

S.B. 57

SENATE BILL NO. 57—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the imposition of certain special assessments by a board of county commissioners. (BDR 20-403)

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 counties; revising provisions governing the imposition of certain special assessments by a board of county commissioners; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Under existing law, if the owner of real property fails to abate certain nuisances
2 or dangerous structures or conditions or remove or cover graffiti, a board of county
3 commissioners may make the costs incurred by the county for the abatement,
4 covering or removal, and any related civil penalties, a special assessment against
5 the real property and collect the special assessment in the same manner as ordinary
6 county taxes are collected. (NRS 244.360-244.3605, 244.3694) **Section 1** of this
7 bill authorizes a board of county commissioners to also recover an unpaid fine or
8 fee for an offense relating to real property by making the unpaid fine or fee a
9 special assessment against the real property, which may be collected at the same
10 time and in the same manner as ordinary county taxes.
- 11 Under existing law, a special assessment for civil penalties relating to chronic
12 nuisances, public nuisances or dangerous structures or conditions may not be
13 imposed unless: (1) for chronic nuisances, at least 180 days have elapsed after the
14 date specified in a court order or appellate court order for the abatement of the
15 chronic nuisance, and for public nuisances or dangerous structures or conditions, at
16 least 12 months have elapsed after the date specified in the notice by the board of
17 county commissioners or a court order for the abatement of the public nuisance; (2)
18 the owner has been notified that the civil penalties are due; and (3) the amount of
19 the uncollected civil penalties is more than \$5,000. (NRS 244.3603, 244.3605)
20 **Sections 2 and 3** of this bill eliminate the requirements that 180 days or 12 months,



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21 as applicable, have elapsed and that the amount of the civil penalties be more than
 22 \$5,000 for a special assessment for civil penalties to be imposed.

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

1 **Section 1.** Chapter 244 of NRS is hereby amended by adding
 2 thereto a new section to read as follows:

3 *1. A board of county commissioners may adopt an ordinance*
 4 *to recover any unpaid fine or fee for an offense relating to real*
 5 *property from the owner of the real property by making the fine or*
 6 *fee a special assessment against the real property in accordance*
 7 *with subsection 2.*

8 *2. Except as otherwise provided in NRS 244.360 to 244.3605,*
 9 *inclusive, and 244.3694, an ordinance adopted pursuant to*
 10 *subsection 1:*

11 *(a) Must set forth the offense relating to real property for*
 12 *which an unpaid fine or fee may be collected as a special*
 13 *assessment; and*

14 *(b) May not authorize the collection of an unpaid fine or fee*
 15 *for an offense relating to real property as a special assessment*
 16 *against the real property unless the owner of the real property:*

17 *(1) Has been billed, served or otherwise notified that the*
 18 *fine or fee is due; and*

19 *(2) Has been afforded a reasonable period of time, as set*
 20 *forth in the ordinance, to pay the fine or fee or to request a*
 21 *hearing to appeal the fine or fee.*

22 *3. A special assessment authorized pursuant to subsection 1*
 23 *may be collected at the same time and in the same manner as*
 24 *ordinary county taxes are collected, and is subject to the same*
 25 *penalties and the same procedure and sale in case of delinquency*
 26 *as provided for ordinary county taxes. All laws applicable to the*
 27 *levy, collection and enforcement of county taxes are applicable to*
 28 *such a special assessment.*

29 **Sec. 2.** NRS 244.3603 is hereby amended to read as follows:

30 244.3603 1. Each board of county commissioners may, by
 31 ordinance, to protect the public health, safety and welfare of the
 32 residents of the county, adopt procedures pursuant to which the
 33 district attorney may file an action in a court of competent
 34 jurisdiction to:

35 (a) Seek the abatement of a chronic nuisance that is located or
 36 occurring within the unincorporated area of the county;

37 (b) If applicable, seek the closure of the property where the
 38 chronic nuisance is located or occurring; and



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1 (c) If applicable, seek penalties against the owner of the property
2 within the unincorporated area of the county and any other
3 appropriate relief.

4 2. An ordinance adopted pursuant to subsection 1 must:

5 (a) Contain procedures pursuant to which the owner of the
6 property is:

7 (1) Sent a notice, by certified mail, return receipt requested,
8 by the sheriff or other person authorized to issue a citation of the
9 existence on the owner's property of nuisance activities and the date
10 by which the owner must abate the condition to prevent the matter
11 from being submitted to the district attorney for legal action.

12 (2) If the chronic nuisance is not an immediate danger to the
13 public health, safety or welfare and was caused by the criminal
14 activity of a person other than the owner, afforded a minimum of 30
15 days to abate the chronic nuisance.

16 (3) Afforded an opportunity for a hearing before a court of
17 competent jurisdiction.

18 (b) Provide that the date specified in the notice by which the
19 owner must abate the condition is tolled for the period during which
20 the owner requests a hearing and receives a decision.

21 (c) Provide the manner in which the county will recover money
22 expended to abate the condition on the property if the owner fails to
23 abate the condition.

24 3. If the court finds that a chronic nuisance exists and action is
25 necessary to avoid serious threat to the public welfare or the safety
26 or health of the occupants of the property, the court may order the
27 county to secure and close the property until the nuisance is abated
28 and may:

29 (a) Impose a civil penalty:

30 (1) If the property is nonresidential property, of not more
31 than \$750 per day; or

32 (2) If the property is residential property, of not more than
33 \$500 per day,

34 for each day that the condition was not abated after the date
35 specified in the notice by which the owner was required to abate the
36 condition;

37 (b) Order the owner to pay the county for the cost incurred by
38 the county in abating the condition; and

39 (c) Order any other appropriate relief.

40 4. In addition to any other reasonable means authorized by the
41 court for the recovery of money expended by the county to abate the
42 chronic nuisance and, except as otherwise provided in subsection 5,
43 for the collection of civil penalties imposed pursuant to subsection
44 3, the board or its designee may make the expense and civil
45 penalties a special assessment against the property upon which the



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1 chronic nuisance is located or occurring. The special assessment
2 may be collected pursuant to the provisions set forth in subsection 4
3 of NRS 244.360.

