

ASSEMBLY BILL NO. 74—COMMITTEE ON EDUCATION

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON EDUCATION)

PREFILED JANUARY 30, 2023

Referred to Committee on Education

SUMMARY—Revises provisions relating to agreements entered into by public bodies. (BDR 34-377)

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 bodies; authorizing the Board of Regents of the University of Nevada to enter into an agreement to affiliate with a public or private entity for certain purposes; authorizing a public body to enter into a public-private partnership in connection with certain facilities; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Board of Regents of the University of Nevada to establish policies governing the contracts that faculty members and employees of the Nevada System of Higher Education may enter into or benefit from. (NRS 396.255) Existing law also authorizes certain faculty members of the System to bid or enter into a contract with a governmental agency if the contract complies with the policies established by the Board of Regents. (NRS 281.221)

Existing law requires that mechanics and workers employed on certain public construction projects be paid at least the wage then prevailing for the type of work that the mechanic or worker performs in the region in which the public work is located. (NRS 338.020) Under existing law, any contract for construction work of the System for which the estimated cost exceeds \$100,000 is subject to the prevailing wage requirements. (NRS 338.075)

Section 1 of this bill authorizes the Board of Regents to enter into an agreement with a public or private entity, whether for profit or not for profit, to promote and enhance an educational program or student life at an institution within the System. **Section 1** requires that such an agreement include certain provisions, including, without limitation, a provision stating that the prevailing wage requirements apply to any construction work performed under the agreement. **Section 2** of this bill establishes that any such agreement is subject to the policies established by the



20 Board of Regents governing contracts that faculty members and employees of the
21 System may enter into or benefit from.

22 Existing law provides, in any county whose population is 700,000 or more
23 (currently Clark County), for the use of a public-private partnership to plan,
24 finance, design, construct, improve, maintain or operate a transportation facility.
25 (NRS 338.158-338.1602) **Section 2.8** of this bill authorizes a public body to enter
26 into a public-private partnership to plan, finance, design, construct, improve,
27 maintain, operate or acquire a facility other than a transportation facility. **Sections**
28 **2.1-2.7** of this bill define terms related to such public-private partnerships. **Section**
29 **2.9** of this bill makes a conforming change to reflect that a public body may enter
30 into a public-private partnership in connection with certain facilities.

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

1 **Section 1.** Chapter 396 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *1. The Board of Regents may enter into an agreement to*
4 *affiliate with a publicly or privately owned entity, whether for*
5 *profit or not for profit, to further promote and enhance an*
6 *educational program or student life at an institution within the*
7 *System.*

8 *2. An agreement entered into pursuant to this section must*
9 *include, without limitation:*

10 *(a) Standards that must be met by the entity;*

11 *(b) An allocation of any costs or profits that must be shared*
12 *between the entity and the institution;*

13 *(c) Identification of shared goals and responsibilities;*

14 *(d) Provisions governing the joint employment and supervision*
15 *of employees, if applicable;*

16 *(e) Provisions governing the shared review and allocation of*
17 *the use of facilities, resources and employees, if applicable; and*

18 *(f) A provision stating that the requirements of NRS 338.020 to*
19 *338.090, inclusive, apply to any construction work performed*
20 *under the agreement even if the construction work does not*
21 *qualify as a public work, as defined in NRS 338.010.*

22 **Sec. 2.** NRS 396.255 is hereby amended to read as follows:

23 396.255 The Board of Regents shall, to carry out the purposes
24 of subsection 3 of NRS 281.221, subsection 3 of NRS 281.230,
25 subsection 3 of NRS 281A.430 and NRS 396.1215, *and section 1 of*
26 *this act*, establish policies governing the contracts that faculty
27 members and employees of the System may enter into or benefit
28 from.



1 **Sec. 2.1.** Chapter 338 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2.2 to 2.8, inclusive, of
3 this act.

