

ASSEMBLY BILL NO. 106—ASSEMBLYWOMAN SPIEGEL

PREFILED FEBRUARY 7, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing government contracting. (BDR 27-295)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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

AN ACT relating to government contracting; requiring certain employers to establish their compliance with certain antidiscrimination provisions of state and federal law as a condition of entry into a governmental contract; requiring the inclusion of certain terms and conditions in such a contract; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing provisions of state and federal law generally prohibit discrimination in  
2 employment on the basis of race, color, creed, sex, sexual orientation, gender  
3 identity or expression, religion, age, disability or national origin. (42 U.S.C. §§  
4 2000e et seq.; NRS 338.125, 613.310-613.435) In particular, an employer is  
5 generally prohibited from paying lower wages to an employee than the wages paid  
6 to an employee of the opposite sex for equal work performed under similar working  
7 conditions. (29 U.S.C. § 206(d); NRS 608.017)

8 **Sections 2, 6, 11 and 19** of this bill prohibit various governmental entities from  
9 awarding a contract to an employer, including a public employer, having 50 or  
10 more employees unless the employer provides a certificate of pay equity  
11 compliance issued to the employer by the Labor Commissioner. Pursuant to **section**  
12 **22** of this bill, the Commissioner is authorized to issue such a certificate only if the  
13 employer establishes and the Commissioner determines that the employer provides  
14 equal employment opportunity for all employees and applicants for employment  
15 regardless of sex, and that male and female employees receive equal pay for equal  
16 work. **Sections 2, 6, 11 and 19** also authorize those governmental entities to refuse  
17 to award a contract to an employer with less than 50 employees unless the  
18 employer provides such a certificate. **Section 2** applies to a local government with  
19 respect to contracts for the purchase of services, supplies, materials or equipment.  
20 **Section 6** applies to similar contracts awarded by the Administrator of the  
21 Purchasing Division of the Department of Administration or another officer or  
22 agency in the Executive Department of the State Government. **Section 11** applies to



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23 a contract for any public work that is financed in whole or in part from public  
24 money of this State or its political subdivisions. **Section 11** also enacts those  
25 provisions with respect to a subcontract between an employer who has been  
26 awarded a contract for a public work and any subcontractor. **Section 19** applies to  
27 contracts for the construction, reconstruction, improvement and maintenance of  
28 highways. **Section 19** likewise makes similar provisions applicable to any  
29 subcontract.

30 **Section 22** governs the process of obtaining the required certificate from the  
31 Labor Commissioner. **Section 22:** (1) sets forth the information that must be  
32 provided by an employer in an application for a certificate; (2) authorizes the  
33 Commissioner to issue a provisional certificate pending a review of the  
34 information; (3) requires the Commissioner to make certain determinations about  
35 the practices of the employer as they relate to male and female employees and  
36 applicants for employment; and (4) provides for the issuance or denial of a  
37 certificate, the cancellation of a provisional certificate and the revocation of a  
38 certificate under certain circumstances. **Section 22** further requires the  
39 Commissioner to adopt regulations as necessary to effectuate this process.

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

1 **Section 1.** Chapter 332 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *Except in the case of an emergency described in NRS*  
4 *332.112 and notwithstanding any other provision of this chapter, a*  
5 *governing body or its authorized representative:*

6 1. *Shall not award a contract governed by this chapter to an*  
7 *employer with 50 or more employees in this State unless the*  
8 *employer submits to the governing body or its authorized*  
9 *representative, as applicable, a current certificate of pay equity*  
10 *compliance issued by the Labor Commissioner pursuant to section*  
11 *22 of this act.*

12 2. *May refuse to award such a contract to an employer with*  
13 *less than 50 employees in this State unless the employer submits to*  
14 *the governing body or its authorized representative, as applicable,*  
15 *a current certificate of pay equity compliance issued by the Labor*  
16 *Commissioner pursuant to section 22 of this act.*

17 **Sec. 3.** *Any contract described in section 2 of this act that is*  
18 *conditioned on submission of a current certificate of pay equity*  
19 *compliance by the employer must:*

