

AMENDED IN SENATE JUNE 30, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 729**

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**Introduced by Assembly Member Evans**

February 26, 2009

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An act to amend ~~Section 20209.14~~ *Sections 20209.12 and 20209.14* of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 729, as amended, Evans. Public contracts: transit design-build contracts.

Existing law authorizes transit operators to enter into a design-build contract, as defined, according to specified procedures. *Existing law requires a transit operator that uses the design-build process to report to the Legislative Analyst on each public works project procured through the design-build process within 120 days of the design-build project being put into operation or by December 1, 2005, whichever occurs first.* Existing law requires certain information submitted under ~~these the design-build~~ provisions to be submitted under penalty of perjury. Existing law repeals these provisions on January 1, 2011.

This bill would instead repeal these provisions on January 1, 2015. *The bill would require a transit operator that uses the design-build process to report to the Legislative Analyst on each public works project procured through the design-build process within 120 days of the design-build project being put into operation or by December 1, 2015, whichever occurs first.* Because the bill would expand the crime of perjury, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 20209.12 of the Public Contract Code is  
2     amended to read:

3     20209.12. Each transit operator that elects to proceed under  
4     this article and use the design-build method on a public works  
5     project shall prepare and deliver to the Legislative Analyst's office  
6     within 120 days of the design-build project being put into operation  
7     or by December 1, ~~2005~~ 2015, whichever occurs first, a report  
8     containing a description of each public works project financed  
9     with public funds, procured through the design-build process, and  
10    completed on or before November 1, ~~2005~~ 2015. However, if a  
11    project has been commenced, but not completed on or before  
12    November 1, ~~2005~~ 2015, the transit operator shall complete a report  
13    no later than 120 days after completion of the project. The report  
14    shall include, but not be limited to, all of the following information:

15    (a) The type of facility.

16    (b) The gross square footage of the facility.

17    (c) The company or contractor who was awarded the project.

18    (d) The estimated and actual length of time to complete the  
19    project.

20    (e) The findings established pursuant to Section 20133.

21    (f) Any Labor Code violations discovered during the course of  
22    construction or following completion of the project, as well as any  
23    fines or penalties assessed.

24    (g) The estimated and actual project cost.

25    (h) A description of any written protests concerning any aspect  
26    of the solicitation, bid, proposal, or award of the design-build  
27    project, including the resolution of the protest.

28    (i) An assessment of the prequalification process and criteria.

29    (j) An assessment of the impact of retaining 5 percent retention  
30    on the project.

1 (k) A description of the labor force compliance program and an  
2 assessment of the project impact, where required.

3 (l) A description of the method used to award the contract. If  
4 best value was the method, the factors used to evaluate the bid  
5 shall be described, including the weighting of each factor and an  
6 assessment of the effectiveness of the methodology.

7 (m) An assessment of the project impact of “skilled labor force  
8 availability.”

9 (n) An assessment of the design-build dollar limits on transit  
10 projects. This shall include projects where the transit operator  
11 wanted to use design-build and was precluded by the dollar  
12 limitation. It shall also include projects where the best value  
13 method of awarding contracts was not used, due to dollar  
14 limitations.

15 (o) An assessment of the most appropriate uses for the  
16 design-build approach.

17 (p) Any transit operator that elects not to use the authority  
18 granted may also submit a report to the entities named in  
19 accordance with the schedule in this section. This report may  
20 include an analysis of why the authority granted was not used by  
21 the operator.

22 ~~SECTION 1.~~

23 *SEC. 2.* Section 20209.14 of the Public Contract Code is  
24 amended to read:

25 20209.14. This article shall remain in effect only until January  
26 1, 2015, and as of that date is repealed.

27 ~~SEC. 2.~~

28 *SEC. 3.* No reimbursement is required by this act pursuant to  
29 Section 6 of Article XIII B of the California Constitution because  
30 the only costs that may be incurred by a local agency or school  
31 district will be incurred because this act creates a new crime or  
32 infraction, eliminates a crime or infraction, or changes the penalty  
33 for a crime or infraction, within the meaning of Section 17556 of  
34 the Government Code, or changes the definition of a crime within  
35 the meaning of Section 6 of Article XIII B of the California  
36 Constitution.