

Date of Hearing: September 8, 2015

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Brian Maienschein, Chair  
SB 374 (Hueso) – As Amended September 4, 2015

**SENATE VOTE:** Vote not relevant

**SUBJECT:** Design-build: San Diego Association of Governments.

**SUMMARY:** Allows the San Diego Association of Governments (SANDAG) to use the design-build (DB) procurement process for specified development projects related to transit facilities developed or jointly developed by SANDAG. Specifically, **this bill:**

- 1) Allows, until January 1, 2025, SANDAG to use the DB procurement process for development projects in excess of \$1 million that are adjacent, or physically or functionally related, to transit facilities developed or jointly developed by SANDAG.
- 2) Finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of the California Constitution because of SANDAG's unique responsibilities as the consolidated transportation agency with capital project implementation responsibilities, as specified.
- 3) Makes technical and conforming changes.

**EXISTING LAW:**

- 1) Establishes, pursuant to the Local Agency Public Construction Act (LAPCA) within the Public Contract Code, the procedures local agencies must use when soliciting and evaluating bids or proposals for the construction of a public work or improvement, which generally require contracts to be awarded to the lowest responsible bidder after a competitive bidding process.
- 2) Allows, until January 1, 2025, local agencies to use DB for public works contracts in excess of \$1 million using either a low bid or best value process.
- 3) Defines, for purposes of local agencies' authority to use DB, "local agency" to include any transit district, included transit district, municipal operator, included municipal operator, any consolidated agency, any joint powers authority formed to provide transit service, any county transportation commission, or any other local or regional agency responsible for the construction of transit projects, as specified.
- 4) Defines, for purposes of transit agencies' authority to use DB, "project" to mean a transit capital project that begins project solicitation on or after January 1, 2015. "Project" does not include state highway construction or local street and road projects.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Bill Summary.** This bill provides a narrow expansion of SANDAG's existing authority to use the DB procurement process for transit projects in excess of \$1 million, to also allow SANDAG to use DB for development projects adjacent, or physically or functionally related, to transit facilities developed or jointly developed by SANDAG. This bill is sponsored by SANDAG.
  
- 2) **Background.** SANDAG is in the planning process for a project to develop a bus stopover facility in downtown San Diego, with multiuse options. At present, buses park at temporary curbside locations around downtown. The stopover is needed to maintain bus schedules and to provide a location where transit operators can rest at the start and end of routes. The stopover will not be a transit station. The stopover also would provide restroom facilities for transit drivers, allowing for the removal of existing portable restrooms from city sidewalks. SANDAG will oversee the entitlement, design, and construction of the stopover, which will be operated by the San Diego Metropolitan Transit System. Roughly \$16 million has been allocated to the project from TransNet, the voter approved half-cent sales tax for transportation projects administered by SANDAG.

According to the sponsor, "The potential multiuse aspect of the facility is based on the goals of SANDAG owning the facility that houses its office space at a lower cost than leasing as well as providing an opportunity for multiuse development on a block of land in a vibrant area of downtown. In conjunction with the stopover, the facility also could provide future office space for SANDAG and other tenants as part of a mixed-use development project. This approach would enhance integration into the character of the neighboring community and aligns with the City of San Diego Downtown Community Plan Ordinance."

- 3) **Design-Build Contracting.** State law generally requires public agencies to invite bids for construction projects and then award contracts to the lowest responsible bidder. This design-bid-build method is the traditional approach to public works construction.

Under the DB method, 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. The DB entity arranges all architectural, engineering, and construction services, and is responsible for delivering the project at a guaranteed price and schedule based upon performance criteria set by the public agency. The DB method can be set by the public agency. The DB method can be faster and, therefore, cheaper, than the design-bid-build method, but it requires a higher level of management sophistication since design and construction may occur simultaneously.

Advocates for the DB method of contracting for public works contend that project schedule savings can be realized because only a single request for proposals is needed to select the project's designer and builder. The more traditional design-bid-build project approach requires the separate selection of the design consultant or contractor, completion of design, and then advertising for bids and selection of the construction contractor. Proponents add that DB allows the overlap of design and construction activities, resulting in additional time savings and lower project costs. By avoiding the delays and change orders that result from the traditional design-bid-build method of contracting, proponents argue that DB can deliver public works faster and cheaper.

Detractors of DB contend that it eliminates competitive bidding, allows the private contractor or consortium to inspect and sign off on their own work, and increases project delivery costs.

SB 785 (Wolk), Chapter 931, Statutes of 2014, repealed existing law authorizing the Department of General Services (DGS), the California Department of Corrections and Rehabilitation (CDCR), and specified local agencies to use the design-build (DB) procurement process, and enacted more uniform provisions authorizing DGS, CDCR, and most local agencies to utilize the DB procurement process for specified public works projects. SANDAG has the authority under these statutes to use DB for transit capital projects, but not for the type of mixed-use development envisioned for its bus stopover facility.

- 4) **Arguments in Support.** The San Diego Association of Governments states, "SANDAG has been studying the feasibility of acquiring a Downtown San Diego property to develop a stopover facility for short-term bus parking to accommodate the increase in *Rapid* transit routes that terminate or originate routes in Downtown San Diego. The proposed facility would provide an off-street location in Downtown San Diego where transit vehicles can be parked for short periods between runs."
- 5) **Arguments in Opposition.** None on file.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

San Diego Association of Governments

##### **Opposition**

None on file

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