20 1. *Require the employer, in accordance with subsection 7 of*  
21 *section 22 of this act, to notify the governing body or its authorized*  
22 *representative, as applicable, of any notice or decision issued by*  
23 *the Labor Commissioner to the employer pursuant to that section;*  
24 *and*

25 2. *Provide for the termination of the contract if:*



1 (a) *The employer fails to give any notice required by*  
2 *subsection 1; or*

3 (b) *The Labor Commissioner:*

4 (1) *Refuses to issue a certificate to the employer;*

5 (2) *Cancels a provisional certificate previously issued to the*  
6 *employer; or*

7 (3) *Issues a decision pursuant to section 22 of this act and*  
8 *NRS 607.215 revoking a certificate previously issued to the*  
9 *employer and the decision is not stayed and set aside on judicial*  
10 *review.*

11 **Sec. 4.** NRS 332.025 is hereby amended to read as follows:

12 332.025 As used in this chapter, unless the context otherwise  
13 requires:

14 1. "Authorized representative" means a person designated by  
15 the governing body to be responsible for the development, award  
16 and proper administration of all purchases and contracts for a local  
17 government or a department, division, agency, board or unit of a  
18 local government made pursuant to this chapter.

19 2. "Chief administrative officer" means the person directly  
20 responsible to the governing body for the administration of that  
21 particular entity.

22 3. ***"Employer" includes, without limitation, a government,***  
23 ***governmental agency and political subdivision of a government.***

24 4. "Evaluator" means an authorized representative, officer,  
25 employee, representative, agent, consultant or member of a  
26 governing body who has participated in:

27 (a) The evaluation of bids;

28 (b) Negotiations concerning purchasing by a local government;  
29 or

30 (c) The review or approval of the award, modification or  
31 extension of a contract.

32 ~~4.~~ 5. "Governing body" means the board, council,  
33 commission or other body in which the general legislative and fiscal  
34 powers of the local government are vested.

35 ~~5.~~ 6. "Proprietary information" means:

36 (a) Any trade secret or confidential business information that is  
37 contained in a bid submitted to a governing body or its authorized  
38 representative on a particular contract; or

39 (b) Any other trade secret or confidential business information  
40 submitted to a governing body or its authorized representative by a  
41 bidder and designated as proprietary by the governing body or its  
42 authorized representative.

43 ➤ As used in this subsection, "confidential business information"  
44 means any information relating to the amount or source of any  
45 income, profits, losses or expenditures of a person, including data



1 relating to cost, price, or the customers of a bidder which is  
2 submitted in support of a bid. The term does not include the amount  
3 of a bid submitted to a governing body or its authorized  
4 representative.

5 ~~6-1~~ 7. "Trade secret" has the meaning ascribed to it in  
6 NRS 600A.030.

7 **Sec. 5.** Chapter 333 of NRS is hereby amended by adding  
8 thereto the provisions set forth as sections 6 and 7 of this act.

9 **Sec. 6.** *Except in the case of an emergency described in NRS  
10 333.300 or by rules of the Administrator adopted pursuant to NRS  
11 333.380, and notwithstanding any other provision of this chapter,  
12 the Administrator or a using agency:*

13 *1. Shall not award a contract governed by this chapter to an  
14 employer with 50 or more employees in this State unless the  
15 employer submits to the Administrator or using agency, as  
16 applicable, a current certificate of pay equity compliance issued by  
17 the Labor Commissioner pursuant to section 22 of this act.*

18 *2. May refuse to award such a contract to an employer with  
19 less than 50 employees in this State unless the employer submits to  
20 the Administrator or using agency, as applicable, a current  
21 certificate of pay equity compliance issued by the Labor  
22 Commissioner pursuant to section 22 of this act.*

23 **Sec. 7.** *Any contract described in section 6 of this act that is  
24 conditioned on submission of a current certificate of pay equity  
25 compliance by the employer must:*

26 *1. Require the employer, in accordance with subsection 7 of  
27 section 22 of this act, to notify the Administrator or using agency,  
28 as applicable, of any notice or decision issued by the Labor  
29 Commissioner to the employer pursuant to that section; and*

