

SENATE BILL NO. 119—SENATORS HARRIS AND KIECKHEFER

PREFILED FEBRUARY 1, 2015

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to educational facilities. (BDR 28-732)

FISCAL NOTE: Effect on Local Government: No. Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to educational facilities; making the provisions governing the payment of prevailing wages inapplicable to a school district, a charter school and the Nevada System of Higher Education; temporarily authorizing the boards of trustees of school districts with prior voter approval to issue general obligation bonds in certain circumstances; temporarily revising provisions governing the transfer of certain revenue to the fund for capital projects of such a school district; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth general requirements applicable to public works, including provisions requiring the payment of prevailing wages to mechanics and workers employed on public works projects. (NRS 338.020-338.090) **Section 1** of this bill excludes from the prevailing wage requirement: (1) any contract for a public work or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property to which a school district, a charter school or the Nevada System of Higher Education is a party; and (2) a public work of, or constructed by, a school district, a charter school or the Nevada System of Higher Education or any other construction, alteration, repair, remodeling or reconstruction of an improvement or property of or constructed by one of those entities. **Section 6** of this bill eliminates the requirement that the Nevada System of Higher Education pay prevailing wages on construction work for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work. (NRS 338.075) **Sections 3-5** of this bill eliminate the requirement that the Nevada System of Higher Education pay prevailing wages on lease-purchase and installment-purchase agreements that involve the construction, alteration, repair or remodeling of an improvement. (NRS 353.545, 353.590)



Existing law authorizes the board of trustees of a school district to issue general obligation bonds to raise money for certain specified purposes related to school facilities, including: (1) the construction, design or purchase of new buildings for schools; (2) enlarging, remodeling or repairing existing buildings or grounds for schools; and (3) acquiring sites for building schools. (NRS 387.335)

Under existing law, if a municipality proposes to issue or incur general obligation bonds, the proposal is required to be submitted to the qualified electors at an election. Existing law provides an exception from this requirement for the issuance of general obligation bonds of a school district if: (1) the issuance of the bonds is not expected to result in an increase in the existing property tax levy for the payment of the bonds of the school district; and (2) the voters have approved a question that authorizes the issuance of such bonds by the board of trustees of the school district for 10 years after the date of approval under two conditions. First, the board of trustees is required to make a finding that the existing tax for debt service will at least equal the amount required to pay the principal and interest on the outstanding general obligations of the school district and the general obligations proposed to be issued. Second, the board of trustees is required to obtain approval of each such bond issuance from the debt management commission in the county in which the school district is located and, in counties whose population is 100,000 or more (currently Clark and Washoe Counties), from the oversight panel for school facilities. Existing law also provides that such a question may authorize the board of trustees to transfer any excess revenue generated by the school district's property tax for debt service to the fund for capital projects of the school district to pay for certain capital projects, commonly known as "pay as you go" funding. (NRS 350.020)

If such a question for the issuance of bonds of a school district has been approved by the voters, this bill authorizes the board of trustees of the school district to issue general obligation bonds for one additional period of 10 years, without any further approval of the voters and regardless of whether the question was approved more than 10 years before the effective date of this bill. For each issuance of bonds during that additional 10-year period, the board of trustees must make the required finding regarding the sufficiency of the existing tax to pay debt service on the bonds and obtain the approval of the debt management commission in the county and, if applicable, the oversight panel for school facilities. During the additional 10-year period, this bill also authorizes the board of trustees to use excess revenue generated from the property tax for debt service of the school district for "pay as you go" funding even though such authorization was not specifically included in the question approved by the voters.

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

Section 1. NRS 338.080 is hereby amended to read as follows:
338.080 None of the provisions of NRS 338.020 to 338.090,
inclusive, apply to:

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



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

3 3. Any contract for a public work whose cost is less than
4 \$100,000. A unit of the project must not be separated from the total
5 project, even if that unit is to be completed at a later time, in order to
6 lower the cost of the project below \$100,000.

