

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Cecilia Aguiar-Curry, Chair

SB 991 (Newman) – As Amended June 6, 2022

SENATE VOTE: 33-0

SUBJECT: Public contracts: progressive design-build: local agencies.

SUMMARY: Authorizes, until January 1, 2029, local water agencies to use the progressive design-build method of project delivery for specified projects. Specifically, **this bill:**

- 1) Allows a city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source (local agency) to procure progressive design-build contracts and use the progressive design-build contracting process described in this bill for public works projects in excess of \$5 million.
- 2) Allows local agencies to use progressive design-build for any project that treats, pumps, stores, or conveys water, wastewater, recycled water, advanced treated water, or supporting facilities.
- 3) Requires a local agency entering into progressive design-build contracts authorized under this bill to develop guidelines for a standard organizational conflict-of-interest policy, consistent with applicable law, regarding the ability of a person or entity that performs services for the local agency relating to the solicitation of a design-build project, to submit a proposal as a design-build entity, or to join a design-build team.
- 4) Requires the procurement process for progressive design-build projects to progress as follows:
 - a) The local agency shall prepare and issue a request for qualifications in order to select a design-build entity to execute the project. The request for qualifications shall include, but is not limited to, the following elements:
 - i) Documentation of the size, type, and desired design character of the project and any other information deemed necessary to describe adequately the local agency's needs, including the expected cost range, the methodology that will be used by the local agency to evaluate the design-build entity's qualifications, the procedure for final selection of the design-build entity, and any other information deemed necessary by the local agency to inform interested parties of the contracting opportunity.
 - ii) Significant factors that the local agency reasonably expects to consider in evaluating qualifications, including technical design and construction expertise, and all other non-price-related factors. The local agency may require that a preliminary cost estimate be included in the design-build entities' responses and consider those costs in evaluating the statements of qualifications.

- iii) The relative importance or the weight assigned to each of the factors identified in the request for qualifications.
- iv) A standard template request for statements of qualifications prepared by the local agency. In preparing the standard template, the local agency may consult with the construction industry, the building trades and surety industry, and other local agencies interested in using the authorization provided by this bill. The template shall require the following information:
 - (1) If the design-build entity is a privately held corporation, limited liability company, partnership, or joint venture, a listing of all of the entity's shareholders, partners, or members known at the time of the statement of qualification submission who will perform work on the project.
 - (2) Evidence that the members of the design-build team have completed, or have demonstrated the experience, competency, capability, and capacity to complete, projects of similar size, scope, or complexity, and that proposed key personnel have sufficient experience and training to competently manage and complete the design and construction of the project, and a financial statement that ensures that the design-build entity has the capacity to complete the project.
 - (3) The licenses, registration, and credentials required to design and construct the project, including, but not limited to, information on the revocation or suspension of any license, credential, or registration.
 - (4) Evidence that establishes that the design-build entity has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.
 - (5) Information concerning workers' compensation experience history and a worker safety program.
 - (6) If the proposed design-build entity is a corporation, limited liability company, partnership, joint venture, or other legal entity, a copy of the organizational documents or agreement committing to form the organization.
 - (7) An acceptable safety record, as specified.
- v) Provides that the information required pursuant to the request for qualifications process shall be certified under penalty of perjury by the design-build entity and its general partners or joint venture members.
- b) Prohibits a design-build entity from being evaluated for selection unless the entity provides an enforceable commitment to the local agency that the entity and its subcontractors at every tier will use a skilled and trained workforce to perform all work on the project or contract that falls within an apprenticeable occupation in the building and construction trades, as specified. This provision shall not apply if one or more of the following requirements are met:

- i) The local agency has entered into a project labor agreement, as defined pursuant to specified existing law, that will bind all contractors and subcontractors performing work on the project or contract to use a skilled and trained workforce, and the entity agrees to be bound by that project labor agreement.
 - ii) The project or contract is being performed under the extension or renewal of a project labor agreement that was entered into by the local agency before January 1, 2023.
 - iii) The entity has entered into a project labor agreement that will bind the entity and all its subcontractors at every tier performing the project or contract to use a skilled and trained workforce.
 - c) Requires, at the close of the solicitation period, the local agency to review the submissions. The local agency may evaluate submissions based solely upon the information provided in each design-build entity's statement of qualifications. The local agency may also interview some or all of the design-build entities to further evaluate their qualifications for the project.
 - d) Requires, upon issuance of a contract award, the local agency to publicly announce its award, identifying the design-build entity to which the award is made, along with a statement regarding the basis of the award. The statement regarding the local agency's contract award and the contract file shall provide sufficient information to satisfy an external audit.
- 5) Requires the design-build entity to provide payment and performance bonds for the project in the form and in the amount required by the local agency, and issued by a California admitted surety. The amount of the payment bond shall not be less than the amount of the performance bond.
 - 6) Requires the design-build contract to require errors and omissions insurance coverage for the design elements of the project.
 - 7) Requires the local agency to develop a standard form of payment and performance bond for its design-build projects.
 - 8) Allows, after selecting a design-build entity based upon qualifications, the local agency to enter into a contract and direct the design-build entity to begin design and preconstruction activities sufficient to establish a guaranteed maximum price for the project.
 - 9) Allows, upon agreement of the guaranteed maximum price for the project, the local agency, at its sole and absolute discretion, to amend its contract with the design build entity to contract for the remaining design, preconstruction, and construction activities sufficient to complete and close out the project, consistent with the guaranteed maximum price. In the event that there are unforeseen site conditions, the local agency shall amend its contract with the design build entity accordingly and consistent with the guaranteed maximum price, to enable the entity to complete the remaining design, preconstruction, and construction activities sufficient to complete and close out the project.

- 10) Provides that, if the cost for completing all remaining design, preconstruction, and construction activities sufficient to complete and close out the project exceed the guaranteed maximum price, the costs exceeding the guaranteed maximum price shall be the responsibility of the design-build entity. If the cost for these activities are less than the guaranteed maximum price, the design-build entity shall not be entitled to the difference between the cost and the guaranteed maximum price unless there is a prior written agreement concerning the sharing of these funds. For purposes of this provision, cost shall include the design build entity's direct costs, general conditions, overhead, and fee.
- 11) Allows, if the local agency and the design-build entity do not reach agreement on a guaranteed maximum price, or the local agency otherwise elects not to amend the design-build entity's contract to complete the remaining work, the local agency to solicit proposals to complete the project from firms that submitted statements of qualifications pursuant to the provisions of this bill. The local agency may also, upon written determination that it is in the best interest of the city, county, city and county, or special district, as applicable, to do so, formally solicit proposals from other design-build entities, and contract award shall be made on a best value basis.
- 12) Requires the design professionals responsible for performing design services on behalf of a design build entity that has been replaced pursuant to the provisions of this bill to have sole liability for their design errors and omissions, provided the local agency elects to use their complete and stamped designs with subsequent design build entities or licensed contractors.
- 13) Allows the local agency, in each design-build request for qualifications, to identify specific types of subcontractors that shall be included in the design-build entity's statement of qualifications. All construction subcontractors that are identified in the statement of qualifications shall be afforded the protections of the Subletting and Subcontracting Fair Practices Act.
- 14) Requires, following award of the design-build contract, except for those construction subcontractors listed in the statement of qualifications, the design-build entity to proceed as listed below in awarding construction subcontracts with a value exceeding one-half of 1 percent of the contract price allocable to construction work for projects with a contract value of greater than or equal to \$10 million:
 - a) Provide public notice of availability of work to be subcontracted in accordance with the publication requirements applicable to the competitive bidding process of the local agency, including a fixed date and time on which qualifications statements, bids, or proposals will be due.
 - b) Establish reasonable qualification criteria and standards.
 - c) Award the subcontract on a best value basis. The process may include prequalification or short-listing.
- 15) Requires subcontractors awarded construction subcontracts under this bill to be afforded all the protections of the Subletting and Subcontracting Fair Practices Act.

