

SENATE BILL NO. 509—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ADVISORY GROUP TO CONDUCT INTERIM
STUDY ON LEASE-PURCHASE AND INSTALLMENT-PURCHASE
AGREEMENTS BY PUBLIC ENTITIES)

MARCH 26, 2007

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to state financial administration, the acquisition of property and the construction of public works. (BDR 31-424)

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 state financial administration; requiring state agencies to advertise for proposals before entering into certain lease-purchase and installment-purchase agreements; making various other changes to provisions relating to lease-purchase and installment-purchase agreements; clarifying the application to certain projects of provisions requiring the payment of prevailing wages on public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes state agencies to enter into lease-purchase and installment-purchase agreements to acquire real property, an interest in real property or an improvement to real property. (NRS 353.500-353.630) **Section 2** of this bill requires a state agency to advertise for proposals before it enters into a lease-purchase or installment-purchase agreement for the purpose of acquiring an existing building that is located on property which is not owned by the State. **Section 3** of this bill specifies the requirements for such an advertisement. **Section 2** also requires that, if a state agency wishes to enter into a lease-purchase or installment-purchase agreement requiring the construction of a building on property which is owned by the State, the agency must contract with a design-build team for the design and construction of the building.

Existing law provides the requirements for lease-purchase and installment-purchase agreements which extend beyond the biennium in which the agreements



are executed. Any such agreement must prohibit certificates of participation unless the State Board of Finance waives the prohibition. (NRS 353.550) **Section 5** of this bill provides that if the Board waives the prohibition, the agreement does not have to include: (1) the rate of interest to be paid under the agreement; (2) the dates on which and prices at which the prepayments may be made under the agreement; (3) the amount to be received from the sale of the agreement or interests therein; and (4) the principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

Existing law provides that if a lease-purchase or installment-purchase agreement involves an improvement to property owned by the State, the State Land Registrar may enter into a lease of the property to which the improvement will be made if the lease has a term of 35 years or less and the lease provides for rental payments that approximate the fair market rental of the property before the improvement is made. (NRS 353.600) **Section 8** of this bill provides that any such lease is exempt from certain provisions in existing law governing the lease of state land that require certain appraisals and the acceptance of sealed bids followed by oral offers.

Existing law authorizes the issuance and prescribes the terms of evidence of certain installment-purchase agreements. (NRS 350.091) **Section 9** of this bill provides that certain installment-purchase agreements involving the construction, alteration, repair or remodeling of an improvement need not contain certain details and certain leases thereunder need not comply with certain statutes, but prevailing wage requirements (NRS 338.013-338.090) apply to the construction, alteration, repair or remodeling.

Section 12 of this bill sets forth that if a statute or local or special act provides that a project is subject to the provisions of "NRS 338.010 to 338.090, inclusive," or "NRS 338.013 to 338.090, inclusive," or "NRS 338.020 to 338.090, inclusive," the statute or local or special act must be construed as requiring the provisions of NRS 338.010 to 338.090, inclusive, to apply to the project in the same manner as those provisions apply to a "public work," except that the project will be deemed to be a "public work" solely for the application of those prevailing wage provisions. **Section 13** of this bill amends the definition of "public work" to include any project for which a "public body": (1) provides property for development at less than the fair market value of the property; or (2) provides to a developer financial incentives having a value of more than \$100,000.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *Before a state agency enters into an agreement:*

1. If, pursuant to the terms of the agreement:

(a) The state agency will acquire an existing building that is located on property which is not owned by the State; or

(b) The state agency will construct a building that will be located on property which is not owned by the State,

↪ the state agency shall advertise for proposals in the manner set forth in section 3 of this act.

