



General Assembly

February Session, 2012

Amendment

LCO No. 4635

SB0003304635SD0

Offered by:

SEN. WILLIAMS, 29th Dist.
SEN. LOONEY, 11th Dist.
SEN. COLEMAN, 2nd Dist.
SEN. DOYLE, 9th Dist.
SEN. LEBEAU, 3rd Dist.

SEN. DUFF, 25th Dist.
SEN. SLOSSBERG, 14th Dist.
SEN. STILLMAN, 20th Dist.
SEN. MAYNARD, 18th Dist.

To: Subst. Senate Bill No. 33

File No. 157

Cal. No. 170

**"AN ACT CONCERNING DEPARTMENT OF TRANSPORTATION
PROJECT DELIVERY."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) (a) The Commissioner of
4 Transportation may, as an alternative to using a design-bid-build
5 contract pursuant to chapter 238 of the general statutes, designate
6 specific projects to be completed using a (1) construction-manager-at-
7 risk contract with a guaranteed maximum price, or (2) design-build
8 contract.

9 (b) If the commissioner designates a project to use a construction-
10 manager-at-risk contract with a guaranteed maximum price, the
11 commissioner may enter into a single contract with an architect or

12 engineer for the project design, as well as a single contract with a
13 construction-manager-at-risk contractor who will provide input during
14 the design process and be responsible for the construction of the
15 project by selecting trade subcontractors using a low sealed bid
16 process. The construction-manager-at-risk contract shall have an
17 established guaranteed maximum price. The commissioner may select
18 the architect, engineer or contractor from among the contractors
19 selected and recommended by a selection panel. Any such contract for
20 such project shall be based upon competitive proposals received by the
21 commissioner, who shall give notice of the project, by advertising at
22 least once, in a newspaper having a substantial circulation in the area
23 in which the project is located. Award of any such contract shall be
24 based upon the general conditions and staff costs plus qualitative
25 criteria. The commissioner shall establish all criteria, requirements and
26 conditions of such proposals and award and shall have sole
27 responsibility for all other aspects of the project. Any contract shall
28 clearly state the responsibilities of the contractor to deliver a completed
29 and acceptable project on a date certain, the maximum cost of the
30 project, and, if applicable, as a separate item, the cost of property
31 acquisition.

32 (c) If the commissioner designates a project to use a design-build
33 contract, the commissioner may enter into a single contract with the
34 design-builder, who the commissioner may select from among the
35 design-builders selected and recommended by a selection panel. The
36 contract shall (1) include, but not be limited to, such project elements
37 as site acquisition, permitting, engineering design and construction,
38 and (2) be based on competitive proposals received by the
39 commissioner, who shall give notice of the project and specifications
40 for the project, by advertising, at least once, in a newspaper having a
41 substantial circulation in the area in which the project is located.
42 Award of the design-build contract shall be based on a predetermined
43 metric provided to proposers in advance of technical proposal
44 development. This metric may be unique to each project, but shall
45 consist of a combined score of qualifications and past performance of

46 the proposer, technical merit of the proposal and cost. The
47 commissioner shall establish a selection panel for each project to score
48 the qualifications and past performance and technical portion of the
49 proposal using the predefined scoring metric. The sealed cost portion
50 of the proposal shall be opened in a public ceremony only after the
51 qualifications and past performance and technical portions of the
52 proposals have been scored. The commissioner shall determine all
53 criteria, requirements and conditions for such proposals and award
54 and shall have sole responsibility for all other aspects of the contract.
55 Such contract shall state clearly the responsibilities of the design-
56 builder to deliver a completed and acceptable project on a date certain,
57 the maximum cost of the project, and, if applicable, as a separate item,
58 the cost of property acquisition.

59 Sec. 2. (NEW) (*Effective from passage*) (a) For any contract entered
60 into pursuant to section 1 of this act, the Commissioner of
61 Transportation shall: (1) Perform project development services. Such
62 services may include, but need not be limited to, the size, type and
63 desired design character of the project, performance specifications,
64 quality of materials, equipment, workmanship, preliminary plans or
65 any other information necessary for the department to issue a bid
66 package, and (2) perform oversight of projects and provide inspection
67 services, which shall include, but need not be limited to, inspection of
68 construction, surveying, testing, monitoring of environmental
69 compliance, quality control inspection and quality assurance audits.

70 (b) (1) After the first two projects performed with contracts
71 authorized pursuant to section 1 of this act, the Commissioner of
72 Transportation shall perform all development and inspection work, as
73 described in subsection (a) of this section, using department
74 employees. The Commissioner of Administrative Services shall place
75 the positions required for this work on continuous recruitment
76 pursuant to the provisions of section 5-216 of the general statutes. Such
77 employees may be appointed to durational positions to reduce the
78 need for inspection or development work to be performed by
79 consultants. In addition, employees may be appointed as engineers if

80 they have met the education, knowledge and training requirements
81 required by the Department of Administrative Services job
82 classification to durational positions without examination to reduce
83 the need for inspection or development work to be performed by
84 consultants. Any contract entered into with a consultant for the initial
85 project bid in accordance with section 1 of this act shall contain a
86 provision that provides for training the employees of the Department
87 of Transportation in the process for bidding and managing projects
88 entered into in accordance with said section 1.

