

SENATE BILL NO. 319—SENATOR GOICOECHEA

MARCH 22, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works.
(BDR 28-525)

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; authorizing a local government to negotiate with the lowest responsible and responsive bidder or best bidder on a contract to obtain a revised bid under certain circumstances; authorizing a local government to require the attendance of a prime contractor at a pre-bid conference or site inspection as a prerequisite for bidding on certain contracts for public works; revising provisions relating to certain bids for a public work for which a list disclosing first tier subcontractors is required; revising provisions relating to the substitution of subcontractors; authorizing a general building contractor to perform specialty contracting under certain circumstances; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law grants the Administrator of the State Public Works Division of the Department of Administration the authority to negotiate with the lowest responsible and responsive bidder on a contract to obtain a revised bid under certain circumstances. (NRS 341.145) **Section 2** of this bill similarly authorizes a local government that rejects all bids received in response to certain advertisements for a contract for a public work for which the estimated cost exceeds \$100,000 to negotiate with the lowest responsible and responsive bidder or best bidder if: (1) the advertisement included an estimated budget for the project; and (2) the local government determines that such action is in the public interest. **Section 2** requires a local government that elects to negotiate with a bidder to: (1) provide certain notice to bidders whose bids were rejected of the negotiation; and (2) negotiate in good faith to obtain a revised bid. **Section 2** also imposes certain requirements relating to the awarding of a contract for which a revised bid is obtained.



Existing law prescribes general procedures for awarding a contract for a public work. (Chapter 338 of NRS) **Section 3** of this bill authorizes a local government to require the attendance of a prime contractor at a pre-bid conference or site inspection as a prerequisite for bidding on certain contracts for a public work for which the estimated cost exceeds \$100,000. **Section 3** requires a local government that elects to make attendance at a pre-bid conference or site inspection mandatory to: (1) include certain notice relating to the pre-bid conference or site inspection in the advertisement for bids for that contract; and (2) reject any bid received if the bidder did not attend the required pre-bid conference or site inspection. **Section 7** of this bill makes conforming changes relating to contracts for which attendance at a pre-bid conference or site inspection is required pursuant to **section 3**. **Section 4** of this bill makes a conforming change to indicate the placement of **sections 2 and 3** in the Nevada Revised Statutes.

With certain exceptions, existing law prohibits a public body from drafting bid specifications for a public work which call for a designated material, product, thing or service by specific brand or trade name unless: (1) the bid specifications list at least two brands or trade names; and (2) the brand or trade names listed are followed by the words "or equal" so that bidders may furnish any equal material, product, thing or service. Existing law also requires bid specifications to provide a period of time after a contract is awarded for the submission of data substantiating a request for a substitution of "an equal" item. (NRS 338.140) **Section 5** of this bill requires bid specifications to provide a period of time before the opening of bids for a contract, rather than after the contract is awarded, for the submission of such data.

Existing law requires certain prime contractors who submit bids for a public work to include with the bid a list that discloses the first tier subcontractors who will perform a certain portion of the work on the public work. With certain exceptions, existing law requires a contractor's bid to be deemed not responsive if the contractor fails to submit the required list. (NRS 338.141) **Section 6** of this bill removes this requirement, and prohibits a bid from being deemed not responsive on the grounds that a contractor failed to submit the required list or comply with certain other requirements.

Existing law prescribes certain penalties if a prime contractor, after the submission of the bid, substitutes a subcontractor to perform any work the prime contractor indicated he or she would perform. (NRS 338.141) **Section 6** requires a prime contractor who, after the submission of the bid, substitutes a subcontractor to perform the work the prime contractor indicated he or she would perform to substitute the subcontractor who submitted the lowest bid to perform that labor or portion of the work, if any such bid was submitted. **Section 6** authorizes a subcontractor aggrieved by a violation of this requirement to bring a civil action against a prime contractor to seek certain relief, including damages equal to two times the lost profits of the subcontractor. **Section 6** also provides that a contractor or prime contractor may be subject to disciplinary action for violating the provisions of that section.

Existing law authorizes a local government to award contracts for certain public works to specialty contractors. If a contract is so awarded, existing law requires all work that is outside the scope of the license of the specialty contractor to whom the contract is awarded to be performed by a subcontractor who is licensed to perform the work. (NRS 338.148) **Section 8** of this bill creates an exception to this requirement for contracts awarded by a local government in a county whose population is less than 100,000 (currently all counties other than Clark and Washoe Counties) by authorizing a general building contractor to perform specialty contracting. **Section 9** of this bill makes a conforming change to allow a general building contractor to perform specialty contracting on certain projects.



