

Amendment No. 1056

Senate Amendment to Assembly Bill No. 172 Second Reprint	(BDR 28-565)
Proposed by: Senator Kieckhefer	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

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

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

RAE/JRS



Date: 6/1/2015

A.B. No. 172—Revises provisions relating to public works. (BDR 28-565)



ASSEMBLY BILL NO. 172—ASSEMBLYMEN O’NEILL,
OSCARSON; KIRNER AND STEWART

FEBRUARY 17, 2015

JOINT SPONSORS: SENATORS GOICOECHEA;
AND SETTELMEYER

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works. (BDR 28-565)

FISCAL NOTE: Effect on Local Government: No.
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 the manner in which the prevailing wage is determined; requiring the Labor Commissioner to determine the prevailing wage to be a certain percentage for certain public works of school districts and the Nevada System of Higher Education; raising the estimated thresholds at or above which prevailing wage requirements apply to certain public work construction projects; ~~increasing the amount of a preference in bidding on certain public works given to contractors and certain other persons who meet certain eligibility requirements;~~ and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires that mechanics and workers employed on certain public works be paid at least the wage prevailing for the type of work that the mechanic or worker performs in the locale in which the public work is located. (NRS 338.020) Section 2.3 of this bill prescribes the manner in which the Labor Commissioner must determine the prevailing wage for such a public work.

Senate Bill No. 119 of this legislative session exempted public works of school districts and the Nevada System of Higher Education from the requirement to pay prevailing wage. Section 6.7 of this bill repeals those provisions of Senate Bill No. 119, thereby making school districts and the Nevada System of Higher Education subject to that requirement. Section 2.3 of this bill provides that the Labor Commissioner must set the prevailing wage on these public works at 90 percent of the rate of prevailing wage on other public works.

Under existing law, any contract for a public work whose cost is \$100,000 or more is subject to the prevailing wage requirements. (NRS 338.080) ~~The prevailing wage requirements also apply if a redevelopment agency provides financial incentives to the developer with a value of more than \$100,000. (NRS 279.500) Sections 3 and 4 of this bill ~~raise~~ raises the threshold for the applicability of prevailing wage requirements from~~

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18 \$100,000 to ~~1500,000~~, require this amount to be adjusted every 5 years for inflation, and also
19 make a technical correction in section 4 clarifying that if the relevant work will cost exactly
20 \$500,000, the work is subject to the prevailing wage requirements.

21 ~~Under existing law, a contractor, applicant to serve as a construction manager at risk or~~
22 ~~design build team may qualify to receive a 5 percent preference in bidding on certain~~
23 ~~contracts for public works if certain conditions, including the employment of a specified~~
24 ~~percentage of Nevada employees, are met. (NRS 238.1280, 238.147, 238.1602, 238.1725,~~
25 ~~238.1727, 408.3886) Sections 3.3, 2.5, 2.6, 2.7, 2.8 and 4.5 increase the amount of that~~
26 ~~preference in bidding to 7.5 percent.] \$250,000. Section 3 also exempts charter schools~~
27 from prevailing wage requirements.

28 Section 5 of this bill provides that the amendatory provisions of this bill do not apply
29 to a public work awarded before the effective date of this bill.

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 2.3.** NRS 338.030 is hereby amended to read as follows:

4 338.030 1. The public body awarding any contract for public work, or
5 otherwise undertaking any public work, shall ascertain from the Labor
6 Commissioner the prevailing wage in the county in which the public work is to be
7 performed for each craft or type of work.

8 2. ~~[To establish a]~~ The prevailing wage in each county, including Carson
9 City, ~~[the]~~ must be established as follows:

10 (a) The Labor Commissioner shall, annually, survey contractors who have
11 performed work in the county.

