

SENATE BILL NO. 246—SENATORS MANENDO, HARDY, PARKS, SETTELMAYER, HAMMOND; ATKINSON, DENIS AND FARLEY (BY REQUEST)

MARCH 8, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public works. (BDR 28-667)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact. Effect on the State: Yes.

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

AN ACT relating to public works; revising provisions governing a contract for a public work involving a construction manager at risk; revising provisions relating to the authority of public bodies to enter into a contract with a design-build team for the construction of a public work; extending 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 within a guaranteed maximum price, a  
5 fixed price or a fixed price plus reimbursement for certain costs. (NRS 338.1685-  
6 338.16995) Existing law declares the legislative intent for authorizing this method  
7 of construction, including to benefit the public by promoting the philosophy of  
8 obtaining the best possible value as compared to low-bid contracting. (NRS  
9 338.1685) **Section 1** of this bill declares that this method of construction is not  
10 intended to be used by the State or a political subdivision to limit competition,  
11 discourage competitive bidding or engage in or allow bid-shopping.

12 Existing law requires a public body that wishes to use the construction manager  
13 at risk method to construct a public work to advertise for proposals for a  
14 construction manager at risk by publication in a qualified newspaper. Similarly, any  
15 construction manager at risk selected by a public body is required to advertise for  
16 applications from subcontractors to provide labor, materials or equipment on the  
17 public work by publication in a qualified newspaper. (NRS 338.1692, 338.16995)  
18 **Sections 1.3 and 2** of this bill make the procedure with which a public body and a



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19 construction manager at risk are required to comply for advertising for proposals or  
20 applications, as applicable, under the project delivery method of construction  
21 manager at risk the same as the procedure with which a public body is required to  
22 comply to advertise for bids on a public work for which the estimated cost exceeds  
23 \$100,000 under the project delivery method of “design-bid-build.” Additionally,  
24 **section 1.3** prohibits an applicant for selection as a construction manager at risk  
25 from substituting another employee for an employee whose resume was included in  
26 the applicant’s proposal to the public body, unless the original employee is  
27 unavailable for certain specified reasons or the public body fails to enter into a  
28 contract for preconstruction services with a construction manager at risk within a  
29 certain period.

30 Existing law authorizes a public body, in selecting a construction manager at  
31 risk, to require applicants who are invited for an interview to submit a preliminary  
32 proposed amount of compensation for managing the preconstruction and  
33 construction of the public work, but limits consideration of that amount of  
34 compensation to not more than 20 percent of the scoring for the selection of the  
35 most qualified applicant. (NRS 338.1693) **Section 1.7** of this bill requires that the  
36 preliminary proposed amount of compensation include general overhead and profit  
37 and requires that consideration of that proposed amount constitute at least 5 percent  
38 of the scoring of an applicant.

39 Existing law prescribes the procedure for the award by a construction manager at  
40 risk to qualified subcontractors of subcontracts for which the estimated value is  
41 at least 1 percent of the total cost of the public work or \$50,000, whichever is  
42 greater. The procedure includes the provision to qualified subcontractors of written  
43 notice regarding the specifics of the subcontract and the requirements for  
44 submitting a responsive proposal. (NRS 338.16991, 338.16995) **Section 3** of this  
45 bill requires a construction manager at risk to provide each qualified subcontractor  
46 with a form that has been prepared by the construction manager at risk and  
47 approved by the public body on which any proposal in response to a request for  
48 proposals for the public work is required to be submitted.

49 Existing law eliminates the authority for public bodies to enter into contracts  
50 with construction managers at risk effective July 1, 2017. (Section 15 of chapter  
51 487, Statutes of Nevada 2013, p. 2986, and section 9 of chapter 123, Statutes of  
52 Nevada 2015, p. 457) **Sections 5 and 6** of this bill postpone the prospective  
53 expiration of this authority until June 30, 2021.

54 Existing law authorizes a public body to contract with a design-build team for  
55 the design and construction of a public work if the estimated cost of the public  
56 work exceeds \$5,000,000. (NRS 338.1711) **Section 4** of this bill authorizes a public  
57 body, within a 12-month period, to contract with a design-build team for the design  
58 and construction of not more than two discrete public works projects, each of which  
59 have an estimated cost of \$5,000,000 or less.

