

Amendment No. 769

Assembly Amendment to Senate Bill No. 448 First Reprint (BDR 28-603)

Proposed by: Assembly Committee on Transportation

Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN the 2/3s majority vote requirement for final passage of S.B. 448 R1 (§ 21).

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

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

DLJ/JRS



Date: 5/18/2017

S.B. No. 448—Revises provisions relating to public works. (BDR 28-603)



SENATE BILL NO. 448—COMMITTEE ON TRANSPORTATION

MARCH 27, 2017

Referred to Committee on Transportation

SUMMARY—Revises provisions relating to public works. (BDR 28-603)

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 public works, revising provisions concerning the authorization of a private entity to undertake certain public works; authorizing a public body to enter into a public-private partnership in connection with certain eligible facilities; providing for the financing of certain eligible facilities; providing for the disposition of money which is received and is to be retained by a public body pursuant to a public-private partnership; providing for the confidentiality of certain information submitted to a public body; revising provisions concerning agreements between a public body and a person concerning certain eligible facilities; exempting property used for certain eligible facilities from all real property and ad valorem taxes; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a public body is authorized to accept a request from a person who wishes to develop, construct, improve, maintain or operate a transportation facility. If the public body determines that the facility serves a public purpose, the public body may authorize the requestor to carry out the facility or may request other persons to submit proposals to develop, construct, improve, maintain or operate the facility. (NRS 338.162, 338.163, 338.164) This bill extends those provisions to also apply to certain other facilities, including certain tourism improvement projects.

This bill also provides for the use of a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for an eligible facility. **Section 9** of this bill authorizes a public body to enter into such a partnership. **Section 10** of this bill establishes various alternatives in which a public body may procure a public-private partnership, including the use of solicitations, requests for proposals and negotiations. **Section 11** of this bill provides that an eligible facility may be financed in whole or in part with money from any lawful source. **Section 12** of this bill authorizes a public body to accept all such money and, with certain exceptions, to combine money from federal, state, local and private sources for the purposes of such a facility. **Section 13** of this bill requires that all money which is received and retained by a public body pursuant to a public-private partnership be: (1) deposited in the State Highway Fund; (2) accounted for separately; (3) used first to defray the obligations of the public body under the public-private partnership; and (4) except for costs of administration, used exclusively for the design, construction, operation, maintenance, financing and repair of the public highways in the county from which the money was

received. **Section 13.5 of this bill prohibits the imposition of a fee for the use of certain roadways.** **Section 14** of this bill provides that all information submitted to a public body in connection with a request, proposal or other submission concerning an eligible facility is confidential until a notice of intent to award the contract or agreement is issued. **Section 14** also establishes the procedures that a person who has submitted such information must follow to maintain the confidentiality of any trade secrets or confidential commercial, financial or proprietary information included in the submission. **Section 15** of this bill provides that the power of eminent domain may be exercised with respect to any property necessary for an eligible facility.

Existing law establishes the provisions that must be included in an agreement between a public body and a person with respect to the development, construction, improvement, maintenance or operation of a transportation facility. (NRS 338.166) **Section 21** of this bill imposes additional requirements applicable to such an agreement for an eligible facility and authorizes various other provisions that may be included in such an agreement. **Section 21** also provides that an eligible facility that is developed, operated or held by a person pursuant to such an agreement is exempt from all state and local ad valorem and property taxes. **Sections 17-20 and 22-25** of this bill make various conforming changes.

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 the provisions set forth as sections 2 to 16, inclusive, of this act.

Sec. 2. *As used in NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in NRS 338.161 and sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Concession” means any lease, ground lease, franchise, easement, permit, right of entry, operating agreement or other binding agreement transferring rights for the use or control, in whole or in part, of an eligible facility by a public body to a private partner.*

Sec. 4. *“Eligible facility” means:*

- 1. A transportation facility; and*
- 2. A project as defined in NRS 271A.050.*

Sec. 5. (Deleted by amendment.)

