

SENATE BILL NO. 279—COMMITTEE ON COMMERCE AND LABOR

(ON BEHALF OF THE STATE CONTRACTORS' BOARD)

MARCH 13, 2007

Referred to Committee on Commerce and Labor

SUMMARY—Makes various changes concerning contractors and the State Contractors' Board. (BDR 54-624)

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 contractors; revising certain duties and powers of the State Contractors' Board; providing express authority for the Board to collect and maintain data and to conduct investigations; revising the procedures for applying for the issuance or renewal of a contractor's license; revising the term of a contractor's license from 1 year to 2 years in certain circumstances; revising certain fees and assessments to reflect such change in the term of a contractor's license; authorizing the Board to take certain actions against an unlicensed person who violates a provision governing contractors; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that chapter 624 of NRS, which governs contractors, does not apply, under certain circumstances, to an owner of a complex containing less than five condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer who performs certain maintenance and repairs to the property which are valued at less than \$500. (NRS 624.031) **Section 1** of this bill expands this exemption to include any maintenance and repairs which are valued at less than \$1,000.

Existing law requires the State Contractors' Board to establish an Investigations Office that includes a Special Investigations Unit and a Compliance Investigations Unit. (NRS 624.112) **Section 2** of this bill eliminates the requirement to include those two specific units within the Investigations Office.

Existing law authorizes the Board to require criminal investigators who are employed by the Board to locate and identify certain persons who violate a



provision of chapter 624 of NRS or any regulations adopted by the Board. (NRS 624.115) **Section 3** of this bill authorizes the Board also to require compliance investigators who are employed by the Board to locate and identify such persons.

Existing law authorizes the Board to undertake all functions and duties related to the administration of chapter 624 of NRS. (NRS 624.160) **Section 4** of this bill provides express authority for the Board to collect and maintain data regarding investigations and complaints on contractors and to conduct investigations of contractors.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit a written application to the Board that includes, without limitation, the names and addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant. (NRS 624.250) **Section 5** of this bill revises this requirement for applicants that are corporations or limited-liability companies. **Section 5** also requires the Board to require an applicant to pay the license fee and any applicable assessments before the Board issues a license to the applicant.

Existing law requires an applicant for the issuance or renewal of a contractor's license to submit to the Board proof of industrial insurance and insurance for occupational diseases, proof of self-insurance or a signed affidavit affirming that the applicant is not subject to the statutes governing industrial insurance and occupational insurance because of certain specified circumstances. (NRS 624.256) **Section 6** of this bill provides that failure of such an applicant or licensee to file or maintain such insurance constitutes cause for the Board to take certain administrative actions against the person unless the person provides to the Board the affidavit discussed above.

Existing law requires an applicant for a contractor's license or a licensee to show such a degree of financial responsibility as the Board deems necessary for the safety and protection of the public. (NRS 624.260) Existing law also requires that the financial responsibility be determined by using certain standards and criteria set forth in statute. (NRS 624.263) **Section 7** of this bill expands those standards and criteria and authorizes, rather than requires, these standards and criteria to be used in determining the financial responsibility of an applicant or licensee.

Section 9 of this bill revises the existing fee for a contractor's license from \$450 annually to \$900 biennially. (NRS 624.283)

Section 10 of this bill revises the existing term of a contractor's license from 1 year to 2 years and authorizes the Board to establish a system of staggered biennial renewals. **Section 20** of this bill provides that the provisions of **section 10** do not apply to an existing contractor's license until the first renewal date for the license that occurs after the effective date of this bill.

Existing law authorizes the Board or its designee to issue administrative citations and to take action against an applicant for a contractor's license or a licensee who commits an act which constitutes cause for disciplinary action. (NRS 624.341) **Section 12** of this bill authorizes the Board or its designee to issue such citations and to take such action against any person who violates a provision of chapter 624 of NRS or any regulations adopted by the Board. **Section 12** also specifies that any administrative fine ordered in the citation must not exceed \$50,000 under certain circumstances. Further, **section 12** provides that it is a misdemeanor for an unlicensed person to fail to comply with such a citation or order issued by the Board pursuant to NRS 624.341. **Sections 13, 14 and 15** of this bill similarly amend existing law to reflect the expanded scope of the administrative citations and actions. (NRS 624.345, 624.351, 624.361)

Section 16 of this bill revises the existing assessments which are required to be paid by each residential contractor on an annual basis by doubling the amounts of the assessments and requiring such assessments to be paid per biennium. (NRS 624.470)



Existing law authorizes the Board to impose an administrative fine upon an unlicensed person who engages in business as a contractor or submits a bid on a job in this State. (NRS 624.710) **Section 17** of this bill further authorizes the Board to impose an administrative fine on a person who violates certain provisions governing advertising concerning contractors or certain provisions governing the ability of licensees to participate in joint ventures or other combinations. (NRS 624.720, 624.740)

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

Section 1. NRS 624.031 is hereby amended to read as follows:
624.031 The provisions of this chapter do not apply to:

1. Work performed exclusively by an authorized representative of the United States Government, the State of Nevada, or an incorporated city, county, irrigation district, reclamation district, or other municipal or political corporation or subdivision of this State.