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

1 **Section 1.** NRS 338.1685 is hereby amended to read as  
2 follows:

3 338.1685 The Legislature hereby declares that the provisions  
4 of NRS 338.1685 to 338.16995, inclusive, relating to contracts  
5 involving construction managers at risk ~~[-are]~~:

6 1. *Are* intended:



1 ~~1-1~~ (a) To promote public confidence and trust in the  
2 contracting and bidding procedures for public works established  
3 therein;

4 ~~1-2~~ (b) For the benefit of the public, to promote the philosophy  
5 of obtaining the best possible value as compared to low-bid  
6 contracting; and

7 ~~1-3~~ (c) To better equip public bodies to address public works  
8 that present unique and complex construction challenges.

9 **2. *Are not intended to be used by the State or a political***  
10 ***subdivision of this State to:***

11 (a) *Limit competition;*

12 (b) *Discourage competitive bidding; or*

13 (c) *Engage in or allow bid-shopping.*

14 **Sec. 1.3.** NRS 338.1692 is hereby amended to read as follows:

15 338.1692 1. A public body or its authorized representative  
16 shall advertise for proposals for a construction manager at risk in ~~a~~  
17 ~~newspaper qualified pursuant to chapter 238 of NRS that is~~  
18 ~~published in the county where the public work will be performed. If~~  
19 ~~no qualified newspaper is published in the county where the public~~  
20 ~~work will be performed, the required advertisement must be~~  
21 ~~published in some qualified newspaper that is printed in the State of~~  
22 ~~Nevada and has a general circulation in the county.] *the manner set*~~  
23 ***forth in paragraph (a) of subsection 1 of NRS 338.1385.***

24 2. A request for proposals published pursuant to subsection 1  
25 must include, without limitation:

26 (a) A description of the public work;

27 (b) An estimate of the cost of construction;

28 (c) A description of the work that the public body expects a  
29 construction manager at risk to perform;

30 (d) The dates on which it is anticipated that the separate phases  
31 of the preconstruction and construction of the public work will  
32 begin and end;

33 (e) The date by which proposals must be submitted to the public  
34 body;

35 (f) If the project is a public work of the State, a statement setting  
36 forth that the construction manager at risk must be qualified to bid  
37 on a public work of the State pursuant to NRS 338.1379 before  
38 submitting a proposal;

39 (g) The name, title, address and telephone number of a person  
40 employed by the public body that an applicant may contact for  
41 further information regarding the public work;

42 (h) A list of the selection criteria and relative weight of the  
43 selection criteria that will be used to rank proposals pursuant to  
44 subsection 2 of NRS 338.1693;



1 (i) A list of the selection criteria and relative weight of the  
2 selection criteria that will be used to rank applicants pursuant to  
3 subsection 7 of NRS 338.1693; and

4 (j) A notice that the proposed form of the contract to assist in the  
5 preconstruction of the public work or to construct the public work,  
6 including, without limitation, the terms and general conditions of the  
7 contract, is available from the public body.

8 3. A proposal must include, without limitation:

9 (a) An explanation of the experience that the applicant has with  
10 projects of similar size and scope in both the public and private  
11 sectors by any delivery method, whether or not that method was the  
12 use of a construction manager at risk, and including, without  
13 limitation, design-build, design-assist, negotiated work or value-  
14 engineered work, and an explanation of the experience that the  
15 applicant has in such projects in Nevada;

16 (b) The contact information for references who have knowledge  
17 of the background, character and technical competence of the  
18 applicant;

19 (c) Evidence of the ability of the applicant to obtain the  
20 necessary bonding for the work to be required by the public body;

21 (d) Evidence that the applicant has obtained or has the ability to  
22 obtain such insurance as may be required by law;

23 (e) A statement of whether the applicant has been:

24 (1) Found liable for breach of contract with respect to a  
25 previous project, other than a breach for legitimate cause, during the  
26 5 years immediately preceding the date of the advertisement for  
27 proposals; and

