

Amendment No. 349

Assembly Amendment to Assembly Bill No. 467

(BDR 28-910)

Proposed by: Assembly 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 dashed underlining* is newly added transitory language.

EGO/BJE



Date: 4/20/2009

A.B. No. 467—Makes various changes relating to the prevailing wage requirements. (BDR 28-910)



ASSEMBLY BILL NO. 467—ASSEMBLYMEN PIERCE, CLABORN,
KOIVISTO; MANENDO AND SEGERBLOM

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the prevailing wage requirements. (BDR 28-910)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

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

AN ACT relating to governmental financial administration; revising provisions relating to the prevailing wage requirements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Under existing law, the Nevada Supreme Court has held that even where a statute states specifically that the prevailing wage must be paid pursuant to NRS 338.010-338.000, prevailing wages need not be paid if the project at issue does not fit the definition of a "public work" and does not involve a "public body." (Carson Tahoe Hospital v. Building and Construction Trades Council of Northern Nevada, 122 Nev. 218 (2006)) This bill clarifies that where a statute provides that the provisions relating to prevailing wage apply, prevailing wages are required to be paid regardless of whether the project for financing or other purposes is publicly or privately owned, and solely for the purposes of these provisions, the project is deemed a public work and the relevant public agency is deemed to be a party to the contract and to be the public body for purposes of performing certain duties relating to the prevailing wage requirements.]~~ ***Section 1 of this bill requires that statutes which specifically state that certain statutory provisions relating to the payment of prevailing wages apply to a construction project be construed, if the public body is not a party to the contract or agreement for the construction of the project, to: (1) require the person or entity executing the contract or agreement for the construction of the project to include in the contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work; (2) require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or awarded the contract; and (3) require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work. Section 1 of this bill makes a conforming change. (NRS 338.013)***

~~---~~ ***Section 21*** of this bill provides that the prevailing wage requirements apply to certain installment-purchase agreements by local governments. ***Sections 22 and 24*** of this bill clarify that the prevailing wage requirements apply to certain ~~lease-purchase and~~ installment-purchase contracts entered into by the State or its political subdivisions.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

Statutes which state that the provisions of NRS 338.010 to 338.090, inclusive, 338.013 to 338.090, inclusive, or 338.020 to 338.090, inclusive, apply to a construction project of any kind must be construed, if the public body is not a party to the contract for the actual construction of the project, to:

1. Require the person or entity that executes one or more contracts or agreements for the actual construction of the project to include in such a contract or agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to those statutory provisions.

2. Require the public body to comply with those statutory provisions in the same manner as if the public body had undertaken the project or had awarded the contract.

3. Require the contractor who is awarded the contract or entered into the agreement to perform construction on the project, or a subcontractor on the project, to comply with those statutory provisions in the same manner as if he was a contractor or subcontractor, as applicable, engaged on a public work.

Sec. 1.3. ~~NRS 338.0115 is hereby amended to read as follows:~~

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

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

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

~~2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project [, the]:~~

~~(a) The provisions of NRS [338.012 to 338.090, inclusive, and] 338.1273 to 338.148, inclusive, apply to the contract [.] ; and~~

~~(b) The requirement for the payment of prevailing wages as set forth in NRS 338.013 to 338.090, inclusive, applies to the project, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the developer shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.] (Deleted by amendment.)~~

Sec. 1.7. NRS 338.013 is hereby amended to read as follows:

338.013 1. A public body that ~~advertises for bids for~~ undertakes a public work shall request from the Labor Commissioner, and include in ~~the~~ any advertisement ~~[.]~~ or other type of solicitation, an identifying number with his designation of the work. That number must be included in any bid or other document submitted in response to the advertisement ~~[.]~~ or other type of solicitation.

2. Each public body which awards a contract for any public work shall report its award to the Labor Commissioner within 10 days after the award, giving the name and address of the contractor to whom the public body awarded the contract and the identifying number for the public work.

3. Each contractor engaged on a public work shall report to the Labor Commissioner and the public body that awarded the contract the name and address

of each subcontractor whom he engages for work on the project within 10 days after the subcontractor commences work on the contract and the identifying number for the public work.

4. The public body which awarded the contract shall report the completion of all work performed under the contract to the Labor Commissioner before the final payment of money due the contractor by the public body.

Sec. 2. ~~[NRS 338.018 is hereby amended to read as follows:]~~

~~338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 [even if the construction work does not qualify as a public work, as defined in subsection 15 of NRS 338.010.], regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Board of Regents of the University of Nevada shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.] (Deleted by amendment.)~~

Sec. 3. ~~[NRS 338.075 is hereby amended to read as follows:]~~

~~338.075 The [provisions of] requirement for the payment of prevailing wages as set forth in NRS 338.020 to 338.090, inclusive, [apply] applies to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 [even if the construction work does not qualify as a public work, as defined in subsection 15 of NRS 338.010.], regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Board of Regents of the University of Nevada shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.] (Deleted by amendment.)~~

Sec. 4. ~~[NRS 338.1698 is hereby amended to read as follows:]~~

~~338.1698 A contract awarded to a construction manager at risk pursuant to NRS 338.1695 or 338.1696:~~

~~1. Must [comply with the provisions of] include a provision stating that the requirement for the payment of prevailing wages as set forth in NRS [338.020] 338.013 to 338.090, inclusive [;], applies to the project, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the public body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.~~

~~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. 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.~~

~~5. May include such additional provisions as may be agreed upon by the public body and the construction manager at risk.] (Deleted by amendment.)~~

