

## Amendment No. 280

Senate Amendment to Senate Bill No. 108

(BDR 28-598)

**Proposed by:** Senate Committee on Government Affairs**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

DLJ/MSM



Date: 4/7/2015

S.B. No. 108—Revises provisions relating to public works projects. (BDR 28-598)



## SENATE BILL NO. 108—SENATOR SETTELMAYER

PREFILED FEBRUARY 1, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works projects. (BDR 28-598)

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 public works; raising the estimated cost thresholds at or above which ~~certain~~ **prevailing wage** requirements apply to public works projects; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law ~~sets forth general provisions applicable to public works for which the cost is in excess of \$100,000, including provisions requiring: (1) reports by the public body undertaking the public work to the Labor Commissioner; (2) enforcement of certain provisions regarding public works contracts by the Labor Commissioner, with prosecution of any violations by the Attorney General; (3);~~ **requires** the payment of prevailing wages to employees on ~~that~~ **a public work** ~~;~~ and (4) the advertisement in certain publications for bids on the public work ~~;~~ **under certain circumstances, including the threshold of the estimated cost of the public work.** (NRS ~~338.013, 338.015, 338.080, 338.135, 338.143~~) The prevailing wage requirements and certain reporting requirements also apply to a redevelopment project if a redevelopment agency provides financial incentives to the developer with a value of more than \$100,000. (NRS 279.500, 279.608) Existing law also sets forth certain provisions applicable to public works for which the cost is less than \$100,000, including a provision requiring a preference in bidding for certain businesses owned by a veteran with a service connected disability, and provisions authorizing a state or local government to: (1) perform the work itself; or (2) solicit bids from three licensed contractors if the estimated cost of the public work is more than \$25,000 but not more than \$100,000, or solicit bids from at least one licensed contractor if the estimated cost of the public work is \$25,000 or less. (NRS 338.1284, 338.1286, 338.12862, 338.12864, 338.1442, 338.1444, 338.1446) **This Section 3 of this bill changes the \$100,000 threshold to \$1,000,000, and in several sections, a technical correction is made clarifying that if the relevant work will cost exactly \$1,000,000, the requirements for those public works estimated to cost in excess of \$1,000,000 will apply.** **\$500,000. Existing law requires the Office of Economic Development to establish goals for the submission of bids or proposals by local emerging small businesses for contracts for public works of this State for which the estimated cost is less than \$100,000 and for the awarding of those contracts to emerging small businesses. (NRS 231.1407) Section 18 of this bill raises that threshold from \$100,000 to \$500,000.**

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

**Section 1.** ~~NRS 338.018 is hereby amended to read as follows:~~

~~338.018 The provisions of NRS 338.012 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost [exceeds \$100,000] is \$1,000,000 or more even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.] (Deleted by amendment.)~~

**Sec. 2.** ~~NRS 338.075 is hereby amended to read as follows:~~

~~338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost [exceeds \$100,000] is \$1,000,000 or more even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.] (Deleted by amendment.)~~

**Sec. 3.** NRS 338.080 is hereby amended to read as follows:

338.080 None of the provisions of NRS 338.020 to 338.090, inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.

2. Apprentices recorded under the provisions of chapter 610 of NRS.

3. Any contract for a public work whose cost is less than ~~[\$100,000, \$1,000,000,] \$500,000.~~ A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below ~~[\$100,000, \$1,000,000,] \$500,000.~~

**Sec. 4.** ~~NRS 338.13844 is hereby amended to read as follows:~~

~~338.13844 1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is [\$100,000 or] less [.] than \$1,000,000, as governed by NRS 338.12862, if a local business owned by a veteran with a service-connected disability submits a bid, the bid shall be deemed to be 5 percent lower than the bid actually submitted.~~

~~2. The preference described in subsection 1 may not be combined with any other preference.] (Deleted by amendment.)~~

**Sec. 5.** ~~NRS 338.1385 is hereby amended to read as follows:~~

~~338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1272 shall not:~~

~~(a) Commence a public work for which the estimated cost [exceeds \$100,000] is \$1,000,000 or more unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.~~

~~(b) Commence a public work for which the estimated cost is [\$100,000 or] less than \$1,000,000 unless it complies with the provisions of NRS 338.1286, 338.12862 and 338.12864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.~~

~~(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).~~

~~2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.~~

~~4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~5. Except as otherwise provided in subsection 6 and NRS 338.1380, a public body or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;~~

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

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

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

~~7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the lowest responsive and responsible bidder.~~