2. An officer of a court when acting within the scope of his office.

3. Work performed exclusively by a public utility operating pursuant to the regulations of the Public Utilities Commission of Nevada on construction, maintenance and development work incidental to its business.

4. An owner of property who is building or improving a residential structure on the property for his own occupancy and not intended for sale or lease. The sale or lease, or the offering for sale or lease, of the newly built structure within 1 year after its completion creates a rebuttable presumption for the purposes of this section that the building of the structure was performed with the intent to sell or lease that structure. An owner of property who requests an exemption pursuant to this subsection must apply to the Board for the exemption. The Board shall adopt regulations setting forth the requirements for granting the exemption.

5. ~~[An owner of a complex containing not more than four condominiums, townhouses, apartments or cooperative units, the managing officer of the owner or an employee of the managing officer, who performs]~~ Any work to repair or maintain ~~[that]~~ property the value of which is less than ~~[\$500,]~~ \$1,000, including labor and materials, unless:

(a) A building permit is required to perform the work;

(b) The work is of a type performed by a plumbing, electrical, refrigeration, heating or air-conditioning contractor;

(c) The work is of a type performed by a contractor licensed in a classification prescribed by the Board that significantly affects the health, safety and welfare of members of the general public;



(d) The work is performed as a part of a larger project:

(1) The value of which is \$500 or more; or

(2) For which contracts of less than \$500 have been awarded to evade the provisions of this chapter; or

(e) The work is performed by a person who is licensed pursuant to this chapter or by an employee of that person.

6. The sale or installation of any finished product, material or article of merchandise which is not fabricated into and does not become a permanent fixed part of the structure.

7. The construction, alteration, improvement or repair of personal property.

8. The construction, alteration, improvement or repair financed in whole or in part by the Federal Government and conducted within the limits and boundaries of a site or reservation, the title of which rests in the Federal Government.

9. An owner of property, the primary use of which is as an agricultural or farming enterprise, building or improving a structure on the property for his use or occupancy and not intended for sale or lease.

Sec. 2. NRS 624.112 is hereby amended to read as follows:

624.112 1. The Board shall:

(a) Establish an Investigations Office to enforce the provisions of this chapter. The Investigations Office must ~~include a Special Investigations Unit consisting of~~ *consist* of criminal investigators and ~~a Compliance Investigations Unit consisting of~~ compliance investigators.

(b) Adopt regulations setting forth the qualifications required for investigators employed to carry out this section.

2. As used in this section, "criminal investigator" means a person authorized to perform the duties set forth in subsection 2 of NRS 624.115.

Sec. 3. NRS 624.115 is hereby amended to read as follows:

624.115 1. The Board may employ attorneys, investigators and other professional consultants and clerical personnel necessary to the discharge of its duties.

2. The Board may require criminal investigators who are employed by the Board pursuant to NRS 624.112 to:

(a) Conduct a background investigation of:

(1) A licensee or an applicant for a contractor's license; or

(2) An applicant for employment with the Board;

(b) Locate and identify persons who:

(1) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;



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(2) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(3) Otherwise violate the provisions of this chapter or the regulations adopted pursuant to this chapter;

(c) Investigate any alleged occurrence of constructional fraud; and

(d) Issue a misdemeanor citation prepared manually or electronically pursuant to NRS 171.1773 to a person who violates a provision of this chapter that is punishable as a misdemeanor. A criminal investigator may request any constable, sheriff or other peace officer to assist him in the issuance of such a citation.

3. The Board may require compliance investigators who are employed by the Board pursuant to NRS 624.112 to locate and identify persons who:

(a) Engage in the business or act in the capacity of a contractor within this State in violation of the provisions of this chapter;

(b) Submit bids on jobs situated within this State in violation of the provisions of this chapter; or

(c) Otherwise violate the provisions of this chapter or the regulations adopted pursuant thereto.

Sec. 4. NRS 624.160 is hereby amended to read as follows:

624.160 1. The Board is vested with all of the functions and duties relating to the administration of this chapter.

2. The Board shall:

(a) Carry out a program of education for customers of contractors.

(b) Maintain and make known a telephone number for the public to obtain information about self-protection from fraud in construction and other information concerning contractors and contracting.

(c) Collect and maintain records, reports and compilations of statistical data concerning investigations and complaints.

3. The Board may provide advisory opinions and take other actions that are necessary for the effective administration of this chapter and the regulations of the Board.

4. The Board may, on its own motion, and shall, upon receipt of a written complaint or upon receipt of information from a governmental agency, investigate the actions of any person acting in the capacity of a contractor, with or without a license.

Sec. 5. NRS 624.250 is hereby amended to read as follows:

624.250 1. To obtain or renew a license, an applicant must submit to the Board an application in writing containing:

(a) The statement that the applicant desires the issuance of a license under the terms of this chapter.



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(b) The street address or other physical location of the applicant's place of business.

(c) The name of a person physically located in this State for service of process on the applicant.

(d) The street address or other physical location in this State and, if different, the mailing address, for service of process on the applicant.