30 *2. Provide for the termination of the contract if:*

31 *(a) The employer fails to give any notice required by  
32 subsection 1; or*

33 *(b) The Labor Commissioner:*

34 *(1) Refuses to issue a certificate to the employer;*

35 *(2) Cancels a provisional certificate previously issued to the  
36 employer; or*

37 *(3) Issues a decision pursuant to section 22 of this act and  
38 NRS 607.215 revoking a certificate previously issued to the  
39 employer and the decision is not stayed and set aside on judicial  
40 review.*

41 **Sec. 8.** NRS 333.020 is hereby amended to read as follows:

42 333.020 As used in this chapter, unless the context otherwise  
43 requires:

44 1. "Administrator" means the Administrator of the Purchasing  
45 Division.



1 2. "Best value" means the greatest possible economy consistent  
2 with grades or qualities of supplies, materials, equipment and  
3 services that are adapted to the purposes to be served.

4 3. "Director" means the Director of the Department of  
5 Administration.

6 4. *"Employer" includes, without limitation, a government,  
7 governmental agency and political subdivision of a government.*

8 5. "Invitation to bid" means a written statement which sets  
9 forth the requirements and specifications of a contract to be awarded  
10 by competitive selection.

11 ~~5-1~~ 6. "Proprietary information" means:

12 (a) Any trade secret or confidential business information that is  
13 contained in a bid or proposal submitted on a particular contract; or

14 (b) Any other trade secret or confidential business information  
15 submitted in a bid or proposal and designated as proprietary by the  
16 Administrator.

17 ➤ As used in this subsection, "confidential business information"  
18 means any information relating to the amount or source of any  
19 income, profits, losses or expenditures of a person, including data  
20 relating to cost or price submitted in support of a bid or proposal.  
21 The term does not include the amount of a bid or proposal.

22 ~~6-1~~ 7. "Purchasing Division" means the Purchasing Division  
23 of the Department of Administration.

24 ~~7-1~~ 8. "Purchasing officer" means a person who is authorized  
25 by the Administrator or a using agency to participate in:

26 (a) The evaluation of bids or proposals for a contract;

27 (b) Any negotiations concerning a contract; or

28 (c) The development, review or approval of a contract.

29 ~~8-1~~ 9. "Request for proposals" means a written statement  
30 which sets forth the requirements and specifications of a contract to  
31 be awarded by competitive selection.

32 ~~9-1~~ 10. "Trade secret" has the meaning ascribed to it in  
33 NRS 600A.030.

34 ~~10-1~~ 11. "Using agencies" means all officers, departments,  
35 institutions, boards, commissions and other agencies in the  
36 Executive Department of the State Government which derive their  
37 support from public money in whole or in part, whether the money  
38 is provided by the State of Nevada, received from the Federal  
39 Government or any branch, bureau or agency thereof, or derived  
40 from private or other sources. The term does not include the Nevada  
41 Rural Housing Authority, the Housing Division of the Department  
42 of Business and Industry, local governments as defined in NRS  
43 354.474, conservation districts, irrigation districts and the Nevada  
44 System of Higher Education.



1 ~~111~~ 12. “Volunteer fire department” means a volunteer fire  
2 department which pays premiums for industrial insurance pursuant  
3 to the provisions of chapters 616A to 616D, inclusive, or chapter  
4 617 of NRS.

5 **Sec. 9.** NRS 287.0415 is hereby amended to read as follows:

6 287.0415 1. A majority of the members of the Board  
7 constitutes a quorum for the transaction of business.

8 2. The Governor shall designate one of the members of the  
9 Board to serve as the Chair.

10 3. The Board shall meet at least once every calendar quarter  
11 and at other times upon the call of the Chair.

12 4. The Board may meet in closed session:

13 (a) To discuss matters relating to personnel;

14 (b) With investment counsel to plan future investments or  
15 establish investment objectives and policies;

16 (c) With legal counsel to receive advice upon claims or suits by  
17 or against the Program;

18 (d) To prepare a request for a proposal or other solicitation for  
19 bids to be released by the Board for competitive bidding; or

20 (e) As otherwise provided pursuant to chapter 241 of NRS.