~~8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:~~

~~(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.~~

~~9. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.223 or 408.227;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1982 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.1695, inclusive.] (Deleted by amendment.)~~

**Sec. 6.** ~~[NRS 338.1386 is hereby amended to read as follows:~~

~~338.1386. If the estimated cost of a public work is [\$100,000 or] less [.] than \$1,000,000, this State or a local government shall:~~

~~1. Award a contract for the completion of the public work to a properly licensed contractor in accordance with NRS 338.13862; or~~

~~2. Perform the public work itself in accordance with NRS 338.13864.] (Deleted by amendment.)~~

**Sec. 7.** ~~[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 subsection 1 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] less than [\$100,000.] \$1,000,000, 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.] (Deleted by amendment.)~~

1       **Sec. 8.** ~~NRS 338.12864 is hereby amended to read as follows:~~

2       ~~338.12864 1. If the State or a local government proposes to perform a~~  
3 ~~public work itself in accordance with subsection 2 of NRS 338.1286, the public~~  
4 ~~officer responsible for the management of the public works of the State or the local~~  
5 ~~government, as applicable, must, if the estimated cost of the public work is more~~  
6 ~~than \$25,000 but [not more] less than \$100,000] \$1,000,000 and before work on~~  
7 ~~the public work is commenced, prepare a signed attestation regarding the decision~~  
8 ~~of the State or the local government to perform the public work itself.~~

9       ~~2. An attestation prepared pursuant to subsection 1:~~

10       ~~(a) Must set forth:~~

11       ~~(1) The estimated cost of the public work;~~

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

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

17       ~~(b) Is a public record and must be maintained on file at the administrative~~  
18 ~~offices of the applicable public body.] (Deleted by amendment.)~~

19       **Sec. 9.** ~~NRS 338.1289 is hereby amended to read as follows:~~

20       ~~338.1289 1. Except as otherwise provided in subsection 10 and NRS~~  
21 ~~338.1285, 338.1286 and 338.12864, a public body or its authorized representative~~  
22 ~~shall award a contract for a public work for which the estimated cost [exceeds~~  
23 ~~\$250,000] is \$1,150,000 or more to the contractor who submits the best bid.~~

24       ~~2. Except as otherwise provided in subsection 10 or limited by subsection 11,~~  
25 ~~the lowest bid that is:~~

26       ~~(a) Submitted by a responsive and responsible contractor who:~~

27       ~~(1) Has been determined by the public body to be a qualified bidder~~  
28 ~~pursuant to NRS 338.1279 or 338.1282;~~

29       ~~(2) At the time the contractor submits his or her bid, provides a valid~~  
30 ~~certificate of eligibility to receive a preference in bidding on public works issued to~~  
31 ~~the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and~~

32       ~~(3) Within 2 hours after the completion of the opening of the bids by the~~  
33 ~~public body or its authorized representative, submits a signed affidavit that meets~~  
34 ~~the requirements of subsection 1 of NRS 338.0117; and~~

35       ~~(b) Not more than 5 percent higher than the bid submitted by the lowest~~  
36 ~~responsive and responsible bidder who:~~

37       ~~(1) Does not provide, at the time he or she submits the bid, a valid~~  
38 ~~certificate of eligibility to receive a preference in bidding on public works issued to~~  
39 ~~him or her by the State Contractors' Board pursuant to subsection 3 or 4; or~~

40       ~~(2) Does not submit, within 2 hours after the completion of the opening of~~  
41 ~~the bids by the public body or its authorized representative, a signed affidavit~~  
42 ~~certifying that he or she will comply with the requirements of paragraphs (a) to (d),~~  
43 ~~inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract;~~

44       ~~→ shall be deemed to be the best bid for the purposes of this section.~~

45       ~~3. The State Contractors' Board shall issue a certificate of eligibility to~~  
46 ~~receive a preference in bidding on public works to a general contractor who is~~  
47 ~~licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board~~  
48 ~~an affidavit from a certified public accountant setting forth that the general~~  
49 ~~contractor has, while licensed as a general contractor in this State:~~

50       ~~(a) Paid directly, on his or her own behalf:~~

51       ~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377~~  
52 ~~of NRS on materials used for construction in this State, including, without~~  
53 ~~limitation, construction that is undertaken or carried out on land within the~~

~~boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~(a) Paid directly, on his or her own behalf:~~

~~(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~(a) Sales and use taxes and governmental services taxes that were paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~(b) Sales and use taxes that were paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.~~