4 5. Any civil penalties that have not been collected from the
5 owner of the property may not be made a special assessment against
6 the property pursuant to subsection 4 by the board or its designee
7 unless:

8 (a) ~~[At least 180 days have elapsed after the]~~ *The* date specified
9 in the order of the court by which the owner must abate the chronic
10 nuisance or, if the owner appeals that order, the date specified in the
11 order of the appellate court by which the owner must abate the
12 chronic nuisance, whichever is later ~~[-]~~, *has passed; and*

13 (b) The owner has been billed, served or otherwise notified that
14 the civil penalties are due. ~~[-]~~ *and*

15 ~~—(c) The amount of the uncollected civil penalties is more than~~
16 ~~\$5,000.]~~

17 6. If a designee of the board imposes a special assessment
18 pursuant to subsection 4, the designee shall submit a written report
19 to the board at least once each calendar quarter that sets forth, for
20 each property against which such an assessment has been imposed:

21 (a) The street address or assessor's parcel number of the
22 property;

23 (b) The name of each owner of record of the property as of the
24 date of the assessment; and

25 (c) The total amount of the assessment, stating the amount
26 assessed for the expense of abatement and any amount assessed for
27 civil penalties.

28 7. As used in this section:

29 (a) A "chronic nuisance" exists:

30 (1) When three or more nuisance activities exist or have
31 occurred during any 90-day period on the property.

32 (2) When a person associated with the property has engaged
33 in three or more nuisance activities during any 90-day period on the
34 property or within 100 feet of the property.

35 (3) When the property has been the subject of a search
36 warrant based on probable cause of continuous or repeated
37 violations of chapter 459 of NRS.

38 (4) When a building or place is used for the purpose of
39 unlawfully selling, serving, storing, keeping, manufacturing, using
40 or giving away a controlled substance, immediate precursor or
41 controlled substance analog.

42 (5) When a building or place was used for the purpose of
43 unlawfully manufacturing a controlled substance, immediate
44 precursor or controlled substance analog and:



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- 1 (I) The building or place has not been deemed safe for
 2 habitation by a governmental entity; or
- 3 (II) All materials or substances involving the controlled
 4 substance, immediate precursor or controlled substance analog have
 5 not been removed from or remediated on the building or place by an
 6 entity certified or licensed to do so within 180 days after the
 7 building or place is no longer used for the purpose of unlawfully
 8 manufacturing a controlled substance, immediate precursor or
 9 controlled substance analog.
- 10 (b) "Commercial real estate" has the meaning ascribed to it in
 11 NRS 645.8711.
- 12 (c) "Controlled substance analog" has the meaning ascribed to it
 13 in NRS 453.043.
- 14 (d) "Immediate precursor" has the meaning ascribed to it in
 15 NRS 453.086.
- 16 (e) "Nuisance activity" means:
- 17 (1) Criminal activity;
- 18 (2) The presence of debris, litter, garbage, rubble, abandoned
 19 or junk vehicles or junk appliances;
- 20 (3) Violations of building codes, housing codes or any other
 21 codes regulating the health or safety of occupants of real property;
- 22 (4) Excessive noise and violations of curfew; or
- 23 (5) Any other activity, behavior or conduct defined by the
 24 board to constitute a public nuisance.
- 25 (f) "Person associated with the property" means:
- 26 (1) The owner of the property;
- 27 (2) The manager or assistant manager of the property;
- 28 (3) The tenant of the property; or
- 29 (4) A person who, on the occasion of a nuisance activity, has:
- 30 (I) Entered, patronized or visited;
- 31 (II) Attempted to enter, patronize or visit; or
- 32 (III) Waited to enter, patronize or visit,
- 33 ↪ the property or a person present on the property.
- 34 (g) "Residential property" means:
- 35 (1) Improved real estate that consists of not more than four
 36 residential units;
- 37 (2) Unimproved real estate for which not more than four
 38 residential units may be developed or constructed pursuant to any
 39 zoning regulations or any development plan applicable to the real
 40 estate; or
- 41 (3) A single-family residential unit, including, without
 42 limitation, a condominium, townhouse or home within a
 43 subdivision, if the unit is sold, leased or otherwise conveyed unit by
 44 unit, regardless of whether the unit is part of a larger building or
 45 parcel that consists of more than four units.



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1 ↳ The term does not include commercial real estate.

2 **Sec. 3.** NRS 244.3605 is hereby amended to read as follows:

3 244.3605 1. Notwithstanding the provisions of NRS 244.360
4 and 244.3601, the board of county commissioners of a county may,
5 to abate public nuisances, adopt by ordinance procedures pursuant
6 to which the board or its designee may order an owner of property
7 within the county to:

8 (a) Repair, safeguard or eliminate a dangerous structure or
9 condition;

10 (b) Clear debris, rubbish, refuse, litter, garbage, abandoned or
11 junk vehicles or junk appliances which are not subject to the
12 provisions of chapter 459 of NRS;

13 (c) Clear weeds and noxious plant growth; or

14 (d) Repair, clear, correct, rectify, safeguard or eliminate any
15 other public nuisance as defined in the ordinance adopted pursuant
16 to this section,

17 ↳ to protect the public health, safety and welfare of the residents of
18 the county.

19 2. An ordinance adopted pursuant to subsection 1 must:

20 (a) Contain procedures pursuant to which the owner of the
21 property is:

22 (1) Sent notice, by certified mail, return receipt requested, of
23 the existence on the owner's property of a public nuisance set forth
24 in subsection 1 and the date by which the owner must abate the
25 public nuisance.

26 (2) If the public nuisance is not an immediate danger to the
27 public health, safety or welfare and was caused by the criminal
28 activity of a person other than the owner, afforded a minimum of 30
29 days to abate the public nuisance.

30 (3) Afforded an opportunity for a hearing before the designee
31 of the board relating to the order of abatement and an appeal of that
32 decision either to the board or to a court of competent jurisdiction,
33 as determined by the ordinance adopted pursuant to subsection 1.

34 (4) Afforded an opportunity for a hearing before the designee
35 of the board relating to the imposition of civil penalties and an
36 appeal of that decision either to the board or to a court of competent
37 jurisdiction, as determined by the ordinance adopted pursuant to
38 subsection 1.

39 (b) Provide that the date specified in the notice by which the
40 owner must abate the public nuisance is tolled for the period during
41 which the owner requests a hearing and receives a decision.

42 (c) Provide the manner in which the county will recover money
43 expended to abate the public nuisance on the property if the owner
44 fails to abate the public nuisance.



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1 (d) Provide for civil penalties for each day that the owner did
2 not abate the public nuisance after the date specified in the notice by
3 which the owner was required to abate the public nuisance.

4 3. In any county whose population is 700,000 or more, an
5 ordinance adopted pursuant to subsection 1 may authorize the
6 county to request the operator of a tow car to abate a public nuisance
7 by towing abandoned or junk vehicles which are not concealed from
8 ordinary public view by means of inside storage, suitable fencing,
9 opaque covering, trees, shrubbery or other means if the conditions
10 of subsection 4 are satisfied. The operator of a tow car requested to
11 tow a vehicle pursuant to this section must comply with the
12 provisions of NRS 706.444 to 706.453, inclusive.

