

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 the capital improvement plan of a local government to include certain information regarding expenditures to maintain, renovate and replace capital assets; authorizing certain local governments to expend certain taxes ad valorem to maintain, renovate and replace governmental buildings; 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:

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

Under existing law, a local government is required to prepare annually a 6-year capital improvement plan. (NRS 354.5945) **Section 4.5** of this bill requires such a plan to include a separate listing of expenditures to maintain, renovate and replace capital assets, and a comparison of those expenditures to the amount of depreciation of those assets.

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 5** of this bill authorizes each of those local governments that receives such a distribution to expend those tax receipts for projects to maintain, renovate and replace its buildings.

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.

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

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

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. NRS 354.5945 is hereby amended to read as follows:

354.5945 1. Except as otherwise provided in subsection ~~7.1~~ 8, each local government shall annually prepare, on a form prescribed by the Department of Taxation for use by local governments, a capital improvement plan for the fiscal year ending on June 30 of that year and the ensuing 5 fiscal years.

2. On or before August 1 of each year, each local government shall submit a copy of the capital improvement plan of the local government to the:

(a) Department of Taxation;

(b) Debt management commission of the county in which the local government is located; and

(c) Director of the Legislative Counsel Bureau.

3. Each local government shall file a copy of the capital improvement plan of the local government for public record and inspection by the public in the offices of:

(a) The clerk or secretary of the governing body; and

(b) The county clerk.

4. The total amount of the expenditures contained in the capital improvement plan of the local government for the next ensuing fiscal year must equal the total amount of expenditures for capital outlay set forth in the final budget of the local government for each fund listed in that budget.

5. The capital improvement plan must include the estimated or actual revenues and expenditures for each capital project and the estimated or actual date for completion of each capital project.

6. The capital improvement plan must reconcile the capital outlay in each fund in the final budget for the first year of the capital improvement plan to the final budget in the next ensuing fiscal year. The reconciliation must identify the minimum level of expenditure



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1 for items classified as capital assets in the final budget and the
2 minimum level of expenditure for items classified as capital projects
3 in the capital improvement plan. The reconciliation of capital outlay
4 items in the capital improvement plan must be presented on forms
5 created and distributed by the Department of Taxation.

6 7. *The capital improvement plan must include:*

7 (a) *A separate listing of estimated or actual expenditures for*
8 *each year for capital projects to maintain, renovate and replace*
9 *the capital assets of the local government; and*

10 (b) *A comparison of the total amount of those expenditures for*
11 *each year with the total amount of depreciation of the capital*
12 *assets of the local government for that year, as determined in*
13 *accordance with the schedules of depreciation used by the local*
14 *government in the preparation of its audited financial statements.*

15 8. Local governments that are exempt from the requirements of
16 the Local Government Budget and Finance Act pursuant to
17 subsection 1 of NRS 354.475 are not required to file a capital
18 improvement plan.

19 **Sec. 5.** NRS 354.598155 is hereby amended to read as
20 follows:

21 354.598155 1. Each local government that receives a portion
22 of the revenue from the tax levied pursuant to the provisions of NRS
23 354.59815 shall establish a special ad valorem capital projects fund
24 and shall deposit all revenue received pursuant to the provisions of
25 NRS 354.59815 in that fund. All interest and income earned on the
26 money in the fund must also be deposited in the fund.

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

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

30 (b) ~~[(The)]~~ *In a county:*

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

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

35 (I) *The maintenance, renovation and replacement of*
36 *governmental buildings; and*

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

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

41 3. Money may be retained in the fund for not more than 10
42 years to allow the funding of projects without the issuance of bonds
43 or other obligations. For the purpose of determining the length of
44 time a deposit of money has been retained in the fund, all money



1 withdrawn from the fund shall be deemed to be taken on a first-in,
2 first-out basis.

3 4. The annual budget and audit report of each local government
4 must specifically identify this fund and must indicate in detail the
5 projects that have been funded with money from the fund. Any
6 planned accumulation of the money in the fund must also be
7 specifically identified.