89 (2) Notwithstanding the provisions of subdivision (1) of this
90 subsection, there shall be a transition period during which the
91 Commissioner of Transportation may authorize the continued use of
92 consultants if necessary to complete contracts authorized pursuant to
93 section 1 of this act. During this period, the commissioner shall make
94 all reasonable efforts to perform development and inspection work, as
95 described in subsection (a) of this section using, where such employees
96 are available, department employees and reducing, and where possible
97 eliminating, the dependency on outside consultants. The authority
98 granted by this subsection to use consultants on contracts entered into
99 pursuant to section 1 of this act shall be subject to a termination date
100 which shall be the earlier of (A) the date that the Governor transmits to
101 the joint standing committee of the General Assembly having
102 cognizance of matters relating to transportation a letter certifying that
103 the use of consultants is no longer necessary to complete projects
104 authorized pursuant to said section 1, or (B) January 1, 2019. This
105 authority shall not continue beyond such termination date unless
106 affirmatively reauthorized by the action of both houses of the General
107 Assembly.

108 Sec. 3. (NEW) (*Effective from passage*) The Commissioner of
109 Transportation shall work to reduce the number of consultants who
110 are engaged to review work performed by other outside consultants
111 and shall report to the joint standing committee of the General
112 Assembly having cognizance of matters relating to transportation on
113 or before July 1, 2013, and annually thereafter on the status of such

114 effort.

115 Sec. 4. (NEW) (*Effective from passage*) For the purposes of this section
116 and sections 5 and 6 of this act:

117 (1) "Project labor agreement" means a prehire agreement covering
118 the terms and conditions for all persons who will perform work on a
119 specific public works project;

120 (2) "Public entity" means the state and any agency, instrumentality
121 or political subdivision thereof;

122 (3) "Public works project" means the construction, reconstruction,
123 alteration, remodeling, repair or demolition of any public building or
124 any other public works by a public entity.

125 Sec. 5. (NEW) (*Effective from passage*) (a) Notwithstanding the
126 provisions of any general statute, regulation or requirement regarding
127 procurement of goods or services, a public entity may require a project
128 labor agreement for any public works project when such public entity
129 has determined, on a project-by-project basis and acting within its
130 discretion, that it is in the public's interest to require such an
131 agreement. In making such determination, the public entity may
132 consider the effects a project labor agreement may have on (1) the
133 efficiency, cost and direct and indirect economic benefits to the public
134 entity; (2) the availability of a skilled workforce to complete the public
135 works project; (3) the prevention of construction delays; (4) the safety
136 and quality of the public works project; (5) the advancement of
137 minority and women-owned businesses; and (6) employment
138 opportunities for the community.

139 (b) A public entity's decision to require a project labor agreement
140 shall not be evidence of fraud, corruption or favoritism.

141 (c) Any project labor agreement required by a public entity
142 pursuant to this section shall: (1) Set forth mutually binding
143 procedures for resolving disputes that can be implemented without

144 delay; (2) include guarantees against a strike, lockout or other
 145 concerted action aimed at slowing or stopping the progress of a public
 146 works project; (3) ensure a reliable source of skilled and experienced
 147 labor; (4) include goals for the number of apprentices and for a
 148 percentage of work to be performed by minorities, women and
 149 veterans; (5) invite all contractors to bid on the project without regard
 150 to whether the employees of any such contractor are members of a
 151 labor organization, as defined in section 31-101 of the general statutes;
 152 (6) permit the selection of the lowest responsible qualified bidder
 153 without regard to labor organization affiliation; (7) not require
 154 compulsory labor organization membership of employees working on
 155 the project; and (8) bind all contractors and subcontractors to the terms
 156 of the agreement.

157 (d) Any bidder for a public works project that does not agree to
 158 abide by the conditions of the project labor agreement or a requirement
 159 to negotiate a project labor agreement shall not be regarded as a
 160 responsible qualified bidder for such project.

161 Sec. 6. (NEW) (*Effective from passage*) Prior to a public entity entering
 162 into a design build contract for new construction of a public school or
 163 for renovation or reconstruction of an existing public school with a
 164 value greater than or equal to ten million dollars, such public entity
 165 shall determine if the use of a project labor agreement would be in the
 166 public's interest in accordance with subsection (a) of section 5 of this
 167 act.

168 Sec. 7. (NEW) (*Effective from passage*) The provisions of sections 5
 169 and 6 of this act are severable and if any provision is determined to
 170 contravene state or federal law, the remainder of sections 5 and 6 of
 171 this act shall remain in full force and effect."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>from passage</i>	New section