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**S.B. 207**

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SENATE BILL NO. 207—SENATORS BROOKS, DENIS, CANNIZZARO;  
CANCELA, DONDERO LOOP, D. HARRIS, OHRENSCHALL,  
PARKS, RATTI, SCHEIBLE, SPEARMAN AND WOODHOUSE

FEBRUARY 18, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing apprentices.  
(BDR 28-740)

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.

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AN ACT relating to apprentices; prohibiting a public body from awarding certain contracts for a public work to a contractor unless the contractor complies with certain requirements relating to the use of apprentices on public works or pays a monetary penalty; prohibiting a contractor on certain public works from awarding subcontracts for more than 5 percent of the value of the public work to a subcontractor unless the subcontractor complies with certain requirements relating to the use of apprentices on public works or pays a monetary penalty; revising provisions relating to apprenticeship programs; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing law creates the State Apprenticeship Council and requires the Council  
2 to establish standards for programs of apprenticeship. (NRS 610.030, 610.090,  
3 610.095) The purposes of such programs include, without limitation: (1) creating of  
4 the opportunity for persons to obtain training that will equip those persons to obtain  
5 profitable employment and citizenship; and (2) establishing an organized program  
6 for the voluntary training of those persons by providing facilities for training and  
7 guidance in the arts and crafts of industry and trade. (NRS 610.020) Existing law  
8 sets forth the requirements for a public body which sponsors or finances a public  
9 work to award a contract to a contractor for the construction of the public work.  
10 (Chapter 338 of NRS) Such requirements include, without limitation: (1) the  
11 payment of the prevailing wage in the county in which the public work is located;  
12 and (2) the establishment of certain fair employment practices for contractors in



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13 connection with the performance of work under the contract awarded by the public  
14 body. (NRS 338.020, 338.125)

15 **Section 1** of this bill prohibits a public body from, on or after February 1, 2021,  
16 awarding a contract for a public work for which the estimated cost exceeds  
17 \$1,000,000 to a contractor unless the contractor: (1) complied with certain  
18 requirements relating to the use of apprentices on public works performed by the  
19 contractor; or (2) paid a monetary penalty imposed by the Labor Commissioner.

20 **Section 1** also prohibits a contractor awarded a contract for a public work on or  
21 after February 1, 2021, for which the estimated cost exceeds \$1,000,000 from  
22 awarding a subcontract for more than 5 percent of the value of that public work to a  
23 subcontractor unless the subcontractor satisfied the same requirements relating to  
24 the use of apprentices on public works or paid a monetary penalty imposed by the  
25 Labor Commissioner. **Section 1** authorizes the Labor Commissioner to grant an  
26 exemption from the requirements if a public work is performed in a county whose  
27 population is less than 100,000 or a city whose population is less than 60,000 and  
28 the Labor Commissioner finds that there is a lack of qualified apprentices from any  
29 available source in the geographic area in which the public work will be performed.

30 **Section 1** excludes from those requirements contractors and subcontractors who  
31 employ fewer than a specified number of employees at the site of a public work.

32 **Section 1** requires: (1) the Labor Commissioner to issue a certificate of  
33 compliance to contractors and subcontractors who complied with the requirements  
34 of that section relating to the use of apprentices; and (2) a public body to verify a  
35 contractor's compliance with the requirements for apprentice labor before awarding  
36 a contract for certain public works by obtaining the identification number included  
37 on the certificate of compliance issued to the contractor or subcontractor.

38 Finally, **section 1** requires all monetary penalties imposed on a contractor or  
39 subcontractor for failure to comply with the requirements of that section to be paid  
40 to the State Apprenticeship Director and distributed to programs for the  
41 recruitment, education and training of construction workers and the placement of  
42 such workers in employment.