- 16) Provides that a construction subcontractor licensed pursuant to the Contractors State License Law that provides design services used on a project authorized by this chapter shall not be subject to any liability arising from their design if the construction subcontract for that design is not performed by that subcontractor.
- 17) Provides that, if the local agency elects to award a project pursuant to this bill, retention proceeds withheld by the local agency from the design-build entity shall not exceed 5 percent if a performance and payment bond, issued by an admitted surety insurer, is required in the solicitation. Work performed to establish the guaranteed maximum price shall not be subject to retention.
- 18) Provides that, in a contract between the design-build entity and a subcontractor, and in a contract between a subcontractor and any subcontractor thereunder, the percentage of the retention proceeds withheld shall not exceed the percentage specified in the contract between the local agency and the design-build entity. If the design-build entity provides written notice to any subcontractor that is not a member of the design-build entity, before 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 local agency and the design-build entity from any payment made by the design-build entity to the subcontractor.
- 19) Requires, no later than January 1, 2028, a local agency that uses the progressive design-build process pursuant to this bill to submit to the appropriate policy and fiscal committees of the Legislature, in compliance with specified existing law, a report on the use of the progressive design-build process. The report shall include, but is not limited to, the following information:
 - a) A description of the project or projects awarded using the progressive design-build process.
 - b) The contract award amounts.
 - c) The design-build entities awarded the project or projects.
 - d) A description of any written protests concerning any aspect of the solicitation, bid, or award of the contracts, including the resolution of the protests.
 - e) A description of the prequalification process.
 - f) The number of specialty subcontractors listed by construction trade type, on each project, that provided design services, but did not meet the target price for their scope of work, and therefore did not perform construction services on that project.
 - g) Whether or not any portion of a design prepared by the specialty subcontractor that did not perform the construction work for that design was used by the local agency.
 - h) The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a small business, as specified.

- i) The number of specialty subcontractors listed by construction trade type, on each project, that meet the definition of a microbusiness, as specified.
 - j) If a project awarded under this chapter has been completed, an assessment of the project performance, including, but not limited to, a summary of any delays or cost increases.
- 20) Provides that nothing in this bill affects, expands, alters, or limits any rights or remedies otherwise available at law.
- 21) Provides the following definitions for the purposes of this bill:
- a) “Best value” means a value determined by evaluation of objective criteria that may include, but are not limited to, price, features, function, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and the objectives of the project.
 - b) “Construction subcontract” means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.
 - c) “Design-build entity” means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.
 - d) “Design-build project” means any project that treats, pumps, stores, or conveys water, wastewater, recycled water, advanced treated water, or supporting facilities using the progressive design-build construction procurement process described in this chapter.
 - e) “Design-build team” means the design-build entity itself, the individuals, and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.
 - f) “Guaranteed maximum price” means the maximum payment amount agreed upon by the local agency and the design-build entity for the design-build entity to finish all remaining design, preconstruction, and construction activities sufficient to complete and close out the project.
 - g) “Local agency” means a city, county, city and county, or special district authorized by law to provide for the production, storage, supply, treatment, or distribution of any water from any source.
 - h) “Progressive design-build” means a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications-based selection at the earliest feasible stage of the project.

- i) “Qualifications-based selection” means the process by which the local agency solicits for services from the design-build entities and that price is not the sole factor as the basis of award.
- 22) Provides that this bill shall remain in effect only until January 1, 2029, and as of that date is repealed.
 - 23) Provides that no reimbursement is required by this bill pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this bill creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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.
 - 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, and limited transportation projects, as specified].
- 4) Limits, generally, the types of special districts that may use design-build pursuant to 2), above, to transit districts, and special districts that operate wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities.
- 5) Limits the types of projects that special districts can construct using design-build pursuant to 2), above, to the following:

- a) Transit capital projects that begin project solicitation on or after January 1, 2015, excluding state highway construction or local street and road projects (for transit districts); and,
 - b) Regional and local wastewater treatment facilities, regional and local solid waste facilities, regional and local water recycling facilities, or fire protection facilities (for special districts that operate those types of facilities).
- 6) Authorizes the Department of General Services (DGS) to use the progressive design-build procurement process for up to three public works projects, as specified.

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

- 1) **Bill Summary.** This bill authorizes a county, city, or special district that produces, stores, supplies, treats, or distributes water to use the progressive design-build method of project delivery for any public works project in excess of \$5 million that treats, pumps, stores, or conveys water, wastewater, recycled water, advanced treated water, or supporting facilities.

This bill outlines extensive requirements for the procurement process that must be followed, including provisions for the use of a skilled and trained workforce, protections for subcontractors, and other requirements.