2. If, pursuant to the terms of the agreement, the state agency will construct a building that will be located on property which is



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1 *owned by the State, the state agency shall contract with a design-*
2 *build team for the design and construction of the building in*
3 *accordance with NRS 338.1711 to 338.1727, inclusive, regardless*
4 *of the estimated cost of the building.*

5 **Sec. 3.** 1. *A state agency that is required to advertise for*
6 *proposals pursuant to section 2 of this act shall advertise for*
7 *proposals in a newspaper qualified pursuant to chapter 238 of*
8 *NRS that is published in the county in which the building is or will*
9 *be located. If no qualified newspaper is published in the county,*
10 *the required advertisement must be published in some qualified*
11 *newspaper that is printed in the State of Nevada and has a general*
12 *circulation in the county.*

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

15 (a) *A description of the building, including, without limitation,*
16 *its size and location;*

17 (b) *An estimate of the cost of the building;*

18 (c) *If the proposal is for the construction of a building:*

19 (1) *The date on which it is anticipated that the state agency*
20 *will begin construction of the building;*

21 (2) *The date by which proposals must be submitted to the*
22 *state agency; and*

23 (3) *A statement setting forth that the contractor who will*
24 *construct the building must be licensed pursuant to chapter 624 of*
25 *NRS; and*

26 (d) *Any other information that the state agency determines to*
27 *be necessary.*

28 3. *Nothing in this section shall be construed to require a state*
29 *agency to enter into an agreement with any person who submits a*
30 *proposal to the state agency.*

31 **Sec. 4.** NRS 353.500 is hereby amended to read as follows:

32 353.500 As used in NRS 353.500 to 353.630, inclusive, *and*
33 *sections 2 and 3 of this act*, unless the context otherwise requires,
34 the words and terms defined in NRS 353.510 to 353.540, inclusive,
35 have the meanings ascribed to them in those sections.

36 **Sec. 5.** NRS 353.550 is hereby amended to read as follows:

37 353.550 1. A state agency may propose a project to acquire
38 real property, an interest in real property or an improvement to real
39 property through an agreement which has a term, including the
40 terms of any options for renewal, that extends beyond the biennium
41 in which the agreement is executed if the agreement:

42 (a) Provides that all obligations of the State of Nevada and the
43 state agency are extinguished by the failure of the Legislature to
44 appropriate money for the ensuing fiscal year for payments due
45 pursuant to the agreement;



(b) Does not encumber any property of the State of Nevada or the state agency except for the property that is the subject of the agreement;

(c) Provides that property of the State of Nevada and the state agency, except for the property that is the subject of the agreement, must not be forfeited if:

(1) The Legislature fails to appropriate money for payments due pursuant to the agreement; or

(2) The State of Nevada or the state agency breaches the agreement;

(d) Prohibits certificates of participation in the agreement; and

(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

(a) Is in the best interests of this State; and

(b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer and the State Land Registrar for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

4. If the provisions of paragraph (d) of subsection 1 are waived as provided in subsection 2, the agreement proposed pursuant to subsection 1, and the proposed agreement submitted pursuant to paragraph (b) of subsection 3 and approved pursuant to paragraph (c) of subsection 3, need not contain the following details if the Board, before the execution of the agreement by the Governor pursuant to paragraph (d) of subsection 3, delegates to the State Treasurer or his designee the authority to make a binding agreement, subject to paragraphs (a), (b), (c) and (e) of subsection 1:

(a) The rate of interest to be paid under the agreement;

(b) The dates on which and prices at which the prepayments may be made under the agreement;

(c) The amount to be received from the sale of the agreement or interests therein; and



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(d) *The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.*

5. *All terms of the agreement other than:*

(a) *The rate of interest to be paid under the agreement;*

(b) *The dates and prices for the prepayments of amounts under the agreement;*

(c) *The amount to be received from the sale of the agreement or interests therein; and*

(d) *The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year, must be approved by the Board before the agreement is executed by the Governor.*

6. *The final rate of interest, dates and prices of prepayments, price for the sale of the agreement or interests therein, principal amount and requirements for the principal amounts to be repaid in any year are not required to be approved by the Board if each of those terms complies with the requirements specified by the Board before the agreement is executed by the Governor.*

Sec. 6. NRS 353.580 is hereby amended to read as follows:

353.580 ~~[Any]~~ *Except as otherwise provided in sections 2 and 3 of this act,* an agreement entered into pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* is not subject to any requirement of competitive bidding or other restriction imposed on the procedure for the awarding of contracts.