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

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

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

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

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

28 3. Within 30 days after the determination is issued:

29 (a) A public body or person entitled under subsection ~~5~~ 6 to be heard may
30 submit an objection to the Labor Commissioner with evidence to substantiate that a
31 different wage prevails; and

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

35 ~~3~~ 4. The Labor Commissioner shall hold a hearing in the locality in which
36 the work is to be executed if the Labor Commissioner:

1 (a) Is in doubt as to the prevailing wage; or
2 (b) Receives an objection or information pursuant to subsection ~~12~~ 3.
3 ↪ The Labor Commissioner may hold only one hearing a year on the prevailing
4 wage of any craft or type of work in any county.

5 ~~4~~ 5. Notice of the hearing must be advertised in a newspaper nearest to the
6 locality of the work once a week for 2 weeks before the time of the hearing.

7 ~~5~~ 6. At the hearing, any public body, the crafts affiliated with the State
8 Federation of Labor or other recognized national labor organizations, and the
9 contractors of the locality or their representatives must be heard. From the evidence
10 presented, the Labor Commissioner shall determine the prevailing wage.

11 ~~6~~ 7. The wages so determined must be filed by the Labor Commissioner
12 and must be available to any public body which awards a contract for any public
13 work.

14 ~~7~~ 8. Nothing contained in NRS 338.020 to 338.090, inclusive, may be
15 construed to authorize the fixing of any wage below any rate which may now or
16 hereafter be established as a minimum wage for any person employed upon any
17 public work, or employed by any officer or agent of any public body.

18 **Sec. 2.7. NRS 338.075 is hereby amended to read as follows:**

19 338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any
20 contract for construction work of the Nevada System of Higher Education for
21 which the estimated cost exceeds ~~100,000~~ 250,000 even if the construction
22 work does not qualify as a public work, as defined in subsection 17 of NRS
23 338.010.

24 **Sec. 3. NRS 338.080 is hereby amended to read as follows:**

25 338.080 ~~4~~ None of the provisions of NRS 338.020 to 338.090, inclusive,
26 apply to:

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

31 2. ~~(b)~~ Apprentices recorded under the provisions of chapter 610 of NRS.

32 3. ~~(c)~~ Any contract for a public work whose cost is less than ~~100,000.~~
33 ~~500,000.~~ 250,000. A unit of the project must not be separated from the total
34 project, even if that unit is to be completed at a later time, in order to lower the cost
35 of the project below ~~100,000.~~ ~~500,000.~~

36 ~~2. The Labor Commissioner shall, on or before January 1, 2020, and every~~
37 ~~5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 1 to~~
38 ~~reflect inflation, as measured by the average percentage of increase or decrease~~
39 ~~in the Consumer Price Index for All Urban Consumers of the United States~~
40 ~~Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The~~
41 ~~Labor Commissioner shall determine the amount of the increase or decrease~~
42 ~~required by this subsection and establish the adjusted amounts to take effect on~~
43 ~~January 1 of that year.~~ 250,000.

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

47 5. A public work of, or constructed by, a charter school, or any other
48 construction, alteration, repair, remodeling or reconstruction of an improvement
49 or property of or constructed by a charter school, notwithstanding any other
50 provision of law.

51 **Sec. 3.3. NRS 338.1389 is hereby amended to read as follows:**

52 ~~338.1389 1. Except as otherwise provided in subsection 10 and NRS~~
53 ~~338.1385, 338.1386 and 338.13864, a public body or its authorized representative~~

1 ~~shall award a contract for a public work for which the estimated cost exceeds~~
2 ~~\$250,000 to the contractor who submits the best bid.~~

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

5 ~~(a) Submitted by a responsive and responsible contractor who:~~

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

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

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

14 ~~(b) Not more than [5] 7.5 percent higher than the bid submitted by the lowest~~
15 ~~responsive and responsible bidder who:~~

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

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

23 ~~*** shall be deemed to be the best bid for the purposes of this section.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

52 ~~— (a) Submits false information to the Board regarding the required payment of~~
53 ~~taxes, the contractor is not eligible to receive a preference in bidding on public~~

1 works for a period of 5 years after the date on which the Board becomes aware of
2 the submission of the false information; or

