

## Amendment No. 838

Senate Amendment to Assembly Bill No. 467 First Reprint (BDR 28-910)

**Proposed by:** Senate Committee on Government Affairs**Amendment Box:** Replaces Amendment No. 711.**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



Date: 5/18/2009

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.

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

**Legislative Counsel's Digest:**

~~[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 **lease-purchase and** installment-purchase agreements by local governments. **Sections 1.7, 1.9, 22 ~~(and)~~ 22.5, 24 and 24.5** of this bill clarify ~~that~~ the **application of 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.~~ (Deleted by amendment.)

Sec. 1.3. (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. 1.9. 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 NRS 338.010 to 338.090, inclusive, apply to any~~ person who enters into an agreement for the actual construction or remodeling of a building or facility [entered into] pursuant to subsection 1. [ ] shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

4. The board of county commissioners, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board of county commissioners had undertaken the project or had awarded the contract.

Sec. 2. (Deleted by amendment.)

1       **Sec. 3.** (Deleted by amendment.)

2       **Sec. 4.** (Deleted by amendment.)

3       **Sec. 5.** (Deleted by amendment.)

4       **Sec. 6.** (Deleted by amendment.)

5       **Sec. 7.** (Deleted by amendment.)

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

7       **Sec. 9.** (Deleted by amendment.)

8       **Sec. 10.** (Deleted by amendment.)

9       **Sec. 11.** (Deleted by amendment.)

10       **Sec. 12.** (Deleted by amendment.)

11       **Sec. 13.** (Deleted by amendment.)

12       **Sec. 14.** (Deleted by amendment.)

13       **Sec. 15.** (Deleted by amendment.)

14       **Sec. 16.** (Deleted by amendment.)

15       **Sec. 17.** (Deleted by amendment.)

16       **Sec. 18.** (Deleted by amendment.)

17       **Sec. 19.** (Deleted by amendment.)

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

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

20       350.091 1. Whenever the governing body of any local government is  
21 authorized to enter into a medium-term obligation or installment-purchase  
22 agreement as provided in NRS 280.266 or 350.089 that is intended to finance a  
23 capital project, the governing body shall update its plan for capital improvement in  
24 the same manner as is required for general obligation debt pursuant to NRS  
25 350.013.

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

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

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

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

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

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

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

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

49       4. If the term of the medium-term obligation or installment-purchase  
50 agreement is more than 5 years, the weighted average term of the medium-term  
51 obligation or installment-purchase agreement may not exceed the estimated  
52 weighted average useful life of the assets being financed with the medium-term  
53 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 ~~any~~ a lease-purchase or installment-purchase agreement pursuant to ~~this section~~ NRS 280.266 or 350.089 involves the construction, alteration, repair or remodeling of an improvement ~~it~~ :*

*(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall 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 the provisions of NRS 338.013 to 338.090, inclusive. ~~It apply to the construction, alteration, repair or remodeling of the improvement.~~*

*(b) The governing body, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.*

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

353.545 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this 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 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 a lease-purchase or installment-purchase agreement ~~pursuant to this section~~ involves the construction, alteration, repair or remodeling of an improvement ~~it~~ :*

*(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall 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 the provisions of NRS 338.013 to 338.090, inclusive. ~~It apply to the construction, alteration, repair or remodeling of the improvement.~~*

*(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a*

political subdivision of this State had undertaken the project or had awarded the contract.

**Sec. 22.5. NRS 353.590 is hereby amended to read as follows:**

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

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

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. ~~The provisions of NRS 338.013 to 338.090, inclusive, apply to~~ person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement. It shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

3. The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

(a) Subsection 9 of NRS 341.100; and

(b) NRS 341.105,

➤ apply to the construction, alteration, repair or remodeling of the improvement.

**Sec. 23.** (Deleted by amendment.)

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

354.740 The Legislature hereby finds and declares that:

1. The authority provided by other specific statutes for the government of this 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 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 a lease-purchase or installment-purchase agreement pursuant to this section involves the construction, alteration, repair or remodeling of an improvement. It:

(a) The person or entity that executes one or more contracts or agreements for the actual construction, alteration, repair or remodeling of the improvement shall 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 the provisions of NRS 338.013 to 338.090, inclusive. ~~It apply to the construction, alteration, repair or remodeling of the improvement.~~

(b) The government of this State or a political subdivision of this State, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the government of this State or a political subdivision of this State had undertaken the project or had awarded the contract.

Sec. 24.5. Section 2,145 of the Charter of the City of Las Vegas, being chapter 244, Statutes of Nevada 2007, at page 836, is hereby amended to read as follows:

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

1. The City Council 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 City Council and thereupon enter into a lease or a lease-purchase agreement with the City Council for that building or facility.

2. The City Council 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 NRS 338.010 to 338.090, inclusive, apply to any~~ person who enters into an agreement for the actual construction or remodeling of a building or facility ~~entered into~~ pursuant to subsection 1 ~~It~~ shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

4. The City Council, the contractor who is awarded the contract or entered into the agreement to perform the construction or remodeling and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the City Council had undertaken the project or had awarded the contract.

Sec. 25. (Deleted by amendment.)

Sec. 26. (Deleted by amendment.)

Sec. 27. (Deleted by amendment.)

Sec. 28. (Deleted by amendment.)

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