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

9 354.6015 1. Except as otherwise provided in subsection 3,
10 the governing board of a local government shall:

11 (a) Submit electronically a fiscal report of the local government
12 to the Department of Taxation *and the Commission on Economic*
13 *Development* in accordance with the requirements prescribed by the
14 Committee on Local Government Finance pursuant to subsection 2;
15 and

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

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

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

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

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

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

43 3. The Committee on Local Government Finance may
44 establish, by regulation, an exception to the requirement that a fiscal
45 report be submitted to the Department of Taxation *and Commission*



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

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

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

16 *1. Notwithstanding any other statutory provision to the*
17 *contrary, the county treasurer of each county whose population is*
18 *100,000 or more and in which a commission has been created*
19 *pursuant to this chapter shall distribute quarterly to that*
20 *commission, from the proceeds of the taxes ad valorem levied by*
21 *that county for the operating expenses of the county, the amount*
22 *of those proceeds attributable to the levy of those taxes on all*
23 *taxable property in the county at the rate of 2 cents per \$100 of*
24 *assessed valuation.*

25 *2. The proceeds distributed by the county treasurer of a*
26 *county pursuant to this section must be expended for projects in*
27 *the county in accordance with the provisions of this chapter and*
28 *chapter 373 of NRS.*

29 *3. For the purposes of NRS 354.59811, the amount of the*
30 *proceeds distributed by the county treasurer of a county pursuant*
31 *to this section shall be deemed to constitute revenue received by*
32 *the county.*

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

34 338.1386 *1. The Legislature hereby finds and declares that*
35 *it is in the best interest of the State for a public body to use private*
36 *sector services for the performance of a public work, whenever*
37 *possible, while maintaining an appropriate administrative,*
38 *management and oversight role on the public work.*

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

41 ~~(1)~~ *(a) Award a contract for the completion of the public work*
42 *to a properly licensed contractor in accordance with NRS*
43 *338.13862; or*

44 ~~(2)~~ *(b) Perform the public work itself in accordance with*
45 *NRS 338.13864.*



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

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

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

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

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

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

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

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

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

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

(b) The amount of the contract awarded;

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

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

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

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

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

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

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

338.13864 1. If the State or a local government proposes to perform a public work itself in accordance with *paragraph (b) of* subsection 2 of NRS 338.1386, the public officer responsible for the



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1 management of the public works of the State or the local
2 government, as applicable, must, if the estimated cost of the public
3 work is more than \$25,000 but not more than \$100,000 and before
4 work on the public work is commenced, prepare a signed attestation
5 regarding the decision of the State or the local government to
6 perform the public work itself.

7 2. An attestation prepared pursuant to subsection 1:

8 (a) Must set forth:

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

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

12 (3) A general statement that the public work will adhere to
13 the same quality and standards as would be required of a properly
14 licensed contractor if the public work had been awarded to a
15 properly licensed contractor; and

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

18 **Sec. 11.** NRS 338.1442 is hereby amended to read as follows:

19 338.1442 *1. The Legislature hereby finds and declares that*
20 *it is in the best interest of the State for a public body to use private*
21 *sector services for the performance of a public work, whenever*
22 *possible, while maintaining an appropriate administrative,*
23 *management and oversight role on the public work.*

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

26 ~~H~~ (a) Award a contract for the completion of the public work
27 to a properly licensed contractor in accordance with NRS 338.1444;
28 or

29 ~~I2~~ (b) Perform the public work itself in accordance with
30 NRS 338.1446.

31 **Sec. 12.** NRS 338.1444 is hereby amended to read as follows:

32 338.1444 1. Before a local government awards a contract for
33 the completion of a public work in accordance with *paragraph (a)*
34 *of* subsection ~~H~~ 2 of NRS 338.1442, the local government must:

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

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

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

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

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



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

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

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

(b) The amount of the contract awarded;

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

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

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

5. The provisions of this section do not relieve a local government from the duty to award the contract for the public work to a bidder who is the lowest responsive and responsible bidder if bids are required to be solicited from more than one properly licensed contractor pursuant to subsection 1.

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

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

2. An attestation prepared pursuant to subsection 1:

(a) Must set forth:

(1) The estimated cost of the public work;

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

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

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

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

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



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

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

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

(b) 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 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;



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(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.

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

6. Except for:

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

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

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

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

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

➔ all bonds and other securities issued pursuant to the provisions of this chapter must be payable solely from the proceeds of fuel taxes collected by or remitted to the county pursuant to chapter 365 of NRS, as supplemented by this chapter. ~~Receipts~~ *Distributions made to the commission in the county pursuant to section 7 of this act and receipts* of the taxes levied in NRS 365.180 and 365.190 and pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 373.065 and paragraphs (a) and (b) of subsection 1 of NRS 373.066 may be used by the county for the payment of securities issued pursuant to the provisions of this chapter and may be pledged therefor. If during any period any securities payable from these tax proceeds are outstanding, the tax receipts must not be used directly for the construction, maintenance



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1 and repair of any streets, roads or other highways nor for any
2 purchase of equipment therefor, and the receipts of the tax levied in
3 NRS 365.190 must not be apportioned pursuant to subsection 2 of
4 NRS 365.560 unless, at any time the tax receipts are so apportioned,
5 provision has been made in a timely manner for the payment of such
6 outstanding securities as to the principal of, any prior redemption
7 premiums due in connection with, and the interest on the securities
8 as they become due, as provided in the securities, the ordinance
9 authorizing their issuance and any other instrument appertaining to
10 the securities.

