

SENATE BILL NO. 192—SENATORS HORSFORD AND KIHUEN

FEBRUARY 23, 2011

JOINT SPONSORS: ASSEMBLYMEN OCEGUERA AND SMITH

Referred to Select Committee on Economic
Growth and Employment

SUMMARY—Makes various changes relating to job creation within the Nevada construction industry. (BDR 18-935)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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

AN ACT relating to governmental financial administration; requiring the submission of annual reports by certain governmental entities relating to the persons awarded contracts for the design or construction of public works and the compilation of such reports by the Commission on Economic Development; requiring certain local governments to expend a sufficient amount to maintain their buildings in a serviceable condition on a continuing basis; requiring the distribution of a portion of the taxes ad valorem levied in certain counties to the regional transportation commissions in those counties and authorizing the distribution to be pledged for bonds and other securities issued for payment of the cost of regional transportation projects; declaring the policy of the State to use private sector services on public works; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Local governments are required under existing law to submit an annual fiscal
- 2 report to the Department of Taxation. (NRS 354.6015) **Section 6** of this bill
- 3 requires a local government to include in that annual report the percentage of
- 4 contracts for the design and construction of public works that were awarded
- 5 during the reporting period to contractors and design professionals in this State.



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Sections 14 and 16 of this bill impose identical reporting requirements on the State Public Works Board and the Department of Transportation with respect to contracts for public works of the State. **Section 2** of this bill requires the Commission on Economic Development to compile those reports and transmit the compilation to the Legislature, or the Interim Finance Committee, if the Legislature is not in regular session.

Existing law authorizes a county to levy a tax ad valorem for capital projects in the amount of 5 cents per \$100 of the assessed valuation of the county and, in a county whose population is 100,000 or more (currently Clark and Washoe Counties), requires the distribution of a portion of the proceeds of the tax among the county and the cities and towns within the county. (NRS 354.59815) **Section 3** of this bill requires each of those local governments that receives such a distribution to include in its annual budget a sum for projects to maintain, renovate and replace its buildings in an amount which meets or exceeds the amount of depreciation of those buildings, and to demonstrate that those projects will maintain the buildings in a serviceable condition on a continuing basis. **Section 5** of this bill authorize those local governments to expend those tax receipts for those projects.

Section 7 of this bill requires the distribution to the regional transportation commission created in each county whose population is 100,000 or more (currently Clark and Washoe Counties) of the portion of the property taxes levied for operating purposes by that county at the rate of 2 cents per \$100 of assessed valuation. **Section 15** of this bill authorizes this distribution to be used as pledged revenue for bonds and other securities issued by the county to pay the cost of regional transportation projects in the county.

Under existing law, if the estimated cost of a public work is \$100,000 or less, the State or a local government is authorized to award the contract to a contractor or perform the work with its own employees if certain requirements are met. (NRS 338.1386, 338.1442) Similarly, under existing law, if the estimated cost of a public work is less than \$35,000, the State or a political subdivision is authorized to prepare the maps, plans, specifications, reports and estimates for the public work itself. (NRS 625.530) The Department of Transportation is also authorized under existing law to perform limited work and improvements itself. (NRS 408.323) **Sections 8, 11, 17 and 18** of this bill add a legislative declaration to those provisions in existing law, stating that, whenever possible, it is in the best interest of the State for those services on public works to be performed by the private sector.

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

Section 1. The Legislature hereby finds and declares:

1. That infrastructure development is a critical component of this State's long-term economic development strategy.

2. It is paramount that the Nevada Legislature address the State's high unemployment rate through job creation that improves the State's infrastructure for purposes of economic development.

3. This measure is intended to facilitate the development of an integrated approach to Nevada's economic development strategy.