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

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

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

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

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

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

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

28 ~~14. If a public body receives a written objection pursuant to subsection 13, the~~
29 ~~public body shall determine whether the objection is accompanied by the proof or~~
30 ~~substantiating evidence required pursuant to paragraph (a) of that subsection. If the~~
31 ~~public body determines that the objection is not accompanied by the required proof~~
32 ~~or substantiating evidence, the public body shall dismiss the objection and the~~
33 ~~public body or its authorized representative may proceed immediately to award the~~
34 ~~contract. If the public body determines that the objection is accompanied by the~~
35 ~~required proof or substantiating evidence, the public body shall determine whether~~
36 ~~the contractor qualifies for the certificate pursuant to the provisions of this section~~
37 ~~and the public body or its authorized representative may proceed to award the~~
38 ~~contract accordingly.] (Deleted by amendment.)~~

39 **Sec. 3.5.** ~~[NRS 338.147 is hereby amended to read as follows:~~

40 ~~338.147 1. Except as otherwise provided in subsection 10 and NRS~~
41 ~~338.143, 338.1442 and 338.1446, a local government or its authorized~~
42 ~~representative shall award a contract for a public work for which the estimated cost~~
43 ~~exceeds \$250,000 to the contractor who submits the best bid.~~

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

46 ~~(a) Submitted by a contractor who:~~

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

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

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

4 ~~_____ (b) Not more than [5] 7.5 percent higher than the bid submitted by the lowest~~
5 ~~responsive and responsible bidder who:~~

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

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

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

19 ~~_____ (a) Paid directly, on his or her own behalf;~~

20 ~~_____ (1) The sales and use taxes imposed pursuant to chapters 372, 374 and 377~~
21 ~~of NRS on materials used for construction in this State, including, without~~
22 ~~limitation, construction that is undertaken or carried out on land within the~~
23 ~~boundaries of this State that is managed by the Federal Government or is on an~~
24 ~~Indian reservation or Indian colony, of not less than \$5,000 for each consecutive~~
25 ~~12 month period for 60 months immediately preceding the submission of the~~
26 ~~affidavit from the certified public accountant;~~

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

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

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

36 ~~_____ (1) License as a general contractor pursuant to the provisions of chapter~~
37 ~~624 of NRS; and~~

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

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

45 ~~_____ (a) Paid directly, on his or her own behalf;~~

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

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

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

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

10 ~~— (1) License as a specialty contractor pursuant to the provisions of chapter~~
11 ~~624 of NRS; and~~

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

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

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

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

23 ~~— 6. A contractor who has received a certificate of eligibility to receive a~~
24 ~~preference in bidding on public works from the State Contractors' Board pursuant~~
25 ~~to subsection 3 or 4 shall, at the time for the renewal of his or her contractor's~~
26 ~~license pursuant to NRS 624.283, submit to the Board an affidavit from a certified~~
27 ~~public accountant setting forth that the contractor has, during the immediately~~
28 ~~preceding 12 months, paid the taxes required pursuant to paragraph (a) of~~
29 ~~subsection 3 or paragraph (a) of subsection 4, as applicable, to maintain eligibility~~
30 ~~to hold such a certificate.~~

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

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

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

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

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

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

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

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

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

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

17 ~~(b) Be filed with the local government not later than 2 business days after the~~
18 ~~opening of the bids by the local government or its authorized representative.~~

19 ~~14. If a local government receives a written objection pursuant to subsection~~
20 ~~13, the local government shall determine whether the objection is accompanied by~~
21 ~~the proof or substantiating evidence required pursuant to paragraph (a) of that~~
22 ~~subsection. If the local government determines that the objection is not~~
23 ~~accompanied by the required proof or substantiating evidence, the local government~~
24 ~~shall dismiss the objection and the local government or its authorized representative~~
25 ~~may proceed immediately to award the contract. If the local government determines~~
26 ~~that the objection is accompanied by the required proof or substantiating evidence,~~
27 ~~the local government shall determine whether the contractor qualifies for the~~
28 ~~certificate pursuant to the provisions of this section and the local government or its~~
29 ~~authorized representative may proceed to award the contract accordingly. **(Deleted**~~
30 ~~**by amendment.)**~~