This bill requires, no later than January 1, 2028, a local agency that uses the progressive design-build process authorized by this bill to submit a report to the Legislature on the use of the progressive design-build process and specifies the contents of that report. The bill sunsets on January 1, 2029.

This bill is sponsored by the Water Collaborative Delivery Association.

- 2) **Author's Statement.** According to the author, "Recent data and forecasts indicate that California faces an unprecedented need to provide additional capacity to treat water. Recent technological developments have opened the door to new opportunities to convert wastewater into drinking water. In order to do so at scale, however, a substantial share of California's 600 local water agencies will need to make significant investments in new infrastructure that incorporates cutting-edge treatment methods. SB 991 will afford local water agencies the option of using the progressive design-build contracting method to reduce overall project risks, costs, and schedules for public works projects estimated to cost more than \$5 million."
- 3) **Design-Build in California Law.** California's Legislature began granting design-build authority in the early 1990's, and has typically done so with specified parameters, such as the duration of the authority, the types of agencies allowed to use it, the types of projects for which it can be used, cost thresholds, and specified procedures that must be followed in preparing and awarding contracts. Over the years, this resulted in a number of statutes in a variety of code sections, which created confusion for public agencies and contractors alike.

In an effort to consolidate these statutes, SB 785 (Wolk), Chapter 931, Statutes of 2014, repealed existing law authorizing the DGS, the Department of Corrections and Rehabilitation (CDCR), and local agencies to use the design-build procurement process, and enacted uniform provisions authorizing DGS, CDCR, and specified local agencies to utilize the design-build procurement process for specified public works projects (with some exceptions, notably design-build authority for CalTrans). SB 785 created one set of codes for DGS and CDCR, and a separate set for specified local agencies, but with similar parameters.

Since SB 785 was enacted, the Legislature has authorized numerous additional local agencies or types of local agencies to use SB 785 design-build authority for additional projects or types of projects.

- 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 generally 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.
- 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 some limited exceptions).

- 5) **Limits on Design-Build for Special Districts and Other Specified Agencies.** Existing law also generally limits the use of design-build for special districts and a handful of other specified agencies by both type of district or agency and type of project. The agencies include: special districts that operate wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities; specified transit and transportation agencies; the San Diego Association of Governments (SANDAG); a few water agencies; and, healthcare districts.

For special districts that operate wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities, their use of design-build is limited to regional and local wastewater treatment facilities; regional and local solid waste facilities; regional and local water recycling facilities; and, fire protection facilities.

- 6) **Progressive Design-Build.** According to the Design-Build Institute of America, “One application of design-build delivery is via a stepped, or progressive process (commonly referred to as Progressive Design-Build or PDB). PDB uses a qualifications-based or best

value selection, followed by a process whereby the owner then ‘progresses’ towards a design and contract price with the team (thus the term ‘Progressive’).

“While procurement laws vary for public owners, some have the flexibility to implement a PDB procurement approach that essentially replicates that used by private sector owners. PDB core features include the following:

- The design-builder is retained by the owner early in the life of the project and, in some cases, before the design has been developed at all.
- The design-builder is generally selected primarily, if not exclusively, on qualifications and the design-builder’s final project cost/price and schedule commitment is not established as part of the selection process.
- The design-builder delivers the project in two distinct phases with: (a) Phase One including budget level design development, preconstruction services and the negotiation of a firm contract price (either lump sum or guaranteed maximum price) for Phase Two; and (b) Phase Two including final design, construction and commissioning.

“Phase One Services are also called Preliminary or Preconstruction Services. The design-builder first collaborates with the owner and its consultants to create or confirm the project’s basis of design, programming requirements and then advances that design. Design and other project decisions are based on cost, schedule, quality, operability, life cycle and other considerations, with the design-builder providing ongoing, transparent cost estimates to ensure that the owner’s budgetary requirements are being achieved. At the point in time where the design has been advanced to an appropriate level of definition that aligns with the owner’s requirements, the design-builder will provide a formal commercial proposal (including the overall contract price) for Phase Two services. The proposal is often established when the design is approximately 40 to 60 percent complete, but it can occur anytime (including as late as 90 to 100 percent design completion), depending on the amount of control the owner desires to maintain over the design definition.

