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# SENATE COMMITTEE ON LOCAL GOVERNMENT

Senator María Elena Durazo, Chair

2025 - 2026 Regular

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**Author:** Laird  
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**Fiscal:** Yes  
**Consultant:** Vargas

## ***PAJARO REGIONAL FLOOD MANAGEMENT AGENCY: CONTRACTS***

*Allows the Pajaro Regional Flood Management Agency to use specified procurement methods for flood projects.*

### **Background**

***Contracting.*** The Local Agency Public Construction Act generally requires local agencies to invite bids for construction projects and award contracts to the lowest responsible bidder. Local agencies typically use the traditional design-bid-build method for constructing public works. This approach splits construction projects into two distinct phases: design and construction. During the design phase, the local agency prepares detailed project plans and specifications using its own employees or by hiring outside architects and engineers. Once project designs are complete, local agencies invite bids from the construction community and award the contract to the lowest responsible bidder. Over the last couple of decades, legislators have gradually expanded local agencies' authority to procure construction projects using various alternatives to the design-bid-build project delivery method.

***Best value.*** Best value contracting has generally been recognized as a viable alternative for construction projects. Traditionally, construction projects have been bid out and awarded based upon a lowest-cost approach. Best value, a competitive contracting process, allows projects to be awarded to the contractor offering the best combination of price and qualifications, instead of just the lowest bid. In addition to submitting bids for project cost, prospective contractors also submit technical proposals. The technical proposals are evaluated based on objective criteria, and scores are compiled. The scores are then used to weigh or adjust the submitted bid price. The contract is awarded to the contractor that represents the best value to the contracting agency.

***Design-build.*** California law allows local agencies to use the design-build method, in which a single contract covers the design and construction of a project with a single company or consortium that acts as both the project designer and builder. Existing law generally limits the use of design-build by local agencies to specified types of projects, but with a number of narrow exceptions. It also contains a number of details regarding how design-build projects must progress. (SB 785, Wolk, 2014)

***Progressive Design-Build.*** Progressive design-build is a more recent variant on traditional design-build contracting that generally includes two phases. In the first phase, the awarding authority uses a best value process to select a design-build entity that completes preliminary plans and preconstruction services necessary to provide a cost estimate and final design proposal. The project then "progresses" to the second phase, where the awarding authority and the design-build entity agree to a final design, project cost, and schedule. If they cannot agree, there is an

“off ramp” between the two phases when the awarding authority can pursue other options, but still benefit from having the first phase of work complete. This is different from traditional design-build, where the awarding entity contracts with a single entity to design and construct a project at a set price before design work begins, and without a similar off ramp.

***Construction Manager/General Contractor (CM/GC).*** The CM/GC project-delivery method allows an agency to engage a construction manager during the design process to provide assistance to the design team, which can ultimately lead to a more constructible project. When design is nearly complete, the agency and the construction manager negotiate a guaranteed maximum price for the construction of the project based on the defined scope and schedule. If this price is acceptable to both parties, they execute a contract for construction services, and the construction manager becomes the general contractor. CM/GC can lead to less costly and more expediently delivered projects because of the construction manager’s involvement in the design process. AB 1845 (Calderon, 2022) authorized the Metropolitan Water District of Southern California to use design-build, progressive design-build and CM/GC project delivery methods for a regional water recycling project or a drought response project, also with specified requirements.

***Construction Manager At-Risk (CM at-risk).*** CM at-risk is a process that allows the client of a project to choose the construction manager (CM) before the design stage is complete. The CM is chosen and then the entire operation is centralized under a single contract. The architect and CM work together in order to cultivate and assess the design. Then, the CM gives the client a guaranteed maximum price, and coordinates all subcontract work. The architect/engineer (A/E) is hired separately from the CM at-risk and the traditional client – A/E relationship is maintained. However, A/Es can generally perform the CM role, with various restrictions imposed based on state.

***Job order contracting (JOC).*** A JOC is a competitively bid, fixed price, indefinite quantity contract for the performance of minor construction, as well as the renovation, alteration, painting and repair of existing public facilities. Instead of bidding each project separately, the agency awards a JOC that identifies specific tasks and covers a range of recurring work, such as roofing, electrical work, plumbing, and painting across facilities. A JOC is a fixed price agreement in that it is based upon specified charges contained in a Unit Price Book (UPB), which is prepared by the public agency or by independent commercial sources. The UPB sets forth detailed repair and construction tasks, including task descriptions, specifications, units of measurement, and unit prices for each task (“Unit Price” means the amount paid for a single unit of an item of work). This contracting method is intended to reduce costs and accelerate completion of smaller projects. It is not generally viewed as an appropriate method of contracting for large, complex construction projects that require extensive or innovative design or are likely to encounter changes and revisions during construction.

***Joint powers agencies.*** The Joint Exercise of Powers Act allows two or more public agencies to use their powers in common if they sign a joint powers agreement. Sometimes an agreement creates a new, separate public entity called a joint powers agency or joint powers authority (JPA). Agencies that can exercise joint powers include federal agencies, state departments, counties, cities, special districts, school districts, federally recognized Indian tribes, and even other joint powers authorities.

***Pajaro Regional Flood Management Agency (PRFMA).*** The PRFMA is a JPA formed in 2021 between the County of Santa Cruz, Santa Cruz County Flood Control and Water Conservation

District—Zone 7 (District), the County of Monterey, the Monterey County Water Resources Agency (MCWRA), and the City of Watsonville. PRFMA plans, finances, and implements projects and programs to reduce flood risk from the lower Pajaro River and its tributaries in Santa Cruz and Monterey counties.