Sec. 7. NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* involves the construction, alteration, repair or remodeling of an improvement:

1. The construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) ~~[Any]~~ *Except as otherwise provided in sections 2 and 3 of this act, any* law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The provisions of NRS 338.013 to 338.090, inclusive, apply to the construction, alteration, repair or remodeling of the improvement.

Sec. 8. NRS 353.600 is hereby amended to read as follows:

353.600 1. Except as otherwise provided in this section, if an agreement pursuant to NRS 353.500 to 353.630, inclusive, *and sections 2 and 3 of this act* involves an improvement to property owned by the State of Nevada or the state agency, the State Land Registrar, in consultation with the State Treasurer and in conjunction with the agreement, upon approval of the State Board of



1 Examiners may enter into a lease of the property to which the
2 improvement will be made if the lease:

3 (a) Has a term of 35 years or less; and

4 (b) Provides for rental payments that approximate the fair
5 market rental of the property before the improvement is made, as
6 determined by the State Land Registrar in consultation with the
7 State Treasurer at the time the lease is entered into, which must be
8 paid if the agreement terminates before the expiration of the lease
9 because the Legislature fails to appropriate money for payments due
10 pursuant to the agreement.

11 2. A lease entered into pursuant to this section may provide for
12 nominal rental payments to be paid pursuant to the lease before the
13 agreement terminates.

14 3. Before the State Land Registrar may enter into a lease
15 pursuant to this section:

16 (a) The State Land Registrar must submit the proposed lease to
17 the Chief and the State Treasurer for their review and transmittal to
18 the Board; and

19 (b) The Board must approve the lease.

20 ***4. Any lease of state land under this section is exempt from***
21 ***the requirements of NRS 321.007 and 321.335.***

22 **Sec. 9.** NRS 321.007 is hereby amended to read as follows:

23 321.007 1. Except as otherwise provided in subsection 5,
24 NRS 322.063, 322.065 , ~~322.075~~ ~~or~~ **or 353.600**, except as
25 otherwise required by federal law and except for land that is sold or
26 leased pursuant to an agreement entered into pursuant to NRS
27 277.080 to 277.170, inclusive, when offering any land for sale or
28 lease, the State Land Registrar shall:

29 (a) Obtain two independent appraisals of the land before selling
30 or leasing it. The appraisals must have been prepared not more than
31 6 months before the date on which the land is offered for sale or
32 lease.

33 (b) Notwithstanding the provisions of chapter 333 of NRS,
34 select the two independent appraisers from the list of appraisers
35 established pursuant to subsection 2.

36 (c) Verify the qualifications of each appraiser selected pursuant
37 to paragraph (b). The determination of the State Land Registrar as to
38 the qualifications of an appraiser is conclusive.

39 2. The State Land Registrar shall adopt regulations for the
40 procedures for creating or amending a list of appraisers qualified to
41 conduct appraisals of land offered for sale or lease by the State Land
42 Registrar. The list must:

43 (a) Contain the names of all persons qualified to act as a general
44 appraiser in the same county as the land that may be appraised; and

45 (b) Be organized at random and rotated from time to time.



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3. An appraiser chosen pursuant to subsection 1 must provide a disclosure statement which includes, without limitation, all sources of income of the appraiser that may constitute a conflict of interest and any relationship of the appraiser with the owner of the land or the owner of an adjoining property.

4. An appraiser shall not perform an appraisal on any land offered for sale or lease by the State Land Registrar if the appraiser or a person related to the appraiser within the first degree of consanguinity or affinity has an interest in the land or an adjoining property.

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesman when offering such a property for lease.

