

## Amendment No. 306

Senate Amendment to Senate Bill No. 201

(BDR 28-526)

**Proposed by:** Senate Committee on Government Affairs**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

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

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

HAC/EGO



Date: 4/21/2007

S.B. No. 201—Revises provisions governing public works. (BDR 28-526)



## SENATE BILL NO. 201—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 1, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public works. (BDR 28-526)

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

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

AN ACT relating to public works; authorizing a public body to contract with a construction manager at risk for the preconstruction and construction of a public work; setting forth the method for selecting a construction manager at risk; authorizing a public body to hire a construction manager as agent to assist the public body in overseeing the construction of a public work; requiring local governments to conduct a constructability review under certain circumstances before constructing certain public works; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

**Sections 2-12** of this bill authorize a public body to enter into contracts with a construction manager at risk for the preconstruction and construction of a public work and provide the method for selecting a construction manager at risk. Under the construction manager at risk method for constructing a public work, a public body may enter into a contract for a negotiated price with a construction manager at risk to provide preconstruction services for the public work that include, without limitation, design support, construction estimating, value and system analysis and scheduling. After the public body has obtained the final design for the public work, the public body and the construction manager at risk are required to attempt to negotiate a contract for the construction manager at risk to construct the public work. If the public body and the construction manager at risk enter into such a contract, the contract must be for a guaranteed maximum price, a fixed price or a fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work.

**Section 14** of this bill requires a local government or its authorized representative to conduct a constructability review to determine if the plans and specifications for a public work are complete and contain all necessary information, if: (1) such plans and specifications are to be used for the first time on a public work; or (2) such plans and specifications are for a public work that has an estimated cost which exceeds \$10,000,000. This review must be performed by **an architect registered pursuant to chapter 623 of NRS**, a contractor licensed pursuant to chapter 624 of NRS **or a professional engineer licensed pursuant to chapter 625 of NRS**.

**Sections 13 and 21** authorize a public body to employ a construction manager as agent to assist the public body in overseeing the construction of a public work. A construction manager as agent assists in the planning, scheduling and management of a public work without assuming any responsibility for the cost, quality or timely completion of the construction of

the public work. A construction manager as agent is prohibited from taking part in the design or construction of the public work.

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

**Section 1.** Chapter 338 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

**Sec. 2.** *A public body may construct a public work by:*

*1. Selecting a construction manager at risk pursuant to the provisions of sections 4 to 8, inclusive, of this act; and*

*2. Entering into separate contracts with a construction manager at risk:*

*(a) For preconstruction services, including, without limitation:*

*(1) Determining whether scheduling or design problems exist that would delay the construction of the public work;*

*(2) Estimating the cost of the labor and material for the public work; and*

*(3) Assisting the public body in determining whether the public work can be constructed within the public body's budget; and*

*(b) To construct the public work.*

**Sec. 3.** *To qualify to enter into contracts with a public body for preconstruction services and to construct a public work, a construction manager at risk must:*

*1. Not have been found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for statements of qualifications pursuant to section 4 of this act;*

*2. Not have been disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333;*

*3. Be licensed as a contractor pursuant to chapter 624 of NRS; and*

*4. If the project is for the design of a public work of the State, be qualified to bid on a public work of the State pursuant to NRS 338.1379.*

**Sec. 4.** *1. A public body shall advertise for statements of qualifications for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.*

*2. A request for a statement of qualifications published pursuant to subsection 1 must include, without limitation:*

*(a) A description of the public work;*

*(b) An estimate of the cost for preconstruction services;*

*(c) A description of the work that the public body expects a construction manager at risk to perform;*

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

*(e) The date by which statements of qualifications must be submitted to the public body;*

*(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a statement of qualifications;*

1       (g) *The name, title, address and telephone number of a person employed by*  
2 *the public body that an applicant may contact for further information regarding*  
3 *the public work; and*

4       (h) *A list of the selection criteria and relative weight of the selection criteria*  
5 *that will be used to evaluate statements of qualifications.*

