

ASSEMBLY BILL NO. 469—COMMITTEE  
ON GOVERNMENT AFFAIRS

MARCH 28, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing public property and purchasing. (BDR 27-678)

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 administration; authorizing the leasing of unused state buildings, grounds and property to new businesses seeking to locate or expand in this State; authorizing local governments to enter into agreements with one another to advertise for contracts and make purchasing agreements together; requiring school districts to advertise for bids for the provision of certain services in the school district; authorizing local governments to award contracts based in part upon the best value offered; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Existing law grants the Chief of the Buildings and Grounds Division of the  
2 Department of Administration the authority to manage all state buildings, grounds  
3 and properties not otherwise provided for by law, including collecting rent from  
4 any state department, agency or institution that is renting space in a state building  
5 or property. (NRS 331.070, 331.102) **Section 1** of this bill requires each state  
6 department, agency or institution to submit an inventory of any state buildings,  
7 grounds or properties assigned to it which it is not actively using, and requires the  
8 Chief to compile those inventories into a list of unused state buildings, grounds and  
9 properties. **Section 1** further requires the Chief to make that list available to the  
10 Commission on Economic Development and to authorize the Commission to lease  
11 the available state buildings, grounds and properties to new businesses seeking to  
12 locate or expand in this State. **Section 1** also authorizes the Commission to offer a  
13 discount on the first year of the lease to the business, but requires any lease to be  
14 for a term of at least 10 years. **Section 2** of this bill authorizes the Chief to enter  
15 into any leases or arrangements to make use of state owned buildings, grounds and  
16 properties for purposes other than economic development.



\* A B 4 6 9 \*

Existing law sets forth the procedures a local government must follow to advertise for bids for contracts or to enter into purchasing agreements. (NRS 332.039-332.225) **Section 4** of this bill authorizes local governments to enter into agreements with each other to mutually advertise for bids or enter into purchasing agreements or exercise authorized purchasing powers to maximize their efficiency and economy. **Section 7** of this bill revises the considerations a local government must take into account when considering bids, and requires the local government to consider which bid provides the best value rather than just which is lowest, where best value includes not only cost but also the greatest possible economy consistent with the quality and sustainability of the materials, supplies, equipment and services.

**Section 5** of this bill requires county school districts to advertise for bids for persons not employed by the school district to provide services such as custodial services, maintenance and transportation at least once every 5 years, and **section 8** of this bill requires the school district to file an annual report with the Legislature or Interim Finance Committee about each contract awarded, or if no contract was awarded, the reasons for not awarding a contract and a comparison of the lowest responsive bid and the cost incurred by the school district in providing the service itself.

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

**Section 1.** Chapter 331 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. In addition to any other requirement imposed on a state department, agency or institution pursuant to this chapter, on or before June 30 of each year, each state department, agency or institution shall submit to the Chief an inventory of any state buildings, grounds and properties assigned to the state department, agency or institution which the state department, agency or institution is not actively using.*

*2. Based upon the inventories submitted pursuant to subsection 1 and any other information available to him or her, the Chief shall:*

*(a) Compile a list of all state buildings, grounds and properties which are not being actively used; and*

*(b) Make the list available to the Commission on Economic Development.*

*3. The Chief shall authorize the Commission on Economic Development to enter into agreements to lease the state buildings, grounds and properties which are not being actively used to new businesses seeking to locate or expand in this State.*

*4. Any lease or agreement into which the Commission on Economic Development enters pursuant to subsection 3:*

*(a) Must be for a term of at least 10 years; and*

*(b) May include a discount to the business for the first year, including, without limitation, an offer to lease the state building,*



\* A B 4 6 9 \*

*ground or property without the payment of rent for the first year the business is in this State.*

**Sec. 2.** NRS 331.090 is hereby amended to read as follows:

331.090 *1. The Chief may accept rent money from various departments and agencies that are occupying space in the various state-owned buildings. The rent money must be deposited in the Buildings and Grounds Operating Fund in the State Treasury.*

*2. Notwithstanding any other provision of law to the contrary, the Chief shall make any necessary arrangements to enter into any leases or other agreements for the use of state buildings, grounds and properties for purposes other than economic development.*

**Sec. 3.** Chapter 332 of NRS is hereby amended by adding thereto the provisions set forth as sections 4 and 5 of this act.