13 4. The county may abate the public nuisance on the property
14 and may recover the amount expended by the county for labor and
15 materials used to abate the public nuisance or request abatement by
16 the operator of a tow car pursuant to subsection 3 if:

17 (a) The owner has not requested a hearing within the time
18 prescribed in the ordinance adopted pursuant to subsection 1 and has
19 failed to abate the public nuisance on the owner's property within
20 the period specified in the notice;

21 (b) After a hearing in which the owner did not prevail, the owner
22 has not filed an appeal within the time prescribed in the ordinance
23 adopted pursuant to subsection 1 and has failed to abate the public
24 nuisance within the period specified in the order; or

25 (c) The board or a court of competent jurisdiction has denied the
26 appeal of the owner and the owner has failed to abate the public
27 nuisance within the period specified in the order.

28 5. In addition to any other reasonable means for recovering
29 money expended by the county to abate the public nuisance and,
30 except as otherwise provided in subsection 6, for collecting civil
31 penalties imposed pursuant to the ordinance adopted pursuant to
32 subsection 1, the board or its designee may make the expense and
33 civil penalties a special assessment against the property upon which
34 the public nuisance is located, and this special assessment may be
35 collected pursuant to the provisions set forth in subsection 4 of
36 NRS 244.360.

37 6. Any civil penalties that have not been collected from the
38 owner of the property may not be made a special assessment against
39 the property pursuant to subsection 5 by the board or its designee
40 unless:

41 (a) ~~At least 12 months have elapsed after the~~ *The* date
42 specified in the notice by which the owner must abate the public
43 nuisance or the date specified in the order of the board or court by
44 which the owner must abate the public nuisance, whichever is later
45 ~~is~~, *has passed; and*



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1 (b) The owner has been billed, served or otherwise notified that
2 the civil penalties are due . ~~f; and~~

3 ~~(c) The amount of the uncollected civil penalties is more than~~
4 ~~\$5,000.]~~

5 7. If a designee of the board imposes a special assessment
6 pursuant to subsection 5, the designee shall submit a written report
7 to the board at least once each calendar quarter that sets forth, for
8 each property against which such an assessment has been imposed:

9 (a) The street address or assessor's parcel number of the
10 property;

11 (b) The name of each owner of record of the property as of the
12 date of the assessment; and

13 (c) The total amount of the assessment, stating the amount
14 assessed for the expense of abatement and any amount assessed for
15 civil penalties.

16 8. As used in this section, "dangerous structure or condition"
17 means a structure or condition that is a public nuisance which may
18 cause injury to or endanger the health, life, property or safety of the
19 general public or the occupants, if any, of the real property on which
20 the structure or condition is located. The term includes, without
21 limitation, a structure or condition that:

22 (a) Does not meet the requirements of a code or regulation
23 adopted pursuant to NRS 244.3675 with respect to minimum levels
24 of health or safety; or

25 (b) Violates an ordinance, rule or regulation regulating health
26 and safety enacted, adopted or passed by the board of county
27 commissioners of a county, the violation of which is designated by
28 the board as a public nuisance in the ordinance, rule or regulation.

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S.B. 94

SENATE BILL NO. 94—SENATOR SETTELMAYER

FEBRUARY 3, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to public highways, roads and ways. (BDR 15-440)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
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 property; making it a public nuisance for a person to engage in certain activities relating to certain public ways; providing that the posting of certain signs on private property does not constitute a public nuisance under certain circumstances; authorizing an owner of private property upon which certain highways, roads or ways are located to commence certain civil actions; authorizing an owner of private property upon which certain public roads or ways are located to erect and maintain a fence or gate across such a road or way under certain circumstances; setting forth certain requirements relating to such fences and gates; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law makes it a public nuisance for a person, by force, threat,
2 intimidation or any other unlawful means, to prevent or obstruct the free passage or
3 transit over or through certain highways, roads, state lands or other public lands or
4 lands dedicated to public use or to knowingly misrepresent the status of or assert
5 any right to the exclusive use and occupancy of those highways, roads, state lands
6 or other public lands or lands dedicated to public use, if the person has no leasehold
7 interest in or claim or color of title to the highway, road, state land or other public
8 land or land dedicated to public use. (NRS 202.450) **Section 1** of this bill makes it a
9 public nuisance for a person to engage in such activities with respect to certain
10 additional public ways. **Section 1** also specifies that knowingly misrepresenting the
11 status of or asserting any right to the exclusive use and occupancy of such
12 highways, roads, ways or lands may be accomplished by any means, including



13 posting a "no trespassing" sign or other sign indicating that such a highway, road,
 14 way or land is private property or communicating such an indication verbally.
 15 However, section 1 further provides that it is not a public nuisance for an owner of
 16 private property upon which certain highways, roads or ways are located to post a
 17 sign on his or her property indicating that the property is private property if, next to
 18 such a sign, the owner also posts a sign indicating that members of public may
 19 access the highway, road or way located on the property. Sections 3-5 of this bill
 20 make conforming changes to reflect the addition of the provisions of section 1.
 21 Section 2 of this bill authorizes an owner of private property upon which
 22 certain highways, roads or ways are located who suffers damage or injury as a
 23 result of another person's use of such a highway, road or way to bring a civil action
 24 against the person for actual damages, and reasonable attorney's fees.
 25 Section 6 of this bill authorizes an owner of private property upon which
 26 certain public roads, unpaved county roads or public ways are located to erect and
 27 maintain a fence or gate across such a road or way if he or she submits a request to
 28 and is approved by the governmental entity that has jurisdiction over the road or
 29 way. Section 6 authorizes a governmental entity to approve such a request if it
 30 determines that the proposed fence or gate will not greatly inconvenience the
 31 traveling public. Section 6 also: (1) sets forth certain requirements for fences and
 32 gates erected and maintained pursuant to section 6; and (2) requires that certain
 33 signage be posted and maintained advising members of the public of certain
 34 information relating to the public road or way. Sections 1, 6 and 7 of this bill
 35 provide that a fence or gate erected and maintained pursuant to section 6 does not:
 36 (1) constitute a public nuisance prohibited by existing law; or (2) violate certain
 37 provisions of existing law making it a public offense to obstruct a road, street or
 38 alley. (NRS 202.450, 405.230)

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

1 **Section 1.** NRS 202.450 is hereby amended to read as follows:
 2 202.450 1. A public nuisance is a crime against the order and
 3 economy of the State.
 4 2. Every place:
 5 (a) Wherein any gambling, bookmaking or pool selling is
 6 conducted without a license as provided by law, or wherein any
 7 swindling game or device, or bucket shop, or any agency therefor is
 8 conducted, or any article, apparatus or device useful therefor is kept;
 9 (b) Wherein any fighting between animals or birds is conducted;
 10 (c) Wherein any dog races are conducted as a gaming activity;
 11 (d) Wherein any intoxicating liquors are kept for unlawful use,
 12 sale or distribution;
 13 (e) Wherein a controlled substance, immediate precursor or
 14 controlled substance analog is unlawfully sold, served, stored, kept,
 15 manufactured, used or given away;
 16 (f) That is regularly and continuously used by the members of a
 17 criminal gang to engage in, or facilitate the commission of, crimes
 18 by the criminal gang; or



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1 (g) Where vagrants resort,
2 is a public nuisance.