***Pajaro River Flood Risk Management Project.*** The Pajaro River Project was built in 1949 by the United States Army Corps of Engineers (USACE) to provide local flood control and is maintained jointly by the District and MCWRA. Since construction of the levee system in 1949, there have been major floods on the Pajaro River and its tributaries in 1955, 1958, 1995, and 1998 that have resulted in significant inundation and damage caused by overtopping or breaching of the levees. Levees nearly broke again in the federally-declared storm disasters of January-February 2017.

The existing and proposed Pajaro River Project is a \$400 million effort to improve flood protection in the region, including providing 100-year flood protection to the City of Watsonville and the community of Pajaro. By widening the river's floodplain, the Project will also provide significant environmental benefits as habitat is restored for native species and new outdoor recreation opportunities are created. In 2022, the Legislature authorized the state share for planning, engineering, designing, and constructing of the Pajaro River flood control project and gave the state the option to cover 100% of the nonfederal share (SB 489, Laird). SB 489 also allows the state to provide funding if federal support is delayed or only partially available. In 2023, the Legislature also granted several regulatory and permitting exemptions as well as an expedited California Environmental Quality Act (CEQA) process (AB 876, Robert Rivas).

PRFMA reports that, while its member agencies share certain procurement authorities, such as progressive design-build and CM-at-risk, the other contracting authorities, including design-build and CM/GC, are not uniformly available across all members. According to PRFMA, this lack of consistency creates administrative and legal challenges in initiating and delivering the Pajaro River Project. Given the scale and urgency of the Pajaro River Project, PRFMA seeks additional contracting flexibility to expedite the design and construction of flood control projects.

### **Proposed Law**

Senate Bill 1055 allows PRFMA, with approval of its governing body, to use specified procurement methods and processes for flood projects, specifically:

- Design-build;
- CM/GC;
- Best value; and
- Job Order Contracting.

SB 1055 also codifies the ability of PRFMA to use the procurement methods currently shared by its member agencies, specifically:

- Progressive design-build; and
- Construction Manager-at-risk.

SB 1055 sunsets on January 1, 2035.

### Comments

1. Purpose of the bill. According to the author, “Senate Bill 1055 continues a legacy of legislative work crafted to support the Pajaro River levee, a vital piece of infrastructure in my district. The flood in March of 2023, which led to a levee breach of over 400 ft. and forced thousands of residents to evacuate, was a stark reminder that the need for flood protection is immediate, and we must act quickly.

SB 1055 authorizes the Pajaro Regional Flood Management Agency (PRFMA) to utilize four additional methods of alternative labor procurement. With this increased access, PRFMA can choose the contracting method that best serves their current needs and complete projects in a more timely and cost-saving manner.”

2. The whole toolbox. By allowing PRFMA to use alternative contracting methods like design-build and CM/GC, SB 1055 aims to accelerate urgently needed flood protection projects and adapt more quickly to complex construction challenges. However, those same tools can reduce the transparency of decision making which may weaken accountability. Does the need to deliver critical infrastructure faster, especially in a region known for facing serious flood risks, justify broadening contracting in one fell swoop?

3. Problem solved. PRFMA presents an issue that, while notable, is likely not unique among JPAs in California. JPAs are formed for various reasons and in this case PRFMA was created to coordinate flood control efforts in the Pajaro region. However, not all member agencies of PRFMA possess the same procurement authorities. This inconsistency stems from the Legislature’s incremental approach to authorizing specific procurement methods for individual local agencies over time, resulting in a patchwork of legislation throughout the years. The Legislature should consider as to whether procurement authorities should continue to be granted on an individual agency basis, or whether a more uniform approach should be warranted.

4. Special legislation. Section 16 of Article IV of the California Constitution prohibits special legislation when a general law can apply. SB 1055 contains findings and declarations explaining the need for legislation that applies only to the Pajaro Regional Flood Management Agency because of the unique and special circumstances surrounding the flood project and the need to efficiently develop the project.

5. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because SB 1055 expands the definition of a crime, Legislative Counsel says that the bill imposes a new state mandate. SB 1055 disclaims the state's responsibility for providing reimbursement because the costs are due to expanding a crime.

6. Related legislation. The Legislature recently has seen other changes to contracting authority or related to water projects:

- SB 598 (Durazo, 2025) authorizes, until January 1, 2031, specified local agencies that provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the CM/GC process for 15 capital outlay public works projects for each local agency.

- SB 991 (Newman, 2022) authorizes, until January 1, 2029, specified local agencies that provide for the production, storage, supply, treatment, or distribution of any water from any source, to use the progressive design-build process for public works projects in excess of \$5,000,000.
- AB 1845 (Calderon, 2022) authorizes, until January 1, 2027, Metropolitan Water District to use design build, progressive design build, and CM/GC contracting authority for regional water recycling or drought response projects.
- SB 626 (Dodd, 2021) authorizes, until January 1, 2033, the Department of Water Resources to use the design-build and CM/GC project delivery methods for facilities of the State Water Project, excluding through Delta conveyance, as specified.

**Support and Opposition** (4/17/2026)

Support: Pajaro Regional Flood Management Agency (Sponsor)

Opposition: None Submitted

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