(e) ~~[(The)]~~ *Except as otherwise provided in paragraphs (f) or (g), the names and physical and mailing addresses of any owners, partners, officers, directors, members and managerial personnel of the applicant.*

(f) *If the applicant is a corporation, the names and physical and mailing addresses of the president, secretary, treasurer, any officers responsible for contracting activities in this State, any officers responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.*

(g) *If the applicant is a limited-liability company, the names and physical and mailing addresses of any managers or members with managing authority, any managers or members responsible for contracting activities in this State, any managers or members responsible for renewing the license of the applicant, any persons used by the applicant to qualify pursuant to NRS 624.260 and any other persons required by the Board.*

(h) Any information requested by the Board to ascertain the background, financial responsibility, experience, knowledge and qualifications of the applicant.

~~[(e)]~~ (i) All information required to complete the application.

2. The application must be:

(a) Made on a form prescribed by the Board in accordance with the rules and regulations adopted by the Board.

(b) Accompanied by the *application* fee fixed by this chapter.

3. The Board shall include on an application form for the issuance or renewal of a license, a method for allowing an applicant to make a monetary contribution to the Construction Education Account created pursuant to NRS 624.580. The application form must state in a clear and conspicuous manner that a contribution to the Construction Education Account is voluntary and is in addition to any fees required for licensure. If the Board receives a contribution from an applicant, the Board shall deposit the contribution with the State Treasurer for credit to the Construction Education Account.

4. Before issuing a license to any applicant, the Board shall require the applicant to pay the license fee fixed by this chapter



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1 *and, if applicable, any assessment required pursuant to*
2 *NRS 624.470.*

3 **Sec. 6.** NRS 624.256 is hereby amended to read as follows:

4 624.256 1. Before granting an original or renewal of a
5 contractor's license to any applicant, the Board shall require that the
6 applicant submit to the Board:

7 (a) Proof of industrial insurance and insurance for occupational
8 diseases which covers his employees;

9 (b) A copy of his certificate of qualification as a self-insured
10 employer which was issued by the Commissioner of Insurance;

11 (c) If the applicant is a member of an association of self-insured
12 public or private employers, a copy of the certificate issued to the
13 association by the Commissioner of Insurance; or

14 (d) An affidavit signed by the applicant affirming that he is not
15 subject to the provisions of chapters 616A to 616D, inclusive, or
16 chapter 617 of NRS because:

17 (1) He has no employees;

18 (2) He is not or does not intend to be a subcontractor for a
19 principal contractor; and

20 (3) He has not or does not intend to submit a bid on a job for
21 a principal contractor or subcontractor.

22 2. The Board shall notify the Fraud Control Unit for Industrial
23 Insurance established pursuant to NRS 228.420 whenever the Board
24 learns that an applicant or holder of a contractor's license has
25 engaged in business as or acted in the capacity of a contractor within
26 this State without having obtained industrial insurance or insurance
27 for occupational diseases in violation of the provisions of chapters
28 616A to 617, inclusive, of NRS.

29 *3. Failure by an applicant or holder of a contractor's license*
30 *to file or maintain in full force the required industrial insurance*
31 *and insurance for occupational diseases constitutes cause for the*
32 *Board to deny, revoke, suspend, refuse to renew or otherwise*
33 *discipline the person, unless the person has complied with the*
34 *provisions set forth in paragraph (d) of subsection 1.*

35 **Sec. 7.** NRS 624.263 is hereby amended to read as follows:

36 624.263 1. The financial responsibility of a licensee or an
37 applicant for a contractor's license must be established or
38 independently of and without reliance on any assets or guarantees of
39 any owners or managing officers of the licensee or applicant, but the
40 financial responsibility of any owners or managing officers of the
41 licensee or applicant may be inquired into and considered as a
42 criterion in determining the financial responsibility of the licensee or
43 applicant.

44 2. The financial responsibility of an applicant for a contractor's
45 license or of a licensed contractor ~~must~~ *may* be determined by



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1 using the following standards and criteria in connection with each
2 applicant or contractor and each associate or partner thereof:

3 (a) ~~Net~~ *Amount of net* worth.

4 (b) Amount of liquid assets.

5 (c) *Amount of current assets.*

6 (d) *Amount of current liabilities.*

7 (e) *Amount of working capital.*

8 (f) *Ratio of current assets to current liabilities.*

9 (g) *Fulfillment of bonding requirements pursuant to*
10 *NRS 624.270.*

11 (h) Prior payment and credit records.

12 ~~(d)~~ (i) Previous business experience.

13 ~~(e)~~ (j) Prior and pending lawsuits.

14 ~~(f)~~ (k) Prior and pending liens.

15 ~~(g)~~ (l) Adverse judgments.

16 ~~(h)~~ (m) Conviction of a felony or crime involving moral
17 turpitude.

18 ~~(i)~~ (n) Prior suspension or revocation of a contractor's license
19 in Nevada or elsewhere.

20 ~~(j)~~ (o) An adjudication of bankruptcy or any other proceeding
21 under the federal bankruptcy laws, including:

22 (1) A composition, arrangement or reorganization
23 proceeding;

24 (2) The appointment of a receiver of the property of the
25 applicant or contractor or any officer, director, associate or partner
26 thereof under the laws of this State or the United States; or

27 (3) The making of an assignment for the benefit of creditors.

