

Amendment No. 895

Assembly Amendment to Senate Bill No. 175 First Reprint	(BDR 28-618)
<b>Proposed by:</b> Assemblyman Daly	
<b>Amends:</b> 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.





SENATE BILL NO. 175—SENATORS PARKS, BROOKS, CANCELA, SPEARMAN;  
CANNIZZARO, DENIS, DONDERO LOOP,  
D. HARRIS, OHRENSCHALL, RATTI, SCHEIBLE AND WOODHOUSE

FEBRUARY 18, 2019

JOINT SPONSORS: ASSEMBLYMEN CARRILLO, ELLISON; BILBRAY-AXELROD, DURAN,  
GORELOW, MARTINEZ, MCCURDY AND MUNK

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works. (BDR 28-618)

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

~

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

AN ACT relating to public works; **defining “discrete project”**; revising provisions relating to the authority of a public body to enter into a contract with a design-build team for the construction of certain public works; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Under existing law, a **public body in a county whose population is less than 100,000**  
2 **may enter into contracts with a construction manager at risk for the construction of not**  
3 **more than two public works in a calendar year that are discrete projects. (NRS 338.169)**  
4 **Under existing law, a** public body **in any county** may contract with a design-build team for  
5 the design and construction of a discrete public works project if the public body has approved  
6 the use of the design-build team and the project has an estimated cost of more than  
7 \$5,000,000. ~~Furthermore, within~~ **Within** a 12-month period, a public body may contract  
8 with a design-build team for the design and construction of not more than two discrete public  
9 works projects which each have an estimated cost of \$5,000,000 or less. (NRS 338.1711)  
10 ~~This~~  
11 **Section 1.5 of this** bill eliminates the authority of a public body to contract with a design-  
12 build team for the design and construction of not more than two discrete public works projects  
13 per year which each have an estimated cost of \$5,000,000 or less, effective July 1, 2021.  
14 ~~This~~  
15 **Section 1 of this** bill ~~also~~ defines a “discrete ~~project~~” as ~~one or more public works~~  
16 ~~which are undertaken on a single construction site for a single public body.~~ **project.”**

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

**Section 1. NRS 338.010 is hereby amended to read as follows:**

338.010 As used in this chapter:

1. “Authorized representative” means a person designated by a public body to be responsible for the development, solicitation, award or administration of contracts for public works pursuant to this chapter.

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

3. “Contractor” means:

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

(b) A design-build team.

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

5. “Design-build contract” means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

6. “Design-build team” means an entity that consists of:

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

(b) For a public work that consists of:

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

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

7. “Design professional” means:

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

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

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

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

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

8. “Discrete project” means one or more public works which are undertaken on a single construction site for a single public body. The term does not include one or more public works that are undertaken on multiple construction sites regardless of whether the public body which sponsors or finances the public works bundles the public works together.

9. “Division” means the State Public Works Division of the Department of Administration.

~~9.1~~ 10. “Eligible bidder” means a person who is:

1 (a) Found to be a responsible and responsive contractor by a local government  
2 or its authorized representative which requests bids for a public work in accordance  
3 with paragraph (b) of subsection 1 of NRS 338.1373; or

4 (b) Determined by a public body or its authorized representative which  
5 awarded a contract for a public work pursuant to NRS 338.1375 to 338.139,  
6 inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or  
7 338.1382.

8 ~~10.~~ 11. “General contractor” means a person who is licensed to conduct  
9 business in one, or both, of the following branches of the contracting business:

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

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

13 ~~11.~~ 12. “Governing body” means the board, council, commission or other  
14 body in which the general legislative and fiscal powers of a local government are  
15 vested.

16 ~~12.~~ 13. “Local government” means every political subdivision or other  
17 entity which has the right to levy or receive money from ad valorem or other taxes  
18 or any mandatory assessments, and includes, without limitation, counties, cities,  
19 towns, boards, school districts and other districts organized pursuant to chapters  
20 244A, 318, 318A, 379, 474, 538, 541, 543 and 555 of NRS, NRS 450.550 to  
21 450.750, inclusive, and any agency or department of a county or city which  
22 prepares a budget separate from that of the parent political subdivision. The term  
23 includes a person who has been designated by the governing body of a local  
24 government to serve as its authorized representative.

25 ~~13.~~ 14. “Offense” means failing to:

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

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

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

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

32 ~~14.~~ 15. “Prime contractor” means a contractor who:

33 (a) Contracts to construct an entire project;

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

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

37 (d) Contracts for the services of any subcontractor or independent contractor or  
38 is responsible for payment to any contracted subcontractors or independent  
39 contractors.