Sec. 10. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 321.510, 322.063, 322.065 , ~~for~~ 322.075 ~~or~~ **or 353.600**, except as otherwise required by federal law and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, he may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.

3. Before offering any land for sale or lease, the State Land Registrar shall cause it to be appraised by competent appraisers selected pursuant to NRS 321.007.

4. After receipt of the report of the appraisers, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as he deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a



1 newspaper published in this State having a general circulation in the
2 county where the land is situated.

3 5. The notice must contain:

4 (a) A description of the land to be sold or leased;

5 (b) A statement of the terms of sale or lease;

6 (c) A statement that the land will be sold pursuant to subsection
7 6; and

8 (d) The place where the sealed bids will be accepted, the first
9 and last days on which the sealed bids will be accepted, and the time
10 when and place where the sealed bids will be opened and oral offers
11 submitted pursuant to subsection 6 will be accepted.

12 6. At the time and place fixed in the notice published pursuant
13 to subsection 4, all sealed bids which have been received must, in
14 public session, be opened, examined and declared by the State Land
15 Registrar. Of the proposals submitted which conform to all terms
16 and conditions specified in the notice published pursuant to
17 subsection 4 and which are made by responsible bidders, the bid
18 which is the highest must be finally accepted, unless a higher oral
19 offer is accepted or the State Land Registrar rejects all bids and
20 offers. Before finally accepting any written bid, the State Land
21 Registrar shall call for oral offers. If, upon the call for oral offers,
22 any responsible person offers to buy or lease the land upon the terms
23 and conditions specified in the notice, for a price exceeding by at
24 least 5 percent the highest written bid, then the highest oral offer
25 which is made by a responsible person must be finally accepted.

26 7. The State Land Registrar may reject any bid or oral offer to
27 purchase or lease submitted pursuant to subsection 6, if he deems
28 the bid or offer to be:

29 (a) Contrary to the public interest.

30 (b) For a lesser amount than is reasonable for the land involved.

31 (c) On lands which it may be more beneficial for the State to
32 reserve.

33 (d) On lands which are requested by the State of Nevada or any
34 department, agency or institution thereof.

35 8. Upon acceptance of any bid or oral offer and payment to the
36 State Land Registrar in accordance with the terms of sale specified
37 in the notice of sale, the State Land Registrar shall convey title by
38 quitclaim or cause a patent to be issued as provided in NRS 321.320
39 and 321.330.

40 9. Upon acceptance of any bid or oral offer and payment to the
41 State Land Registrar in accordance with the terms of lease specified
42 in the notice of lease, the State Land Registrar shall enter into a
43 lease agreement with the person submitting the accepted bid or oral
44 offer pursuant to the terms of lease specified in the notice of lease.



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10. The State Land Registrar may require any person requesting that state land be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the land, the State Land Registrar may offer the land for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the land, the State Land Registrar must obtain a new appraisal of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

Sec. 11. NRS 322.060 is hereby amended to read as follows:

322.060 ~~[Subject]~~ *Except as otherwise provided in NRS 353.600, subject* to the provisions of NRS 321.335, leases or easements authorized pursuant to the provisions of NRS 322.050, and not made for the purpose of extracting oil, coal or gas or the utilization of geothermal resources from the lands leased, must be:

1. For such areas as may be required to accomplish the purpose for which the land is leased or the easement granted.

2. Except as otherwise provided in NRS 322.063, 322.065 and 322.067, for such term and consideration as the Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may determine reasonable based upon the fair market value of the land.

3. Executed upon a form to be prepared by the Attorney General. The form must contain all of the covenants and agreements usual or necessary to such leases or easements.

Sec. 12. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

A statute, local or special act or any other law that contains a reference stating that the provisions of "NRS 338.010 to 338.090, inclusive," or "NRS 338.013 to 338.090, inclusive," or "NRS



338.020 to 338.090, inclusive,” apply to a specific project, type of project or other authorization for or reference to a construction project must be construed as requiring that the provisions of NRS 338.010 to 338.090, inclusive, apply to the project in the same manner that those provisions apply to a public work, except that the project is hereby deemed to be a public work solely for the purpose of the application of those provisions.

