

Amendment No. 490

Assembly Amendment to Assembly Bill No. 406 (BDR 28-781)

Proposed by: Assembly 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.

EGO/BJE



Date: 4/23/2017

A.B. No. 406—Revises provisions relating to certain construction. (BDR 28-781)



ASSEMBLY BILL NO. 406—ASSEMBLYMEN DALY, BENITEZ-THOMPSON, BROOKS, CARRILLO, BILBRAY-AXELROD; FRIERSON, JOINER, MCCURDY II AND MONROE-MORENO

MARCH 20, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to certain construction. (BDR 28-781)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 construction; revising provisions relating to the payment of prevailing wages ~~and bidding on public works~~; revising provisions governing the construction of a public work by a construction manager at risk; revising provisions relating to agreements with labor organizations concerning contracts with a public body for a public work or with an awardee of certain grants, tax abatements, tax credits or tax exemptions from a public body; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires that a bidder ~~or bid~~ on various types of public works be ~~("responsible and responsive")~~ ***responsive.*** (NRS 338.010, 338.13844, 338.1385, 338.13862, 338.1389, 338.143, 338.1444, 338.147, 338.1475) ***Section 2*** of this bill specifies that the term ~~(relates to)~~ ***means the bid received from the bidder;*** (1) ~~the record of the contractor on public works with respect to timeliness of completion, requesting change orders and quality of workforce; and (2) the compliance of the bid with;~~ ***meets*** the requirements of the applicable provisions of law ~~and (2) complies with the mandatory provisions of the advertisement or solicitation for bids.~~

Under existing law, with certain exceptions, the prevailing wage in a county for each craft or type of work, as determined by the Labor Commissioner, is required to be paid on a project in the county involving new construction, repair or reconstruction that is financed in whole or in part with public money and for which the estimated cost is \$250,000 or more. (NRS 338.010, 338.020-338.080) ***Section 4*** of this bill decreases the minimum threshold for the applicability of the prevailing wage requirements from \$250,000 to ***\$25,000.*** ~~Section 21 of this bill makes a conforming change with respect to incentives provided to a developer for a redevelopment project.~~ ***\$100,000.***

To determine the prevailing wages in each county under existing law, the Labor Commissioner is required to ***annually*** survey contractors who have performed work in the county. If, based on the survey, the rate of wages is the same for more than 50 percent of the total hours worked by a specific craft or ~~trade~~ ***type of work*** on similar construction, the Labor Commissioner is required to determine that rate as the prevailing wage. ***If no such rate can be determined, existing law provides that the prevailing wage for a craft or type of work is the average rate of wages per hour.*** (NRS 338.030) ***Section 3*** of this bill ~~decreases the percentage at which the rate is required to be prevailing to 30 percent of the total hours for~~

~~the craft or trade.] removes these requirements with which the Labor Commissioner must comply in determining the prevailing rate of wages.~~

School districts and the Nevada System of Higher Education are required under existing law to pay on their public works and certain other construction projects 90 percent of the prevailing wage rates that are otherwise required to be paid by other public bodies. (NRS 338.030) **Section 3** of this bill eliminates this exception and therefore requires school districts and the Nevada System of Higher Education to pay the same prevailing wage rates on their public works and other construction projects as other public bodies are required to pay.

During the 78th Regular Session, the exemption from the laws governing public works, including the prevailing wage requirements, was removed for a building of the Nevada System of Higher Education for which less than 25 percent of the costs was paid from money appropriated by this State or from federal money. (Section 2 of chapter 410, Statutes of Nevada 2015, p. 2375) **Section 36** of this bill eliminates requirements in existing law for the payment of prevailing wages on construction work of the Nevada System of Higher Education even if the construction work does not qualify as a public work that are duplicative as a result of the removal of the exemption.

Under existing law, charter schools are exempt from the requirement in existing law to pay prevailing wages rates on their public works and certain other construction projects. (NRS 338.080) **Section 4** of this bill eliminates this exemption and therefore requires charter schools to pay prevailing wage rates on their public works and other construction projects.

Existing law makes the prevailing wage requirements applicable to certain construction projects that are not a "public work" as defined in existing law. (NRS 244A.058, 244A.763, 268.568, 271.710, 271.800, 278C.240, 279.500, 318.140, 318.144, 332.390, 333A.120, 349.670, 349.956, 388A.635, 408.3886, 543.545, 701B.265, 701B.625) **Sections 15-33** of this bill clarify that those prevailing wage requirements apply in the same manner as if the applicable public body had undertaken the project or awarded the contract.

Section 8 of the federal National Labor Relations Act prohibits certain agreements between an employer and a labor union whereby the employer agrees to cease or refrain from handling, using, selling, transporting or otherwise dealing in the products of an employer. Agreements in the construction industry relating to the contracting or subcontracting of work to be done at a construction site are exempt from this prohibition. (29 U.S.C. § 158(e)) **Section 7** of this bill provides that the general terms of a subcontract include any provision relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by section 8.

Under existing law, public bodies are authorized to construct public works under certain circumstances through a method by which a construction manager at risk provides preconstruction services on the public work and, in some cases, construction services on the public work. (NRS 338.1685-338.16995) Under existing law, the proposal of an applicant for a contract as a construction manager at risk is required to include the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work. (NRS 338.1692) With certain exceptions, **section 10** of this bill prohibits an applicant from substituting such an employee. **Section 10** also, with an exception, increases from 25 percent to 50 percent the amount of the estimated cost of construction that the applicant is required to state in the proposal that the applicant will perform if the public work predominantly involves horizontal construction.

Under existing law, the public body is required to appoint a panel to initially rank the proposals submitted by all applicants for a contract as a construction manager at risk and a second panel to interview and rank applicants whom the public body selected from the rankings of the first panel. The second panel is authorized to require the applicants to submit a preliminary proposed amount of compensation for managing the preconstruction and construction of the public work. (NRS 338.1693) **Section 11** of this bill ~~prohibits a majority of the members of either panel from being employed by the public body unless the public body is the State Public Works Board. Section 11 also eliminates the requirement in existing law that the public body provide an explanation, upon request, to unsuccessful applicants regarding the reasons they were not selected.]~~ (1) makes submission of the preliminary proposed amount of compensation mandatory; (2) specifies the contents of that amount; and (3) requires applicants to also submit a list of the personnel of the applicant who will provide services on the public work.

The amount of a contract with a construction manager at risk for the construction of a public work is authorized under existing law to be for: (1) the cost of the work, plus a fee, with a guaranteed maximum price; (2) a fixed price; or (3) a fixed price plus reimbursement for certain costs and expenses. (NRS 338.1696) **Section 12** of this bill eliminates two pricing methods so that the ~~cost of work, plus a fee, with a~~ guaranteed maximum price is the only authorized pricing method for a contract with a construction manager at risk. **Section 12** ~~requires the State Public Works Board to prescribe a form which is required to be completed and submitted by a construction manager at risk to the public body to identify and itemize~~ specifies that the guaranteed maximum price includes the cost of the work and the fee and related costs and requires the construction manager at risk to list the names of the subcontractors selected by the construction manager at risk to provide labor, materials or equipment which are estimated by the construction manager at risk to exceed 1 percent of the estimated cost of the public work.

~~— To be eligible to provide labor, materials or equipment on a public work for which a construction manager at risk has entered into a contract with a public body, a subcontractor is required to be licensed by the State Contractors' Board and be determined to be qualified by the construction manager at risk to submit a proposal based on specified criteria. (NRS 338.1699) Section 13 of this bill adds the additional eligibility requirement that the subcontractor agree in advance to comply with any provision in the general terms of the contract relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by section 8 of the federal National Labor Relations Act. Therefore, if a subcontractor does not agree in advance to comply with such a provision, the subcontractor is not eligible to provide labor, materials or equipment on a subcontract with a construction manager at risk.~~

~~— Under existing law, an applicant who is determined to not be eligible to provide labor, materials or equipment on a subcontract with a construction manager at risk is authorized to appeal that determination to the public body with whom the construction manager at risk has entered into a contract. (NRS 338.1699) Section 5 of this bill clarifies the burden of proof of such an applicant on appeal.~~

Section 1 of this bill authorizes certain persons and entities to file a complaint with the Labor Commissioner regarding a violation of certain requirements in existing law governing the construction method of a construction manager at risk. Section 1 requires the Labor Commissioner to investigate and issue a determination regarding such a complaint. Section 1 prohibits a public body that is found to have violated ~~certain requirements governing construction of a public work with a construction manager at risk~~ such a requirement from entering into a contract with a construction manager at risk for 2 years after ~~being found in~~ a final determination of the violation. If such a violation is found, **section 1** ~~makes the~~ deems any contract that the public body enters into with ~~the~~ a construction manager at risk ~~void~~ during the 2-year period terminated by the public body without cause and requires the public body to transmit a copy of the decision regarding the violation to the building official having jurisdiction over the project to issue a stop order on the project.

Existing law eliminates the authority for public bodies to enter into contracts with construction managers at risk, effective July 1, 2017. ~~—, and, until that expiration date, requires public bodies to submit an annual report to the Legislature concerning their projects with construction managers at risk. (Section)~~ (Sections 14.5 and 15 of chapter 487, Statutes of Nevada 2013, pp. 2986-2987; section 9 of chapter 123, Statutes of Nevada 2015, p. 457) Sections 34 and 35 of this bill postpone the prospective expiration of this authority until June 30, 2021. —, and section 33.5 of this bill requires the inclusion of additional information in the annual reports.

Existing law prohibits a public body, in any solicitation, contract or other document related to a contract for a public work from: (1) requiring or prohibiting a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to the public work; or (2) discriminating against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the public work. Existing law further prohibits a public body, with certain exceptions, from awarding a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include in a contract for a project that is the subject of the grant, tax abatement, tax credit or tax exemption a term that: (1) requires or

prohibits a bidder or contractor from entering into or adhering to any agreement with one or more labor organizations in regard to the project; or (2) discriminates against a bidder or contractor for entering or not entering into, or adhering or refusing to adhere to, any agreement with one or more labor organizations in regard to the project. (NRS 338.1405) **Section 36** of this bill eliminates this prohibition.

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

Section 1. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Any public body, craft affiliated with the State Federation of Labor or other recognized national labor organizations, contractor or any representative thereof who becomes aware of a violation of subsection 2 of NRS 338.169, NRS 338.1692, subsection 3 of NRS 338.1696 or subsection 10 of NRS 338.16995 by a public body may file a complaint with the Labor Commissioner. Upon receipt of such a complaint, the Labor Commissioner shall provide to the public body named in the complaint a copy of the complaint and written notification that the public body may file an answer to the complaint with the Labor Commissioner not later than 15 days after receipt of the notification. If the public body files an answer, the public body shall serve a copy of the answer on the complainant and every other party to the proceeding.

2. The Labor Commissioner shall investigate each complaint received pursuant to subsection 1. After such an investigation, the Labor Commissioner shall issue, in writing, a determination regarding whether a violation occurred and serve a copy on every party to the proceeding. The determination must contain notice that a party aggrieved by the determination may file a written objection with the Labor Commissioner within 15 days after the date of service of the determination and that an objection must be accompanied by a short statement of the grounds for the objection and evidence substantiating the objection.

3. If a party who has been served a copy of the determination issued by the Labor Commissioner pursuant to subsection 2 files a written objection with the Labor Commissioner within 15 days after the date of service of the determination, the Labor Commissioner shall hold a hearing on the matter. Any such hearing must be conducted pursuant to NRS 607.207 and any regulations adopted pursuant thereto. A decision issued by the Labor Commissioner after such a hearing is deemed to be the final order of the Labor Commissioner on the matter.

4. If a public body is found to be in violation of subsection 2 of NRS 338.169 ~~for~~, NRS 338.1692, ~~for~~ subsection ~~3~~ of NRS 338.1696 ~~or~~ subsection 10 of NRS 338.16995, the public body shall not enter into a contract with a construction manager at risk pursuant to this section and NRS 338.1685 to 338.16995, inclusive, for the construction of a public work for 2 years after ~~being found in~~ a final determination regarding the violation ~~has~~ been made. If such a violation is found:

~~1. The~~

(a) Any contract that ~~the~~ a public body ~~entered~~ enters into with ~~the~~ a construction manager at risk ~~is void~~.

~~2~~ during the 2-year period shall be deemed terminated by the public body without cause, effective on the date of the issuance of a stop work order pursuant to paragraph (b).

(b) The public body shall transmit a copy of the decision regarding the violation to the building official having jurisdiction over ~~the~~ any project for which the public body enters into a contract with a construction manager at risk during the 2-year period and the building official shall issue a stop work order on the project.