1 **Sec. 5.** ~~[NRS 338.1727 is hereby amended to read as follows:~~
2 ~~338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the~~
3 ~~public body shall provide to each finalist a request for final proposals for the public~~
4 ~~work. The request for final proposals must:~~
5 ~~(a) Set forth the factors that the public body will use to select a design-build~~
6 ~~team to design and construct the public work, including the relative weight to be~~
7 ~~assigned to each factor; and~~
8 ~~(b) Set forth the date by which final proposals must be submitted to the public~~
9 ~~body.~~
10 ~~2. If one or more of the finalists selected pursuant to NRS 338.1725 is~~
11 ~~disqualified or withdraws, the public body may select a design-build team from the~~
12 ~~remaining finalist or finalists.~~
13 ~~3. Except as otherwise provided in this subsection, in assigning the relative~~
14 ~~weight to each factor for selecting a design-build team pursuant to subsection 1, the~~
15 ~~public body shall assign, without limitation, a relative weight of 5 percent to the~~
16 ~~possession of a certificate of eligibility to receive a preference in bidding on public~~
17 ~~works and a relative weight of at least 30 percent to the proposed cost of design and~~
18 ~~construction of the public work. If any federal statute or regulation precludes the~~
19 ~~granting of federal assistance or reduces the amount of that assistance for a~~
20 ~~particular public work because of the provisions of this subsection relating to~~
21 ~~preference in bidding on public works, those provisions of this subsection do not~~
22 ~~apply insofar as their application would preclude or reduce federal assistance for~~
23 ~~that public work.~~
24 ~~4. A final proposal submitted by a design-build team pursuant to this section~~
25 ~~must be prepared thoroughly and be responsive to the criteria that the public body~~
26 ~~will use to select a design-build team to design and construct the public work~~
27 ~~described in subsection 1. A design-build team that submits a final proposal which~~
28 ~~is not responsive shall not be awarded the contract and shall not be eligible for the~~
29 ~~partial reimbursement of costs provided for in subsection 7.~~
30 ~~5. A final proposal is exempt from the requirements of NRS 338.141.~~
31 ~~6. After receiving and evaluating the final proposals for the public work, the~~
32 ~~public body, at a regularly scheduled meeting, shall:~~
33 ~~(a) Select the final proposal, using the criteria set forth pursuant to subsections~~
34 ~~1 and 3, and award the design-build contract to the design-build team whose~~
35 ~~proposal is selected; or~~
36 ~~(b) Reject all the final proposals.~~
37 ~~7. If a public body selects a final proposal and awards a design-build contract~~
38 ~~pursuant to paragraph (a) of subsection 6, the public body shall:~~
39 ~~(a) Partially reimburse the unsuccessful finalists if partial reimbursement was~~
40 ~~provided for in the request for preliminary proposals pursuant to paragraph (j) of~~
41 ~~subsection 2 of NRS 338.1723. The amount of reimbursement must not exceed, for~~
42 ~~each unsuccessful finalist, 2 percent of the total amount to be paid to the design-~~
43 ~~build team as set forth in the design-build contract.~~
44 ~~(b) Make available to the public the results of the evaluation of final proposals~~
45 ~~that was conducted and the ranking of the design-build teams who submitted final~~
46 ~~proposals. The public body shall not release to a third party, or otherwise make~~
47 ~~public, financial or proprietary information submitted by a design-build team.~~
48 ~~8. A contract awarded pursuant to this section:~~
49 ~~(a) Must [comply with the provisions of] include a provision stating that the~~
50 ~~requirement for the payment of prevailing wages as set forth in NRS [338.020]~~
51 ~~338.013 to 338.090, inclusive [], applies to the project, regardless of whether the~~
52 ~~project for financing or other purposes is publicly or privately owned, and, solely~~
53 ~~for the purposes of those provisions, the project shall be deemed to be a public~~

~~work and the public body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.~~

~~—(b) Must specify:~~

~~—(1) An amount that is the maximum amount that the public body will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;~~

~~—(2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and~~

~~—(3) A date by which performance of the work required by the contract must be completed.~~

~~—(c) May set forth the terms by which the design-build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design-build team;~~

~~—(d) Except as otherwise provided in paragraph (c), must not require the design professional 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.~~

~~—(e) May require the design-build team 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 attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design-build team or the employees or agents of the design-build team in the performance of the contract.~~

~~—(f) Must require that the design-build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.~~

~~9. Upon award of the design-build contract, the public body shall make available to the public copies of all preliminary and final proposals received.]~~

~~(Deleted by amendment.)~~

~~Sec. 6. [NRS 244.286 is hereby amended to read as follows:]~~

~~244.286 1. The board of county commissioners of any county may enter into an agreement with a person whereby the person agrees to construct or remodel a building or facility according to specifications adopted by the board of county commissioners and thereupon enter into a lease or a lease purchase agreement with the board of county commissioners for that building or facility.~~

~~2. The board of county commissioners may convey property to a person where the purpose of the conveyance is the entering into of an agreement contemplated by subsection 1.~~

~~3. The [provisions of] requirement for the payment of prevailing wages as set forth in NRS [238.010] 338.013 to 338.090, inclusive, [apply] applies to any agreement for the construction or remodeling of a building or facility entered into pursuant to subsection 1 [.] , regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the county shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and entering into the agreement for the project.] (Deleted by amendment.)~~

1 **Sec. 7.** ~~[NRS 244A.058 is hereby amended to read as follows:~~
2 ~~244A.058 1. A board that has adopted an ordinance imposing a fee pursuant~~
3 ~~to NRS 244A.810 may, on behalf of the county and in its name:~~
4 ~~(a) Acquire, lease, improve, equip, operate and maintain within the county a~~
5 ~~minor league baseball stadium project.~~
6 ~~(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the~~
7 ~~county to acquire, lease, improve or equip, or any combination thereof, within the~~
8 ~~county a minor league baseball stadium project.~~
9 ~~2. Bonds issued pursuant to this section must be payable from the proceeds of~~
10 ~~the fee imposed by the county pursuant to NRS 244A.810 and may be additionally~~
11 ~~secured by and payable from the gross or net revenues of the minor league baseball~~
12 ~~stadium project, including, without limitation, amounts received from any minor~~
13 ~~league baseball team pursuant to a contract with that team, fees, rates and charges~~
14 ~~for the use of the stadium by a minor league baseball team or any other uses of the~~
15 ~~stadium, and related uses, including, without limitation, parking and concessions,~~
16 ~~surcharges on tickets in an amount approved by the board, grants, whether~~
17 ~~conditional or unconditional, made for the payment of debt service or otherwise for~~
18 ~~the purposes of the minor league baseball stadium project, and any and all other~~
19 ~~sources of revenue attributable to the minor league baseball stadium project as~~
20 ~~provided by the board in the ordinance authorizing the issuance of bonds or any~~
21 ~~instrument supplemental or appertaining thereto.~~
22 ~~3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a~~
23 ~~contract entered into by a county and a private developer pursuant to which the~~
24 ~~private developer constructs a minor league baseball stadium project, except that~~
25 ~~the contract must include a provision stating that the [requirements] requirement~~
26 ~~for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to~~
27 ~~338.090, inclusive, [apply] applies to any construction work to be performed under~~
28 ~~the contract [.] , to the same extent as if the contract or other agreement was~~
29 ~~awarded by the governing body of the municipality and the project constituted a~~
30 ~~public work, regardless of whether the project for financing or other purposes is~~
31 ~~publicly or privately owned [, and, solely for the purposes of those provisions, the~~
32 ~~project shall be deemed to be a public work and the county shall be deemed to be~~
33 ~~a party to the contract and to be the public body advertising for bids for the~~
34 ~~project and awarding the contract for the project.]] (Deleted by amendment.)~~

