

TITLE 28 - PUBLIC WORKS AND PLANNING

**Nevada Revised Statutes (NRS)  
CHAPTER 338 - PUBLIC WORKS**

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## GENERAL PROVISIONS

**NRS 338.010 Definitions.** [Effective through June 30, 2017.] 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 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 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. "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 5 or 6 of [NRS 338.070](#).
15. "Prime contractor" means a contractor who:
- (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.
- È 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. "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. "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. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of [NRS 624.215](#).
19. "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,
- È that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of [NRS 338.1711](#).
20. "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,
- È for the provision of labor, materials, equipment or supplies for a construction project.
21. "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. "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. "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. "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.
- [1 1/2:139;1937; added 1941, 389; 1931 NCL § 6179.51 1/2]—(NRS A 1969, 735; 1979, 1288; 1981, 526; 1983, 130, 1573; [1989, 1965](#); [1993, 392, 2131, 2247](#); [1995, 691](#); [1999, 1849, 1991, 2396, 3472, 3502](#); [2001, 252, 1143, 1268, 2022, 2258, 2276](#); [2003, 119, 124, 1518, 1986, 2411, 2489](#); [2005, 1793](#); [2011, 490, 2959](#); [2013, 750, 2958](#))

**NRS 338.010 Definitions. [Effective July 1, 2017.]** 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 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 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. "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.
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 5 or 6 of [NRS 338.070](#).
14. "Prime contractor" means a contractor who:
  - (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.

È 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](#).

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.

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.

17. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of [NRS 624.215](#).

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,

È that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of [NRS 338.1711](#).

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,

È for the provision of labor, materials, equipment or supplies for a construction project.

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.

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

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.

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.

[1 1/2:139:1937; added 1941, 389; 1931 NCL § 6179.51 1/2]—(NRS A 1969, 735; 1979, 1288; 1981, 526; 1983, 130, 1573; [1989, 1965](#); [1993, 392](#), [2131](#), [2247](#); [1995, 691](#); [1999, 1849](#), [1991](#),

[2396](#), [3472](#), [3502](#); [2001.252](#), [1143](#), [1268](#), [2022](#), [2258](#), [2276](#); [2003.119](#), [124](#), [1518](#), [1986](#), [2411](#), [2489](#); [2005.1793](#); [2011.490](#), [2959](#); [2013.750](#), [2958](#), [2961](#), effective July 1, 2017)

**NRS 338.011 Applicability: Contracts related to normal operation and normal maintenance; contracts related to emergency.** The requirements of this chapter do not apply to a contract:

1. Awarded in compliance with [chapter 332](#) or [333](#) of NRS which is directly related to the normal operation of the public body or the normal maintenance of its property.
2. Awarded to meet an emergency which results from a natural or artificially created disaster and which threatens the health, safety or welfare of the public. If the public body or its authorized representative determines that an emergency exists, a contract or contracts necessary to contend with the emergency may be let without complying with the requirements of this chapter. If such emergency action was taken by the authorized representative, the authorized representative shall report the contract or contracts to the public body at the next regularly scheduled meeting of the public body.

(Added to NRS by 1981, 526; A [2003.2414](#))

**NRS 338.0115 Inapplicability of this chapter and [chapters 332](#) and [339](#) of NRS to certain projects constructed by private developers.**

1. Except as otherwise provided in subsection 2, the provisions of this chapter and [chapters 332](#) and [339](#) of NRS do not apply to a contract under which a private developer, for the benefit of a private development, constructs a water or sewer line extension and any related appurtenances:

(a) Which qualify as a public work pursuant to [NRS 338.010](#); and

(b) For which the developer will receive a monetary contribution or refund from a public body as reimbursement for a portion of the costs of the project.

2. If, pursuant to the provisions of such a contract, the developer is not responsible for paying all of the initial construction costs of the project, the provisions of [NRS 338.0117](#), [338.013](#) to [338.090](#), inclusive, and [338.1373](#) to [338.148](#), inclusive, apply to the contract.