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1 **Sec. 2.** Chapter 231 of NRS is hereby amended by adding
2 thereto a section to read as follows:

3 *On or before March 1 of each year, the Commission on*
4 *Economic Development shall compile the reports relating to the*
5 *persons awarded contracts for the design or construction of public*
6 *works required pursuant to sections 6, 14 and 16 of this act and*
7 *transmit the compilation to the Legislature, or the Interim*
8 *Finance Committee, if the Legislature is not in regular session.*

9 **Sec. 3.** Chapter 354 of NRS is hereby amended by adding
10 thereto a new section to read as follows:

11 1. *The governing body of each county, city or town that will*
12 *receive a distribution of tax revenue pursuant to paragraph (b) of*
13 *subsection 2 of NRS 354.59815 for any fiscal year beginning on or*
14 *after July 1, 2011, shall include:*

15 (a) *In the report concerning the capital improvements of that*
16 *local government required for that fiscal year by NRS 354.5947, a*
17 *schedule of depreciation for the buildings owned by that local*
18 *government; and*

19 (b) *In the annual budget of that local government for that*
20 *fiscal year:*

21 (1) *A sum for expenditure on projects for the maintenance,*
22 *renovation and replacement of the buildings owned by that local*
23 *government in an amount which is not less than the amount of the*
24 *depreciation of those buildings for that fiscal year, as determined*
25 *in accordance with the schedule of depreciation required by*
26 *paragraph (a);*

27 (2) *A detailed list of the projects that the local government*
28 *proposes for such expenditure for that fiscal year and for the next*
29 *ensuing 5 fiscal years; and*

30 (3) *An analysis which demonstrates that the listed projects*
31 *are substantially sufficient to maintain the buildings owned by*
32 *that local government in a serviceable condition on a continuing*
33 *basis.*

34 2. *To carry out the provisions of subsection 1 and the projects*
35 *described therein, a local government to which those provisions*
36 *apply may expend, without limitation, any tax revenue distributed*
37 *to the local government pursuant to paragraph (b) of subsection 2*
38 *of NRS 354.59815.*

39 **Sec. 4.** NRS 354.470 is hereby amended to read as follows:

40 354.470 NRS 354.470 to 354.626, inclusive, *and section 3 of*
41 *this act* may be cited as the Local Government Budget and Finance
42 Act.



1 **Sec. 5.** NRS 354.598155 is hereby amended to read as
2 follows:

3 354.598155 1. Each local government that receives a portion
4 of the revenue from the tax levied pursuant to the provisions of NRS
5 354.59815 shall establish a special ad valorem capital projects fund
6 and shall deposit all revenue received pursuant to the provisions of
7 NRS 354.59815 in that fund. All interest and income earned on the
8 money in the fund must also be deposited in the fund.

9 2. The money in the fund may only be used for:

10 (a) The purchase of capital assets , including land,
11 improvements to land and major items of equipment;

12 (b) ~~The~~ *In a county:*

13 *(1) Whose population is less than 100,000, the* renovation of
14 existing governmental facilities , not including normal recurring
15 maintenance; *or*

16 *(2) Whose population is 100,000 or more:*

17 *(I) The maintenance, renovation and replacement of*
18 *governmental buildings; and*

19 *(II) The renovation of other existing governmental*
20 *facilities, not including normal recurring maintenance; and*

21 (c) The repayment of a medium-term obligation issued to fund a
22 project described in paragraph (a) or (b).

23 3. Money may be retained in the fund for not more than 10
24 years to allow the funding of projects without the issuance of bonds
25 or other obligations. For the purpose of determining the length of
26 time a deposit of money has been retained in the fund, all money
27 withdrawn from the fund shall be deemed to be taken on a first-in,
28 first-out basis.

29 4. The annual budget and audit report of each local government
30 must specifically identify this fund and must indicate in detail the
31 projects that have been funded with money from the fund. Any
32 planned accumulation of the money in the fund must also be
33 specifically identified.

34 **Sec. 6.** NRS 354.6015 is hereby amended to read as follows:

35 354.6015 1. Except as otherwise provided in subsection 3,
36 the governing board of a local government shall:

37 (a) Submit electronically a fiscal report of the local government
38 to the Department of Taxation *and the Commission on Economic*
39 *Development* in accordance with the requirements prescribed by the
40 Committee on Local Government Finance pursuant to subsection 2;
41 and

42 (b) Publish a summary of the fiscal report, which must contain
43 the information required by the Committee on Local Government
44 Finance pursuant to subsection 2, in a newspaper of general
45 circulation in the county in which the local government is situated.



