

SENATE BILL NO. 199—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

MARCH 1, 2007

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to requirements for a public work involving the construction of a traffic-control signal. (BDR 28-348)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to public works; making various changes to requirements for a public work involving the construction of a traffic-control signal; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prohibits a public body from dividing a public work into separate
2 portions to avoid the requirement of advertising for bids for the public work and
3 requires a public body to award contracts to the lowest responsive responsible
4 bidder. Existing law also requires a public body to prepare and make available for
5 public inspection a written statement containing certain information, including,
6 without limitation, an estimate of the total cost of the public work before the public
7 body may perform the work itself. (NRS 338.1385, 338.143) This bill allows a
8 public body to divide the work on a traffic-control signal and to perform part or all
9 the work itself if the public body complies with certain requirements, including
10 completing a study on the need for a traffic-control signal and determining that
11 dividing the work or performing part or all the work itself is the most cost-effective
12 and expeditious manner in which to complete the traffic-control signal.



* S B 1 9 9 *

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 public body may divide a public work for the construction of a traffic-control signal into separate portions and may advertise for bids for each portion or may perform the work itself for any portion if the public body:

(a) Conducts a study of the need for a traffic-control signal at a specific location and the public body determines pursuant to the study that the signal is warranted;

(b) Finds that the interest of public safety would be served best if the traffic-control signal is constructed in the most expeditious and cost-effective manner;

(c) Finds that dividing the work into separate portions and, if it intends to perform any portion of the work, performing at least a portion of the work itself is the most expeditious and cost-effective manner in which to construct the traffic-control signal; and

(d) Advertises for bids for each separate portion of the public work which it is not performing in the same manner that it would publish any other advertisement for bids.

2. As used in this section, "traffic-control signal" has the meaning ascribed to it in NRS 484.205.

Sec. 2. NRS 338.0115 is hereby amended to read as follows:

338.0115 1. Except as otherwise provided in subsection 2, the provisions of this chapter and chapters 332 and 339 of NRS do not apply to a contract under which a private developer, for the benefit of a private development, constructs a water or sewer line extension and any related appurtenances:

(a) Which qualify as a public work pursuant to NRS 338.010; and

(b) For which he will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.

2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project, the provisions of NRS 338.013 to 338.090, inclusive, 338.1373 to 338.139, inclusive, *and section 1 of this act* and 338.140 to 338.148, inclusive, apply to the contract.

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

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, *and section 1 of this act*, this State, or a governing body or its authorized representative that



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

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

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

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

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

20 3. Each advertisement for bids must include a provision that
21 sets forth the requirement that a contractor must be qualified
22 pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

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, *and section 1 of this act*, a public body or its authorized
30 representative shall award a contract to the lowest responsive and
31 responsible bidder.

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

35 (a) The bidder is not a qualified bidder pursuant to NRS
36 338.1379 or 338.1382;

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

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

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

41 7. A public body may let a contract without competitive
42 bidding if no bids were received in response to an advertisement for
43 bids and:

44 (a) The public body publishes a notice stating that no bids were
45 received and that the contract may be let without further bidding;



(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the bidder who has submitted the lowest responsive and responsible bid.

8. ~~[Before]~~ *Except as otherwise provided in section 1 of this act, 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.

9. 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. 4. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, *and section 1 of this act*, this State, or a governing body or its



1 authorized representative that awards a contract for a public work in
2 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 having a general circulation within 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 the
19 authorized representative awarded pursuant to subsection 1 in the
20 immediately preceding quarter.

21 3. Each advertisement for bids must include a provision that
22 sets forth the requirement that a contractor must be qualified
23 pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

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

29 5. Except as otherwise provided in subsection 6 and NRS
30 338.1389, *and section 1 of this act*, a public body or its authorized
31 representative shall award a contract to the lowest responsive and
32 responsible bidder.

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

36 (a) The bidder is not a qualified bidder pursuant to NRS
37 338.1379 or 338.1382;

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

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

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

42 7. A public body may let a contract without competitive
43 bidding if no bids were received in response to an advertisement for
44 bids and:



(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. ~~[Before]~~ *Except as otherwise provided in section 1 of this act, 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.

9. 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 8 and NRS 338.1907, *and section 1 of this act*, 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.

(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 governing body any contract that the authorized representative 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, *and section 1 of this act*, 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. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;



(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. ~~[Before]~~ *Except as otherwise provided in section 1 of this act, 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.

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.



1 **Sec. 6.** NRS 338.143 is hereby amended to read as follows:

2 338.143 1. Except as otherwise provided in subsection 8, *and*
3 *section 1 of this act*, a local government or its authorized
4 representative that awards a contract for a public work in
5 accordance with paragraph (b) 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 within the county
12 where the public work will be performed, the required
13 advertisement must be published in some qualified newspaper that is
14 printed in the State of Nevada and has a general circulation within
15 the county.

16 (b) Commence a public work for which the estimated cost is
17 \$100,000 or less unless it complies with the provisions of NRS
18 338.1442, 338.1444 or 338.1446.

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

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

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

30 4. Except as otherwise provided in subsection 5 and NRS
31 338.147, *and section 1 of this act*, the local government or its
32 authorized representative shall award a contract to the lowest
33 responsive and responsible bidder.

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

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

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

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

41 6. A local government may let a contract without competitive
42 bidding if no bids were received in response to an advertisement for
43 bids and:



1 (a) The local government publishes a notice stating that no bids
2 were received and that the contract may be let without further
3 bidding;

4 (b) The local government considers any bid submitted in
5 response to the notice published pursuant to paragraph (a);

6 (c) The local government lets the contract not less than 7 days
7 after publishing a notice pursuant to paragraph (a); and

8 (d) The contract is awarded to the lowest responsive and
9 responsible bidder.

10 7. ~~[Before]~~ *Except as otherwise provided in section 1 of this*
11 *act, before* a local government may commence the performance of a
12 public work itself pursuant to the provisions of this section, based
13 upon a determination that the public interest would be served by
14 rejecting any bids received in response to an advertisement for bids,
15 the local government shall prepare and make available for public
16 inspection a written statement containing:

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

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

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

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

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

33 8. This section does not apply to:

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

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

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

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



1 (e) The design and construction of a public work for which a
2 public body contracts with a design-build team pursuant to NRS
3 338.1711 to 338.1727, inclusive.

4 **Sec. 7.** 1. This section and sections 1, 2, 3 and 5 of this act
5 become effective on July 1, 2007.

6 2. Sections 3 and 5 of this act expire by limitation on April 30,
7 2013.

8 3. Sections 4 and 6 of this act become effective on May 1,
9 2013.