“Phase Two Services are also called Final Design and Construction Services. Once the owner and design-builder agree upon commercial terms (including the project’s price and schedule), the design-builder will complete the design and construction of the facility in accordance with those commercial terms. The design-builder will also be responsible for any testing, commissioning, and other services that have been agreed upon.

“If, for any reason, the parties cannot reach agreement on the Phase Two commercial terms, then the owner may consider an ‘off-ramp’ option — where it can use the design and move forward with the project through another contract strategy...(A) PDB relationship can be established with the parties entering into two separate contracts for each phase of work or a single contract that covers both phases. Also, while there appears to be a ‘bright line’ between Phase One and Phase Two Services, the pragmatics of expediting project schedules often require that some Phase Two work be started before the commercial proposal has been agreed upon. As a result, many PDB projects allow the design-builder to proceed on ‘early work’ packages for discrete elements of the physical work (e.g., procurement of long lead items, demolition or site work) before Phase Two authorization.”

AB 137 (Committee on Budget), Chapter 77, Statutes of 2021, authorized the Department of General Services (DGS) to use the progressive design-build procurement process for up to three public works projects, and outlined extensive parameters for the department's use of this procurement method. This bill's progressive design-build provisions are similar, but not identical, to those contained in AB 137.

7) **Policy Considerations.** The Committee may wish to consider the following:

- a) **Expansive Authorization Without Cap on Number of Projects.** Progressive design-build is a relatively new contracting method. As noted above, the Legislature last year authorized DGS to use this method for up to three projects. This Committee also approved AB 1845 earlier this year, which allows the Metropolitan Water District of Southern California (MWD) to use the design-build, progressive design-build, and construction manager/general contractor (CM/GC) methods of project delivery for up to 15 regional water recycling projects or drought response projects.

This bill does have some clearly-defined parameters. It limits the type of agency that may use progressive design-build (counties, cities and special districts that provide water service). It also specifies the kinds of projects that may be procured using progressive design-build (any public works project in excess of \$5 million that treats, pumps, stores, or conveys water, wastewater, recycled water, advanced treated water, or supporting facilities). The bill also contains a sunset date and reporting requirements to the Legislature.

However, this bill is the most expansive authorization of progressive design-build to date – according to the author's statement, roughly 600 local water agencies could use the provisions of this bill. In addition, unlike other authorizations to use progressive design-build, this bill does not limit the number of projects that these local agencies may procure using progressive design-build. The Committee may wish to consider if any additional safeguards should be added to this bill.

- b) **Contracting Method du Jour.** Again, as noted above, progressive design-build is relatively new. It also appears to be rapidly gaining appeal to both state and local governments. SB 785 many years ago consolidated the prior proliferation of design-build statutes into two distinct sets of statutes – one for state agencies and one for local agencies – in an effort to create consistency and simplicity for government use of design-build. The Committee may wish to consider if and when a similar effort should be undertaken for progressive-design-build, given what appears to be its growing popularity.
- 8) **Committee Amendment.** In order to address some of the policy considerations raised above, the Committee may wish to limit to 15 the number of projects each local agency may procure using the progressive design-build authorization as outlined in the bill.
- 9) **Related Legislation.** AB 1845 (Calderon) authorizes MWD to use design-build, progressive design-build and construction manager/general contractor project delivery methods for up to 15 regional water recycling projects or drought response projects. AB 1845 is pending in the Senate Governance and Finance Committee.

AB 2789 (Mullin) repeals the January 1, 2023, sunset date authorizing the Midpeninsula Regional Open Space District and the Santa Clara Valley Open-Space Authority to use the design-build process for the construction of facilities or other buildings, and authorizes the East Bay Regional Park District to use the design-build process for the construction of facilities or other buildings. AB 2789 is pending in Senate Governance and Finance Committee.

SB 1354 (Jones) allows cities and counties to use design-build for contracts that are necessary to comply with Americans with Disabilities Act requirements. SB 1354 is pending in the Senate Appropriations Committee.

- 10) **Previous Legislation.** AB 137 (Committee on Budget), Chapter 77, Statutes of 2021, authorized DGS to use the progressive design-build procurement process for up to three public works projects, and outlined parameters for the department's use of this procurement method.

