

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: May 15, 2007
POSITION: Neutral

BILL NUMBER: SB 614
AUTHOR: J. Simitian

BILL SUMMARY: Public Works: Design-Build Contracts

This bill would reduce the project cost threshold required for school and community college districts to enter into design-build contracts from \$10 million to \$2 million per project. This bill would also authorize all community college districts to enter into design-build contracts, makes changes to design-bid entity requirements, and specifies that plans submitted to the Department of General Services for approval include plans for foundations. This bill does not amend the sunset date for school districts and community colleges to enter into design-build contracts. The existing sunset date for school districts is January 1, 2010, and for community colleges is January 1, 2011.

FISCAL SUMMARY

Entering into a design-build contract is voluntary and therefore any related local administrative costs would not be reimbursable. Presumably, K-12 and community college districts utilize design-build projects when it is cost-beneficial. The Department of General Services advises that authorizing the use of design-build contracts may result in cost avoidance for administering local projects. The amount of cost avoidance is unknown and depends on the particular projects authorized.

COMMENTS

Finance is neutral on this bill and notes the following:

- Reducing the design-build threshold from \$10 million to \$2 million should increase the number of school and community college districts that are able to consider using design-build as an option. The design-build method provides an additional contracting option and can streamline project administration and the project approval process by combining the design and construction processes, which can result in cost savings for administering local projects. The 2005 report from the Legislative Analyst Office (LAO), "Design-Build: An Alternative Construction System," recommended there be no maximum or minimum project cost threshold for design-build contracts.
- There is limited information available from the K-12 and community college projects authorized to utilize the design-build method. The LAO is awaiting information from community college projects to complete a required report to the Legislature. It is noted that the 2005 report from the LAO indicated that cities and counties utilizing design-build have reported that it takes less staff time to construct a project and results in fewer claims, less litigation, and more price certainty.

Analyst/Principal (0341) T. Todd	Date	Program Budget Manager Jeannie Oropeza	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS Form DF-43 (Rev 03/95 Buff)

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ANALYSIS**A. Programmatic Analysis**

Current law authorizes school districts that participate in the School Facilities Program to use a process known as "design-bid-build," which is comprised of three distinct project steps wherein design and construction are contracted separately. On the other hand, "design-build" utilizes a construction method in which both the design and construction functions are provided by a single entity. A design-build entity usually is comprised of a construction contractor with an architectural engineering firm as a subcontractor or a partner. Design-bid-build contracts are awarded by districts using competitive bidding whereas design-build contracts are awarded taking into consideration other qualifications beyond bids. The design-build process provides an additional contracting option and can streamline the administration and project approval process by eliminating the separate design and construction processes as utilized in the design-bid-build method.

Current law allows school districts and specified community college districts to use the design-build process on school facility projects that exceed \$10 million. This bill reduces the threshold for school and community college districts to enter into design-build contracts from \$10 million to \$2 million and also authorizes all community college districts to enter into design-build contracts.

Current law specifies that if the design-build entity provides written notice to any subcontractor who is not a member of the design-build entity, prior to or at the time the bid is requested, that a bond may be required and the subcontractor subsequently is unable or refuses to furnish a bond to the design-build entity, then the design-build entity may withhold retention proceeds in excess of the percentage specified in the contract between the school district and the design-build entity from any payment made by the design-build entity to the subcontractor. This bill would eliminate the requirement that a subcontractor be notified of the requirement to furnish a bond prior to or at the time the bid is requested.

Current law also requires that each contract with a design-build entity must provide that no construction or alteration of any school building shall commence prior to the receipt of written approval of the plans, as to the safety of design and construction, from the Department of General Services (DGS). This bill would specify that "plans" also include plans for foundations based on design criteria provided by the architect or structural engineer of the design-build entity that are received by DGS prior to the receipt of completed building plans.

This bill does not amend the sunset date for school districts and community colleges to enter into design-build contracts. The existing sunset date for school districts is January 1, 2010, and for community colleges is January 1, 2011.

B. Fiscal Analysis

Since the design-build process is permissive, any related local administration cost would not be reimbursable. Available information indicates that the design-build process may result in cost avoidance for K-12 school districts and community college projects. The amount of cost avoidance is unknown and depends on the particular projects authorized.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO	PROP	2006-2007		2007-2008		2008-2009		
	RV	98	FC	FC	FC	FC			
6870/Comm College	LA	No	-----	See Fiscal Summary	-----			6049	
6350/Facil Aid	LA	No	-----	See Fiscal Summary	-----			6044	
6350/Facil Aid	LA	No	-----	See Fiscal Summary	-----			6057	

<u>Fund Code</u>	<u>Title</u>
6044	School Facilities Fund, 2004 State
6049	Community College Cap Otly Bd Fd,2006 CA
6057	School Facilities Fund, 2006 State