43 **Section 6** of this bill requires an apprenticeship program to submit a quarterly  
44 report to the State Apprenticeship Council which contains the: (1) number of  
45 apprentices enrolled in the program; (2) enrollment capacity of the program; and  
46 (3) number of apprentices who completed the program in the period covered by the  
47 report. **Section 6** further provides that on or before February 1, 2023, the State  
48 Apprenticeship Council is required to submit to the Director of the Legislative  
49 Counsel Bureau a report on the availability and use of apprentices for transmission  
50 to the 82nd Session of the Nevada Legislature.

51 **Section 7** of this bill requires an apprenticeship program in which the number  
52 of apprentices enrolled is less than 40 percent of the enrollment capacity of the  
53 program to submit to the State Apprenticeship Council a strategic plan to recruit  
54 and retain apprentices and a monthly report concerning the progress of the program  
55 in recruiting and retaining apprentices.

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

1 **Section 1.** Chapter 338 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 ***1. Except as otherwise provided in subsection 4 or 5, on or***  
4 ***after February 1, 2021, a public body shall not award a contract***



1 *for a public work for which the estimated cost exceeds \$1,000,000*  
2 *to a contractor unless:*

3 *(a) For the immediately preceding calendar year the*  
4 *contractor ensured that:*

5 *(1) An apprentice performed not less than 3 percent, or*  
6 *such other percentage as the Labor Commissioner may require*  
7 *pursuant to regulations adopted pursuant to subsection 9, of the*  
8 *total hours of labor reported by the contractor to public bodies for*  
9 *all contracts or subcontracts for horizontal construction on a*  
10 *public work in this State which were awarded to the contractor*  
11 *and to which the provisions of NRS 338.020 to 338.090, inclusive,*  
12 *apply; or*

13 *(2) For each recognized class of worker, an apprentice*  
14 *performed not less than 3 percent, or such other percentage as the*  
15 *Labor Commissioner may require pursuant to regulations adopted*  
16 *pursuant to subsection 9, of the total hours of labor performed by*  
17 *that recognized class of worker and reported by the contractor to*  
18 *public bodies for all contracts or subcontracts for vertical*  
19 *construction on a public work in this State which were awarded to*  
20 *the contractor and to which the provisions of NRS 338.020 to*  
21 *338.090, inclusive, apply; or*

22 *(b) The contractor has paid all monetary penalties imposed by*  
23 *the Labor Commissioner pursuant to subsection 6.*

24 *2. Except as otherwise provided in subsection 4 or 5, a*  
25 *contractor awarded a contract for a public work on or after*  
26 *February 1, 2021, for which the estimated cost exceeds \$1,000,000*  
27 *may not award a subcontract for more than 5 percent of the value*  
28 *of that public work to a subcontractor unless:*

29 *(a) For the immediately preceding calendar year the*  
30 *subcontractor ensured that:*

31 *(1) An apprentice performed not less than 3 percent, or*  
32 *such other percentage as the Labor Commissioner may require*  
33 *pursuant to regulations adopted pursuant to subsection 9, of the*  
34 *total hours of labor reported by the subcontractor to public bodies*  
35 *for all contracts or subcontracts for horizontal construction on a*  
36 *public work in this State which were awarded to the subcontractor*  
37 *and to which the provisions of NRS 338.020 to 338.090, inclusive,*  
38 *apply; or*

39 *(2) For each recognized class of worker, an apprentice*  
40 *performed not less than 3 percent, or such other percentage as the*  
41 *Labor Commissioner may require pursuant to regulations adopted*  
42 *pursuant to subsection 9, of the total hours of labor performed by*  
43 *that recognized class of worker and reported by the subcontractor*  
44 *to public bodies for all contracts or subcontracts for vertical*  
45 *construction on a public work in this State which were awarded to*



1 *the subcontractor and to which the provisions of NRS 338.020 to*  
2 *338.090, inclusive, apply; or*

3 *(b) The subcontractor has paid all monetary penalties imposed*  
4 *by the Labor Commissioner pursuant to subsection 6.*

5 *3. Except as otherwise provided in subsection 4 or 5, before*  
6 *awarding a contract for a public work for which the estimated cost*  
7 *exceeds \$1,000,000, a public body must obtain the identification*  
8 *number of the certificate of compliance issued to each contractor*  
9 *pursuant to subsection 8 submitting a bid for the contract and*  
10 *verify whether the award of the contract would comply with the*  
11 *provisions of subsection 1.*