31 **Sec. 3.6.** ~~[NRS 338.1693 is hereby amended to read as follows:~~

32 ~~338.1693 1. The public body or its authorized representative shall appoint a~~
33 ~~panel consisting of at least three but not more than seven members, a majority of~~
34 ~~whom must have experience in the construction industry, to rank the proposals~~
35 ~~submitted to the public body by evaluating the proposals as required pursuant to~~
36 ~~subsections 2 and 3.~~

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

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

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

43 ~~3. When ranking the proposals, the panel appointed pursuant to subsection 1~~
44 ~~shall assign a relative weight of [5] 7.5 percent to the applicant's possession of a~~
45 ~~certificate of eligibility to receive a preference in bidding on public works if the~~
46 ~~applicant submits a signed affidavit that meets the requirements of subsection 1 of~~
47 ~~NRS 338.0117. If any federal statute or regulation precludes the granting of federal~~
48 ~~assistance or reduces the amount of that assistance for a particular public work~~
49 ~~because of the provisions of this subsection, those provisions of this subsection do~~
50 ~~not apply insofar as their application would preclude or reduce federal assistance~~
51 ~~for that work.~~

52 ~~4. After the panel appointed pursuant to subsection 1 ranks the proposals, the~~
53 ~~public body or its authorized representative shall, except as otherwise provided in~~

1 ~~subsection 8, select at least the two but not more than the five applicants whose~~
2 ~~proposals received the highest scores for interviews.~~

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

8 ~~6. During the interview process, the panel conducting the interview may~~
9 ~~require the applicants to submit a preliminary proposed amount of compensation~~
10 ~~for managing the preconstruction and construction of the public work, but in no~~
11 ~~event shall the proposed amount of compensation exceed 20 percent of the scoring~~
12 ~~for the selection of the most qualified applicant. All presentations made at any~~
13 ~~interview conducted pursuant to this subsection or subsection 5 may be made only~~
14 ~~by key personnel employed by the applicant, as determined by the applicant, and~~
15 ~~the employees of the applicant who will be directly responsible for managing the~~
16 ~~preconstruction and construction of the public work.~~

17 ~~7. After conducting such interviews, the panel that conducted the interviews~~
18 ~~shall rank the applicants by using a ranking process that is separate from the~~
19 ~~process used to rank the applicants pursuant to subsection 2 and is based only on~~
20 ~~information submitted during the interview process. The score to be given for the~~
21 ~~proposed amount of compensation, if any, must be calculated by dividing the~~
22 ~~lowest of all the proposed amounts of compensation by the applicant's proposed~~
23 ~~amount of compensation multiplied by the total possible points available to each~~
24 ~~applicant. When ranking the applicants, the panel that conducted the interviews~~
25 ~~shall assign a relative weight of [5] 7.5 percent to the applicant's possession of a~~
26 ~~certificate of eligibility to receive a preference in bidding on public works if the~~
27 ~~applicant submits a signed affidavit that meets the requirements of subsection 1 of~~
28 ~~NRS 338.0117. If any federal statute or regulation precludes the granting of federal~~
29 ~~assistance or reduces the amount of that assistance for a particular public work~~
30 ~~because of the provisions of this subsection, those provisions of this subsection do~~
31 ~~not apply insofar as their application would preclude or reduce federal assistance~~
32 ~~for that work.~~

33 ~~8. If the public body did not receive at least two proposals, the public body~~
34 ~~may not contract with a construction manager at risk.~~

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

51 ~~10. The public body or its authorized representative shall make available to~~
52 ~~all applicants and the public the final rankings of the applicants, as determined by~~
53 ~~the panel that conducted the interviews, and shall provide, upon request, an~~