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

1 **Section 1.** Chapter 338 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2. 1.** *A local government that rejects all bids received*
4 *in response to an advertisement for a contract for a public work*
5 *for which the estimated cost exceeds \$100,000 pursuant to NRS*
6 *338.143 may negotiate with the lowest responsible and responsive*
7 *bidder or best bidder, as applicable, to obtain a revised bid if:*

8 *(a) The advertisement for the contract included an estimated*
9 *budget for the project; and (b) The local government determines*
10 *that the public interest would be served by the negotiation.*

11 **2.** *A local government that negotiates with a bidder pursuant*
12 *to subsection 1 shall:*

13 *(a) Notify each bidder whose bid was rejected on the original*
14 *contract that the local government:*

15 *(1) Rejected all bids received in response to the*
16 *advertisement for bids; and*

17 *(2) Is negotiating with the lowest responsible and*
18 *responsive bidder or best bidder on the contract, as applicable, to*
19 *obtain a revised bid.*

20 *(b) Negotiate in good faith to:*

21 *(1) Revise the plans and specifications for the bid, if*
22 *necessary; and*

23 *(2) Obtain a revised bid that is within the budget for the*
24 *project included in the advertisement for the bid.*

25 **3.** *A local government shall award any contract for which a*
26 *revised bid is obtained pursuant to this section. In determining*
27 *whether to award such a contract, the governing body shall*
28 *consider any evidence or statements indicating that the*
29 *requirements set forth in subsection 2 have not been met.*

30 **4.** *A local government shall, at least 10 days before any*
31 *public meeting conducted for the purpose of awarding of a*
32 *contract pursuant to subsection 3, provide to each bidder whose*
33 *bid was rejected on the original contract:*

34 *(a) Notice of the date, time and location of the public meeting*
35 *at which the governing body will consider awarding the contract;*
36 *and*

37 *(b) A copy of the revised bid.*

38 **Sec. 3. 1.** *A local government or its authorized*
39 *representative that awards a contract for a public work in*
40 *accordance with paragraph (b) of subsection 1 of NRS 338.1373*
41 *may require the attendance of a prime contractor or authorized*
42 *representative of the prime contractor at a pre-bid conference or*



1 *site inspection as a prerequisite for bidding on a contract for a*
2 *public work for which the estimated cost exceeds \$100,000.*

3 2. *If a local government or its authorized representative*
4 *requires the attendance of a prime contractor or authorized*
5 *representative of the prime contractor at a pre-bid conference or*
6 *site inspection pursuant to subsection 1, the local government or*
7 *its authorized representative responsible for awarding the contract*
8 *shall:*

9 (a) *Include in the advertisement required by NRS 338.143:*

10 (1) *The date, time and place of the pre-bid conference or*
11 *site inspection; and*

12 (2) *Notice that failure to attend the pre-bid conference or*
13 *site inspection will result in the rejection of a bid; and*

14 (b) *Reject any bid received in response to an advertisement for*
15 *bids if the local government or its authorized representative*
16 *determines that the bidder did not attend the required pre-bid*
17 *conference or site inspection.*

18 **Sec. 4.** NRS 338.1373 is hereby amended to read as follows:

19 338.1373 1. A local government or its authorized
20 representative shall award a contract for a public work pursuant to
21 the provisions of NRS 338.1415 and:

22 (a) NRS 338.1377 to 338.139, inclusive;

23 (b) NRS 338.143 to 338.148, inclusive ~~§~~, *and sections 2 and 3*
24 *of this act;* or

25 (c) NRS 338.1711 to 338.173, inclusive.

26 2. A public body shall not use a reverse auction when awarding
27 a contract for a public work.

28 3. Except as otherwise provided in this subsection, subsection
29 4 and chapter 408 of NRS, the provisions of this chapter apply with
30 respect to contracts for the construction, reconstruction,
31 improvement and maintenance of highways that are awarded by the
32 Department of Transportation pursuant to NRS 408.201 and
33 408.313 to 408.433, inclusive. The provisions of NRS 338.1375 to
34 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139,
35 338.142 and 338.1711 to 338.1727, inclusive, do not apply with
36 respect to contracts for the construction, reconstruction,
37 improvement and maintenance of highways that are awarded by the
38 Department of Transportation pursuant to NRS 408.201 and
39 408.313 to 408.433, inclusive.