Sec. 6. *“Private partner” means a person with whom a public body enters into a public-private partnership.*

Sec. 7. *“Public-private partnership” means a contract entered into by a public body and a private partner.*

Sec. 8. *“User fee” means a fee, toll, fare or other similar charge, including, without limitation, any incidental, account maintenance, administrative, credit card or video tolling fee or charge, imposed on a person for his or her use of an eligible facility by a public body or by a private partner pursuant to a public-private partnership.*

Sec. 9. 1. *A public body may enter into a public-private partnership to plan, finance, design, construct, improve, maintain, operate or acquire the rights-of-way for, or any combination thereof, an eligible facility.*

2. *A public-private partnership may include, without limitation:*

(a) A predevelopment agreement leading to another implementing agreement for an eligible facility as described in this subsection;

(b) A design-build contract;

(c) A design-build contract that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;

- (d) A contract involving a construction manager at risk;*
- (e) A concession, including, without limitation, a toll concession and an availability payment concession;*
- (f) A construction agreement that includes the financing, maintenance or operation, or any combination thereof, of the eligible facility;*
- (g) An operation and maintenance agreement for an eligible facility;*
- (h) Any other method or agreement for completion of the eligible facility that the public body determines will serve the public interest; or*
- (i) Any combination of paragraphs (a) to (h), inclusive.*

Sec. 10. *1. A public body may procure a public-private partnership by means of:*

(a) Requests for project proposals in which the public body describes a class of eligible facilities or a geographic area in which private entities are invited to submit proposals to develop eligible facilities.

(b) Solicitations using requests for qualifications, short-listings of qualified proposers, requests for proposals, negotiations, best and final offers or other procurement procedures.

(c) Procurements seeking from the private sector development and finance plans most suitable for the project.

(d) Best value selection procurements based on price or financial proposals, or both, or other factors.

(e) Other procedures that the public body determines may further the implementation of a public-private partnership.

2. For any procurement in which the public body issues a request for qualifications, request for proposals or similar solicitation document, the request must generally set forth the factors that will be evaluated and the manner in which responses will be evaluated. Such factors may include, without limitation:

(a) The ability of the eligible facility to promote economic growth and, in the case of a transportation facility, to improve safety, reduce congestion or increase capacity.

(b) The proposed cost and a proposed financial plan for the eligible facility.

(c) The general reputation, qualifications, industry experience and financial capacity of the proposer.

(d) The proposed design, operation and feasibility of the eligible facility.

(e) Comments from users, local citizens and affected jurisdictions.

(f) Benefits to the public.

(g) The safety record of the proposer.

(h) Other criteria that the public body deems appropriate.

3. In evaluating proposals, the public body may give such relative weight to factors such as cost, financial commitment, innovative financing, technical, scientific, technological or socioeconomic merit and other factors as the public body deems appropriate.

4. The public body may procure services, award agreements and administer revenues as authorized in this section notwithstanding any requirements of any other state or local statute, regulation or ordinance relating to public bidding or other procurement procedures or other provisions otherwise applicable to public works, services or utilities.

5. The public body may expend money from any lawful source reasonably necessary for the development of procurements, evaluation of concepts or proposals, negotiation of agreements and implementation of agreements for the development or operation of transportation facilities pursuant to this chapter.

6. Any state agency or any county, municipality or other public agency may sell, lease, grant, transfer or convey to the public body, with or without

1 *consideration, any facility or any part or parts thereof or any real or personal*
2 *property or interest therein which may be useful to the public body for any*
3 *authorized purpose. In any case where the construction of a facility has not been*
4 *completed, the public agency concerned may also transfer, sell, assign, and set*
5 *over to the public body, with or without consideration, any existing contract for*
6 *the construction of the facility.*

7 **Sec. 11. 1. An eligible facility may be financed, in whole or in part, with**
8 **money from any lawful source, including, without limitation:**

9 (a) *Any public or private funding, loan, grant, line of credit, loan guarantee,*
10 *credit instrument, private activity bond allocation, grant anticipation revenue*
11 *bond, credit assistance from the government of this State or the Federal*
12 *Government or other type of assistance that is available for the purposes of the*
13 *eligible facility.*

14 (b) *Any grant, donation, gift or other form of conveyance of land, money,*
15 *other real or personal property or other thing of value made to the public body*
16 *for the purposes of the eligible facility.*

17 (c) *A contribution of money or property made by any private entity or public*
18 *sector partner that is a party to any agreement entered into pursuant to NRS*
19 *338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

20 (d) *Money appropriated for the eligible facility by the State or by the public*
21 *body.*