3 3. Every act unlawfully done and every omission to perform a
4 duty, which act or omission:

5 (a) Annoys, injures or endangers the safety, health, comfort or
6 repose of any considerable number of persons;

7 (b) Offends public decency;

8 (c) Unlawfully interferes with, befoils, obstructs or tends to
9 obstruct, or renders dangerous for passage, a lake, navigable river,
10 bay, stream, canal, ditch, millrace or basin, or a public park, square,
11 street, alley, bridge, causeway or highway; or

12 (d) In any way renders a considerable number of persons
13 insecure in life or the use of property,

14 is a public nuisance.

15 4. A building or place which was used for the purpose of
16 unlawfully manufacturing a controlled substance, immediate
17 precursor or controlled substance analog is a public nuisance if the
18 building or place has not been deemed safe for habitation by the
19 board of health and:

20 (a) The owner of the building or place allows the building or
21 place to be used for any purpose before all materials or substances
22 involving the controlled substance, immediate precursor or
23 controlled substance analog have been removed from or remediated
24 on the building or place by an entity certified or licensed to do so; or

25 (b) The owner of the building or place fails to have all materials
26 or substances involving the controlled substance, immediate
27 precursor or controlled substance analog removed from or
28 remediated on the building or place by an entity certified or licensed
29 to do so within 180 days after the building or place is no longer used
30 for the purpose of unlawfully manufacturing a controlled substance,
31 immediate precursor or controlled substance analog.

32 5. ~~It~~ *Except as otherwise provided in subsection 6 and*
33 *section 6 of this act, it is a public nuisance for any person:*

34 (a) By force, threat or intimidation, or by fencing or otherwise
35 enclosing, or by any other unlawful means, to prevent or obstruct
36 the free passage or transit over or through any:

37 (1) Highway designated as a United States highway;

38 (2) Highway designated as a state highway pursuant to
39 NRS 408.285;

40 (3) Main, general or minor county road designated pursuant
41 to NRS 403.170;

42 (4) Public road, as defined in subsection 2 of NRS 405.191;

43 (5) *Public way;*

44 (6) State land or other public land; or

45 ~~(6)~~ (7) Land dedicated to public use; or



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- 1 (b) To knowingly misrepresent the status of or assert any right
 2 to the exclusive use and occupancy of such a highway, road, *way*,
 3 state land or other public land or land dedicated to public use ~~[7]~~ *by*
 4 *any means, including, without limitation, posting a “no*
 5 *trespassing” sign or other sign indicating that such a highway,*
 6 *road, way, state land or other public land or land dedicated to*
 7 *public use is private property or communicating such an*
 8 *indication verbally,*
 9 *↪ if the person has no leasehold interest, claim or color of title,*
 10 *made or asserted in good faith, in or to the highway, road, way, state*
 11 *land or other public land or land dedicated to public use.*
- 12 6. *It is not a public nuisance for an owner of private property*
 13 *upon which a highway, road or public way described in*
 14 *subparagraphs (1) to (5), inclusive, of paragraph (a) of subsection*
 15 *5 is located to post on his or her property, in a manner that would*
 16 *otherwise constitute a public nuisance pursuant to subsection 5, a*
 17 *sign indicating that the property is private property if, next to such*
 18 *a sign, the owner also posts a sign indicating that members of the*
 19 *public may access the highway, road or way.*
- 20 7. Agricultural activity conducted on farmland consistent with
 21 good agricultural practice and established before surrounding
 22 nonagricultural activities is not a public nuisance unless it has a
 23 substantial adverse effect on the public health or safety. It is
 24 presumed that an agricultural activity which does not violate a
 25 federal, state or local law, ordinance or regulation constitutes good
 26 agricultural practice.
- 27 ~~[7]~~ 8. A shooting range is not a public nuisance with respect
 28 to any noise attributable to the shooting range if the shooting range
 29 is in compliance with the provisions of all applicable statutes,
 30 ordinances and regulations concerning noise:
- 31 (a) As those provisions existed on October 1, 1997, for a
 32 shooting range that begins operation on or before October 1, 1997;
 33 or
 34 (b) As those provisions exist on the date that the shooting range
 35 begins operation, for a shooting range in operation after October 1,
 36 1997.
- 37 *↪ A shooting range is not subject to any state or local law related to*
 38 *the control of noise that is adopted or amended after the date set*
 39 *forth in paragraph (a) or (b), as applicable, and does not constitute a*
 40 *nuisance for failure to comply with any such law.*
- 41 ~~[8]~~ 9. A request for emergency assistance by a tenant as
 42 described in NRS 118A.515 and 118B.152 is not a public nuisance.
- 43 ~~[9]~~ 10. As used in this section:
 44 (a) “Board of health” has the meaning ascribed to it in
 45 NRS 439.4797.



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1 (b) "Controlled substance analog" has the meaning ascribed to it
2 in NRS 453.043.

3 (c) "Criminal gang" has the meaning ascribed to it in
4 NRS 193.168.

5 (d) "Immediate precursor" has the meaning ascribed to it in
6 NRS 453.086.

7 (e) "*Public way*" means any way, including, without
8 limitation, an easement for public access or a public right-of-way,
9 which is shown upon any plat, subdivision, addition, parcel map
10 or record of survey of any county, city, town or portion thereof
11 duly recorded or filed in the office of the county recorder, and
12 which is not specifically therein designated as a private road or a
13 nonpublic road, and any way which is described in a duly recorded
14 conveyance as a public road or is reserved thereby for public road
15 purposes or which is described by words of similar import. The
16 term does not include a utility easement or any highway or road
17 specified in subparagraphs (1) to (4), inclusive, of paragraph (a)
18 of subsection 5.

19 (f) "Shooting range" has the meaning ascribed to it in
20 NRS 40.140.

21 ~~(f)~~ (g) "State land" has the meaning ascribed to it in
22 NRS 383.425.