7 *4. Any contract for a public work or any other construction,*
8 *alteration, repair, remodeling or reconstruction of an*
9 *improvement or property to which a school district, a charter*
10 *school or the Nevada System of Higher Education is a party,*
11 *notwithstanding any other provision of law.*

12 *5. A public work of, or constructed by, a school district, a*
13 *charter school or the Nevada System of Higher Education or any*
14 *other construction, alteration, repair, remodeling or*
15 *reconstruction of an improvement or property of or constructed by*
16 *one of these entities, notwithstanding any other provision of law.*

17 **Sec. 2.** Chapter 350 of NRS is hereby amended by adding
18 thereto a new section to read as follows:

19 *If the voters approved a question that was submitted by a board*
20 *of trustees of a school district in accordance with subsection 4 of*
21 *NRS 350.020 for authorization to issue general obligation bonds,*
22 *regardless of whether such approval occurred more than 10 years*
23 *before the effective date of this act:*

24 *1. Such approval shall be deemed to constitute approval of*
25 *the qualified electors for the issuance of general obligation bonds*
26 *by the board of trustees of the school district pursuant to*
27 *subsection 4 of NRS 350.020 for a period of 10 years commencing*
28 *on the effective date of this act if the question was approved by the*
29 *voters more than 10 years before the effective date of this act, or*
30 *otherwise commencing on the date of the expiration of the 10-year*
31 *period approved by the voters in the question, and no other*
32 *approval of the qualified electors is required for such issuance of*
33 *general obligation bonds pursuant to the provisions of NRS*
34 *350.020 by the board of trustees of the school district for that*
35 *period.*

36 *2. During the 10-year period in which a board of trustees is*
37 *authorized to issue bonds as provided in subsection 1, all or a*
38 *portion of the revenue generated by the school district's property*
39 *tax for debt service which is in excess of the amount required:*

40 *(a) For debt service in the current fiscal year;*

41 *(b) For other purposes related to the bonds by the instrument*
42 *pursuant to which the bonds were issued; and*

43 *(c) To maintain the reserve account required pursuant to*
44 *subsection 5 of NRS 350.020,*



1 ↪ *may be transferred by the board of trustees to the school*
2 *district's fund for capital projects established pursuant to NRS*
3 *387.328 and used to pay the cost of capital projects which can*
4 *lawfully be paid from that fund. Any such transfer must not*
5 *limit the ability of the school district to issue bonds if the findings*
6 *and approvals required by subsection 4 of NRS 350.020 are*
7 *obtained.*

8 **Sec. 3.** NRS 353.545 is hereby amended to read as follows:

9 353.545 The Legislature hereby finds and declares that:

10 1. The authority provided by other specific statutes for the
11 government of this State and the political subdivisions of this State
12 to use lease-purchase and installment-purchase agreements provides
13 an important and valuable option for these governmental entities
14 and, when this authority is used properly, provides great benefit to
15 the residents of this State.

16 2. The statutory provisions governing the use of lease-purchase
17 and installment-purchase agreements should be interpreted to allow
18 the process of entering into and carrying out these agreements to be
19 as streamlined and efficient as possible.

20 3. The government of this State and the political subdivisions
21 of this State should not use lease-purchase and installment-purchase
22 agreements to:

23 (a) Engage in or allow bid-shopping; or

24 (b) ~~HAveid~~ *Except as otherwise provided in subsection 5 of*
25 *NRS 353.590, avoid* or circumvent any requirement regarding the
26 payment of prevailing wages for public works.

27 4. When using lease-purchase and installment-purchase
28 agreements, the government of this State and the political
29 subdivisions of this State should provide for the preferential hiring
30 of Nevada residents to the extent otherwise required by law.

31 5. ~~HA~~ *Except as otherwise provided in subsection 5 of NRS*
32 *353.590, if* a lease-purchase or installment-purchase agreement
33 involves the construction, alteration, repair or remodeling of an
34 improvement:

35 (a) The person or entity that executes one or more contracts
36 or agreements for the actual construction, alteration, repair or
37 remodeling of the improvement shall include in such a contract or
38 agreement the contractual provisions and stipulations that are
39 required to be included in a contract for a public work pursuant to
40 the provisions of NRS 338.013 to 338.090, inclusive.

41 (b) The government of this State or a political subdivision of
42 this State, the contractor who is awarded the contract or entered into
43 the agreement to perform the construction, alteration, repair or
44 remodeling of the improvement and any subcontractor on the project
45 shall comply with the provisions of NRS 338.013 to 338.090,



1 inclusive, in the same manner as if the government of this State or a
2 political subdivision of this State had undertaken the project or had
3 awarded the contract.