Sec. 2. NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Authorized representative" means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

2. "Contract" means a written contract entered into between a contractor and a public body for the provision of labor, materials, equipment or supplies for a public work.

3. "Contractor" means:

(a) A person who is licensed pursuant to the provisions of chapter 624 of NRS.

(b) A design-build team.

4. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a worker or workers employed by them on public works by the day and not under a contract in writing.

5. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or landscape architecture pursuant to chapter 623A of NRS or who is licensed as a professional engineer pursuant to chapter 625 of NRS.

7. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture, interior design or residential design pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

8. "Division" means the State Public Works Division of the Department of Administration.

9. "Eligible bidder" means a person who is:

(a) Found to be a responsible ~~and responsive~~ contractor by a local government or its authorized representative which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139,

1 inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or
2 338.1382.

3 10. "General contractor" means a person who is licensed to conduct business
4 in one, or both, of the following branches of the contracting business:

5 (a) General engineering contracting, as described in subsection 2 of NRS
6 624.215.

7 (b) General building contracting, as described in subsection 3 of NRS 624.215.

8 11. "Governing body" means the board, council, commission or other body in
9 which the general legislative and fiscal powers of a local government are vested.

10 12. "Local government" means every political subdivision or other entity
11 which has the right to levy or receive money from ad valorem or other taxes or any
12 mandatory assessments, and includes, without limitation, counties, cities, towns,
13 boards, school districts and other districts organized pursuant to chapters 244A,
14 309, 318, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,
15 inclusive, and any agency or department of a county or city which prepares a
16 budget separate from that of the parent political subdivision. The term includes a
17 person who has been designated by the governing body of a local government to
18 serve as its authorized representative.

19 13. "Offense" means failing to:

20 (a) Pay the prevailing wage required pursuant to this chapter;

21 (b) Pay the contributions for unemployment compensation required pursuant to
22 chapter 612 of NRS;

23 (c) Provide and secure compensation for employees required pursuant to
24 chapters 616A to 617, inclusive, of NRS; or

25 (d) Comply with subsection 5 or 6 of NRS 338.070.

26 14. "Prime contractor" means a contractor who:

27 (a) Contracts to construct an entire project;

28 (b) Coordinates all work performed on the entire project;

29 (c) Uses his or her own workforce to perform all or a part of the public work;
30 and

31 (d) Contracts for the services of any subcontractor or independent contractor or
32 is responsible for payment to any contracted subcontractors or independent
33 contractors.

34 ➤ The term includes, without limitation, a general contractor or a specialty
35 contractor who is authorized to bid on a project pursuant to NRS 338.139 or
36 338.148.

37 15. "Public body" means the State, county, city, town, school district or any
38 public agency of this State or its political subdivisions sponsoring or financing a
39 public work.

40 16. "Public work" means any project for the new construction, repair or
41 reconstruction of a project financed in whole or in part from public money for:

42 (a) Public buildings;

43 (b) Jails and prisons;

44 (c) Public roads;

45 (d) Public highways;

46 (e) Public streets and alleys;

47 (f) Public utilities;

48 (g) Publicly owned water mains and sewers;

49 (h) Public parks and playgrounds;

50 (i) Public convention facilities which are financed at least in part with public
51 money; and

52 (j) All other publicly owned works and property.

17. ~~“Responsible and responsive”~~ “Responsive,” as used in the context of a bid or bidder, means that:

~~(a) A determination regarding a contractor has been made by a public body based on the record of the contractor on public works for:~~

~~(1) Completing public works in a timely manner;~~

~~(2) Improperly requesting change orders; and~~

~~(3) Supplying a safe, qualified and skilled workforce; and~~

~~(b) The contractor submitted a bid that is in compliance with the requirements of the applicable provisions of law; the bid received from the bidder;~~

(a) Meets the requirements of the applicable provisions of law; and

(b) Complies with the mandatory provisions of the advertisement or solicitation for bids.

18. “Specialty contractor” means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~18.1~~ 19. “Stand-alone underground utility project” means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto,

↳ that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~19.1~~ 20. “Subcontract” means a written contract entered into between:

(a) A contractor and a subcontractor or supplier; or

(b) A subcontractor and another subcontractor or supplier,

↳ for the provision of labor, materials, equipment or supplies for a construction project.

~~20.1~~ 21. “Subcontractor” means a person who:

(a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and

(b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~21.1~~ 22. “Supplier” means a person who provides materials, equipment or supplies for a construction project.

~~22.1~~ 23. “Wages” means:

(a) The basic hourly rate of pay; and

(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the worker.

~~23.1~~ 24. “Worker” means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Sec. 3. NRS 338.030 is hereby amended to read as follows:

338.030 1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. The prevailing wage in each county, including Carson City, must be ~~established as follows:~~

~~(a) The~~ determined by the Labor Commissioner To determine the prevailing wage in each county, the Labor Commissioner shall, annually, survey contractors who have performed work in the county.

~~(b) Based on the survey conducted pursuant to paragraph (a), where the rate of wages is the same for more than 50-30 percent of the total hours worked by each craft or type of work in that county on construction similar to the proposed construction, that rate will be determined as the prevailing wage.~~

~~(c) Where no such rate can be determined, the prevailing wage for a craft or type of work will be determined as the average rate of wages paid per hour based on the number of hours worked per rate, to that craft or type of work.~~

~~(d) The Labor Commissioner shall determine the prevailing wage to be 90 percent of the rate determined pursuant to paragraphs (a), (b) and (c) for:~~

~~(1) Any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district or the Nevada System of Higher Education is a party; and~~

~~(2) A public work of, or constructed by, a school district or the Nevada System of Higher Education, or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by a school district or the Nevada System of Higher Education.]~~

3. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection 6 to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

4. The Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if the Labor Commissioner:

(a) Is in doubt as to the prevailing wage; or

(b) Receives an objection or information pursuant to subsection 3.

➤ The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.

5. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.

6. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.

7. The wages so determined must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.

8. Nothing contained in NRS 338.020 to 338.090, inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.

Sec. 4. 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 ~~1~~\$250,000. \$25,000.1
4 \$100,000. A unit of the project must not be separated from the total project, even if
5 that unit is to be completed at a later time, in order to lower the cost of the project
6 below ~~1~~\$250,000.

~~4. Any contract for a public work or any other construction, alteration, repair,
7 remodeling or reconstruction of an improvement or property to which a charter
8 school is a party, notwithstanding any other provision of law.~~

~~5. A public work of, or constructed by, a charter school, or any other
9 construction, alteration, repair, remodeling or reconstruction of an improvement or
10 property of or constructed by a charter school, notwithstanding any other provision
11 of law. \$25,000.1 \$100,000.~~

12 **Sec. 5.** ~~NRS 338.1381~~ is hereby amended to read as follows:

13 ~~338.1381 1. If, within 10 days after receipt of the notice denying an
14 application pursuant to NRS 338.1370 or 338.16901 or disqualifying a
15 subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as
16 applicable, files a written request for a hearing with the Division or the local
17 government, the State Public Works Board or governing body shall set the matter
18 for a hearing within 20 days after receipt of the request. The hearing must be held
19 not later than 45 days after the receipt of the request for a hearing unless the parties,
20 by written stipulation, agree to extend the time.~~

21 ~~2. The hearing must be held at a time and place prescribed by the Board or
22 local government. At least 10 days before the date set for the hearing, the Board or
23 local government shall serve the applicant or subcontractor with written notice of
24 the hearing. The notice may be served by personal delivery to the applicant or
25 subcontractor or by certified mail to the last known business or residential address
26 of the applicant or subcontractor.~~

27 ~~3. The applicant or subcontractor has the burden at the hearing of proving by
28 substantial evidence that:~~

29 ~~(a) If the application was denied pursuant to NRS 338.1370, the applicant is
30 entitled to be qualified to bid on a contract for a public work [, or that] pursuant to
31 NRS 338.1370.~~

32 ~~(b) If the subcontractor was disqualified pursuant to NRS 338.1376, the
33 subcontractor is qualified to be a subcontractor on a contract for a public work [,]
34 pursuant to NRS 338.1376.~~

35 ~~(c) If the application was denied pursuant to NRS 338.16901, the applicant is
36 eligible to provide labor, materials or equipment on a public work pursuant to
37 NRS 338.16901.~~

38 ~~4. In conducting a hearing pursuant to this section, the Board or governing
39 body may:~~

40 ~~(a) Administer oaths;~~

41 ~~(b) Take testimony;~~

42 ~~(c) Issue subpoenas to compel the attendance of witnesses to testify before the
43 Board or governing body;~~

44 ~~(d) Require the production of related books, papers and documents; and~~

45 ~~(e) Issue commissions to take testimony.~~

46 ~~5. If a witness refuses to attend or testify or produce books, papers or
47 documents as required by the subpoena issued pursuant to subsection 4, the Board
48 or governing body may petition the district court to order the witness to appear or
49 testify or produce the requested books, papers or documents.~~

50 ~~6. The Board or governing body shall issue a decision on the matter during
51 the hearing. The decision of the Board or governing body is a final decision for
52 purposes of judicial review.] (Deleted by amendment.)~~
53

1 **Sec. 6.** NRS 338.1385 is hereby amended to read as follows:

2 338.1385 1. Except as otherwise provided in subsection 9, this State, or a
3 governing body or its authorized representative that awards a contract for a public
4 work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

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

12 (b) Commence a public work for which the estimated cost is \$100,000 or less
13 unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864
14 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

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

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

20 3. Each advertisement for bids must include a provision that sets forth the
21 requirement that a contractor must be qualified pursuant to NRS 338.1379 or
22 338.1382 to bid on the contract.

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

27 5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public
28 body or its authorized representative shall award a contract to the lowest responsive
29 and responsible bidder.

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

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

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

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

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

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

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

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

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

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

47 8. Before a public body may commence the performance of a public work
48 itself pursuant to the provisions of this section, based upon a determination that the
49 public interest would be served by rejecting any bids received in response to an
50 advertisement for bids, the public body shall prepare and make available for public
51 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 408.323 or 408.327;

(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 1983 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 ~~§~~, and *section 1 of this act*.

Sec. 7. NRS 338.141 is hereby amended to read as follows:

338.141 1. Except as otherwise provided in NRS 338.1727, each bid submitted to a public body for any public work to which paragraph (a) of subsection 1 of NRS 338.1385, paragraph (a) of subsection 1 of NRS 338.143 or NRS 408.327 applies, must include:

(a) If the public body provides a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide such labor or portion of the work on the public work which is estimated to exceed 3 percent of the estimated cost of the public work; or

(b) If the public body does not provide a list of the labor or portions of the public work which are estimated by the public body to exceed 3 percent of the estimated cost of the public work, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding 5 percent of the prime contractor's total bid. If the bid is submitted pursuant to this paragraph, within 2 hours after the completion of the opening of the bids, the contractors who submitted the three lowest bids must submit a list containing:

(1) The name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid an amount exceeding \$250,000.

(2) If any one of the contractors who submitted one of the three lowest bids will employ a first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will not be paid an amount exceeding \$250,000, the name of each first tier subcontractor who will provide labor or a portion of the work on the public work to the prime contractor for which the first tier subcontractor will be paid 1 percent of the prime contractor's total bid or \$50,000, whichever is greater.

(3) For each first tier subcontractor whose name is listed pursuant to subparagraph (1) or (2), the number of the license issued to the first tier subcontractor pursuant to chapter 624 of NRS.

2. The lists required by subsection 1 must include a description of the labor or portion of the work which each first tier subcontractor named in the list will provide to the prime contractor.

3. A prime contractor shall include his or her name on a list required by paragraph (a) or (b) of subsection 1. If the prime contractor will perform any work which is more than 1 percent of the prime contractor's total bid and which is not being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1, the prime contractor shall also include on the list:

(a) A description of the labor or portion of the work that the prime contractor will perform; or

(b) A statement that the prime contractor will perform all work other than that being performed by a subcontractor listed pursuant to paragraph (a) or (b) of subsection 1.

4. Except as otherwise provided in this subsection, if a contractor:

(a) Fails to submit the list within the required time; or

(b) Submits a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the Division pursuant to NRS 338.1376,

the contractor's bid shall be deemed not responsive. A contractor's bid shall not be deemed not responsive on the grounds that the contractor submitted a list that includes the name of a subcontractor who, at the time of the submission of the list, is on disqualified status with the Division pursuant to NRS 338.1376 if the contractor, before the award of the contract, provides an acceptable replacement subcontractor in the manner set forth in subsection 1 or 2 of NRS 338.13895.