11 7. The ordinance authorizing the issuance of any bond or other
12 revenue security under this section must describe the purpose for
13 which it is issued at least in general terms and may describe the
14 purpose in detail. This section does not require the purpose so stated
15 to be set forth in the detail in which the project approved by the
16 commission pursuant to subsection 2 of NRS 373.140 is stated, or
17 prevent the modification by the board of details as to the purpose
18 stated in the ordinance authorizing the issuance of any bond or other
19 security after its issuance, subject to approval by the commission of
20 the project as so modified.

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

22 408.133 1. The Board shall adopt a plan for measuring the
23 performance of the Department, which must include separate sets of
24 performance measurements for each division of the Department and
25 for the Department as a whole.

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

27 (a) Prepare a report, based upon the relevant performance
28 measurements adopted pursuant to subsection 1, on the level of
29 achievement of each division of the Department and of the
30 Department as a whole during the immediately preceding fiscal
31 year. The report must include a discussion of:

32 (1) The goals and objectives of the Department, and the
33 current status of the Department in relation to meeting those goals
34 and objectives;

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

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

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

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

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



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

(II) 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 for the construction of works or improvements of the Department; and

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

(b) Submit the report to:

(1) The Board;

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

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

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

408.323 1. *The Legislature hereby finds and declares that it is in the best interest of the State for the Department to use private sector services for the performance of a work or improvement, whenever possible, while maintaining an appropriate administrative, management and oversight role on the work or improvement.*

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

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

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

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

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

~~[(H)]~~ (a) The State of Nevada or any of its political subdivisions, including a county, city or town, shall not engage in any public work requiring the practice of professional engineering or land



1 surveying, unless the maps, plans, specifications, reports and
2 estimates have been prepared by, and the work executed under the
3 supervision of, a professional engineer, professional land surveyor
4 or registered architect.

5 ~~[2-]~~ (b) The provisions of this ~~[section]~~ *subsection* do not ~~[:~~
6 ~~—(a) Apply]~~ *apply* to any public work wherein the expenditure for
7 the complete project of which the work is a part does not exceed
8 \$35,000 ~~[:~~

9 ~~—(b)]~~ *if the public officer responsible for the management of the*
10 *public works of the State or political subdivision, as applicable,*
11 *prepares a signed attestation before the design of the public work*
12 *is commenced regarding the decision of the State or political*
13 *subdivision to prepare the maps, plans, specifications, reports and*
14 *estimates for the public work itself. An attestation prepared*
15 *pursuant to this paragraph:*

16 (1) *Must set forth:*

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

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

22 (III) *A general statement that the maps, plans,*
23 *specifications, reports and estimates for the public work will*
24 *adhere to the same quality and standards as would be required of*
25 *a professional engineer, professional land surveyor or registered*
26 *architect if the maps, plans, specifications, reports and estimates*
27 *for the public work had been prepared by a professional engineer,*
28 *professional land surveyor or registered architect; and*

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

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

33 (I) Include any maintenance work undertaken by the State of
34 Nevada or its political subdivisions.

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

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

43 ~~[3-]~~ (d) The selection of a professional engineer, professional
44 land surveyor or registered architect to perform services pursuant to
45 ~~[subsection-1]~~ *paragraph (a)* must be made on the basis of the



- 1 competence and qualifications of the engineer, land surveyor or
2 architect for the type of services to be performed and not on the
3 basis of competitive fees. If, after selection of the engineer, land
4 surveyor or architect, an agreement upon a fair and reasonable fee
5 cannot be reached with him or her, the public agency may terminate
6 negotiations and select another engineer, land surveyor or architect.
- 7 **Sec. 19.** This act becomes effective:
- 8 1. Upon passage and approval for the purpose of performing
9 any preparatory administrative tasks that are necessary to carry out
10 the provisions of this act; and
- 11 2. On July 1, 2011, for all other purposes.