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2. The Committee on Local Government Finance shall prescribe, by regulation:

(a) The dates and times for filing a fiscal report, which must require a local government to file at least one fiscal report per year;

(b) The content of a fiscal report, which must include, without limitation, revenues, expenditures, fund balances, cash balances, components of assessed value, debt schedules, *the percentage of contracts that were awarded during the reporting period to a design professional who is registered or licensed, as applicable, in this State for the design of public works of the local government and to a contractor who holds a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to NRS 338.1389 or 338.147 for the construction of public works of the local government* and any other information that the Committee on Local Government Finance determines to be appropriate for determining the financial status of a local government;

(c) The content for a summary of a fiscal report that must be published pursuant to subsection 1; and

(d) A uniform method for creating and submitting a fiscal report electronically pursuant to this section. The method must facilitate the storage and reproduction of the fiscal report in electronic format by the Department of Taxation.

3. The Committee on Local Government Finance may establish, by regulation, an exception to the requirement that a fiscal report be submitted to the Department of Taxation *and Commission on Economic Development* in electronic format. The exception must be limited to local governments that the Committee determines do not have the financial ability to comply with the method for submitting a fiscal report to the Department of Taxation *and Commission on Economic Development* prescribed by the Committee. If the Committee on Local Government Finance provides an exception pursuant to this subsection, the Committee shall provide, by regulation, specific standards that it will use to determine whether a local government qualifies for an exemption pursuant to this subsection.

4. The Committee on Local Government Finance shall adopt regulations pursuant to this section in the manner prescribed for state agencies in chapter 233B of NRS.

Sec. 7. Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other statutory provision to the contrary, the county treasurer of each county whose population is 100,000 or more and in which a commission has been created pursuant to this chapter shall distribute quarterly to that



1 *commission, from the proceeds of the taxes ad valorem levied by*
2 *that county for the operating expenses of the county, the amount*
3 *of those proceeds attributable to the levy of those taxes on all*
4 *taxable property in the county at the rate of 2 cents per \$100 of*
5 *assessed valuation.*

6 2. *The proceeds distributed by the county treasurer of a*
7 *county pursuant to this section must be expended for projects in*
8 *the county in accordance with the provisions of this chapter and*
9 *chapter 373 of NRS.*

10 3. *For the purposes of NRS 354.59811, the amount of the*
11 *proceeds distributed by the county treasurer of a county pursuant*
12 *to this section shall be deemed to constitute revenue received by*
13 *the county.*

14 **Sec. 8.** NRS 338.1386 is hereby amended to read as follows:

15 338.1386 1. *The Legislature hereby finds and declares that*
16 *it is in the best interest of the State for a public body to use private*
17 *sector services for the performance of a public work, whenever*
18 *possible, while maintaining an appropriate administrative,*
19 *management and oversight role on the public work.*

20 2. If the estimated cost of a public work is \$100,000 or less,
21 this State or a local government shall:

22 ~~1-1~~ (a) Award a contract for the completion of the public work
23 to a properly licensed contractor in accordance with NRS
24 338.13862; or

25 ~~1-2~~ (b) Perform the public work itself in accordance with
26 NRS 338.13864.

27 **Sec. 9.** NRS 338.13862 is hereby amended to read as follows:

28 338.13862 1. Before this State or a local government awards
29 a contract for the completion of a public work in accordance with
30 *paragraph (a) of* subsection ~~1-1~~ 2 of NRS 338.1386, the State or the
31 local government must:

32 (a) If the estimated cost of the public work is more than \$25,000
33 but not more than \$100,000, solicit bids from at least three properly
34 licensed contractors; and

35 (b) If the estimated cost of the public work is \$25,000 or less,
36 solicit a bid from at least one properly licensed contractor.

37 2. Any bids received in response to a solicitation for bids made
38 pursuant to this section may be rejected if the State or the local
39 government determines that:

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

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

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

44 3. At least once each quarter, the State and each local
45 government shall prepare a report detailing, for each public work



1 over \$25,000 for which a contract for its completion is awarded
2 pursuant to paragraph (a) of subsection 1, if any:

3 (a) The name of the contractor to whom the contract was
4 awarded;

5 (b) The amount of the contract awarded;

6 (c) A brief description of the public work; and

7 (d) The names of all contractors from whom bids were solicited.

8 4. A report prepared pursuant to subsection 3 is a public record
9 and must be maintained on file at the administrative offices of the
10 applicable public body.