22 (e) *User fees, lease proceeds, rents, availability payments, gross or net*
23 *receipts from sales, proceeds from the sale of development rights, franchise*
24 *charges, permit charges, rents, advertising and sponsorship charges, service*
25 *charges or any other lawful form of consideration.*

26 (f) *Private activity bonds as described in 26 U.S.C. § 141.*

27 (g) *Any other form of public or private capital that is available for the*
28 *purposes of the eligible facility.*

29 (h) *Any combination of paragraphs (a) to (g), inclusive.*

30 2. *If a public body, in accordance with applicable law, issues a note, bond*
31 *or other debt obligation to finance an eligible facility that is expected to generate*
32 *revenue of any kind, the revenue from the eligible facility may be pledged as*
33 *security for the payment of the obligation, but the bonds or notes are special,*
34 *limited obligations of the public body payable solely from the revenues*
35 *specifically pledged to the payment of those obligations, as specified in the*
36 *resolution for the issuance of the bonds or notes, and do not create a debt of the*
37 *State for the purposes of Section 3 of Article 9 of the Nevada Constitution.*

38 3. *Any financing issued by a public body pursuant to this section may be*
39 *structured on a senior, parity or subordinate basis to any other financing.*

40 4. *A public body may issue revenue bonds or notes to provide money for any*
41 *transportation facility.*

42 **Sec. 12. 1. A public body, either directly or through a designated party,**
43 **may:**

44 (a) *Accept from the United States or any of its agencies money that is*
45 *available to the public body for carrying out the purposes of NRS 338.161 to*
46 *338.168, inclusive, and sections 2 to 16, inclusive, of this act, whether the money*
47 *is made available by grant, loan or other financing arrangement.*

48 (b) *Enter into agreements and other arrangements with the United States or*
49 *any of its agencies as may be necessary, proper and convenient for carrying out*
50 *the provisions of NRS 338.161 to 338.168, inclusive, and sections 2 to 16,*
51 *inclusive, of this act.*

52 (c) *Accept from any source any grant, donation, gift or other form of*
53 *conveyance of land, money, other real or personal property or other valuable*

1 *thing made to the public body for carrying out the provisions of NRS 338.161 to*
2 *338.168, inclusive, and sections 2 to 16, inclusive, of this act.*

3 2. *Except as otherwise provided in section 13 of this act or applicable*
4 *federal law, and notwithstanding any other provision of law, money from federal,*
5 *state and local sources may be combined with money from any private source for*
6 *carrying out the purposes of NRS 338.161 to 338.168, inclusive, and sections 2 to*
7 *16, inclusive, of this act.*

8 **Sec. 13.** *All money which is received and is to be retained by a public body*
9 *pursuant to a public-private partnership and which is derived from the imposition*
10 *of any charge with respect to the operation of any motor vehicle upon any public*
11 *highway in this State must be deposited in the State Highway Fund, accounted*
12 *for separately and, except for costs of administration, be used exclusively for the*
13 *design, construction, operation, maintenance, financing and repair of the public*
14 *highways of the county from which the money is received. The money must first*
15 *be used to defray the obligations for which the public body is responsible under*
16 *the public-private partnership, including, without limitation, the costs of*
17 *administration, design, construction, operation, maintenance, financing and*
18 *repair of the eligible transportation facility from which the money is derived.*

19 **Sec. 13.5.** *No user fee may be charged, because of any project undertaken*
20 *as part of a public-private partnership authorized by NRS 338.161 to 338.168,*
21 *inclusive, and sections 2 to 16, inclusive, of this act, for the use of any portion of*
22 *any roadway in existence on July 1, 2017.*

23 **Sec. 14.** 1. *Notwithstanding any other provision of law, any information*
24 *obtained by or disclosed to a public body in connection with a request or proposal*
25 *pursuant to NRS 338.163 or 338.164 or during the procurement or negotiation of*
26 *a public-private partnership pursuant to section 10 of this act must be kept*
27 *confidential until a notice of intent to award the contract, agreement or public-*
28 *private partnership is issued, absent an administrative or judicial order requiring*
29 *release or disclosure.*

30 2. *Except as otherwise provided in NRS 239.0115, a public body may*
31 *exempt from release to the public any trade secrets or confidential commercial,*
32 *financial or proprietary information included in a request or proposal submitted*
33 *to the public body pursuant to subsection 1 if the submitter:*

