
THIRD READING

Bill No: SB 1354
Author: Jones (R)
Introduced: 2/18/22
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 3/17/22
AYES: Caballero, Nielsen, Durazo, Hertzberg, Wiener

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

SUBJECT: Design-build contracting: cities, counties, and cities and counties:
compliance with the federal Americans with Disabilities Act of 1990

SOURCE: Author

DIGEST: This bill allows cities and counties to use design-build for contracts that are necessary to comply with Americans with Disabilities Act (ADA) requirements.

ANALYSIS:

Existing law:

- 1) Requires, pursuant to the Local Agency Public Construction Act (LAPC Act), local officials to invite bids for construction projects and then award contracts to the lowest responsible bidder under the traditional design-bid-build project delivery system.
- 2) Authorizes, until January 1, 2025, cities, counties, and specified special districts, transit and transportation agencies, and specified additional local agencies to use design-build for specified public works contracts in excess of \$1 million using either a low bid or best value process.
- 3) Provides the following parameters for cities and counties that use design-build:

- a) Allows design-build for the construction of a building or buildings and improvements directly related to the construction of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities;
 - b) Allows cities and counties that operate wastewater facilities, solid waste management facilities, or water recycling facilities to use design-build for the construction of such facilities; and,
 - c) Prohibits cities and counties from using design-build for the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure.
- 4) Provides that transit districts and special districts that operate wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities may also use design-build for the following projects:
- a) Transit capital projects that begun project solicitation on or after January 1, 2015, excluding state highway construction or local street and road projects (for transit districts); and
 - b) Regional and local wastewater treatment facilities, regional and local solid waste facilities, regional and local water recycling facilities, or fire protection facilities (for special districts that operate those types of facilities).
- 5) Imposes requirements for the use of skilled labor, the issuance of performance bonds, insurance coverage, and identification of subcontractors that will complete at least one-half of 1% of the value of a design-build contract.

This bill allows cities and counties to use design-build for contracts that are necessary to comply with ADA requirements with the approval of their governing body.

Background

The ADA establishes civil rights protections for individuals with physical and mental disabilities and guarantees them with equal opportunities and access in areas such as public accommodations, transportation, and state and local government services. AB 2932 (O'Donnell, Chapter 54, Statutes of 2020) allowed the City of Long Beach to use design-build for curb ramps to comply with the ADA. The bill limited the city's use of this authority to no more than 3,000 ramps, with the total cost not to exceed \$20 million dollars per year, and required the city

to complete these ramps by January 1, 2025. The city wanted to use design build to expedite the construction of the remaining curb ramps to meet the December 2022 deadline set by the settlement. Because of the existing limitations on design-build, which excludes streets and highways, the City of Long Beach needed specific authority to use design-build for their curb-ramp projects.

Comments

- 1) *Purpose of the bill.* According to the author, “California needs a more efficient pathway to provide infrastructure that will make government buildings more accessible to all members of the public. Creating accessibility to more structures is a practical use of taxpayer dollars, and using the design-build process could help those taxpayer dollars go farther. The current process for building ADA compliant infrastructure is difficult for contractors, cities, and counties because they are limited to traditional government procurement procedures that can be tedious and long, causing unnecessary delays in project completion. The design-build process is a more cost effective and faster way for projects to be completed. Existing law exclusively allows cities and counties to use the design-build process for a limited list of specific construction projects. SB 1354 will allow cities and counties to use the design-build procurement process to award contracts for construction of projects that are necessary in order to comply with federal ADA standards. By expanding these permissions to be statewide, there will be a quicker and cheaper opportunity for government buildings to pursue construction projects that will make their buildings ADA compliant and accessible to all community members.”
- 2) *Continuing the trend.* The Legislature enacted SB 785 (Wolk, Chapter 931, Statutes of 2014) to outline a standardized design-build procurement process. SB 1354 follows several other measures previously enacted by the Legislature that allow certain agencies to use design-build for projects that other agencies cannot. While these bills do not change the procurement process, they do allow certain agencies contracting flexibility that other agencies do not enjoy. In this case, SB 1354 extends additional flexibility to cities and counties, but does not extend the same authority to special districts that may also have ADA projects to complete. Should the Legislature continue to provide some agencies with more contracting flexibility for specific types of projects? Or, should the Legislature review how local agencies have made use of the various contracting processes it has authorized, and assess whether local agencies should be able to decide which specific process to use provided that it meets certain standards?

- 3) *What's a project?* This bill allows cities and counties to use design-build for projects necessary to comply with ADA requirements, but does not define what kind of projects those are. This would leave it in the hands of local agencies to decide whether any single project falls into that category or not.
- 4) *The sun is setting.* SB 1354 allows cities and counties to use the existing design-build process for ADA projects. The broader authority in existing law to use design-build sunsets on January 1, 2025, giving cities and counties two years to decide whether to use design-build for these projects. The sunset date might not provide all cities and counties enough time to implement a new procurement process for these projects. However, the existing sunset for design-build allows the Legislature to assess how local agencies have used this broader authority, and whether it should adjust the type of projects that can use design-build or change the procurement process.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

SUPPORT: (Verified 4/5/22)

None received

OPPOSITION: (Verified 4/5/22)

None received

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