1 explanation to any unsuccessful applicant of the reasons why the applicant was
2 unsuccessful. **(Deleted by amendment.)**

3 **Sec. 3.7.** ~~[NRS 338.1725 is hereby amended to read as follows:~~

4 ~~338.1725 1. The public body shall select at least two but not more than four~~
5 ~~finalists from among the design build teams that submitted preliminary proposals.~~
6 ~~If the public body does not receive at least two preliminary proposals from design~~
7 ~~build teams that the public body determines to be qualified pursuant to this section~~
8 ~~and NRS 338.1721, the public body may not contract with a design build team for~~
9 ~~the design and construction of the public work.~~

10 ~~2. The public body shall select finalists pursuant to subsection 1 by:~~

11 ~~(a) Verifying that each design build team which submitted a preliminary~~
12 ~~proposal satisfies the requirements of NRS 338.1721;~~

13 ~~(b) Conducting an evaluation of the qualifications of each design build team~~
14 ~~that submitted a preliminary proposal, including, without limitation, an evaluation~~
15 ~~of:~~

16 ~~(1) The professional qualifications and experience of the members of the~~
17 ~~design build team;~~

18 ~~(2) The performance history of the members of the design build team~~
19 ~~concerning other recent, similar projects completed by those members, if any;~~

20 ~~(3) The safety programs established and the safety records accumulated by~~
21 ~~the members of the design build team; and~~

22 ~~(4) The proposed plan of the design build team to manage the design and~~
23 ~~construction of the public work that sets forth in detail the ability of the design-~~
24 ~~build team to design and construct the public work; and~~

25 ~~(c) Except as otherwise provided in this paragraph, assigning, without~~
26 ~~limitation, a relative weight of [5] 7.5 percent to the possession of both a certificate~~
27 ~~of eligibility to receive a preference in bidding on public works by all contractors~~
28 ~~on the design build team and a certificate of eligibility to receive a preference when~~
29 ~~competing for public works by all design professionals on the design build team. If~~
30 ~~any federal statute or regulation precludes the granting of federal assistance or~~
31 ~~reduces the amount of that assistance for a particular public work because of a~~
32 ~~provisions of this paragraph relating to a preference in bidding on public works or a~~
33 ~~preference when competing for public works, those provisions of this paragraph do~~
34 ~~not apply insofar as their application would preclude or reduce federal assistance~~
35 ~~for that public work.~~

36 ~~3. After the selection of finalists pursuant to this section, the public body shall~~
37 ~~make available to the public the results of the evaluations of preliminary proposals~~
38 ~~conducted pursuant to paragraph (b) of subsection 2 and identify which of the~~
39 ~~finalists, if any, received an assignment of [5] 7.5 percent pursuant to paragraph (c)~~
40 ~~of subsection 2. **(Deleted by amendment.)**~~

41 **Sec. 3.8.** ~~[NRS 338.1727 is hereby amended to read as follows:~~

42 ~~338.1727 1. After selecting the finalists pursuant to NRS 338.1725, the~~
43 ~~public body shall provide to each finalist a request for final proposals for the public~~
44 ~~work. The request for final proposals must:~~

45 ~~(a) Set forth the factors that the public body will use to select a design build~~
46 ~~team to design and construct the public work, including the relative weight to be~~
47 ~~assigned to each factor; and~~

48 ~~(b) Set forth the date by which final proposals must be submitted to the public~~
49 ~~body.~~

50 ~~2. If one or more of the finalists selected pursuant to NRS 338.1725 is~~
51 ~~disqualified or withdraws, the public body may select a design build team from the~~
52 ~~remaining finalist or finalists.~~

