

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)



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

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

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

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

1 **Section 1.** NRS 338.080 is hereby amended to read as follows:  
2 338.080 None of the provisions of NRS 338.020 to 338.090,  
3 inclusive, apply to:

4 1. Any work, construction, alteration, repair or other  
5 employment performed, undertaken or carried out, by or for any  
6 railroad company or any person operating the same, whether such  
7 work, construction, alteration or repair is incident to or in  
8 conjunction with a contract to which a public body is a party, or  
9 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) ~~⌘~~ *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. ~~⌘~~ *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.



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**TEXT OF REPEALED SECTION**

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**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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