

Amendment No. 971

Assembly Amendment to Senate Bill No. 357 Second Reprint (BDR 28-534)

Proposed by: Assemblyman McCurdy II

Amends: Summary: No Title: No 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.

BJF



Date: 5/26/2017

S.B. No. 357—Revises provisions governing apprentices. (BDR 28-534)



SENATE BILL NO. 357—SENATORS ATKINSON, SEGERBLOM, SPEARMAN, DENIS, PARKS; CANCELA, CANNIZZARO, FORD, MANENDO AND WOODHOUSE

MARCH 20, 2017

Referred to Committee on Commerce, Labor and Energy

SUMMARY—Revises provisions governing apprentices. (BDR 28-534)

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 apprentices; prohibiting a public body from awarding certain contracts for a public work to a contractor unless the contractor complies with certain requirements relating to the use of apprentices on public works or pays a monetary penalty; prohibiting a contractor on certain public works from awarding subcontracts for more than 5 percent of the value of the public work to a subcontractor unless the subcontractor complies with certain requirements relating to the use of apprentices on public works or pays a monetary penalty; revising provisions relating to apprenticeship programs; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law creates the State Apprenticeship Council and requires the Council to establish standards for programs of apprenticeship. (NRS 610.030, 610.090, 610.095) The purposes of such programs include, without limitation: (1) the creation of the opportunity for persons to obtain training that will equip those persons for profitable employment and citizenship; and (2) the establishment of an organized program for the voluntary training of those persons by providing facilities for training and guidance in the arts and crafts of industry and trade. (NRS 610.020) Existing law sets forth the requirements for a public body which sponsors or finances a public work to award a contract to a contractor for the construction of the public work. (Chapter 338 of NRS) Such requirements include, without limitation: (1) the payment of the prevailing wage in the county in which the public work is located; and (2) the establishment of certain fair employment practices for contractors in connection with the performance of work under the contract awarded by the public body. (NRS 338.020, 338.125)

Section 4 of this bill prohibits a public body from, on or after February 1, 2019, awarding a contract for a public work for which the estimated cost exceeds \$1,000,000 to a contractor unless the contractor: (1) ~~insured that in the immediately preceding calendar year, it~~ ***complied with certain requirements relating to the use of*** apprentices ~~for that contractor performed not less than 2 percent, or a higher percentage established by regulation of the Labor Commissioner, of the total hours of labor performed in each recognized class of worker for all contracts for~~ ***on public works awarded to*** ***performed by*** the contractor; or (2) paid a monetary penalty imposed by the Labor Commissioner. **Section 4** also prohibits a contractor awarded a contract for a public work on or after February 1, 2019, for which the estimated cost exceeds \$1,000,000 from awarding a subcontract for more than 5 percent of the value of

that public work to a subcontractor unless the subcontractor satisfied the same requirement for the use of apprentices on public works or paid a monetary penalty imposed by the Labor Commissioner. **Section 4** authorizes the Labor Commissioner to grant an exemption from this requirement if a public work is performed in a county whose population is less than 100,000 or a city whose population is less than 60,000 and the Labor Commissioner finds that there is a lack of qualified apprentices ~~in a recognized class of worker~~ from any available source in the geographic area in which the public work will be performed. **Section 4** also excludes from those requirements contractors and subcontractors who employ fewer than a specified number of employees at the site of a public work.

Section 4 also requires: (1) the Labor Commissioner to issue a certificate of compliance to contractors and subcontractors who complied with the requirements of that section relating to the use of apprentices; and (2) a public body to verify a contractor's compliance with the requirements for apprentice labor before awarding a contract for certain public works by obtaining the identification number included on the certificate of compliance issued to the contractor or subcontractor.

Finally, **section 4** requires all monetary penalties imposed on a contractor or subcontractor for failure to comply with the requirements of that section to be paid to the State Director of Apprenticeships and distributed to programs for the recruitment, education and training of construction workers and the placement of such workers in employment.

Section 6.85 of this bill requires an apprenticeship program to submit a quarterly report to the State Apprenticeship Council which contains the: (1) number of apprentices enrolled in the program; (2) enrollment capacity of the program; and (3) number of apprentices who completed the program in the period covered by the report. **Section 6.85** further provides that on or before February 1, 2021, the State Apprenticeship Council is required to submit to the Director of the Legislative Counsel Bureau a report on the availability and use of apprentices for transmission to the 2021 Legislative Session.