11 5. The provisions of this section do not relieve this State from
12 the duty to award the contract for the public work to a bidder who
13 is:

14 (a) Qualified pursuant to the applicable provisions of NRS
15 338.1375 to 338.1382, inclusive; and

16 (b) The lowest responsive and responsible bidder, if bids are
17 required to be solicited from more than one properly licensed
18 contractor pursuant to subsection 1. For the purposes of this
19 paragraph, the lowest responsive and responsible bidder must be
20 determined in consideration of any applicable bidder's preference
21 granted pursuant to NRS 338.13844.

22 **Sec. 10.** NRS 338.13864 is hereby amended to read as
23 follows:

24 338.13864 1. If the State or a local government proposes to
25 perform a public work itself in accordance with *paragraph (b) of*
26 subsection 2 of NRS 338.1386, the public officer responsible for the
27 management of the public works of the State or the local
28 government, as applicable, must, if the estimated cost of the public
29 work is more than \$25,000 but not more than \$100,000 and before
30 work on the public work is commenced, prepare a signed attestation
31 regarding the decision of the State or the local government to
32 perform the public work itself.

33 2. An attestation prepared pursuant to subsection 1:

34 (a) Must set forth:

35 (1) The estimated cost of the public work;

36 (2) A general statement as to why the State or the local
37 government has decided to perform the public work itself; and

38 (3) A general statement that the public work will adhere to
39 the same quality and standards as would be required of a properly
40 licensed contractor if the public work had been awarded to a
41 properly licensed contractor; and

42 (b) Is a public record and must be maintained on file at the
43 administrative offices of the applicable public body.



1 **Sec. 11.** NRS 338.1442 is hereby amended to read as follows:
2 338.1442 1. *The Legislature hereby finds and declares that*
3 *it is in the best interest of the State for a public body to use private*
4 *sector services for the performance of a public work, whenever*
5 *possible, while maintaining an appropriate administrative,*
6 *management and oversight role on the public work.*

7 2. If the estimated cost of a public work is \$100,000 or less, a
8 local government shall:

9 ~~1.1~~ (a) Award a contract for the completion of the public work
10 to a properly licensed contractor in accordance with NRS 338.1444;
11 or

12 ~~1.2~~ (b) Perform the public work itself in accordance with
13 NRS 338.1446.

14 **Sec. 12.** NRS 338.1444 is hereby amended to read as follows:
15 338.1444 1. Before a local government awards a contract for
16 the completion of a public work in accordance with *paragraph (a)*
17 *of* subsection ~~1.1~~ 2 of NRS 338.1442, the local government must:

18 (a) If the estimated cost of the public work is more than \$25,000
19 but not more than \$100,000, solicit bids from at least three properly
20 licensed contractors; and

21 (b) If the estimated cost of the public work is \$25,000 or less,
22 solicit a bid from at least one properly licensed contractor.

23 2. Any bids received in response to a solicitation for bids made
24 pursuant to this section may be rejected if the local government
25 determines that:

26 (a) The quality of the services, materials, equipment or labor
27 offered does not conform to the approved plan or specifications;

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

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

30 3. At least once each quarter, a local government shall prepare
31 a report detailing, for each public work over \$25,000 for which a
32 contract for its completion is awarded pursuant to paragraph (a) of
33 subsection 1, if any:

34 (a) The name of the contractor to whom the contract was
35 awarded;

36 (b) The amount of the contract awarded;

37 (c) A brief description of the public work; and

38 (d) The names of all contractors from whom bids were solicited.

39 4. A report prepared pursuant to subsection 3 is a public record
40 and must be maintained on file at the administrative offices of the
41 applicable public body.

42 5. The provisions of this section do not relieve a local
43 government from the duty to award the contract for the public work
44 to a bidder who is the lowest responsive and responsible bidder if



1 bids are required to be solicited from more than one properly
2 licensed contractor pursuant to subsection 1.

3 **Sec. 13.** NRS 338.1446 is hereby amended to read as follows:

4 338.1446 1. If a local government proposes to perform a
5 public work itself in accordance with *paragraph (b) of* subsection 2
6 of NRS 338.1442, the public officer responsible for the management
7 of the public works of the local government must, if the estimated
8 cost of the public work is more than \$25,000 but not more than
9 \$100,000 and before work on the public work is commenced,
10 prepare a signed attestation regarding the decision of the local
11 government to perform the public work itself.