6       3. *A statement of qualifications must include, without limitation:*

7       (a) *An explanation of the experience that the applicant has with projects of*  
8 *similar size and scope;*

9       (b) *The contact information for references who have knowledge of the*  
10 *background, character and technical competence of the applicant;*

11       (c) *The applicant's preliminary proposal for managing the preconstruction*  
12 *and construction of the public work;*

13       (d) *Evidence of the ability of the applicant to obtain the necessary bonding*  
14 *for the work to be required by the public body;*

15       (e) *Evidence that the applicant has obtained insurance covering general*  
16 *liability and liability for errors and omissions;*

17       (f) *A statement of whether the applicant has been:*

18       (1) *Found liable for breach of contract with respect to a previous project,*  
19 *other than a breach for legitimate cause; and*

20       (2) *Disqualified from being awarded a contract pursuant to NRS*  
21 *338.017, 338.13895, 338.1475 or 408.333; and*

22       (g) *Evidence of the financial condition of the applicant.*

23       **Sec. 5.** *1. The public body shall appoint a panel consisting of at least*  
24 *three members to rank the statements of qualifications submitted to the public*  
25 *body by evaluating the statements of qualifications as required pursuant to*  
26 *subsections 2 and 3.*

27       2. *The panel shall rank the statements of qualifications by:*

28       (a) *Verifying that each applicant satisfies the requirements of section 3 of*  
29 *this act; and*

30       (b) *Conducting an evaluation of the qualifications of each applicant based*  
31 *on the factors and relative weight assigned to each factor that the public body*  
32 *specified in the request for statements of qualifications advertised pursuant to*  
33 *section 4 of this act.*

34       3. *When ranking the statements of qualifications, the panel shall assign a*  
35 *relative weight of 5 percent to the possession of a certificate of eligibility to*  
36 *receive a preference in bidding on public works.*

37       4. *After the panel ranks the statements of qualifications, the public body*  
38 *shall:*

39       (a) *Make available to the public the results of the panel's evaluations of the*  
40 *statements of qualifications and the rankings of the applicants; and*

41       (b) *Except as otherwise provided in subsection 5, select at least the two but*  
42 *not more than the five applicants that the panel determined to be most qualified*  
43 *as finalists to submit final proposals to the public body pursuant to section 6 of*  
44 *this act.*

45       5. *If the public body did not receive at least two statements of qualifications*  
46 *from applicants that the panel determines to be qualified pursuant to this section*  
47 *and section 3 of this act, the public body may not contract with a construction*  
48 *manager at risk.*

49       **Sec. 6.** *1. After the finalists are selected pursuant to paragraph (b) of*  
50 *subsection 4 of section 5 of this act, the public body shall provide to each finalist*  
51 *a request for final proposals. The request for final proposals must:*

52       (a) *Set forth the date by which final proposals must be submitted to the*  
53 *public body;*

1       (b) Set forth the proposed forms of the contract to assist in the  
2       preconstruction of the public work and the contract to construct the public work  
3       that include, without limitation, the terms and general conditions of the  
4       contracts; and

5       (c) Set forth the selection criteria and relative weight of the selection criteria  
6       that will be used to evaluate the final proposals.

7       2. A final proposal must include, without limitation:

8       (a) The professional qualifications and experience of the applicant,  
9       including, without limitation, the resumes of any employees of the applicant who  
10      will be managing the preconstruction and construction of the public work;

11      (b) The performance history of the applicant concerning other recent,  
12      similar projects completed by the applicant, if any;

13      (c) The safety programs established and the safety records accumulated by  
14      the applicant;

15      (d) The proposed plan of the applicant to manage the preconstruction and  
16      construction of the public work, which plan sets forth in detail the ability of the  
17      applicant to provide preconstruction services and to construct the public work;

18      (e) A proposed plan of the applicant for the selection of any necessary  
19      subcontractors; and

20      (f) A detailed estimate of the proposed fee for the preconstruction services  
21      that the applicant will provide to the public body related to the public work.