35 **Sec. 8.** ~~[NRS 244A.763 is hereby amended to read as follows:~~
36 ~~244A.763 1. NRS 244A.669 to 244A.763, inclusive, without reference to~~
37 ~~other statutes of this State, constitute full authority for the exercise of powers~~
38 ~~granted in those sections, including, but not limited to, the authorization and~~
39 ~~issuance of bonds.~~
40 ~~2. No other act or law with regard to the authorization or issuance of bonds~~
41 ~~that provides for an election, requires an approval, or in any way impedes or~~
42 ~~restricts the carrying out of the acts authorized in NRS 244A.669 to 244A.763,~~
43 ~~inclusive, to be done, applies to any proceedings taken or acts done pursuant to~~
44 ~~those sections, except for laws to which reference is expressly made in those~~
45 ~~sections or by necessary implication of those sections.~~
46 ~~3. The provisions of no other law, either general or local, except as provided~~
47 ~~in NRS 244A.669 to 244A.763, inclusive, apply to the doing of the things~~
48 ~~authorized in those sections to be done, and no board, agency, bureau, commission~~
49 ~~or official not designated in those sections has any authority or jurisdiction over the~~
50 ~~doing of any of the acts authorized in those sections to be done, except:~~
51 ~~(a) As otherwise provided in those sections.~~
52 ~~(b) That a project for the generation and transmission of electricity is subject to~~
53 ~~review and approval by the state regulatory agencies which have jurisdiction of the~~

1 ~~matters involved, including, without limitation, the Public Utilities Commission of~~
2 ~~Nevada, the State Environmental Commission and the State Department of~~
3 ~~Conservation and Natural Resources.~~

4 ~~4. No notice, consent or approval by any public body or officer thereof may~~
5 ~~be required as a prerequisite to the sale or issuance of any bonds, the making of any~~
6 ~~contract or lease, or the exercise of any other power under NRS 244A.669 to~~
7 ~~244A.763, inclusive, except as provided in those sections.~~

8 ~~5. [A] Except as otherwise provided in this subsection, a project is not~~
9 ~~subject to any requirements relating to public buildings, structures, ground works or~~
10 ~~improvements imposed by the statutes of this State or any other similar~~
11 ~~requirements which may be lawfully waived by this section, and any requirement of~~
12 ~~competitive bidding or other restriction imposed on the procedure for award of~~
13 ~~contracts for such purpose or the lease, sale or other disposition of property of the~~
14 ~~counties is not applicable to any action taken pursuant to NRS 244A.669 to~~
15 ~~244A.763, inclusive, [, except that the provisions of] *The requirement for the*~~
16 ~~*payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090,*~~
17 ~~*inclusive, [apply] applies to any contract for new construction, repair or*~~
18 ~~*reconstruction for which tentative approval for financing is granted on or after*~~
19 ~~*January 1, 1992, by the county for work to be done in a project [, regardless of*~~
20 ~~*whether the project for financing or other purposes is publicly or privately*~~
21 ~~*owned, and, solely for the purposes of those provisions, the project shall be*~~
22 ~~*deemed to be a public work and the county shall be deemed to be a party to the*~~
23 ~~*contract and to be the public body advertising for bids for the project and*~~
24 ~~*awarding the contract for the project.*~~

25 ~~6. Any bank or trust company located within or without this State may be~~
26 ~~appointed and act as a trustee with respect to bonds issued and projects financed~~
27 ~~pursuant to NRS 244A.669 to 244A.763, inclusive, without the necessity of~~
28 ~~associating with any other person or entity as cofiduciary except that such~~
29 ~~association is not prohibited.~~

30 ~~7. The powers conferred by NRS 244A.669 to 244A.763, inclusive, are in~~
31 ~~addition and supplemental to, and not in substitution for, and the limitations~~
32 ~~imposed by those sections do not affect the powers conferred by any other law.~~

33 ~~8. No part of NRS 244A.669 to 244A.763, inclusive, repeals or affects any~~
34 ~~other law or part thereof, except to the extent that those sections are inconsistent~~
35 ~~with any other law, it being intended that those sections provide a separate method~~
36 ~~of accomplishing its objectives, and not an exclusive one.] *(Deleted by*~~
37 ~~*amendment.)*~~

38 **Sec. 9.** ~~[NRS 268.568 is hereby amended to read as follows:~~

39 ~~268.568 1. NRS 268.512 to 268.568, inclusive, without reference to other~~
40 ~~statutes of the State, constitute full authority for the exercise of powers granted in~~
41 ~~those sections, including, but not limited to, the authorization and issuance of~~
42 ~~bonds.~~

43 ~~2. No other act or law with regard to the authorization or issuance of bonds~~
44 ~~that provides for an election, requires an approval, or in any way impedes or~~
45 ~~restricts the carrying out of the acts authorized in NRS 268.512 to 268.568,~~
46 ~~inclusive, to be done, including, without limitation, the charter of any city, applies~~
47 ~~to any proceedings taken or acts done pursuant to those sections, except for laws to~~
48 ~~which reference is expressly made in those sections.~~

49 ~~3. The provisions of no other law, either general or local, except as provided~~
50 ~~in NRS 268.512 to 268.568, inclusive, apply to the doing of the things authorized in~~
51 ~~NRS 268.512 to 268.568, inclusive, to be done, and no board, agency, bureau,~~
52 ~~commission or official not designated in those sections has any authority or~~

jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.