Section 6.9 requires an apprenticeship program in which the number of apprentices enrolled is less than 40 percent of the enrollment capacity of the program to submit to the State Apprenticeship Council a strategic plan to recruit and retain apprentices and a monthly report concerning the progress of the program in recruiting and retaining apprentices.

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

Section 1. (Deleted by amendment.)

Sec. 2. (Deleted by amendment.)

Sec. 3. (Deleted by amendment.)

Sec. 4. Chapter 338 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 4 or 5, on or after February 1, 2019, a public body shall not award a contract for a public work for which the estimated cost exceeds \$1,000,000 to a contractor unless:

(a) For the immediately preceding calendar year the contractor ensured that
~~*: [for each recognized class of worker an apprentice performed:]*~~

(1) ~~Not~~ An apprentice performed not less than 3 percent, or such other percentage as the Labor Commissioner may require pursuant to regulations adopted pursuant to subsection 9, of the total hours of labor performed by that recognized class of worker and, reported by the contractor to public bodies for all contracts or subcontracts for horizontal construction on a public work in this State which were awarded to the contractor and to which the provisions of NRS 338.020 to 338.090, inclusive, apply; or

(2) ~~Not~~ For each recognized class of worker, an apprentice performed not less than 3 percent, or such other percentage as the Labor Commissioner may require pursuant to regulations adopted pursuant to subsection 9, of the total

1 hours of labor performed by that recognized class of worker and reported by the
2 contractor to public bodies for all contracts or subcontracts for vertical
3 construction on a public work in this State which were awarded to the contractor
4 and to which the provisions of NRS 338.020 to 338.090, inclusive, apply; or

5 (b) The contractor has paid all monetary penalties imposed by the Labor
6 Commissioner pursuant to subsection 6.

7 2. Except as otherwise provided in subsection 4 or 5, a contractor awarded a
8 contract for a public work on or after February 1, 2019, for which the estimated
9 cost exceeds \$1,000,000 may not award a subcontract for more than 5 percent of
10 the value of that public work to a subcontractor unless:

11 (a) For the immediately preceding calendar year the subcontractor ensured
12 that: ~~for each recognized class of worker an apprentice performed;~~

13 (1) ~~Not~~ An apprentice performed not less than 3 percent, or such other
14 percentage as the Labor Commissioner may require pursuant to regulations
15 adopted pursuant to subsection 9, of the total hours of labor ~~performed by that~~
16 ~~recognized class of worker and~~ reported by the subcontractor to public bodies for
17 all contracts or subcontracts for horizontal construction on a public work in this
18 State which were awarded to the subcontractor and to which the provisions of
19 NRS 338.020 to 338.090, inclusive, apply; or

20 (2) ~~Not~~ For each recognized class of worker, an apprentice performed
21 not less than 3 percent, or such other percentage as the Labor Commissioner may
22 require pursuant to regulations adopted pursuant to subsection 9, of the total
23 hours of labor performed by that recognized class of worker and reported by the
24 subcontractor to public bodies for all contracts or subcontracts for vertical
25 construction on a public work in this State which were awarded to the
26 subcontractor and to which the provisions of NRS 338.020 to 338.090, inclusive,
27 apply; or

28 (b) The subcontractor has paid all monetary penalties imposed by the Labor
29 Commissioner pursuant to subsection 6.

30 3. Except as otherwise provided in subsection 4 or 5, before awarding a
31 contract for a public work for which the estimated cost exceeds \$1,000,000, a
32 public body must obtain the identification number of the certificate of compliance
33 issued to each contractor pursuant to subsection 8 submitting a bid for the
34 contract and verify whether the award of the contract would comply with the
35 provisions of subsection 1.

36 4. A public body may submit a written request to the Labor Commissioner
37 for an exemption from the requirements of subsection 1 for a public work. If a
38 public body submits such a request, the public body shall not request bids for or
39 enter into a contract for which the public body submitted the request until the
40 Labor Commissioner approves or denies the request pursuant to this subsection.
41 Not later than 90 days after receiving a request pursuant to this subsection, the
42 Labor Commissioner shall approve or deny the request in writing and notify the
43 public body of the approval or denial of the request. The Labor Commissioner
44 shall conduct a public hearing on each request, at which any interested party may
45 appear and provide evidence, and issue a written decision to approve or deny a
46 request. The written decision of the Labor Commissioner is a public record and a
47 copy of the decision must be included in any bid documents furnished by the
48 public body. The Labor Commissioner may grant a request for an exemption
49 submitted pursuant to this subsection only if the Labor Commissioner finds that
50 the public work will be performed in a county whose population is less than
51 100,000 or a city whose population is less than 60,000 and there is a
52 demonstrated lack of qualified apprentices ~~in a recognized class of worker~~ from
53 any available source in the specific geographic area in which the public work for