23 **Sec. 2.** Chapter 40 of NRS is hereby amended by adding
24 thereto a new section to read as follows:

25 *If an owner of private property upon which a highway, road or*
26 *public way described in subparagraphs (1) to (5), inclusive, of*
27 *paragraph (a) of subsection 5 of NRS 202.450 suffers damage or*
28 *injury as a result of another person's use of the highway, road or*
29 *way, the owner may commence a civil action against the person to*
30 *recover the actual damages suffered by the owner and reasonable*
31 *attorney's fees.*

32 **Sec. 3.** NRS 244.363 is hereby amended to read as follows:

33 244.363 Except as otherwise provided in subsection 3 of NRS
34 40.140 and subsection ~~7~~ 8 of NRS 202.450, the boards of county
35 commissioners in their respective counties may, by ordinance
36 regularly enacted, regulate, control and prohibit, as a public
37 nuisance, excessive noise which is injurious to health or which
38 interferes unreasonably with the comfortable enjoyment of life or
39 property within the boundaries of the county.

40 **Sec. 4.** NRS 266.335 is hereby amended to read as follows:

41 266.335 The city council may:

42 1. Except as otherwise provided in subsections 3 and 4 of NRS
43 40.140 and subsections ~~7 and~~ 6, 8 and 9 of NRS 202.450,
44 determine by ordinance what shall be deemed nuisances.



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1 2. Provide for the abatement, prevention and removal of the
2 nuisances at the expense of the person creating, causing or
3 committing the nuisances.

4 3. Provide that the expense of removal is a lien upon the
5 property upon which the nuisance is located. The lien must:

6 (a) Be perfected by recording with the county recorder a
7 statement by the city clerk of the amount of expenses due and
8 unpaid and describing the property subject to the lien.

9 (b) Be coequal with the latest lien thereon to secure the payment
10 of general taxes.

11 (c) Not be subject to extinguishment by the sale of any property
12 because of the nonpayment of general taxes.

13 (d) Be prior and superior to all liens, claims, encumbrances and
14 titles other than the liens of assessments and general taxes.

15 4. Provide any other penalty or punishment of persons
16 responsible for the nuisances.

17 **Sec. 5.** NRS 268.412 is hereby amended to read as follows:

18 268.412 Except as otherwise provided in subsection 3 of NRS
19 40.140 and subsection ~~7~~ 8 of NRS 202.450, the city council or
20 other governing body of a city may, by ordinance regularly enacted,
21 regulate, control and prohibit, as a public nuisance, excessive noise
22 which is injurious to health or which interferes unreasonably with
23 the comfortable enjoyment of life or property within the boundaries
24 of the city.

25 **Sec. 6.** Chapter 405 of NRS is hereby amended by adding
26 thereto a new section to read as follows:

27 1. *An owner of private property upon which a public road or*
28 *way is located may erect and maintain a fence or gate across the*
29 *public road or way if:*

30 (a) *The owner submits a request to the governmental entity*
31 *which has jurisdiction over the public road or way; and*

32 (b) *The governmental entity approves the request pursuant to*
33 *subsection 2.*

34 2. *A governmental entity may approve a request submitted by*
35 *an owner pursuant to subsection 1 if the governmental entity*
36 *determines that the proposed fence or gate will not greatly*
37 *inconvenience the traveling public. The governmental entity may*
38 *impose such conditions on the erection and maintenance of the*
39 *fence or gate as it determines necessary for the safety and*
40 *convenience of the traveling public.*

41 3. *If an owner erects and maintains a fence across a public*
42 *road or way pursuant to this section, the owner shall maintain a*
43 *gate at a location on the property through which members of the*
44 *public may access the public road or way.*



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1 4. Any gate erected and maintained across a public road or
2 way pursuant to this section must be kept unlocked and in such
3 condition as to allow members of the public to access the road or
4 way without unnecessary delay.

5 5. A conspicuous sign must be posted and maintained upon
6 each gate described in subsections 3 and 4 which advises the
7 reader that:

8 (a) A public road or way is located on the property;

9 (b) Members of the public may access the public road or way;
10 and

11 (c) Members of the public who access the public road or way
12 through the gate must, if the gate was shut before passing through
13 it, shut the gate after such passage, and must otherwise leave the
14 property in the same condition as when they entered.

15 6. A fence or gate that is erected and maintained pursuant to
16 this section does not constitute:

17 (a) A public nuisance pursuant to NRS 202.450; or

18 (b) A violation of NRS 405.230.

19 7. As used in this section, "public road or way" means:

20 (a) A public road, as defined in subsection 2 of NRS 405.191;

21 (b) A public way, as defined in NRS 202.450; or

22 (c) A general or minor county road designated pursuant to
23 NRS 403.170 which is unpaved.

24 Sec. 7. NRS 405.230 is hereby amended to read as follows:

25 405.230 1. ~~Any~~ Except as otherwise provided in section 6
26 of this act, a person who, in any manner, obstructs any road, street
27 or alley, or in any manner damages it or prevents travel thereon, or
28 who obstructs, dams or diverts any stream or water so as to throw it,
29 or cause the flowage thereof, upon, across or along the pathway of
30 any road, highway, street or alley is guilty of a public offense, as
31 prescribed in NRS 193.155, proportionate to the extent of damage to
32 the section of the road, street, alley or highway damaged, and in no
33 event less than a misdemeanor.

34 2. The court before which the conviction is had shall order the
35 sheriff or any constable of the county to abate, as a nuisance, any
36 fence or other obstruction, to the free and convenient use and travel
37 of the road, street or alley, or any obstruction from the stream so as
38 to allow it to flow in its natural bed.

39 3. The department of public works or any other appropriate
40 county agency is authorized to remove from the highways any
41 unlicensed obstacle or encroachment which is not removed, or the
42 removal of which is not commenced and thereafter diligently
43 prosecuted, before the expiration of 5 days after personal service of
44 notice and demand upon the owner of the obstacle or encroachment
45 or the owner's agent. In lieu of personal service upon that person or



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1 the person's agent, service of the notice may also be made by
2 registered or certified mail and by posting, for a period of 5 days, a
3 copy of the notice on the obstacle or encroachment described in the
4 notice. Removal by the department or other agency of the obstacle
5 or encroachment on the failure of the owner to comply with the
6 notice and demand gives the department or other agency a right of
7 action to recover the expense of the removal, investigative costs,
8 attorney's fees, cost and expenses of suit, and in addition thereto the
9 sum of \$250 for each day the obstacle or encroachment remains
10 after the expiration of 5 days from the service of the notice and
11 demand.

12 4. As used in this section, "obstacles or encroachments" mean
13 any objects, materials or facilities not owned by the county that are
14 placed within a right-of-way of the county for storage purposes or
15 decorative improvements for front lots that are not a part of a
16 highway facility. The term does not include vehicles parked in a
17 lawful manner within that right-of-way.