5. A prime contractor shall not substitute a subcontractor for any subcontractor who is named in the bid, unless:

(a) The public body or its authorized representative objects to the subcontractor, requests in writing a change in the subcontractor and pays any increase in costs resulting from the change.

(b) The substitution is approved by the public body or its authorized representative. The substitution must be approved if the public body or its authorized representative determines that:

(1) The named subcontractor, after having a reasonable opportunity, fails or refuses to execute a written contract with the contractor which was offered to the named subcontractor with the same general terms that all other subcontractors on the project were offered;

(2) The named subcontractor files for bankruptcy or becomes insolvent;

(3) The named subcontractor fails or refuses to perform his or her subcontract within a reasonable time or is unable to furnish a performance bond and payment bond pursuant to NRS 339.025; or

(4) The named subcontractor is not properly licensed to provide that labor or portion of the work.

(c) If the public body awarding the contract is a governing body, the public body or its authorized representative, in awarding the contract pursuant to NRS 338.1375 to 338.139, inclusive:

(1) Applies such criteria set forth in NRS 338.1377 as are appropriate for subcontractors and determines that the subcontractor does not meet that criteria; and

(2) Requests in writing a substitution of the subcontractor.

6. If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection 5, the prime contractor shall forfeit, as a penalty to the public body that awarded the contract, an amount equal to 1 percent of the total amount of the contract.

7. If a prime contractor, after the submission of the bid, substitutes a subcontractor to perform the work indicated pursuant to subsection 3 that the prime contractor would perform, the prime contractor shall forfeit as a penalty to the public body that awarded the contract, the lesser of, and excluding any amount of the contract that is attributable to change orders:

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

8. As used in this section:

(a) "First tier subcontractor" means a subcontractor who contracts directly with a prime contractor to provide labor, materials or services for a construction project.

(b) "General terms" ~~means~~ :

(1) *Means* the terms and conditions of a contract that set the basic requirements for a public work and apply without regard to the particular trade or specialty of a subcontractor. ~~but does~~

(2) *Includes, without limitation, a provision relating to the contracting or subcontracting of work for an employer in the construction industry that is not prohibited by 29 U.S.C. § 158(e).*

(3) *Does* not include any provision that controls or relates to the specific portion of the public work that will be completed by a subcontractor, including, without limitation, the materials to be used by the subcontractor or other details of the work to be performed by the subcontractor.

Sec. 8. NRS 338.143 is hereby amended to read as follows:

338.143 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 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 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 8. This section does not apply to:

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

44 (b) Any work of construction, reconstruction, improvement and maintenance
45 of highways subject to NRS 408.323 or 408.327;

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

47 (d) The Las Vegas Valley Water District created pursuant to chapter 167,
48 Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to
49 chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created
50 pursuant to chapter 100, Statutes of Nevada 1993;

51 (e) The design and construction of a public work for which a public body
52 contracts with a design-build team pursuant to NRS 338.1711 to 338.1727,
53 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 338.16995, inclusive ~~H~~, and *section 1 of this act*.

Sec. 9. NRS 338.1685 is hereby amended to read as follows:

338.1685 The Legislature hereby declares that the provisions of NRS 338.1685 to 338.16995, inclusive, *and section 1 of this act* relating to contracts involving construction managers at risk, are intended:

1. To promote public confidence and trust in the contracting and bidding procedures for public works established therein;

2. For the benefit of the public, to promote the philosophy of obtaining the best possible value as compared to low-bid contracting; and

3. To better equip public bodies to address public works that present unique and complex construction challenges.

Sec. 10. NRS 338.1692 is hereby amended to read as follows:

338.1692 1. A public body or its authorized representative shall advertise for proposals for a construction manager at risk in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed. 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 has a general circulation in the county.

2. A request for proposals published pursuant to subsection 1 must include, without limitation:

(a) A description of the public work;

(b) An estimate of the cost of construction;

(c) A description of the work that the public body expects a construction manager at risk to perform;

(d) The dates on which it is anticipated that the separate phases of the preconstruction and construction of the public work will begin and end;

(e) The date by which proposals must be submitted to the public body;

(f) If the project is a public work of the State, a statement setting forth that the construction manager at risk must be qualified to bid on a public work of the State pursuant to NRS 338.1379 before submitting a proposal;

(g) The name, title, address and telephone number of a person employed by the public body that an applicant may contact for further information regarding the public work;

(h) A list of the selection criteria and relative weight of the selection criteria that will be used to rank proposals pursuant to subsection 2 of NRS 338.1693;

(i) A list of the selection criteria and relative weight of the selection criteria that will be used to rank applicants pursuant to subsection ~~7~~ 8 of NRS 338.1693;

(j) A notice that the proposed form of the contract to assist in the preconstruction of the public work or to construct the public work, including, without limitation, the terms and general conditions of the contract, is available from the public body.

3. A proposal must include, without limitation:

(a) An explanation of the experience that the applicant has with projects of similar size and scope in both the public and private sectors by any delivery method, ~~whether or not that method was the use of a construction manager at risk, and~~ including, without limitation, *design-bid-build*, design-build, design-assist,

negotiated work, *construction manager at risk* or value-engineered work, and an explanation of the experience that the applicant has in such projects in Nevada. ~~++~~

(b) The contact information for references who have knowledge of the background, character and technical competence of the applicant. ~~++~~

(c) Evidence of the ability of the applicant to obtain the necessary bonding for the work to be required by the public body. ~~++~~

(d) Evidence that the applicant has obtained or has the ability to obtain such insurance as may be required by law. ~~++~~

(e) A statement of whether the applicant has been:

(1) Found liable for breach of contract with respect to a previous project, other than a breach for legitimate cause, during the 5 years immediately preceding the date of the advertisement for proposals; and

(2) Disqualified from being awarded a contract pursuant to NRS 338.017, 338.13895, 338.1475 or 408.333. ~~++~~

(f) The professional qualifications and experience of the applicant, including, without limitation, the resume of any employee of the applicant who will be managing the preconstruction and construction of the public work. ~~++~~

(g) The safety programs established and the safety records accumulated by the applicant. ~~++~~

(h) Evidence that the applicant is licensed as a contractor pursuant to chapter 624 of NRS. ~~++~~

(i) The proposed plan of the applicant to manage the preconstruction and construction of the public work which sets forth in detail the ability of the applicant to provide preconstruction services and to construct the public work and which includes, if the public work involves predominantly horizontal construction, a statement that, *except as otherwise provided in this paragraph*, the applicant will perform construction work equal in value to at least ~~25~~ 50 percent of the estimated cost of construction. ~~++ and~~ *The public body may allow an applicant to perform at least 25 percent but less than 50 percent of the estimated cost of construction if the applicant agrees to comply with standard specifications or procedures for construction of public works adopted by the public body.*

(j) If the project is for the design of a public work of the State, evidence that the applicant is qualified to bid on a public work of the State pursuant to NRS 338.1379.

4. The public body or its authorized representative shall make available to the public the name of each applicant who submits a proposal pursuant to this section.

5. *An applicant shall not substitute a different employee for any employee whose resume was submitted pursuant to paragraph (f) of subsection 3 unless* ~~the~~ *:*

(a) The employee whose resume was submitted is no longer employed by the applicant or is unavailable because of medical reasons ++; or

(b) The public body requests or agrees to the substitution.

Sec. 11. NRS 338.1693 is hereby amended to read as follows:

338.1693 1. The public body or its authorized representative shall appoint a panel consisting of at least three but not more than seven members, a majority of whom must have experience in the construction industry, ~~and, except if the public body is the State Public Works Board, are not employed by the public body~~ to rank the proposals submitted to the public body by evaluating the proposals as required pursuant to subsections 2 and 3.

2. The panel appointed pursuant to subsection 1 shall rank the proposals by:

(a) Verifying that each applicant satisfies the requirements of NRS 338.1691; and

(b) Evaluating and assigning a score to each of the proposals received by the public body based on the factors and relative weight assigned to each factor that the public body specified in the request for proposals.

3. When ranking the proposals, the panel appointed pursuant to subsection 1 shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. 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 this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

4. After the panel appointed pursuant to subsection 1 ranks the proposals, the public body or its authorized representative shall, except as otherwise provided in subsection ~~18~~ 9, select at least the two but not more than the five applicants whose proposals received the highest scores for interviews.

5. The public body or its authorized representative may appoint a separate panel to interview and rank the applicants selected pursuant to subsection 4. If a separate panel is appointed pursuant to this subsection, the panel must consist of at least three but not more than seven members, a majority of whom must have experience in the construction industry ~~and, except if the public body is the State Public Works Board, are not employed by the public body.~~

6. During the interview process, the panel conducting the interview ~~may~~ shall require the applicants to submit ~~14~~ 2.

(a) A preliminary proposed amount of compensation for managing the preconstruction and construction of the public work, but in no event shall the proposed amount of compensation exceed 20 percent of the scoring for the selection of the most qualified applicant. The preliminary proposed amount of compensation must include, without limitation:

(1) The proposed fee for the preconstruction services on the public work;

(2) The proposed fee for managing the construction services on the public work;

(3) The cost of travel and per diem for persons on the list submitted pursuant to paragraph (b); and

(4) The additional costs for bonding and insurance related to the preconstruction and construction services, including, without limitation, costs for general liability and course of construction insurance.

(b) A list of the name, title and total cost of compensation of and the anticipated number of hours of work to be performed by each person who will be employed or retained by the applicant to provide the preconstruction services or manage the construction services, or both, on the public work. As used in this paragraph, "total cost of compensation" means wages, benefits and any other costs associated with employment or retention, including, without limitation, the cost of workers' compensation, unemployment insurance and applicable taxes.

7. All presentations made at any interview conducted pursuant to ~~this subsection or~~ subsection 5 or 6 may be made only by key personnel employed by the applicant, as determined by the applicant, and the employees of the applicant who will be directly responsible for managing the preconstruction and construction of the public work.

~~17~~ 8. After conducting such interviews, the panel that conducted the interviews shall rank the applicants by using a ranking process that is separate from the process used to rank the applicants pursuant to subsection 2 and is based only on information submitted during the interview process. The score to be given for

the proposed amount of compensation, if any, must be calculated by dividing the lowest of all the proposed amounts of compensation by the applicant's proposed amount of compensation multiplied by the total possible points available to each applicant. When ranking the applicants, the panel that conducted the interviews shall assign a relative weight of 5 percent to the applicant's possession of a certificate of eligibility to receive a preference in bidding on public works if the applicant submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117. 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 this subsection, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that work.

~~10-1~~ 9. If the public body did not receive at least two proposals, the public body may not contract with a construction manager at risk.

~~10-1~~ 10. Upon receipt of the final rankings of the applicants from the panel that conducted the interviews, the public body or its authorized representative shall enter into negotiations with the most qualified applicant determined pursuant to the provisions of this section for a contract for preconstruction services, unless the public body required the submission of a proposed amount of compensation, in which case the proposed amount of compensation submitted by the applicant must be the amount offered for the contract. If the public body or its authorized representative is unable to negotiate a contract with the most qualified applicant for an amount of compensation that the public body or its authorized representative and the most qualified applicant determine to be fair and reasonable, the public body or its authorized representative shall terminate negotiations with that applicant. The public body or its authorized representative may then undertake negotiations with the next most qualified applicant in sequence until an agreement is reached and, if the negotiation is undertaken by an authorized representative of the public body, approved by the public body or until a determination is made by the public body to reject all applicants.

~~10-1~~ 11. The public body or its authorized representative shall :
(a) Make ~~make~~ available to all applicants and the public the following information, as determined by the panel appointed pursuant to subsection 1 and the panel that conducted the interviews, as applicable:

(1) ~~Rank~~ The final rankings of the applicants;

(2) ~~Rank~~ The score assigned to each proposal received by the public body;

and

(3) ~~Rank~~ For each proposal received by the public body, the score assigned to each factor that the public body specified in the request for proposals ~~11~~ ; and

(b) Provide, upon request, an explanation to any unsuccessful applicant of the reasons why the applicant was unsuccessful.