~~4. No notice, consent or approval by any public body or officer thereof may be required as a prerequisite to the sale or issuance of any bonds, the making of any contract or lease, or the exercise of any other power under NRS 268.512 to 268.568, inclusive, except as provided in those sections.~~

~~5. [A] Except as otherwise provided in this subsection, a project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property of the cities is not applicable to any action taken pursuant to NRS 268.512 to 268.568, inclusive. [, except that the provisions of] **The requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies** to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the city for work to be done in a project [.] **, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the city shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.**~~

~~6. Notwithstanding the provisions of NRS 662.245 or any other specific statute to the contrary, any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 268.512 to 268.568, inclusive, without meeting the qualifications set forth in NRS 662.245.~~

~~7. The powers conferred by NRS 268.512 to 268.568, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by, any other law.~~

~~8. No part of NRS 268.512 to 268.568, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.~~ **(Deleted by amendment.)**

Sec. 10. [NRS 271.710 is hereby amended to read as follows:]

~~271.710 1. A governing body may adopt an ordinance pursuant to NRS 271.325 creating a district and ordering a project to be acquired or improved and may contract with a person to construct or improve a project, issue bonds or otherwise finance the cost of the project and levy assessments, without complying with the provisions of NRS 271.305 to 271.320, inclusive, 271.330 to 271.345, inclusive, 271.380 and 271.385 and, except as otherwise provided in this section, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, chapters 332, 338 and 339 of NRS, if the governing body has entered into a written agreement with the owners of all of the assessable property within the district which states that:~~

~~(a) The governing body agrees to enter into a contract for the acquisition, construction or improvement of the project or projects in the district which includes:~~

~~(1) A provision stating that the [requirements] **requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies** to any construction work to be performed under the contract [.] **, regardless of whether the project for financing or other purposes is**~~

~~publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the governing body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project; and~~

~~(2) The price, stated as a lump sum or as unit prices, which the governing body agrees to pay for the project if the project meets all requirements and specifications in the contract;~~

~~(b) The owners of the assessable property agree that if the rate of interest on any assessment levied for the district is determined from time to time as provided in NRS 271.487, the owners will provide written notice to the governing body in a timely manner when a parcel of the assessable property in the district is sold to a person who intends to occupy a dwelling unit on the parcel as his residence;~~

~~(c) The owners of the assessable property agree that the governing body may create the district, levy the assessments and for all other purposes relating to the district proceed pursuant to the provisions of this section;~~

~~2. If an ordinance is adopted and the agreement entered into pursuant to subsection 1 so states:~~

~~(a) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to add additional property to the district. The assessments may be redistributed between the assessable property originally in the district and the additional assessable property if:~~

~~(1) The owners of additional assessable property also consent in writing to inclusion of their property in the district and to the amount of the assessment against their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district;~~

~~(b) The governing body may amend the ordinance creating the district, change the assessment roll and redistribute the assessments required by NRS 271.390 in the same manner in which these actions were originally taken to remove assessable property from the district. The assessments may be redistributed among the assessable property remaining in the district if:~~

~~(1) The owners of the remaining assessable property consent in writing to the amount of the revised assessment on their property; and~~

~~(2) The redistribution of the assessments is not prohibited by any covenants made for the benefit of the owners of any bonds or interim warrants issued for the district;~~

~~(c) The governing body may adopt any ordinance pertaining to the district including the ordinance creating the district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two-thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance;~~

~~(d) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the~~

~~district and include all or any portion of the costs thereof in the amounts assessed against the property in the district and in the amount of bonds issued for the district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds, for the disposition of unexpended bond proceeds after completion of the project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the district.~~

~~3. If the governing body of a municipality forms a district pursuant to the provisions of this section, the governing body:~~

~~(a) Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.280, 271.310, 271.360 and 271.390.~~

~~(b) Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.325 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the project and to construct the project.] (Deleted by amendment.)~~

Sec. 11. ~~[NRS 271.800 is hereby amended to read as follows:~~

~~271.800 1. A governing body may, pursuant to NRS 271.275 or 271.710, establish a district to finance an underground conversion project. Before the governing body may adopt an ordinance pursuant to NRS 271.325 to establish such a district, each service provider that owns the overhead service facilities to be converted to underground facilities must submit its written approval of the project to the governing body. The governing body shall not establish a district to finance an underground conversion project without receiving the written approval of each such service provider pursuant to this subsection.~~

~~2. Before initiating the establishment of a district pursuant to this section, the governing body must request in writing and receive from each service provider that owns the overhead service facilities to be converted in the proposed improvement district a written estimate of the cost to convert those facilities to underground facilities. The service provider shall provide its estimate of the cost of the conversion to the governing body not later than 120 days after the service provider receives the request from the governing body.~~

~~3. If a district already exists for the location for which the underground conversion project is proposed, the governing body may, pursuant to NRS 271.295, combine the underground conversion project with other projects in that district.~~

~~4. An underground conversion project must be constructed by one or more of the service providers that own the overhead service facilities to be converted, pursuant to a written agreement between the governing body and each service provider that will engage in the construction. Such a project must be constructed in accordance with the standard underground practices and procedures approved by the Public Utilities Commission of Nevada.~~

~~5. The provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, work or improvement, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to a contract entered into by a municipality and a service provider pursuant to this section, except that the contract must include a provision stating that the [requirements] requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies to any construction work to be performed under the contract [.] regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the municipality shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.~~

~~6. Construction on an underground conversion project approved pursuant to this chapter may not commence until:~~

~~(a) An ordinance creating a district is adopted pursuant to NRS 271.325;~~

~~(b) The time for filing an appeal pursuant to NRS 271.315 has expired, or if such an appeal has been timely filed, a final, nonappealable judgment upholding the validity of the ordinance has been rendered;~~

~~(c) Arrangements for the financing of the construction have been completed through the issuance of bonds or interim warrants; and~~

~~(d) The service provider has obtained all applicable permits, easements and licenses necessary to convert the facilities.] (Deleted by amendment.)~~

Sec. 12. ~~[NRS 271A.130 is hereby amended to read as follows:~~

~~271A.130 1. Except as otherwise provided in this section, notwithstanding any other law to the contrary, any contract or other agreement relating to or providing for the construction, improvement, repair, demolition, reconstruction, other acquisition, equipment, operation or maintenance of any project financed in whole or in part pursuant to this chapter is exempt from any law requiring competitive bidding or otherwise specifying procedures for the award of contracts for construction or other contracts, or specifying procedures for the procurement of goods or services. The governing body of the municipality shall require a quarterly report on the demography of the workers employed by any contractor or subcontractor for each such project.~~

~~2. The provisions of subsection 1 do not apply to any project which is constructed or maintained by a governmental entity on any property while the governmental entity owns that property.~~

~~3. The [provisions] requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies to any contract or other agreement for the construction, improvement, repair, demolition or reconstruction of any project that is paid for in whole or in part:~~

~~(a) From the proceeds of bonds or notes issued pursuant to paragraph (a) of subsection 1 of NRS 271A.120; or~~