(Added to NRS by [1995.2648](#); A [1999.2397](#); [2011.41](#))

**NRS 338.0117 Qualification to receive preference in bidding: Submission of affidavit to public body certifying compliance with requirements; provisions required to be included in contract; written objections for failure to comply with requirements; penalty; annual report to Legislative Commission by public body concerning such contracts. [Effective through June 30, 2017.]**

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, collectively, and not on any specific day:

(a) At least 50 percent of the 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 of the State of Nevada;

(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) If applying to receive a preference in bidding pursuant to subsection 3 of [NRS 338.1727](#) or subsection 2 of [NRS 408.3886](#), at least 50 percent of the design professionals working on the public work, including, without limitation, employees of the design-build team and of any subcontractor or consultant engaged in the design of the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada; and

(d) 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 that is awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 as a result of the contractor, applicant or design-build team receiving 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 (d), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (d), inclusive, of subsection 1 entitles the public body to a penalty only as provided in subsections 5 and 6.

3. A person who submitted a bid on the public work or an entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1 but has failed to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1 may file, before the substantial completion of the public work, 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 (d), 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 (d), 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 (d), 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 (d), inclusive, of subsection 1, a penalty as described in subsection 6 for a failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1. If a public body recovers a penalty pursuant to this subsection, the public body shall report to the State Contractors' Board the date of the failure to comply, the name of each entity which failed to comply and the cost of the contract to which the entity that failed to comply was a party. 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 in bidding described in subsection 1 and is awarded the contract as a result of that preference, 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 and each contract between a subcontractor and a lower tier subcontractor must provide that:

(a) If a party to the contract causes the contractor, applicant or design-build team to fail to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1, the party is liable to the public body for a penalty 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 caused the failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1; and

(c) No other party to the contract is liable to the public body for a penalty.

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 (d), inclusive, of subsection 1.

8. As used in this section:

(a) "Lower tier subcontractor" means a subcontractor who contracts with another subcontractor to provide labor, materials or services to the other subcontractor for a construction project.

(b) "Vehicle used primarily for the public work" does not include any vehicle that is present at the site of the public work only occasionally and for a purpose incidental to the public work including, without limitation, the delivery of materials. Notwithstanding the provisions of the paragraph, the term includes any vehicle which is:

(1) Owned or operated by the contractor or any subcontractor who is engaged on the public work; and

(2) Present at the site of the public work.

(Added to NRS by [2011, 39](#); A [2011, 2576](#); [2013, 1388](#))

**NRS 338.0117 Qualification to receive preference in bidding: Submission of affidavit to public body certifying compliance with requirements; provisions required to be included in contract; written objections for failure to comply with requirements; penalty; annual report to Legislative Commission by public body concerning such contracts. [Effective July 1, 2017.]**

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 338.1727](#) 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, collectively, and not on any specific day:

(a) At least 50 percent of the 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 of the State of Nevada;

(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) If applying to receive a preference in bidding pursuant to subsection 3 of [NRS 338.1727](#) or subsection 2 of [NRS 408.3886](#), at least 50 percent of the design professionals working on the public work, including, without limitation, employees of the design-build team and of any subcontractor or consultant engaged in the design of the public work, will have a valid driver's license or identification card issued by the Department of Motor Vehicles of the State of Nevada; and

(d) 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 that is awarded to a contractor, applicant or design-build team who submits the affidavit described in subsection 1 as a result of the contractor, applicant or design-build team receiving 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 (d), inclusive, of subsection 1; and

(b) Provide that a failure to comply with any requirement of paragraphs (a) to (d), inclusive, of subsection 1 entitles the public body to a penalty only as provided in subsections 5 and 6.

3. A person who submitted a bid on the public work or an entity who believes that a contractor, applicant or design-build team has obtained a preference in bidding as described in subsection 1

but has failed to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1 may file, before the substantial completion of the public work, 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 (d), 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 (d), 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 (d), 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 (d), inclusive, of subsection 1, a penalty as described in subsection 6 for a failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1. If a public body recovers a penalty pursuant to this subsection, the public body shall report to the State Contractors' Board the date of the failure to comply, the name of each entity which failed to comply and the cost of the contract to which the entity that failed to comply was a party. 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 in bidding described in subsection 1 and is awarded the contract as a result of that preference, 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 and each contract between a subcontractor and a lower tier subcontractor must provide that:

(a) If a party to the contract causes the contractor, applicant or design-build team to fail to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1, the party is liable to the public body for a penalty 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 caused the failure to comply with a requirement of paragraphs (a) to (d), inclusive, of subsection 1; and

(c) No other party to the contract is liable to the public body for a penalty.

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 (d), inclusive, of subsection 1.