Sec. 12. NRS 338.1696 is hereby amended to read as follows:

338.1696 1. If a public body enters into a contract with a construction manager at risk for preconstruction services pursuant to NRS 338.1693, after the public body has finalized the design for the public work, or any portion thereof sufficient to determine the provable cost of that portion, the public body shall enter into negotiations with the construction manager at risk for a contract to construct the public work or the portion thereof for the public body for ~~1~~:

~~— (a) The ~~the~~ cost of the work, plus a fee, with, a guaranteed maximum price ~~1~~;~~

~~— (b) A fixed price; or~~

~~— (c) A fixed price plus reimbursement for overhead and other costs and expenses related to the construction of the public work or portion thereof. Before commencement of the negotiations, the construction manager at risk shall submit~~

1 ~~to the public body on the form prescribed pursuant to subsection 3-f, which must~~
2 ~~include, without limitation:~~

3 ~~(a) The fee and other related costs submitted for managing the construction~~
4 ~~services pursuant to subsection 6 of NRS 338.1693; and~~

5 ~~(b) The cost of the work, including, without limitation, the cost of labor,~~
6 ~~materials and the general conditions of the contract;~~

7 ~~(b) The fee, including, without limitation, general overhead and profit; and~~

8 ~~(c) A equipment. The construction manager at risk shall submit a list of~~
9 ~~each subcontractor selected to provide labor, materials or equipment on the~~
10 ~~public work pursuant to NRS 338.16991 and 338.16995 the cost of which is~~
11 ~~estimated by the construction manager at risk to exceed 1 percent of the estimated~~
12 ~~cost of the public work.~~

13 2. If the public body is unable to negotiate a satisfactory contract with the
14 construction manager at risk to construct the public work or portion thereof, the
15 public body shall terminate negotiations with that applicant and:

16 (a) May award the contract for the public work:

17 (1) If the public body is not a local government, pursuant to the provisions
18 of NRS 338.1377 to 338.139, inclusive.

19 (2) If the public body is a local government, pursuant to the provisions of
20 NRS 338.1377 to 338.139, inclusive, or 338.143 to 338.148, inclusive; and

21 (b) Shall accept a bid to construct the public work from the construction
22 manager at risk with whom the public body entered into a contract for
23 preconstruction services.

24 3. ~~Before entering into a contract with the public body to construct a public~~
25 ~~work or a portion thereof pursuant to subsection 1, the construction manager at risk~~
26 ~~shall:~~

27 ~~(a) Provide the public body with a list of the labor or portions of the work~~
28 ~~which are estimated by the construction manager at risk to exceed 1 percent of the~~
29 ~~estimated cost of the public work; and~~

30 ~~(b) Select each subcontractor who is to provide labor or a portion of the work~~
31 ~~which is estimated by the construction manager at risk to exceed 1 percent of the~~
32 ~~estimated cost of the public work in accordance with NRS 338.16991 and~~
33 ~~338.16995 and provide the names of each selected subcontractor to the public body.~~

34 ~~4. The State Public Works Board shall prescribe the form to be submitted by~~
35 ~~a construction manager at risk to a public body pursuant to subsection 1. The~~
36 ~~form must provide for the identification and itemization of the cost of the work~~
37 ~~and the fee.~~

38 ~~4-f~~ Except as otherwise provided in subsection 13 of NRS 338.16995, a
39 public body shall not interfere with the right of the construction manager at risk to
40 select the subcontractor whom the construction manager at risk determines to have
41 submitted the best proposal pursuant to NRS 338.16995.

42 **Sec. 13.** ~~NRS 338.16991 is hereby amended to read as follows:~~

43 ~~338.16991 1. To be eligible to provide labor, materials or equipment on a~~
44 ~~public work [, the contract] for which a public body has entered into a contract~~
45 ~~with a construction manager at risk pursuant to NRS 338.1696, a subcontractor~~
46 ~~must [be:]~~

47 ~~(a) [Licensed] Be licensed pursuant to chapter 624 of NRS; [and]~~

48 ~~(b) [Qualified] After reasonable opportunity to review the general terms of~~
49 ~~the contract, agree in advance to comply with any provision in the general terms~~
50 ~~relating to the contracting or subcontracting of work for an employer in the~~
51 ~~construction industry that is not prohibited by 29 U.S.C. § 158(c); and~~

52 ~~(c) Be qualified pursuant to the provisions of this section to submit a proposal~~
53 ~~for the provision of labor, materials or equipment on a public work.~~

1 ~~2. Subject to the provisions of subsections 3, 4 and 5, the construction~~
2 ~~manager at risk shall determine whether an applicant is qualified to submit a~~
3 ~~proposal for the provision of labor, materials or equipment on the public work for~~
4 ~~the purposes of paragraph [(b)] (c) of subsection 1.~~

5 ~~3. Not earlier than 20 days after a construction manager at risk has been~~
6 ~~selected pursuant to NRS 338.1693 and not later than 10 working days before the~~
7 ~~date by which an application must be submitted, the construction manager at risk~~
8 ~~shall advertise for applications from subcontractors in a newspaper qualified~~
9 ~~pursuant to chapter 238 of NRS that is published in the county where the public~~
10 ~~work will be performed. If no qualified newspaper is published in the county where~~
11 ~~the public work will be performed, the advertisement must be published in some~~
12 ~~qualified newspaper that is printed in the State of Nevada and has a general~~
13 ~~circulation in the county. The construction manager at risk may accept an~~
14 ~~application from a subcontractor before advertising for applications pursuant to this~~
15 ~~subsection.~~

16 ~~4. The criteria to be used by the construction manager at risk when~~
17 ~~determining whether an applicant is qualified to submit a proposal for the provision~~
18 ~~of labor, materials or equipment must include, and must be limited to:~~

19 ~~(a) The monetary limit placed on the license of the applicant by the State~~
20 ~~Contractors' Board pursuant to NRS 624.220;~~

21 ~~(b) The financial ability of the applicant to provide the labor, materials or~~
22 ~~equipment required on the public work;~~

23 ~~(c) Whether the applicant has the ability to obtain the necessary bonding for~~
24 ~~the work required by the public body;~~

25 ~~(d) The safety programs established and the safety records accumulated by the~~
26 ~~applicant;~~

27 ~~(e) Whether the applicant has breached any contracts with a public body or~~
28 ~~person in this State or any other state during the 5 years immediately preceding the~~
29 ~~application;~~

30 ~~(f) Whether the applicant has been disciplined or fined by the State~~
31 ~~Contractors' Board or another state or federal agency for conduct that relates to the~~
32 ~~ability of the applicant to perform the public work;~~

33 ~~(g) The performance history of the applicant concerning other recent, similar~~
34 ~~public or private contracts, if any, completed by the applicant in Nevada;~~

35 ~~(h) The principal personnel of the applicant;~~

36 ~~(i) Whether the applicant has been disqualified from the award of any contract~~
37 ~~pursuant to NRS 338.017 or 338.13895; and~~

38 ~~(j) The truthfulness and completeness of the application.~~

39 ~~5. The public body or its authorized representative shall ensure that each~~
40 ~~determination made pursuant to subsection 2 is made subject to the provisions of~~
41 ~~subsection 4.~~

42 ~~6. The construction manager at risk shall notify each applicant and the public~~
43 ~~body in writing of [a determination made pursuant to subsection 2.] **whether an**~~
44 ~~**applicant is eligible to provide labor, materials or equipment on the public work.**~~

45 ~~7. A determination [made pursuant to subsection 2 that an applicant is not~~
46 ~~qualified] **of whether an applicant is eligible to provide labor, materials or**~~
47 ~~**equipment on the public work** may be appealed pursuant to NRS 338.1381 to the~~
48 ~~public body with whom the construction manager at risk has entered into a contract~~
49 ~~for the construction of the public work.] **(Deleted by amendment.)**~~

50 **Sec. 14.** NRS 338.16995 is hereby amended to read as follows:

51 338.16995 1. If a public body enters into a contract with a construction
52 manager at risk for the construction of a public work pursuant to NRS 338.1696,
53 the construction manager at risk may enter into a subcontract for the provision of

1 labor, materials and equipment necessary for the construction of the public work
2 only as provided in this section.

3 2. The provisions of this section apply only to a subcontract for which the
4 estimated value is at least 1 percent of the total cost of the public work or \$50,000,
5 whichever is greater.

6 3. After the design and schedule for the construction of the public work is
7 sufficiently detailed and complete to allow a subcontractor to submit a meaningful
8 and responsive proposal, and not later than 21 days before the date by which a
9 proposal for the provision of labor, materials or equipment by a subcontractor must
10 be submitted, the construction manager at risk shall notify in writing each
11 subcontractor who was determined pursuant to NRS 338.16991 to be qualified to
12 submit such a proposal of a request for such proposals. A copy of the notice
13 required pursuant to this subsection must be provided to the public body.

14 4. The notice required pursuant to subsection 3 must include, without
15 limitation:

16 (a) A description of the design for the public work and a statement indicating
17 where a copy of the documents relating to that design may be obtained;

18 (b) A description of the type and scope of labor, equipment and materials for
19 which subcontractor proposals are being sought;

20 (c) The dates on which it is anticipated that construction of the public work
21 will begin and end;

22 (d) If a preproposal meeting regarding the scope of the work to be performed
23 by the subcontractor is to be held, the date, time and place at which the preproposal
24 meeting will be held;

25 (e) The date and time by which proposals must be received, and to whom they
26 must be submitted;

27 (f) The date, time and place at which proposals will be opened for evaluation;

28 (g) A description of the bonding and insurance requirements for
29 subcontractors;

30 (h) Any other information reasonably necessary for a subcontractor to submit a
31 responsive proposal; and

32 (i) A statement in substantially the following form:

33
34 Notice: For a proposal for a subcontract on the public work to be
35 considered:

36 1. The subcontractor must be licensed pursuant to chapter 624 of
37 NRS;

38 2. The proposal must be timely received;

39 3. If a preproposal meeting regarding the scope of the work to be
40 performed by the subcontractor is held, the subcontractor must attend the
41 preproposal meeting; and

42 4. The subcontractor may not modify the proposal after the date and
43 time the proposal is received.

44 5. A subcontractor may not modify a proposal after the date and time the
45 proposal is received.

46 6. To be considered responsive, a proposal must:

47 (a) Be timely received by the construction manager at risk; and

48 (b) Substantially and materially conform to the details and requirements
49 included in the proposal instructions and for the finalized bid package for the public
50 work, including, without limitation, details and requirements affecting price and
51 performance.

52 7. The opening of the proposals must be attended by an authorized
53 representative of the public body. The public body may require the architect or

1 engineer responsible for the design of the public work to attend the opening of the
2 proposals. The opening of the proposals is not otherwise open to the public.

3 8. At the time the proposals are opened, the construction manager at risk shall
4 compile and provide to the public body or its authorized representative a list that
5 includes, without limitation, the name and contact information of each
6 subcontractor who submits a timely proposal.

7 9. Not more than 10 working days after opening the proposals and before the
8 construction manager at risk submits a guaranteed maximum price ~~or a fixed price~~
9 ~~or a fixed price plus reimbursement~~ pursuant to NRS 338.1696, the construction
10 manager at risk shall:

11 (a) Evaluate the proposals and determine which proposals are responsive.

12 (b) Select the subcontractor who submits the proposal that the construction
13 manager at risk determines is the best proposal. Subject to the provisions of
14 subparagraphs (1), (2) and (3), if only one subcontractor submits a proposal, the
15 construction manager at risk may select that subcontractor. The subcontractor must
16 be selected from among those:

17 (1) Who attended the preproposal meeting regarding the scope of the work
18 to be performed by the subcontractor, if such a preproposal meeting was held;

19 (2) Who submitted a responsive proposal; and

20 (3) Whose names are included on the list compiled and provided to the
21 public body or its authorized representative pursuant to subsection 8.

22 (c) Inform the public body or its authorized representative which subcontractor
23 has been selected.

24 10. The public body or its authorized representative shall ensure that the
25 evaluation of proposals and selection of subcontractors are done pursuant to the
26 provisions of this section and regulations adopted by the State Public Works Board.

27 11. A subcontractor selected pursuant to subsection 9 need not be selected by
28 the construction manager at risk solely on the basis of lowest price.

29 12. Except as otherwise provided in subsections 13 and 15, the construction
30 manager at risk shall enter into a subcontract with a subcontractor selected pursuant
31 to subsection 9 to provide the labor, materials or equipment described in the request
32 for proposals.

33 13. A construction manager at risk shall not substitute a subcontractor for any
34 subcontractor selected pursuant to subsection 9 unless:

35 (a) The public body or its authorized representative objects to the
36 subcontractor, requests in writing a change in the subcontractor and pays any
37 increase in costs resulting from the change; or

38 (b) The substitution is approved by the public body after the selected
39 subcontractor:

40 (1) Files for bankruptcy or becomes insolvent;

41 (2) After having a reasonable opportunity, fails or refuses to execute a
42 written contract with the construction manager at risk which was offered to the
43 selected subcontractor with the same general terms that all other subcontractors on
44 the project were offered;

45 (3) Fails or refuses to perform the subcontract within a reasonable time;

46 (4) Is unable to furnish a performance bond and payment bond pursuant to
47 NRS 339.025, if required for the public work; or

48 (5) Is not properly licensed to provide that labor or portion of the work.

