

CONCURRENCE IN SENATE AMENDMENTS

AB 400 (Blanca Rubio)

As Amended June 13, 2023

Majority vote

SUMMARY

Extends the sunset date, from January 1, 2025, to January 1, 2031, on provisions of law authorizing local agencies to use the design-build contracting method, and expands the types of JPAs that may use design-build.

Senate Amendments

Expand the types of JPAs that may use design-build to include any JPA, not just JPAs formed to provide transit service as authorized pursuant to existing law.

COMMENTS

California's Legislature began granting design-build authority in the early 1990's, and has typically done so with specified parameters, such as the duration of the authority, the types of agencies allowed to use it, the types of projects for which it can be used, cost thresholds, and specified procedures that must be followed in preparing and awarding contracts. Over the years, this resulted in a number of statutes in a variety of code sections, which created confusion for public agencies and contractors alike.

In an effort to consolidate these statutes, SB 785 (Wolk), Chapter 931, Statutes of 2014, repealed existing law authorizing the Department of General Services (DGS), the Department of Corrections and Rehabilitation (CDCR), and local agencies to use the design-build procurement process, and enacted uniform provisions authorizing DGS, CDCR, and specified local agencies to utilize the design-build procurement process for specified public works projects (with some exceptions, notably design-build authority for CalTrans). SB 785 created one set of codes for DGS and CDCR, and a separate set for specified local agencies, but with similar parameters.

Since SB 785 was enacted, the Legislature has authorized numerous additional local agencies or types of local agencies to use SB 785 design-build authority for additional projects or types of projects.

According to the Author

The Design Build method streamlines public project delivery by allowing local governments to enter into a single contract with a design and construction team that is responsible for designing and building the project. The Design Build method allows counties and local governments to complete and deliver complex public works projects more efficiently and cost effectively versus the more traditional process. Extending the existing design-build authority will provide more certainty for counties and local governments to plan, fund and complete pending and future projects.

Arguments in Support

The California State Association of Counties, sponsor of this measure, writes, "The DB method is an approach to delivering public works projects in which both the design and construction of a project are procured from a single entity. Under design-build, the owner contracts with a single entity to both design and construct a project at a fixed price. Simultaneously, contractors are

provided with more flexibility over project design, materials and construction methods. This promotes project design and construction innovation, which can result in higher quality, as well as cost savings. The approach also reduces the county and local agencies' risk and results in fewer litigation claims for all parties involved.

"In the traditional Design-Bid-Build (DBB) method of construction procurement the design and contracting phases are sequential, with no direct collaboration process. Allowing alternative delivery methods for construction projects gives local governments the ability to make the most cost-effective and advantageous decision for a particular project. The DB method streamlines project delivery through a single contract between the owner and the design-build team. Thus, using the DB method for more complex projects facilitates the completion and delivery of public works construction projects efficiently and cost effectively. AB 400 would allow local governments to continue using this authority until January 1, 2031."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

VOTES:

ASM LOCAL GOVERNMENT: 8-0-0

YES: Aguiar-Curry, Dixon, Boerner, Pacheco, Ramos, Robert Rivas, Waldron, Wilson

ASM APPROPRIATIONS: 14-0-2

YES: Holden, Megan Dahle, Calderon, Wendy Carrillo, Dixon, Mike Fong, Addis, Lowenthal, Papan, Pellerin, Robert Rivas, Sanchez, Weber, Wilson

ABS, ABST OR NV: Bryan, Mathis

ASSEMBLY FLOOR: 74-0-6

YES: Addis, Aguiar-Curry, Alanis, Alvarez, Arambula, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Juan Carrillo, Wendy Carrillo, Chen, Connolly, Megan Dahle, Davies, Dixon, Essayli, Flora, Mike Fong, Gabriel, Gallagher, Garcia, Gipson, Grayson, Haney, Hart, Holden, Hoover, Irwin, Jackson, Jones-Sawyer, Kalra, Lackey, Lee, Low, Lowenthal, Maienschein, Mathis, McCarty, McKinnor, Muratsuchi, Stephanie Nguyen, Ortega, Pacheco, Papan, Jim Patterson, Joe Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Sanchez, Santiago, Schiavo, Soria, Ta, Ting, Valencia, Wallis, Ward, Weber, Wicks, Wood, Zbur, Rendon

ABS, ABST OR NV: Cervantes, Vince Fong, Friedman, Villapudua, Waldron, Wilson

SENATE FLOOR: 37-0-3

YES: Allen, Alvarado-Gil, Archuleta, Ashby, Atkins, Becker, Blakespear, Bradford, Caballero, Cortese, Dahle, Durazo, Eggman, Glazer, Gonzalez, Hurtado, Jones, Laird, Limón, McGuire, Menjivar, Min, Newman, Nguyen, Niello, Ochoa Bogh, Padilla, Roth, Rubio, Seyarto, Skinner, Smallwood-Cuevas, Stern, Umberg, Wahab, Wiener, Wilk

ABS, ABST OR NV: Dodd, Grove, Portantino

UPDATED

VERSION: June 13, 2023

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FN: 0001222