12 *4. A public body may submit a written request to the Labor*  
13 *Commissioner for an exemption from the requirements of*  
14 *subsection 1 for a public work. If a public body submits such a*  
15 *request, the public body shall not request bids for or enter into a*  
16 *contract for which the public body submitted the request until the*  
17 *Labor Commissioner approves or denies the request pursuant to*  
18 *this subsection. Not later than 90 days after receiving a request*  
19 *pursuant to this subsection, the Labor Commissioner shall*  
20 *approve or deny the request in writing and notify the public body*  
21 *of the approval or denial of the request. The Labor Commissioner*  
22 *shall conduct a public hearing on each request, at which any*  
23 *interested party may appear and provide evidence, and issue a*  
24 *written decision to approve or deny a request. The written decision*  
25 *of the Labor Commissioner is a public record and a copy of the*  
26 *decision must be included in any bid documents furnished by the*  
27 *public body. The Labor Commissioner may grant a request for an*  
28 *exemption submitted pursuant to this subsection only if the Labor*  
29 *Commissioner finds that the public work will be performed in a*  
30 *county whose population is less than 100,000 or a city whose*  
31 *population is less than 60,000 and there is a demonstrated lack of*  
32 *qualified apprentices from any available source in the specific*  
33 *geographic area in which the public work for which an exemption*  
34 *is requested will be performed. If the Labor Commissioner grants*  
35 *an exemption to a public body pursuant to this subsection, the*  
36 *work performed by a contractor or subcontractor on the public*  
37 *work for which the exemption was granted must not be considered*  
38 *when determining whether the contractor or subcontractor*  
39 *satisfied the criteria set forth in paragraph (a) of subsection 1 or*  
40 *paragraph (a) of subsection 2, as applicable.*

41 *5. The criteria set forth in paragraph (a) of subsection 1 or*  
42 *paragraph (a) of subsection 2, as applicable, do not apply to:*

43 *(a) A contractor or subcontractor which proposes to perform,*  
44 *or has been awarded a contract to perform, horizontal*



1 *construction on a public work and which employs fewer than 25*  
2 *employees to perform work on the site of the public work; or*

3 *(b) A contractor or subcontractor which proposes to perform,*  
4 *or has been awarded a contract to perform, vertical construction*  
5 *on a public work and which employs fewer than 6 employees to*  
6 *perform work on the site of the public work.*

7 *↳ Any work performed by a contractor or subcontractor on a*  
8 *public work described in paragraph (a) or (b), as applicable, must*  
9 *not be considered in determining whether the contractor or*  
10 *subcontractor satisfied the criteria set forth in paragraph (a) of*  
11 *subsection 1 or paragraph (a) of subsection 2, as applicable.*

12 *6. Each calendar year, the Labor Commissioner shall:*

13 *(a) Determine the percentage of total hours of labor which*  
14 *were performed by apprentices during the calendar year on each*  
15 *public work to which the provisions of NRS 338.020 to 338.090,*  
16 *inclusive, apply;*

17 *(b) Determine whether a contractor or subcontractor satisfies*  
18 *the requirements of subsection 1 or 2, as applicable, or of any*  
19 *subsequent regulation adopted by the Labor Commissioner*  
20 *pursuant to subsection 9, as applicable;*

21 *(c) If applicable, determine the number of hours by which*  
22 *each contractor or subcontractor failed to comply with those*  
23 *requirements; and*

24 *(d) If a contractor or subcontractor does not satisfy the criteria*  
25 *set forth in paragraph (a) of subsection 1 or paragraph (a) of*  
26 *subsection 2, as applicable, establish the amount of a monetary*  
27 *penalty which must be paid by a contractor or subcontractor to*  
28 *remain qualified to be awarded a contract for a public work for*  
29 *which the estimated cost exceeds \$1,000,000. The monetary*  
30 *penalty must be payable to the State Apprenticeship Director and*  
31 *must be established as follows:*