28 ~~(k)~~ (p) Form of business organization, corporate or otherwise.

29 ~~(l)~~ (q) Information obtained from confidential financial
30 references and credit reports.

31 ~~(m)~~ (r) Reputation for honesty and integrity of the applicant
32 or contractor or any officer, director, associate or partner thereof.

33 3. A licensed contractor shall, as soon as it is reasonably
34 practicable, notify the Board in writing upon the filing of a petition
35 or application relating to the contractor that initiates any proceeding,
36 appointment or assignment set forth in paragraph ~~(j)~~ (o) of
37 subsection 2. The written notice must be accompanied by:

38 (a) A copy of the petition or application filed with the court; and

39 (b) A copy of any order of the court which is relevant to the
40 financial responsibility of the contractor, including any order
41 appointing a trustee, receiver or assignee.

42 4. Before issuing a license to an applicant who will engage in
43 residential construction or renewing the license of a contractor who
44 engages in residential construction, the Board may require the



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1 applicant or licensee to establish his financial responsibility by
2 submitting to the Board:

3 (a) A financial statement that is:

4 (1) Prepared by a certified public accountant; or

5 (2) Submitted on a form or in a format prescribed by the
6 Board together with an affidavit which verifies the accuracy of the
7 financial statement; and

8 (b) A statement setting forth the number of building permits
9 issued to and construction projects completed by the licensee during
10 the immediately preceding year and any other information required
11 by the Board. The statement submitted pursuant to this paragraph
12 must be provided on a form approved by the Board.

13 5. In addition to the requirements set forth in subsection 4, the
14 Board may require a licensee to establish his financial responsibility
15 at any time.

16 6. An applicant for an initial contractor's license or a licensee
17 applying for the renewal of a contractor's license has the burden of
18 demonstrating his financial responsibility to the Board, if the Board
19 requests him to do so.

20 **Sec. 8.** (Deleted by amendment.)

21 **Sec. 9.** NRS 624.280 is hereby amended to read as follows:

22 624.280 The Board may adopt regulations fixing the fee for an
23 application, the fee for an examination and the ~~{annual}~~ fee for a
24 license to be paid by applicants and licensees. Except as otherwise
25 provided in NRS 624.281, the fee for:

26 1. An application must not exceed \$550.

27 2. A license must not exceed ~~[\$450 annually.]~~ *\$900 biennially.*

28 3. An examination must not exceed \$300.

29 **Sec. 10.** NRS 624.283 is hereby amended to read as follows:

30 624.283 1. Each license issued under the provisions of this
31 chapter expires ~~{1-year}~~ *2 years* after the date on which it is issued,
32 except that the Board may by regulation prescribe shorter or longer
33 periods and prorated fees to establish a system of staggered *biennial*
34 renewals. Any license which is not renewed on or before the date for
35 renewal is automatically suspended.

36 2. A license may be renewed by submitting to the Board:

37 (a) An application for renewal;

38 (b) The fee for renewal fixed by the Board;

39 (c) Any assessment required pursuant to NRS 624.470 if the
40 holder of the license is a residential contractor as defined in NRS
41 624.450; and

42 (d) All information required to complete the renewal.

43 3. The Board may require a licensee to demonstrate his
44 financial responsibility at any time through the submission of:

45 (a) A financial statement that is:



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(1) Prepared by an independent certified public accountant;
or

(2) Submitted on a form or in a format prescribed by the Board together with an affidavit which verifies the accuracy of the financial statement; and

(b) If the licensee performs residential construction, such additional documentation as the Board deems appropriate.

4. If a license is automatically suspended pursuant to subsection 1, the licensee may have his license reinstated upon filing an application for renewal within 6 months after the date of suspension and paying, in addition to the fee for renewal, a fee for reinstatement fixed by the Board, if he is otherwise in good standing and there are no complaints pending against him. If he is otherwise not in good standing or there is a complaint pending, the Board shall require him to provide a current financial statement prepared by an independent certified public accountant or establish other conditions for reinstatement. An application for renewal must be accompanied by all information required to complete the renewal. A license which is not reinstated within 6 months after it is automatically suspended may be cancelled by the Board, and a new license may be issued only upon application for an original contractor's license.

Sec. 11. (Deleted by amendment.)

Sec. 12. NRS 624.341 is hereby amended to read as follows:

624.341 1. If the Board or its designee, based upon a preponderance of the evidence, has reason to believe that a ~~licensee or applicant for a contractor's license~~ **person** has committed an act which constitutes a ~~cause for disciplinary action pursuant to NRS 624.300,~~ **violation of this chapter or the regulations of the Board,** the Board or its designee, as appropriate, may issue or authorize the issuance of a written administrative citation to the ~~licensee or applicant,~~ **person.** A citation issued pursuant to this section may include, without limitation:

(a) An order to take action to correct a condition resulting from an act that constitutes a ~~cause for disciplinary action, at the licensee's or applicant's cost,~~ **violation of this chapter or the regulations of the Board, at the person's cost;**

(b) An order to pay an administrative fine ~~;~~ **not to exceed \$50,000, except as otherwise provided in subsection 1 of NRS 624.300;** and

(c) An order to reimburse the Board for the amount of the expenses incurred to investigate the complaint.