4 **Sec. 2.2.** *As used in sections 2.2 to 2.8, inclusive, of this act,
5 unless the context otherwise requires, the words and terms defined
6 in sections 2.3 to 2.7, inclusive, of this act have the meanings
7 ascribed to them in those sections.*

8 **Sec. 2.3.** *“Concession” means any lease, ground lease,
9 franchise, easement, permit, right of entry, operating agreement or
10 other binding agreement between a public body and a private
11 partner for the use or control, in whole or in part, of a facility by a
12 private partner.*

13 **Sec. 2.4.** *“Facility” means any existing, enhanced, upgraded
14 or new facility used or useful for the use of persons, including,
15 without limitation, any construction, alteration, repair, renovation,
16 demolition or remodeling necessary to complete any building,
17 structure or other improvement that is predominantly vertical,
18 including, without limitation, a building, structure or improvement
19 for the support, shelter and enclosure of persons, animals, chattels
20 or movable property of any kind and any other work or
21 improvement appurtenant thereto. The term:*

22 1. *Includes:*

23 (a) *Related or ancillary facilities used or useful for any
24 purpose of the facility, including, without limitation,
25 administrative buildings, structures, maintenance yards and
26 buildings, control systems, communication systems, information
27 systems, energy systems, parking facilities and other related
28 equipment or property that is needed or used to support the
29 facility; and*

30 (b) *All improvements, including, without limitation,
31 equipment, necessary to the full utilization of a facility, including,
32 without limitation, site preparation, roads and streets, sidewalks,
33 water supply, outdoor lighting and other improvements incidental
34 to the project.*

35 2. *Does not include a transportation facility as that term is
36 defined in NRS 338.1583.*

37 **Sec. 2.5.** *“Private partner” means a person with whom a
38 public body enters into a public-private partnership.*

39 **Sec. 2.6.** *“Public-private partnership” means a contract
40 entered into by a public body and a private partner.*

41 **Sec. 2.7.** *“User fee” means a fee or other similar charge,
42 including, without limitation, any incidental, account
43 maintenance or administrative fee or charge imposed on a person
44 for his or her use of a facility by a public body or private partner
45 pursuant to a public-private partnership.*



1 **Sec. 2.8. 1.** *A public body may enter into a public-private*
2 *partnership to plan, finance, design, construct, improve, maintain,*
3 *operate or acquire, or any combination thereof, a facility.*

4 **2.** *A public-private partnership may include, without*
5 *limitation:*

6 *(a) A predevelopment agreement leading to another*
7 *implementing agreement for a facility as described in this*
8 *subsection;*

9 *(b) A design-build contract;*

10 *(c) A design-build contract that includes the financing,*
11 *maintenance or operation, or any combination thereof, of the*
12 *facility;*

13 *(d) A contract involving a construction manager at risk;*

14 *(e) A concession;*

15 *(f) A construction agreement that includes the financing,*
16 *maintenance or operation, or any combination thereof, of the*
17 *facility;*

18 *(g) An operation and maintenance agreement for a facility;*

19 *(h) Any other method or agreement for completion of the*
20 *facility that the public body determines will serve the public*
21 *interest; or*

22 *(i) Any combination of paragraphs (a) to (h), inclusive.*

23 **3.** *A public-private partnership shall include a provision*
24 *stating that:*

25 *(a) The requirements of NRS 338.013 to 338.090, inclusive,*
26 *apply to any construction work performed under the agreement*
27 *even if the construction work does not qualify as a public work, as*
28 *defined in NRS 338.010.*

29 *(b) The provisions of this chapter that require public bidding*
30 *apply with respect to the awarding of contracts or procurement of*
31 *goods in connection with the construction of a facility under the*
32 *agreement if 25 percent or more of the cost of constructing the*
33 *facility is financed with public money. Such public bidding is not*
34 *required if the method of procurement selected does not require*
35 *public bidding pursuant to this chapter.*

36 **Sec. 2.9.** NRS 338.1711 is hereby amended to read as follows:

37 338.1711 1. Except as otherwise provided in this section and
38 NRS 338.158 to 338.16995, inclusive, **and sections 2.1 to 2.8,**
39 **inclusive, of this act,** a public body shall contract with a prime
40 contractor for the construction of a public work for which the
41 estimated cost exceeds \$100,000.

42 2. A public body may contract with a design-build team for the
43 design and construction of a public work that is a discrete project if
44 the public body has approved the use of a design-build team for the



1 design and construction of the public work and the public work has
2 an estimated cost which exceeds \$5,000,000.

3 **Sec. 3.** This act becomes effective on July 1, 2023.