~~7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:~~

~~(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or~~

~~(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.~~

~~10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

~~13. A person who submitted a bid on the public work or an entity who believes that the contractor who was awarded the contract for the public work wrongfully holds a certificate of eligibility to receive a preference in bidding on public works may challenge the validity of the certificate by filing a written objection with the public body to which the contractor has submitted a bid on a contract for the construction of a public work. A written objection authorized pursuant to this subsection must:~~

~~(a) Set forth proof or substantiating evidence to support the belief of the person or entity that the contractor wrongfully holds a certificate of eligibility to receive a preference in bidding on public works; and~~

~~(b) Be filed with the public body not later than 3 business days after the opening of the bids by the public body or its authorized representative.~~

~~14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the~~

public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly. (Deleted by amendment.)

**Sec. 10.** ~~NRS 338.142 is hereby amended to read as follows:~~

~~338.142 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:~~

~~(a) Commence a public work for which the estimated cost exceeds \$100,000 is \$1,000,000 or more unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.~~

~~(b) Commence a public work for which the estimated cost is \$100,000 or less than \$1,000,000 unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.~~

~~(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).~~

~~2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.~~

~~3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.~~

~~4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.~~

~~5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:~~

~~(a) The bidder is not responsive or responsible;~~

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

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

~~6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:~~

~~(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;~~

~~(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);~~

~~(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and~~

~~(d) The contract is awarded to the lowest responsive and responsible bidder.~~

~~7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response~~

to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

~~(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;~~

~~(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;~~

~~(c) An estimate of the cost of administrative support for the persons assigned to the public work;~~

~~(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and~~

~~(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.~~

~~8. This section does not apply to:~~

~~(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;~~

~~(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.222 or 408.227;~~

~~(c) Normal maintenance of the property of a school district;~~

~~(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1982 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;~~

~~(e) The design and construction of a public work for which a public body contracts with a design build team pursuant to NRS 338.1711 to 338.1727, inclusive;~~

~~(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.1685 to 338.1695, inclusive.] (Deleted by amendment.)~~

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

~~338.1442 If the estimated cost of a public work is [\$100,000 or] less [,] than \$1,000,000, a local government shall:~~

~~1. Award a contract for the completion of the public work to a properly licensed contractor in accordance with NRS 338.1444; or~~

~~2. Perform the public work itself in accordance with NRS 338.1446.] (Deleted by amendment.)~~

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

~~338.1444 1. Before a local government awards a contract for the completion of a public work in accordance with subsection 1 of NRS 338.1442, the local government must:~~

~~(a) If the estimated cost of the public work is more than \$25,000 but [not more] less than [\$100,000,] \$1,000,000, 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 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, 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.~~ **(Deleted by amendment.)**

**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 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] less than [\$100,000] \$1,000,000 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.~~ **(Deleted by amendment.)**

**Sec. 14.** ~~NRS 338.147 is hereby amended to read as follows:~~  
~~338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446, a local government or its authorized representative shall award a contract for a public work for which the estimated cost [exceeds \$250,000] is more than \$1,150,000 to the contractor who submits the best bid.~~  
~~2. Except as otherwise provided in subsection 10 or limited by subsection 11, the lowest bid that is:~~  
~~(a) Submitted by a contractor who:~~  
~~(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative;~~  
~~(2) At the time the contractor submits his or her bid, provides a valid certificate of eligibility to receive a preference in bidding on public works issued to the contractor by the State Contractors' Board pursuant to subsection 3 or 4; and~~  
~~(3) Within 2 hours after the completion of the opening of the bids by the local government or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and~~  
~~(b) Not more than 5 percent higher than the bid submitted by the lowest responsive and responsible bidder who:~~

~~(1) Does not provide, at the time he or she submits the bid, a valid certificate of eligibility to receive a preference in bidding on public works issued to him or her by the State Contractors' Board pursuant to subsection 2 or 4; or~~

~~(2) Does not submit, within 2 hours after the completion of the opening of the bids by the public body or its authorized representative, a signed affidavit certifying that he or she will comply with the requirements of paragraphs (a) to (d), inclusive, of subsection 1 of NRS 338.0117 for the duration of the contract; or shall be deemed to be the best bid for the purposes of this section.~~

~~2. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a general contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the general contractor has, while licensed as a general contractor in this State:~~