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*

S.B. 141

SENATE BILL NO. 141—SENATOR BROOKS

FEBRUARY 23, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to public works.
(BDR S-44)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; removing the prospective expiration of provisions relating to construction managers at risk; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, public bodies are authorized to construct public works
 2 under certain circumstances through a method by which a construction manager at
 3 risk provides preconstruction services on the public work and, in some cases,
 4 construction services on the public work with a guaranteed maximum price, a fixed
 5 price or a fixed price plus reimbursement for certain costs. (NRS 338.1685-
 6 338.16995) Existing law eliminates the authority for public bodies to enter into
 7 contracts with construction managers at risk effective June 30, 2021. This bill
 8 removes the prospective expiration of this authority, thereby making the
 9 authorization to enter into contracts with construction managers at risk permanent.

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

1 **Section 1.** Section 15 of chapter 487, Statutes of Nevada 2013,
 2 as amended by chapter 562, Statutes of Nevada 2017, at page 4035,
 3 is hereby amended to read as follows:

4 Sec. 15. ~~1-1~~ This section and sections 1, 2, 3, 4, 5, 6,
 5 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become
 6 effective on July 1, 2013.

7 ~~2.—Section 1 of this act expires by limitation on June 30,~~
 8 ~~2021.~~



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1 ~~3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1~~
 2 ~~and 14.7 of this act become effective on July 1, 2021.]~~

3 **Sec. 2.** Section 9 of chapter 123, Statutes of Nevada 2015, as
 4 amended by chapter 562, Statutes of Nevada 2017, at page 4035, is
 5 hereby amended to read as follows:

6 Sec. 9. ~~[1.]~~ This act becomes effective upon passage
 7 and approval.

8 ~~[2. Sections 6 and 7.5 of this act expire by limitation on~~
 9 ~~June 30, 2021.]~~

10 **Sec. 3.** Section 7 of chapter 562, Statutes of Nevada 2017, at
 11 page 4035, is hereby amended to read as follows:

12 Sec. 7. 1. This section and sections 5 and 6 of this act
 13 become effective upon passage and approval.

14 2. Sections 1 to 4, inclusive, of this act become effective
 15 on July 1, 2017.

16 ~~[3. Sections 1 to 3, inclusive, of this act expire by~~
 17 ~~limitation on June 30, 2021.]~~

18 **Sec. 4.** Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1
 19 and 14.7 of chapter 487, Statutes of Nevada 2013, at pages 2961,
 20 2964, 2966, 2967, 2968, 2972, 2983, 2984 and 2986, respectively,
 21 are hereby repealed.

22 **Sec. 5.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTIONS

Section 2.3 of chapter 487, Statutes of Nevada 2013:

Sec. 2.3. 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



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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. "Division" means the State Public Works Division of the Department of Administration.

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

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

(b) Determined by a public body or its authorized representative which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be



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qualified to bid on that contract pursuant to NRS 338.1379 or 338.1382.

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

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

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

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

~~12. "Horizontal construction" means the construction of any fixed work, including any irrigation, drainage, water supply, flood control, harbor, railroad, highway, tunnel, airport or airway, sewer, sewage disposal plant or water treatment facility and any ancillary vertical components thereof, bridge, inland waterway, pipeline for the transmission of petroleum or any other liquid or gaseous substance, pier, and work incidental thereto. The term does not include vertical construction, the construction of any terminal or other building of an airport or airway, or the construction of any other building.~~

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

~~14.~~ 13. "Offense" means failing to:

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

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

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

or

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

~~15.~~ 14. "Prime contractor" means a contractor who:



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- (a) Contracts to construct an entire project;
- (b) Coordinates all work performed on the entire project;
- (c) Uses his or her own workforce to perform all or a part of the public work; and
- (d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

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

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

~~17.~~ **16.** "Public work" means any project for the new construction, repair or reconstruction of:

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

- (1) Public buildings;
- (2) Jails and prisons;
- (3) Public roads;
- (4) Public highways;
- (5) Public streets and alleys;
- (6) Public utilities;
- (7) Publicly owned water mains and sewers;
- (8) Public parks and playgrounds;
- (9) Public convention facilities which are financed at least in part with public money; and
- (10) All other publicly owned works and property.

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

~~18.~~ **17.** "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

~~19.~~ **18.** "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

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

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

↳ that is not located at the site of a public work for the design and construction of which a public body is authorized to



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contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

~~{20.}~~ 19. "Subcontract" means a written contract entered into between:

- (a) A contractor and a subcontractor or supplier; or
- (b) A subcontractor and another subcontractor or supplier, for the provision of labor, materials, equipment or supplies for a construction project.

~~{21.}~~ 20. "Subcontractor" means a person who:

- (a) Is licensed pursuant to the provisions of chapter 624 of NRS or performs such work that the person is not required to be licensed pursuant to chapter 624 of NRS; and
- (b) Contracts with a contractor, another subcontractor or a supplier to provide labor, materials or services for a construction project.

~~{22.}~~ 21. "Supplier" means a person who provides materials, equipment or supplies for a construction project.

~~{23.} "Vertical construction" means the construction or remodeling of any building, structure or other improvement that is predominantly vertical, including, without limitation, a building, structure or improvement for the support, shelter and enclosure of persons, animals, chattels or movable property of any kind, and any improvement appurtenant thereto.~~

~~—24.}~~ 22. "Wages" means:

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

~~{25.}~~ 23. "Worker" means a skilled mechanic, skilled worker, semiskilled mechanic, semiskilled worker or unskilled worker in the service of a contractor or subcontractor under any appointment or contract of hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed. The term does not include a design professional.

Section 2.5 of chapter 487, Statutes of Nevada 2013:

Sec. 2.5. NRS 338.0117 is hereby amended to read as follows:

338.0117 1. To qualify to receive a preference in bidding pursuant to subsection 2 of NRS 338.1389, subsection 2 of NRS 338.147, ~~{subsection 3 of NRS 338.1693.}~~ subsection 3 of NRS 338.1727 or subsection 2 of



NRS 408.3886, a contractor, an applicant or a design-build team, respectively, must submit to the public body sponsoring or financing a public work a signed affidavit which certifies that, for the duration of the project:

(a) At least 50 percent of all workers employed on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will hold a valid driver's license or identification card issued by the Department of Motor Vehicles;

(b) All vehicles used primarily for the public work will be:

(1) Registered and partially apportioned to Nevada pursuant to the International Registration Plan, as adopted by the Department of Motor Vehicles pursuant to NRS 706.826; or

(2) Registered in this State;

(c) At least 50 percent of the design professionals working on the public work, including, without limitation, any employees of the contractor, applicant or design-build team and of any subcontractor engaged on the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles;

(d) At least 25 percent of the suppliers of the materials used for the public work will be located in this State unless the public body requires the acquisition of materials or equipment that cannot be obtained from a supplier located in this State; and

(e) The contractor, applicant or design-build team and any subcontractor engaged on the public work will maintain and make available for inspection within this State his or her records concerning payroll relating to the public work.