49 14. If a construction manager at risk substitutes a subcontractor for any
50 subcontractor selected pursuant to subsection 9 without complying with the
51 provisions of subsection 13, the construction manager at risk shall forfeit, as a
52 penalty to the public body, an amount equal to 1 percent of the total amount of the
53 contract.

15. If a construction manager at risk does not select a subcontractor pursuant to subsection 9 to perform a portion of work on a public work, the construction manager at risk shall notify the public body that the construction manager at risk intends to perform that portion of work. If, after providing such notification, the construction manager at risk substitutes a subcontractor to perform the work, the construction manager at risk shall forfeit, as a penalty to the public body, the lesser of, and excluding any amount of the contract that is attributable to change orders:

(a) An amount equal to 2.5 percent of the total amount of the contract; or

(b) An amount equal to 35 percent of the estimate by the engineer of the cost of the work the construction manager at risk selected himself or herself to perform on the public work.

16. The construction manager at risk shall make available to the public the name of each subcontractor who submits a proposal.

17. If a public work is being constructed in phases, and a construction manager at risk selects a subcontractor pursuant to subsection 9 for the provision of labor, materials or equipment for any phase of that construction, the construction manager at risk may select that subcontractor for the provision of labor, materials or equipment for any other phase of the construction without following the requirements of subsections 3 to 11, inclusive.

18. As used in this section, "general terms" has the meaning ascribed to it in NRS 338.141.

Sec. 15. NRS 244A.058 is hereby amended to read as follows:

244A.058 1. A board that has adopted an ordinance imposing a fee pursuant to NRS 244A.810 may, on behalf of the county and in its name:

(a) Acquire, lease, improve, equip, operate and maintain within the county a minor league baseball stadium project.

(b) Subject to the provisions of chapter 350 of NRS, issue revenue bonds of the county to acquire, lease, improve or equip, or any combination thereof, within the county a minor league baseball stadium project.

2. Bonds issued pursuant to this section must be payable from the proceeds of the fee imposed by the county pursuant to NRS 244A.810 and may be additionally secured by and payable from the gross or net revenues of the minor league baseball stadium project, including, without limitation, amounts received from any minor league baseball team pursuant to a contract with that team, fees, rates and charges for the use of the stadium by a minor league baseball team or any other uses of the stadium, and related uses, including, without limitation, parking and concessions, surcharges on tickets in an amount approved by the board, grants, whether conditional or unconditional, made for the payment of debt service or otherwise for the purposes of the minor league baseball stadium project, and any and all other sources of revenue attributable to the minor league baseball stadium project as provided by the board in the ordinance authorizing the issuance of bonds or any instrument supplemental or appertaining thereto.

3. The provisions of chapters 332, 338 and 339 of NRS do not apply to a contract entered into by a county and a private developer pursuant to which the private developer constructs a minor league baseball stadium project, except that the contract must include a provision stating that the requirements of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any construction work to be performed under the contract. *The board, the private developer and any contractor and subcontractor on the minor league baseball stadium project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board had undertaken the minor league baseball stadium project or had awarded the contract.*

1 **Sec. 16.** NRS 244A.763 is hereby amended to read as follows:

2 244A.763 1. NRS 244A.669 to 244A.763, inclusive, without reference to
3 other statutes of this State, constitute full authority for the exercise of powers
4 granted in those sections, including, but not limited to, the authorization and
5 issuance of bonds.

6 2. No other act or law with regard to the authorization or issuance of bonds
7 that provides for an election, requires an approval, or in any way impedes or
8 restricts the carrying out of the acts authorized in NRS 244A.669 to 244A.763,
9 inclusive, to be done, applies to any proceedings taken or acts done pursuant to
10 those sections, except for laws to which reference is expressly made in those
11 sections or by necessary implication of those sections.

12 3. The provisions of no other law, either general or local, except as provided
13 in NRS 244A.669 to 244A.763, inclusive, apply to the doing of the things
14 authorized in those sections to be done, and no board, agency, bureau, commission
15 or official not designated in those sections has any authority or jurisdiction over the
16 doing of any of the acts authorized in those sections to be done, except:

17 (a) As otherwise provided in those sections.

18 (b) That a project for the generation and transmission of electricity is subject to
19 review and approval by the state regulatory agencies which have jurisdiction of the
20 matters involved, including, without limitation, the Public Utilities Commission of
21 Nevada, the State Environmental Commission and the State Department of
22 Conservation and Natural Resources.

23 4. No notice, consent or approval by any public body or officer thereof may
24 be required as a prerequisite to the sale or issuance of any bonds, the making of any
25 contract or lease, or the exercise of any other power under NRS 244A.669 to
26 244A.763, inclusive, except as provided in those sections.

27 5. A project is not subject to any requirements relating to public buildings,
28 structures, ground works or improvements imposed by the statutes of this State or
29 any other similar requirements which may be lawfully waived by this section, and
30 any requirement of competitive bidding or other restriction imposed on the
31 procedure for award of contracts for such purpose or the lease, sale or other
32 disposition of property of the counties is not applicable to any action taken pursuant
33 to NRS 244A.669 to 244A.763, inclusive, except that the provisions of NRS
34 ~~338.010~~ **338.013** to 338.090, inclusive, apply to any contract for new
35 construction, repair or reconstruction for which tentative approval for financing is
36 granted on or after January 1, 1992, by the county for work to be done in a project.

37 ***The board of county commissioners, the lessee, purchaser or obligor or designee***
38 ***thereof, any contractor who is awarded a contract or entered into an agreement***
39 ***to perform the construction, repair or reconstruction and any subcontractor who***
40 ***performs any portion of the construction, repair or reconstruction shall comply***
41 ***with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as***
42 ***if the board of county commissioners had undertaken the project or had awarded***
43 ***the contract.***

44 6. Any bank or trust company located within or without this State may be
45 appointed and act as a trustee with respect to bonds issued and projects financed
46 pursuant to NRS 244A.669 to 244A.763, inclusive, without the necessity of
47 associating with any other person or entity as cofiduciary except that such
48 association is not prohibited.

49 7. The powers conferred by NRS 244A.669 to 244A.763, inclusive, are in
50 addition and supplemental to, and not in substitution for, and the limitations
51 imposed by those sections do not affect the powers conferred by any other law.

52 8. No part of NRS 244A.669 to 244A.763, inclusive, repeals or affects any
53 other law or part thereof, except to the extent that those sections are inconsistent

1 with any other law, it being intended that those sections provide a separate method
2 of accomplishing its objectives, and not an exclusive one.

3 **Sec. 17.** NRS 268.568 is hereby amended to read as follows:

4 268.568 1. NRS 268.512 to 268.568, inclusive, without reference to other
5 statutes of the State, constitute full authority for the exercise of powers granted in
6 those sections, including, but not limited to, the authorization and issuance of
7 bonds.

8 2. No other act or law with regard to the authorization or issuance of bonds
9 that provides for an election, requires an approval, or in any way impedes or
10 restricts the carrying out of the acts authorized in NRS 268.512 to 268.568,
11 inclusive, to be done, including, without limitation, the charter of any city, applies
12 to any proceedings taken or acts done pursuant to those sections, except for laws to
13 which reference is expressly made in those sections.

14 3. The provisions of no other law, either general or local, except as provided
15 in NRS 268.512 to 268.568, inclusive, apply to the doing of the things authorized in
16 NRS 268.512 to 268.568, inclusive, to be done, and no board, agency, bureau,
17 commission or official not designated in those sections has any authority or
18 jurisdiction over the doing of any of the acts authorized in those sections to be
19 done, except as otherwise provided in those sections.

20 4. No notice, consent or approval by any public body or officer thereof may
21 be required as a prerequisite to the sale or issuance of any bonds, the making of any
22 contract or lease, or the exercise of any other power under NRS 268.512 to
23 268.568, inclusive, except as provided in those sections.

24 5. A project is not subject to any requirements relating to public buildings,
25 structures, ground works or improvements imposed by the statutes of this state or
26 any other similar requirements which may be lawfully waived by this section, and
27 any requirement of competitive bidding or other restriction imposed on the
28 procedure for award of contracts for such purpose or the lease, sale or other
29 disposition of property of the cities is not applicable to any action taken pursuant to
30 NRS 268.512 to 268.568, inclusive, except that the provisions of NRS ~~338.010~~
31 **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or
32 reconstruction for which tentative approval for financing is granted on or after
33 January 1, 1992, by the city for work to be done in a project. *The governing body,*
34 *the lessee, purchaser or obligor or designee thereof, any contractor who is*
35 *awarded a contract or enters into an agreement to perform the construction,*
36 *repair or reconstruction in a project and any subcontractor who performs any*
37 *portion of the construction, repair or reconstruction in a project shall comply*
38 *with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as*
39 *if the governing body had undertaken the project or had awarded the contract.*

40 6. Notwithstanding the provisions of NRS 662.245 or any other specific
41 statute to the contrary, any bank or trust company located within or without this
42 state may be appointed and act as a trustee with respect to bonds issued and projects
43 financed pursuant to NRS 268.512 to 268.568, inclusive, without meeting the
44 qualifications set forth in NRS 662.245.

45 7. The powers conferred by NRS 268.512 to 268.568, inclusive, are in
46 addition and supplemental to, and not in substitution for, and the limitations
47 imposed by those sections do not affect the powers conferred by, any other law.

48 8. No part of NRS 268.512 to 268.568, inclusive, repeals or affects any other
49 law or part thereof, except to the extent that those sections are inconsistent with any
50 other law, it being intended that those sections provide a separate method of
51 accomplishing its objectives, and not an exclusive one.

1 **Sec. 18.** NRS 271.710 is hereby amended to read as follows:

2 271.710 1. A governing body may adopt an ordinance pursuant to NRS
3 271.325 creating a district and ordering a project to be acquired or improved and
4 may contract with a person to construct or improve a project, issue bonds or
5 otherwise finance the cost of the project and levy assessments, without complying
6 with the provisions of NRS 271.305 to 271.320, inclusive, 271.330 to 271.345,
7 inclusive, 271.380 and 271.385 and, except as otherwise provided in this section,
8 the provisions of any law requiring public bidding or otherwise imposing
9 requirements on any public contract, project, works or improvements, including,
10 without limitation, chapters 332, 338 and 339 of NRS, if the governing body has
11 entered into a written agreement with the owners of all of the assessable property
12 within the district which states that:

13 (a) The governing body agrees to enter into a contract for the acquisition,
14 construction or improvement of the project or projects in the district which
15 includes:

16 (1) A provision stating that the requirements of NRS ~~338.010~~ **338.013** to
17 338.090, inclusive, apply to any construction work to be performed under the
18 contract; and

19 (2) The price, stated as a lump sum or as unit prices, which the governing
20 body agrees to pay for the project if the project meets all requirements and
21 specifications in the contract.

22 (b) The owners of the assessable property agree that if the rate of interest on
23 any assessment levied for the district is determined from time to time as provided in
24 NRS 271.487, the owners will provide written notice to the governing body in a
25 timely manner when a parcel of the assessable property in the district is sold to a
26 person who intends to occupy a dwelling unit on the parcel as his or her residence.

27 (c) The owners of the assessable property agree that the governing body may
28 create the district, levy the assessments and for all other purposes relating to the
29 district proceed pursuant to the provisions of this section.

30 2. If an ordinance is adopted and the agreement entered into pursuant to
31 subsection 1 so states:

32 (a) The governing body may amend the ordinance creating the district, change
33 the assessment roll and redistribute the assessments required by NRS 271.390 in the
34 same manner in which these actions were originally taken to add additional
35 property to the district. The assessments may be redistributed between the
36 assessable property originally in the district and the additional assessable property
37 if:

38 (1) The owners of additional assessable property also consent in writing to
39 inclusion of their property in the district and to the amount of the assessment
40 against their property; and

41 (2) The redistribution of the assessments is not prohibited by any
42 covenants made for the benefit of the owners of any bonds or interim warrants
43 issued for the district.

44 (b) The governing body may amend the ordinance creating the district, change
45 the assessment roll and redistribute the assessments required by NRS 271.390 in the
46 same manner in which these actions were originally taken to remove assessable
47 property from the district. The assessments may be redistributed among the
48 assessable property remaining in the district if:

49 (1) The owners of the remaining assessable property consent in writing to
50 the amount of the revised assessment on their property; and

51 (2) The redistribution of the assessments is not prohibited by any
52 covenants made for the benefit of the owners of any bonds or interim warrants
53 issued for the district.

