

SENATE BILL NO. 185—COMMITTEE ON FINANCE

FEBRUARY 25, 2013

Referred to Committee on Finance

SUMMARY—Revises provisions relating to projects of the Nevada System of Higher Education. (BDR 28-914)

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 the Nevada System of Higher Education; eliminating certain exemptions for the System from the requirements relating to public works; increasing the total principal amount of bonds and other securities that may be issued by the Board of Regents of the University of Nevada to finance certain projects at the University of Nevada, Reno; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Sections 1 and 3** of this bill eliminate certain exemptions in existing law for
2 the Nevada System of Higher Education from the requirements relating to public
3 works. (NRS 338.010, 338.018, 338.075)
4 Existing law authorizes the Board of Regents of the University of Nevada to
5 issue bonds and other securities to finance certain projects at the University of
6 Nevada, Reno, in a total principal amount not exceeding \$348,360,000. **Section 2**
7 of this bill increases the authorized amount of such bonds to \$427,715,000.

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

1 **Section 1** NRS 338.010 is hereby amended to read as follows:
2 338.010 As used in this chapter:
3 1. “Authorized representative” means a person designated by a
4 public body to be responsible for the development, solicitation,
5 award or administration of contracts for public works pursuant to
6 this chapter.



1 2. "Contract" means a written contract entered into between a
2 contractor and a public body for the provision of labor, materials,
3 equipment or supplies for a public work.

4 3. "Contractor" means:

5 (a) A person who is licensed pursuant to the provisions of
6 chapter 624 of NRS.

7 (b) A design-build team.

8 4. "Day labor" means all cases where public bodies, their
9 officers, agents or employees, hire, supervise and pay the wages
10 thereof directly to a worker or workers employed by them on public
11 works by the day and not under a contract in writing.

12 5. "Design-build contract" means a contract between a public
13 body and a design-build team in which the design-build team agrees
14 to design and construct a public work.

15 6. "Design-build team" means an entity that consists of:

16 (a) At least one person who is licensed as a general engineering
17 contractor or a general building contractor pursuant to chapter 624
18 of NRS; and

19 (b) For a public work that consists of:

20 (1) A building and its site, at least one person who holds a
21 certificate of registration to practice architecture pursuant to chapter
22 623 of NRS.

23 (2) Anything other than a building and its site, at least one
24 person who holds a certificate of registration to practice architecture
25 pursuant to chapter 623 of NRS or landscape architecture pursuant
26 to chapter 623A of NRS or who is licensed as a professional
27 engineer pursuant to chapter 625 of NRS.

28 7. "Design professional" means:

29 (a) A person who is licensed as a professional engineer pursuant
30 to chapter 625 of NRS;

31 (b) A person who is licensed as a professional land surveyor
32 pursuant to chapter 625 of NRS;

33 (c) A person who holds a certificate of registration to engage in
34 the practice of architecture, interior design or residential design
35 pursuant to chapter 623 of NRS;

36 (d) A person who holds a certificate of registration to engage in
37 the practice of landscape architecture pursuant to chapter 623A of
38 NRS; or

39 (e) A business entity that engages in the practice of professional
40 engineering, land surveying, architecture or landscape architecture.

41 8. "Division" means the State Public Works Division of the
42 Department of Administration.

43 9. "Eligible bidder" means a person who is:

44 (a) Found to be a responsible and responsive contractor by a
45 local government or its authorized representative which requests



1 bids for a public work in accordance with paragraph (b) of
2 subsection 1 of NRS 338.1373; or

3 (b) Determined by a public body or its authorized representative
4 which awarded a contract for a public work pursuant to NRS
5 338.1375 to 338.139, inclusive, to be qualified to bid on that
6 contract pursuant to NRS 338.1379 or 338.1382.

7 10. "General contractor" means a person who is licensed to
8 conduct business in one, or both, of the following branches of the
9 contracting business:

10 (a) General engineering contracting, as described in subsection 2
11 of NRS 624.215.

12 (b) General building contracting, as described in subsection 3 of
13 NRS 624.215.

14 11. "Governing body" means the board, council, commission
15 or other body in which the general legislative and fiscal powers of a
16 local government are vested.

17 12. "Local government" means every political subdivision or
18 other entity which has the right to levy or receive money from ad
19 valorem or other taxes or any mandatory assessments, and includes,
20 without limitation, counties, cities, towns, boards, school districts
21 and other districts organized pursuant to chapters 244A, 309, 318,
22 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to 450.750,
23 inclusive, and any agency or department of a county or city which
24 prepares a budget separate from that of the parent political
25 subdivision. The term includes a person who has been designated by
26 the governing body of a local government to serve as its authorized
27 representative.

28 13. "Offense" means failing to:

29 (a) Pay the prevailing wage required pursuant to this chapter;

30 (b) Pay the contributions for unemployment compensation
31 required pursuant to chapter 612 of NRS;

32 (c) Provide and secure compensation for employees required
33 pursuant to chapters 616A to 617, inclusive, of NRS; or

34 (d) Comply with subsection 4 or 5 of NRS 338.070.

35 14. "Prime contractor" means a contractor who:

36 (a) Contracts to construct an entire project;

37 (b) Coordinates all work performed on the entire project;

38 (c) Uses his or her own workforce to perform all or a part of the
39 public work; and

40 (d) Contracts for the services of any subcontractor or
41 independent contractor or is responsible for payment to any
42 contracted subcontractors or independent contractors.

