

ASSEMBLY BILL NO. 263—ASSEMBLYMEN NEAL; AIZLEY,
BUSTAMANTE ADAMS, FLORES, FRIERSON, HORNE AND
MUNFORD

MARCH 15, 2013

Referred to Committee on Transportation

SUMMARY—Revises provisions governing bidding on certain
highway projects. (BDR 35-792)

FISCAL NOTE: Effect on Local Government: No.
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 highways; revising provisions relating to the
experience and financial ability of a prospective bidder on
a highway project; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

1 Existing law requires a person who proposes to bid on a contract for a
2 transportation project to provide the Director of the Department of Transportation
3 with information on the person's financial ability and experience in performing
4 similar public works. The Director may refuse to furnish a person with the
5 necessary forms and information to submit a bid on the contract if the Director
6 finds the person insufficiently qualified. (NRS 408.333) **Section 1** of this bill
7 requires the Director to consider the person's comparable experience rather than
8 considering only such information relating to transportation projects. **Section 1.5** of
9 this bill requires persons wishing to bid on certain smaller transportation projects to
10 submit certain information to the Director before the Director furnishes the person
11 with the necessary forms and information to submit a bid on the project.

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

1 **Section 1.** NRS 408.333 is hereby amended to read as follows:
2 408.333 Except as otherwise provided in NRS *408.367 or*
3 408.3875 to 408.3887, inclusive:
4 1. Before furnishing any person proposing to bid on any
5 advertised work with the plans and specifications for such work, the



1 Director shall require from the person a statement, verified under
2 oath, in the form of answers to questions contained in a standard
3 form of questionnaire and financial statement, which must include a
4 complete statement of the person's financial ability and experience
5 in performing public work ~~{of a similar nature.}~~ *and any other*
6 *comparable experience.*

7 2. Such statements must be filed with the Director in ample
8 time to permit the Department to verify the information contained
9 therein in advance of furnishing proposal forms, plans and
10 specifications to any person proposing to bid on the advertised
11 public work, in accordance with the regulations of the Department.

12 3. Whenever the Director is not satisfied with the sufficiency
13 of the answers contained in the questionnaire and financial
14 statement, the Director may refuse to furnish the person with plans
15 and specifications and the official proposal forms on the advertised
16 project. If the Director determines that the person has, within the
17 preceding year, breached a contract for a public work for which the
18 cost exceeds \$25,000,000 by failing to comply with a requirement
19 of paragraphs (a) to (e), inclusive, of subsection 1 of NRS 338.0117,
20 the Director shall refuse to furnish the person with plans and
21 specifications and the official proposal forms on the advertised
22 project. Any bid of any person to whom plans and specifications and
23 the official proposal forms have not been issued in accordance with
24 this section must be disregarded, and the certified check, cash or
25 undertaking of such a bidder returned forthwith.

26 4. Any person who is disqualified by the Director, in
27 accordance with the provisions of this section, may request, in
28 writing, a hearing before the Director and present again the person's
29 check, cash or undertaking and such further evidence with respect to
30 the person's financial responsibility, organization, plant and
31 equipment, or experience, as might tend to justify, in his or her
32 opinion, issuance to him or her of the plans and specifications for
33 the work.

34 5. Such a person may appeal the decision of the Director to the
35 Board no later than 5 days before the opening of the bids on the
36 project. If the appeal is sustained by the Board, the person must be
37 granted the rights and privileges of all other bidders.

38 **Sec. 1.5.** NRS 408.367 is hereby amended to read as follows:

39 408.367 1. With the approval of the Board, the Director may
40 receive informal bids and award contracts for highway construction,
41 reconstruction, improvements, and maintenance on projects
42 estimated to cost not in excess of \$250,000.

43 2. *Before furnishing any person proposing to bid on any*
44 *solicited work with the plans and specifications for such work, the*
45 *Director shall require from the person a statement, verified under*



1 *oath, in the form of answers to questions contained in a standard*
2 *form of questionnaire, which must include information*
3 *describing:*

4 *(a) The geographical regions of this State in which the person*
5 *is willing to perform the public work;*

6 *(b) The type of license and classification, if any, held by the*
7 *person; and*

8 *(c) The business license held by the person and its expiration*
9 *date.*

10 **3.** Before awarding a contract pursuant to subsection 1, the
11 Director must:

12 (a) If the estimated cost of the project is \$50,000 or less, solicit a
13 bid from at least one properly licensed contractor; and

14 (b) If the estimated cost of the project is more than \$50,000 but
15 not more than \$250,000, solicit bids from at least three properly
16 licensed contractors.

17 ~~13-1~~ **4.** Any bids received in response to a solicitation for bids
18 made pursuant to subsection ~~12-1~~ **3** may be rejected if the Director
19 determines that:

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

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

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

24 ~~14-1~~ **5.** At least once each quarter, the Director shall prepare a
25 report detailing, for each project for which a contract for its
26 completion is awarded pursuant to paragraph (b) of subsection ~~12-1~~
27 **3**, if any:

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

30 (b) The amount of the contract awarded;

31 (c) A brief description of the project; and

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

33 ~~15-1~~ **6.** A report prepared pursuant to subsection ~~14-1~~ **5** is a
34 public record and must be maintained on file at the principal offices
35 of the Department.

36 ~~16-1~~ **7.** Except as otherwise provided in NRS 408.354,
37 contracts awarded pursuant to the provisions of this section must be
38 accompanied by bonds and conditioned and executed in the name of
39 the State of Nevada, and must be signed by the Director under the
40 seal of the Department, and by the contracting party or parties. The
41 form and legality of those contracts must be approved by the
42 Attorney General or Chief Counsel of the Department.

43 **Sec. 2.** This act becomes effective on July 1, 2013.