**Sec. 4. 1.** *A local government may enter into agreements with other local governments to mutually advertise for or request bids and enter into contracts pursuant to NRS 332.039 to 332.148, inclusive.*

*2. A local government may enter into agreements with other local governments to combine their resources to enter into purchasing agreements or for any other purchasing decisions or powers authorized by this chapter.*

**Sec. 5. 1.** *At least once every 5 years, each school district in this State shall advertise for or request bids from persons who are not then employed by the school district to provide the following services:*

- (a) Custodial services;*
- (b) Food service management;*
- (c) Ground maintenance;*
- (d) Facility maintenance; and*
- (e) Transportation services.*

*2. In addition to any other requirements set forth in this chapter, each advertisement or request for bids must be conducted in such a manner as to ensure that any contract awarded does not violate the provisions of:*

*(a) A contract between the school district and a person not then employed by the school district to provide any of the services in subsection 1 which is in effect as of the date of the advertisement or request for bids; or*

*(b) A collective bargaining agreement between the school district and its employees which was in effect on or before July 1, 2011.*

**Sec. 6.** NRS 332.025 is hereby amended to read as follows:

332.025 As used in this chapter, unless the context otherwise requires:



1 1. "Authorized representative" means a person designated by  
2 the governing body to be responsible for the development, award  
3 and proper administration of all purchases and contracts for a local  
4 government or a department, division, agency, board or unit of a  
5 local government made pursuant to this chapter.

6 2. "Chief administrative officer" means the person directly  
7 responsible to the governing body for the administration of that  
8 particular entity.

9 3. "Evaluator" means an authorized representative, officer,  
10 employee, representative, agent, consultant or member of a  
11 governing body who has participated in:

12 (a) The evaluation of bids;

13 (b) Negotiations concerning purchasing by a local government;  
14 or

15 (c) The review or approval of the award, modification or  
16 extension of a contract.

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

20 5. "Proprietary information" means:

21 (a) Any trade secret or confidential business information that is  
22 contained in a bid submitted to a governing body or its authorized  
23 representative on a particular contract; or


24 (b) Any other trade secret or confidential business information  
25 submitted to a governing body or its authorized representative by a  
26 bidder and designated as proprietary by the governing body or its  
27 authorized representative.

28 ➔ As used in this subsection, "confidential business information"  
29 means any information relating to the amount or source of any  
30 income, profits, losses or expenditures of a person, including data  
31 relating to cost, price, or the customers of a bidder which is  
32 submitted in support of a bid. The term does not include the amount  
33 of a bid submitted to a governing body or its authorized  
34 representative.

35 6. *"School district" means a county school district created*  
36 *pursuant to NRS 386.010.*

37 7. "Trade secret" has the meaning ascribed to it in  
38 NRS 600A.030.

39 **Sec. 7.** NRS 332.065 is hereby amended to read as follows:

40 332.065 1. If a governing body or its authorized  
41 representative has advertised for or requested bids in letting a  
42 contract, the governing body or its authorized representative must,  
43 except as otherwise provided in subsection 2, *3 or 4*, award the  
44 contract to the lowest responsive and responsible bidder  *who*  
45 *meets the minimum requirements set forth in the advertisement or*



1 **request.** The lowest responsive and responsible bidder may be  
2 judged on the basis of:

- 3 (a) Price;
- 4 (b) Conformance to specifications;
- 5 (c) Qualifications;
- 6 (d) Past performance;
- 7 (e) Performance **schedule** or delivery date;
- 8 (f) Quality and utility of services, supplies, materials or  
9 equipment offered and the adaptability of those services, supplies,  
10 materials or equipment to the required purpose of the contract;
- 11 (g) **The total cost of ownership of the goods to be supplied;**
- 12 (h) **The purposes for which the goods to be supplied are**  
13 **required;**
- 14 (i) **Best value provided;**
- 15 (j) The best interests of the public; and

16 ~~[(h)]~~ (k) Such other criteria as may be set forth by the governing  
17 body or its authorized representative in the advertisement or request  
18 for bids, as applicable, that pertains to the contract.

19 2. **An advertisement or request for bids must include**  
20 **minimum requirements that the lowest responsive and responsible**  
21 **bidder must substantially meet to be awarded a contract pursuant**  
22 **to the provisions of this chapter.**

23 3. **The governing body or its authorized representative shall**  
24 **evaluate proposals and award the contract based on the criteria set**  
25 **forth in the request for proposals and is not required to select the**  
26 **lowest priced proposal. The contract terms and pricing are subject**  
27 **to negotiation.**

28 4. The governing body or its authorized representative:

29 (a) Shall give preference to recycled products if:

- 30 (1) The product meets the applicable standards;
- 31 (2) The product can be substituted for a comparable  
32 nonrecycled product; and
- 33 (3) The product costs no more than a comparable  
34 nonrecycled product.