(c) The governing body may adopt any ordinance pertaining to the district including the ordinance creating the district required by NRS 271.325, the ordinance authorizing interim warrants required by NRS 271.355, the ordinance levying assessments required by NRS 271.390, the ordinance authorizing bonds required by NRS 271.475 or any ordinance amending those ordinances after a single reading and without holding a hearing thereon, as if an emergency exists, upon an affirmative vote of not less than two-thirds of all voting members of the governing body, excluding from any computation any vacancy on the governing body and any members thereon who may vote to break a tie vote, and provide that the ordinances become effective at the time an emergency ordinance would have become effective. The provisions of NRS 271.308 do not apply to any such ordinance.

(d) The governing body may provide for a reserve fund, letter of credit, surety bond or other collateral for payment of any interim warrants or bonds issued for the district and include all or any portion of the costs thereof in the amounts assessed against the property in the district and in the amount of bonds issued for the district. The governing body may provide for the disposition of interest earned on the reserve fund and other bond proceeds, for the disposition of unexpended bond proceeds after completion of the project and for the disposition of the unexpended balance in the reserve fund after payment in full of the bonds for the district.

3. If the governing body of a municipality forms a district pursuant to the provisions of this section, the governing body:

(a) Is not required to adopt the resolutions required pursuant to the provisions of NRS 271.280, 271.310, 271.360 and 271.390.

(b) Shall be deemed to have adopted the resolution required pursuant to the provisions of NRS 271.325 if the plans and specifications are sufficiently specific to allow a competent contractor with the assistance of a competent engineer to estimate the cost of constructing the project and to construct the project.

4. The governing body, the owners of the assessable property, any contractor who is awarded a contract or enters into an agreement to perform the construction work on a project pursuant to this section, and any subcontractor who performs any portion of the construction work on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the project or had awarded the contract.

Sec. 19. NRS 271.800 is hereby amended to read as follows:

271.800 1. A governing body may, pursuant to NRS 271.275 or 271.710, establish a district to finance an underground conversion project. Before the governing body may adopt an ordinance pursuant to NRS 271.325 to establish such a district, each service provider that owns the overhead service facilities to be converted to underground facilities must submit its written approval of the project to the governing body. The governing body shall not establish a district to finance an underground conversion project without receiving the written approval of each such service provider pursuant to this subsection.

2. Before initiating the establishment of a district pursuant to this section, the governing body must request in writing and receive from each service provider that owns the overhead service facilities to be converted in the proposed improvement district a written estimate of the cost to convert those facilities to underground facilities. The service provider shall provide its estimate of the cost of the conversion to the governing body not later than 120 days after the service provider receives the request from the governing body.

3. If a district already exists for the location for which the underground conversion project is proposed, the governing body may, pursuant to NRS 271.295, combine the underground conversion project with other projects in that district.

4. An underground conversion project must be constructed by one or more of the service providers that own the overhead service facilities to be converted, pursuant to a written agreement between the governing body and each service provider that will engage in the construction. Such a project must be constructed in accordance with the standard underground practices and procedures approved by the Public Utilities Commission of Nevada.

5. The provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to a contract entered into by a municipality and a service provider pursuant to this section, except that the contract must include a provision stating that the requirements of NRS ~~338.010~~ 338.013 to 338.090, inclusive, apply to any construction work to be performed under the contract. *The governing body, the service provider, any contractor who is awarded a contract or enters into an agreement to perform the construction work on an underground conversion project, and any subcontractor who performs any portion of the construction work on an underground conversion project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the underground conversion project or had awarded the contract.*

6. Construction on an underground conversion project approved pursuant to this chapter may not commence until:

(a) An ordinance creating a district is adopted pursuant to NRS 271.325;

(b) The time for filing an appeal pursuant to NRS 271.315 has expired, or if such an appeal has been timely filed, a final, nonappealable judgment upholding the validity of the ordinance has been rendered;

(c) Arrangements for the financing of the construction have been completed through the issuance of bonds or interim warrants; and

(d) The service provider has obtained all applicable permits, easements and licenses necessary to convert the facilities.

Sec. 20. NRS 278C.240 is hereby amended to read as follows:

278C.240 The provisions of NRS ~~338.010~~ 338.013 to 338.090, inclusive, apply to any construction work to be performed under any contract or other agreement related to an undertaking ordered by a governing body pursuant to this chapter. *The governing body, the developer, any contractor who is awarded the contract or enters into the agreement to perform the construction work and any subcontractor who performs any portion of the construction work related to such an undertaking shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the governing body had undertaken the undertaking or had awarded the contract.*

Sec. 21. NRS 279.500 is hereby amended to read as follows:

279.500 1. The provisions of NRS ~~338.010~~ 338.013 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project.

2. If an agency:

(a) Provides property for development at less than the fair market value of the property;

(b) Provides a loan to a small business pursuant to NRS 279.700 to 279.740, inclusive; or

(c) Provides financial incentives to a developer with a value of more than ~~\$100,000, \$25,000,~~

↪ regardless of whether the project is publicly or privately owned, the agency must provide in the loan agreement with the small business or the agreement with the

1 developer, as applicable, that the development project is subject to the provisions of
2 NRS ~~338.013~~ 338.013 to 338.090, inclusive, to the same extent as if the agency
3 had awarded the contract for the project. *The agency, the small business or the*
4 *developer, as applicable, any contractor who is awarded the contract or enters*
5 *into the agreement to perform the project, and any subcontractor who performs*
6 *any portion of the project shall comply with the provisions of NRS 338.013 to*
7 *338.090, inclusive, in the same manner as if the agency had undertaken the*
8 *project or had awarded the contract.* This subsection applies only to the project
9 covered by the loan agreement between the agency and the small business or the
10 agreement between the agency and the developer, as applicable. This subsection
11 does not apply to future development of the property unless an additional loan, or
12 additional financial incentives with a value of more than \$100,000, ~~\$25,000,~~ are
13 provided to the small business or developer, as applicable.

14 **Sec. 22.** NRS 318.140 is hereby amended to read as follows:

15 318.140 In the case of a district created wholly or in part for acquiring
16 sanitary sewer improvements:

17 1. The board may:

18 (a) Construct, reconstruct, improve or extend the sanitary sewer system or any
19 part thereof, including, without limitation, mains, laterals, wyes, tees, meters and
20 collection, treatment and disposal plants.

21 (b) Sell any product or by-product thereof and acquire the appropriate outlets
22 within or without the district and extend the sewer lines of the district thereto.

23 (c) Enter into and perform, without any election, contracts or agreements for a
24 term not to exceed 50 years with any person or a public agency, to provide the
25 services, equipment or supplies necessary or appropriate to conduct tests of the
26 discharge of pollutants into the state's water and to report the results of those tests
27 as required by chapter 445A of NRS or the regulations adopted thereunder. For the
28 purposes of this paragraph, "public agency" has the meaning ascribed to it in NRS
29 277.100.

30 2. The provisions of chapters 332 and 339 of NRS do not apply to a contract
31 under which a private developer extends a sewer main to his or her development or
32 installs any appurtenances to that extension. Except as otherwise provided in this
33 subsection, the provisions of chapter 338 of NRS do not apply to such a contract. If
34 the developer does not pay all of the initial construction costs of the extension, the
35 provisions of NRS 338.013 to 338.090, inclusive, apply to the contract. *The board,*
36 *the developer, any contractor who is awarded a contract or enters into an*
37 *agreement to perform the extension or installation of appurtenances to the*
38 *extension, and any subcontractor who performs any portion of the extension or*
39 *installation of appurtenances to the extension shall comply with the provisions of*
40 *NRS 338.013 to 338.090, inclusive, in the same manner as if the board had*
41 *undertaken the extension or had awarded the contract.*

42 **Sec. 23.** NRS 318.144 is hereby amended to read as follows:

43 318.144 1. The board may acquire, construct, reconstruct, improve, extend
44 or better a works, system or facilities for the supply, storage and distribution of
45 water for private and public purposes.

46 2. The provisions of chapters 332 and 339 of NRS do not apply to a contract
47 under which a private developer constructs water facilities for his or her
48 development. Except as otherwise provided in this subsection, the provisions of
49 chapter 338 of NRS do not apply to such a contract. If the developer does not pay
50 all of the initial construction costs of the facility, the provisions of NRS 338.013 to
51 338.090, inclusive, apply to the contract. *The board, the developer, any contractor*
52 *who is awarded a contract or enters into an agreement to perform the*
53 *construction of the facility, and any subcontractor who performs any portion of*

1 *the construction of the facility shall comply with the provisions of NRS 338.013 to*
2 *338.090, inclusive, in the same manner as if the board had undertaken the*
3 *construction or had awarded the contract.*

4 **Sec. 24.** NRS 332.390 is hereby amended to read as follows:

5 332.390 1. If a performance contract entered into pursuant to NRS 332.300
6 to 332.440, inclusive, requires the employment of skilled mechanics, skilled
7 workers, semiskilled mechanics, semiskilled workers or unskilled labor to perform
8 the performance contract, the performance contract must include a provision
9 relating to the prevailing wage as required pursuant to NRS ~~338.020~~ 338.013 to
10 338.090, inclusive. *The local government, the qualified service company, any*
11 *contractor who is awarded a contract or enters into an agreement to perform the*
12 *work for the performance contract, and any subcontractor who performs any*
13 *portion of that work shall comply with the provisions of NRS 338.013 to 338.090,*
14 *inclusive, in the same manner as if the local government had undertaken the*
15 *work or had awarded the contract.*

16 2. Before a qualified service company enters into a performance contract
17 pursuant to NRS 332.300 to 332.440, inclusive, that exceeds \$100,000, the
18 qualified service company must furnish to the contracting body any bonds required
19 pursuant to NRS 339.025. The provisions of chapter 339 of NRS apply to any
20 performance contract described in this subsection.

21 **Sec. 25.** NRS 333A.120 is hereby amended to read as follows:

22 333A.120 If a performance contract entered into pursuant to this chapter
23 requires the employment of skilled mechanics, skilled workers, semiskilled
24 mechanics, semiskilled workers or unskilled labor to perform the performance
25 contract, the performance contract must include a provision relating to the
26 prevailing wage as required pursuant to NRS ~~338.020~~ 338.013 to 338.090,
27 inclusive. *The using agency, the qualified service company, any contractor who is*
28 *awarded a contract or enters into an agreement to perform the work for the*
29 *performance contract, and any subcontractor who performs any portion of that*
30 *work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in*
31 *the same manner as if the using agency had undertaken the work or had awarded*
32 *the contract.*

33 **Sec. 26.** NRS 349.670 is hereby amended to read as follows:

34 349.670 1. NRS 349.400 to 349.670, inclusive, without reference to other
35 statutes of the State, constitute full authority for the exercise of powers granted in
36 those sections, including but not limited to the authorization and issuance of bonds.

37 2. No other act or law with regard to the authorization or issuance of bonds
38 that provides for an election, requires an approval, or in any way impedes or
39 restricts the carrying out of the acts authorized in NRS 349.400 to 349.670,
40 inclusive, to be done, applies to any proceedings taken or acts done pursuant to
41 those sections, except for laws to which reference is expressly made in those
42 sections or by necessary implication of those sections.

43 3. The provisions of no other law, either general or local, except as provided
44 in NRS 349.400 to 349.670, inclusive, apply to the doing of the things authorized in
45 those sections to be done, and no board, agency, bureau, commission or official not
46 designated in those sections has any authority or jurisdiction over the doing of any
47 of the acts authorized in those sections to be done, except as otherwise provided in
48 those sections.

49 4. A project is not subject to any requirements relating to public buildings,
50 structures, ground works or improvements imposed by the statutes of this state or
51 any other similar requirements which may be lawfully waived by this section, and
52 any requirement of competitive bidding or other restriction imposed on the
53 procedure for award of contracts for such purpose or the lease, sale or other

disposition of property is not applicable to any action taken pursuant to NRS 349.400 to 349.670, inclusive, except that the provisions of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director for work to be done in a project. *The Director, the lessee, purchaser, obligor or other enterprise, any contractor who is awarded a contract or enters into an agreement to perform the construction, repair or reconstruction for a project, and any subcontractor who performs any portion of such construction, repair or reconstruction shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the project or had awarded the contract.*

5. Any bank or trust company located within or without this state may be appointed and act as a trustee with respect to bonds issued and projects financed pursuant to NRS 349.400 to 349.670, inclusive, without the necessity of associating with any other person or entity as cofiduciary, but such an association is not prohibited.

6. The powers conferred by NRS 349.400 to 349.670, inclusive, are in addition and supplemental to, and not in substitution for, and the limitations imposed by those sections do not affect the powers conferred by any other law.