28 (2) Disqualified from being awarded a contract pursuant to  
29 NRS 338.017, 338.13895, 338.1475 or 408.333;

30 (f) The professional qualifications and experience of the  
31 applicant, including, without limitation, the resume of any employee  
32 of the applicant who will be managing the preconstruction and  
33 construction of the public work;

34 (g) The safety programs established and the safety records  
35 accumulated by the applicant;

36 (h) Evidence that the applicant is licensed as a contractor  
37 pursuant to chapter 624 of NRS;

38 (i) The proposed plan of the applicant to manage the  
39 preconstruction and construction of the public work which sets forth  
40 in detail the ability of the applicant to provide preconstruction  
41 services and to construct the public work and which includes, if the  
42 public work involves predominantly horizontal construction, a  
43 statement that the applicant will perform construction work equal in  
44 value to at least 25 percent of the estimated cost of construction; and



1 (j) If the project is for the design of a public work of the State,  
2 evidence that the applicant is qualified to bid on a public work of the  
3 State pursuant to NRS 338.1379.

4 4. The public body or its authorized representative shall make  
5 available to the public the name of each applicant who submits a  
6 proposal pursuant to this section.

7 ***5. An applicant shall not substitute a different employee***  
8 ***for an employee whose resume was submitted pursuant to***  
9 ***paragraph (f) of subsection 3, unless:***

10 ***(a) The employee whose resume was submitted is no longer***  
11 ***employed by the applicant or is unavailable for medical reasons;***  
12 ***or***

13 ***(b) The public body enters into a contract with the applicant***  
14 ***for preconstruction services pursuant to NRS 338.1693 more than***  
15 ***90 days after the date on which the final ranking of applicants was***  
16 ***made pursuant to subsection 7 of NRS 338.1693.***

17 **Sec. 1.7.** NRS 338.1693 is hereby amended to read as follows:

18 338.1693 1. The public body or its authorized representative  
19 shall appoint a panel consisting of at least three but not more than  
20 seven members, a majority of whom must have experience in the  
21 construction industry, to rank the proposals submitted to the public  
22 body by evaluating the proposals as required pursuant to subsections  
23 2 and 3.

24 2. The panel appointed pursuant to subsection 1 shall rank the  
25 proposals by:

26 (a) Verifying that each applicant satisfies the requirements of  
27 NRS 338.1691; and

28 (b) Evaluating and assigning a score to each of the proposals  
29 received by the public body based on the factors and relative weight  
30 assigned to each factor that the public body specified in the request  
31 for proposals.

32 3. When ranking the proposals, the panel appointed pursuant to  
33 subsection 1 shall assign a relative weight of 5 percent to the  
34 applicant's possession of a certificate of eligibility to receive a  
35 preference in bidding on public works if the applicant submits a  
36 signed affidavit that meets the requirements of subsection 1 of NRS  
37 338.0117. If any federal statute or regulation precludes the granting  
38 of federal assistance or reduces the amount of that assistance for a  
39 particular public work because of the provisions of this subsection,  
40 those provisions of this subsection do not apply insofar as their  
41 application would preclude or reduce federal assistance for that  
42 work.

43 4. After the panel appointed pursuant to subsection 1 ranks the  
44 proposals, the public body or its authorized representative shall,  
45 except as otherwise provided in subsection 8, select at least the two



1 but not more than the five applicants whose proposals received the  
2 highest scores for interviews.

3 5. The public body or its authorized representative may appoint  
4 a separate panel to interview and rank the applicants selected  
5 pursuant to subsection 4. If a separate panel is appointed pursuant to  
6 this subsection, the panel must consist of at least three but not more  
7 than seven members, a majority of whom must have experience in  
8 the construction industry.