34 (a) *Specifies the portions of the proposal or other submission that the*
35 *submitter considers to be trade secrets or confidential commercial, financial or*
36 *proprietary information;*

37 (b) *Invokes exclusion upon submission of the information or other materials*
38 *for which protection is sought;*

39 (c) *Identifies the data or other materials for which protection is sought with*
40 *conspicuous labeling;*

41 (d) *States the reasons why protection is necessary; and*

42 (e) *Fully complies with all applicable state law with respect to information*
43 *that the submitter contends should be exempt from disclosure.*

44 **Sec. 15.** *This State, or any public agency so authorized under chapter 37 of*
45 *NRS, may exercise the power of eminent domain to acquire property, rights-of-*
46 *way or other rights in property for projects that are necessary to develop, operate*
47 *or hold an eligible facility regardless of whether the property will be owned in fee*
48 *simple by this State or applicable public body or whether the property will be*
49 *leased according to the terms of an agreement executed pursuant to NRS*
50 *338.166.*

51 **Sec. 16.** *If no federal money is used on an eligible facility, the laws of this*
52 *State govern. Notwithstanding any other provision of NRS 338.161 to 338.168,*
53 *inclusive, and sections 2 to 16, inclusive, of this act, if federal money is used on*

an eligible facility and applicable federal laws conflict with NRS 338.161 to 338.168, inclusive, and sections 2 to 16, inclusive, of this act, or require provisions or procedures inconsistent with those statutes, the applicable federal laws govern.

Sec. 17. NRS 338.161 is hereby amended to read as follows:

338.161 ~~[As used in NRS 338.161 to 338.168, inclusive, unless the context otherwise requires, “transportation]~~ “Transportation facility” means ~~[a]~~ any existing, enhanced, upgraded or new facility used or useful for the safe transport of persons, information or goods by one or more modes of transport, including, without limitation, a road, railroad, bridge, tunnel, overpass, ~~[airport]~~ mass transit ~~[facility]~~, light rail, commuter rail, conduit, ferry, boat, vessel, intermodal or multimodal system, a system using autonomous technology, as defined in NRS 482A.025, and any rights-of-way necessary for the facility. The term includes:

1. Related or ancillary facilities used or useful for providing, operating, maintaining or generating revenue for a transportation facility, including, without limitation, administrative buildings, structures, rest areas, maintenance yards and buildings, rail yards, rolling stock, storage facilities, ports of entry, vehicles, control systems, communication systems, information systems, energy systems, parking ~~[facility for vehicles or similar commercial facility used for the support of or the transportation of persons or goods, including, without limitation, any]~~ facilities and other related equipment or property ~~[that is]~~ needed or used to ~~[operate]~~ support the transportation facility ~~[The term does not include a toll bridge or toll road.] or the transportation of persons, information or goods; and~~

2. All improvements, including equipment, necessary to the full utilization of a transportation facility, including, without limitation, site preparation, roads and streets, sidewalks, water supply, outdoor lighting, belt line railroad sidings and lead tracks, bridges, causeways, terminals for railroad, automotive and air transportation and transportation facilities incidental to the project.

Sec. 18. NRS 338.162 is hereby amended to read as follows:

338.162 A public body may authorize a person to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace*, develop, construct, improve, maintain or operate, or any combination thereof, ~~[a transportation]~~ an eligible facility pursuant to NRS 338.163 or 338.164.

Sec. 19. NRS 338.163 is hereby amended to read as follows:

338.163 1. A person may submit a request to a public body to *design, finance, lease, repair, acquire, extend, expand, plan, equip, replace*, develop, construct, improve, maintain or operate, or any combination thereof, ~~[a transportation]~~ an eligible facility.

2. The request must be accompanied by the following information:

(a) A topographic map indicating the location of the ~~[transportation]~~ eligible facility.

(b) A description of the ~~[transportation]~~ eligible facility, including, without limitation, the conceptual design of the ~~[transportation]~~ eligible facility. ~~[and all proposed interconnections with other transportation facilities.]~~

(c) The projected total cost of the ~~[transportation]~~ eligible facility over its life and the proposed date for the development of or the commencement of the construction of, or improvements to, the ~~[transportation]~~ eligible facility.