40 ↪ The term includes, without limitation, a general contractor or a specialty  
41 contractor who is authorized to bid on a project pursuant to NRS 338.139 or  
42 338.148.

43 ~~15.~~ 16. “Public body” means the State, county, city, town, school district or  
44 any public agency of this State or its political subdivisions sponsoring or financing  
45 a public work.

46 ~~16.~~ 17. “Public work” means any project for the new construction, repair or  
47 reconstruction of a project financed in whole or in part from public money for:

48 (a) Public buildings;

49 (b) Jails and prisons;

50 (c) Public roads;

51 (d) Public highways;

52 (e) Public streets and alleys;

53 (f) Public utilities;

1 (g) Publicly owned water mains and sewers;  
2 (h) Public parks and playgrounds;  
3 (i) Public convention facilities which are financed at least in part with public  
4 money; and

5 (j) All other publicly owned works and property.

6 ~~17.1~~ 18. “Specialty contractor” means a person who is licensed to conduct  
7 business as described in subsection 4 of NRS 624.215.

8 ~~18.1~~ 19. “Stand-alone underground utility project” means an underground  
9 utility project that is not integrated into a larger project, including, without  
10 limitation:

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

13 (b) A project for the construction or installation of a storm drain, including  
14 facilities appurtenant thereto,

15 ➤ that is not located at the site of a public work for the design and construction of  
16 which a public body is authorized to contract with a design-build team pursuant to  
17 subsection 2 of NRS 338.1711.

18 ~~19.1~~ 20. “Subcontract” means a written contract entered into between:

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

20 (b) A subcontractor and another subcontractor or supplier,  
21 ➤ for the provision of labor, materials, equipment or supplies for a construction  
22 project.

23 ~~20.1~~ 21. “Subcontractor” means a person who:

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

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

29 ~~21.1~~ 22. “Supplier” means a person who provides materials, equipment or  
30 supplies for a construction project.

31 ~~22.1~~ 23. “Wages” means:

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

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

36 ~~23.1~~ 24. “Worker” means a skilled mechanic, skilled worker, semiskilled  
37 mechanic, semiskilled worker or unskilled worker in the service of a contractor or  
38 subcontractor under any appointment or contract of hire or apprenticeship, express  
39 or implied, oral or written, whether lawfully or unlawfully employed. The term  
40 does not include a design professional.

41 **Sec. 1.2. NRS 338.018 is hereby amended to read as follows:**

42 338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any  
43 contract for construction work of the Nevada System of Higher Education for  
44 which the estimated cost exceeds \$250,000 even if the construction work does not  
45 qualify as a public work, as defined in ~~subsection 17 of~~ NRS 338.010.

46 **Sec. 1.3. NRS 338.075 is hereby amended to read as follows:**

47 338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any  
48 contract for construction work of the Nevada System of Higher Education for  
49 which the estimated cost exceeds \$250,000 even if the construction work does not  
50 qualify as a public work, as defined in ~~subsection 17 of~~ NRS 338.010.

51 **Sec. 1.5. NRS 338.1711 is hereby amended to read as follows:**

1 338.1711 1. Except as otherwise provided in this section and NRS 338.158  
2 to 338.168, inclusive, a public body shall contract with a prime contractor for the  
3 construction of a public work for which the estimated cost exceeds \$100,000.

4 2. A public body may contract with a design-build team for the design and  
5 construction of a public work that is a discrete project if the public body has  
6 approved the use of a design-build team for the design and construction of the  
7 public work and the public work has an estimated cost which exceeds \$5,000,000.

8 ~~[3. Within any 12-month period, a public body may contract with a design-  
9 build team for the design and construction of not more than two discrete public  
10 works projects, each of which have an estimated cost of \$5,000,000 or less if the  
11 public body has approved the use of a design-build team.]~~

12 ~~3. As used in this section, "discrete project" means one or more public  
13 works which are undertaken on a single construction site for a single public  
14 body. The term does not include one or more public works that are undertaken on  
15 multiple construction sites regardless of whether the public body which sponsors  
16 or finances the public works bundles the public works together.]~~

17 **Sec. 1.7. NRS 338.1908 is hereby amended to read as follows:**

18 338.1908 1. The governing body of each local government shall, by July 28,  
19 2009, develop a plan to retrofit public buildings, facilities and structures, including,  
20 without limitation, traffic-control systems, and to otherwise use sources of  
21 renewable energy to serve those buildings, facilities and structures. Such a plan  
22 must:

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

- 25 (1) The length of time necessary to commence the project.
- 26 (2) The number of workers estimated to be employed on the project.
- 27 (3) The effectiveness of the project in reducing energy consumption.
- 28 (4) The estimated cost of the project.