1 which an exemption is requested will be performed. If the Labor Commissioner
2 grants an exemption to a public body pursuant to this subsection, the work
3 performed by a contractor or subcontractor on the public work for which the
4 exemption was granted must not be considered when determining whether the
5 contractor or subcontractor satisfied the criteria set forth in paragraph (a) of
6 subsection 1 or paragraph (a) of subsection 2, as applicable.

7 5. The criteria set forth in paragraph (a) of subsection 1 or paragraph (a) of
8 subsection 2, as applicable, do not apply to:

9 (a) A contractor or subcontractor which proposes to perform, or has been
10 awarded a contract to perform, horizontal construction on a public work and
11 which employs fewer than 25 employees to perform work on the site of the public
12 work; or

13 (b) A contractor or subcontractor which proposes to perform, or has been
14 awarded a contract to perform, vertical construction on a public work and which
15 employs fewer than 6 employees to perform work on the site of the public work.

16 ↪ Any work performed by a contractor or subcontractor on a public work
17 described in paragraph (a) or (b), as applicable, must not be considered in
18 determining whether the contractor or subcontractor satisfied the criteria set
19 forth in paragraph (a) of subsection 1 or paragraph (a) of subsection 2, as
20 applicable.

21 6. Each calendar year, the Labor Commissioner shall:

22 (a) Determine the percentage of total hours of labor which were performed
23 by apprentices during the calendar year on each public work to which the
24 provisions of NRS 338.020 to 338.090, inclusive, apply;

25 (b) Determine whether a contractor or subcontractor satisfies the
26 requirements of subsection 1 or 2, as applicable, or of any subsequent regulation
27 adopted by the Labor Commissioner pursuant to subsection 9, as applicable;

28 (c) If applicable, determine the number of hours by which each contractor or
29 subcontractor failed to comply with those requirements; and

30 (d) If a contractor or subcontractor does not satisfy the criteria set forth in
31 paragraph (a) of subsection 1 or paragraph (a) of subsection 2, as applicable,
32 establish the amount of a monetary penalty which must be paid by a contractor or
33 subcontractor to remain qualified to be awarded a contract for a public work for
34 which the estimated cost exceeds \$1,000,000. The monetary penalty must be
35 payable to the State Director of Apprenticeship and must be established as
36 follows:

37 (1) For a contract to perform horizontal construction on a public work
38 on or after January 1, 2018, a contractor or subcontractor that failed to comply
39 with the criteria set forth in paragraph (a) of subsection 1 or paragraph (a) of
40 subsection 2, as applicable, or in any subsequent regulation adopted by the Labor
41 Commissioner pursuant to subsection 9, as applicable, is required to pay a
42 monetary penalty of not less than \$2 but not more than \$6 for each hour of labor
43 by which the contractor or subcontractor, as applicable, failed to comply with the
44 applicable criteria. In determining the amount of the monetary penalty imposed
45 on a contractor or subcontractor pursuant to this subparagraph, the Labor
46 Commissioner shall consider all relevant facts and circumstances, including,
47 without limitation, the amount by which the contractor or subcontractor failed to
48 comply with the applicable criteria set forth in paragraph (a) of subsection 1 or
49 paragraph (a) of subsection 2, or in any subsequent regulation adopted by the
50 Labor Commissioner pursuant to subsection 9, and whether the contractor or
51 subcontractor has willfully or repeatedly failed to comply with such applicable
52 criteria.

(2) For a contract to perform vertical construction on a public work on or after January 1, 2018, a contractor or subcontractor that failed to comply with the criteria set forth in paragraph (a) of subsection 1 or paragraph (a) of subsection 2, as applicable, or in any subsequent regulation adopted by the Labor Commissioner pursuant to subsection 9, as applicable, is required to pay a monetary penalty of not less than \$2 but not more than \$6 for each hour of labor by which the contractor or subcontractor, as applicable, failed to comply with the applicable criteria. In determining the amount of the monetary penalty imposed on a contractor or subcontractor pursuant to this subparagraph, the Labor Commissioner shall consider all relevant facts and circumstances, including, without limitation, the amount by which the contractor or subcontractor failed to comply with the applicable criteria set forth in paragraph (a) of subsection 1 or paragraph (a) of subsection 2, or in any subsequent regulation adopted by the Labor Commissioner pursuant to subsection 9, and whether the contractor or subcontractor has willfully or repeatedly failed to comply with such applicable criteria.