(d) A statement setting forth the method by which the person submitting the request proposes to secure all property interests required for the ~~[transportation]~~ eligible facility. The statement must include, without limitation:

(1) The names and addresses, if known, of the current owners of any property needed for the ~~[transportation]~~ eligible facility;

(2) The nature of the property interests to be acquired; and

(3) Any property that the person submitting the request proposes that the public body condemn.

~~(e) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.~~

~~(f)~~ A list of all permits and approvals required for the development or construction of or improvement to the ~~transportation~~ **eligible** facility from local, state or federal agencies and a projected schedule for obtaining those permits and approvals.

~~(g) A list of the facilities of any utility or existing transportation facility that will be crossed by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.~~

~~(h)~~ **(f)** A statement setting forth the general plans of the person submitting the request for financing and operating the ~~transportation~~ **eligible** facility, which must include, without limitation:

(1) A plan for the development, financing and operation of the ~~transportation~~ **eligible** facility, including, without limitation, an indication of the proposed sources of money for the development and operation of the ~~transportation~~ **eligible** facility, the anticipated use of such money and the anticipated schedule for the receipt of such money;

(2) A list of any assumptions made by the person about the anticipated use of the ~~transportation~~ **eligible** facility, including, without limitation, the fees that will be charged for the use of the ~~transportation~~ **eligible** facility, and a discussion of those assumptions;

(3) The identification of any risk factors identified by the person that are associated with developing, constructing or improving the ~~transportation~~ **eligible** facility and the plan for addressing those risk factors;

(4) The identification of any local, state or federal resources that the person anticipates requesting for development and operation of the ~~transportation~~ **eligible** facility, including, without limitation, an anticipated schedule for the receipt of those resources and the effect of those resources on any statewide or regional program for the improvement of transportation; and

(5) The identification and analysis of any costs or benefits associated with the proposed facility, performed by a professional engineer who is licensed pursuant to chapter 625 of NRS.

~~(i)~~ **(g)** The names and addresses of the persons who may be contacted for further information concerning the request.

~~(j)~~ **(h)** Any additional material and information that the public body may request.

3. If the eligible facility is a transportation facility, the request must also include:

(a) Information relating to the current transportation plans, if any, of any governmental entity in the jurisdiction of which any portion of the transportation facility is located.

(b) A list of the facilities of any utility or existing transportation facility that will be impacted by the transportation facility and a statement of the plans of the person submitting the request to accommodate such crossings.

Sec. 20. NRS 338.164 is hereby amended to read as follows:

338.164 If a public body receives a request regarding ~~a transportation~~ **an eligible** facility pursuant to NRS 338.163 and the public body determines that the ~~transportation~~ **eligible** facility serves a public purpose, the public body may request other persons to submit proposals to **design, finance, lease, repair, acquire,**

1 *extend, expand, plan, equip, replace*, develop, construct, improve, maintain or
2 operate, or any combination thereof, the ~~transportation~~ *eligible* facility.

3 **Sec. 21.** NRS 338.166 is hereby amended to read as follows:

4 338.166 1. A public body may approve a request, ~~for~~ proposal *or other*
5 *submission* submitted pursuant to NRS 338.163 or 338.164 *or section 10 of this act*
6 if the public body determines that the ~~transportation~~ *eligible* facility serves a
7 public purpose. In determining whether the ~~transportation~~ *eligible* facility serves a
8 public purpose, the public body shall consider whether:

9 (a) There is a public need for the type of ~~transportation~~ *eligible* facility that is
10 proposed;

11 (b) ~~If the eligible facility is a transportation facility, the~~ proposed
12 interconnections between the transportation facility and existing transportation
13 facilities and the plans of the person submitting the request for the operation of the
14 transportation facility are reasonable and compatible with any statewide or regional
15 program for the improvement of transportation and with the transportation plans of
16 any other governmental entity in the jurisdiction of which any portion of the
17 transportation facility will be located;

18 (c) The estimated cost of the ~~transportation~~ *eligible* facility is reasonable in
19 relation to similar ~~transportation~~ facilities, as determined by an analysis of the
20 cost performed by a professional engineer who is licensed pursuant to chapter 625
21 of NRS;

22 (d) The plans of the person submitting the request will result in the timely
23 development or construction of, or improvement to, the ~~transportation~~ *eligible*
24 facility or its more efficient operation;

25 (e) The plans of the person submitting the request contain any penalties for the
26 failure of the person submitting the request to meet any deadline which results in
27 the untimely development or construction of, or improvement to, the
28 ~~transportation~~ *eligible* facility or failure to meet any deadline for its more efficient
29 operation; and

30 (f) The long-term quality of the ~~transportation~~ *eligible* facility will meet a
31 level of performance established by the public body over a sufficient duration of
32 time to provide value to the public.