~~(b) Pursuant to an agreement for reimbursement entered into pursuant to paragraph (b) of subsection 1 of NRS 271A.120,~~

~~to the same extent as if the contract or other agreement was awarded by the governing body of the municipality and the project constituted a public work, regardless of whether the project [for financing or other purposes] is publicly or privately owned [.] [, and, solely for the purposes of NRS 338.013 to 338.090, inclusive, the project shall be deemed to be a public work and the municipality shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.]] (Deleted by amendment.)~~

Sec. 13. ~~[NRS 278C.240 is hereby amended to read as follows:~~

~~278C.240 The [provisions] requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies to any construction work to be performed under any contract or other agreement related to an undertaking ordered by a governing body pursuant to this chapter [.] , regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the governing body shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.] (Deleted by amendment.)~~

Sec. 14. ~~[NRS 279.500 is hereby amended to read as follows:~~

~~279.500 1. The [provisions] requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies~~

~~to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project [.] , regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the agency shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.~~

~~2. If an agency provides property for development at less than the fair market value of the property, or provides financial incentives to the developer with a value of more than \$100,000, the agency must provide in the agreement with the developer that the development project is subject to the [provisions] requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [to the same extent as if the agency had awarded the contract for the project.] , regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the agency shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project. This subsection applies only to the project covered by the agreement between the agency and the developer. This subsection does not apply to future development of the property unless additional financial incentives with a value of more than \$100,000 are provided to the developer.] (Deleted by amendment.)~~

Sec. 15. [NRS 318.140 is hereby amended to read as follows:]

~~318.140 In the case of a district created wholly or in part for acquiring sanitary sewer improvements:~~

~~1. The board may:~~

~~(a) Construct, reconstruct, improve or extend the sanitary sewer system or any part thereof, including, without limitation, mains, laterals, wyes, tees, meters and collection, treatment and disposal plants;~~

~~(b) Sell any product or by-product thereof and acquire the appropriate outlets within or without the district and extend the sewer lines of the district thereto;~~

~~(c) Enter into and perform, without any election, contracts or agreements for a term not to exceed 50 years with any person or a public agency, to provide the services, equipment or supplies necessary or appropriate to conduct tests of the discharge of pollutants into the state's water and to report the results of those tests as required by chapter 445A of NRS or the regulations adopted thereunder. For the purposes of this paragraph, "public agency" has the meaning ascribed to it in NRS 277.100.~~

~~2. The provisions of chapters 332 and 339 of NRS do not apply to a contract under which a private developer extends a sewer main to his development or installs any appurtenances to that extension. Except as otherwise provided in this subsection, the provisions of chapter 338 of NRS do not apply to such a contract. If the developer does not pay all of the initial construction costs of the extension, the [provisions] requirement for the payment of prevailing wages as set forth in NRS 338.013 to 338.090, inclusive, [apply] applies to the contract [.] , regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the board shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.] (Deleted by amendment.)~~

1 **Sec. 16.** ~~[NRS 318.144 is hereby amended to read as follows:~~
2 ~~318.144 1. The board may acquire, construct, reconstruct, improve, extend~~
3 ~~or better a works, system or facilities for the supply, storage and distribution of~~
4 ~~water for private and public purposes.~~
5 ~~2. The provisions of chapters 232 and 239 of NRS do not apply to a contract~~
6 ~~under which a private developer constructs water facilities for his development.~~
7 ~~Except as otherwise provided in this subsection, the provisions of chapter 238 of~~
8 ~~NRS do not apply to such a contract. If the developer does not pay all of the initial~~
9 ~~construction costs of the facility, the [provisions] requirement for the payment of~~
10 ~~prevailing wages as set forth in NRS 338.013 to 338.090, inclusive, [apply] applies~~
11 ~~to the contract [.] , regardless of whether the project is publicly or privately~~
12 ~~owned, and, solely for the purposes of those provisions, the project shall be~~
13 ~~deemed to be a public work and the board shall be deemed to be a party to the~~
14 ~~contract and to be the public body advertising for bids for the project and~~
15 ~~awarding the contract for the project.] (Deleted by amendment.)~~

16 **Sec. 17.** ~~[NRS 322.390 is hereby amended to read as follows:~~
17 ~~322.390 If a performance contract entered into pursuant to NRS 322.300 to~~
18 ~~322.440, inclusive, requires the employment of skilled mechanics, skilled~~
19 ~~workmen, semiskilled mechanics, semiskilled workmen or unskilled labor to~~
20 ~~perform the performance contract, the performance contract must include a~~
21 ~~provision [relating to] requiring the payment of prevailing [wage] wages as~~
22 ~~[required pursuant to] set forth in NRS [338.020] 338.013 to 338.090, inclusive [.] ,~~
23 ~~regardless of whether the project for financing or other purposes is publicly or~~
24 ~~privately owned, and, solely for the purposes of those provisions, the project shall~~
25 ~~be deemed to be a public work and the local government shall be deemed to be a~~
26 ~~party to the performance contract and to be the public body advertising for bids~~
27 ~~for the project and awarding the performance contract for the project.] (Deleted~~
28 ~~by amendment.)~~

29 **Sec. 18.** ~~[NRS 333A.120 is hereby amended to read as follows:~~
30 ~~333A.120 If a performance contract entered into pursuant to this chapter~~
31 ~~requires the employment of skilled mechanics, skilled workmen, semiskilled~~
32 ~~mechanics, semiskilled workmen or unskilled labor to perform the performance~~
33 ~~contract, the performance contract must include a provision [relating to] requiring~~
34 ~~the payment of prevailing [wage] wages as [required pursuant to] set forth in NRS~~
35 ~~[338.020] 338.013 to 338.090, inclusive [.] , regardless of whether the project for~~
36 ~~financing or other purposes is publicly or privately owned, and, solely for the~~
37 ~~purposes of those provisions, the project shall be deemed to be a public work and~~
38 ~~the State shall be deemed to be a party to the performance contract and to be the~~
39 ~~public body advertising for bids for the project and awarding the performance~~
40 ~~contract for the project.] (Deleted by amendment.)~~

41 **Sec. 19.** ~~[NRS 349.670 is hereby amended to read as follows:~~
42 ~~349.670 1. NRS 349.400 to 349.670, inclusive, without reference to other~~
43 ~~statutes of the State, constitute full authority for the exercise of powers granted in~~
44 ~~those sections, including but not limited to the authorization and issuance of bonds.~~
45 ~~2. No other act or law with regard to the authorization or issuance of bonds~~
46 ~~that provides for an election, requires an approval, or in any way impedes or~~
47 ~~restricts the carrying out of the acts authorized in NRS 349.400 to 349.670,~~
48 ~~inclusive, to be done, applies to any proceedings taken or acts done pursuant to~~
49 ~~those sections, except for laws to which reference is expressly made in those~~
50 ~~sections or by necessary implication of those sections.~~
51 ~~3. The provisions of no other law, either general or local, except as provided~~
52 ~~in NRS 349.400 to 349.670, inclusive, apply to the doing of the things authorized in~~
53 ~~those sections to be done, and no board, agency, bureau, commission or official not~~

designated in those sections has any authority or jurisdiction over the doing of any of the acts authorized in those sections to be done, except as otherwise provided in those sections.

