

Date of Hearing: April 14, 2021

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

AB 811 (Luz Rivas) – As Amended April 6, 2021

SUBJECT: Los Angeles County Metropolitan Transportation Authority: contracting.

SUMMARY: Eliminates a required finding that the Los Angeles County Metropolitan Transportation Authority (LA Metro) must make before entering into specified contracts. Specifically, **this bill:**

- 1) Eliminates a provision that requires LA Metro to make a finding, by a two-thirds vote of its members, that awarding specified contracts will achieve for LA Metro certain private sector efficiencies in the integration of design, project work, and components. The specified contracts are those with private entities that combine within a single contract all or some of the planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of (1) transit systems, including, without limitation, passenger loading or intermodal station facilities, and (2) facilities on real property owned or to be owned by the authority.
- 2) Retains the required finding for the contracts specified above that also include operation and maintenance elements, if the inclusion of those elements (1) is necessary, in the reasonable judgment of the authority, to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies, and (2) does not conflict with collective bargaining agreements to which LA Metro is a party.

EXISTING LAW:

- 1) Allows LA Metro to enter into contracts with private entities, the scope of which may combine within a single contract all or some of the planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of (1) transit systems, including, without limitation, passenger loading or intermodal station facilities, and (2) facilities on real property owned or to be owned by the authority.
- 2) Provides that LA Metro may award these contracts after a finding by a two-thirds vote of its members that awarding the contract will achieve certain private sector efficiencies in the integration of design, project work, and components.
- 3) Allows these contract to include operation and maintenance elements, if the inclusion of those elements (1) is necessary, in the reasonable judgment of the authority, to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies, and (2) does not conflict with collective bargaining agreements to which the authority is a party.
- 4) Provides that any construction, alteration, demolition, repairs, or other works of improvement performed under these contracts for LA Metro shall be considered a public works project subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor

Code, and shall be enforced by the Department of Industrial Relations in the same way it carries out this responsibility under the Labor Code.

- 5) Requires these contracts to be let to the lowest responsible bidder, as specified, or to a contractor chosen by a competitive bidding process that employs objective selection criteria that may include, but are not limited to, the proposed design approach, features, functions, life-cycle costs, and other criteria deemed appropriate by the authority, in addition to price.
- 6) Provides specified requirements for these contracts regarding noticing bids, bidding procedures, bid securities and subcontracting.

FISCAL EFFECT: None

COMMENTS:

- 1) **Bill Summary.** This bill repeals a requirement for LA Metro, prior to awarding specified contracts, to adopt a finding with a two-thirds vote that awarding the contract will achieve efficiencies in the integration of design, project work, and components.

The specified contracts that will no longer be subject this finding requirement include contracts that combine all or some of the planning, design, permitting, development, joint development, construction, construction management, acquisition, leasing, installation, and warranty of all or components of:

- a) Transit systems, including, without limitation, passenger loading or intermodal station facilities; and,
- b) Facilities on real property owned or to be owned by the authority.

The bill retains the finding requirement for these contracts that also include operation and maintenance elements, if the inclusion of these elements is necessary to assess vendor representations and warranties, performance guarantees, or life-cycle efficiencies, and does not conflict with collective bargaining agreements to which LA Metro is a party.

This bill is sponsored by LA Metro.

- 2) **Author's Statement.** According to the author, "As planning for the 2028 Olympic and Paralympic Games progresses, the Los Angeles County Metropolitan Transportation Authority (LA Metro) is tasked with delivering critical transportation infrastructure projects. AB 811 streamlines LA Metro's project delivery by removing the two-third vote requirement when design-build is used. This measure will also bring LA Metro's enabling statutes in accord with all other transit agencies in the state—none of which have to abide by this two-third vote requirement."
- 3) **Background.** LA Metro is a county transportation commission created to fund, plan for, coordinate, build, and operate public transportation systems within Los Angeles County. LA Metro also serves as the regional transportation planning agency for the county and administers the local sales tax levied to fund transportation projects within the county.

Among other powers, LA Metro use the design-build method of procurement to develop transit systems and facilities on property owned by the authority. These contracts may include operation and maintenance within the contract and may be awarded to either the lowest bidder or the bidder that offers the best value based on objective selection criteria, including proposed design approach and life-cycle costs of the project. State law prescribes the manner in which LA Metro must solicit bids, deems the projects to be public works, and establishes other requirements for these contracts entered into by LA Metro, including making specific findings before awarding a contract.

Before awarding a contract, LA Metro's governing board must adopt, by a two-thirds vote, a finding that awarding the contract will achieve certain private sector efficiencies in the integration of design, project work, and components.

- 4) **2028 Summer Olympic and Paralympic Games.** The 2028 Summer Olympic and Paralympic Games are scheduled to take place in Los Angeles from July through September, 2028. This will be the third time that the city has hosted the Summer Olympics, making it the first North American city and the third worldwide to host the Games three times.