40 4. To the extent that a provision of this chapter precludes the
41 granting of federal assistance or reduces the amount of such
42 assistance with respect to a contract for the construction,
43 reconstruction, improvement or maintenance of highways that is
44 awarded by the Department of Transportation pursuant to NRS
45 408.201 and 408.313 to 408.433, inclusive, that provision of this



chapter does not apply to the Department of Transportation or the contract.

5. As used in this section:

(a) "Online bidding" means a process by which bidders submit bids for a contract on a secure website on the Internet or its successor, if any, which is established and maintained for that purpose.

(b) "Reverse auction" means a process by which a bidder may submit more than one bid if each subsequent response to online bidding is at a lower price.

Sec. 5. NRS 338.140 is hereby amended to read as follows:

338.140 1. A public body shall not draft or cause to be drafted specifications for bids, in connection with a public work:

(a) In such a manner as to limit the bidding, directly or indirectly, to any one specific concern.

(b) Except in those instances where the product is designated to match others in use on a particular public improvement either completed or in the course of completion, calling for a designated material, product, thing or service by specific brand or trade name unless the specification lists at least two brands or trade names of comparable quality or utility and is followed by the words "or equal" so that bidders may furnish any equal material, product, thing or service.

(c) In such a manner as to hold the bidder to whom such contract is awarded responsible for extra costs incurred as a result of errors or omissions by the public body in the contract documents.

(d) Except as otherwise provided in subsection 2, in such a manner as to require a bidder to furnish to the public body, whether before or after the bid is submitted, documents generated in the preparation or determination of prices included in the bid, except when requested by the public body for:

(1) A determination of the price of additional work performed pursuant to a change order;

(2) An evaluation of claims for costs incurred for the performance of additional work;

(3) Preparation for arbitration or litigation;

(4) A determination of the validity of the protest of a bid;

(5) A determination of the validity of an increase or decrease in the price of a contract in accordance with a provision in the contract which authorizes such an increase or decrease to correspond to changing market conditions; or

(6) Any combination thereof.

2. A public body may, at the time a bid is submitted, require documents generated in the preparation or determination of prices included in the bid to be transmitted to and stored electronically by



1 the public body or a third party. Any document furnished by a
2 bidder pursuant to this subsection may be transmitted and stored
3 electronically if the manner of transmission ensures that the
4 documents are exclusively accessible to the bidder. Electronic
5 transmission and storage of such documents does not waive or
6 otherwise affect the proprietary interests of the bidder in the
7 documents, except that the third party or the bidder must release any
8 document furnished pursuant to this subsection if requested by the
9 public body pursuant to paragraph (d) of subsection 1.

10 3. In those cases involving a unique or novel product
11 application required to be used in the public interest, or where only
12 one brand or trade name is known to the public body, it may list
13 only one.

14 4. Specifications must provide a period of time of at least 7
15 days ~~after award~~ *before the opening* of ~~the~~ *bids for a* contract for
16 submission of data substantiating a request for a substitution of "an
17 equal" item.

18 **Sec. 6.** NRS 338.141 is hereby amended to read as follows:

19 338.141 1. Except as otherwise provided in NRS 338.1727,
20 each bid submitted to a public body for any public work to which
21 paragraph (a) of subsection 1 of NRS 338.1385, paragraph (a) of
22 subsection 1 of NRS 338.143 or NRS 408.327 applies, must
23 include:

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

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

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

44 (2) If any one of the contractors who submitted one of the
45 three lowest bids will employ a first tier subcontractor who will



1 provide labor or a portion of the work on the public work to the
2 prime contractor for which the first tier subcontractor will not be
3 paid an amount exceeding \$250,000, the name of each first tier
4 subcontractor who will provide labor or a portion of the work on the
5 public work to the prime contractor for which the first tier
6 subcontractor will be paid 1 percent of the prime contractor's total
7 bid or \$50,000, whichever is greater.