8. As used in this section:

(a) "Lower tier subcontractor" means a subcontractor who contracts with another subcontractor to provide labor, materials or services to the other subcontractor for a construction project.

(b) "Vehicle used primarily for the public work" does not include any vehicle that is present at the site of the public work only occasionally and for a purpose incidental to the public work including, without limitation, the delivery of materials. Notwithstanding the provisions of the paragraph, the term includes any vehicle which is:

(1) Owned or operated by the contractor or any subcontractor who is engaged on the public work; and

(2) Present at the site of the public work.

(Added to NRS by [2011, 39](#); A [2011, 2576](#); [2013, 1388, 2964](#), effective July 1, 2017)

**NRS 338.0118 Adoption by local government of policies providing for use of certain recycled materials in public road and highway projects; use of such materials; exception.**

1. The governing body of a local government that undertakes a project pursuant to this chapter for the construction, reconstruction, improvement, maintenance or repair of a public road or public highway shall adopt policies that provide for the use of recycled aggregate, recycled bituminous pavement and recycled rubber from tires in the project.

2. A local government or its authorized representative which awards a contract for a public work which includes the construction, reconstruction, improvement, maintenance or repair of a public road or public highway shall ensure that the use of any recycled aggregate, recycled bituminous pavement or recycled rubber from tires, or any combination thereof, in the construction, reconstruction, improvement, maintenance or repair of the public road or public highway is not restricted unless scientific evidence satisfactory to the local government clearly indicates that the use of the recycled aggregate, recycled bituminous pavement or recycled rubber from tires for that construction, reconstruction, improvement, maintenance or repair compromises the soundness of the project.

(Added to NRS by [2011, 1602](#))

**NRS 338.012 Regulations of Labor Commissioner.** The Labor Commissioner may adopt such regulations as are necessary to enable the Labor Commissioner to carry out his or her duties pursuant to the provisions of this chapter.

(Added to NRS by 1983, 1361)

## EMPLOYMENT

### General Provisions

**NRS 338.013 Inclusion of identifying number from Labor Commissioner in advertisement or solicitation; reports by public bodies and contractors to Labor Commissioner.**

1. A public body that undertakes a public work shall request from the Labor Commissioner, and include in any advertisement or other type of solicitation, an identifying number with a designation of the work. That number must be included in any bid or other document submitted in response to the advertisement or other type of solicitation.

2. Each public body which awards a contract for any public work shall report its award to the Labor Commissioner within 10 days after the award, giving the name and address of the contractor to whom the public body awarded the contract and the identifying number for the public work.

3. Each contractor engaged on a public work shall report to the Labor Commissioner and the public body that awarded the contract the name and address of each subcontractor whom the contractor engages for work on the project within 10 days after the subcontractor commences work on the contract and the identifying number for the public work.

4. The public body which awarded the contract shall report the completion of all work performed under the contract to the Labor Commissioner before the final payment of money due the contractor by the public body.

(Added to NRS by 1977, 789; A [1985, 2039](#); [1997, 3081](#); [2003, 2414](#); [2009, 2069](#))

**NRS 338.015 Enforcement by Labor Commissioner and Attorney General.**

1. The Labor Commissioner shall enforce the provisions of [NRS 338.010](#) to [338.130](#), inclusive.

2. In addition to any other remedy or penalty provided in this chapter, if any person, including, without limitation, a public body, violates any provision of [NRS 338.010](#) to [338.130](#), inclusive, or any regulation adopted pursuant thereto, the Labor Commissioner may, after providing the person with notice and an opportunity for a hearing, impose against the person an administrative penalty of not more than \$5,000 for each such violation.

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

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

(Added to NRS by 1973, 874; A [1993, 2248](#); [2001, 1146](#); [2003, 798](#); [2005, 202](#))

**NRS 338.016 Civil action to recover damages resulting from commission of offense.**

1. If, after an opportunity for a hearing, an administrative penalty is imposed against a contractor on a public work for the commission of an offense:

(a) An eligible bidder, or any person who entered into a contract with the eligible bidder before bids for the contract for the public work were let, may commence a civil action against the contractor to recover damages suffered as a proximate result of the eligible bidder not being awarded the contract for the public work.

(b) There is a rebuttable presumption that the contractor was awarded the contract for the public work because the contractor's bid on the contract was based, in part, on his or her intent to commit the offense and, as a result, was lower than it otherwise would have been.

2. The court may award costs and reasonable attorney's fees to the prevailing party in any action brought pursuant to this section.