32 *(1) For a contract to perform horizontal construction on a*  
33 *public work on or after January 1, 2020, a contractor or*  
34 *subcontractor that failed to comply with the criteria set forth in*  
35 *paragraph (a) of subsection 1 or paragraph (a) of subsection 2, as*  
36 *applicable, or in any subsequent regulation adopted by the Labor*  
37 *Commissioner pursuant to subsection 9, as applicable, is required*  
38 *to pay a monetary penalty of not less than \$2 but not more than \$6*  
39 *for each hour of labor during which the contractor or*  
40 *subcontractor, as applicable, failed to comply with the applicable*  
41 *criteria. In determining the amount of the monetary penalty*  
42 *imposed on a contractor or subcontractor pursuant to this*  
43 *subparagraph, the Labor Commissioner shall consider all relevant*  
44 *facts and circumstances, including, without limitation, the amount*  
45 *by which the contractor or subcontractor failed to comply with the*



1 applicable criteria set forth in paragraph (a) of subsection 1 or  
2 paragraph (a) of subsection 2, or in any subsequent regulation  
3 adopted by the Labor Commissioner pursuant to subsection 9, and  
4 whether the contractor or subcontractor has willfully or repeatedly  
5 failed to comply with such applicable criteria.

6 (2) For a contract to perform vertical construction on a  
7 public work on or after January 1, 2020, a contractor or  
8 subcontractor that failed to comply with the criteria set forth in  
9 paragraph (a) of subsection 1 or paragraph (a) of subsection 2, as  
10 applicable, or in any subsequent regulation adopted by the Labor  
11 Commissioner pursuant to subsection 9, as applicable, is required  
12 to pay a monetary penalty of not less than \$2 but not more than \$6  
13 for each hour of labor during which the contractor or  
14 subcontractor, as applicable, failed to comply with the applicable  
15 criteria. In determining the amount of the monetary penalty  
16 imposed on a contractor or subcontractor pursuant to this  
17 subparagraph, the Labor Commissioner shall consider all relevant  
18 facts and circumstances, including, without limitation, the amount  
19 by which the contractor or subcontractor failed to comply with the  
20 applicable criteria set forth in paragraph (a) of subsection 1 or  
21 paragraph (a) of subsection 2, or in any subsequent regulation  
22 adopted by the Labor Commissioner pursuant to subsection 9, and  
23 whether the contractor or subcontractor has willfully or repeatedly  
24 failed to comply with such applicable criteria.

25 ↪ Any decision of the Labor Commissioner pursuant to this  
26 paragraph is subject to judicial review pursuant to chapter 233B  
27 of NRS.

28 7. All money which is collected by the State Apprenticeship  
29 Director for monetary penalties imposed pursuant to subsection 6  
30 must be distributed by the State Apprenticeship Director only to  
31 programs for the recruitment, education and training of  
32 construction workers and the placement of such workers in  
33 employment.

34 8. The Labor Commissioner shall:

35 (a) Issue a certificate of compliance containing an  
36 identification number to each contractor or subcontractor who  
37 complies with the applicable criteria set forth in paragraph (a) of  
38 subsection 1 or paragraph (a) of subsection 2, or in any  
39 subsequent regulation adopted by the Labor Commissioner  
40 pursuant to subsection 9, or who pays the monetary penalty  
41 imposed on the contractor or subcontractor pursuant to  
42 subsection 6.

43 (b) Maintain on the Internet website of the Labor  
44 Commissioner a list of contractors and subcontractors who have  
45 been issued a certificate of compliance.