SB 626 (Dodd), Chapter 247, Statutes of 2021, authorized the Department of Water Resources to use the design-build and CM/GC project delivery methods for facilities of the State Water Project, excluding through Delta conveyance, as specified.

AB 851 (Caballero and Gloria), Chapter 821, Statutes of 2017, allowed the Santa Clara Valley Water District to use the design-build procurement method for specified types of projects.

AB 994 (Muratsuchi), Chapter 321, Statutes of 2017, allowed the Beach Cities Health District to use the design-build procurement method to assign contracts for the construction of facilities or other buildings in the district.

AB 1523 (Oberholte and Reyes), Chapter 154, Statutes of 2017, authorized the San Bernardino County Transportation Authority to use design-build for the construction of the Mt. Vernon Avenue Viaduct project.

SB 373 (Cannella), Chapter 391, Statutes of 2017, allowed the Stanislaus Regional Water Authority to use design-build for its Regional Surface Water Supply Project.

SB 793 (Hill), Chapter 627, Statutes of 2017, allowed the Peninsula Health Care District, the Midpeninsula Regional Open Space District, and the Santa Clara Valley Open-Space Authority to use the design-build procurement method to assign contracts for the construction of facilities or other buildings in those districts.

SB 957 (Hueso), Chapter 212, Statutes of 2016, allowed health care districts that own or operate a hospital or clinic to use the design-build procedure to construct a building or improvements directly related to the construction of a hospital or health facility building.

AB 1290 (Dahle), Chapter 34, Statutes of 2015, allowed the Mayers Memorial Hospital District to use the design-build procedure to construct a building or improvements directly related to the construction of a hospital or health facility building in the district.

SB 374 (Hueso), Chapter 715, Statutes of 2015, allowed SANDAG to use the design-build procurement process for specified development projects related to transit facilities developed or jointly developed by SANDAG.

AB 155 (Alejo), Chapter 865, Statutes of 2014, allowed the Monterey County Water Resources Agency to use design-build contracting to construct a pipeline or tunnel that will connect two reservoirs that the agency owns and operates.

SB 268 (Gaines), Chapter 18, Statutes of 2014, allowed the Last Frontier Health Care District to use the design-build process when contracting for the construction of a building and improvements directly related to a hospital or health facility building at the Modoc Medical Center.

SB 785 (Wolk), Chapter 931, Statutes of 2014, repealed existing law authorizing DGS, CDCR, and local agencies to use the design-build procurement process, and enacted uniform provisions authorizing DGS, CDCR, and specified local agencies to utilize the design-build procurement process for specified public works projects.

- 11) **Arguments in Support.** The Water Collaborative Delivery Association, sponsor of this bill, writes, “The progressive design-build methodology is recognized throughout the water industry as a valuable form of collaborative project development that can provide multiple benefits when used to execute complex public works projects. The WDBC seeks to advance the development and rehabilitation of the nation’s municipal water and wastewater systems through the use of collaborative delivery.

“Progressive design build integrates both the design and construction phases to optimize innovation, speed, quality control, and single-point accountability. This early collaboration benefits the public agency owner by providing the opportunity to add the design-build team to the overall project team early in the design phase affording the public agency owner and the design build team more opportunities to collaborate during the project’s design phase. Early collaboration is key to reducing project risk, cost, and schedule.

“As you are aware, California is in another cycle of drought. SB 991 would ensure that progressive design-build is another ‘tool in the toolbox’ that public agency owners could use to deliver water projects assisting local agencies in addressing the state’s critical need for additional water supply and development.”

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

REGISTERED SUPPORT / OPPOSITION:

Support

Water Collaborative Delivery Association [SPONSOR]
Association of California Water Agencies
California Municipal Utilities Association
California Special Districts Association
Elsinore Valley Municipal Water District
Inland Empire Utilities Agency

Los Angeles County Sanitation Districts
Metropolitan Water District of Southern California
Santa Clara Valley Water District
Silicon Valley Leadership Group
State Building & Construction Trades Council of California
Upper San Gabriel Valley Municipal Water District
Water Replenishment District of Southern California
Wateruse Association

Opposition

None on file

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