~~(a) Paid directly, on his or her own behalf:~~

~~(1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a general contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~4. The State Contractors' Board shall issue a certificate of eligibility to receive a preference in bidding on public works to a specialty contractor who is licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board an affidavit from a certified public accountant setting forth that the specialty contractor has, while licensed as a specialty contractor in this State:~~

~~(a) Paid directly, on his or her own behalf:~~

~~(1) The sales and use taxes pursuant to chapters 372, 374 and 377 of NRS on materials used for construction in this State, including, without limitation, construction that is undertaken or carried out on land within the boundaries of this State that is managed by the Federal Government or is on an Indian reservation or Indian colony, of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant;~~

~~(2) The governmental services tax imposed pursuant to chapter 371 of NRS on the vehicles used in the operation of his or her business in this State of not less than \$5,000 for each consecutive 12 month period for 60 months immediately preceding the submission of the affidavit from the certified public accountant; or~~

~~(3) Any combination of such sales and use taxes and governmental services tax; or~~

~~(b) Acquired, by purchase, inheritance, gift or transfer through a stock option plan, all the assets and liabilities of a viable, operating construction firm that possesses a:~~

~~(1) License as a specialty contractor pursuant to the provisions of chapter 624 of NRS; and~~

~~(2) Certificate of eligibility to receive a preference in bidding on public works.~~

~~5. For the purposes of complying with the requirements set forth in paragraph (a) of subsection 3 and paragraph (a) of subsection 4, a contractor shall be deemed to have paid:~~

~~(a) Sales and use taxes and governmental services taxes paid in this State by an affiliate or parent company of the contractor, if the affiliate or parent company is also a general contractor or specialty contractor, as applicable; and~~

~~(b) Sales and use taxes paid in this State by a joint venture in which the contractor is a participant, in proportion to the amount of interest the contractor has in the joint venture.~~

~~6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.~~

~~7. A contractor who fails to submit an affidavit to the Board pursuant to subsection 6 ceases to be eligible to receive a preference in bidding on public works unless the contractor reapplies for and receives a certificate of eligibility pursuant to subsection 3 or 4, as applicable.~~

~~8. If a contractor holds more than one contractor's license, the contractor must submit a separate application for each license pursuant to which the contractor wishes to qualify for a preference in bidding. Upon issuance, the certificate of eligibility to receive a preference in bidding on public works becomes part of the contractor's license for which the contractor submitted the application.~~

~~9. If a contractor who applies to the State Contractors' Board for a certificate of eligibility to receive a preference in bidding on public works:~~

~~(a) Submits false information to the Board regarding the required payment of taxes, the contractor is not eligible to receive a preference in bidding on public works for a period of 5 years after the date on which the Board becomes aware of the submission of the false information; or~~

~~(b) Is found by the Board to have, within the preceding 5 years, materially breached a contract for a public work for which the cost exceeds \$5,000,000, the contractor is not eligible to receive a preference in bidding on public works.~~

~~10. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular public work because of the provisions of subsection 2, those provisions do not apply insofar as their application would preclude or reduce federal assistance for that work.~~

~~11. If a bid is submitted by two or more contractors as a joint venture or by one of them as a joint venturer, the bid may receive a preference in bidding only if both or all of the joint venturers separately meet the requirements of subsection 2.~~

~~12. The State Contractors' Board shall adopt regulations and may assess reasonable fees relating to the certification of contractors for a preference in bidding on public works.~~

1 ~~13. A person who submitted a bid on the public work or an entity who~~  
2 ~~believes that the contractor who was awarded the contract for the public work~~  
3 ~~wrongfully holds a certificate of eligibility to receive a preference in bidding on~~  
4 ~~public works may challenge the validity of the certificate by filing a written~~  
5 ~~objection with the local government to which the contractor has submitted a bid on~~  
6 ~~a contract for the construction of a public work. A written objection authorized~~  
7 ~~pursuant to this subsection must:~~

8 ~~(a) Set forth proof or substantiating evidence to support the belief of the person~~  
9 ~~or entity that the contractor wrongfully holds a certificate of eligibility to receive a~~  
10 ~~preference in bidding on public works; and~~

11 ~~(b) Be filed with the local government not later than 2 business days after the~~  
12 ~~opening of the bids by the local government or its authorized representative.~~