1 *9. During each calendar year beginning on or after*  
2 *January 1, 2022, the Labor Commissioner may, with the approval*  
3 *of the State Apprenticeship Council, adopt regulations to revise, by*  
4 *not more than 2 percentage points, the percentage of total hours of*  
5 *labor on a public work which must be performed by apprentices*  
6 *for the following calendar year.*

7 *10. As used in this section:*

8 *(a) "Apprentice" has the meaning ascribed to it in*  
9 *NRS 610.010.*

10 *(b) "Horizontal construction" means the construction of any*  
11 *fixed work other than vertical construction except as specifically*  
12 *provided herein, including, without limitation, fixed work relating*  
13 *to irrigation, drainage, water supply, flood control, a harbor, a*  
14 *railroad, a highway, a tunnel, a sewer, a sewage disposal plant or*  
15 *water treatment facility and any ancillary vertical construction*  
16 *which is a component thereof, a bridge, an inland waterway, a*  
17 *pipeline for the transmission of petroleum or any other liquid or*  
18 *gaseous substance, a pier and any fixed work incidental thereto.*  
19 *The term includes the construction of an airport or airway, but*  
20 *does not include the construction of any terminal or other building*  
21 *of an airport or airway.*

22 *(c) "Recognized class of worker" means a class of worker*  
23 *recognized by the Labor Commissioner as being a distinct craft or*  
24 *type of work for purposes of establishing prevailing rates of wages*  
25 *pursuant to NRS 338.020 to 338.090, inclusive. The term includes*  
26 *a class of worker for which the Labor Commissioner has*  
27 *traditionally established a prevailing rate of wages pursuant to*  
28 *NRS 338.020 to 338.090, inclusive, and any other class of worker*  
29 *the Labor Commissioner determines to be a distinct craft or type*  
30 *of work either on his or her own accord or after conducting a*  
31 *hearing pursuant to NRS 338.030.*

32 *(d) "Vertical construction" means the construction or*  
33 *remodeling of any building, structure or other improvement which*  
34 *is predominantly vertical, including, without limitation, a building,*  
35 *structure or improvement for the support, shelter or enclosure of*  
36 *persons, animals, chattels or movable property of any kind and*  
37 *any improvement appurtenant thereto.*

38 **Sec. 2.** NRS 338.015 is hereby amended to read as follows:

39 338.015 1. The Labor Commissioner shall enforce the  
40 provisions of NRS 338.010 to 338.130, inclusive ~~§~~, and *section 1*  
41 *of this act.*

42 2. In addition to any other remedy or penalty provided in this  
43 chapter, if any person, including, without limitation, a public body,  
44 violates any provision of NRS 338.010 to 338.130, inclusive, *except*  
45 *section 1 of this act*, or any regulation adopted pursuant thereto, the



1 Labor Commissioner may, after providing the person with notice  
2 and an opportunity for a hearing, impose against the person an  
3 administrative penalty of not more than \$5,000 for each such  
4 violation.

5 3. The Labor Commissioner may, by regulation, establish a  
6 sliding scale based on the severity of the violation to determine the  
7 amount of the administrative penalty to be imposed against the  
8 person pursuant to this section.

9 4. The Labor Commissioner shall report the violation to the  
10 Attorney General, and the Attorney General may prosecute the  
11 person in accordance with law.

12 **Sec. 3.** NRS 338.1389 is hereby amended to read as follows:

13 338.1389 1. Except as otherwise provided in subsection 10  
14 and NRS 338.1385, 338.1386 and 338.13864 ~~(1)~~ *and section 1 of*  
15 *this act*, a public body or its authorized representative shall award a  
16 contract for a public work for which the estimated cost exceeds  
17 \$250,000 to the contractor who submits the best bid.

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

20 (a) Submitted by a responsive and responsible contractor who:

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

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

27 (3) Within 2 hours after the completion of the opening of the  
28 bids by the public body or its authorized representative, submits a  
29 signed affidavit that meets the requirements of subsection 1 of NRS  
30 338.0117; and

31 (b) Not more than 5 percent higher than the bid submitted by the  
32 lowest responsive and responsible bidder who:

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

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

42 ➤ shall be deemed to be the best bid for the purposes of this section.