22      Sec. 7. 1. The panel appointed by the public body pursuant to section 5 of  
23      this act shall evaluate and assign a score to each of the final proposals received  
24      by the public body based on the factors and relative weight assigned to each  
25      factor that the public body specified in the request for final proposals. The panel  
26      shall interview the two or three applicants whose final proposals received the  
27      highest scores. After conducting such interviews, the panel shall rank the  
28      applicants based on the final proposals and interviews, which must be given  
29      equal weight.

30      2. Upon receipt of the final rankings of the applicants from the panel, the  
31      public body shall enter into negotiations with the most qualified applicant  
32      determined pursuant to subsection 1 for a contract for preconstruction services.  
33      If the public body is unable to negotiate a contract with the most qualified  
34      applicant at an amount of compensation that the public body and the most  
35      qualified applicant determine to be fair and reasonable, the public body shall  
36      terminate negotiations with that applicant. The public body may then undertake  
37      negotiations with the next most qualified applicant in sequence until an  
38      agreement is reached or a determination is made by the public body to reject all  
39      applicants.

40      3. The public body shall make available to the applicants and the public the  
41      results of the evaluations of final proposals and interviews conducted pursuant to  
42      subsection 1 and the final rankings of the applicants.

43      Sec. 8. 1. If a public body enters into a contract with a construction  
44      manager at risk for preconstruction services pursuant to section 7 of this act,  
45      after the public body has finalized the design for the public work, the public body  
46      and construction manager at risk shall enter into negotiations with the  
47      construction manager at risk for a contract to construct the public work for the  
48      public body at:

49      (a) A guaranteed maximum price;

50      (b) A fixed price; or

51      (c) A fixed price plus reimbursement for overhead and other costs and  
52      expenses related to the construction of the public work.

2. *If the public body is unable to negotiate a satisfactory contract with the construction manager at risk to construct the public work, the public body:*

(a) *Shall terminate negotiations with that applicant; and*

(b) *May award the contract for the public work:*

(1) *If the public body is not a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive.*

(2) *If the public body is a local government, pursuant to the provisions of NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive, and section 14 of this act.*

**Sec. 9.** *A contract entered into pursuant to section 8 of this act that is for a guaranteed maximum price may include a provision that authorizes the construction manager at risk to receive all or part of any difference between the guaranteed maximum price set forth in the contract and the actual price of construction of the public work, if the actual price is less than the guaranteed maximum price.*

**Sec. 10.** *A contract awarded to a construction manager at risk pursuant to section 7 or 8 of this act:*

1. *Must comply with the provisions of NRS 338.020 to 338.090, inclusive.*

2. *Must specify a date by which performance of the work required by the contract must be completed.*

3. *May set forth the terms by which the construction manager at risk agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the construction manager at risk.*

4. *Except as otherwise provided in subsection 5, must not require the construction manager at risk to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.*

5. *May require the construction manager at risk to defend, indemnify and hold harmless the public body and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorney's fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the construction manager at risk or the employees or agents of the construction manager at risk in the performance of the contract.*

6. *Must require that the construction manager at risk to whom a contract is awarded assume overall responsibility for ensuring that the preconstruction or construction of the public work, as applicable, is completed in a satisfactory manner.*

**Sec. 11.** *A construction manager at risk who enters into a contract for the construction of a public work pursuant to section 8 of this act:*

1. *Is responsible for contracting for the services of any necessary subcontractor, supplier or independent contractor necessary for the construction of the public work and for the performance of and payment to any such subcontractors, suppliers or independent contractors.*

2. *If the public work involves the construction of a fixed work that is described in subsection 2 of NRS 624.215, shall perform not less than 25 percent of the construction of the fixed work himself or using his own employees.*

3. *If the public work involves the construction of a building or structure that is described in subsection 3 of NRS 624.215, may perform himself or using his own employees as much of the construction of the building or structure that*

1 the construction manager at risk is able to demonstrate that he or his own  
2 employees have performed on similar projects.