2. If a written citation issued pursuant to subsection 1 includes an order to take action to correct a condition resulting from an act that constitutes a ~~cause for disciplinary action,~~ **violation of this chapter or the regulations of the Board,** the citation must state the



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time permitted for compliance, which must be not less than 15 business days after the date the ~~[licensee or applicant]~~ *person* receives the citation, and specifically describe the action required to be taken.

3. The sanctions authorized by subsection 1 are separate from, and in addition to, any other remedy, civil or criminal, authorized by this chapter.

4. The failure of an unlicensed person to comply with a citation or order after it is final is a misdemeanor. If an unlicensed person does not pay an administrative fine imposed pursuant to this section within 60 days after the order of the Board becomes final, the order may be executed upon in the same manner as a judgment issued by a court.

Sec. 13. NRS 624.345 is hereby amended to read as follows:

624.345 1. A ~~[licensee or applicant for a contractor's license]~~ *person* who is issued a written citation pursuant to NRS 624.341 may contest the citation within 15 business days after the date on which the citation is served on the ~~[licensee or applicant.]~~ *person*.

2. A ~~[licensee or applicant for a contractor's license]~~ *person* may contest, without limitation:

(a) The facts forming the basis for the determination that the ~~[licensee or applicant]~~ *person* has committed an act which constitutes a ~~[cause for disciplinary action;]~~ *violation of this chapter or the regulations of the Board;*

(b) The time allowed to take any corrective action ordered;

(c) The amount of any administrative fine ordered;

(d) The amount of any order to reimburse the Board for the expenses incurred to investigate the ~~[licensee or applicant;]~~ *person;* and

(e) Whether any corrective action described in the citation is reasonable.

3. If a ~~[licensee or applicant for a contractor's license]~~ *person* does not contest a citation issued pursuant to NRS 624.341 within 15 business days after the date on which the citation is served on the ~~[licensee or applicant,]~~ *person*, or on or before such later date as specified by the Board pursuant to subsection 4, the citation shall be deemed a final order of the Board and not subject to review by any court or agency.

4. The Board may, for good cause shown, extend the time to contest a citation issued pursuant to NRS 624.341.

5. For the purposes of this section, a citation shall be deemed to have been served on a ~~[licensee or an applicant]~~ *person* on:

(a) The date on which the citation is personally delivered to the ~~[licensee or applicant;]~~ *person;* or



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(b) If the citation is mailed, the date on which the citation is mailed by certified mail to the last known business or residential address of the ~~licensee or applicant.~~ *person.*

Sec. 14. NRS 624.351 is hereby amended to read as follows:

624.351 If a ~~licensee or applicant for a contractor's license~~ *person* contests a citation issued pursuant to NRS 624.341 or order to correct a violation of the provisions of this chapter within 15 business days after he receives the citation or order, or on or before such later date as specified by the Board pursuant to subsection 4 of NRS 624.345, the Board shall hold a hearing pursuant to NRS 624.291.

Sec. 15. NRS 624.361 is hereby amended to read as follows:

624.361 The Board shall adopt regulations concerning the:

1. Form of a written citation issued pursuant to NRS 624.341;

2. Time required for a ~~licensee or applicant for a license~~ *person* to correct a condition resulting from an act that constitutes a ~~cause for disciplinary action~~ *violation of this chapter or the regulations of the Board* if he is so ordered pursuant to NRS 624.341; and

3. Imposition of an administrative fine pursuant to the provisions of this chapter. The Board ~~must~~ *shall* consider:

(a) The gravity of the violation;

(b) The good faith of the ~~licensee.~~ *person;* and

(c) Any history of previous violations of the provisions of this chapter by the ~~licensee.~~ *person.*

Sec. 16. NRS 624.470 is hereby amended to read as follows:

624.470 1. Except as otherwise provided in subsection 3, in addition to the ~~annual~~ fee for a license required pursuant to NRS 624.280, a residential contractor shall pay to the Board an ~~annual~~ assessment not to exceed the following amount, if the monetary limit on his license is:

Not more than \$1,000,000..... ~~[\$100]~~ *\$200 per biennium*

More than \$1,000,000 but limited..... ~~[\$250]~~ *500 per biennium*

Unlimited..... ~~[\$500]~~ *1,000 per biennium*

2. The Board shall administer and account separately for the money received from the ~~annual~~ assessments collected pursuant to subsection 1. The Board may refer to the money in the account as the "Recovery Fund."

3. The Board shall reduce the amount of the assessments collected pursuant to subsection 1 when the balance in the account reaches 150 percent of the largest balance in the account during the previous fiscal year.



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4. Except as otherwise provided in NRS 624.540, the money in the account must be used to pay claims made by owners who are damaged by the failure of a residential contractor to perform qualified services adequately, as provided in NRS 624.400 to 624.560, inclusive.