43 3. The State Contractors' Board shall issue a certificate of  
44 eligibility to receive a preference in bidding on public works to a  
45 general contractor who is licensed pursuant to the provisions of





1 chapter 624 of NRS and submits to the Board an affidavit from a  
2 certified public accountant setting forth that the general contractor  
3 has, while licensed as a general contractor in this State:

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

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

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

19 (3) Any combination of such sales and use taxes and  
20 governmental services tax; or

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

24 (1) License as a general contractor pursuant to the provisions  
25 of chapter 624 of NRS; and

26 (2) Certificate of eligibility to receive a preference in bidding  
27 on public works.

28 4. The State Contractors' Board shall issue a certificate of  
29 eligibility to receive a preference in bidding on public works to a  
30 specialty contractor who is licensed pursuant to the provisions of  
31 chapter 624 of NRS and submits to the Board an affidavit from a  
32 certified public accountant setting forth that the specialty contractor  
33 has, while licensed as a specialty contractor in this State:

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

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

43 (2) The governmental services tax imposed pursuant to  
44 chapter 371 of NRS on the vehicles used in the operation of his or  
45 her business in this State of not less than \$5,000 for each



1 consecutive 12-month period for 60 months immediately preceding  
2 the submission of the affidavit from the certified public accountant;  
3 or

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

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

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

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

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

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

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

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

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

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



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

4 (a) Submits false information to the Board regarding the  
5 required payment of taxes, the contractor is not eligible to receive a  
6 preference in bidding on public works for a period of 5 years after  
7 the date on which the Board becomes aware of the submission of the  
8 false information; or

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

13 10. If any federal statute or regulation precludes the granting of  
14 federal assistance or reduces the amount of that assistance for a  
15 particular public work because of the provisions of subsection 2,  
16 those provisions do not apply insofar as their application would  
17 preclude or reduce federal assistance for that work.

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

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

25 13. A person who submitted a bid on the public work or an  
26 entity who believes that the contractor who was awarded the  
27 contract for the public work wrongfully holds a certificate of  
28 eligibility to receive a preference in bidding on public works may  
29 challenge the validity of the certificate by filing a written objection  
30 with the public body to which the contractor has submitted a bid on  
31 a contract for the construction of a public work. A written objection  
32 authorized pursuant to this subsection must:

33 (a) Set forth proof or substantiating evidence to support the  
34 belief of the person or entity that the contractor wrongfully holds a  
35 certificate of eligibility to receive a preference in bidding on public  
36 works; and

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

40 14. If a public body receives a written objection pursuant to  
41 subsection 13, the public body shall determine whether the objection  
42 is accompanied by the proof or substantiating evidence required  
43 pursuant to paragraph (a) of that subsection. If the public body  
44 determines that the objection is not accompanied by the required  
45 proof or substantiating evidence, the public body shall dismiss the



1 objection and the public body or its authorized representative may  
2 proceed immediately to award the contract. If the public body  
3 determines that the objection is accompanied by the required proof  
4 or substantiating evidence, the public body shall determine whether  
5 the contractor qualifies for the certificate pursuant to the provisions  
6 of this section and the public body or its authorized representative  
7 may proceed to award the contract accordingly.

8 **Sec. 4.** NRS 338.147 is hereby amended to read as follows:

9 338.147 1. Except as otherwise provided in subsection 10  
10 and NRS 338.143, 338.1442 and 338.1446 ~~§~~ *and section 1 of this*  
11 *act*, a local government or its authorized representative shall award a  
12 contract for a public work for which the estimated cost exceeds  
13 \$250,000 to the contractor who submits the best bid.

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

16 (a) Submitted by a contractor who:

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

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

23 (3) Within 2 hours after the completion of the opening of the  
24 bids by the local government or its authorized representative,  
25 submits a signed affidavit that meets the requirements of subsection  
26 1 of NRS 338.0117; and

27 (b) Not more than 5 percent higher than the bid submitted by the  
28 lowest responsive and responsible bidder who:

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

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

38 **↪** shall be deemed to be the best bid for the purposes of this section.