21 5. Except as otherwise provided in this subsection, if the Board  
22 causes a meeting to be transcribed by a court reporter who is  
23 certified pursuant to chapter 656 of NRS, the Board shall post a  
24 transcript of the meeting on its Internet website not later than 30  
25 days after the meeting. The Board shall post a transcript of a closed  
26 session of the Board on its Internet website when the Board  
27 determines that the matters discussed no longer require  
28 confidentiality and, if applicable, the person whose character,  
29 conduct, competence or health was discussed in the closed session  
30 has consented to the posting.

31 6. The Board may appoint such advisory committees as it  
32 deems necessary to assist the Board in carrying out its duties  
33 pursuant to NRS 287.0402 to 287.049, inclusive.

34 7. As used in this section, “request for a proposal” has the  
35 meaning ascribed to it in subsection ~~18~~ 9 of NRS 333.020.

36 **Sec. 10.** Chapter 338 of NRS is hereby amended by adding  
37 thereto the provisions set forth as sections 11 and 12 of this act.

38 **Sec. 11. 1. *Except in the case of an emergency described in***  
39 ***NRS 338.011 and notwithstanding any other provision of this***  
40 ***chapter, a public body:***

41 ***(a) Shall not award a contract governed by this chapter to an***  
42 ***employer with 50 or more employees in this State unless the***  
43 ***employer submits to the public body a current certificate of pay***  
44 ***equity compliance issued by the Labor Commissioner pursuant to***  
45 ***section 22 of this act.***



1 (b) May refuse to award such a contract to an employer with  
2 less than 50 employees in this State unless the employer submits to  
3 the public body a current certificate of pay equity compliance  
4 issued by the Labor Commissioner pursuant to section 22 of this  
5 act.

6 2. In connection with the performance of work under a  
7 contract governed by this chapter and awarded to an employer by  
8 a public body, the employer:

9 (a) Shall not enter into a contract with a subcontractor with 50  
10 or more employees in this State unless the subcontractor submits  
11 to the employer a current certificate of pay equity compliance  
12 issued by the Labor Commissioner pursuant to section 22 of this  
13 act.

14 (b) May refuse to award such a contract to a subcontractor  
15 with less than 50 employees in this State unless the subcontractor  
16 submits to the employer a current certificate of pay equity  
17 compliance issued by the Labor Commissioner pursuant to section  
18 22 of this act.

19 **Sec. 12.** Any contract described in section 11 of this act that  
20 is conditioned on submission of a current certificate of pay equity  
21 compliance by the employer or subcontractor, as applicable, must:

22 1. Require the employer or subcontractor, as applicable, in  
23 accordance with subsection 7 of section 22 of this act, to notify the  
24 public body and any other party to the contract of any notice or  
25 decision issued by the Labor Commissioner to the employer or  
26 subcontractor pursuant to that section; and

27 2. Provide for the termination of the contract if:

28 (a) The employer or subcontractor fails to give any notice  
29 required by subsection 1; or

30 (b) The Labor Commissioner:

31 (1) Refuses to issue a certificate to the employer or  
32 subcontractor;

33 (2) Cancels a provisional certificate previously issued to the  
34 employer or subcontractor; or

35 (3) Issues a decision pursuant to section 22 of this act and  
36 NRS 607.215 revoking a certificate previously issued to the  
37 employer or subcontractor and the decision is not stayed and set  
38 aside on judicial review.

39 **Sec. 13.** NRS 338.010 is hereby amended to read as follows:

40 338.010 As used in this chapter ~~H~~, unless the context  
41 otherwise requires:

42 1. "Authorized representative" means a person designated by a  
43 public body to be responsible for the development, solicitation,  
44 award or administration of contracts for public works pursuant to  
45 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. “Employer” includes, without limitation, a government,  
8 governmental agency and political subdivision of a government.**

9 **11.** “General contractor” means a person who is licensed to  
10 conduct business in one, or both, of the following branches of the  
11 contracting business:

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

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

16 ~~H1~~ **12.** “Governing body” means the board, council,  
17 commission or other body in which the general legislative and fiscal  
18 powers of a local government are vested.