Sec. 17. NRS 624.710 is hereby amended to read as follows:

624.710 1. If any person violates the provisions of subsection 1 of NRS 624.700, *subsections 1, 2 or 3 of NRS 624.720 or NRS 624.740*, the Board may impose for each violation an administrative fine in an amount that is not less than \$1,000 and not more than \$50,000.

2. The Board shall, by regulation, establish standards for use by the Board in determining the amount of an administrative fine imposed pursuant to this section. The standards must include, without limitation, provisions requiring the Board to consider:

(a) The gravity of the violation;

(b) The good faith of the person; and

(c) Any history of previous violations of the provisions of this chapter *or the regulations of the Board* committed by the person.

3. An administrative fine imposed pursuant to this section is in addition to any other penalty imposed pursuant to this chapter.

4. If the administrative fine and any interest imposed pursuant to NRS 624.300 is not paid when due, the fine and interest, if any, must be recovered in a civil action brought by the Attorney General on behalf of the Board.

5. All administrative fines and interest collected pursuant to this section must be deposited with the State Treasurer for credit to the Construction Education Account created pursuant to NRS 624.580.

Sec. 18. NRS 338.1389 is hereby amended to read as follows:

338.1389 1. Except as otherwise provided in subsection 10 and NRS 338.1385, 338.1386 and 338.13864, a public body or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:

(a) Submitted by a responsive and responsible contractor who:

(1) Has been determined by the public body to be a qualified bidder pursuant to NRS 338.1379 or 338.1382; and

(2) At the time he submits his bid, has a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and



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(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who does not have, at the time he submits his bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him by the State Contractors' Board pursuant to subsection 3 or 4,

➔ shall be deemed to be the best bid for the purposes of this section.

3. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;

(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his business in this State of not less than \$5,000 for each consecutive 12-month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or

(3) Any combination of such sales and use taxes and governmental services tax; or

(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:

(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and

(2) Certificate of eligibility to receive a preference in bidding on public works.

4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:

(a) Paid directly, on his own behalf:

(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or



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1 carried out on land within the boundaries of this State that is
2 managed by the Federal Government or is on an Indian reservation
3 or Indian colony, of not less than \$5,000 for each consecutive 12-
4 month period for 60 months immediately preceding the submission
5 of the affidavit from the certified public accountant;

6 (2) The governmental services tax imposed pursuant to
7 chapter 371 of NRS on the vehicles used in the operation of his
8 business in this State of not less than \$5,000 for each consecutive
9 12-month period for 60 months immediately preceding the
10 submission of the affidavit from the certified public accountant; or

11 (3) Any combination of such sales and use taxes and
12 governmental services tax; or

13 (b) Acquired, by purchase, inheritance, gift or transfer through a
14 stock option plan, all the assets and liabilities of a viable, operating
15 construction firm that possesses a:

16 (1) License as a specialty contractor pursuant to the
17 provisions of chapter 624 of NRS; and

18 (2) Certificate of eligibility to receive a preference in bidding
19 on public works.

20 5. For the purposes of complying with the requirements set
21 forth in paragraph (a) of subsection 3 and paragraph (a) of
22 subsection 4, a contractor shall be deemed to have paid:

23 (a) Sales and use taxes and governmental services taxes that
24 were paid in this State by an affiliate or parent company of the
25 contractor, if the affiliate or parent company is also a general
26 contractor or specialty contractor, as applicable; and

27 (b) Sales and use taxes that were paid in this State by a joint
28 venture in which the contractor is a participant, in proportion to the
29 amount of interest the contractor has in the joint venture.

30 6. A contractor who has received a certificate of eligibility to
31 receive a preference in bidding on public works from the State
32 Contractors' Board pursuant to subsection 3 or 4 shall, at the time
33 for the ~~annual~~ renewal of his contractor's license pursuant to NRS
34 624.283, submit to the Board an affidavit from a certified public
35 accountant setting forth that the contractor has, during the
36 immediately preceding 12 months, paid the taxes required pursuant
37 to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as
38 applicable, to maintain his eligibility to hold such a certificate.

39 7. A contractor who fails to submit an affidavit to the Board
40 pursuant to subsection 6 ceases to be eligible to receive a preference
41 in bidding on public works unless he reapplies for and receives a
42 certificate of eligibility pursuant to subsection 3 or 4, as applicable.

43 8. If a contractor holds more than one contractor's license, he
44 must submit a separate application for each license pursuant to
45 which he wishes to qualify for a preference in bidding. Upon



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1 issuance, the certificate of eligibility to receive a preference in
2 bidding on public works becomes part of the contractor's license for
3 which the contractor submitted the application.

4 9. If a contractor who applies to the State Contractors' Board
5 for a certificate of eligibility to receive a preference in bidding on
6 public works submits false information to the Board regarding the
7 required payment of taxes, the contractor is not eligible to receive a
8 preference in bidding on public works for a period of 5 years after
9 the date on which the Board becomes aware of the submission of the
10 false information.

11 10. If any federal statute or regulation precludes the granting of
12 federal assistance or reduces the amount of that assistance for a
13 particular public work because of the provisions of subsection 2,
14 those provisions do not apply insofar as their application would
15 preclude or reduce federal assistance for that work.