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



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

2 (1) The sales and use taxes imposed pursuant to chapters  
3 372, 374 and 377 of NRS on materials used for construction in this  
4 State, including, without limitation, construction that is undertaken  
5 or carried out on land within the boundaries of this State that is  
6 managed by the Federal Government or is on an Indian reservation  
7 or Indian colony, of not less than \$5,000 for each consecutive 12-  
8 month period for 60 months immediately preceding the submission  
9 of the affidavit from the certified public accountant;

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

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

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

21 (1) License as a general contractor pursuant to the provisions  
22 of chapter 624 of NRS; and

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

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

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

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

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

45 or



1 (3) Any combination of such sales and use taxes and  
2 governmental services tax; or

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

6 (1) License as a specialty contractor pursuant to the  
7 provisions of chapter 624 of NRS; and

8 (2) Certificate of eligibility to receive a preference in bidding  
9 on public works.

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

13 (a) Sales and use taxes and governmental services taxes paid in  
14 this State by an affiliate or parent company of the contractor, if the  
15 affiliate or parent company is also a general contractor or specialty  
16 contractor, as applicable; and

17 (b) Sales and use taxes paid in this State by a joint venture in  
18 which the contractor is a participant, in proportion to the amount of  
19 interest the contractor has in the joint venture.

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

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

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

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

44 (a) Submits false information to the Board regarding the  
45 required payment of taxes, the contractor is not eligible to receive a



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

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

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

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

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

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

28 (a) Set forth proof or substantiating evidence to support the  
29 belief of the person or entity that the contractor wrongfully holds a  
30 certificate of eligibility to receive a preference in bidding on public  
31 works; and

32 (b) Be filed with the local government not later than 3 business  
33 days after the opening of the bids by the local government or its  
34 authorized representative.

35 14. If a local government receives a written objection pursuant  
36 to subsection 13, the local government shall determine whether the  
37 objection is accompanied by the proof or substantiating evidence  
38 required pursuant to paragraph (a) of that subsection. If the local  
39 government determines that the objection is not accompanied by the  
40 required proof or substantiating evidence, the local government shall  
41 dismiss the objection and the local government or its authorized  
42 representative may proceed immediately to award the contract. If  
43 the local government determines that the objection is accompanied  
44 by the required proof or substantiating evidence, the local  
45 government shall determine whether the contractor qualifies for the



1 certificate pursuant to the provisions of this section and the local  
2 government or its authorized representative may proceed to award  
3 the contract accordingly.

4 **Sec. 5.** Chapter 610 of NRS is hereby amended by adding  
5 thereto the provisions set forth as sections 6 and 7 of this act.

6 **Sec. 6. 1.** *A program shall submit a quarterly report to the*  
7 *State Apprenticeship Council which contains the following*  
8 *information:*

9 (a) *The number of apprentices enrolled in the program;*

10 (b) *The enrollment capacity of the program; and*

11 (c) *The number of apprentices who completed the program in*  
12 *the period covered by the report.*

13 2. *Not later than February 1, 2023, the State Apprenticeship*  
14 *Council shall submit to the Director of the Legislative Counsel*  
15 *Bureau a report on the availability and use of apprentices for*  
16 *transmission to the next regular session of the Legislature. The*  
17 *report must include a summary of the information collected by the*  
18 *State Apprenticeship Council and any recommendations for*  
19 *legislation.*

20 **Sec. 7. 1.** *If, at any time, the number of apprentices*  
21 *enrolled in a program is less than 40 percent of the enrollment*  
22 *capacity of the program, the program must submit to the State*  
23 *Apprenticeship Council:*

24 (a) *A strategic plan to recruit and retain apprentices; and*

25 (b) *A monthly report concerning the progress of the program*  
26 *in recruiting and retaining apprentices until such time as the State*  
27 *Apprenticeship Council determines that such monthly reports are*  
28 *not necessary.*

29 2. *The State Apprenticeship Council may revoke the*  
30 *registration of a program that fails to comply with any*  
31 *requirement of subsection 1.*

32 **Sec. 8.** This act becomes effective on January 1, 2020.