19 ~~H2~~ **13.** “Local government” means every political  
20 subdivision or other entity which has the right to levy or receive  
21 money from ad valorem or other taxes or any mandatory  
22 assessments, and includes, without limitation, counties, cities,  
23 towns, boards, school districts and other districts organized pursuant  
24 to chapters 244A, 309, 318, 379, 474, 538, 541, 543 and 555 of  
25 NRS, NRS 450.550 to 450.750, inclusive, and any agency or  
26 department of a county or city which prepares a budget separate  
27 from that of the parent political subdivision. The term includes a  
28 person who has been designated by the governing body of a local  
29 government to serve as its authorized representative.

30 ~~H3~~ **14.** “Offense” means failing to:

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

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

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

36 (d) Comply with subsection 5 or 6 of NRS 338.070.

37 ~~H4~~ **15.** “Prime contractor” means a contractor who:

38 (a) Contracts to construct an entire project;

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

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

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



1   ↳ The term includes, without limitation, a general contractor or a  
2 specialty contractor who is authorized to bid on a project pursuant to  
3 NRS 338.139 or 338.148.

4   ~~15-1~~ 16. “Public body” means the State, county, city, town,  
5 school district or any public agency of this State or its political  
6 subdivisions sponsoring or financing a public work.

7   ~~16-1~~ 17. “Public work” means any project for the new  
8 construction, repair or reconstruction of a project financed in whole  
9 or in part from public money for:

- 10   (a) Public buildings;
- 11   (b) Jails and prisons;
- 12   (c) Public roads;
- 13   (d) Public highways;
- 14   (e) Public streets and alleys;
- 15   (f) Public utilities;
- 16   (g) Publicly owned water mains and sewers;
- 17   (h) Public parks and playgrounds;
- 18   (i) Public convention facilities which are financed at least in part  
19 with public money; and
- 20   (j) All other publicly owned works and property.

21   ~~17-1~~ 18. “Specialty contractor” means a person who is  
22 licensed to conduct business as described in subsection 4 of  
23 NRS 624.215.

24   ~~18-1~~ 19. “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   ~~19-1~~ 20. “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   ~~20-1~~ 21. “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}~~ 22. "Supplier" means a person who provides materials,  
5 equipment or supplies for a construction project.

6 ~~{22}~~ 23. "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}~~ 24. "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. 14.** NRS 338.018 is hereby amended to read as follows:

19 338.018 The provisions of NRS 338.013 to 338.018, inclusive,  
20 apply to any contract for construction work of the Nevada System of  
21 Higher Education for which the estimated cost exceeds \$250,000  
22 even if the construction work does not qualify as a public work, as  
23 defined in ~~{subsection 17 of}~~ NRS 338.010.

24 **Sec. 15.** NRS 338.075 is hereby amended to read as follows:

25 338.075 The provisions of NRS 338.020 to 338.090, inclusive,  
26 apply to any contract for construction work of the Nevada System of  
27 Higher Education for which the estimated cost exceeds \$250,000  
28 even if the construction work does not qualify as a public work, as  
29 defined in ~~{subsection 17 of}~~ NRS 338.010.

30 **Sec. 16.** NRS 338.1908 is hereby amended to read as follows:

31 338.1908 1. The governing body of each local government  
32 shall, by July 28, 2009, develop a plan to retrofit public buildings,  
33 facilities and structures, including, without limitation, traffic-control  
34 systems, and to otherwise use sources of renewable energy to serve  
35 those buildings, facilities and structures. Such a plan must:

36 (a) Include a list of specific projects. The projects must be  
37 prioritized and selected on the basis of the following criteria:

38 (1) The length of time necessary to commence the project.

39 (2) The number of workers estimated to be employed on the  
40 project.

41 (3) The effectiveness of the project in reducing energy  
42 consumption.

43 (4) The estimated cost of the project.

44 (5) Whether the project is able to be powered by or otherwise  
45 use sources of renewable energy.