9 6. During the interview process, the panel conducting the  
10 interview may require the applicants to submit a preliminary  
11 proposed amount of compensation for managing the preconstruction  
12 and construction of the public work, *including, without limitation,*  
13 *the cost of general overhead and profit*, but in no event shall the  
14 proposed amount of compensation ~~exceed~~ *be less than 5 percent*  
15 *or more than* 20 percent of the scoring for the selection of the most  
16 qualified applicant. All presentations made at any interview  
17 conducted pursuant to this subsection or subsection 5 may be made  
18 only by key personnel employed by the applicant, as determined by  
19 the applicant, and the employees of the applicant who will be  
20 directly responsible for managing the preconstruction and  
21 construction of the public work.

22 7. After conducting such interviews, the panel that conducted  
23 the interviews shall rank the applicants by using a ranking process  
24 that is separate from the process used to rank the applicants pursuant  
25 to subsection 2 and is based only on information submitted during  
26 the interview process. The score to be given for the proposed  
27 amount of compensation, if any, must be calculated by dividing  
28 the lowest of all the proposed amounts of compensation by the  
29 applicant's proposed amount of compensation multiplied by the  
30 total possible points available to each applicant. When ranking  
31 the applicants, the panel that conducted the interviews shall assign a  
32 relative weight of 5 percent to the applicant's possession of a  
33 certificate of eligibility to receive a preference in bidding on public  
34 works if the applicant submits a signed affidavit that meets the  
35 requirements of subsection 1 of NRS 338.0117. If any federal  
36 statute or regulation precludes the granting of federal assistance or  
37 reduces the amount of that assistance for a particular public work  
38 because of the provisions of this subsection, those provisions of this  
39 subsection do not apply insofar as their application would preclude  
40 or reduce federal assistance for that work.

41 8. If the public body did not receive at least two proposals, the  
42 public body may not contract with a construction manager at risk.

43 9. Upon receipt of the final rankings of the applicants from the  
44 panel that conducted the interviews, the public body or its  
45 authorized representative shall enter into negotiations with the most



1 qualified applicant determined pursuant to the provisions of this  
2 section for a contract for preconstruction services, unless the public  
3 body required the submission of a proposed amount of  
4 compensation, in which case the proposed amount of compensation  
5 submitted by the applicant must be the amount offered for the  
6 contract. If the public body or its authorized representative is unable  
7 to negotiate a contract with the most qualified applicant for an  
8 amount of compensation that the public body or its authorized  
9 representative and the most qualified applicant determine to be fair  
10 and reasonable, the public body or its authorized representative shall  
11 terminate negotiations with that applicant. The public body or its  
12 authorized representative may then undertake negotiations with the  
13 next most qualified applicant in sequence until an agreement is  
14 reached and, if the negotiation is undertaken by an authorized  
15 representative of the public body, approved by the public body or  
16 until a determination is made by the public body to reject all  
17 applicants.

18 10. The public body or its authorized representative shall:

19 (a) Make available to all applicants and the public the following  
20 information, as determined by the panel appointed pursuant to  
21 subsection 1 and the panel that conducted the interviews, as  
22 applicable:

23 (1) The final rankings of the applicants;

24 (2) The score assigned to each proposal received by the  
25 public body; and

26 (3) For each proposal received by the public body, the score  
27 assigned to each factor that the public body specified in the request  
28 for proposals; and

29 (b) Provide, upon request, an explanation to any unsuccessful  
30 applicant of the reasons why the applicant was unsuccessful.

31 **Sec. 2.** NRS 338.16991 is hereby amended to read as follows:

32 338.16991 1. To be eligible to provide labor, materials or  
33 equipment on a public work, the contract for which a public body  
34 has entered into with a construction manager at risk pursuant to  
35 NRS 338.1696, a subcontractor must be:

36 (a) Licensed pursuant to chapter 624 of NRS; and

37 (b) Qualified pursuant to the provisions of this section to submit  
38 a proposal for the provision of labor, materials or equipment on a  
39 public work.

40 2. Subject to the provisions of subsections 3, 4 and 5, the  
41 construction manager at risk shall determine whether an applicant is  
42 qualified to submit a proposal for the provision of labor, materials or  
43 equipment on the public work for the purposes of paragraph (b) of  
44 subsection 1.



