

ASSEMBLY BILL NO. 159—COMMITTEE
ON GOVERNMENT AFFAIRS

FEBRUARY 13, 2015

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing public works. (BDR 28-936)

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

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

AN ACT relating to public works; revising provisions concerning contracts with a public body for a public work and contracts by the awardee of certain grants, tax abatements, tax credits or tax exemptions from a public body; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law imposes various employment requirements on contracts for a
2 public work. (NRS 338.125-338.135) **Section 3** of this bill provides that a public
3 body, in any solicitation, contract or other document related to a contract for a
4 public work, shall not: (1) require or prohibit a bidder or contractor from entering
5 into or adhering to any agreement with one or more labor organizations in regard to
6 the public work; or (2) discriminate against a bidder or contractor for entering or
7 not entering into, or adhering or refusing to adhere to, any agreement with one or
8 more labor organizations in regard to the public work. **Section 3** further prohibits a
9 public body from awarding a grant, tax abatement, tax credit or tax exemption that
10 is conditioned upon a requirement that the awardee include in a contract for a
11 project that is the subject of the grant, tax abatement, tax credit or tax exemption a
12 term that: (1) requires or prohibits a bidder or contractor from entering into or
13 adhering to any agreement with one or more labor organizations in regard to the
14 project; or (2) discriminates against a bidder or contractor for entering or not
15 entering into, or adhering or refusing to adhere to, any agreement with one or more
16 labor organizations in regard to the project. **Section 3** also allows a public body to
17 exempt a particular public work or a grant, tax abatement, tax credit or tax
18 exemption from those restrictions if the public body makes a finding, after notice
19 and a hearing, that: (1) special circumstances require such an exemption to avert an
20 imminent threat to public health or safety; or (2) the public work or construction,
21 improvement, maintenance or renovation to real property that is the subject of the
22 grant, tax abatement, tax credit or tax exemption, as applicable, is a part of critical
23 infrastructure for an airport or a water system. Such a finding of special



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24 circumstances must not be based on the possibility or presence of certain labor
25 disputes.

26 **Section 2** of this bill provides that the Legislature finds and declares that the
27 provisions of **section 3** are intended to provide fair and open competition and more
28 economical, nondiscriminatory, neutral and efficient contracts for public works by
29 this State and public bodies in this State as market participants, and that the
30 provisions of **section 3** are the best method for effectuating that intent.

31 **Section 4** of this bill provides that the provisions of this bill do not affect any
32 contract for a public work or for any project that is funded in whole or in part by a
33 grant, tax abatement, tax credit or tax exemption from a public body that was
34 entered into before July 1, 2015.

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 the provisions set forth as sections 2 and 3 of this act.

3 **Sec. 2.** *The Legislature hereby finds and declares that the*
4 *provisions of section 3 of this act prohibiting requirements for*
5 *certain terms in contracts entered into by a public body for a*
6 *public work or entered into by the awardee of a grant, tax*
7 *abatement, tax credit or tax exemption from a public body are:*

8 1. *Intended to provide:*

9 (a) *More economical, nondiscriminatory, neutral and efficient*
10 *contracts for public works by public bodies in this State as market*
11 *participants; and*

12 (b) *Fair and open competition in awarding contracts, grants,*
13 *tax abatements, tax credits and tax exemptions.*

14 2. *The best method for effectuating the intent of subsection 1.*

15 **Sec. 3.** 1. *Except as otherwise provided in subsection 4 or*
16 *5, a public body, in any advertisement, solicitation, specification,*
17 *contract or any other document related to a contract for a public*
18 *work, shall not:*

19 (a) *Require or prohibit an eligible bidder, contractor or*
20 *subcontractor from entering into or adhering to an agreement*
21 *with one or more labor organizations in regard to the public work*
22 *or any construction project integrated into the public work.*

23 (b) *Discriminate against an eligible bidder, contractor or*
24 *subcontractor for becoming or remaining or refusing to become or*
25 *remain a signatory to, or for adhering or refusing to adhere to, an*
26 *agreement with one or more labor organizations in regard to the*
27 *public work or any construction project integrated into the public*
28 *work.*

29 2. *Except as otherwise provided in subsection 4 or 5, a public*
30 *body shall not award a grant, tax abatement, tax credit or tax*
31 *exemption that is conditioned upon a requirement that the*