1 (6) Whether the project has qualified for participation in one  
2 or more of the following programs:

3 (I) The Solar Energy Systems Incentive Program created  
4 by NRS 701B.240;

5 (II) The Renewable Energy School Pilot Program created  
6 by NRS 701B.350;

7 (III) The Wind Energy Systems Demonstration Program  
8 created by NRS 701B.580; or

9 (IV) The Waterpower Energy Systems Demonstration  
10 Program created by NRS 701B.820.

11 (b) Include a list of potential funding sources for use in  
12 implementing the projects, including, without limitation, money  
13 available through the Energy Efficiency and Conservation Block  
14 Grant Program as set forth in 42 U.S.C. § 17152 and grants, gifts,  
15 donations or other sources of money from public and private  
16 sources.

17 2. The governing body of each local government shall transmit  
18 the plan developed pursuant to subsection 1 to the Director of the  
19 Office of Energy and to any other entity designated for that purpose  
20 by the Legislature.

21 3. As used in this section:

22 (a) "Local government" means each city or county that meets  
23 the definition of "eligible unit of local government" as set forth in  
24 42 U.S.C. § 17151 and each unit of local government, as defined in  
25 ~~subsection 13 of~~ NRS 338.010, that does not meet the definition of  
26 "eligible entity" as set forth in 42 U.S.C. § 17151.

27 (b) "Renewable energy" means a source of energy that occurs  
28 naturally or is regenerated naturally, including, without limitation:

- 29 (1) Biomass;  
30 (2) Fuel cells;  
31 (3) Geothermal energy;  
32 (4) Solar energy;  
33 (5) Waterpower; and  
34 (6) Wind.

35 ➔ The term does not include coal, natural gas, oil, propane or any  
36 other fossil fuel, or nuclear energy.

37 (c) "Retrofit" means to alter, improve, modify, remodel or  
38 renovate a building, facility or structure to make that building,  
39 facility or structure more energy-efficient.

40 **Sec. 17.** Chapter 408 of NRS is hereby amended by adding  
41 thereto the provisions set forth as sections 18, 19 and 20 of this act.

42 **Sec. 18.** *"Employer" includes, without limitation, a*  
43 *government, governmental agency and political subdivision of a*  
44 *government.*



1     **Sec. 19. 1. Except in the case of a disaster or great**  
2 *emergency described in NRS 408.323, the Director and the*  
3 *Department:*

4     *(a) Shall not award a contract governed by this chapter to an*  
5 *employer with 50 or more employees in this State unless the*  
6 *employer submits to the Director or Department, as applicable, a*  
7 *certificate of pay equity compliance issued by the Labor*  
8 *Commissioner pursuant to section 22 of this act.*

9     *(b) May refuse to award such a contract to an employer with*  
10 *less than 50 employees in this State unless the employer submits to*  
11 *the Director or Department, as applicable, a current certificate of*  
12 *pay equity compliance issued by the Labor Commissioner*  
13 *pursuant to section 22 of this act.*

14     **2. In connection with the performance of work under a**  
15 *contract governed by this chapter and awarded to an employer by*  
16 *the Director or Department, the employer:*

17     *(a) Shall not enter into a contract with a subcontractor with 50*  
18 *or more employees in this State unless the subcontractor submits*  
19 *to the employer a current certificate of pay equity compliance*  
20 *issued by the Labor Commissioner pursuant to section 22 of this*  
21 *act.*

22     *(b) May refuse to award such a contract to a subcontractor*  
23 *with less than 50 employees in this State unless the subcontractor*  
24 *submits to the employer a current certificate of pay equity*  
25 *compliance issued by the Labor Commissioner pursuant to section*  
26 *22 of this act.*

27     **Sec. 20. Any contract described in section 19 of this act that**  
28 *is conditioned on submission of a current certificate of pay equity*  
29 *compliance by the employer or subcontractor, as applicable, must:*

30     **1. Require the employer or subcontractor, as applicable, in**  
31 *accordance with subsection 7 of section 22 of this act, to notify the*  
32 *Director or Department, as applicable, and any other party to the*  
33 *contract of any notice or decision issued by the Labor*  
34 *Commissioner to the employer or subcontractor pursuant to that*  
35 *section; and*

36     **2. Provide for the termination of the contract if:**

37     *(a) The employer or subcontractor fails to give any notice*  
38 *required by subsection 1; or*