12 2. An attestation prepared pursuant to subsection 1:

13 (a) Must set forth:

14 (1) The estimated cost of the public work;

15 (2) A general statement as to why the local government has
16 decided to perform the public work itself; and

17 (3) A general statement that the public work will adhere to
18 the same quality and standards as would be required of a properly
19 licensed contractor if the public work had been awarded to a
20 properly licensed contractor; and

21 (b) Is a public record and must be maintained on file at the
22 administrative offices of the local government.

23 **Sec. 14.** NRS 341.191 is hereby amended to read as follows:

24 341.191 1. The Board shall submit reports and make
25 recommendations relative to its findings to the Governor and to the
26 Legislature. The Board shall particularly recommend to the
27 Governor and to the Legislature the priority of construction of any
28 buildings or other construction work now authorized or that may
29 hereafter be authorized or proposed.

30 2. The Board shall submit before October 1 of each even-
31 numbered year its recommendations for projects for capital
32 improvements in the next biennium. The recommendations must, to
33 the extent practicable, provide that each project which exceeds a
34 cost of \$10,000,000 be scheduled to receive funding for design and
35 planning during one biennium and funding for construction in the
36 subsequent biennium.

37 *3. The Board shall, not later than December 31 of each year,*
38 *submit to the Commission on Economic Development a report*
39 *discussing the percentage of contracts that were awarded during*
40 *the immediately preceding fiscal year:*

41 *(a) To a design professional who is registered or licensed, as*
42 *applicable, in this State for the design of public works of the State.*

43 *(b) To a contractor who holds a certificate of eligibility to*
44 *receive a preference in bidding on public works from the State*



Contractors' Board pursuant to NRS 338.1389 for the construction of public works of the State.

Sec. 15. NRS 373.131 is hereby amended to read as follows:

373.131 1. Money for the payment of the cost of a project within the area embraced by a regional plan for transportation established pursuant to NRS 277A.210 may be obtained by the issuance of revenue bonds and other revenue securities as provided in subsection 2 or, subject to any pledges, liens and other contractual limitations made pursuant to the provisions this chapter and chapter 277A of NRS, may be obtained by direct distribution from the regional street and highway fund, except to the extent any such use is prevented by the provisions of NRS 373.150, or may be obtained both by the issuance of such securities and by such direct distribution, as the board may determine. Money for street and highway construction outside the area embraced by the plan may be distributed directly from the regional street and highway fund as provided in NRS 373.150.

2. The board may, after the enactment of any ordinance authorized by the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 or paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066, issue revenue bonds and other revenue securities, on the behalf and in the name of the county:

(a) The total of all of which, issued and outstanding at any one time, must not be in an amount requiring a total debt service in excess of the estimated *distributions made to the commission in the county pursuant to section 7 of this act and the estimated* receipts to be derived from the taxes imposed pursuant to the provisions of NRS 373.030, paragraph (d) of subsection 1 of NRS 373.065 and paragraphs (d) to (m), inclusive, of subsection 1 of NRS 373.066;

(b) Which must not be general obligations of the county or a charge on any real estate therein; and

(c) Which may be secured as to principal and interest by a pledge authorized by this chapter of the receipts from the fuel taxes designated in this chapter, except such portion of the receipts as may be required for the direct distributions authorized by NRS 373.150.

3. A county is authorized to issue bonds without the necessity of their being authorized at any election in such manner and with such terms as provided in this chapter.

4. Subject to the provisions of this chapter and chapter 277A of NRS, for any project authorized therein, the board of any county may, on the behalf and in the name of the county, borrow money, otherwise become obligated, and evidence obligations by the issuance of bonds and other county securities, and in connection with the undertaking or project, the board may otherwise proceed as provided in the Local Government Securities Law.



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1 5. All such securities constitute special obligations payable
2 from the net receipts of the fuel taxes designated in this chapter
3 except as otherwise provided in NRS 373.150, and the pledge of
4 revenues to secure the payment of the securities must be limited to
5 those net receipts.