16 11. If a bid is submitted by two or more contractors as a joint
17 venture or by one of them as a joint venturer, the bid may be
18 deemed the best bid only if both or all of the joint venturers
19 separately meet the requirements of subsection 2.

20 12. The State Contractors' Board shall adopt regulations and
21 may assess reasonable fees relating to the certification of contractors
22 for a preference in bidding on public works.

23 13. A person or entity who believes that a contractor
24 wrongfully holds a certificate of eligibility to receive a preference in
25 bidding on public works may challenge the validity of the certificate
26 by filing a written objection with the public body to which the
27 contractor has submitted a bid on a contract for the construction of a
28 public work. A written objection authorized pursuant to this
29 subsection must:

30 (a) Set forth proof or substantiating evidence to support the
31 belief of the person or entity that the contractor wrongfully holds a
32 certificate of eligibility to receive a preference in bidding on public
33 works; and

34 (b) Be filed with the public body not later than 3 business days
35 after the opening of the bids by the public body or its authorized
36 representative.

37 14. If a public body receives a written objection pursuant to
38 subsection 13, the public body shall determine whether the objection
39 is accompanied by the proof or substantiating evidence required
40 pursuant to paragraph (a) of that subsection. If the public body
41 determines that the objection is not accompanied by the required
42 proof or substantiating evidence, the public body shall dismiss the
43 objection and the public body or its authorized representative may
44 proceed immediately to award the contract. If the public body
45 determines that the objection is accompanied by the required proof



1 or substantiating evidence, the public body shall determine whether
2 the contractor qualifies for the certificate pursuant to the provisions
3 of this section and the public body or its authorized representative
4 may proceed to award the contract accordingly.

5 **Sec. 19.** NRS 338.147 is hereby amended to read as follows:

6 338.147 1. Except as otherwise provided in subsection 10
7 and NRS 338.143, 338.1442 and 338.1446, a local government or
8 its authorized representative shall award a contract for a public work
9 for which the estimated cost exceeds \$250,000 to the contractor who
10 submits the best bid.

11 2. Except as otherwise provided in subsection 10 or limited by
12 subsection 11, the lowest bid that is:

13 (a) Submitted by a contractor who:

14 (1) Has been found to be a responsible and responsive
15 contractor by the local government or its authorized representative;
16 and

17 (2) At the time he submits his bid, has a valid certificate of
18 eligibility to receive a preference in bidding on public works issued
19 to the contractor by the State Contractors' Board pursuant to
20 subsection 3 or 4; and

21 (b) Not more than 5 percent higher than the bid submitted by the
22 lowest responsive and responsible bidder who does not have, at the
23 time he submits the bid, a valid certificate of eligibility to receive a
24 preference in bidding on public works issued to him by the State
25 Contractors' Board pursuant to subsection 3 or 4,

26 ➤ shall be deemed to be the best bid for the purposes of this section.

27 3. The State Contractors' Board shall issue a certificate of
28 eligibility to receive a preference in bidding on public works to a
29 general contractor who is licensed pursuant to the provisions of
30 chapter 624 of NRS and submits to the Board an affidavit from a
31 certified public accountant setting forth that the general contractor
32 has, while licensed as a general contractor in this State:

33 (a) Paid directly, on his own behalf:

34 (1) The sales and use taxes imposed pursuant to chapters
35 372, 374 and 377 of NRS on materials used for construction in this
36 State, including, without limitation, construction that is undertaken
37 or carried out on land within the boundaries of this State that is
38 managed by the Federal Government or is on an Indian reservation
39 or Indian colony, of not less than \$5,000 for each consecutive
40 12-month period for 60 months immediately preceding the
41 submission of the affidavit from the certified public accountant;

42 (2) The governmental services tax imposed pursuant to
43 chapter 371 of NRS on the vehicles used in the operation of his
44 business in this State of not less than \$5,000 for each consecutive



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1 12-month period for 60 months immediately preceding the
2 submission of the affidavit from the certified public accountant; or

3 (3) Any combination of such sales and use taxes and
4 governmental services tax; or

5 (b) Acquired, by purchase, inheritance, gift or transfer through a
6 stock option plan, all the assets and liabilities of a viable, operating
7 construction firm that possesses a:

8 (1) License as a general contractor pursuant to the provisions
9 of chapter 624 of NRS; and

10 (2) Certificate of eligibility to receive a preference in bidding
11 on public works.