(Added to NRS by [1993, 2247](#); A [2003, 799](#))

**NRS 338.017 Temporary disqualification of contractor after imposition of administrative penalty; notification of State Contractors' Board.** If any administrative penalty is imposed against a person for the commission of an offense:

1. That person, and the corporate officers, if any, of that person, may not be awarded a contract for a public work:

(a) For the first offense, for a period of 3 years after the date of the imposition of the administrative penalty; and

(b) For the second or subsequent offense, for a period of 5 years after the date of the imposition of the administrative penalty.

2. The Labor Commissioner shall notify the State Contractors' Board of each contractor who is prohibited from being awarded a contract for a public work pursuant to this section.

(Added to NRS by [1993, 2247](#); A [2001, 1146](#); [2003, 2145](#))

**NRS 338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. [Effective through June 30, 2017.]** 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 cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 17 of [NRS 338.010](#).

(Added to NRS by [2005, 2890](#); A [2013, 2966](#))

**NRS 338.018 Applicability to certain contracts for construction work of Nevada System of Higher Education. [Effective July 1, 2017.]** 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 cost exceeds \$100,000 even if the construction work does not qualify as a public work, as defined in subsection 16 of [NRS 338.010](#).

(Added to NRS by [2005, 2890](#); A [2013, 2966](#), effective July 1, 2017)

## Wages

**NRS 338.020 Hourly and daily rate of wages must not be less than prevailing wage in county; rate must be included in contract and posted on-site; payment of overtime; wages paid in accordance with jurisdictional classes recognized in locality.**

1. Every contract to which a public body of this State is a party, requiring the employment of skilled mechanics, skilled workers, semiskilled mechanics, semiskilled workers or unskilled labor in the performance of public work, must contain in express terms the hourly and daily rate of wages to be paid each of the classes of mechanics and workers. The hourly and daily rate of wages must:

(a) Not be less than the rate of such wages then prevailing in the county in which the public work is located, which prevailing rate of wages must have been determined in the manner provided in [NRS 338.030](#); and

(b) Be posted on the site of the public work in a place generally visible to the workers.

2. When public work is performed by day labor, the prevailing wage for each class of mechanics and workers so employed applies and must be stated clearly to such mechanics and workers when employed.

3. Except as otherwise provided in subsection 4, a contractor or subcontractor shall pay to a mechanic or worker employed by the contractor or subcontractor on the public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker for each hour the mechanic or worker works on the public work in excess of:

(a) Forty hours in any scheduled week of work by the mechanic or worker for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work; or

(b) Eight hours in any workday that the mechanic or worker was employed by the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work, unless by mutual agreement the mechanic or worker works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

4. The provisions of subsection 3 do not apply to a mechanic or worker who is covered by a collective bargaining agreement that provides for the payment of wages at not less than one and one-half times the rate of wages set forth in the collective bargaining agreement for work in excess of:

(a) Forty hours in any scheduled week of work; or

(b) Eight hours in any workday unless the collective bargaining agreement provides that the mechanic or worker shall work a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

5. The prevailing wage and any wages paid for overtime pursuant to subsection 3 or 4 to each class of mechanics or workers must be in accordance with the jurisdictional classes recognized in the locality where the work is performed.

6. Nothing in this section prevents an employer who is signatory to a collective bargaining agreement from assigning such work in accordance with established practice.

[1:139:1937; A 1941, 389; 1931 NCL § 6179.51]—(NRS A 1969, 736; 1973, 874; 1983, 131; [1985, 2040](#); [2003, 1741](#); [2005, 812](#))

**NRS 338.030 Procedure for determination of prevailing wage in county.**

1. The public body awarding any contract for public work, or otherwise undertaking any public work, shall ascertain from the Labor Commissioner the prevailing wage in the county in which the public work is to be performed for each craft or type of work.

2. To establish a prevailing wage in each county, including Carson City, the Labor Commissioner shall, annually, survey contractors who have performed work in the county. Within 30 days after the determination is issued:

(a) A public body or person entitled under subsection 5 to be heard may submit an objection to the Labor Commissioner with evidence to substantiate that a different wage prevails; and

(b) Any person may submit information to the Labor Commissioner that would support a change in the prevailing wage of a craft or type of work by 50 cents or more per hour in any county.