35 (b) May give preference to recycled products if:

- 36 (1) The product meets the applicable standards;
- 37 (2) The product can be substituted for a comparable  
38 nonrecycled product; and
- 39 (3) The product costs no more than 5 percent more than a  
40 comparable nonrecycled product.

41 (c) May purchase recycled paper products if the specific  
42 recycled paper product is:

- 43 (1) Available at a price which is not more than 10 percent  
44 higher than that of paper products made from virgin material;
- 45 (2) Of adequate quality; and



1 (3) Available to the purchaser within a reasonable period.  
2 ~~[3-]~~ 5. If after the lowest responsive and responsible bidder has  
3 been awarded the contract, during the term of the contract he or she  
4 does not supply goods or services in accordance with the bid  
5 specifications, or if he or she repudiates the contract, the governing  
6 body or its authorized representative may reaward the contract to the  
7 next lowest responsive and responsible bidder without requiring that  
8 new bids be submitted. Reawarding the contract to the next lowest  
9 responsive and responsible bidder is not a waiver of any liability of  
10 the initial bidder awarded the contract.

11 ~~[4-]~~ 6. As used in this section:

12 (a) *"Best value" means the greatest possible economy*  
13 *consistent with the grades, qualities or sustainability attributes of*  
14 *supplies, materials, equipment and services.*

15 (b) "Postconsumer waste" means a finished material which  
16 would normally be disposed of as a solid waste having completed its  
17 life cycle as a consumer item.

18 ~~[(b)]~~ (c) "Recycled paper product" means all paper and wood-  
19 pulp products containing in some combination at least 50 percent of  
20 its total weight:

21 (1) Postconsumer waste; and

22 (2) Secondary waste,

23 ➔ but does not include fibrous waste generated during the  
24 manufacturing process such as fibers recovered from wastewater or  
25 trimmings of paper machine rolls, wood slabs, chips, sawdust or  
26 other wood residue from a manufacturing process.

27 ~~[(e)]~~ (d) "Secondary waste" means fragments of products or  
28 finished products of a manufacturing process which has converted a  
29 virgin resource into a commodity of real economic value.

30 (e) *"Total cost of ownership" means the monetary and other*  
31 *costs associated with goods being supplied, including, without*  
32 *limitation:*

33 (1) *The history of maintenance or repair of the goods;*

34 (2) *The cost of routine maintenance and repair of the*  
35 *goods;*

36 (3) *Any warranties provided in connection with the goods;*

37 (4) *The cost of replacement parts for the goods; and*

38 (5) *The value of the goods as used goods when given in*  
39 *trade on a subsequent purchase.*

40 **Sec. 8.** NRS 332.431 is hereby amended to read as follows:

41 332.431 1. Each local government that enters into a  
42 performance contract pursuant to NRS 332.300 to 332.440,  
43 inclusive, shall, on or before February 1 of each year, prepare and  
44 submit a report to the Director of the Legislative Counsel Bureau for



transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session.

2. The report required pursuant to subsection 1 must include, without limitation:

(a) The status of the construction and financing of the operating cost-savings measures described in the performance contract.

(b) The cumulative amount of operating cost-savings that have resulted from the operating cost-savings measures.

(c) The amount of operating cost-savings that are projected for the future.

(d) Any other information required by the Legislature or Interim Finance Committee.

*3. Each school district shall, on or before February 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature if the Legislature is in session, or to the Interim Finance Committee if the Legislature is not in session, a report which must include, without limitation:*

*(a) A list of all advertisements and requests for bids made pursuant to section 5 of this act;*

*(b) A summary of all contracts awarded, including, without limitation, the name of the person to whom the contract was awarded; and*

*(c) If a contract was not awarded for any services listed in section 5 of this act:*

*(1) An explanation of the reason for not awarding a contract; and*

*(2) A comparison of the lowest responsive and responsible bid or response received and the cost incurred by the school district to provide the service itself.*

**Sec. 9.** 1. Except as otherwise provided in subsection 2, each school district in this State shall advertise for or request bids from persons who are not then employed by the school district to provide the services listed in section 5 of this act on or before December 31, 2011.

2. If a school district is subject to an existing contract for the provision of the services listed in section 5 of this act, the school district is not required to advertise for or request bids for the provision of those services until after the expiration of the existing contract.

**Sec. 10.** This act becomes effective on July 1, 2011.