13 ~~14. If a local government receives a written objection pursuant to subsection~~  
14 ~~13, the local government shall determine whether the objection is accompanied by~~  
15 ~~the proof or substantiating evidence required pursuant to paragraph (a) of that~~  
16 ~~subsection. If the local government determines that the objection is not~~  
17 ~~accompanied by the required proof or substantiating evidence, the local government~~  
18 ~~shall dismiss the objection and the local government or its authorized representative~~  
19 ~~may proceed immediately to award the contract. If the local government determines~~  
20 ~~that the objection is accompanied by the required proof or substantiating evidence,~~  
21 ~~the local government shall determine whether the contractor qualifies for the~~  
22 ~~certificate pursuant to the provisions of this section and the local government or its~~  
23 ~~authorized representative may proceed to award the contract accordingly.] (Deleted~~  
24 ~~by amendment.)~~

25 **Sec. 15. [NRS 338.1711 is hereby amended to read as follows:]**

26 ~~338.1711 1. Except as otherwise provided in this section and NRS 338.161~~  
27 ~~to 338.16995, inclusive, a public body shall contract with a prime contractor for the~~  
28 ~~construction of a public work for which the estimated cost [exceeds \$100,000.] is~~  
29 ~~**\$1,000,000 or more.**~~

30 ~~2. A public body may contract with a design build team for the design and~~  
31 ~~construction of a public work that is a discrete project if the public body has~~  
32 ~~approved the use of a design build team for the design and construction of the~~  
33 ~~public work and the public work has an estimated cost which exceeds \$5,000,000.]~~  
34 ~~**(Deleted by amendment.)**~~

35 **Sec. 16. [NRS 339.025 is hereby amended to read as follows:]**

36 ~~339.025 1. Before any contract, except one subject to the provisions of~~  
37 ~~chapter 408 of NRS, [exceeding \$100,000] for any project for the new construction,~~  
38 ~~repair or reconstruction of any public building or other public work or public~~  
39 ~~improvement of any contracting body **for which the estimated cost is \$1,000,000 or**~~  
40 ~~**more** is awarded to any contractor, the contractor shall furnish to the contracting~~  
41 ~~body the following bonds which become binding upon the award of the contract to~~  
42 ~~the contractor:~~

43 ~~(a) A performance bond in an amount to be fixed by the contracting body, but~~  
44 ~~not less than 50 percent of the contract amount, conditioned upon the faithful~~  
45 ~~performance of the contract in accordance with the plans, specifications and~~  
46 ~~conditions of the contract. The bond must be solely for the protection of the~~  
47 ~~contracting body which awarded the contract.~~

48 ~~(b) A payment bond in an amount to be fixed by the contracting body, but not~~  
49 ~~less than 50 percent of the contract amount. The bond must be solely for the~~  
50 ~~protection of claimants supplying labor or materials to the contractor to whom the~~  
51 ~~contract was awarded, or to any of his or her subcontractors, in the prosecution of~~  
52 ~~the work provided for in such contract.~~

~~2. If a general contractor has been awarded a contract, except one subject to the provisions of chapter 408 of NRS, by the State Public Works Division of the Department of Administration for any project for new construction, repair or reconstruction of any public building or other public work or public improvement, each of the subcontractors of the general contractor who will perform work on the contract that exceeds \$50,000 or 1 percent of the proposed project, whichever amount is greater, shall furnish a bond to the Division in an amount to be fixed by the Division.~~

~~2. Each of the bonds required pursuant to this section must be executed by one or more surety companies authorized to do business in the State of Nevada. If the contracting body is the State of Nevada or any officer, employee, board, bureau, commission, department, agency or institution thereof, the bonds must be payable to the State of Nevada. If the contracting body is other than one of those enumerated in this subsection, the bonds must be payable to the other contracting body.~~

~~4. Each of the bonds must be filed in the office of the contracting body which awarded the contract for which the bonds were given.~~

~~5. This section does not prohibit a contracting body from requiring bonds.~~  
**(Deleted by amendment.)**

**Sec. 17. [NRS 341.148 is hereby amended to read as follows:**

~~341.148 The Division shall advertise in a newspaper of general circulation in the State of Nevada for separate sealed bids for each construction project whose estimated cost is [more than \$100,000.] \$1,000,000 or more. Approved plans and specifications for the construction must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. The Division may accept bids on either the whole or a part of the construction, equipment and furnishings of a construction project and may let separate contracts for different and separate portions of any project, or a combination contract for structural, mechanical and electrical construction if savings will result to this State.]~~ **(Deleted by amendment.)**

**Sec. 18. NRS 231.1407 is hereby amended to read as follows:**

231.1407 1. The Office shall establish goals for:

(a) The submission of bids or proposals by local emerging small businesses for state purchasing contracts and for the awarding of those contracts to local emerging small businesses; and

(b) The submission of bids or proposals by local emerging small businesses for contracts for public works of this State for which the estimated cost is less than ~~\$100,000~~ ~~\$1,000,000~~ \$500,000 and for the awarding of those contracts to local emerging small businesses.