2. Any contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 must:

(a) Include a provision in the contract that substantially incorporates the requirements of paragraphs (a) to (e), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (e), inclusive, of subsection 1 is a material breach of the contract and entitles the public body to liquidated damages only as provided in subsections 5 and 6.

3. A person or entity who believes that a contractor, applicant or design-build team has obtained a preference in



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bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 may file a written objection with the public body for which the contractor, applicant or design-build team is performing the public work. A written objection authorized pursuant to this subsection must set forth proof or substantiating evidence to support the belief of the person or entity that the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1.

4. If a public body receives a written objection pursuant to subsection 3, the public body shall determine whether the objection is accompanied by the proof or substantiating evidence required pursuant to that subsection. If the public body determines that the objection is not accompanied by the required proof or substantiating evidence, the public body shall dismiss the objection. If the public body determines that the objection is accompanied by the required proof or substantiating evidence or if the public body determines on its own initiative that proof or substantiating evidence of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 exists, the public body shall determine whether the contractor, applicant or design-build team has failed to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1 and the public body or its authorized representative may proceed to award the contract accordingly or, if the contract has already been awarded, seek the remedy authorized in subsection 5.

5. A public body may recover, by civil action against the party responsible for a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, liquidated damages as described in subsection 6 for a breach of a contract for a public work caused by a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1. If a public body recovers liquidated damages pursuant to this subsection for a breach of a contract for a public work, the public body shall report to the State Contractors' Board the date of the breach, the name of each entity which breached the contract and the cost of the contract. The Board shall maintain this information for not less than 6 years. Upon request, the Board shall provide this information to any public body or its authorized representative.

6. If a contractor, applicant or design-build team submits the affidavit described in subsection 1, receives a preference



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in bidding described in subsection 1 and is awarded the contract, the contract between the contractor, applicant or design-build team and the public body, each contract between the contractor, applicant or design-build team and a subcontractor or supplier and each contract between a subcontractor and a subcontractor or supplier must provide that:

(a) If a party to the contract causes a material breach of the contract between the contractor, applicant or design-build team and the public body as a result of a failure to comply with a requirement of paragraphs (a) to (e), inclusive, of subsection 1, the party is liable to the public body for liquidated damages in the amount of 1 percent of the cost of the largest contract to which he or she is a party;

(b) The right to recover the amount determined pursuant to paragraph (a) by the public body pursuant to subsection 5 may be enforced by the public body directly against the party that causes the material breach; and

(c) No other party to the contract is liable to the public body for liquidated damages.

7. A public body that awards a contract for a public work to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1 shall, on or before July 31 of each year, submit a written report to the Director of the Legislative Counsel Bureau for transmittal to the Legislative Commission. The report must include information on each contract for a public work awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 and who receives a preference in bidding described in subsection 1, including, without limitation, the name of the contractor, applicant or design-build team who was awarded the contract, the cost of the contract, a brief description of the public work and a description of the degree to which the contractor, applicant or design-build team and each subcontractor complied with the requirements of paragraphs (a) to (e), inclusive, of subsection 1.

Section 3.5 of chapter 487, Statutes of Nevada 2013:

Sec. 3.5. NRS 338.018 is hereby amended to read as follows:

338.018 The provisions of NRS 338.013 to 338.018, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated



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cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~17~~ 16 of NRS 338.010.

Section 4.5 of chapter 487, Statutes of Nevada 2013:

Sec. 4.5. NRS 338.075 is hereby amended to read as follows:

338.075 The provisions of NRS 338.020 to 338.090, inclusive, apply to any contract for construction work of the Nevada System of Higher Education for which the estimated cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection ~~17~~ 16 of NRS 338.010.

Section 5.3 of chapter 487, Statutes of Nevada 2013:

Sec. 5.3. NRS 338.1373 is hereby amended to read as follows:

338.1373 1. A local government or its authorized representative shall award a contract for a public work pursuant to the provisions of NRS 338.1415 and:

- (a) NRS 338.1377 to 338.139, inclusive;
- (b) NRS 338.143 to 338.148, inclusive; *or*
- (c) ~~NRS 338.169 to 338.16995, inclusive, and section 1 of this act; or~~
- ~~(d)~~ NRS 338.1711 to 338.173, inclusive.

2. Except as otherwise provided in this subsection, subsection 3 and chapter 408 of NRS, the provisions of this chapter apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive. The provisions of NRS 338.1375 to 338.1382, inclusive, 338.1386, 338.13862, 338.13864, 338.139, 338.142 and 338.1711 to 338.1727, inclusive, do not apply with respect to contracts for the construction, reconstruction, improvement and maintenance of highways that are awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive.

3. To the extent that a provision of this chapter precludes the granting of federal assistance or reduces the amount of such assistance with respect to a contract for the construction, reconstruction, improvement or maintenance of highways that is awarded by the Department of Transportation pursuant to NRS 408.201 and 408.313 to 408.433, inclusive, that



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provision of this chapter does not apply to the Department of Transportation or the contract.

Section 5.5 of chapter 487, Statutes of Nevada 2013:

Sec. 5.5. NRS 338.1381 is hereby amended to read as follows:

338.1381 1. If, within 10 days after receipt of the notice denying an application pursuant to NRS 338.1379 ~~for 338.16991~~ or disqualifying a subcontractor pursuant to NRS 338.1376, the applicant or subcontractor, as applicable, files a written request for a hearing with the Division or the local government, the State Public Works Board or governing body shall set the matter for a hearing within 20 days after receipt of the request. The hearing must be held not later than 45 days after the receipt of the request for a hearing unless the parties, by written stipulation, agree to extend the time.

2. The hearing must be held at a time and place prescribed by the Board or local government. At least 10 days before the date set for the hearing, the Board or local government shall serve the applicant or subcontractor with written notice of the hearing. The notice may be served by personal delivery to the applicant or subcontractor or by certified mail to the last known business or residential address of the applicant or subcontractor.

3. The applicant or subcontractor has the burden at the hearing of proving by substantial evidence that the applicant is entitled to be qualified to bid on a contract for a public work, or that the subcontractor is qualified to be a subcontractor on a contract for a public work.

4. In conducting a hearing pursuant to this section, the Board or governing body may:

- (a) Administer oaths;
- (b) Take testimony;
- (c) Issue subpoenas to compel the attendance of witnesses to testify before the Board or governing body;
- (d) Require the production of related books, papers and documents; and
- (e) Issue commissions to take testimony.

