

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 2932 (O'Donnell) – As Introduced February 21, 2020

SUBJECT: City of Long Beach: design-build process.

SUMMARY: Allows the City of Long Beach to use the design-build contracting process to award contracts for curb ramps that are compliant with the Americans with Disabilities Act (ADA). Specifically, **this bill:**

- 1) Allows the City of Long Beach, upon approval of its city council, to use the design-build contracting process authorized under specified existing law for local agencies to award contracts for curb ramps that are compliant with the ADA.
- 2) Allows, for these curb ramp projects, the City of Long Beach and city employees in the City of Long Beach Public Works Department to perform project development services, including performance specifications, preliminary engineering, procurement services and the preparation of project reports, and construction inspection services, excluding specialty bridge inspectors. The city shall also be the responsible agency for, and city employees in the Public Works Department may perform, the preparation of documents that may include, but need not be limited to, the size, type, and desired design character of the project, performance specifications covering quality of materials, equipment, and workmanship, preliminary plans, and any other information deemed necessary to describe adequately the needs of the city.
- 3) Requires, for these curb ramp projects, the City of Long Beach to be limited to no more than 3,000 ramps, with the total cost not to exceed \$20 million dollars per year, and subject to completion prior to January 1, 2025.
- 4) Finds and declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique conditions in City of Long Beach that make it necessary to grant the City of Long Beach and the City of Long Beach Public Works Department the authority to use the specific design-build procurement process described in this bill.

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 and transit 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 pursuant to 2), above:

- 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) Allow 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, both local and regional; 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 [with the exception of b), above].

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill allows the City of Long Beach to use design-build for projects to install curb-ramps. This authority is limited to no more than 3,000 ramps, with the total cost not to exceed \$20 million dollars per year. Projects must be complete by January 1, 2025. The City and its employees may perform project development services and preparation of documents in relation to these projects. This bill is sponsored by the City of Long Beach.
- 2) **Author's Statement.** According to the author, "AB 2932 authorizes the City of Long Beach to utilize design-build contracting in order to expedite the construction of curb ramps and upgrade sidewalks to ensure compliance with the American with Disabilities Act. As part of a settlement agreement, the City must complete 3,000 curb ramps by December 31, 2022. This bill will enable the City to expedite the bidding and construction processes. The streamlined process for bidding and awarding these contracts will expedite the upgrade of sidewalks and curbs that will expand access to and ensure that residents can safely travel along city streets."
- 3) **Background.** According to the City of Long Beach, "In April 2017, Judge Dale Fischer preliminarily approved a class-action settlement agreement to make sidewalks, crosswalks, and other pedestrian pathways safer and more accessible. Under the agreement, the City is working to address a number of accessibility issues, including the construction of up to 4,500 missing curb ramps; retrofit up to \$50 million or 16,000 existing curb ramps not in compliance with relevant accessibility standards; and, remediate up to \$125 million in repairs for inaccessible sidewalks, crosswalks, and other pedestrian facilities over the next 30 years. To date, and in accordance with Americans with Disabilities Act (ADA) regulations, the City has assessed the existing conditions of 1,160 miles of sidewalks, conducted a third-party assessment identifying barriers to safe and equal access, and held public hearings to inform Long Beach residents of the outcomes and receive public input."
- 4) **Design-Build for Local Agencies.** The LAPC Act generally requires local officials 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. However, California law also 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 limits the use of design-build by counties and cities to the following types of projects:

- a) 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; and,
- b) Local and regional wastewater facilities, solid waste management facilities, or water recycling facilities (for cities and counties that operate such facilities).

Existing law expressly 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 [with the exception of b), above].

Because of the existing limitations on design-build, which excludes streets and highways, the City of Long Beach needs specific authority to use design-build for their curb-ramp projects.

- 5) **Arguments in Support.** The City of Long Beach, sponsor of this bill, states “Work related to accessibility infrastructure improvements continue to progress amid industry-wide construction challenges posed by the COVID-19 pandemic. Construction in the public right-of-way is an essential service, and, as such, the City is obligated to build 4,500 curb ramps by fiscal year end 2022...AB 2932 is vital to the City’s fulfillment of completed self-assessment and transition plan obligations within the set timeframe.

“As the City continues to make great strides toward improving livability, it is imperative to have public infrastructure that is accessible to all residents. The City supports legislation that provides a process for businesses and other governmental entities to implement ADA requirements and fully support people with disabilities. Authorizing the City to utilize the design-build process for the construction of accessible curb ramps, as proposed by AB 2932, would enable the City to efficiently construct infrastructure to support all our residents.”

- 6) **Arguments in Opposition.** None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

City of Long Beach

Opposition

None on file

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