7. No part of NRS 349.400 to 349.670, inclusive, repeals or affects any other law or part thereof, except to the extent that those sections are inconsistent with any other law, it being intended that those sections provide a separate method of accomplishing its objectives, and not an exclusive one.

8. The Director or a person designated by the Director may take any actions and execute and deliver any instruments, contracts, certificates and other documents, including the bonds, necessary or appropriate for the sale and issuance of the bonds or accomplishing the purposes of NRS 349.400 to 349.670, inclusive, without the assistance or intervention of any other officer.

Sec. 27. NRS 349.956 is hereby amended to read as follows:

349.956 A water project is not subject to any requirements relating to public buildings, structures, ground works or improvements imposed by the statutes of this state or any other similar requirements which may be lawfully waived by this section, and any requirement of competitive bidding or other restriction imposed on the procedure for award of contracts for such purpose or the lease, sale or other disposition of property is not applicable to any action taken pursuant to NRS 349.935 to 349.961, inclusive, except that the provisions of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction for which tentative approval for financing is granted on or after January 1, 1992, by the Director or a municipality for work to be done in a water project. *The Director or municipality, the lessee, purchaser or other obligor, any contractor who is awarded a contract or enters into an agreement to perform the construction, repair or reconstruction for a water project, and any subcontractor who performs any portion of such construction, repair or reconstruction shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had undertaken the water project or had awarded the contract.*

Sec. 28. NRS 388A.635 is hereby amended to read as follows:

388A.635 1. NRS 388A.550 to 388A.695, inclusive, without reference to other statutes of this State, constitute full authority for the exercise of powers granted in those sections, including, without limitation, the authorization and issuance of bonds.

2. No other act or law with regard to the authorization or issuance of bonds that provides for an election, requires an approval, or in any way impedes or

1 restricts the carrying out of the acts authorized by NRS 388A.550 to 388A.695,
2 inclusive, to be done, applies to any proceedings taken or acts done pursuant to
3 those sections, except for laws to which reference is expressly made in those
4 sections or by necessary implication of those sections.

5 3. The provisions of no other law, either general or local, except as provided
6 in NRS 388A.550 to 388A.695, inclusive, apply to the doing of the things
7 authorized in those sections to be done, and no board, agency, bureau, commission
8 or official not designated in those sections has any authority or jurisdiction over the
9 doing of any of the acts authorized in those sections to be done, except as otherwise
10 provided in those sections.

11 4. A project is not subject to any requirements relating to public buildings,
12 structures, ground works or improvements imposed by the statutes of this State or
13 any other similar requirements which may be lawfully waived by this section, and
14 any requirement of competitive bidding or other restriction imposed on the
15 procedure for award of contracts for such purpose or the lease, sale or other
16 disposition of property is not applicable to any action taken pursuant to NRS
17 388A.550 to 388A.695, inclusive ~~+~~, *except that the provisions of NRS 338.013 to*
18 *338.090, inclusive, apply to any contract for new construction, repair or*
19 *reconstruction for which tentative approval for financing is granted on or after*
20 *July 1, 2017, by the Director of the Department of Business and Industry. The*
21 *Director, the lessee, purchaser or other obligor, any contractor who is awarded a*
22 *contract or enters into an agreement to perform the construction, repair or*
23 *reconstruction for the project, and any subcontractor who performs any portion*
24 *of such construction, repair or reconstruction shall comply with the provisions of*
25 *NRS 338.013 to 338.090, inclusive, in the same manner as if a public body had*
26 *undertaken the project or had awarded the contract.*

27 5. Any bank or trust company located within or without this State may be
28 appointed and act as a trustee with respect to bonds issued and projects financed
29 pursuant to NRS 388A.550 to 388A.695, inclusive, without the necessity of
30 associating with any other person or entity as cofiduciary, but such an association is
31 not prohibited.

32 6. The powers conferred by NRS 388A.550 to 388A.695, inclusive, are in
33 addition and supplemental to, and not in substitution for, and the limitations
34 imposed by those sections do not affect, the powers conferred by any other law.

35 7. No part of NRS 388A.550 to 388A.695, inclusive, repeals or affects any
36 other law or part thereof, except to the extent that those sections are inconsistent
37 with any other law, it being intended that those sections provide a separate method
38 of accomplishing its objectives, and not an exclusive one.

39 8. The Director of the Department of Business and Industry or a person
40 designated by the Director of the Department of Business and Industry may take
41 any actions and execute and deliver any instruments, contracts, certificates and
42 other documents, including the bonds, necessary or appropriate for the sale and
43 issuance of the bonds or accomplishing the purposes of NRS 388A.550 to
44 388A.695, inclusive, without the assistance or intervention of any other officer.

45 **Sec. 29.** NRS 408.3886 is hereby amended to read as follows:

46 408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the
47 Department shall provide to each finalist a request for final proposals for the
48 project. The request for final proposals must:

49 (a) Set forth the factors that the Department will use to select a design-build
50 team to design and construct the project, including the relative weight to be
51 assigned to each factor; and

52 (b) Set forth the date by which final proposals must be submitted to the
53 Department.

2. Except as otherwise provided in this subsection, in assigning the relative weight to each factor for selecting a design-build team pursuant to subsection 1, the Department shall assign, without limitation, a relative weight of 5 percent to the design-build team's possession of both a certificate of eligibility to receive a preference in bidding on public works by the prime contractor on the design-build team, if the design-build team submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to receive a preference when competing for public works by all persons who hold a certificate of registration to practice architecture or a license as a professional engineer on the design-build team, and a relative weight of at least 30 percent for the proposed cost of design and construction of the project. If any federal statute or regulation precludes the granting of federal assistance or reduces the amount of that assistance for a particular project because of the provisions of this subsection relating to a preference in bidding on public works or a preference when competing for public works, those provisions of this subsection do not apply insofar as their application would preclude or reduce federal assistance for that project.

3. A final proposal submitted by a design-build team pursuant to this section must be prepared thoroughly, be responsive to the criteria that the Department will use to select a design-build team to design and construct the project described in subsection 1 and comply with the provisions of NRS 338.141.

4. After receiving the final proposals for the project, the Department shall:

(a) Select the most cost-effective and responsive final proposal, using the criteria set forth pursuant to subsections 1 and 2;

(b) Reject all the final proposals; or

(c) Request best and final offers from all finalists in accordance with subsection 5.

5. If the Department determines that no final proposal received is cost-effective or responsive and the Department further determines that requesting best and final offers pursuant to this subsection will likely result in the submission of a satisfactory offer, the Department may prepare and provide to each finalist a request for best and final offers for the project. In conjunction with preparing a request for best and final offers pursuant to this subsection, the Department may alter the scope of the project, revise the estimates of the costs of designing and constructing the project, and revise the selection factors and relative weights described in paragraph (a) of subsection 1. A request for best and final offers prepared pursuant to this subsection must set forth the date by which best and final offers must be submitted to the Department. After receiving the best and final offers, the Department shall:

(a) Select the most cost-effective and responsive best and final offer, using the criteria set forth in the request for best and final offers; or

(b) Reject all the best and final offers.

6. If the Department selects a final proposal pursuant to paragraph (a) of subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection 5, the Department shall hold a public meeting to:

(a) Review and ratify the selection.

(b) Partially reimburse the unsuccessful finalists if partial reimbursement was provided for in the request for preliminary proposals pursuant to paragraph (f) of subsection 3 of NRS 408.3883. The amount of reimbursement must not exceed, for each unsuccessful finalist, 3 percent of the total amount to be paid to the design-build team as set forth in the design-build contract.

(c) Make available to the public a summary setting forth the factors used by the Department to select the successful design-build team and the ranking of the design-build teams who submitted final proposals and, if applicable, best and final

offers. The Department shall not release to a third party, or otherwise make public, financial or proprietary information submitted by a design-build team.

7. A contract awarded pursuant to this section:

(a) Must comply with the provisions of NRS ~~338.020~~ **338.013** to 338.090, inclusive; and

(b) Must specify:

(1) An amount that is the maximum amount that the Department will pay for the performance of all the work required by the contract, excluding any amount related to costs that may be incurred as a result of unexpected conditions or occurrences as authorized by the contract;

(2) An amount that is the maximum amount that the Department will pay for the performance of the professional services required by the contract; and

(3) A date by which performance of the work required by the contract must be completed.

8. *The Department, the design-build team, any contractor who is awarded a contract or enters into an agreement to perform work on the project, and any subcontractor who performs work on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the Department had undertaken the project or had awarded the contract.*

9. A design-build team to whom a contract is awarded pursuant to this section shall:

(a) Assume overall responsibility for ensuring that the design and construction of the project is completed in a satisfactory manner; and

(b) Use the workforce of the prime contractor on the design-build team to construct at least 15 percent of the project.

Sec. 30. NRS 543.545 is hereby amended to read as follows:

543.545 1. Except as otherwise provided in ~~subsection 3,~~ *this section*, the provisions of any law requiring public bidding or otherwise imposing requirements on any public contract, project, works or improvements, including, without limitation, the provisions of chapters 332, 338 and 339 of NRS, do not apply to any contract entered into by a flood control district for the construction of a flood control facility pursuant to the master plan, if a majority of the construction costs are paid by a private developer and the written agreement:

~~1-1~~ (a) Complies with the requirements of subsection 1 of NRS 543.360;

~~2-1~~ (b) Clearly sets forth the computation of the construction costs, and includes the terms and conditions of the contract; and

~~3-1~~ (c) Contains a provision stating that the requirements of NRS ~~338.010~~ **338.013** to 338.090, inclusive, apply to any construction work performed pursuant to the contract.

2. *The board, the developer, any contractor who is awarded a contract or enters into an agreement to perform the construction work, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the board had undertaken the construction work or had awarded the contract.*

Sec. 31. NRS 701B.265 is hereby amended to read as follows:

701B.265 1. The installation of a solar energy system on property owned or occupied by a public body pursuant to NRS 701B.010 to 701B.290, inclusive, shall be deemed to be a public work for the purposes of chapters 338 and 341 of NRS, regardless of whether the installation of the solar energy system is financed in whole or in part by public money. *The public body, the utility, any contractor who is awarded a contract or entered into an agreement to perform the installation and any subcontractor who performs any portion of the installation shall comply*

1 *with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as*
2 *if the public body had undertaken the installation or had awarded the contract.*

3 2. The amount of any incentive issued by a utility relating to the installation
4 of a solar energy system on property owned or occupied by a public body may not
5 be used to reduce the cost of the project to an amount which would exempt the
6 project from the requirements of NRS ~~338.020~~ 338.013 to 338.090, inclusive.

7 3. As used in this section, "public body" means the State or a county, city,
8 town, school district or any public agency of this State or its political subdivisions.

9 **Sec. 32.** NRS 701B.625 is hereby amended to read as follows:

10 701B.625 1. The installation of a wind energy system on property owned or
11 occupied by a public body pursuant to NRS 701B.400 to 701B.650, inclusive, shall
12 be deemed to be a public work for the purposes of chapters 338 and 341 of NRS,
13 regardless of whether the installation of the wind energy system is financed in
14 whole or in part by public money. *The public body, the utility, any contractor who*
15 *is awarded a contract or entered into an agreement to perform the installation*
16 *and any subcontractor who performs any portion of the installation shall comply*
17 *with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as*
18 *if the public body had undertaken the installation or had awarded the contract.*

19 2. The amount of any incentive issued by a utility relating to the installation
20 of a wind energy system on property owned or occupied by a public body may not
21 be used to reduce the cost of the project to an amount which would exempt the
22 project from the requirements of NRS ~~338.020~~ 338.013 to 338.090, inclusive.

23 3. As used in this section, "public body" means the State or a county, city,
24 town, school district or any public agency of this State or its political subdivisions.

25 **Sec. 33.** Section 9.5 of the Reno-Tahoe Airport Authority Act, being chapter
26 474, Statutes of Nevada 1977, as last amended by chapter 98, Statutes of Nevada
27 2013, at page 335, is hereby amended to read as follows:

28 **Sec. 9.5.** 1. Except as otherwise determined by the Board or
29 provided in subsection 2, the provisions of any law requiring public bidding
30 or otherwise imposing requirements on any public contract, project,
31 acquisition, works or improvements, including, without limitation, the
32 provisions of chapters 332, 338 and 339 of NRS, do not apply to any
33 contract entered into by the Board if the Board:

34 (a) Complies with the provisions of subsection 3; and

35 (b) Finances the contract, project, acquisition, works or improvement
36 by means of:

37 (1) Revenue bonds issued by the Authority; or

38 (2) An installment obligation of the Authority in a transaction in

39 which:

40 (I) The Authority acquires real or personal property and
41 another person acquires or retains a security interest in that or other
42 property; and

43 (II) The obligation by its terms is extinguished by failure of the
44 Board to appropriate money for the ensuing fiscal year for payment of the
45 amounts then due.