39     *(b) The Labor Commissioner:*

40     *(1) Refuses to issue a certificate to the employer or*  
41 *subcontractor;*

42     *(2) Cancels a provisional certificate previously issued to the*  
43 *employer or subcontractor; or*

44     *(3) Issues a decision pursuant to section 22 of this act and*  
45 *NRS 607.215 revoking a certificate previously issued to the*



1 *employer or subcontractor and the decision is not stayed and set*  
2 *aside on judicial review.*

3 **Sec. 21.** NRS 408.020 is hereby amended to read as follows:

4 408.020 As used in this chapter, unless the context otherwise  
5 requires, the words and terms defined in NRS 408.033 to 408.095,  
6 inclusive, *and section 18 of this act* have the meanings ascribed to  
7 them in those sections.

8 **Sec. 22.** Chapter 607 of NRS is hereby amended by adding  
9 thereto a new section to read as follows:

10 1. *Except as otherwise provided in this section, the Labor*  
11 *Commissioner shall issue a certificate of pay equity compliance to*  
12 *an employer who submits an application to the Labor*  
13 *Commissioner in a form prescribed by the Labor Commissioner.*  
14 *The application must be accompanied by:*

15 (a) *An affidavit of equity in compensation;*

16 (b) *A description of the employer's program to ensure equity in*  
17 *compensation;*

18 (c) *A workforce analysis; and*

19 (d) *Any other information required by the Labor*  
20 *Commissioner.*

21 *↪ The application must be signed by the chief executive officer of*  
22 *the employer, affirming that to the best of his or her knowledge*  
23 *and belief the contents of the application and the accompanying*  
24 *documents are true, correct and complete.*

25 2. *An affidavit of equity in compensation submitted pursuant*  
26 *to subsection 1 must affirm that the employer is in compliance*  
27 *with all applicable federal and state laws and regulations and local*  
28 *ordinances concerning equity in compensation, including, without*  
29 *limitation:*

30 (a) *The Equal Pay Act of 1963, 29 U.S.C. § 206(d);*

31 (b) *Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§*  
32 *2000e et seq.;*

33 (c) *NRS 338.125;*

34 (d) *NRS 608.017; and*

35 (e) *NRS 613.310 to 613.435, inclusive.*

36 3. *A description of the employer's program to ensure equity*  
37 *in compensation submitted pursuant to subsection 1 must include*  
38 *a description or statement of the policies and procedures adopted*  
39 *by the employer to ensure:*

40 (a) *Equal employment opportunity for all employees and*  
41 *applicants regardless of sex; and*

42 (b) *That male and female employees receive equal pay for*  
43 *equal work.*



1       4. *Except as otherwise provided in this subsection, a*  
2 *workforce analysis submitted pursuant to subsection 1 must set*  
3 *forth:*

4       (a) *The total number of persons employed by the employer*  
5 *during the last preceding calendar year in each job category,*  
6 *disaggregated by the sex of the employees.*

7       (b) *The total amount of compensation paid during the last*  
8 *preceding calendar year to all the employees in each job category,*  
9 *disaggregated by the sex of the employees.*

10       (c) *The total number of hours worked during the last*  
11 *preceding calendar year by all the employees in each job category,*  
12 *disaggregated by the sex of the employees. For the purposes of this*  
13 *paragraph, an exempt employee shall be deemed to work 40 hours*  
14 *per week.*

15       ↳ *Notwithstanding the provisions of paragraphs (a), (b) and (c),*  
16 *the Labor Commissioner may establish by regulation any*  
17 *12-month period for reporting the information required by those*  
18 *paragraphs.*

19       5. *If, on the basis of the application and supporting*  
20 *documents and information submitted by an employer pursuant to*  
21 *this section, the Labor Commissioner determines that the*  
22 *employer provides equal employment opportunity for all*  
23 *employees and applicants regardless of sex and that male and*  
24 *female employees receive equal pay for equal work, the Labor*  
25 *Commissioner shall issue a certificate of pay equity compliance to*  
26 *the employer. Pending such a determination, the Labor*  
27 *Commissioner may issue a provisional certificate to the employer.*  
28 *If the Labor Commissioner is unable to make such a*  
29 *determination, the Labor Commissioner shall deny the certificate*  
30 *or cancel any provisional certificate previously issued to the*  
31 *employer and notify the employer in writing of the basis for the*  
32 *denial or cancellation, as applicable. The denial or cancellation is*  
33 *not subject to judicial review.*