4 **Sec. 4.** NRS 353.590 is hereby amended to read as follows:

5 353.590 If an agreement pursuant to NRS 353.500 to 353.630,
6 inclusive, involves the construction, alteration, repair or remodeling
7 of an improvement:

8 1. Except as otherwise provided in this section, the
9 construction, alteration, repair or remodeling of the improvement
10 may be conducted as specified in the agreement without complying
11 with the provisions of:

12 (a) Any law requiring competitive bidding; or

13 (b) Chapter 341 of NRS.

14 2. ~~The~~ *Except as otherwise provided in subsection 5, the*
15 *person or entity that enters into the agreement for the actual*
16 *construction, alteration, repair or remodeling of the improvement*
17 *shall include in the agreement the contractual provisions and*
18 *stipulations that are required to be included in a contract for a public*
19 *work pursuant to the provisions of NRS 338.013 to 338.090,*
20 *inclusive.*

21 3. ~~The~~ *Except as otherwise provided in subsection 5, the*
22 *State or a state agency, the contractor who is awarded the contract or*
23 *entered into the agreement to perform the construction, alteration,*
24 *repair or remodeling of the improvement and any subcontractor on*
25 *the project shall comply with the provisions of NRS 338.013 to*
26 *338.090, inclusive, in the same manner as if the State or a state*
27 *agency had undertaken the project or had awarded the contract.*

28 4. The provisions of:

29 (a) Paragraph (b) of subsection 9 of NRS 341.100; and

30 (b) NRS 341.105,

31 ↪ apply to the construction, alteration, repair or remodeling of the
32 improvement.

33 *5. For projects of or for the Nevada System of Higher*
34 *Education where it is anticipated that payments under the*
35 *agreement will be made with state appropriations, the Nevada*
36 *System of Higher Education, the contractor who is awarded the*
37 *contract or entered into the agreement to perform the*
38 *construction, alteration, repair or remodeling of the improvement*
39 *and any subcontractor on the project are not required to comply*
40 *with the provisions of NRS 338.013 to 338.090, inclusive.*

41 **Sec. 5.** NRS 354.740 is hereby amended to read as follows:

42 354.740 The Legislature hereby finds and declares that:

43 1. The authority provided by other specific statutes for the
44 government of this State and the political subdivisions of this State
45 to use lease-purchase and installment-purchase agreements provides



1 an important and valuable option for these governmental entities
2 and, when this authority is used properly, provides great benefit to
3 the residents of this State.

4 2. The statutory provisions governing the use of lease-purchase
5 and installment-purchase agreements should be interpreted to allow
6 the process of entering into and carrying out these agreements to be
7 as streamlined and efficient as possible.

8 3. The government of this State and the political subdivisions
9 of this State should not use lease-purchase and installment-purchase
10 agreements to:

11 (a) Engage in or allow bid-shopping; or

12 (b) ~~AVOID~~ *Except as otherwise provided in subsection 5 of*
13 *NRS 353.590, avoid* or circumvent any requirement regarding the
14 payment of prevailing wages for public works.

15 4. When using lease-purchase and installment-purchase
16 agreements, the government of this State and the political
17 subdivisions of this State should provide for the preferential hiring
18 of Nevada residents to the extent otherwise required by law.

19 5. ~~IF~~ *Except as otherwise provided in subsection 5 of NRS*
20 *353.590, if* a lease-purchase or installment-purchase agreement
21 pursuant to this section involves the construction, alteration, repair
22 or remodeling of an improvement:

23 (a) The person or entity that executes one or more contracts
24 or agreements for the actual construction, alteration, repair or
25 remodeling of the improvement shall include in such a contract or
26 agreement the contractual provisions and stipulations that are
27 required to be included in a contract for a public work pursuant to
28 the provisions of NRS 338.013 to 338.090, inclusive.

29 (b) The government of this State or a political subdivision of
30 this State, the contractor who is awarded the contract or entered into
31 the agreement to perform the construction, alteration, repair or
32 remodeling of the improvement and any subcontractor on the project
33 shall comply with the provisions of NRS 338.013 to 338.090,
34 inclusive, in the same manner as if the government of this State or a
35 political subdivision of this State had undertaken the project or had
36 awarded the contract.

37 **Sec. 6.** NRS 338.075 is hereby repealed.

38 **Sec. 7.** This act becomes effective upon passage and approval.



TEXT OF REPEALED SECTION

338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of NRS 338.010.

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