1 3. Not earlier than 30 days after a construction manager at risk  
2 has been selected pursuant to NRS 338.1693 and not later than 10  
3 working days before the date by which an application must be  
4 submitted, the construction manager at risk shall advertise for  
5 applications from subcontractors in ~~in a newspaper qualified pursuant~~  
6 ~~to chapter 238 of NRS that is published in the county where the~~  
7 ~~public work will be performed. If no qualified newspaper is~~  
8 ~~published in the county where the public work will be performed,~~  
9 ~~the advertisement must be published in some qualified newspaper~~  
10 ~~that is printed in the State of Nevada and has a general circulation in~~  
11 ~~the county.] the manner set forth in paragraph (a) of subsection 1~~  
12 ~~of NRS 338.1385.~~ The construction manager at risk may accept an  
13 application from a subcontractor before advertising for applications  
14 pursuant to this subsection.

15 4. The criteria to be used by the construction manager at risk  
16 when determining whether an applicant is qualified to submit a  
17 proposal for the provision of labor, materials or equipment must  
18 include, and must be limited to:

19 (a) The monetary limit placed on the license of the applicant by  
20 the State Contractors' Board pursuant to NRS 624.220;

21 (b) The financial ability of the applicant to provide the labor,  
22 materials or equipment required on the public work;

23 (c) Whether the applicant has the ability to obtain the necessary  
24 bonding for the work required by the public body;

25 (d) The safety programs established and the safety records  
26 accumulated by the applicant;

27 (e) Whether the applicant has breached any contracts with a  
28 public body or person in this State or any other state during the 5  
29 years immediately preceding the application;

30 (f) Whether the applicant has been disciplined or fined by the  
31 State Contractors' Board or another state or federal agency for  
32 conduct that relates to the ability of the applicant to perform the  
33 public work;

34 (g) The performance history of the applicant concerning other  
35 recent, similar public or private contracts, if any, completed by the  
36 applicant in Nevada;

37 (h) The principal personnel of the applicant;

38 (i) Whether the applicant has been disqualified from the award  
39 of any contract pursuant to NRS 338.017 or 338.13895; and

40 (j) The truthfulness and completeness of the application.

41 5. The public body or its authorized representative shall ensure  
42 that each determination made pursuant to subsection 2 is made  
43 subject to the provisions of subsection 4.





1 6. The construction manager at risk shall notify each applicant  
2 and the public body in writing of a determination made pursuant to  
3 subsection 2.

4 7. A determination made pursuant to subsection 2 that an  
5 applicant is not qualified may be appealed pursuant to NRS  
6 338.1381 to the public body with whom the construction manager at  
7 risk has entered into a contract for the construction of the public  
8 work.

9 **Sec. 3.** NRS 338.16995 is hereby amended to read as follows:

10 338.16995 1. If a public body enters into a contract with a  
11 construction manager at risk for the construction of a public work  
12 pursuant to NRS 338.1696, the construction manager at risk may  
13 enter into a subcontract for the provision of labor, materials and  
14 equipment necessary for the construction of the public work only as  
15 provided in this section.

16 2. The provisions of this section apply only to a subcontract for  
17 which the estimated value is at least 1 percent of the total cost of the  
18 public work or \$50,000, whichever is greater.

19 3. After the design and schedule for the construction of the  
20 public work is sufficiently detailed and complete to allow a  
21 subcontractor to submit a meaningful and responsive proposal, and  
22 not later than 21 days before the date by which a proposal for the  
23 provision of labor, materials or equipment by a subcontractor must  
24 be submitted, the construction manager at risk shall notify in writing  
25 each subcontractor who was determined pursuant to NRS 338.16991  
26 to be qualified to submit such a proposal of a request for such  
27 proposals ***H and shall provide to each such subcontractor a form  
28 prepared by the construction manager at risk and approved by the  
29 public body on which any proposal in response to the request for  
30 proposals must be submitted.*** A copy of the notice required  
31 pursuant to this subsection must be provided to the public body.