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

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

15 3. A prime contractor shall include his or her name on a list
16 required by paragraph (a) or (b) of subsection 1. If the prime
17 contractor will perform any work which is more than 1 percent of
18 the prime contractor's total bid and which is not being performed by
19 a subcontractor listed pursuant to paragraph (a) or (b) of subsection
20 1, the prime contractor shall also include on the list:

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

23 (b) A statement that the prime contractor ~~[will]~~ :

24 (1) *Will* perform all work other than that being performed by
25 a subcontractor listed pursuant to paragraph (a) or (b) of subsection
26 1 ~~[]~~; and

27 (2) *Is capable of performing such work and properly*
28 *licensed to do so.*

29 4. ~~[Except as otherwise provided in this subsection,]~~ *A*
30 *contractor's bid shall be deemed not responsive* if ~~[a]~~ *the*
31 *contractor* ~~[]~~:

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

33 ~~—(b) Submits]~~ *submits* a list that includes the name of a
34 subcontractor who, at the time of the submission of the list, is on
35 disqualified status with the Division pursuant to NRS 338.1376. ~~[]~~
36 ~~→ the contractor's bid shall be deemed not responsive.]~~

37 5. A contractor's bid shall not be deemed not responsive on the
38 grounds that the contractor ~~[submitted]~~ :

39 (a) *Submitted* a list that includes the name of a subcontractor
40 who, at the time of the submission of the list, is on disqualified
41 status with the Division pursuant to NRS 338.1376 if the contractor,
42 before the award of the contract, provides an acceptable replacement
43 subcontractor in the manner set forth in subsection 1 or 2 of
44 NRS 338.13895.

45 (b) *Failed to submit a list within the required time.*



(c) *Failed to comply with the requirements prescribed in subsection 2 or 3.*

~~[5.]~~ 6. 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.]~~ 7. If a prime contractor substitutes a subcontractor for any subcontractor who is named in the bid without complying with the provisions of subsection ~~[5.]~~ 6, 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.]~~ 8. *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 must substitute the subcontractor who submitted the lowest bid to perform that labor or portion of the work, if any such bid was submitted. A prime contractor may substitute a different subcontractor if:*

(a) The subcontractor who submitted the lowest bid approves the substitution; or

(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 the subcontractor who submitted the lowest bid:

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

(2) Files for bankruptcy or becomes insolvent;

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

9. 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-]~~ *10. A subcontractor aggrieved by a violation of subsection 8 may bring a civil action in a court of competent jurisdiction against a prime contractor who commits the violation to seek any or all of the following relief:*

(a) Damages equal to two times the lost profits of the subcontractor.

(b) Punitive damages.

(c) Reasonable attorney's fees and the costs.

(d) Any other legal or equitable relief that the court deems appropriate.

11. A contractor or prime contractor is subject to disciplinary action by the State Contractors' Board pursuant to chapter 624 of NRS if the contractor or prime contractor:

(a) Fails to comply with the requirements prescribed in subsection 2 or 8.

(b) Is not properly licensed to perform the work the prime contractor indicated pursuant to subsection 3 that he or she would perform on the public work.

12. The provisions of this section do not limit or prohibit any other remedy provided by law.

13. 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 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 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. 7. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection ~~[8.]~~ 9, 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.

3. *Each advertisement for bids must include the provisions required by subsection 2 of section 3 of this act, if attendance at a pre-bid conference or site inspection is required.*

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

~~[4.]~~ 5. Except as otherwise provided in subsection ~~[5.]~~ 6 and NRS 338.147, the local government or its authorized representative



1 shall award a contract to the lowest responsive and responsible
2 bidder.

3 ~~[5-]~~ 6. Any bids received in response to an advertisement for
4 bids may be rejected if the local government or its authorized
5 representative responsible for awarding the contract determines that:

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

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

9 ~~[or]~~

10 (c) *The bidder did not attend a pre-bid conference or site*
11 *inspection that was required pursuant to section 3 of this act; or*

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

13 ~~[6-]~~ 7. A local government may let a contract without
14 competitive bidding if no bids were received in response to an
15 advertisement for bids and:

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

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

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

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

25 ~~[7-]~~ 8. Before a local government may commence the
26 performance of a public work itself pursuant to the provisions of this
27 section, based upon a determination that the public interest would be
28 served by rejecting any bids received in response to an
29 advertisement for bids, the local government shall prepare and make
30 available for public inspection a written statement containing:

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

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

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

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



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

~~8-1~~ 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; or

(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.