33 2. In evaluating a request, ~~for~~ proposal *or other submission* submitted
34 pursuant to NRS 338.163 or 338.164, *or section 10 of this act*, the public body may
35 consider internal staff reports prepared by personnel of the public body who are
36 familiar with the operation of similar ~~transportation~~ *eligible* facilities or the advice
37 of outside advisors or consultants with relevant experience.

38 3. The public body shall ~~request that a person who submitted a request or~~
39 ~~proposal pursuant to NRS 338.163 or 338.164~~ furnish a copy of ~~the~~ a request,
40 ~~for~~ proposal *or other submission submitted pursuant to NRS 338.163, 338.164 or*
41 *section 10 of this act* to each governmental entity that has jurisdiction over an area
42 in which any part of the ~~transportation~~ *eligible* facility is located. Within 30 days
43 after receipt of such a request or proposal, the governmental entity shall submit in
44 writing to the public body, for consideration by the public body, any comments that
45 the governmental entity has concerning the ~~transportation~~ *eligible* facility and
46 shall indicate whether the ~~transportation~~ *eligible* facility is compatible with any
47 local, regional or statewide ~~transportation~~ plan or program that is applicable to the
48 governmental entity.

49 4. A public body shall charge a reasonable fee to cover the costs of
50 processing, reviewing and evaluating a request, ~~for~~ proposal *or other submission*
51 submitted pursuant to NRS 338.163 or 338.164, *or section 10 of this act*, including,
52 without limitation, reasonable fees for the services of an attorney or a financial or

1 other consultant or advisor, to be collected before the public body accepts the
2 request, ~~for~~ proposal *or other submission* for processing, review and evaluation.

3 5. The approval of a request, ~~for~~ proposal *or other submission* by the public
4 body is contingent on the person who submitted the request, ~~for~~ proposal *or other*
5 *submission* entering into an agreement with the public body. In such an agreement,
6 the public body shall include, without limitation:

7 (a) Criteria that address the long-term quality of the ~~transportation~~ *eligible*
8 facility.

9 (b) The date, *if any*, of termination of the authority and duties pursuant to
10 NRS 338.161 to 338.168, inclusive, *and sections 2 to 16, inclusive, of this act* of
11 the person whose request, ~~for~~ proposal *or other submission* was approved by the
12 public body with respect to the ~~transportation~~ *eligible* facility and for the
13 dedication of the ~~transportation~~ *eligible* facility to the public body. ~~for that date.~~

14 (c) Provision ~~for the imposition~~ by *which* the person whose request, ~~for~~
15 proposal *or other submission* was approved by the public body ~~for such rates, fees~~
16 ~~or other charges as may be established from time to time by agreement of the~~
17 ~~parties for use of all or a portion of a transportation facility, other than a bridge or~~
18 ~~road,~~ *expressly agrees that the person is prohibited from seeking injunctive or*
19 *other equitable relief to delay, prevent or otherwise hinder the public body or any*
20 *other jurisdiction from developing, constructing or maintaining any facility that*
21 *was planned and that would or might impact the revenue that the person would*
22 *or might derive from the facility developed under the agreement, except that the*
23 *agreement may provide for reasonable compensation to the person for the*
24 *adverse effect on user fee revenues resulting from the development, construction*
25 *and maintenance of an unplanned revenue impacting facility.*

26 (d) *A provision requiring all plans and specifications for any eligible facility*
27 *constructed, operated or maintained pursuant to NRS 338.161 to 338.168,*
28 *inclusive, and sections 2 to 16, inclusive, of this act to comply with state standards*
29 *and any applicable federal standards.*

