

Amendment No. 326

Assembly Amendment to Assembly Bill No. 263

(BDR 35-792)

Proposed by: Assembly Committee on Transportation**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

AAK/WLK



Date: 4/16/2013

A.B. No. 263—Revises provisions governing bidding on certain highway projects.
(BDR 35-792)



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:

Existing law requires a person who proposes to bid on a contract for a transportation project to provide the Director of the Department of Transportation with information on the person's financial ability and experience in performing similar public works. The Director may refuse to furnish a person with the necessary forms and information to submit a bid on the contract if the Director finds the person insufficiently qualified. (NRS 408.333) ~~If the Director considers a person's past performance on contracts or volume of business in determining whether the person is qualified to bid on a transportation project, Section 1 of this bill requires the Director to consider the person's past performance and volume of business on all contracts for public works and any other comparable experience rather than considering only such information relating to transportation projects. Section 1.5 of this bill requires persons wishing to bid on certain smaller transportation projects to submit certain information to the Director before the Director furnishes the person 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:

Section 1. NRS 408.333 is hereby amended to read as follows:

408.333 Except as otherwise provided in NRS 408.367 or 408.3875 to 408.3887, inclusive:

1. Before furnishing any person proposing to bid on any advertised work with the plans and specifications for such work, the Director shall require from the person a statement, verified under oath, in the form of answers to questions contained in a standard form of questionnaire and financial statement, which must include a complete statement of the person's financial ability and experience in performing public work ~~if of a similar nature. If the Director requests or~~

~~considers information concerning the person's past performance on contracts or volume of business, the Director may not limit his or her request or consideration to such information concerning contracts for transportation projects but must request and consider such information concerning all contracts for public works and any other comparable experience.~~

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

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

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

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

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

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

2. Before furnishing any person proposing to bid on any solicited work with the plans and specifications for such work, the Director shall require from the person a statement, verified under oath, in the form of answers to questions contained in a standard form of questionnaire, which must include information describing:

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

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

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

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

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

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

~~3.4~~ 4. Any bids received in response to a solicitation for bids made pursuant to subsection ~~1.4~~ 3 may be rejected if the Director determines that:

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

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

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

5 ~~44~~ 5. At least once each quarter, the Director shall prepare a report detailing,
6 for each project for which a contract for its completion is awarded pursuant to
7 paragraph (b) of subsection ~~42~~ 3, if any:

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

9 (b) The amount of the contract awarded;

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

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

12 ~~54~~ 6. A report prepared pursuant to subsection ~~44~~ 5 is a public record and
13 must be maintained on file at the principal offices of the Department.

14 ~~46~~ 7. Except as otherwise provided in NRS 408.354, contracts awarded
15 pursuant to the provisions of this section must be accompanied by bonds and
16 conditioned and executed in the name of the State of Nevada, and must be signed
17 by the Director under the seal of the Department, and by the contracting party or
18 parties. The form and legality of those contracts must be approved by the Attorney
19 General or Chief Counsel of the Department.

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