12 4. The State Contractors' Board shall issue a certificate of
13 eligibility to receive a preference in bidding on public works to a
14 specialty contractor who is licensed pursuant to the provisions of
15 chapter 624 of NRS and submits to the Board an affidavit from a
16 certified public accountant setting forth that the specialty contractor
17 has, while licensed as a specialty contractor in this State:

18 (a) Paid directly, on his own behalf:

19 (1) The sales and use taxes pursuant to chapters 372, 374 and
20 377 of NRS on materials used for construction in this State,
21 including, without limitation, construction that is undertaken or
22 carried out on land within the boundaries of this State that is
23 managed by the Federal Government or is on an Indian reservation
24 or Indian colony, of not less than \$5,000 for each consecutive 12-
25 month period for 60 months immediately preceding the submission
26 of the affidavit from the certified public accountant;

27 (2) The governmental services tax imposed pursuant to
28 chapter 371 of NRS on the vehicles used in the operation of his
29 business in this State of not less than \$5,000 for each consecutive
30 12-month period for 60 months immediately preceding the
31 submission of the affidavit from the certified public accountant; or

32 (3) Any combination of such sales and use taxes and
33 governmental services tax; or

34 (b) Acquired, by purchase, inheritance, gift or transfer through a
35 stock option plan, all the assets and liabilities of a viable, operating
36 construction firm that possesses a:

37 (1) License as a specialty contractor pursuant to the
38 provisions of chapter 624 of NRS; and

39 (2) Certificate of eligibility to receive a preference in bidding
40 on public works.

41 5. For the purposes of complying with the requirements set
42 forth in paragraph (a) of subsection 3 and paragraph (a) of
43 subsection 4, a contractor shall be deemed to have paid:

44 (a) Sales and use taxes and governmental services taxes paid in
45 this State by an affiliate or parent company of the contractor, if the



1 affiliate or parent company is also a general contractor or specialty
2 contractor, as applicable; and

3 (b) Sales and use taxes paid in this State by a joint venture in
4 which the contractor is a participant, in proportion to the amount of
5 interest the contractor has in the joint venture.

6 6. A contractor who has received a certificate of eligibility to
7 receive a preference in bidding on public works from the State
8 Contractors' Board pursuant to subsection 3 or 4 shall, at the time
9 for the ~~annual~~ renewal of his contractor's license pursuant to NRS
10 624.283, submit to the Board an affidavit from a certified public
11 accountant setting forth that the contractor has, during the
12 immediately preceding 12 months, paid the taxes required pursuant
13 to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as
14 applicable, to maintain his eligibility to hold such a certificate.

15 7. A contractor who fails to submit an affidavit to the Board
16 pursuant to subsection 6 ceases to be eligible to receive a preference
17 in bidding on public works unless he reapplies for and receives a
18 certificate of eligibility pursuant to subsection 3 or 4, as applicable.

19 8. If a contractor holds more than one contractor's license, he
20 must submit a separate application for each license pursuant to
21 which he wishes to qualify for a preference in bidding. Upon
22 issuance, the certificate of eligibility to receive a preference in
23 bidding on public works becomes part of the contractor's license for
24 which the contractor submitted the application.

25 9. If a contractor who applies to the State Contractors' Board
26 for a certificate of eligibility to receive a preference in bidding on
27 public works submits false information to the Board regarding the
28 required payment of taxes, the contractor is not eligible to receive a
29 preference in bidding on public works for a period of 5 years after
30 the date on which the Board becomes aware of the submission of the
31 false information.

32 10. If any federal statute or regulation precludes the granting of
33 federal assistance or reduces the amount of that assistance for a
34 particular public work because of the provisions of subsection 2,
35 those provisions do not apply insofar as their application would
36 preclude or reduce federal assistance for that work.

37 11. If a bid is submitted by two or more contractors as a joint
38 venture or by one of them as a joint venturer, the bid may be
39 deemed a best bid only if both or all of the joint venturers separately
40 meet the requirements of subsection 2.

41 12. The State Contractors' Board shall adopt regulations and
42 may assess reasonable fees relating to the certification of contractors
43 for a preference in bidding on public works.

44 13. A person or entity who believes that a contractor
45 wrongfully holds a certificate of eligibility to receive a preference in



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1 bidding on public works may challenge the validity of the certificate
2 by filing a written objection with the local government to which the
3 contractor has submitted a bid on a contract for the construction of a
4 public work. A written objection authorized pursuant to this
5 subsection must:

6 (a) Set forth proof or substantiating evidence to support the
7 belief of the person or entity that the contractor wrongfully holds a
8 certificate of eligibility to receive a preference in bidding on public
9 works; and

10 (b) Be filed with the local government not later than 3 business
11 days after the opening of the bids by the local government or its
12 authorized representative.

13 14. If a local government receives a written objection pursuant
14 to subsection 13, the local government shall determine whether the
15 objection is accompanied by the proof or substantiating evidence
16 required pursuant to paragraph (a) of that subsection. If the local
17 government determines that the objection is not accompanied by the
18 required proof or substantiating evidence, the local government shall
19 dismiss the objection and the local government or its authorized
20 representative may proceed immediately to award the contract. If
21 the local government determines that the objection is accompanied
22 by the required proof or substantiating evidence, the local
23 government shall determine whether the contractor qualifies for the
24 certificate pursuant to the provisions of this section and the local
25 government or its authorized representative may proceed to award
26 the contract accordingly.

27 **Sec. 20.** The amendatory provisions of section 10 of this act
28 do not apply to a license issued pursuant to chapter 624 of NRS
29 before the effective date of this act until the first renewal date for the
30 license after the effective date of this act.

31 **Sec. 21.** This act becomes effective upon passage and
32 approval.