1 *awardee include a term described in paragraph (a) or (b) of*
2 *subsection 1 in a contract for any construction, improvement,*
3 *maintenance or renovation to real property that is the subject of*
4 *the grant, tax abatement, tax credit or tax exemption.*

5 *3. The provisions of subsections 1 and 2 do not:*

6 *(a) Prohibit a public body from awarding a contract for a*
7 *public work or a grant, tax abatement, tax credit or tax exemption*
8 *to an owner who is not a public body, an eligible bidder, a*
9 *contractor or a subcontractor who enters into, who is a party to or*
10 *who adheres to an agreement with a labor organization if:*

11 *(1) Entering into, being or becoming a party to or adhering*
12 *to an agreement with a labor organization is not a condition for*
13 *awarding the contract, grant, tax abatement, tax credit or tax*
14 *exemption; and*

15 *(2) The public body does not discriminate against an owner*
16 *who is not a public body, an eligible bidder, a contractor or a*
17 *subcontractor in the awarding of the contract, grant, tax*
18 *abatement, tax credit or tax exemption based upon the status of*
19 *entering into, being or becoming a party to or adhering to an*
20 *agreement with a labor organization;*

21 *(b) Prohibit an eligible bidder, contractor or subcontractor*
22 *from voluntarily entering into or complying with an agreement*
23 *entered into with one or more labor organizations in regard to a*
24 *contract:*

25 *(1) With a public body for a public work; or*

26 *(2) Funded in whole or in part by a grant, tax abatement,*
27 *tax credit or tax exemption from a public body;*

28 *(c) Prohibit employers or other parties from entering into*
29 *agreements or engaging in any other activity protected by the*
30 *Labor Management Relations Act of 1947, 29 U.S.C. §§ 151 et*
31 *seq.;*

32 *(d) Interfere with labor relations of parties that are left*
33 *unregulated by the Labor Management Relations Act of 1947, 29*
34 *U.S.C. §§ 151 et seq.; or*

35 *(e) Affect any provision of NRS 338.020 to 338.090, inclusive.*

36 *4. A public body may exempt a particular public work or a*
37 *grant, tax abatement, tax credit or tax exemption from the*
38 *provisions of subsection 1 if the public body makes a finding, after*
39 *notice and a hearing, that a special circumstance requires such an*
40 *exemption to avert an imminent threat to the public health or*
41 *safety. A finding of a special circumstance pursuant to this*
42 *subsection must not be based on the possibility or presence of a*
43 *labor dispute concerning:*



1 (a) *The use of a contractor or subcontractor who is not a*
2 *signatory to or does not adhere to an agreement with one or more*
3 *labor organizations; or*

4 (b) *Employees on the public work who are not members of or*
5 *affiliated with a labor organization.*

6 5. *A public body may exempt a particular public work or a*
7 *grant, tax abatement, tax credit or tax exemption from the*
8 *provisions of subsection 1 if the public body makes a finding, after*
9 *notice and a hearing, that the public work or construction,*
10 *improvement, maintenance or renovation to real property that is*
11 *the subject of the grant, tax abatement, tax credit or tax*
12 *exemption, as applicable, is a part of critical infrastructure for:*

13 (a) *An airport, including, without limitation, a runway,*
14 *taxiway, air traffic control tower or project to improve airport*
15 *security; or*

16 (b) *A water system.*

17 6. *As used in this section, "labor organization" means any*
18 *organization of any kind, or any agency or employee*
19 *representation committee or plan, in which employees participate*
20 *and which exists for the purpose, in whole or in part, of dealing*
21 *with employers concerning grievances, labor disputes, wages, rates*
22 *of pay, hours of employment or conditions of work.*

23 **Sec. 4.** 1. The amendatory provisions of this act do not apply
24 to any contract entered into before July 1, 2015, by:

25 (a) A public body for a public work; or

26 (b) The awardee of a grant, tax abatement, tax credit or tax
27 exemption from a public body for a project funded in whole or in
28 part by such grant, tax abatement, tax credit or tax exemption.

29 2. As used in this section:

30 (a) "Public body" has the meaning ascribed to it in
31 NRS 338.010.

32 (b) "Public work" has the meaning ascribed to it in
33 NRS 338.010.

34 **Sec. 5.** This act becomes effective on July 1, 2015.