~~4. [A] Except as otherwise provided in this subsection, a project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.400 to 349.670, inclusive, [except that the provisions] *The requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director for work to be done in a project [], regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Director shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project.*~~

~~5. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 349.400 to 349.670, inclusive, without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.~~

~~6. The powers conferred by NRS 349.400 to 349.670, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.~~

~~7. No part of NRS 349.400 to 349.670, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.~~

~~8. The Director or a person designated by him may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or accomplishing the purposes of NRS 349.400 to 349.670, inclusive, without the assistance or intervention of any other officer.]~~ **(Deleted by amendment.)**

Sec. 20. [NRS 349.956 is hereby amended to read as follows:]

~~349.956 [A] Except as otherwise provided in this section, a water project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.925 to 349.961, inclusive, [except that the provisions] *The requirement for the payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director or a municipality for work to be done in a water project [], regardless of whether the water project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the water project shall be deemed to be a public work and the Director or the municipality shall be deemed to be a party*~~

~~to the contract and to be the public body advertising for bids for the water project and awarding the contract for the water project.~~ **(Deleted by amendment.)**

Sec. 21. NRS 350.091 is hereby amended to read as follows:

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

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

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

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

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

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

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

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most recently published before the local government enters into the installment-purchase agreement; and

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

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

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

5. If an installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the requirement for the payment of prevailing wages as set forth in provisions of NRS 338.013 to 338.090, inclusive, applies to the construction, alteration, repair or remodeling of the improvement, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the local government shall be deemed to be a party to the installment purchase agreement and to be the public body advertising for bids for the project and awarding the installment purchase agreement for the project.

Sec. 22. NRS 353.545 is hereby amended to read as follows:

353.545 The Legislature hereby finds and declares that:

1 1. The authority provided by other specific statutes for the government of this
2 State and the political subdivisions of this State to use lease-purchase and
3 installment-purchase agreements provides an important and valuable option for
4 these governmental entities and, when this authority is used properly, provides
5 great benefit to the residents of this State.

6 2. The statutory provisions governing the use of lease-purchase and
7 installment-purchase agreements should be interpreted to allow the process of
8 entering into and carrying out these agreements to be as streamlined and efficient as
9 possible.

10 3. The government of this State and the political subdivisions of this State
11 should not use lease-purchase and installment-purchase agreements to :

12 (a) Engage ~~engage~~ in or allow bid-shopping; or

13 (b) Avoid or circumvent any requirement regarding the payment of prevailing
14 wages for public works.

15 4. When using lease-purchase and installment-purchase agreements, the
16 government of this State and the political subdivisions of this State should provide
17 for the preferential hiring of Nevada residents to the extent otherwise required by
18 law.

19 5. *If ~~an~~ a lease-purchase or installment-purchase agreement pursuant to*
20 *this section involves the construction, alteration, repair or remodeling of an*
21 *improvement, the ~~requirement for the payment of prevailing wages as set forth~~*
22 *in provisions of NRS 338.013 to 338.090, inclusive, ~~applies~~ apply to the*
23 *construction, alteration, repair or remodeling of the improvement ~~], regardless~~*
24 *of whether the project for financing or other purposes is publicly or privately*
25 *owned, and, solely for the purposes of those provisions, the project shall be*
26 *deemed to be a public work and the State shall be deemed to be a party to the*
27 *installment-purchase agreement and to be the public body advertising for bids for*
28 *the project and awarding the installment-purchase agreement for the project.]*

29 **Sec. 23.** ~~[NRS 353.590 is hereby amended to read as follows:~~

30 ~~353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive,~~
31 ~~involves the construction, alteration, repair or remodeling of an improvement;~~

32 ~~1. Except as otherwise provided in this section, the construction, alteration,~~
33 ~~repair or remodeling of the improvement may be conducted as specified in the~~
34 ~~agreement without complying with the provisions of:~~

35 ~~(a) Any law requiring competitive bidding; or~~

36 ~~(b) Chapter 341 of NRS.~~

37 ~~2. The ~~[provisions]~~ requirement for the payment of prevailing wages as set~~
38 ~~forth in NRS 338.013 to 338.090, inclusive, ~~[apply]~~ applies to the construction,~~

39 ~~alteration, repair or remodeling of the improvement ~~[,], regardless of whether the~~~~
40 ~~project for financing or other purposes is publicly or privately owned, and, solely~~
41 ~~for the purposes of those provisions, the project shall be deemed to be a public~~
42 ~~work and the Board shall be deemed to be a party to the agreement and to be the~~
43 ~~public body advertising for bids for the project and awarding the agreement for~~
44 ~~the project.~~

45 ~~3. The provisions of:~~

46 ~~(a) Subsection 9 of NRS 341.100; and~~

47 ~~(b) NRS 341.105;~~

48 ~~apply to the construction, alteration, repair or remodeling of the improvement.]~~

49 **(Deleted by amendment.)**

50 **Sec. 24.** NRS 354.740 is hereby amended to read as follows:

51 354.740 The Legislature hereby finds and declares that:

52 1. The authority provided by other specific statutes for the government of this
53 State and the political subdivisions of this State to use lease-purchase and

installment-purchase agreements provides an important and valuable option for these governmental entities and, when this authority is used properly, provides great benefit to the residents of this State.

2. The statutory provisions governing the use of lease-purchase and installment-purchase agreements should be interpreted to allow the process of entering into and carrying out these agreements to be as streamlined and efficient as possible.

3. The government of this State and the political subdivisions of this State should not use lease-purchase and installment-purchase agreements to :

(a) Engage ~~engage~~ in or allow bid-shopping; or

(b) Avoid or circumvent any requirement regarding the payment of prevailing wages for public works.