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

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

33 (I) The Solar Energy Systems Incentive Program created by NRS  
34 701B.240;

35 (II) The Renewable Energy School Pilot Program created by NRS  
36 701B.350;

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

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

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

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

49 3. As used in this section:

50 (a) "Local government" means each city or county that meets the definition of  
51 "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit  
52 of local government, as defined in ~~[subsection 13 of]~~ NRS 338.010, that does not  
53 meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

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

- 3 (1) Biomass;
- 4 (2) Fuel cells;
- 5 (3) Geothermal energy;
- 6 (4) Solar energy;
- 7 (5) Waterpower; and
- 8 (6) Wind.

9 ↘ The term does not include coal, natural gas, oil, propane or any other fossil fuel,  
10 or nuclear energy.

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

14 **Sec. 1.8. Section 31 of the Southern Nevada Tourism Improvements Act,**  
15 **being chapter 2, Statutes of Nevada 2016, 30th Special Session, at page 28, is**  
16 **hereby amended to read as follows:**

17 Sec. 31. 1. Except as otherwise provided in sections 21 to 37,  
18 inclusive, of this act and notwithstanding any other provision of law to the  
19 contrary:

20 (a) Any contract, lease, sublease, lease-purchase agreement,  
21 management agreement or other agreement entered into pursuant to  
22 sections 21 to 37, inclusive, of this act by the Stadium Authority, a  
23 developer partner or any related entity relating to the National Football  
24 League stadium project financed in whole or in part pursuant to sections 21  
25 to 37, inclusive, of this act, and any contract, lease, sublease, lease-purchase  
26 agreement, management agreement or other agreement that provides for the  
27 design, acquisition, construction, improvement, repair, demolition,  
28 reconstruction, equipment, financing, promotion, leasing, subleasing,  
29 management, operation or maintenance, or any combination thereof, of the  
30 National Football League stadium project or any portion thereof, or the  
31 provision of materials or services for the project are exempt from any law:

32 (1) Requiring competitive bidding or otherwise specifying  
33 procedures for the award of agreements of a type described in this  
34 paragraph;

35 (2) Specifying procedures for the procurement of goods or  
36 services; or

37 (3) Limiting the term of any agreement of a type described in this  
38 paragraph.

39 (b) The provisions of chapter 341 of NRS do not apply to the National  
40 Football League stadium project financed in whole or in part pursuant to  
41 sections 21 to 37, inclusive, of this act or to any agreement of a type  
42 described in paragraph (a).

43 (c) The provisions of chapter 338 of NRS do not apply to the National  
44 Football League stadium project financed in whole or in part pursuant to  
45 sections 21 to 37, inclusive, of this act or to any agreement of a type  
46 described in paragraph (a), except that:

47 (1) The provisions of NRS 338.013 to 338.090, inclusive, apply to  
48 any construction work to be performed under any contract or other  
49 agreement pertaining to the project even if the estimated cost of the  
50 construction work is not greater than \$250,000 or the construction work  
51 does not qualify as a public work, as defined in ~~subsection 17 of~~ NRS  
52 338.010;



1 (2) Any person or entity that executes one or more contracts or  
2 agreements for the actual construction, alteration, repair or remodeling of  
3 the project shall include in such a contract or agreement the contractual  
4 provisions and stipulations that are required to be included in a contract for  
5 a public work pursuant to the provisions of NRS 338.013 to 338.090,  
6 inclusive; and

7 (3) The Stadium Authority, any contractor who is awarded a  
8 contract or enters into an agreement to perform the construction, alteration,  
9 repair or remodeling of such an undertaking and any subcontractor on the  
10 undertaking shall comply with the provisions of NRS 338.013 to 338.090,  
11 inclusive, in the same manner as if the County had undertaken the project  
12 or had awarded the contract.

13 2. The Stadium Authority and any prime contractor, construction  
14 manager or project manager selected by the Stadium Authority or a  
15 developer partner shall competitively bid all subcontracts involving  
16 construction which the Stadium Authority determines can be competitively  
17 bid without affecting the quality of the National Football League stadium  
18 project. Any determination by the Stadium Authority that such a  
19 subcontract can or cannot be competitively bid without affecting the quality  
20 of the National Football League stadium project is conclusive in the  
21 absence of fraud or a gross abuse of discretion. The Stadium Authority shall  
22 establish one or more procedures for competitive bidding which:

23 (a) Must prohibit bidders from engaging in bid-shopping;

24 (b) Must not permit subcontractors to avoid or circumvent the  
25 provisions of paragraph (c) of subsection 1; and

26 (c) Must, in addition to the requirements of section 31.5 of this act,  
27 provide a preference for Nevada subcontractors in a manner that is similar  
28 to, and with a preference that is equivalent to, the preference provided in  
29 NRS 338.1389.