46 2. A contract entered into by the Board pursuant to this section must:

47 (a) Contain a provision stating that the requirements of NRS ~~338.010~~
48 338.013 to 338.090, inclusive, apply to any construction work performed
49 pursuant to the contract; and

50 (b) If the contract is with a design professional who is not a member of
51 a design-build team, comply with the provisions of NRS 338.155. As used
52 in this paragraph, "design professional" has the meaning ascribed to it in
53 subsection 7 of NRS 338.010.

3. For contracts entered into pursuant to this section that are exempt from the provisions of chapters 332, 338 and 339 of NRS pursuant to subsection 1, the Board shall adopt regulations pursuant to subsection ~~44~~ 5 which establish:

(a) One or more competitive procurement processes for letting such a contract; and

(b) A method by which a bid on such a contract will be adjusted to give a 5 percent preference to a contractor who would qualify for a preference pursuant to NRS 338.147, if:

(1) The estimated cost of the contract exceeds \$250,000; and

(2) Price is a factor in determining the successful bid on the contract.

4. *The Board, any contractor who is awarded a contract or enters into an agreement to perform the construction work, and any subcontractor who performs any portion of the construction work shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the Board had undertaken the construction work or had awarded the contract.*

5. The Board:

(a) Shall, before adopting, amending or repealing a permanent or temporary regulation pursuant to subsection 3, give at least 30 days' notice of its intended action. The notice must:

(1) Include:

(I) A statement of the need for and purpose of the proposed regulation.

(II) Either the terms or substance of the proposed regulation or a description of the subjects and issues involved.

(III) The estimated cost to the Board for enforcement of the proposed regulation.

(IV) The time when, the place where and the manner in which interested persons may present their views regarding the proposed regulation.

(V) A statement indicating whether the regulation establishes a new fee or increases an existing fee.

(2) State each address at which the text of the proposed regulation may be inspected and copied.

(3) Be mailed to all persons who have requested in writing that they be placed upon a mailing list, which must be kept by the Authority for that purpose.

(b) May adopt, if it has adopted a temporary regulation after notice and the opportunity for a hearing as provided in this subsection, after providing a second notice and the opportunity for a hearing, a permanent regulation.

(c) Shall, in addition to distributing the notice to each recipient of the Board's regulations, solicit comment generally from the public and from businesses to be affected by the proposed regulation.

(d) Shall, before conducting a workshop pursuant to paragraph (g), determine whether the proposed regulation is likely to impose a direct and significant economic burden upon a small business or directly restrict the formation, operation or expansion of a small business. If the Board determines that such an impact is likely to occur, the Board shall:

(1) Insofar as practicable, consult with owners and officers of small businesses that are likely to be affected by the proposed regulation.

(2) Consider methods to reduce the impact of the proposed regulation on small businesses.

(3) Prepare a small business impact statement and make copies of the statement available to the public at the workshop conducted pursuant to paragraph (g) and the public hearing held pursuant to paragraph (h).

(e) Shall ensure that a small business impact statement prepared pursuant to subparagraph (3) of paragraph (d) sets forth the following information:

(1) A description of the manner in which comment was solicited from affected small businesses, a summary of their response and an explanation of the manner in which other interested persons may obtain a copy of the summary.

(2) The estimated economic effect of the proposed regulation on the small businesses which it is to regulate, including, without limitation:

(I) Both adverse and beneficial effects; and

(II) Both direct and indirect effects.

(3) A description of the methods that the Board considered to reduce the impact of the proposed regulation on small businesses and a statement regarding whether the Board actually used any of those methods.

(4) The estimated cost to the Board for enforcement of the proposed regulation.

(5) If the proposed regulation provides a new fee or increases an existing fee, the total annual amount the Board expects to collect and the manner in which the money will be used.

(f) Shall afford a reasonable opportunity for all interested persons to submit data, views or arguments upon the proposed regulation, orally or in writing.

(g) Shall, before holding a public hearing pursuant to paragraph (h), conduct at least one workshop to solicit comments from interested persons on the proposed regulation. Not less than 15 days before the workshop, the Board shall provide notice of the time and place set for the workshop:

(1) In writing to each person who has requested to be placed on a mailing list; and

(2) In any other manner reasonably calculated to provide such notice to the general public and any business that may be affected by a proposed regulation which addresses the general topics to be considered at the workshop.

(h) Shall set a time and place for an oral public hearing, but if no one appears who will be directly affected by the proposed regulation and requests an oral hearing, the Board may proceed immediately to act upon any written submissions. The Board shall consider fully all written and oral submissions respecting the proposed regulation.

(i) Shall keep, retain and make available for public inspection written minutes of each public hearing held pursuant to paragraph (h) in the manner provided in subsections 1 and 2 of NRS 241.035. A copy of the minutes must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

(j) May record each public hearing held pursuant to paragraph (h) and make those recordings available for public inspection in the manner provided in subsection 4 of NRS 241.035. A copy of the audio recordings must be made available to a member of the public upon request at no charge pursuant to NRS 241.035.

(k) Shall ensure that a small business which is aggrieved by a regulation adopted pursuant to this subsection may object to all or a part of the regulation by filing a petition with the Board within 90 days after the date on which the regulation was adopted. Such petition may be based on the following:

(1) The Board failed to prepare a small business impact statement as required pursuant to subparagraph (3) of paragraph (d); or

(2) The small business impact statement prepared by the Board did not consider or significantly underestimated the economic effect of the regulation on small businesses.

➤ After receiving a petition pursuant to this paragraph, the Board shall determine whether the petition has merit. If the Board determines that the petition has merit, the Board may, pursuant to this subsection, take action to amend the regulation to which the small business objected.

~~6.5~~ 6. The determinations made by the Board pursuant to this section are conclusive unless it is shown that the Board acted with fraud or a gross abuse of discretion.

Sec. 33.5. Section 14.5 of chapter 487, Statutes of Nevada 2013, at page 2985, is hereby amended to read as follows:

Sec. 14.5. 1. On or before January 1 of each year, each public body that enters into a contract during the immediately preceding year with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive, for preconstruction services for or to construct a public work shall submit a report to the Director of the Legislative Counsel Bureau for transmittal to the Legislature, or to the Legislative Commission if the report is submitted during an odd-numbered year.

2. The report required by subsection 1 must include, for each public work for which the public body enters into a contract with a construction manager at risk:

(a) A description of the public work;

(b) The name of the applicants who submitted proposals for the public work that were selected for interviews pursuant to subsection 4 of NRS 338.1693;

(c) The name of the applicant who was selected as the construction manager at risk. ~~+~~

~~(e) for the public work;~~

(d) Whether the construction manager at risk substituted a different employee of the construction manager at risk for any employee whose resume was submitted pursuant to paragraph (f) of subsection 3 of NRS 338.1692, and, if so, the reason for the substitution;

(e) If the public work has not been completed at the time the report is submitted, a report on the progress of the public work; and

~~(d)~~ (f) If the public work has been completed at the time the report is submitted, ~~and~~ ~~+~~:

(1) An explanation of whether ~~the public body is satisfied with~~ the public work ~~and with~~ was completed in accordance with the contractual arrangement with the construction manager at risk ~~+~~, including, without limitation, if the public work was completed on time; and

(2) A statement of the guaranteed maximum price for the public work and the actual price at which the public work was completed.

3. As used in this section:

(a) "Public body" has the meaning ascribed to it in subsection 16 of NRS 338.010, as amended by section 2 of this act.

(b) "Public work" has the meaning ascribed to it in subsection 17 of NRS 338.010, as amended by section 2 of this act.

Sec. 34. Section 15 of chapter 487, Statutes of Nevada 2013, at page 2986, is hereby amended to read as follows:

Sec. 15. 1. This section and sections 1, 2, 3, 4, 5, 6, 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become effective on July 1, 2013.

2. Section 1 of this act expires by limitation on June 30, ~~2017~~ **2021**.

3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1 and 14.7 of this act become effective on July 1, ~~2017~~ **2021**.

Sec. 35. Section 9 of chapter 123, Statutes of Nevada 2015, at page 457, is hereby amended to read as follows:

Sec. 9. 1. This act becomes effective upon passage and approval.

2. Sections 6 and 7.5 of this act expire by limitation on June 30, ~~2017~~ **2021**.

Sec. 35.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 36. NRS 338.018, 338.075 and 338.1405 are hereby repealed.

Sec. 37. 1. This section and sections **33.5, 34, ~~and~~ 35 and 35.5** of this act become effective upon passage and approval.

2. Sections 1 to 33, inclusive, and 36 of this act become effective on July 1, 2017.

3. Sections 1 and 9 to 14, inclusive, of this act expire by limitation on June 30, 2021.

4. Sections 31 and 32 of this act expire by limitation on December 31, 2025.

TEXT OF REPEALED SECTIONS

338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. 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 \$250,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

338.1405 Requirements regarding agreements with labor organizations prohibited; exceptions.

1. The Legislature hereby finds and declares that the provisions of this section prohibiting requirements for certain terms in contracts entered into by a public body for a public work or entered into by the awardee of a grant, tax abatement, tax credit or tax exemption from a public body are:

(a) Intended to provide:

(1) More economical, nondiscriminatory, neutral and efficient contracts for public works by public bodies in this State as market participants; and

(2) Fair and open competition in awarding contracts, grants, tax abatements, tax credits and tax exemptions.

(b) The best method for effectuating the intent of paragraph (a).

2. Except as otherwise provided in subsection 5 or 6, a public body, in any advertisement, solicitation, specification, contract or any other document related to a contract for a public work, shall not:

(a) Require or prohibit an eligible bidder, contractor or subcontractor from entering into or adhering to an agreement with one or more labor organizations in regard to the public work or any construction project integrated into the public work.

(b) Discriminate against an eligible bidder, contractor or subcontractor for becoming or remaining or refusing to become or remain a signatory to, or for adhering or refusing to adhere to, an agreement with one or more labor organizations in regard to the public work or any construction project integrated into the public work.

3. Except as otherwise provided in subsection 5 or 6, a public body shall not award a grant, tax abatement, tax credit or tax exemption that is conditioned upon a requirement that the awardee include a term described in paragraph (a) or (b) of subsection 2 in a contract for any construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption.

4. The provisions of subsections 2 and 3 do not:

(a) Prohibit a public body from awarding a contract for a public work or a grant, tax abatement, tax credit or tax exemption to an owner who is not a public body, an eligible bidder, a contractor or a subcontractor who enters into, who is a party to or who adheres to an agreement with a labor organization if:

(1) Entering into, being or becoming a party to or adhering to an agreement with a labor organization is not a condition for awarding the contract, grant, tax abatement, tax credit or tax exemption; and

(2) The public body does not discriminate against an owner who is not a public body, an eligible bidder, a contractor or a subcontractor in the awarding of the contract, grant, tax abatement, tax credit or tax exemption based upon the status of entering into, being or becoming a party to or adhering to an agreement with a labor organization;

(b) Prohibit an eligible bidder, contractor or subcontractor from voluntarily entering into or complying with an agreement entered into with one or more labor organizations in regard to a contract:

(1) With a public body for a public work; or

(2) Funded in whole or in part by a grant, tax abatement, tax credit or tax exemption from a public body;

(c) Prohibit employers or other parties from entering into agreements or engaging in any other activity protected by the Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et seq.;

(d) Interfere with labor relations of parties that are left unregulated by the Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et seq.; or

(e) Affect any provision of NRS 338.020 to 338.090, inclusive.

5. A public body may exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from the provisions of subsection 2 if the public body makes a finding, after notice and a hearing, that a special circumstance requires such an exemption to avert an imminent threat to the public health or

safety. A finding of a special circumstance pursuant to this subsection must not be based on the possibility or presence of a labor dispute concerning:

(a) The use of a contractor or subcontractor who is not a signatory to or does not adhere to an agreement with one or more labor organizations; or

(b) Employees on the public work who are not members of or affiliated with a labor organization.

6. A public body may exempt a particular public work or a grant, tax abatement, tax credit or tax exemption from the provisions of subsection 2 if the public body makes a finding, after notice and a hearing, that the public work or construction, improvement, maintenance or renovation to real property that is the subject of the grant, tax abatement, tax credit or tax exemption, as applicable, is a part of critical infrastructure for:

(a) An airport, including, without limitation, a runway, taxiway, air traffic control tower or project to improve airport security; or

(b) A water system.

7. As used in this section, “labor organization” means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.