1 ~~2. Except as otherwise provided in this subsection, in assigning the relative~~
2 ~~weight to each factor for selecting a design build team pursuant to subsection 1, the~~
3 ~~public body shall assign, without limitation, a relative weight of [5] 7.5 percent to~~
4 ~~the possession of both a certificate of eligibility to receive a preference in bidding~~
5 ~~on public works by all contractors on the design build team if the contractors~~
6 ~~submit signed affidavits that meet the requirements of subsection 1 of NRS~~
7 ~~338.0117, and a certificate of eligibility to receive a preference when competing for~~
8 ~~public works by all design professionals on the design build team, and a relative~~
9 ~~weight of at least 30 percent to the proposed cost of design and construction of the~~
10 ~~public work. If any federal statute or regulation precludes the granting of federal~~
11 ~~assistance or reduces the amount of that assistance for a particular public work~~
12 ~~because of the provisions of this subsection relating to a preference in bidding on~~
13 ~~public works, or a preference when competing for public works, those provisions of~~
14 ~~this subsection do not apply insofar as their application would preclude or reduce~~
15 ~~federal assistance for that public work.~~

16 ~~4. A final proposal submitted by a design build team pursuant to this section~~
17 ~~must be prepared thoroughly and be responsive to the criteria that the public body~~
18 ~~will use to select a design build team to design and construct the public work~~
19 ~~described in subsection 1. A design build team that submits a final proposal which~~
20 ~~is not responsive shall not be awarded the contract and shall not be eligible for the~~
21 ~~partial reimbursement of costs provided for in subsection 7.~~

22 ~~5. A final proposal is exempt from the requirements of NRS 338.141.~~

23 ~~6. After receiving and evaluating the final proposals for the public work, the~~
24 ~~public body or its authorized representative shall enter into negotiations with the~~
25 ~~most qualified applicant, as determined pursuant to the criteria set forth pursuant to~~
26 ~~subsections 1 and 3, and award the design build contract to the design build team~~
27 ~~whose proposal is selected. If the public body or its authorized representative is~~
28 ~~unable to negotiate with the most qualified applicant a contract that is determined~~
29 ~~by the parties to be fair and reasonable, the public body may terminate negotiations~~
30 ~~with that applicant. The public body or its authorized representative may then~~
31 ~~undertake negotiations with the next most qualified applicant in sequence until an~~
32 ~~agreement is reached and, if the negotiation is undertaken by an authorized~~
33 ~~representative of the public body, approved by the public body or until a~~
34 ~~determination is made by the public body to reject all applicants.~~

35 ~~7. If a public body selects a final proposal and awards a design build contract~~
36 ~~pursuant to subsection 6, the public body shall:~~

37 ~~(a) Partially reimburse the unsuccessful finalists if partial reimbursement was~~
38 ~~provided for in the request for preliminary proposals pursuant to paragraph (j) of~~
39 ~~subsection 2 of NRS 338.1722. The amount of reimbursement must not exceed, for~~
40 ~~each unsuccessful finalist, 2 percent of the total amount to be paid to the design~~
41 ~~build team as set forth in the design build contract.~~

42 ~~(b) Make available to the public the results of the evaluation of final proposals~~
43 ~~that was conducted and the ranking of the design build teams who submitted final~~
44 ~~proposals. The public body shall not release to a third party, or otherwise make~~
45 ~~public, financial or proprietary information submitted by a design build team.~~

46 ~~8. A contract awarded pursuant to this section:~~

47 ~~(a) Must comply with the provisions of NRS 338.020 to 338.090, inclusive.~~

48 ~~(b) Must specify:~~

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

1 ~~— (2) An amount that is the maximum amount that the public body will pay for the performance of the professional services required by the contract; and~~

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

3 ~~— (c) May set forth the terms by which the design build team agrees to name the public body, at the cost of the public body, as an additional insured in an insurance policy held by the design build team.~~

4 ~~— (d) Except as otherwise provided in paragraph (c), must not require the design professional to defend, indemnify or hold harmless the public body or the employees, officers or agents of that public body from any liability, damage, loss, claim, action or proceeding caused by the negligence, errors, omissions, recklessness or intentional misconduct of the employees, officers and agents of the public body.~~