30 (e) *If the eligible facility is a transportation facility, a provision requiring all*
31 *user fee revenues generated from the transportation facility to be used for right-*
32 *of-way acquisition, planning, design, construction, reconstruction, operation,*
33 *maintenance and enforcement of transportation facilities within the same county*
34 *in which the user fee revenues are generated, except to the extent such user fee*
35 *revenues are otherwise pledged or allocated pursuant to the financial terms of an*
36 *agreement entered into pursuant to NRS 338.161 to 338.168, inclusive, and*
37 *sections 2 to 16, inclusive, of this act.*

38 6. *In any agreement between a public body and a person whose request,*
39 *proposal or other submission for an eligible facility pursuant to NRS 338.161 to*
40 *338.168, inclusive, and sections 2 to 16, inclusive, of this act, was approved by the*
41 *public body, the public body may also include provisions that:*

42 (a) *Authorize the public body or the person to establish and collect user fees,*
43 *rents, advertising and sponsorship charges, service charges or similar charges,*
44 *including provisions related to traffic management strategies, if applicable.*

45 (b) *Specify technology to be used in the eligible facility.*

46 (c) *Establish circumstances under which the public body may receive all or a*
47 *share of revenues from such charges.*

48 (d) *Govern enforcement of tolls, if applicable, including provisions for use of*
49 *cameras or other mechanisms to ensure that users have paid tolls that are due*
50 *and provisions that allow the person access to relevant databases for enforcement*
51 *purposes.*

52 (e) *Authorize the public body to continue or cease collection of user charges,*
53 *tolls, fares or similar charges after the end of the term of the agreement.*

(f) Allow for payments to be made to the person, including, without limitation, availability payments or performance based payments.

(g) Allow the public body to accept payments of monies and share revenues with the person.

(h) Address how the person and public body will share management of the risks of the project.

(i) Specify how the person and public body will share development costs.

(j) Allocate financial responsibility for cost overruns.

(k) Establish the damages to be assessed for nonperformance.

(l) Establish performance criteria or incentives, or both.

(m) Address the acquisition of rights-of-way and other property interests that may be required, including provisions that address the exercise of eminent domain as provided in section 15 of this act.

(n) Establish recordkeeping, accounting and auditing standards to be used.

(o) For an eligible facility that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for the eligible facility to meet all applicable government standards upon reversion of the facility.

(p) Provide for patrolling and law enforcement on public facilities.

(q) Identify any specifications that must be satisfied.

(r) Require the person to provide performance and payment bonds ~~for~~ design and construction pursuant to chapter 339 of NRS, surety bonds, if required by the public body, parent company guarantees, letters of credit or other acceptable forms of security or a combination of those.

(s) Allow the public body to acquire real property that is needed for and related to the eligible facility, including acquisition by exchange for other real property that is owned by the public body.

(t) Allow the public body to sell or lease naming rights with regard to any eligible facility.

7. Notwithstanding any other provision of law, an eligible facility that is developed, operated or held by a person pursuant to an agreement pursuant to this section is exempt from all state and local ad valorem and property taxes that might otherwise apply.

8. In connection with the approval of ~~the transportation~~ an eligible facility, the public body shall establish a date for the development of or the commencement of the construction of, or improvements to, the ~~transportation~~ eligible facility. The public body may extend the date from time to time.

Sec. 22. NRS 338.167 is hereby amended to read as follows:

338.167 A public body may contract with a person whose request or proposal submitted pursuant to NRS 338.163 or 338.164 is approved pursuant to NRS 338.166 for ~~transportation~~ services to be provided by the ~~transportation~~ eligible facility in exchange for such payments for service and other consideration as the public body may deem appropriate.

Sec. 23. NRS 338.168 is hereby amended to read as follows:

338.168 The public body may take any action necessary to obtain federal, state or local assistance for ~~the transportation~~ an eligible facility that it approves and may enter into any contracts required to receive such assistance. The public body shall, by resolution, determine if it serves the public purpose for all or a portion of the costs of the ~~transportation~~ eligible facility to be paid, directly or indirectly, from the proceeds of a grant or loan made by the local, state or Federal Government or any agency or instrumentality thereof.

1 **Sec. 24.** NRS 338.1711 is hereby amended to read as follows:

2 338.1711 1. Except as otherwise provided in this section and NRS 338.161
3 to ~~338.16995~~, **338.168**, inclusive, *and sections 2 to 16, inclusive, of this act*, a
4 public body shall contract with a prime contractor for the construction of a public
5 work for which the estimated cost exceeds \$100,000.