3. The Labor Commissioner shall hold a hearing in the locality in which the work is to be executed if the Labor Commissioner:
  - (a) Is in doubt as to the prevailing wage; or
  - (b) Receives an objection or information pursuant to subsection 2.È The Labor Commissioner may hold only one hearing a year on the prevailing wage of any craft or type of work in any county.
4. Notice of the hearing must be advertised in a newspaper nearest to the locality of the work once a week for 2 weeks before the time of the hearing.
5. At the hearing, any public body, the crafts affiliated with the State Federation of Labor or other recognized national labor organizations, and the contractors of the locality or their representatives must be heard. From the evidence presented, the Labor Commissioner shall determine the prevailing wage.
6. The wages so determined must be filed by the Labor Commissioner and must be available to any public body which awards a contract for any public work.
7. Nothing contained in [NRS 338.020](#) to [338.090](#), inclusive, may be construed to authorize the fixing of any wage below any rate which may now or hereafter be established as a minimum wage for any person employed upon any public work, or employed by any officer or agent of any public body.  
[2:139:1937; 1931 NCL § 6179.52]—(NRS A [1985, 2040](#); [2001, 1147](#); [2003, 2414](#))

**NRS 338.035 Discharge of part of obligation of contractor or subcontractor engaged on public work to pay wages by making certain contributions in name of worker.** The obligation of a contractor engaged on a public work or a subcontractor engaged on a public work to pay wages in accordance with the determination of the Labor Commissioner may be discharged in part by making contributions to a third person pursuant to a fund, plan or program in the name of the worker.  
(Added to NRS by 1983, 1574; A [2003, 2415](#); [2005, 813](#))

**NRS 338.040 Workers deemed to be employed on public works.**

1. Except as otherwise provided by specific statute, workers who are:
  - (a) Employed at the site of a public work; and
  - (b) Necessary in the execution of the contract for the public work,È are deemed to be employed on public works.
2. The Labor Commissioner shall adopt regulations to define the circumstances under which a worker is:
  - (a) Employed at the site of a public work; and
  - (b) Necessary in the execution of the contract for the public work.[3:139:1937; A 1941, 389; 1931 NCL § 6179.53]—(NRS A [2001, 1147](#))

**NRS 338.050 Contractual relationships: Applicability of [NRS 338.010](#) to [338.090](#), inclusive.** For the purpose of [NRS 338.010](#) to [338.090](#), inclusive, except as otherwise provided by specific statute, every worker who performs work for a public work covered by a contract therefor is subject to all of the provisions of [NRS 338.010](#) to [338.090](#), inclusive, regardless of any contractual relationship alleged to exist between such worker and his or her employer.  
[4:139:1937; A 1941, 389; 1931 NCL § 6179.54]—(NRS A [2001, 1148](#); [2005, 2891](#); [2013, 1026](#))

**NRS 338.060 Forfeitures when workers paid less than designated rates or willfully reported in inaccurate or incomplete manner or not reported to public body; forfeiture clause in contracts; regulation establishing sliding scale for penalties; recovery of investigative costs and attorney's fees; waiver or reduction of penalty.**

1. Except as otherwise provided in subsection 8, a contractor engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the contract has been made and awarded to the contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each worker employed on the public work is paid less than the designated rate for any work done under the contract, by the contractor or any subcontractor engaged on the public work.

2. Except as otherwise provided in subsection 8, a contractor engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the contract has been made and awarded to the contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof for each worker employed on the public work for which the contractor or subcontractor willfully included inaccurate or incomplete information in the monthly record required to be submitted to the public body pursuant to subsection 6 of [NRS 338.070](#).

3. Except as otherwise provided in subsection 8, a contractor engaged on a public work shall forfeit, as a penalty to the public body on behalf of which the contract has been made and awarded to the contractor, not less than \$20 nor more than \$50 for each calendar day or portion thereof that each worker employed on the public work is not reported to the public body awarding the contract by the contractor or any subcontractor engaged on the public work as required pursuant to subsection 6 of [NRS 338.070](#), up to a maximum of:

(a) For the first failure to comply during the term of the contract for the public work, \$1,000; and  
(b) For each subsequent failure to comply during the term of the contract for the public work, \$5,000.

4. Except as otherwise provided in subsection 8, if a violation of more than one provision of subsections 1, 2 and 3 involves the same worker, the contractor shall forfeit the penalty set forth in each subsection that was violated.