34       6. *An employer who has been issued a certificate of pay*  
35 *equity compliance pursuant to this section shall submit an updated*  
36 *workforce analysis to the Labor Commissioner on a schedule*  
37 *established by regulation of the Labor Commissioner, but not less*  
38 *frequently than once each year. If an employer fails or refuses to*  
39 *submit a workforce analysis to the Labor Commissioner as*  
40 *required by this subsection or the Labor Commissioner*  
41 *determines, on the basis of a workforce analysis, that the employer*  
42 *has failed during the period covered by the workforce analysis to*  
43 *provide equal employment opportunity for all employees and*  
44 *applicants regardless of sex or has failed to provide equal pay to*  
45 *male and female employees for equal work, the Labor*



1 *Commissioner shall, after notice and an opportunity for hearing*  
2 *pursuant to NRS 607.205 to 607.215, inclusive, revoke the*  
3 *certificate of pay equity compliance previously issued to the*  
4 *employer.*

5 *7. An employer who receives a notice or decision from the*  
6 *Labor Commissioner pursuant to subsection 5 or 6 and is a party*  
7 *to a contract described in section 2, 6, 11 or 19 of this act shall,*  
8 *within 3 business days after receiving the notice or decision,*  
9 *transmit a copy of the notice or decision to each other party to the*  
10 *contract and to any subcontractor of the employer.*

11 *8. An employer is not disqualified from receiving a certificate*  
12 *of pay equity compliance pursuant to this section to the extent of*  
13 *any difference in wages between male and female employees that*  
14 *is the result of:*

15 *(a) A seniority system;*

16 *(b) A merit system;*

17 *(c) A compensation system under which wages are determined*  
18 *by the quality or quantity of production; or*

19 *(d) A wage differential that is based on factors other than sex.*

20 *9. Except as otherwise provided by specific statute, any*  
21 *person, including, without limitation, any officer, agent or*  
22 *employee of a public body who violates any provision of this*  
23 *section, section 2, 6, 11 or 19 of this act or any regulation adopted*  
24 *pursuant thereto is guilty of a misdemeanor.*

25 *10. The Labor Commissioner shall adopt regulations to carry*  
26 *out the provisions of this section. For the purpose of establishing*  
27 *the job categories required for a workforce analysis submitted:*

28 *(a) By an employer other than one described in paragraph (b),*  
29 *the Labor Commissioner may adopt the job categories set forth in*  
30 *the Employer Information Report (EEO-1); or*

31 *(b) By an employer that is a government, governmental agency*  
32 *or political subdivision of a government, the Labor Commissioner*  
33 *may adopt the job categories set forth in the State and Local*  
34 *Government Report (EEO-4),*

35 *↪ in the form most recently approved by the United States Equal*  
36 *Employment Opportunity Commission as of the effective date of*  
37 *this act.*

38 *11. As used in this section:*

39 *(a) "Compensation" means all wages, salary or other*  
40 *payments to an employee that are required to be reported to the*  
41 *Internal Revenue Service on Form W-2.*

42 *(b) "Employer" includes, without limitation, a government,*  
43 *governmental agency and political subdivision of a government.*

44 *(c) "Exempt employee" means an executive, administrative,*  
45 *professional or other employee who is classified as exempt in*





1 *accordance with the Fair Labor Standards Act of 1938, 29 U.S.C.*  
2 *§§ 201 et seq.*

3 **Sec. 23.** The provisions of this act do not apply to any contract  
4 that is advertised, bid, offered or awarded before January 1, 2018.

5 **Sec. 24.** This act becomes effective upon passage and approval  
6 for the purpose of adopting regulations and performing any other  
7 preparatory administrative tasks that are necessary to carry out the  
8 provisions of this act and on January 1, 2018, for all other purposes.