4. When using lease-purchase and installment-purchase agreements, the government of this State and the political subdivisions of this State should provide for the preferential hiring of Nevada residents to the extent otherwise required by law.

5. If ~~for~~ a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement, the ~~requirement for the payment of prevailing wages as set forth in~~ provisions of NRS 338.013 to 338.090, inclusive, ~~applies~~ apply to the construction, alteration, repair or remodeling of the improvement ~~, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the State or political subdivision of the State, as applicable, shall be deemed to be a party to the installment-purchase agreement and to be the public body advertising for bids for the project and awarding the installment-purchase agreement for the project.~~

Sec. 25. ~~[NRS 408.3886 is hereby amended to read as follows:~~

~~408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the Department shall provide to each finalist a request for final proposals for the project. The request for final proposals must:~~

~~(a) Set forth the factors that the Department will use to select a design-build team to design and construct the project, including the relative weight to be assigned to each factor; and~~

~~(b) Set forth the date by which final proposals must be submitted to the Department.~~

~~2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the possession of a certificate of eligibility to receive a preference in bidding on public works and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to preference in bidding on public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.~~

~~3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.~~

~~4. After receiving the final proposals for the project, the Department shall:~~

~~(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;~~

~~—(b) Reject all the final proposals; or~~
~~—(c) Request best and final offers from all finalists in accordance with subsection 5.~~

~~5. If the Department determines that no final proposal received is cost effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:~~

~~—(a) Select the most cost effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or~~

~~—(b) Reject all the best and final offers.~~

~~6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:~~

~~—(a) Review and ratify the selection;~~

~~—(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.2883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract;~~

~~—(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.~~

~~7. A contract awarded pursuant to this section:~~

~~—(a) Must [comply with the provisions] contain a provision stating that the requirement for the payment of prevailing wages as set forth in NRS [338.020] 338.013 to 338.090, inclusive [1], applies to the project, regardless of whether the project for financing or other purposes is publicly or privately owned, and, solely for the purposes of those provisions, the project shall be deemed to be a public work and the Department shall be deemed to be a party to the contract and to be the public body advertising for bids for the project and awarding the contract for the project; and~~

~~—(b) Must specify:~~

~~—(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;~~

~~—(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and~~

~~—(3) A date by which performance of the work required by the contract must be completed.~~

~~8. A design-build team to whom a contract is awarded pursuant to this section shall:~~

1 ~~— (a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and~~

2 ~~— (b) Use the workforce of the prime contractor on the design-build team to~~
3 ~~construct at least 15 percent of the project.] (Deleted by amendment.)~~

4 **Sec. 26.** ~~[NRS 543.545 is hereby amended to read as follows:~~

5 ~~543.545 Except as otherwise provided in subsection 3, the provisions of any~~
6 ~~law requiring public bidding or otherwise imposing requirements on any public~~
7 ~~contract, project, works or improvements, including, without limitation, the~~
8 ~~provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract~~
9 ~~entered into by a flood control district for the construction of a flood control facility~~
10 ~~pursuant to the master plan, if a majority of the construction costs are paid by a~~
11 ~~private developer and the written agreement:~~

12 ~~1. Complies with the requirements of subsection 1 of NRS 543.260;~~

13 ~~2. Clearly sets forth the computation of the construction costs, and includes~~
14 ~~the terms and conditions of the contract; and~~

15 ~~3. Contains a provision stating that the [requirements] requirement for the~~
16 ~~payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090,~~
17 ~~inclusive, [apply] applies to any construction work performed pursuant to the~~
18 ~~contract [], regardless of whether the project for financing or other purposes is~~
19 ~~publicly or privately owned, and, solely for the purposes of those provisions, the~~
20 ~~project shall be deemed to be a public work and the project shall be deemed to be~~
21 ~~a party to the contract and to be the public body advertising for bids for the~~
22 ~~project and awarding the contract for the project.] (Deleted by amendment.)~~

23 **Sec. 27.** ~~[Section 2.145 of the charter of the City of Las Vegas, being chapter~~
24 ~~244, Statutes of Nevada 2007, at page 836, is hereby amended to read as follows:~~

25 ~~Sec. 2.145 Powers of City Council: Lease or lease-purchase agreement for~~
26 ~~construction or remodeling of building or facility; conveyance of property;~~
27 ~~applicability of certain provisions to agreement for construction or remodeling of~~
28 ~~building or facility:~~

29 ~~1. The City Council may enter into an agreement with a person whereby the~~
30 ~~person agrees to construct or remodel a building or facility according to~~
31 ~~specifications adopted by the City Council and thereupon enter into a lease or a~~
32 ~~lease-purchase agreement with the City Council for that building or facility;~~

33 ~~2. The City Council may convey property to a person where the purpose of the~~
34 ~~conveyance is the entering into of an agreement contemplated by subsection 1.~~

35 ~~3. The [provisions] requirement for the payment of prevailing wages as set~~
36 ~~forth in NRS [338.010] 338.013 to 338.090, inclusive, [apply] applies to any~~
37 ~~agreement for the construction or remodeling of a building or facility entered into~~
38 ~~pursuant to subsection 1 [], regardless of whether the project for financing or~~
39 ~~other purposes is publicly or privately owned, and, solely for the purposes of~~
40 ~~those provisions, the project shall be deemed to be a public work and the City~~
41 ~~Council shall be deemed to be a party to the agreement and to be the public body~~
42 ~~advertising for bids for the project and entering into the agreement for the~~
43 ~~project.] (Deleted by amendment.)~~

44 **Sec. 28.** ~~[Section 9.5 of the Reno-Tahoe Airport Authority Act, being chapter~~
45 ~~369, Statutes of Nevada 2005, at page 1386, is hereby amended to read as follows:~~

46 ~~Sec. 9.5. Exemption from public bidding and other requirements imposed on~~
47 ~~public contracts, projects, acquisitions, works or improvements; regulations;~~
48 ~~requirements relative to adoption, amendment or repeal of regulations:~~

49 ~~1. Except as otherwise determined by the Board or provided in subsection 2,~~
50 ~~the provisions of any law requiring public bidding or otherwise imposing~~
51 ~~requirements on any public contract, project, acquisition, works or improvements;~~
52

1 including, without limitation, the provisions of chapters 332, 338 and 339 of NRS,
2 do not apply to any contract entered into by the Board if the Board:

3 ~~(a) Complies with the provisions of subsection 2; and~~

4 ~~(b) Finances the contract, project, acquisition, works or improvement by means~~
5 ~~of:~~

6 ~~(1) Revenue bonds issued by the Authority; or~~

7 ~~(2) An installment obligation of the Authority in a transaction in which:~~

8 ~~(I) The Authority acquires real or personal property and another person~~
9 ~~acquires or retains a security interest in that or other property; and~~

10 ~~(II) The obligation by its terms is extinguished by failure of the Board~~
11 ~~to appropriate money for the ensuing fiscal year for payment of the amounts then~~
12 ~~due.~~

13 ~~2. A contract entered into by the Board pursuant to this section must:~~

14 ~~(a) Contain a provision stating that the [requirements] requirement for the~~
15 ~~payment of prevailing wages as set forth in NRS [338.010] 338.013 to 338.090,~~
16 ~~inclusive, [apply] applies to any construction work performed pursuant to the~~
17 ~~contract [;], regardless of whether the project for financing or other purposes is~~
18 ~~publicly or privately owned, and, solely for the purposes of those provisions, the~~
19 ~~project shall be deemed to be a public work and the Authority shall be deemed to~~
20 ~~be a party to the contract and to be the public body advertising for bids for the~~
21 ~~project and entering into the contract for the project; and~~

22 ~~(b) If the contract is with a design professional who is not a member of a~~
23 ~~design-build team, comply with the provisions of NRS 338.155. As used in this~~
24 ~~paragraph, "design professional" has the meaning ascribed to it in subsection 7 of~~
25 ~~NRS 338.010.~~

26 ~~3. For contracts entered into pursuant to this section that are exempt from the~~
27 ~~provisions of chapters 332, 338 and 339 of NRS pursuant to subsection 1, the Board~~
28 ~~shall adopt regulations pursuant to subsection 4 which establish:~~

29 ~~(a) One or more competitive procurement processes for letting such a contract;~~
30 ~~and~~

31 ~~(b) A method by which a bid on such a contract will be adjusted to give a 5~~
32 ~~percent preference to a contractor who would qualify for a preference pursuant to~~
33 ~~NRS 338.147, if:~~

34 ~~(1) The estimated cost of the contract exceeds \$250,000; and~~

35 ~~(2) Price is a factor in determining the successful bid on the contract.~~

36 ~~4. The Board:~~

37 ~~(a) Shall, before adopting, amending or repealing a permanent or temporary~~
38 ~~regulation pursuant to subsection 3, give at least 30 days' notice of its intended~~
39 ~~action. The notice must:~~

40 ~~(1) Include:~~

41 ~~(I) A statement of the need for and purpose of the proposed regulation;~~

42 ~~(II) Either the terms or substance of the proposed regulation or a~~
43 ~~description of the subjects and issues involved;~~

44 ~~(III) The estimated cost to the Board for enforcement of the proposed~~
45 ~~regulation;~~

46 ~~(IV) The time when, the place where and the manner in which~~
47 ~~interested persons may present their views regarding the proposed regulation;~~

48 ~~(V) A statement indicating whether the regulation establishes a new fee~~
49 ~~or increases an existing fee;~~

50 ~~(2) State each address at which the text of the proposed regulation may be~~
51 ~~inspected and copied;~~

52 ~~(3) Be mailed to all persons who have requested in writing that they be~~
53 ~~placed upon a mailing list, which must be kept by the Authority for that purpose.~~

~~(b) May adopt, if it has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this subsection, after providing a second notice and the opportunity for a hearing, a permanent regulation.~~

~~(c) Shall, in addition to distributing the notice to each recipient of the Board's regulations, solicit comment generally from the public and from businesses to be affected by the proposed regulation.~~

~~(d) Shall, before conducting a workshop pursuant to paragraph (g), determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the Board determines that such an impact is likely to occur, the Board shall:~~

~~(1) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation;~~

~~(2) Consider methods to reduce the impact of the proposed regulation on small businesses;~~

~~(3) Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted pursuant to paragraph (g) and the public hearing held pursuant to paragraph (h);~~

~~(e) Shall ensure that a small business impact statement prepared pursuant to subparagraph (3) of paragraph (d) sets forth the following information:~~

~~(1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary;~~

~~(2) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:~~

~~(I) Both adverse and beneficial effects; and~~

~~(II) Both direct and indirect effects;~~

~~(3) A description of the methods that the Board considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the Board actually used any of those methods;~~

~~(4) The estimated cost to the Board for enforcement of the proposed regulation;~~

~~(5) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Board expects to collect and the manner in which the money will be used;~~

~~(f) Shall afford a reasonable opportunity for all interested persons to submit data, views or arguments upon the proposed regulation, orally or in writing;~~

~~(g) Shall, before holding a public hearing pursuant to paragraph (h), conduct at least one workshop to solicit comments from interested persons on the proposed regulation. Not less than 15 days before the workshop, the Board shall provide notice of the time and place set for the workshop;~~

~~(1) In writing to each person who has requested to be placed on a mailing list; and~~

~~(2) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop;~~

~~(h) Shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the Board may proceed immediately to act upon any written submissions. The Board shall consider fully all written and oral submissions respecting the proposed regulation;~~

~~(i) Shall keep, retain and make available for public inspection written minutes of each public hearing held pursuant to paragraph (h) in the manner provided in subsections 1 and 2 of NRS 241.035.~~

~~(j) May record each public hearing held pursuant to paragraph (h) and make those recordings available for public inspection in the manner provided in subsection 4 of NRS 241.035.~~

~~(k) Shall ensure that a small business which is aggrieved by a regulation adopted pursuant to this subsection may object to all or a part of the regulation by filing a petition with the Board within 90 days after the date on which the regulation was adopted. Such petition may be based on the following:~~

~~(1) The Board failed to prepare a small business impact statement as required pursuant to subparagraph (3) of paragraph (d); or~~

~~(2) The small business impact statement prepared by the Board did not consider or significantly underestimated the economic effect of the regulation on small businesses.~~

~~After receiving a petition pursuant to this paragraph, the Board shall determine whether the petition has merit. If the Board determines that the petition has merit, the Board may, pursuant to this subsection, take action to amend the regulation to which the small business objected.~~

~~5. The determinations made by the Board pursuant to this section are conclusive unless it is shown that the Board acted with fraud or a gross abuse of discretion.] (Deleted by amendment.)~~

Sec. 29. This act becomes effective on July 1, 2009.