Any decision of the Labor Commissioner pursuant to this paragraph is subject to judicial review pursuant to chapter 233B of NRS.

7. All money which is collected by the State Director of Apprenticeship for monetary penalties imposed pursuant to subsection 6 must be distributed by the State Director of Apprenticeship only to programs for the recruitment, education and training of construction workers and placement of such workers in employment.

8. The Labor Commissioner shall:

(a) Issue a certificate of compliance containing an identification number to each contractor or subcontractor who complies with the applicable criteria set forth in paragraph (a) of subsection 1 or paragraph (a) of subsection 2, or in any subsequent regulation adopted by the Labor Commissioner pursuant to subsection 9, or who pays the monetary penalty imposed on the contractor or subcontractor pursuant to subsection 6.

(b) Maintain on the Internet website of the Labor Commissioner a list of contractors and subcontractors who have been issued a certificate of compliance.

9. During each calendar year beginning on or after January 1, 2020, the Labor Commissioner may, with the approval of the State Apprenticeship Council, adopt regulations to revise by not more than 2 percentage points the percentage of total hours of labor on a public work which must be performed by apprentices for the following calendar year.

10. As used in this section:

(a) "Apprentice" has the meaning ascribed to it in NRS 610.010.

(b) "Horizontal construction" means the construction of any fixed work other than vertical construction except as specifically provided herein, including, without limitation, fixed work relating to irrigation, drainage, water supply, flood control, a harbor, a railroad, a highway, a tunnel, a sewer, a sewage disposal plant or water treatment facility and any ancillary vertical construction which is a component thereof, a bridge, an inland waterway, a pipeline for the transmission of petroleum or any other liquid or gaseous substance, a pier and any fixed work incidental thereto. The term includes the construction of an airport or airway, but does not include the construction of any terminal or other building of an airport or airway.

(c) "Recognized class of worker" means a class of worker recognized by the Labor Commissioner as being a distinct craft or type of work for purposes of establishing prevailing rates of wages pursuant to NRS 338.020 to 338.090, inclusive. The term includes a class of worker for which the Labor Commissioner

1 *has traditionally established a prevailing rate of wages pursuant to NRS 338.020*
2 *to 338.090, inclusive, and any other class of worker the Labor Commissioner*
3 *determines to be a distinct craft or type of work either on his or her own accord*
4 *or after conducting a hearing pursuant to NRS 338.030.*

5 (d) *“Vertical construction” means the construction or remodeling of any*
6 *building, structure or other improvement which is predominantly vertical,*
7 *including, without limitation, a building, structure or improvement for the*
8 *support, shelter or enclosure of persons, animals, chattels or movable property of*
9 *any kind and any improvement appurtenant thereto.*

10 **Sec. 5.** (Deleted by amendment.)

11 **Sec. 6.** NRS 338.015 is hereby amended to read as follows:

12 338.015 1. The Labor Commissioner shall enforce the provisions of NRS
13 338.010 to 338.130, inclusive, ~~§~~ *and section 4 of this act.*

14 2. In addition to any other remedy or penalty provided in this chapter, if any
15 person, including, without limitation, a public body, violates any provision of NRS
16 338.010 to 338.130, inclusive, *except section 4 of this act*, or any regulation
17 adopted pursuant thereto, the Labor Commissioner may, after providing the person
18 with notice and an opportunity for a hearing, impose against the person an
19 administrative penalty of not more than \$5,000 for each such violation.

20 3. The Labor Commissioner may, by regulation, establish a sliding scale
21 based on the severity of the violation to determine the amount of the administrative
22 penalty to be imposed against the person pursuant to this section.

23 4. The Labor Commissioner shall report the violation to the Attorney General,
24 and the Attorney General may prosecute the person in accordance with law.

25 **Sec. 6.3.** NRS 338.1389 is hereby amended to read as follows:

26 338.1389 1. Except as otherwise provided in subsection 10 and NRS
27 338.1385, 338.1386 and 338.13864 ~~§~~ *and section 4 of this act*, a public body or its
28 authorized representative shall award a contract for a public work for which the
29 estimated cost exceeds \$250,000 to the contractor who submits the best bid.