5 ~~— (e) May require the design build team to defend, indemnify and hold harmless the public body, and the employees, officers and agents of the public body from any liabilities, damages, losses, claims, actions or proceedings, including, without limitation, reasonable attorneys' fees, that are caused by the negligence, errors, omissions, recklessness or intentional misconduct of the design build team or the employees or agents of the design build team in the performance of the contract.~~

6 ~~— (f) Must require that the design build team to whom a contract is awarded assume overall responsibility for ensuring that the design and construction of the public work is completed in a satisfactory manner.~~

7 ~~— 9. Upon award of the design build contract, the public body shall make available to the public copies of all preliminary and final proposals received.]~~

8 **~~(Deleted by amendment.)~~**

9 **Sec. 4. [NRS 279.500 is hereby amended to read as follows:**

10 ~~— 279.500 1. The provisions of NRS 338.010 to 338.090, inclusive, apply to any contract for new construction, repair or reconstruction which is awarded on or after October 1, 1991, by an agency for work to be done in a project.~~

11 ~~— 2. If an agency:~~

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

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

14 ~~— (c) Provides financial incentives to a developer with a value of [more than \$100,000.] \$500,000 or more,~~

15 ~~— regardless of whether the project is publicly or privately owned, the agency must provide in the loan agreement with the small business or the agreement with the developer, as applicable, that the development project is subject to the provisions of NRS 338.010 to 338.090, inclusive, to the same extent as if the agency had awarded the contract for the project. This subsection applies only to the project covered by the loan agreement between the agency and the small business or the agreement between the agency and the developer, as applicable. This subsection does not apply to future development of the property unless an additional loan, or additional financial incentives with a value of [more than \$100,000.] \$500,000 or more, are provided to the small business or developer, as applicable.~~

16 ~~— 3. The Labor Commissioner shall, on or before January 1, 2020, and every 5 years thereafter, adjust the amount set forth in paragraph (c) of subsection 2 to reflect inflation, as measured by the average percentage of increase or decrease in the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, for the preceding 5 years. The Labor Commissioner shall determine the amount of the increase or decrease~~

1 ~~required by this subsection and establish the adjusted amounts to take effect on~~
2 ~~January 1 of that year.] (Deleted by amendment.)~~

3 ~~Sec. 4.5. [NRS 408.3886 is hereby amended to read as follows:~~

4 ~~408.3886 1. After selecting the finalists pursuant to NRS 408.3885, the~~
5 ~~Department shall provide to each finalist a request for final proposals for the~~
6 ~~project. The request for final proposals must:~~

7 ~~(a) Set forth the factors that the Department will use to select a design build~~
8 ~~team to design and construct the project, including the relative weight to be~~
9 ~~assigned to each factor; and~~

10 ~~(b) Set forth the date by which final proposals must be submitted to the~~
11 ~~Department.~~

12 ~~2. Except as otherwise provided in this subsection, in assigning the relative~~
13 ~~weight to each factor for selecting a design build team pursuant to subsection 1, the~~
14 ~~Department shall assign, without limitation, a relative weight of [5] 7.5 percent to~~
15 ~~the design build team's possession of both a certificate of eligibility to receive a~~
16 ~~preference in bidding on public works by the prime contractor on the design build~~
17 ~~team, if the design build team submits a signed affidavit that meets the~~
18 ~~requirements of subsection 1 of NRS 338.0117, and a certificate of eligibility to~~
19 ~~receive a preference when competing for public works by all persons who hold a~~
20 ~~certificate of registration to practice architecture or a license as a professional~~
21 ~~engineer on the design build team, and a relative weight of at least 30 percent for~~
22 ~~the proposed cost of design and construction of the project. If any federal statute or~~
23 ~~regulation precludes the granting of federal assistance or reduces the amount of that~~
24 ~~assistance for a particular project because of the provisions of this subsection~~
25 ~~relating to a preference in bidding on public works or a preference when competing~~
26 ~~for public works, those provisions of this subsection do not apply insofar as their~~
27 ~~application would preclude or reduce federal assistance for that project.~~