5. If a witness refuses to attend or testify or produce books, papers or documents as required by the subpoena issued pursuant to subsection 4, the Board or governing body may petition the district court to order the witness to appear or testify or produce the requested books, papers or documents.



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6. The Board or governing body shall issue a decision on the matter during the hearing. The decision of the Board or governing body is a final decision for purposes of judicial review.

Section 5.7 of chapter 487, Statutes of Nevada 2013:

Sec. 5.7. NRS 338.1385 is hereby amended to read as follows:

338.1385 1. Except as otherwise provided in subsection 9, this State, or a governing body or its authorized representative that awards a contract for a public work in accordance with paragraph (a) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published in the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and having a general circulation within the county.

(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1386, 338.13862 and 338.13864 and, with respect to the State, NRS 338.1384 to 338.13847, inclusive.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a public body shall report to the public body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Each advertisement for bids must include a provision that sets forth the requirement that a contractor must be qualified pursuant to NRS 338.1379 or 338.1382 to bid on the contract.

4. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

5. Except as otherwise provided in subsection 6 and NRS 338.1389, a public body or its authorized representative



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shall award a contract to the lowest responsive and responsible bidder.

6. Any bids received in response to an advertisement for bids may be rejected if the public body or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not a qualified bidder pursuant to NRS 338.1379 or 338.1382;

(b) The bidder is not responsive or responsible;

(c) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(d) The public interest would be served by such a rejection.

7. A public body may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The public body publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The public body considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The public body lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

8. Before a public body may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in response to an advertisement for bids, the public body shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the public body intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the public body intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including, the fair market value of or, if known, the actual



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cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the public body expects to save by rejecting the bids and performing the public work itself.

9. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive; *or*

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435 . ~~}; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive.}~~

Section 6.5 of chapter 487, Statutes of Nevada 2013:

Sec. 6.5. NRS 338.143 is hereby amended to read as follows:

338.143 1. Except as otherwise provided in subsection 8, a local government or its authorized representative that awards a contract for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373 shall not:

(a) Commence a public work for which the estimated cost exceeds \$100,000 unless it advertises in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county where the public work will be performed for bids for the public work. If no qualified newspaper is published within the county where the public work will be performed, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation within the county.



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(b) Commence a public work for which the estimated cost is \$100,000 or less unless it complies with the provisions of NRS 338.1442, 338.1444 or 338.1446.

(c) Divide a public work into separate portions to avoid the requirements of paragraph (a) or (b).

2. At least once each quarter, the authorized representative of a local government shall report to the governing body any contract that the authorized representative awarded pursuant to subsection 1 in the immediately preceding quarter.

3. Approved plans and specifications for the bids must be on file at a place and time stated in the advertisement for the inspection of all persons desiring to bid thereon and for other interested persons. Contracts for the public work must be awarded on the basis of bids received.

4. Except as otherwise provided in subsection 5 and NRS 338.147, the local government or its authorized representative shall award a contract to the lowest responsive and responsible bidder.

5. Any bids received in response to an advertisement for bids may be rejected if the local government or its authorized representative responsible for awarding the contract determines that:

(a) The bidder is not responsive or responsible;

(b) The quality of the services, materials, equipment or labor offered does not conform to the approved plans or specifications; or

(c) The public interest would be served by such a rejection.

6. A local government may let a contract without competitive bidding if no bids were received in response to an advertisement for bids and:

(a) The local government publishes a notice stating that no bids were received and that the contract may be let without further bidding;

(b) The local government considers any bid submitted in response to the notice published pursuant to paragraph (a);

(c) The local government lets the contract not less than 7 days after publishing a notice pursuant to paragraph (a); and

(d) The contract is awarded to the lowest responsive and responsible bidder.

7. Before a local government may commence the performance of a public work itself pursuant to the provisions of this section, based upon a determination that the public interest would be served by rejecting any bids received in



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response to an advertisement for bids, the local government shall prepare and make available for public inspection a written statement containing:

(a) A list of all persons, including supervisors, whom the local government intends to assign to the public work, together with their classifications and an estimate of the direct and indirect costs of their labor;

(b) A list of all equipment that the local government intends to use on the public work, together with an estimate of the number of hours each item of equipment will be used and the hourly cost to use each item of equipment;

(c) An estimate of the cost of administrative support for the persons assigned to the public work;

(d) An estimate of the total cost of the public work, including the fair market value of or, if known, the actual cost of all materials, supplies, labor and equipment to be used for the public work; and

(e) An estimate of the amount of money the local government expects to save by rejecting the bids and performing the public work itself.

8. This section does not apply to:

(a) Any utility subject to the provisions of chapter 318 or 710 of NRS;

(b) Any work of construction, reconstruction, improvement and maintenance of highways subject to NRS 408.323 or 408.327;

(c) Normal maintenance of the property of a school district;

(d) The Las Vegas Valley Water District created pursuant to chapter 167, Statutes of Nevada 1947, the Moapa Valley Water District created pursuant to chapter 477, Statutes of Nevada 1983 or the Virgin Valley Water District created pursuant to chapter 100, Statutes of Nevada 1993;

(e) The design and construction of a public work for which a public body contracts with a design-build team pursuant to NRS 338.1711 to 338.1727, inclusive; *or*

(f) A constructability review of a public work, which review a local government or its authorized representative is required to perform pursuant to NRS 338.1435. ~~}; or~~

~~(g) The preconstruction or construction of a public work for which a public body enters into a contract with a construction manager at risk pursuant to NRS 338.169 to 338.16995, inclusive.]~~



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Section 13.5 of chapter 487, Statutes of Nevada 2013:

Sec. 13.5. NRS 338.1711 is hereby amended to read as follows:

338.1711 1. Except as otherwise provided in this section and NRS 338.161 to ~~338.16995,~~ 338.168, inclusive, a public body shall contract with a prime contractor for the construction of a public work for which the estimated cost exceeds \$100,000.

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

Section 14.1 of chapter 487, Statutes of Nevada 2013:

Sec. 14.1. NRS 338.1908 is hereby amended to read as follows:

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

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

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

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

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

(4) The estimated cost of the project.

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

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

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

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

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

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



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

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

3. As used in this section:

(a) "Local government" means each city or county that meets the definition of "eligible unit of local government" as set forth in 42 U.S.C. § 17151 and each unit of local government, as defined in subsection ~~13~~ 12 of NRS 338.010, that does not meet the definition of "eligible entity" as set forth in 42 U.S.C. § 17151.

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

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

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

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

Section 14.7 of chapter 487, Statutes of Nevada 2013:

Sec. 14.7. NRS 338.169, 338.1691, 338.1692, 338.1693, 338.16935, 338.1696, 338.1697, 338.1698, 338.16985, 338.16991 and 338.16995 are hereby repealed.

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