According to an LA Metro blog post in September 2017, shortly after Los Angeles won its bid to host the Olympics, "In terms of local transportation, a lot will change between now and 2028. That is thanks to Measure R and Measure M, the two transportation ballot measures approved by L.A. County voters in 2008 and '16, respectively. Many Olympic events will be clustered in a few areas around our region, with three major 'sports parks' adjacent to rail or bus rapid transit lines in downtown Los Angeles, the Sepulveda Basin in the San Fernando Valley and the Long Beach waterfront. Other venues are also near transit (Santa Monica Beach, the Rose Bowl, the new football stadium in Inglewood, StubHub Center, to name a few) or will be served by shuttle buses from transit and other destinations."

The blog post highlighted multiple projects that LA Metro had planned in preparation for the Olympics, including:

- a) The 8.5-mile Crenshaw/LAX Line between the Expo Line and Green Line, which was scheduled to open in fall 2019. An additional station at Aviation Boulevard and 96th Street is scheduled to open in the early 2020s.
- b) The 3.9-mile first section of the Purple Line Extension from Wilshire/Western to Wilshire/La Cienega with stations at Wilshire/La Brea and Wilshire/Fairfax. A second section to downtown Beverly Hills and Century City and a third section to Westwood are scheduled to be completed in the mid-2020s.
- c) The 1.9-mile Regional Connector that will connect the Blue, Expo and Gold Lines and is scheduled to open in late 2021. When done, Metro will run two light rail lines: one between Azusa and Long Beach and the other between East Los Angeles and Santa Monica. The two lines will be share five stations in DTLA.
- d) An extension of the Gold Line from Azusa to Claremont with other stations in Glendora, San Dimas, La Verne and Pomona. With funding from San Bernardino County, the line could be extended to Montclair.

- e) A bus rapid transit project on Vermont Avenue that will be adjacent to the L.A. Memorial Coliseum and Exposition Park.
- f) A high-capacity transit line (either bus rapid transit, tram or light rail) that will run on Van Nuys Boulevard and San Fernando Road between the Orange Line and Sylmar/San Fernando Metrolink station.
- g) The first phase of an Artesia-to-Union Station light rail line.
- h) A bus rapid transit line between North Hollywood and Pasadena with connections to Burbank, Glendale and L.A.
- i) Upgrades to the Orange Line to improve bus speeds and travel times.
- j) Under the direction of the Metro Board (which includes Mayor Garcetti) and Metro CEO Phil Washington, the agency continues to look for ways to accelerate projects as long as other projects aren't negatively impacted.

LA Metro also launched the Twenty-Eight by '28 initiative, which highlights 28 LA Metro projects for potential completion by the 2028 Summer Olympic and Paralympic Games. According to LA Metro, "The 2028 Games are an opportunity to advocate for resources to accelerate these projects, and a milestone to show what can be accomplished by working collaboratively as a region – with benefits to Los Angeles County for generations to come. The Metro Board approved a list of projects, which includes projects already slated for completion by 2028, as well as projects with later delivery dates with potential for acceleration...Not all Measure M investments scheduled for completion by 2028 are included in the Twenty-Eight by '28 list, and the list does not replace commitments made in the Measure M Ordinance."

- 5) **Previous Legislation.** AB 2514 (L. Rivas) of 2020 was substantially similar to this bill. AB 2514 was held in this committee.

AB 1594 (Bloom) of 2018 would have added passenger rapid transit, subways, and heavy rail to the types of fee-producing infrastructure for which a local government can enter into a public-private partnership (P3). The bill also would have repealed the requirement for LA Metro, prior to awarding a design-build or P3 contract, to adopt a finding with a two-thirds vote that awarding the contract will achieve efficiencies in the integration of design, project work, and components. AB 1594 was held on the Senate Floor.

- 6) **Arguments in Support.** LA Metro, sponsor of this measure, writes, "LA Metro's enabling design-build statute was created in the 1990's when design-build was not as common a delivery method for capital construction projects as it has since become. LA Metro has been forced to contend with a uniquely unnecessary and cumbersome requirement under PUC 130242. Since the statute was the first of its kind, the Legislature included a two-step approval process for design-build contract awards. The existing statute contains a requirement that the LA Metro Board first approve by a two-thirds vote a finding that the design-build method of project delivery is efficient. Only then can the Board approve the subsequent contract award in a separate action each time they wish to utilize design-build for a capital project. The procurement process cannot begin until the finding has been approved.

“Due to the success of the design-build method of project delivery, subsequent design-build laws have been passed that do not require the initial approval of a finding – and AB 811 aligns Metro’s authorizing statute with the state’s other design-build statutes. No other transportation agency in California has to take this extra step. This proposal brings LA Metro’s enabling statute into accord with other transit agencies by streamlining the approval process for the utilization of design-build by removing the superfluous two-thirds vote requirement.”

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

8) **Double-Referral.** This bill is double-referred to the Transportation Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles County Metropolitan Transportation Authority [SPONSOR]

Opposition

None on file

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