5. A public body awarding a contract for a public work shall cause a stipulation setting forth the penalties specified in subsections 1 to 4, inclusive, to be inserted in the contract.

6. The Labor Commissioner shall, by regulation, establish a sliding scale based on the size of the business of a contractor engaged on a public work to determine the amount of the penalty to be imposed pursuant to subsections 1 and 2.

7. If a penalty is imposed pursuant to this section, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the Labor Commissioner and the public body.

8. The Labor Commissioner may, for good cause shown, waive or reduce any penalty imposed pursuant to this section.

[6:139:1937; A 1941, 389; 1931 NCL § 6179.56]—(NRS A [1993, 896](#); [1997, 3355](#); [2001, 1148](#); [2003, 1862](#), [2415](#); [2013, 753](#))

**NRS 338.070 Investigations of violations by public bodies; withholding of certain sums by public bodies and contractors; maintenance and inspection of records regarding employees; penalty for noncompliance.**

1. Any public body awarding a contract shall:

(a) Investigate possible violations of the provisions of [NRS 338.010](#) to [338.090](#), inclusive, committed in the course of the execution of the contract, and determine whether a violation has been committed and inform the Labor Commissioner of any such violations; and  
(b) When making payments to the contractor engaged on the public work of money becoming due under the contract, withhold and retain all sums forfeited pursuant to the provisions of [NRS 338.010](#) to [338.090](#), inclusive.

2. No sum may be withheld, retained or forfeited, except from the final payment, without a full investigation being made by the awarding public body.

3. Except as otherwise provided in subsection 7, it is lawful for any contractor engaged on a public work to withhold from any subcontractor engaged on the public work sufficient sums to cover any penalties withheld from the contractor by the awarding public body on account of the failure of the subcontractor to comply with the terms of [NRS 338.010](#) to [338.090](#), inclusive. If payment has already been made to the subcontractor, the contractor may recover from the subcontractor the amount of the penalty or forfeiture in a suit at law.

4. A contractor engaged on a public work and each subcontractor engaged on the public work shall:

(a) Inquire of each worker employed by the contractor or subcontractor in connection with the public work:

(1) Whether the worker wishes to specify voluntarily his or her gender; and  
(2) Whether the worker wishes to specify voluntarily his or her ethnicity; and

(b) For each response the contractor or subcontractor receives pursuant to paragraph (a):

- (1) If the worker chose voluntarily to specify his or her gender or ethnicity, or both, record the worker's responses; and
- (2) If the worker declined to specify his or her gender or ethnicity, or both, record that the worker declined to specify such information.

È A contractor or subcontractor shall not compel or coerce a worker to specify his or her gender or ethnicity and shall not penalize or otherwise take any adverse action against a worker who declines to specify his or her gender or ethnicity. Before inquiring as to whether a worker wishes to specify voluntarily his or her gender or ethnicity, the applicable contractor or subcontractor must inform the worker that such information, if provided, will be open to public inspection as set forth in subsection 6.

5. A contractor engaged on a public work and each subcontractor engaged on the public work shall keep or cause to be kept:

(a) An accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work:

- (1) The name of the worker;
- (2) The occupation of the worker;
- (3) The gender of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection 4, or an entry indicating that the worker declined to specify such information;
- (4) The ethnicity of the worker, if the worker voluntarily agreed to specify that information pursuant to subsection 4, or an entry indicating that the worker declined to specify such information;

(5) If the worker has a driver's license or identification card, an indication of the state or other jurisdiction that issued the license or card; and

(6) The actual per diem, wages and benefits paid to the worker; and

(b) An additional accurate record showing, for each worker employed by the contractor or subcontractor in connection with the public work who has a driver's license or identification card:

- (1) The name of the worker;
- (2) The driver's license number or identification card number of the worker; and
- (3) The state or other jurisdiction that issued the license or card.

6. The records maintained pursuant to subsection 5 must be open at all reasonable hours to the inspection of the public body awarding the contract. The contractor engaged on the public work or subcontractor engaged on the public work shall ensure that a copy of each record for each calendar month is received by the public body awarding the contract no later than 15 days after the end of the month. The copy of the record maintained pursuant to paragraph (a) of subsection 5 must be open to public inspection as provided in [NRS 239.010](#). The copy of the record maintained pursuant to paragraph (b) of subsection 5 is confidential and not open to public inspection. The records in the possession of the public body awarding the contract may be discarded by the public body 2 years after final payment is made by the public body for the public work.