43 ➤ The term includes, without limitation, a general contractor or a
44 specialty contractor who is authorized to bid on a project pursuant to
45 NRS 338.139 or 338.148.



1 15. "Public body" means the State, county, city, town, school
2 district or any public agency of this State or its political subdivisions
3 sponsoring or financing a public work.

4 16. "Public work" means any project for the new construction,
5 repair or reconstruction of ~~f~~:

6 ~~(a) A~~ a project financed in whole or in part from public money
7 for:

8 ~~{(1)}~~ (a) Public buildings;

9 ~~{(2)}~~ (b) Jails and prisons;

10 ~~{(3)}~~ (c) Public roads;

11 ~~{(4)}~~ (d) Public highways;

12 ~~{(5)}~~ (e) Public streets and alleys;

13 ~~{(6)}~~ (f) Public utilities;

14 ~~{(7)}~~ (g) Publicly owned water mains and sewers;

15 ~~{(8)}~~ (h) Public parks and playgrounds;

16 ~~{(9)}~~ (i) Public convention facilities which are financed at
17 least in part with public money; and

18 ~~{(10)}~~ (j) All other publicly owned works and property.

19 ~~{(b) A building for the Nevada System of Higher Education of
20 which 25 percent or more of the costs of the building as a whole are
21 paid from money appropriated by this State or from federal money.}~~

22 17. "Specialty contractor" means a person who is licensed to
23 conduct business as described in subsection 4 of NRS 624.215.

24 18. "Stand-alone underground utility project" means an
25 underground utility project that is not integrated into a larger
26 project, including, without limitation:

27 (a) An underground sewer line or an underground pipeline for
28 the conveyance of water, including facilities appurtenant thereto;
29 and

30 (b) A project for the construction or installation of a storm drain,
31 including facilities appurtenant thereto,
32 ↪ that is not located at the site of a public work for the design and
33 construction of which a public body is authorized to contract with a
34 design-build team pursuant to subsection 2 of NRS 338.1711.

35 19. "Subcontract" means a written contract entered into
36 between:

37 (a) A contractor and a subcontractor or supplier; or

38 (b) A subcontractor and another subcontractor or supplier,

39 ↪ for the provision of labor, materials, equipment or supplies for a
40 construction project.

41 20. "Subcontractor" means a person who:

42 (a) Is licensed pursuant to the provisions of chapter 624 of NRS
43 or performs such work that the person is not required to be licensed
44 pursuant to chapter 624 of NRS; and



1 (b) Contracts with a contractor, another subcontractor or a
2 supplier to provide labor, materials or services for a construction
3 project.

4 21. "Supplier" means a person who provides materials,
5 equipment or supplies for a construction project.

6 22. "Wages" means:

7 (a) The basic hourly rate of pay; and

8 (b) The amount of pension, health and welfare, vacation and
9 holiday pay, the cost of apprenticeship training or other similar
10 programs or other bona fide fringe benefits which are a benefit to
11 the worker.

12 23. "Worker" means a skilled mechanic, skilled worker,
13 semiskilled mechanic, semiskilled worker or unskilled worker in the
14 service of a contractor or subcontractor under any appointment or
15 contract of hire or apprenticeship, express or implied, oral or
16 written, whether lawfully or unlawfully employed. The term does
17 not include a design professional.

18 **Sec. 2.** Section 5 of chapter 501, Statutes of Nevada 1991, as
19 last amended by chapter 179, Statutes of Nevada 2011, at page 817,
20 is hereby amended to read as follows:

21 Sec. 5. 1. The board, on behalf and in the name of the
22 university, is authorized by this act, as supplemented by the
23 provisions of the University Securities Law:

24 (a) To finance the project by the issuance of bonds and
25 other securities of the university in a total principal amount
26 not exceeding ~~\$348,360,000~~ \$427,715,000 for facilities at
27 the University of Nevada, Reno, and in a total principal
28 amount not exceeding \$422,155,000 for facilities at the
29 University of Nevada, Las Vegas, \$35,000,000 of which may
30 be used for the construction, other acquisition and
31 improvement of a dental school and other structures and
32 clinics associated with the dental school;

33 (b) To issue such bonds and other securities in connection
34 with the project in one series or more at any time or from
35 time to time on or before January 1, 2029, as the board may
36 determine, and consisting of special obligations of the
37 university payable from the net pledged revenues authorized
38 by this act and possibly subsequently other net pledged
39 revenues, secured by a pledge thereof and a lien thereon,
40 subject to existing contractual limitations, and subject to the
41 limitation in paragraph (a);

42 (c) To employ legal, fiscal and other expert services and
43 to defray the costs thereof with any money available therefor,
44 including, proceeds of securities authorized by this act; and



1 (d) To exercise the incidental powers provided in the
2 University Securities Law in connection with the powers
3 authorized by this act, except as otherwise expressly provided
4 in this act.

5 2. If the board determines to sell the bonds authorized by
6 subsection 1 at a discount from their face amount, the
7 principal amount of bonds which the board is authorized to
8 issue provided in subsection 1 is increased by an amount
9 equal to the discount at which the bonds are sold.

10 3. This act does not limit the board in funding, refunding
11 or reissuing any securities of the university or the board at
12 any time as provided in the University Securities Law.

13 **Sec. 3.** NRS 338.018 and 338.075 are hereby repealed.

14 **Sec. 4.** This act becomes effective on July 1, 2013.

TEXT OF REPEALED SECTIONS

338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. The provisions of NRS 338.013 to 338.018, 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 16 of NRS 338.010.

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 16 of NRS 338.010.