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

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

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

35 ~~(b) Reject all the final proposals; or~~

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

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

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

52 ~~(b) Reject all the best and final offers.~~

1 ~~6. If the Department selects a final proposal pursuant to paragraph (a) of~~
2 ~~subsection 4 or selects a best and final offer pursuant to paragraph (a) of subsection~~
3 ~~5, the Department shall hold a public meeting to:~~

4 ~~(a) Review and ratify the selection.~~

5 ~~(b) Partially reimburse the unsuccessful finalists if partial reimbursement was~~
6 ~~provided for in the request for preliminary proposals pursuant to paragraph (f) of~~
7 ~~subsection 3 of NRS 408.2882. The amount of reimbursement must not exceed, for~~
8 ~~each unsuccessful finalist, 3 percent of the total amount to be paid to the design~~
9 ~~build team as set forth in the design build contract.~~

10 ~~(c) Make available to the public a summary setting forth the factors used by the~~
11 ~~Department to select the successful design build team and the ranking of the~~
12 ~~design build teams who submitted final proposals and, if applicable, best and final~~
13 ~~offers. The Department shall not release to a third party, or otherwise make public,~~
14 ~~financial or proprietary information submitted by a design build team.~~

15 ~~7. A contract awarded pursuant to this section:~~

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

18 ~~(b) Must specify:~~

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

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

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

27 ~~8. A design build team to whom a contract is awarded pursuant to this section~~
28 ~~shall:~~

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

31 ~~(b) Use the workforce of the prime contractor on the design build team to~~
32 ~~construct at least 15 percent of the project.] (Deleted by amendment.)~~

33 **Sec. 5.** 1. The amendatory provisions of this act do not apply to a public
34 work or other project of construction, repair or reconstruction that is awarded
35 before ~~[July 1, 2015.]~~ the effective date of this act.

36 2. As used in this section, "public work" has the meaning ascribed to it in
37 NRS 338.010.

38 **Sec. 6.** (Deleted by amendment.)

39 **Sec. 6.3.** The Labor Commissioner shall, as soon as practicable on or
40 after the effective date of this act, adopt regulations to carry out the provisions
41 of this act. The Labor Commissioner shall prepare, distribute and administer
42 the current prevailing wage survey and all subsequent surveys conducted to
43 establish a prevailing wage in each county in strict compliance with the
44 amendatory provisions of this act.

45 **Sec. 6.7.** Sections 1 and 3 to 6, inclusive, of Senate Bill No. 119 (Chapter
46 5, Statutes of Nevada 2015, at page 27) are hereby repealed.

47 **Sec. 7.** This act becomes effective ~~[on July 1, 2015.]~~ upon passage and
48 approval.

TEXT OF REPEALED SECTIONS

Section 1 of Senate Bill No. 119 (Chapter 5, Statutes of Nevada 2015, at page 27) is hereby repealed.

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.

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

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

4. *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, notwithstanding any other provision of law.*

5. *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 these entities, notwithstanding any other provision of law.*

Sections 3 to 6, inclusive, of Senate Bill No. 119 (Chapter 5, Statutes of Nevada 2015, at page 27) are hereby repealed.

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

353.545 The Legislature hereby finds and declares that:

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

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

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

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

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

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

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

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

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

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

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

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

- (a) Any law requiring competitive bidding; or
- (b) Chapter 341 of NRS.

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

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

4. The provisions of:

- (a) Paragraph (b) of subsection 9 of NRS 341.100; and
- (b) NRS 341.105,

→ apply to the construction, alteration, repair or remodeling of the improvement.

5. *For projects of or for the Nevada System of Higher Education where it is anticipated that payments under the agreement will be made with state appropriations, the Nevada System of Higher Education, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the*

improvement and any subcontractor on the project are not required to comply with the provisions of NRS 338.013 to 338.090, inclusive.

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

354.740 The Legislature hereby finds and declares that:

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

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

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

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

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

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

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

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

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

Sec. 6. NRS 338.075 is hereby repealed.