7. A contractor engaged on a public work shall not withhold from a subcontractor engaged on the public work the sums necessary to cover any penalties provided pursuant to subsection 3 of [NRS 338.060](#) that may be withheld from the contractor by the public body awarding the contract because the public body did not receive a copy of the record maintained by the subcontractor pursuant to subsection 5 for a calendar month by the time specified in subsection 6 if:

(a) The subcontractor provided to the contractor, for submission to the public body by the contractor, a copy of the record not later than the later of:

- (1) Ten days after the end of the month; or
- (2) A date agreed upon by the contractor and subcontractor; and

(b) The contractor failed to submit the copy of the record to the public body by the time specified in subsection 6.

È Nothing in this subsection prohibits a subcontractor from submitting a copy of a record for a calendar month directly to the public body by the time specified in subsection 6.

8. Any contractor or subcontractor, or agent or representative thereof, performing work for a public work who neglects to comply with the provisions of this section is guilty of a misdemeanor. [7:139:1937; 1931 NCL § 6179.57]—(NRS A 1977, 789; [1985, 274](#); [1987, 1045](#); [1989, 464](#); [2001, 1148](#); [2003, 1863, 2416](#); [2011, 41](#); [2013, 754](#))

**NRS 338.072 Requirement for subcontractor to hold state business license.** A subcontractor who enters into a subcontract for a public work shall not accept or otherwise receive any public money for the public work, including, without limitation, accepting or receiving any public money as a payment from a contractor, unless the subcontractor is the holder of a state business license issued pursuant to [chapter 76](#) of NRS. (Added to NRS by [2013, 1026](#))

**NRS 338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. [Effective through June 30, 2017.]** 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 of [NRS 338.010](#). (Added to NRS by [2005, 2890](#); A [2013, 2966](#))

**NRS 338.075 Applicability to certain contracts for construction work of Nevada System of Higher Education. [Effective July 1, 2017.]** 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 16 of [NRS 338.010](#). (Added to NRS by [2005, 2890](#); A [2013, 2966, 2967](#), effective July 1, 2017)

**NRS 338.080 Exemptions.** None of the provisions of [NRS 338.020](#) to [338.090](#), inclusive, apply to:

1. Any work, construction, alteration, repair or other employment performed, undertaken or carried out, by or for any railroad company or any person operating the same, whether such work, construction, alteration or repair is incident to or in conjunction with a contract to which a public body is a party, or otherwise.
2. Apprentices recorded under the provisions of [chapter 610](#) of NRS.
3. Any contract for a public work whose cost is less than \$100,000. A unit of the project must not be separated from the total project, even if that unit is to be completed at a later time, in order to lower the cost of the project below \$100,000. [9:139:1937; 1931 NCL § 6179.59] + [8:169:1941; 1931 NCL § 6179.62]—(NRS A 1967, 34; [1985, 2041](#); [2003, 2416](#); [2013, 1026](#))

**NRS 338.090 Penalties.**

1. Except as otherwise provided in subsection 4, any person, including the officers, agents or employees of a public body, who violates any provision of [NRS 338.010](#) to [338.090](#), inclusive, or any regulation adopted pursuant thereto, is guilty of a misdemeanor.
2. The Labor Commissioner, in addition to any other remedy or penalty provided in this chapter:
  - (a) Shall assess a person who, after an opportunity for a hearing, is found to have failed to pay the prevailing wage required pursuant to [NRS 338.020](#) to [338.090](#), inclusive, an amount equal to the difference between the prevailing wages required to be paid and the wages that the contractor or subcontractor actually paid; and
  - (b) May, in addition to any other administrative penalty, impose an administrative penalty not to exceed the costs incurred by the Labor Commissioner to investigate and prosecute the matter.
3. If the Labor Commissioner finds that a person has failed to pay the prevailing wage required pursuant to [NRS 338.020](#) to [338.090](#), inclusive, the public body may, in addition to any other remedy or penalty provided in this chapter, require the person to pay the actual costs incurred by the public body to investigate the matter.
4. The provisions of subsection 1 do not apply to a subcontractor specified in [NRS 338.072](#). [7 1/2:139:1937; A 1941, 389; 1931 NCL § 6179.57 1/2]—(NRS A 1967, 553; [1985, 2041](#); [1993, 2248](#); [2001, 1149](#); [2003, 799, 2417](#); [2013, 1027](#))