32 4. The notice required pursuant to subsection 3 must include,  
33 without limitation:

34 (a) A description of the design for the public work and a  
35 statement indicating where a copy of the documents relating to that  
36 design may be obtained;

37 (b) A description of the type and scope of labor, equipment and  
38 materials for which subcontractor proposals are being sought;

39 (c) The dates on which it is anticipated that construction of the  
40 public work will begin and end;

41 (d) If a preproposal meeting regarding the scope of the work to  
42 be performed by the subcontractor is to be held, the date, time and  
43 place at which the preproposal meeting will be held;

44 (e) The date and time by which proposals must be received, and  
45 to whom they must be submitted;



- 1 (f) The date, time and place at which proposals will be opened
- 2 for evaluation;
- 3 (g) A description of the bonding and insurance requirements for
- 4 subcontractors;
- 5 (h) Any other information reasonably necessary for a
- 6 subcontractor to submit a responsive proposal; and
- 7 (i) A statement in substantially the following form:

8  
9 Notice: For a proposal for a subcontract on the public work to  
10 be considered:

- 11 1. The subcontractor must be licensed pursuant to
- 12 chapter 624 of NRS;
- 13 2. The proposal must be *submitted on the form provided*
- 14 *by the construction manager at risk and be* timely received;
- 15 3. If a preproposal meeting regarding the scope of the
- 16 work to be performed by the subcontractor is held, the
- 17 subcontractor must attend the preproposal meeting; and
- 18 4. The subcontractor may not modify the proposal after
- 19 the date and time the proposal is received.

20  
21 5. A subcontractor may not modify a proposal after the date  
22 and time the proposal is received.

23 6. To be considered responsive, a proposal must:

24 (a) Be *submitted on the form provided by the construction*  
25 *manager at risk pursuant to subsection 3;*

26 (b) *Be* timely received by the construction manager at risk; and

27 ~~(b)~~ (c) Substantially and materially conform to the details and  
28 requirements included in the proposal instructions and for the  
29 finalized bid package for the public work, including, without  
30 limitation, details and requirements affecting price and performance.

31 7. The opening of the proposals must be attended by an  
32 authorized representative of the public body. The public body may  
33 require the architect or engineer responsible for the design of the  
34 public work to attend the opening of the proposals. The opening of  
35 the proposals is not otherwise open to the public.

36 8. At the time the proposals are opened, the construction  
37 manager at risk shall compile and provide to the public body or its  
38 authorized representative a list that includes, without limitation, the  
39 name and contact information of each subcontractor who submits a  
40 timely proposal.

41 9. Not more than 10 working days after opening the proposals  
42 and before the construction manager at risk submits a guaranteed  
43 maximum price, a fixed price or a fixed price plus reimbursement  
44 pursuant to NRS 338.1696, the construction manager at risk shall:



1 (a) Evaluate the proposals and determine which proposals are  
2 responsive.

3 (b) Select the subcontractor who submits the proposal that the  
4 construction manager at risk determines is the best proposal. Subject  
5 to the provisions of subparagraphs (1), (2) and (3), if only one  
6 subcontractor submits a proposal, the construction manager at risk  
7 may select that subcontractor. The subcontractor must be selected  
8 from among those:

9 (1) Who attended the preproposal meeting regarding the  
10 scope of the work to be performed by the subcontractor, if such a  
11 preproposal meeting was held;

12 (2) Who submitted a responsive proposal; and

13 (3) Whose names are included on the list compiled and  
14 provided to the public body or its authorized representative pursuant  
15 to subsection 8.

16 (c) Inform the public body or its authorized representative which  
17 subcontractor has been selected.

18 10. The public body or its authorized representative shall  
19 ensure that the evaluation of proposals and selection of  
20 subcontractors are done pursuant to the provisions of this section  
21 and regulations adopted by the State Public Works Board.

22 11. A subcontractor selected pursuant to subsection 9 need not  
23 be selected by the construction manager at risk solely on the basis of  
24 lowest price.

25 12. Except as otherwise provided in subsections 13 and 15, the  
26 construction manager at risk shall enter into a subcontract with a  
27 subcontractor selected pursuant to subsection 9 to provide the labor,  
28 materials or equipment described in the request for proposals.