30 3. Any determination by the Stadium Authority regarding the  
31 establishment of one or more procedures for competitive bidding, and any  
32 determination by a developer partner or its prime contractor, construction  
33 manager or project manager regarding the award of a contract to any  
34 bidder, is conclusive in the absence of fraud or a gross abuse of discretion.

35 **Sec. 1.9. Section 48 of the Southern Nevada Tourism Improvements Act,**  
36 **being chapter 2, Statutes of Nevada 2016, 30th Special Session, at page 48, is**  
37 **hereby amended to read as follows:**

38 Sec. 48. 1. Except as otherwise provided in sections 39 to 52,  
39 inclusive, of this act and notwithstanding any other provision of law to the  
40 contrary:

41 (a) Any contract, lease, sublease, lease-purchase agreement,  
42 management agreement or other agreement entered into pursuant to  
43 sections 39 to 52, inclusive, of this act by the Campus Improvement  
44 Authority, the System or any related entity relating to the college football  
45 stadium project financed in whole or in part pursuant to sections 39 to 52,  
46 inclusive, of this act, and any contract, lease, sublease, lease-purchase  
47 agreement, management agreement or other agreement that provides for the  
48 design, acquisition, construction, improvement, repair, demolition,  
49 reconstruction, equipment, financing, promotion, leasing, subleasing,  
50 management, operation or maintenance, or any combination thereof, of the  
51 college football stadium project or any portion thereof, or the provision of  
52 materials or services for the college football stadium project are exempt  
53 from any law:

1 (1) Requiring competitive bidding or otherwise specifying  
2 procedures for the award of agreements of a type described in this  
3 paragraph;

4 (2) Specifying procedures for the procurement of goods or  
5 services; or

6 (3) Limiting the term of any agreement of a type described in this  
7 paragraph.

8 (b) The provisions of chapter 341 of NRS do not apply to the college  
9 football stadium project financed in whole or in part pursuant to sections 39  
10 to 52, inclusive, of this act or to any agreement of a type described in  
11 paragraph (a).

12 (c) The provisions of chapter 338 of NRS do not apply to the college  
13 football stadium project financed in whole or in part pursuant to sections 39  
14 to 52, inclusive, of this act or to any agreement of a type described in  
15 paragraph (a), except that:

16 (1) The provisions of NRS 338.013 to 338.090, inclusive, apply to  
17 any construction work to be performed under any contract or other  
18 agreement pertaining to the project even if the estimated cost of the  
19 construction work is not greater than \$250,000 or the construction work  
20 does not qualify as a public work, as defined in ~~subsection 17 of~~ NRS  
21 338.010;

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

28 (3) The Campus Improvement Authority, any contractor who is  
29 awarded a contract or enters into an agreement to perform the construction,  
30 alteration, repair or remodeling of the college football stadium project and  
31 any subcontractor on the college football stadium project shall comply with  
32 the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as  
33 if the State had undertaken the project or had awarded the contract.

34 2. The Campus Improvement Authority and any prime contractor,  
35 construction manager or project manager selected by the Campus  
36 Improvement Authority shall competitively bid all subcontracts involving  
37 construction which the Campus Improvement Authority determines can be  
38 competitively bid without affecting the quality of the college football  
39 stadium project. Any determination by the Campus Improvement Authority  
40 that such a subcontract can or cannot be competitively bid without affecting  
41 the quality of the project is conclusive in the absence of fraud or a gross  
42 abuse of discretion. The Campus Improvement Authority shall establish  
43 one or more procedures for competitive bidding which:

44 (a) Must prohibit bidders from engaging in bid-shopping;

45 (b) Must not permit subcontractors to avoid or circumvent the  
46 provisions of paragraph (c) of subsection 1; and

47 (c) Must, in addition to the requirements of section 48.5 of this act,  
48 provide a preference for Nevada subcontractors in a manner that is similar  
49 to, and with a preference that is equivalent to, the preference provided in  
50 NRS 338.1389.

51 3. Any determination by the Campus Improvement Authority  
52 regarding the establishment of one or more procedures for competitive  
53 bidding, and any determination by the Authority or its prime contractor,

1            construction manager or project manager regarding the award of a contract  
2            to any bidder is conclusive in the absence of fraud or a gross abuse of  
3            discretion.

4            **Sec. 2.** This act becomes effective on July 1, 2021.