6 2. A public body may contract with a design-build team for the design and
7 construction of a public work that is a discrete project if the public body has
8 approved the use of a design-build team for the design and construction of the
9 public work and the public work has an estimated cost which exceeds \$5,000,000.

10 **Sec. 25.** NRS 239.010 is hereby amended to read as follows:

11 239.010 1. Except as otherwise provided in this section and NRS 1.4683,
12 1.4687, 1A.110, 41.071, 49.095, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025,
13 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113,
14 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640,
15 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160,
16 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280,
17 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140,
18 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140,
19 127.2817, 130.312, 130.712, 136.050, 159.044, 172.075, 172.245, 176.015,
20 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691,
21 179.495, 179A.070, 179A.165, 179A.450, 179D.160, 200.3771, 200.3772,
22 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3925, 209.419, 209.521,
23 211A.140, 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
24 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240, 218G.350,
25 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473, 233.190, 237.300,
26 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
27 239C.230, 239C.250, 239C.270, 240.007, 241.020, 241.030, 241.039, 242.105,
28 244.264, 244.335, 250.087, 250.130, 250.140, 250.150, 268.095, 268.490, 268.910,
29 271A.105, 281.195, 281A.350, 281A.440, 281A.550, 284.4068, 286.110, 287.0438,
30 289.025, 289.080, 289.387, 289.830, 293.5002, 293.503, 293.558, 293B.135,
31 293D.510, 331.110, 332.061, 332.351, 333.333, 333.335, 338.070, 338.1379,
32 338.16925, 338.1725, 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
33 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255, 360.755, 361.044,
34 361.610, 365.138, 366.160, 368A.180, 372A.080, 378.290, 378.300, 379.008,
35 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501, 388.503,
36 388.513, 388.750, 391.035, 392.029, 392.147, 392.264, 392.271, 392.850, 394.167,
37 394.1698, 394.447, 394.460, 394.465, 396.3295, 396.405, 396.525, 396.535,
38 398.403, 408.3885, 408.3886, 408.3888, 408.5484, 412.153, 416.070, 422.2749,
39 422.305, 422A.342, 422A.350, 425.400, 427A.1236, 427A.872, 432.205,
40 432B.175, 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 433.534,
41 433A.360, 439.840, 439B.420, 440.170, 441A.195, 441A.220, 441A.230, 442.330,
42 442.395, 445A.665, 445B.570, 449.209, 449.245, 449.720, 450.140, 453.164,
43 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555,
44 459.7056, 459.846, 463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790,
45 467.1005, 480.365, 481.063, 482.170, 482.5536, 483.340, 483.363, 483.575,
46 483.659, 483.800, 484E.070, 485.316, 503.452, 522.040, 534A.031, 561.285,
47 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090, 603.070,
48 603A.210, 604A.710, 612.265, 616B.012, 616B.015, 616B.315, 616B.350,
49 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327,
50 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069, 630.133,
51 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125, 632.405, 633.283,
52 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
53 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075, 640A.220, 640B.730,

640C.400, 640C.745, 640C.760, 640D.190, 640E.340, 641.090, 641A.191, 641B.170, 641C.760, 642.524, 643.189, 644.446, 645.180, 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130, 645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105, 661.115, 665.130, 665.133, 669.275, 669.285, 669A.310, 671.170, 673.430, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159, 679B.190, 679B.285, 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540, 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110, 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 692A.117, 692C.190, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 703.196, 704B.320, 704B.325, 706.1725, 706A.230, 710.159, 711.600, *and section 14 of this act*, sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless otherwise declared by law to be confidential, all public books and public records of a governmental entity must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records. Any such copies, abstracts or memoranda may be used to supply the general public with copies, abstracts or memoranda of the records or may be used in any other way to the advantage of the governmental entity or of the general public. This section does not supersede or in any manner affect the federal laws governing copyrights or enlarge, diminish or affect in any other manner the rights of a person in any written book or record which is copyrighted pursuant to federal law.

2. A governmental entity may not reject a book or record which is copyrighted solely because it is copyrighted.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy or receive a copy of a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

4. A person may request a copy of a public record in any medium in which the public record is readily available. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 26. This act becomes effective on July 1, 2017.