3 Sec. 12. 1. If a construction manager at risk ~~fe~~contracts for the services  
4 ~~off~~ to whom a contract for the construction of a public work is awarded pursuant  
5 to section 8 of this act wishes to enter into a contract with a subcontractor ~~ff~~ to  
6 provide materials, equipment, work or other services on the public work, the  
7 subcontractor must be licensed pursuant to chapter 624 of NRS and selected by  
8 the construction manager at risk ~~fr~~

9 ~~1. If the labor or portions of the public work that will be provided by the~~  
10 ~~subcontractor are estimated by the public body to be 5 percent or more of the~~  
11 ~~estimated cost of the public work, based on the skill and experience in a~~  
12 ~~particular trade or classification or a combination of price and skill and~~  
13 ~~experience in a particular trade or classification; or~~

14 ~~2. If the labor or portions of the public work that will be provided by the~~  
15 ~~subcontractor are estimated by the public body to be less than 5 percent of the~~  
16 ~~estimated cost of the public work, based on the process of competitive bidding.~~

17 2. A construction manager at risk to whom a contract for the construction  
18 of a public work is awarded pursuant to section 8 of this act shall submit to the  
19 public body that awarded the contract a list containing the names of each  
20 subcontractor with whom the construction manager at risk entered into a  
21 contract for the provision of materials, equipment, work or other services on the  
22 public work.

23 Sec. 13. 1. A construction manager as agent:

24 (a) Must:

- 25 (1) Be a contractor licensed pursuant to chapter 624 of NRS;  
26 (2) Hold a certificate of registration to practice architecture, interior  
27 design or residential design pursuant to chapter 623 of NRS; or  
28 (3) Be licensed as a professional engineer pursuant to chapter 625 of  
29 NRS.

30 (b) May enter into a contract with a public body to assist in the planning,  
31 scheduling and management of the construction of a public work without  
32 assuming any responsibility for the cost, quality or timely completion of the  
33 construction of the public work. A construction manager as agent who enters into  
34 a contract with a public body pursuant to this section may not take part in the  
35 design or construction of the public work.

36 2. A contract between a public body and a construction manager as agent is  
37 not required to be awarded by competitive bidding.

38 Sec. 14. 1. Before a local government or its authorized representative  
39 advertises for bids for a contract for a public work, the local government or its  
40 authorized representative shall perform a review of the approved plans and  
41 specifications to determine if the plans and specifications are complete and  
42 contain all necessary information and specifications to construct the public work,  
43 if:

44 (a) The plans and specifications are to be used for the first time on a public  
45 work; and

46 (b) The plans and specifications are for a public work that has an estimated  
47 cost which exceeds \$10,000,000.

48 2. A constructability review required pursuant to subsection 1 must be  
49 performed by an architect registered pursuant to chapter 623 of NRS, a  
50 contractor licensed pursuant to chapter 624 of NRS ~~and~~ or a professional  
51 engineer licensed pursuant to chapter 625 of NRS and must include, without  
52 limitation:



(a) A determination of whether a competent contractor would be able to construct the public work based on the approved plans and specifications; and  
(b) A review of the approved plans and specifications for the public work for completeness, clarity and economic feasibility.

3. If the local government or its authorized representative does not employ a person who has the expertise to perform a constructability review as described in subsection 2, the local government or its authorized representative must contract with an independent third party who is an architect registered pursuant to chapter 623 of NRS, a contractor licensed pursuant to chapter 624 of NRS or a professional engineer licensed pursuant to chapter 625 of NRS to perform the constructability review. Such an independent third party may not participate in the construction of the public work and is not liable for any recommendations that he may make in his constructability review. A contract entered into pursuant to this section between a local government or its authorized representative and an independent third party is not required to be awarded by competitive bidding.

**Sec. 15.** NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of:

(a) NRS 338.1377 to 338.139, inclusive;

(b) NRS 338.143 to 338.148, inclusive ~~to~~, and section 14 of this act;

(c) NRS 338.1711 to 338.1727, inclusive ~~to~~; or

(d) Sections 2 to 12, inclusive, of this act.

2. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, and sections 2 to 12, inclusive, of this act, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.313 to 408.433, inclusive.

**Sec. 16.** NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9 and NRS 338.1906 and 338.1907, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

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

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

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

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

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

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid



1 thereon and for other interested persons. Contracts for the public work must be  
2 awarded on the basis of bids received.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 9. This section does not apply to:

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

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

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

47 (d) The Las Vegas Valley Water District created pursuant to chapter 167,  
48 Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to  
49 chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created  
50 pursuant to chapter 100, Statutes of Nevada 1993; ~~for~~

51 (e) The design and construction of a public work for which a public body  
52 contracts with a design-build team pursuant to NRS 338.1711 to 338.1727,  
53 inclusive ~~for~~;

1        *(f) A constructability review of a public work, which review a local*  
2        *government or its authorized representative is required to perform pursuant to*  
3        *section 14 of this act; or*

4        *(g) The preconstruction or construction of a public work for which a public*  
5        *body enters into a contract with a construction manager at risk pursuant to*  
6        *sections 2 to 12, inclusive, of this act.*

7        **Sec. 17.** NRS 338.1385 is hereby amended to read as follows:

8        338.1385 1. Except as otherwise provided in subsection 9, this State, or a  
9        governing body or its authorized representative that awards a contract for a public  
10       work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

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

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

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

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

25       3. Each advertisement for bids must include a provision that sets forth the  
26       requirement that a contractor must be qualified pursuant to NRS 338.1379 or  
27       338.1382 to bid on the contract.

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

32       5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public  
33       body or its authorized representative shall award a contract to the lowest responsive  
34       and responsible bidder.

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

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

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

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

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

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

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

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

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

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

52       8. Before a public body may commence the performance of a public work  
53       itself pursuant to the provisions of this section, based upon a determination that the

public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

9. This section does not apply to:

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

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

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

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

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~H~~;

*(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

*(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

**Sec. 18.** NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8 and NRS 338.1907, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

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

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

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

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized

representative awarded pursuant to subsection 1 in the immediately preceding quarter.

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

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

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

(a) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

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

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

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

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

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

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

8. This section does not apply to:

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

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

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

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

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~H~~;

*(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

*(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

**Sec. 19.** NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

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

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

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

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

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

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

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

(a) The bidder is not responsive or responsible;

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

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

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

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

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

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

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

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination

that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

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

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

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

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

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

8. This section does not apply to:

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

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

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

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

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive ~~H~~;

*(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to section 14 of this act; or*

*(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to sections 2 to 12, inclusive, of this act.*

**Sec. 20.** NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to 338.168, inclusive, *and sections 2 to 12, inclusive, of this act*, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

2. A public body may contract with a design-build team for the design and construction of a public work that is a discrete project if the public body has approved the use of a design-build team for the design and construction of the public work and the public work:

(a) Is the construction of a park and appurtenances thereto, the rehabilitation or remodeling of a public building, or the construction of an addition to a public building; or

(b) Has an estimated cost which exceeds \$10,000,000.

**Sec. 21.** NRS 338.1717 is hereby amended to read as follows:

338.1717 A public body may employ a registered architect, *general contractor, construction manager as agent*, landscape architect or licensed professional engineer as a consultant to assist the public body in overseeing the construction of a public work. An architect, *general contractor, construction manager as agent*, landscape architect or engineer so employed shall not:

- 1           1. Construct the public work; or
- 2           2. Assume overall responsibility for ensuring that the construction of the
- 3           public work is completed in a satisfactory manner.

4       **Sec. 22.** 1. This section and sections 1 to 16, inclusive, 18, 20 and 21 of  
5       this act become effective on October 1, 2007.

- 6           2. Sections 16 and 18 of this act expire by limitation on April 30, 2013.
- 7           3. Sections 17 and 19 of this act become effective on May 1, 2013.