Sec. 13. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. “Authorized representative” means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. “Contract” means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. “Contractor” means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS.

(b) A design-build team.

4. “Day labor” means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

5. “Design-build contract” means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. “Design-build team” means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. “Design professional” means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;



(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

9. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

10. "Governing body" means the board, council, commission or other body in which the general legislative and fiscal powers of a local government are vested.

11. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision. The term includes a person who has been designated by the governing body of a local government to serve as its authorized representative.

12. "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;

(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;



(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

13. "Prime contractor" means a contractor who:

(a) Contracts to construct an entire project;

(b) Coordinates all work performed on the entire project;

(c) Uses his own workforce to perform all or a part of the public work; and

(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

➤ The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

14. "Public body" means the State, county, city, town, school district or any public agency of this State or its political subdivisions sponsoring or financing a public work.

15. "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

(1) Public buildings;

(2) Jails and prisons;

(3) Public roads;

(4) Public highways;

(5) Public streets and alleys;

(6) Public utilities;

(7) Publicly owned water mains and sewers;

(8) Public parks and playgrounds;

(9) Public convention facilities which are financed at least in part with public money; ~~and~~

(10) All other publicly owned works and property ~~and~~; *and*

(11) All other projects for which a public body provides:

(I) Property for development at less than the fair market value of the property; or

(II) Financial incentives to a developer, if the financial incentives have a value of more than \$100,000.

(b) A building for the Nevada System of Higher Education of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this State or from federal money.

16. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

17. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:



(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,
↳ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

18. "Subcontract" means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,
↳ for the provision of labor, materials, equipment or supplies for a construction project.

19. "Subcontractor" means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that he is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

20. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

21. "Wages" means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

22. "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 14. NRS 338.090 is hereby amended to read as follows:

338.090 1. Any person, including the officers, agents or employees of a public body, who violates any provision of NRS 338.010 to 338.090, inclusive, *and section 13 of this act*, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.

2. The Labor Commissioner, in addition to any other remedy or penalty provided in this chapter:

(a) Shall assess a person who, after an opportunity for a hearing, is found to have failed to pay the prevailing wage required pursuant to NRS 338.020 to 338.090, inclusive, *and section 13 of this act*, an



1 amount equal to the difference between the prevailing wages
2 required to be paid and the wages that the contractor or
3 subcontractor actually paid; and

4 (b) May, in addition to any other administrative penalty, impose
5 an administrative penalty not to exceed the costs incurred by the
6 Labor Commissioner to investigate and prosecute the matter.

7 3. If the Labor Commissioner finds that a person has failed to
8 pay the prevailing wage required pursuant to NRS 338.020 to
9 338.090, inclusive, *and section 13 of this act*, the public body may,
10 in addition to any other remedy or penalty provided in this chapter,
11 require the person to pay the actual costs incurred by the public
12 body to investigate the matter.

13 **Sec. 15.** NRS 350.091 is hereby amended to read as follows:

14 350.091 1. Whenever the governing body of any local
15 government is authorized to enter into a medium-term obligation or
16 installment-purchase agreement as provided in NRS 280.266 or
17 350.089 that is intended to finance a capital project, the governing
18 body shall update its plan for capital improvement in the same
19 manner as is required for general obligation debt pursuant to
20 NRS 350.013.

21 2. Whenever the governing body of any local government is
22 authorized to enter into a medium-term obligation as provided in
23 NRS 350.089, the governing body may issue, as evidence thereof,
24 negotiable notes or medium-term negotiable bonds that, except as
25 otherwise provided in subsection 5 of NRS 496.155:

26 (a) Must mature not later than 10 years after the date of
27 issuance;

28 (b) Must bear interest at a rate or rates which do not exceed by
29 more than 3 percent the Index of Twenty Bonds which was most
30 recently published before the bids are received or a negotiated offer
31 is accepted; and

32 (c) May, at the option of the local government, contain a
33 provision which allows redemption of the notes or bonds before
34 maturity, upon such terms as the governing body determines.

