiring to submit a proposal
4 for the public work:

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

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

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

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

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

18 (d) Notice that a design-build team desiring to submit a proposal
19 for the public work must include with its proposal the information
20 used by the public body to determine finalists among the design-
21 build teams submitting proposals pursuant to subsection 2 of NRS
22 338.1725 and a description of that information;

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

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

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

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

41 2. Upon approval of the State Board of Examiners, the
42 coordinator shall prepare a request for proposals for the retrofitting
43 of one or more 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 \$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.

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

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

(a) The best interests of the State;

(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.

5. 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.

6. 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 State Board of Examiners 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 State to make payments beyond the biennium in which the contract is executed, but the interest due on any debt created pursuant to this section must be paid at least semiannually, payments must be made on the principal at least annually and the debt must be fully repaid on or before May 1, 2013.

7. Before approving a retrofit pursuant to this section, the State Board of Examiners shall evaluate any projects that would utilize shared savings as a method of payment or any method of financing



1 that would commit the State to make payments beyond the biennium
2 in which the contract is executed to ensure that:

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

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

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

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

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

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

18 9. The total amount of money committed beyond the biennium
19 for all contracts executed pursuant to this section must not exceed
20 \$15,000,000 at any one time.

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

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

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

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

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

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



- 1 (a) The name and location of the coordinator;
- 2 (b) *If the retrofit has an estimated cost of \$25,000,000 or more*
3 *and is to be completed on one or more buildings or any portion*
4 *thereof that is located in a county whose population is 100,000 or*
5 *more, a provision that sets forth the requirement that the*
6 *contractor shall comply with the provisions of section 1 of this act;*
- 7 (c) A brief description of the requirements for the initial audit of
8 the use of energy and the retrofitting;
- 9 ~~[(e)]~~ (d) Where and how specifications of the requirements for
10 the initial audit of the use of energy and the retrofitting may be
11 obtained;
- 12 ~~[(d)]~~ (e) The date and time not later than which proposals must
13 be received by the coordinator; and
- 14 ~~[(e)]~~ (f) The date and time when responses will be opened.
- 15 4. The request for proposals must be published in a newspaper
16 qualified pursuant to chapter 238 of NRS that is published in the
17 county where the public work will be performed. If no qualified
18 newspaper is published in the county where the public work will be
19 performed, the required advertisement must be published in some
20 qualified newspaper that is printed in the State of Nevada and has a
21 general circulation in the county where the public work will be
22 performed.
- 23 5. After receiving the proposals but before making a decision
24 on the proposals, the coordinator shall consider:
 - 25 (a) The best interests of the local government;
 - 26 (b) The experience and financial stability of the persons
27 submitting the proposals;
 - 28 (c) Whether the proposals conform with the terms of the request
29 for proposals;
 - 30 (d) The prices of the proposals; and
 - 31 (e) Any other factor disclosed in the request for proposals.
- 32 6. The coordinator shall determine the relative weight of each
33 factor before a request for proposals is advertised. The weight of
34 each factor must not be disclosed before the date proposals are
35 required to be submitted to the coordinator.
- 36 7. After reviewing the proposals, if the coordinator determines
37 that sufficient energy could be saved to justify retrofitting the
38 building or buildings, or portion thereof, the coordinator shall select
39 the best proposal and request the approval of the governing body to
40 award the contract. The request for approval must include the
41 proposed method of financing the audit and retrofit, which may
42 include an installment contract, a shared savings contract or any
43 other contract for a reasonable financing arrangement. Such a
44 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.