6 6. Except for:

7 (a) Any notes or warrants which are funded with the proceeds of
8 interim debentures or bonds;

9 (b) Any interim debentures which are funded with the proceeds
10 of bonds;

11 (c) Any temporary bonds which are exchanged for definitive
12 bonds;

13 (d) Any bonds which are reissued or which are refunded; and

14 (e) The use of any profit from any investment and reinvestment
15 for the payment of any bonds or other securities issued pursuant to
16 the provisions of this chapter,

17 ➔ all bonds and other securities issued pursuant to the provisions of
18 this chapter must be payable solely from the proceeds of fuel taxes
19 collected by or remitted to the county pursuant to chapter 365 of
20 NRS, as supplemented by this chapter. ~~Receipts~~ *Distributions*
21 *made to the commission in the county pursuant to section 7 of this*
22 *act and receipts* of the taxes levied in NRS 365.180 and 365.190
23 and pursuant to the provisions of paragraphs (a) and (b) of
24 subsection 1 of NRS 373.065 and paragraphs (a) and (b) of
25 subsection 1 of NRS 373.066 may be used by the county for the
26 payment of securities issued pursuant to the provisions of this
27 chapter and may be pledged therefor. If during any period any
28 securities payable from these tax proceeds are outstanding, the tax
29 receipts must not be used directly for the construction, maintenance
30 and repair of any streets, roads or other highways nor for any
31 purchase of equipment therefor, and the receipts of the tax levied in
32 NRS 365.190 must not be apportioned pursuant to subsection 2 of
33 NRS 365.560 unless, at any time the tax receipts are so apportioned,
34 provision has been made in a timely manner for the payment of such
35 outstanding securities as to the principal of, any prior redemption
36 premiums due in connection with, and the interest on the securities
37 as they become due, as provided in the securities, the ordinance
38 authorizing their issuance and any other instrument appertaining to
39 the securities.

40 7. The ordinance authorizing the issuance of any bond or other
41 revenue security under this section must describe the purpose for
42 which it is issued at least in general terms and may describe the
43 purpose in detail. This section does not require the purpose so stated
44 to be set forth in the detail in which the project approved by the
45 commission pursuant to subsection 2 of NRS 373.140 is stated, or



1 prevent the modification by the board of details as to the purpose
2 stated in the ordinance authorizing the issuance of any bond or other
3 security after its issuance, subject to approval by the commission of
4 the project as so modified.

5 **Sec. 16.** NRS 408.133 is hereby amended to read as follows:

6 408.133 1. The Board shall adopt a plan for measuring the
7 performance of the Department, which must include separate sets of
8 performance measurements for each division of the Department and
9 for the Department as a whole.

10 2. The Director shall, not later than December 31 of each year:

11 (a) Prepare a report, based upon the relevant performance
12 measurements adopted pursuant to subsection 1, on the level of
13 achievement of each division of the Department and of the
14 Department as a whole during the immediately preceding fiscal
15 year. The report must include a discussion of:

16 (1) The goals and objectives of the Department, and the
17 current status of the Department in relation to meeting those goals
18 and objectives;

19 (2) Any applicable directives from the Board or Legislature
20 since the most recent report prepared pursuant to this section;

21 (3) The scheduling, scope, cost and progress of any current
22 or proposed highway projects;

23 (4) The sources, amount and expenditure of any funding
24 received during the immediately preceding fiscal year;

25 (5) The rationale used to establish priorities for the
26 completion of highway projects;

27 *(6) The percentage of contracts that were awarded:*

28 *(I) To a design professional who is registered or*
29 *licensed, as applicable, in this State for the design of works or*
30 *improvements of the Department; or*

31 *(II) To a contractor who holds a certificate of eligibility*
32 *to receive a preference in bidding on public works from the State*
33 *Contractors' Board pursuant to NRS 338.1389 for the*
34 *construction of works or improvements of the Department; and*

35 ~~[(6)]~~ (7) Any recommendations for amendments to the plan
36 adopted pursuant to subsection 1.

37 (b) Submit the report to:

38 (1) The Board;

39 *(2) The Commission on Economic Development; and*

40 ~~[(2)]~~ (3) The Director of the Legislative Counsel Bureau for
41 transmittal to the Interim Finance Committee.

42 **Sec. 17.** NRS 408.323 is hereby amended to read as follows:

43 408.323 1. *The Legislature hereby finds and declares that it*
44 *is in the best interest of the State for the Department to use private*
45 *sector services for the performance of a work or improvement,*



1 *whenever possible, while maintaining an appropriate*
2 *administrative, management and oversight role on the work or*
3 *improvement.*

4 2. Whenever it can be justified by the Director that limited
5 work or improvements can be done in a more economical or other
6 satisfactory manner than by contract under NRS 408.327, the
7 Director may, with the approval of the Board, execute such work or
8 improvements with Department facilities and employees.