29 13. A construction manager at risk shall not substitute a  
30 subcontractor for any subcontractor selected pursuant to subsection  
31 9 unless:

32 (a) The public body or its authorized representative objects to  
33 the subcontractor, requests in writing a change in the subcontractor  
34 and pays any increase in costs resulting from the change; or

35 (b) The substitution is approved by the public body after the  
36 selected subcontractor:

37 (1) Files for bankruptcy or becomes insolvent;

38 (2) After having a reasonable opportunity, fails or refuses to  
39 execute a written contract with the construction manager at risk  
40 which was offered to the selected subcontractor with the same  
41 general terms that all other subcontractors on the project were  
42 offered;

43 (3) Fails or refuses to perform the subcontract within a  
44 reasonable time;



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1 (4) Is unable to furnish a performance bond and payment  
2 bond pursuant to NRS 339.025, if required for the public work; or

3 (5) Is not properly licensed to provide that labor or portion of  
4 the work.

5 14. If a construction manager at risk substitutes a subcontractor  
6 for any subcontractor selected pursuant to subsection 9 without  
7 complying with the provisions of subsection 13, the construction  
8 manager at risk shall forfeit, as a penalty to the public body, an  
9 amount equal to 1 percent of the total amount of the contract.

10 15. If a construction manager at risk does not select a  
11 subcontractor pursuant to subsection 9 to perform a portion of work  
12 on a public work, the construction manager at risk shall notify the  
13 public body that the construction manager at risk intends to perform  
14 that portion of work. If, after providing such notification, the  
15 construction manager at risk substitutes a subcontractor to perform  
16 the work, the construction manager at risk shall forfeit, as a penalty  
17 to the public body, the lesser of, and excluding any amount of the  
18 contract that is attributable to change orders:

19 (a) An amount equal to 2.5 percent of the total amount of the  
20 contract; or

21 (b) An amount equal to 35 percent of the estimate by the  
22 engineer of the cost of the work the construction manager at risk  
23 selected himself or herself to perform on the public work.

24 16. The construction manager at risk shall make available to  
25 the public the name of each subcontractor who submits a proposal.

26 17. If a public work is being constructed in phases, and a  
27 construction manager at risk selects a subcontractor pursuant to  
28 subsection 9 for the provision of labor, materials or equipment for  
29 any phase of that construction, the construction manager at risk may  
30 select that subcontractor for the provision of labor, materials or  
31 equipment for any other phase of the construction without following  
32 the requirements of subsections 3 to 11, inclusive.

33 18. As used in this section, "general terms" has the meaning  
34 ascribed to it in NRS 338.141.

35 **Sec. 4.** NRS 338.1711 is hereby amended to read as follows:

36 338.1711 1. Except as otherwise provided in this section and  
37 NRS 338.161 to 338.16995, inclusive, a public body shall contract  
38 with a prime contractor for the construction of a public work for  
39 which the estimated cost exceeds \$100,000.

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



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

6       **Sec. 5.** Section 15 of chapter 487, Statutes of Nevada 2013, at  
7 page 2986, is hereby amended to read as follows:

8           Sec. 15. 1. This section and sections 1, 2, 3, 4, 5, 6,  
9 7.5 to 13, inclusive, 14, 14.3 and 14.5 of this act become  
10 effective on July 1, 2013.

11           2. Section 1 of this act expires by limitation on June 30,  
12 ~~2017.~~ **2021.**

13           3. Sections 2.3, 2.5, 3.5, 4.5, 5.3, 5.5, 5.7, 6.5, 13.5, 14.1  
14 and 14.7 of this act become effective on July 1, ~~2017.~~ **2021.**

15       **Sec. 6.** Section 9 of chapter 123, Statutes of Nevada 2015, at  
16 page 457, is hereby amended to read as follows:

17           Sec. 9. 1. This act becomes effective upon passage  
18 and approval.

19           2. Sections 6 and 7.5 of this act expire by limitation on  
20 June 30, ~~2017.~~ **2021.**

21       **Sec. 7.** 1. This section and sections 5 and 6 of this act  
22 become effective upon passage and approval.

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

25           3. Sections 1 to 3, inclusive, of this act expire by limitation on  
26 June 30, 2021.







