

Amendment No. 136

Assembly Amendment to Assembly Bill No. 39 Second Reprint

(BDR 27-560)

Proposed by: Assemblywoman Giunchigliani**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the bill as a whole by renumbering sec. 10 as sec. 12 and adding new sections designated sections 10 and 11, following sec. 9, to read as follows:

“Sec. 10. NRS 218.605 is hereby amended to read as follows:

218.605 1. Except as otherwise provided in subsection 2, it is unlawful for any member of the Legislature to:

(a) Become a named contractor or named subcontractor under any contract or order for supplies or any other kind of contract paid for in whole or in part by money appropriated by the Legislature of which he is a member for the State or any of its departments, or the Legislature or either of its houses, or to be interested, directly or indirectly, as principal, in any kind of contract so paid.

(b) Be interested in any contract made by the Legislature of which he is a member, or be a purchaser or interested in any purchase or sale made by the Legislature of which he is a member.

EGO/SGW

Date: 4/4/2005

A.B. No. 39—Revises provisions relating to purchasing by local governments.



2. Any member of the Legislature may:

(a) Sell or enter into a contract to sell, to the State or any of its departments any item, commodity, service or capital improvement, if:

(1) The sources of supply for the item, commodity, service or capital improvement are limited;

(2) The contracting process is controlled by rules of open competitive bidding;

(3) He has not taken part in developing the plans or specifications for the sale or contract; and

(4) He will not be personally involved in opening, considering or accepting any bids for the sale or contract.

↪ If the sale or contract is exempt from the requirements of open competitive bidding, the member must not sell or enter into the contract to sell the item, commodity, service or capital improvement.

(b) If he is not named in a contract, receive, as direct salary or wages, compensation for which the original source was a legislative appropriation to any governmental entity or a private entity not owned or controlled by the Legislator.

(c) Receive, for services as an instructor or teacher from any county school district or the University and Community College System of Nevada, compensation for which the original source was a legislative appropriation to any governmental entity or a private entity not owned or controlled by the Legislator.

3. Any contract made in violation of subsection 1 may be declared void at the instance of the State or of any other person interested in the contract except the member of the Legislature prohibited in subsection 1 from making or being interested in the contract.

4. Any person violating subsection 1 is guilty of a gross misdemeanor and forfeits his office.

Sec. 11. NRS 281.505 is hereby amended to read as follows:

281.505 1. Except as otherwise provided in this section and NRS 281.555 and 332.800, a public officer or employee shall not bid on or enter into a contract between a governmental agency and any private business in which he has a significant pecuniary interest.

2. A member of any board, commission or similar body who is engaged in the profession, occupation or business regulated by such board or commission, may, in the ordinary course of his business, bid on or enter into a contract with any governmental agency, except the board, commission or body of which he is a member, if he has not taken part in developing the contract plans or specifications and he will not be personally involved in opening, considering or accepting offers.

3. A full- or part-time faculty member or employee of the University and Community College System of Nevada may bid on or enter into a contract with a governmental agency, or may benefit financially or otherwise from a contract between a governmental agency and a private entity, if the contract complies with the policies established by the Board of Regents of the University of Nevada pursuant to NRS 396.255.

4. A public officer or employee, other than an officer or employee described in subsection 2 or 3, may bid on or enter into a contract with a governmental agency if the contracting process is controlled by rules of open competitive bidding, the sources of supply are limited, he has not taken part in developing the contract plans or specifications and he will not be personally involved in opening, considering or accepting offers. *If the contract is exempt from the requirements of open competitive bidding, the public officer or employee must not bid on or enter into the contract.* If a

public officer who is authorized to bid on or enter into a contract with a governmental agency pursuant to this subsection is a member of the governing body of the agency, the public officer, pursuant to the requirements of NRS 281.501, shall disclose his interest in the contract and shall not vote on or advocate the approval of the contract.”.

Amend the title of the bill to read as follows:

“AN ACT relating to purchasing; providing a procedure for a bidder to file a notice of protest regarding certain contracts; expanding the criteria that may be used to select the lowest responsive and responsible bidder on certain contracts; expanding the types of contracts which by nature are not adapted to award by competitive bidding; clarifying the requirements concerning contracting by public officers and employees; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes to provisions governing purchasing by state and local governments. (BDR 27-560)”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law provides a procedure for bidders on state purchasing contracts and public works contracts to appeal or protest the awarding of the contract. (NRS 333.370, 338.142)

This bill provides a procedure for bidders on certain local governmental purchasing contracts to file a notice of protest with the governing body of the local government or its authorized representative concerning the awarding of the contract.

Under existing law, the Local Government Purchasing Act provides procedures and requirements for the purchase of supplies, materials, equipment and services by the governing body of a local government. (Chapter 332 of NRS) In relevant part, the Act provides criteria for awarding purchasing contracts and exempts certain types of purchasing contracts from the requirements of competitive bidding. (NRS 332.065, 332.115)

This bill authorizes a governing body to establish additional criteria for the awarding of a contract in the advertisement or request for bids for the contract. This bill also provides that contracts relating to systems of communication are not subject to the requirements of competitive bidding.

Existing law authorizes the Chief of the Purchasing Division of the Department of Administration, on behalf of the State of Nevada and certain local governments in Nevada, to purchase supplies, materials and equipment from a vendor who has entered into an agreement with the United States General Services Administration or another governmental agency. (NRS 333.480)

This bill provides notice in the Local Government Purchasing Act that the State of Nevada has authority to enter into purchasing contracts with local governments within and outside Nevada.

Existing law requires a public officer, including a Legislator, or public employee to meet certain requirements to contract with a governmental entity. To bid on or enter into such a contract, the sources of supply must be limited, the contracting process must be controlled by rules of open competitive bidding, the public officer or employee must not have taken part in developing the contract plans or specifications and the public officer or employee must not have been personally involved in opening, considering or accepting any bids for the contract. (NRS 218.605, 281.505)

This bill clarifies that a public officer, including a Legislator, or a public employee must not bid on or enter into a contract with a governmental entity if the contract is exempt from the requirements of competitive bidding.