9 ~~[2-]~~ 3. In the event of disaster or great emergency the Director
10 may, with the approval of the Board, hire, employ or contract for
11 such labor, materials and equipment as are in the Director's opinion
12 necessary to reroute, repair or replace any highway threatened or
13 damaged by the emergency or disaster, and the provisions of NRS
14 408.327 and 408.367 do not apply.

15 **Sec. 18.** NRS 625.530 is hereby amended to read as follows:

16 625.530 1. *The Legislature hereby finds and declares that it*
17 *is in the best interest of the State of Nevada for the State and its*
18 *political subdivisions to use private sector services for the*
19 *performance of work involving the practice of professional*
20 *engineering or land surveying on a public work, whenever*
21 *possible, while maintaining an appropriate administrative,*
22 *management and oversight role on the public work.*

23 2. Except as otherwise provided in NRS 338.1711 to 338.1727,
24 inclusive, and 408.3875 to 408.3887, inclusive:

25 ~~[H-]~~ (a) The State of Nevada or any of its political subdivisions,
26 including a county, city or town, shall not engage in any public
27 work requiring the practice of professional engineering or land
28 surveying, unless the maps, plans, specifications, reports and
29 estimates have been prepared by, and the work executed under the
30 supervision of, a professional engineer, professional land surveyor
31 or registered architect.

32 ~~[2-]~~ (b) The provisions of this ~~[section]~~ *subsection* do not ~~[]~~
33 ~~—(a) Apply]~~ *apply* to any public work wherein the expenditure for
34 the complete project of which the work is a part does not exceed
35 \$35,000 ~~[]~~

36 ~~—(b)]~~ *if the public officer responsible for the management of the*
37 *public works of the State or political subdivision, as applicable,*
38 *prepares a signed attestation before the design of the public work*
39 *is commenced regarding the decision of the State or political*
40 *subdivision to prepare the maps, plans, specifications, reports and*
41 *estimates for the public work itself. An attestation prepared*
42 *pursuant to this paragraph:*

43 (1) *Must set forth:*

44 (I) *The estimated cost of the preparation of the maps,*
45 *plans, specifications, reports and estimates for the public work;*



1 (II) *A general statement as to why the State or political*
2 *subdivision has decided to prepare the maps, plans, specifications,*
3 *reports and estimates for the public work itself; and*

4 (III) *A general statement that the maps, plans,*
5 *specifications, reports and estimates for the public work will*
6 *adhere to the same quality and standards as would be required of*
7 *a professional engineer, professional land surveyor or registered*
8 *architect if the maps, plans, specifications, reports and estimates*
9 *for the public work had been prepared by a professional engineer,*
10 *professional land surveyor or registered architect; and*

11 (2) *Is a public record and must be maintained on file at the*
12 *appropriate administrative offices of the State or political*
13 *subdivision.*

14 (c) *The provisions of this subsection do not:*

15 (1) Include any maintenance work undertaken by the State of
16 Nevada or its political subdivisions.

17 ~~[(e)]~~ (2) Authorize a professional engineer, registered architect
18 or professional land surveyor to practice in violation of any of the
19 provisions of chapter 623 of NRS or this chapter.

20 ~~[(d)]~~ (3) Require the services of an architect registered pursuant
21 to the provisions of chapter 623 of NRS for the erection of buildings
22 or structures manufactured in an industrial plant, if those buildings
23 or structures meet the requirements of local building codes of the
24 jurisdiction in which they are being erected.

25 ~~[(3)]~~ (d) The selection of a professional engineer, professional
26 land surveyor or registered architect to perform services pursuant to
27 ~~[(subsection 1)]~~ *paragraph (a)* must be made on the basis of the
28 competence and qualifications of the engineer, land surveyor or
29 architect for the type of services to be performed and not on the
30 basis of competitive fees. If, after selection of the engineer, land
31 surveyor or architect, an agreement upon a fair and reasonable fee
32 cannot be reached with him or her, the public agency may terminate
33 negotiations and select another engineer, land surveyor or architect.

34 **Sec. 19.** This act becomes effective:

35 1. Upon passage and approval for the purpose of performing
36 any preparatory administrative tasks that are necessary to carry out
37 the provisions of this act; and

38 2. On July 1, 2011, for all other purposes.