Sec. 8. NRS 338.148 is hereby amended to read as follows:

338.148 1. A local government or its authorized representative may award a contract for a public work to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, if:

(a) The majority of the work to be performed on the public work to which the contract pertains consists of specialty contracting for which the specialty contractor is licensed; and

(b) The public work to which the contract pertains is not part of a larger public work.

2. ~~HH~~ *Except as otherwise provided in subsection 3, if* a local government or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, all work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor must be performed by a subcontractor who is licensed to perform such work.

3. *If a local government in a county whose population is less than 100,000 or its authorized representative awards a contract to a specialty contractor pursuant to NRS 338.143 to 338.1475, inclusive, any work to be performed on the public work to which the contract pertains that is outside the scope of the license of the specialty contractor may be performed by a subcontractor who is licensed to perform such work or a general building contractor.*



Sec. 9. NRS 624.215 is hereby amended to read as follows:

624.215 1. For the purpose of classification, the contracting business includes the following branches:

(a) General engineering contracting.

(b) General building contracting.

(c) Specialty contracting.

↳ General engineering contracting and general building contracting are mutually exclusive branches.

2. A general engineering contractor is a contractor whose principal contracting business is in connection with fixed works, including irrigation, drainage, water supply, water power, flood control, harbors, railroads, highways, tunnels, airports and airways, sewers and sewage disposal systems, bridges, inland waterways, pipelines for transmission of petroleum and other liquid or gaseous substances, refineries, chemical plants and industrial plants requiring a specialized engineering knowledge and skill, power plants, piers and foundations and structures or work incidental thereto.

3. Except as otherwise provided in subsections 5 and 6, a general building contractor is a contractor whose principal contracting business is in connection with the construction or remodeling of buildings or structures for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, requiring in their construction the use of more than two unrelated building trades or crafts, upon which he or she is a prime contractor and where the construction or remodeling of a building is the primary purpose. ~~Unless~~ *Except as otherwise provided in subsection 3 of NRS 338.148, unless* he or she holds the appropriate specialty license, a general building contractor may only contract to perform specialty contracting if he or she is a prime contractor on a project. Except as otherwise provided in subsection 4 of NRS 624.220, a general building contractor shall not perform specialty contracting in plumbing, electrical, refrigeration and air-conditioning or fire protection without a license for the specialty. A person who is licensed pursuant to chapter 489 of NRS and who exclusively constructs or repairs mobile homes, manufactured homes or commercial coaches is not a general building contractor.

4. A specialty contractor is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

5. A general engineering contractor, when acting as a prime contractor, may hire not more than one general building contractor to provide any work, materials or equipment as specified in subsection 3 on a single construction project.



6. A general building contractor may contract to provide management and counseling services on a construction project for a professional fee. A general building contractor who has contracted to provide management and counseling services may hire not more than one general building contractor to provide any work, materials or equipment as specified in subsection 3 on a single construction project.

7. A single construction project must be limited to not more than one general building contractor who provides management and counseling services for a professional fee and not more than one general building contractor who provides any work, materials or equipment as specified in subsection 3.

8. Except as otherwise provided in this subsection, each construction project must have one, but not more than one, prime contractor who is a licensed contractor and is responsible for the work, materials and equipment for the construction project. A construction project is not required to have a prime contractor if the work for the construction project or the person providing the work for the construction project is exempt pursuant to NRS 624.031.

9. This section does not prevent the Board from establishing, broadening, limiting or otherwise effectuating classifications in a manner consistent with established custom, usage and procedure found in the building trades. The Board is specifically prohibited from establishing classifications in such a manner as to determine or limit craft jurisdictions.

10. As used in this section, "prime contractor" means:

(a) A general engineering contractor who enters into an oral or written agreement with an owner of a construction project or an agent of an owner to provide any work, materials or equipment for which the general engineering contractor is licensed;

(b) A general building contractor who enters into an oral or written agreement with an owner of a construction project or an agent of an owner to provide any work, materials or equipment for which the general building contractor is licensed;

(c) A general engineering contractor and general building contractor who enter into an oral or written agreement with an owner of a construction project or an agent of an owner to provide any work, materials or equipment for which the general engineering contractor and general building contractor are licensed; or

(d) A specialty contractor who enters into an oral or written agreement with an owner of a construction project or an agent of an owner to provide:

(1) Any work, materials or equipment for which the specialty contractor is licensed; and



- 1 (2) Any other work which is incidental and supplemental
2 thereto.