2. The Office shall encourage:

(a) Local governments to award local purchasing contracts and contracts for public works of the local government to local emerging small businesses;

(b) Local governments to establish goals for the awarding of local purchasing contracts and contracts for public works of the local government to local emerging small businesses; and

(c) Each local government in a county whose population is less than 100,000 to submit reports to the Office that are similar in nature and frequency to the reports required pursuant to NRS 332.201.

3. The Office, in cooperation with the Office of the Governor, shall establish an annual recognition program for the state agencies that meet the goals established pursuant to subsection 1.

1       **Sec. 19.** ~~NRS 279.500 is hereby amended to read as follows:~~  
2       ~~279.500 1. The provisions of NRS 338.010 to 338.090, inclusive, apply to~~  
3       ~~any contract for new construction, repair or reconstruction which is awarded on or~~  
4       ~~after October 1, 1991, by an agency for work to be done in a project.~~  
5       ~~2. If an agency:~~  
6       ~~(a) Provides property for development at less than the fair market value of the~~  
7       ~~property;~~  
8       ~~(b) Provides a loan to a small business pursuant to NRS 279.700 to 279.740,~~  
9       ~~inclusive; or~~  
10       ~~(c) Provides financial incentives to a developer with a value of [more than~~  
11       ~~\$100,000.] \$1,000,000 or more,~~  
12       ~~→ regardless of whether the project is publicly or privately owned, the agency must~~  
13       ~~provide in the loan agreement with the small business or the agreement with the~~  
14       ~~developer, as applicable, that the development project is subject to the provisions of~~  
15       ~~NRS 338.010 to 338.090, inclusive, to the same extent as if the agency had awarded~~  
16       ~~the contract for the project. This subsection applies only to the project covered by~~  
17       ~~the loan agreement between the agency and the small business or the agreement~~  
18       ~~between the agency and the developer, as applicable. This subsection does not~~  
19       ~~apply to future development of the property unless an additional loan, or additional~~  
20       ~~financial incentives with a value of [more than \$100,000.] \$1,000,000 or more, are~~  
21       ~~provided to the small business or developer, as applicable.]. (Deleted by~~  
22       ~~amendment.)~~

23       **Sec. 20.** ~~NRS 279.6098 is hereby amended to read as follows:~~  
24       ~~279.6098 1. Except as otherwise provided in subsection 2, a developer that~~  
25       ~~receives incentives from an agency for a redevelopment project shall, upon~~  
26       ~~completion of the project and upon request of the agency, report, in a form~~  
27       ~~prescribed by the agency, information relating to:~~  
28       ~~(a) Outreach efforts that the developer has utilized, including, without~~  
29       ~~limitation, information relating to job fairs, advertisements in publications that~~  
30       ~~reach residents of the areas described in NRS 279.6096 and utilization of~~  
31       ~~employment referral agencies;~~  
32       ~~(b) Training conducted for persons hired by the developer and contractors,~~  
33       ~~subcontractors, vendors and suppliers of the developer and the employers within the~~  
34       ~~redevelopment project; and~~  
35       ~~(c) The execution of the redevelopment project, including, without limitation,~~  
36       ~~plans and the scope of services.~~  
37       ~~2. If a developer receives incentives from an agency for a redevelopment~~  
38       ~~project with a value of [\$100,000 or] less [,] than \$1,000,000, the developer shall~~  
39       ~~use its best efforts to satisfy the reporting requirements described in subsection 1.~~  
40       ~~3. If the developer fails to comply with the requirements of this section:~~  
41       ~~(a) The agency may refuse to pay all or any portion of an incentive; and~~  
42       ~~(b) The agency may require the developer to repay any incentive already paid~~  
43       ~~to the developer.]. (Deleted by amendment.)~~

44       **Sec. 21.** 1. The amendatory provisions of this act do not apply to a  
45       ~~contract for a public work for other project of construction, reconstruction or~~  
46       ~~redevelopment] that is awarded before July 1, 2015.~~

47       2. As used in this section, "public work" has the meaning ascribed to it in  
48       NRS 338.010.

49       **Sec. 22.** This act becomes effective on July 1, 2015.