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

32 (a) Submitted by a responsive and responsible contractor who:

33 (1) Has been determined by the public body to be a qualified bidder
34 pursuant to NRS 338.1379 or 338.1382;

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

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

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

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

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

50 ~~■~~ shall be deemed to be the best bid for the purposes of this section.

51 3. The State Contractors' Board shall issue a certificate of eligibility to
52 receive a preference in bidding on public works to a general contractor who is
53 licensed pursuant to the provisions of chapter 624 of NRS and submits to the Board

1 an affidavit from a certified public accountant setting forth that the general
2 contractor has, while licensed as a general contractor in this State:

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

4 (1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377
5 of NRS on materials used for construction in this State, including, without
6 limitation, construction that is undertaken or carried out on land within the
7 boundaries of this State that is managed by the Federal Government or is on an
8 Indian reservation or Indian colony, of not less than \$5,000 for each consecutive
9 12-month period for 60 months immediately preceding the submission of the
10 affidavit from the certified public accountant;

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

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

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

20 (1) License as a general contractor pursuant to the provisions of chapter
21 624 of NRS; and

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

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

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

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

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

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

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

46 (1) License as a specialty contractor pursuant to the provisions of chapter
47 624 of NRS; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. If a public body receives a written objection pursuant to subsection 13, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection and the public body or its authorized representative may proceed immediately to award the contract. If the public body determines that the objection is accompanied by the required proof or substantiating evidence, the public body shall determine whether the contractor qualifies for the certificate pursuant to the provisions of this section and the public body or its authorized representative may proceed to award the contract accordingly.

Sec. 6.7. NRS 338.147 is hereby amended to read as follows:

338.147 1. Except as otherwise provided in subsection 10 and NRS 338.143, 338.1442 and 338.1446 ~~and~~ *and section 4 of this act*, a local government or its authorized representative shall award a contract for a public work for which the estimated cost exceeds \$250,000 to the contractor who submits the best bid.

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

(a) Submitted by a contractor who:


(1) Has been found to be a responsible and responsive contractor by the local government or its authorized representative;

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

(3) Within 2 hours after the completion of the opening of the bids by the local government or its authorized representative, submits a signed affidavit that meets the requirements of subsection 1 of NRS 338.0117; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. A contractor who has received a certificate of eligibility to receive a preference in bidding on public works from the State Contractors' Board pursuant to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's license pursuant to NRS 624.283, submit to the Board an affidavit from a certified public accountant setting forth that the contractor has, during the immediately

preceding 12 months, paid the taxes required pursuant to paragraph (a) of subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility to hold such a certificate.

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

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

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

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

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

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

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

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

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

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

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

14. If a local government receives a written objection pursuant to subsection 13, the local government shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to paragraph (a) of that subsection. If the local government determines that the objection is not accompanied by the required proof or substantiating evidence, the local government shall dismiss the objection and the local government or its authorized representative may proceed immediately to award the contract. If the local government determines that the objection is accompanied by the required proof or substantiating evidence, the local government shall determine whether the contractor qualifies for the

certificate pursuant to the provisions of this section and the local government or its authorized representative may proceed to award the contract accordingly.

Sec. 6.8. Chapter 610 of NRS is hereby amended by adding thereto the provisions set forth as sections 6.85 and 6.9 of this act.

Sec. 6.85. 1. *A program shall submit a quarterly report to the State Apprenticeship Council which contains the following information:*

(a) The number of apprentices enrolled in the program;

(b) The enrollment capacity of the program; and

(c) The number of apprentices who completed the program in the period covered by the report.

2. Not later than February 1, 2021, the State Apprenticeship Council shall submit to the Director of the Legislative Counsel Bureau a report on the availability and use of apprentices for transmission to the next regular session of the Legislature. The report must include a summary of the information collected by the State Apprenticeship Council and any recommendations for legislation.

Sec. 6.9. 1. *If, at any time, the number of apprentices enrolled in a program is less than 40 percent of the enrollment capacity of the program, the program must submit to the State Apprenticeship Council:*

(a) A strategic plan to recruit and retain apprentices; and

(b) A monthly report concerning the progress of the program in recruiting and retaining apprentices until such time as the State Apprenticeship Council determines that such monthly reports are not necessary.

2. The State Apprenticeship Council may revoke the registration of a program that fails to comply with any requirement of subsection 1.

Sec. 7. (Deleted by amendment.)

Sec. 8. This act becomes effective on January 1, 2018.