

Date of Hearing: May 5, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT  
Cecilia Aguiar-Curry, Chair  
AB 712 (Calderon) – As Amended April 27, 2021

**SUBJECT:** Local Agency Public Construction Act: change orders: County of Los Angeles.

**SUMMARY:** Temporarily increases the limits that apply to change orders that can be approved pursuant to a delegated authority for specified contracts entered into by Los Angeles County (LA County). Specifically, **this bill:**

- 1) Provides, until January 1, 2027, LA County the following delegated authority for change orders for construction contracts generally and for construction contracts on county highways, bridges, subways, and those entered into by the county's waterworks district and flood control district:
  - a) For contracts whose original cost exceeds \$25 million, the extra cost for any change or addition to the work so ordered shall not exceed \$400,000, adjusted annually to reflect the percentage change in the California Consumer Price Index (CPI).
  - b) For contracts whose original cost exceeds \$50 million, the extra cost for any change or addition to the work so ordered shall not exceed \$750,000, adjusted annually to reflect the percentage change in the CPI.
- 2) Provides that, if the board of supervisors delegates authority in the manner specified in 1), above, the decision by the county engineer or other county officer whom authority was delegated to shall be binding on LA County, and all existing protest and grievance procedures regarding that decision remain valid.
- 3) Requires the board, when it delegates authority in the manner specified in 1), above, to implement appropriate measures to prevent fraud and ensure accountability for that delegated authority.
- 4) Limits the provisions of this bill to a total of seven contracts.
- 5) Requires LA County to provide a review report to the Assembly Committee on Local Government no later than July 1, 2026, if it elects to utilize the provisions of this bill.
- 6) Provides an on-going CPI adjustment for delegated change orders allowed for county construction contracts generally and for construction contracts for county highways, county bridges and subways, county waterworks districts, and contracts entered into by the LA County Flood Control District.
- 7) 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 need for flexibility given the contract costs of public contracts within the County of Los Angeles.

**FISCAL EFFECT:** None.

**COMMENTS:**

- 1) **Background.** The Local Agency Public Construction Act allows a county board of supervisors or a local governing board to approve change orders in construction contracts by a 4/5 vote. This applies to construction contracts generally and to construction contracts for county highways, county bridges and subways, county waterworks districts, and contracts entered into by the LA County Flood Control District (among others).

However, a board may delegate authority to a county engineer or other officer to order and approve change orders, thereby avoiding the necessity of board approval. This delegated authority is limited as follows:

- a) For contracts up to \$50,000, a change order may not exceed \$5,000;
  - b) For contracts between \$50,000 and \$250,000, the change order may not exceed 10% of the contract; and,
  - c) For contracts over \$250,000, the change order cannot exceed \$25,000, plus 5% of the amount of the original contract cost above \$250,000, with a total cap of \$210,000.
- 2) **Author's Statement.** "Existing law places limits on the maximum amount a delegated officer or engineer can approve without requiring a vote by the Board of Supervisors. These limits have not been updated since 2011 and do not reflect inflation, changes in construction market pricing, and changes in the scale of projects. The result is that the maximum threshold requiring a Board of Supervisors vote is frequently reached, often leading to costly delays as the number of necessary change orders increase.

"This is especially true for LA County, as current County projects are frequently being delayed due to change orders exceeding existing limits for delegated authority approval. The County also has several County projects in the pipeline, with initial contract costs ranging from \$25 million to \$1.2 billion. AB 712 will help expedite LA County construction projects, such as medical centers, bridges, highways and more, by updating change order limits to reflect changes in inflation, and in the size and scale of construction projects."

- 3) **Bill Summary.** This bill increases the delegated change order limits for LA County until January 1, 2027, for contracts generally and for construction contracts on county highways, bridges, subways, and those entered into by the county's waterworks district and flood control district. For contracts exceeding \$25 million, the delegated change order is limited to \$400,000, with an annual CPI adjustment. For contracts exceeding \$50 million, the delegated change order is limited to \$750,000, with an annual CPI adjustment.

If the board of supervisors delegates authority for these change orders, the decision by the county engineer or other county officer is binding on LA County, and all existing protest and grievance procedures regarding that decision remain valid. The board must implement appropriate measures to prevent fraud and ensure accountability for this delegated authority.

This bill is limited to a total of seven contracts, and requires LA County to provide a review report to the Assembly Committee on Local Government no later than July 1, 2026, if it elects to utilize the provisions of this bill.

This bill also provides an on-going CPI adjustment for delegated change orders allowed for county construction contracts generally and for construction contracts for county highways, county bridges and subways, county waterworks districts, and contracts entered into by the LA County Flood Control District.

This bill is sponsored by the LA County Board of Supervisors.

- 4) **Committee Amendments.** This bill provides an on-going CPI adjustment for delegated change orders allowed for county construction contracts generally and for construction contracts for county highways, county bridges and subways, county waterworks districts, and contracts entered into by the LA County Flood Control District, which was a drafting error in the most recent set of amendments. The Committee may wish to amend the bill to remove these provisions.
- 5) **Previous Legislation.** AB 2284 (Calderon) of 2020 would have increased delegated change order limits for all counties and required annual CPI adjustments. AB 2284 was held in this Committee.
- 6) **Arguments in Support.** The Los Angeles County Board of Supervisors, sponsor of this bill, writes, “Existing limits on delegated authority for change orders has not kept pace with current construction markets or the need for flexibility in delivering large-scale projects. On large-scale projects, the threshold requiring a board of supervisors’ approval is easily and often exceeded, resulting in delays of two months or more. This time is critical to project delivery schedules and can increase the cost of projects significantly.

“Additionally, inflation has eroded the purchasing power of the delegated authority for change orders or additions on construction contracts, which have not been raised since 2010 (SB 894, Chapter 699, 2010) and 2011 (SB 194, Chapter 382, Statutes of 2011). The maximum change order amounts under these delegated authorities particularly hamper the ability of the county to deliver large-scale construction contracts in an efficient and timely manner.

“AB 712 will help expedite Los Angeles County’s construction projects by updating the change order limits to reflect changes from inflation and in the size and scale of construction projects... This authorization would be applicable for up to seven projects and sunsets on January 1, 2027. In addition, this bill requires all caps be continuously adjusted on an annual basis to reflect the percentage change in the Consumer Price Index.”

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

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

##### **Support**

Los Angeles County Board of Supervisors [SPONSOR]

Associated General Contractors of California  
Construction Employers' Association

**Opposition**

None on file.

**Analysis Prepared by:** Angela Mapp / L. GOV. / (916) 319-3958