35 3. Whenever the governing body of any local government is
36 authorized to enter into an installment-purchase agreement as
37 provided in NRS 280.266 or 350.089, the governing body may
38 issue, as evidence thereof, an installment-purchase agreement, lease
39 or other evidence of a transaction described in NRS 350.800. An
40 installment-purchase agreement, lease or other evidence of a
41 transaction described in NRS 350.800 issued pursuant to this
42 subsection:

43 (a) Must have a term that is 30 years or less;

44 (b) Must bear interest at a rate or rates that do not exceed by
45 more than 3 percent the Index of Revenue Bonds which was most



1 recently published before the local government enters into the
2 installment-purchase agreement; and

3 (c) May, at the option of the local government, contain a
4 provision that allows prepayment of the purchase price upon such
5 terms as are provided in the agreement.

6 4. *A proposed installment-purchase agreement approved by*
7 *the governing body need not contain the following details if the*
8 *governing body, before the execution of the installment-purchase*
9 *agreement, delegates to its chief administrative officer or chief*
10 *financial officer, or both, the authority to make a binding*
11 *agreement, subject to paragraph (a) of subsection 1 of*
12 *NRS 350.800:*

13 (a) *The rate of interest to be paid under the installment-*
14 *purchase agreement;*

15 (b) *The dates on which and the prices at which the*
16 *prepayments may be made under the installment-purchase*
17 *agreement;*

18 (c) *The amount to be received from the sale of the installment-*
19 *purchase agreement or interests therein; and*

20 (d) *The principal amount to be paid under the installment-*
21 *purchase agreement and the amount of principal to be repaid in*
22 *any particular year.*

23 5. *All terms of the installment-purchase agreement other*
24 *than:*

25 (a) *The rate of interest;*

26 (b) *The dates and prices for the prepayments of amounts under*
27 *the installment-purchase agreement;*

28 (c) *The amount to be received from the sale of the installment-*
29 *purchase agreement or interests therein; and*

30 (d) *The principal amount to be paid under the installment-*
31 *purchase agreement and the amount of principal to be repaid in*
32 *any particular year,*

33 *↪ must be approved by the governing body before the installment-*
34 *purchase agreement is executed.*

35 6. *If an installment-purchase agreement involves a lease for a*
36 *term of 35 years or less of land of the municipality on which*
37 *improvements are to be located which will be, in whole or in part,*
38 *the subject of the installment-purchase agreement, then no*
39 *provisions of law, including, without limitation, NRS 244.2795,*
40 *244.281, 244.282, 244.283, 266.267, 268.059, 268.061 or 268.062,*
41 *that require an appraisal or public bidding before entering into or*
42 *executing that lease apply to the lease entered into under this*
43 *subsection.*

44 7. *If an installment-purchase agreement pursuant to this*
45 *section involves the construction, alteration, repair or remodeling*



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1 *of an improvement, the provisions of NRS 338.013 to 338.090,*
2 *inclusive, apply to the construction, alteration, repair or*
3 *remodeling of the improvement.*

4 8. If the term of the medium-term obligation or installment-
5 purchase agreement is more than 5 years, the weighted average term
6 of the medium-term obligation or installment-purchase agreement
7 may not exceed the estimated weighted average useful life of the
8 assets being financed with the medium-term obligation or
9 installment-purchase agreement.

10 ~~[5.]~~ 9. For the purposes of subsection ~~[4.]~~ 8, the Committee on
11 Local Government Finance may adopt regulations that provide
12 guidelines for the useful life of various types of assets and for
13 calculation of the weighted average useful life of assets.

14 **Sec. 16.** This act becomes effective on July 1, 2007.

