

Assembly Bill No. 1620

Passed the Assembly October 7, 2010

Chief Clerk of the Assembly

Passed the Senate October 7, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 13332.11, 13332.19, 15802, 15809, 15814.11, 15817, 15817.1, 15849.2, and 70374 of, to add Section 15770.2 to, to repeal Sections 15807 and 15815 of, and to repeal and add Sections 15849.6 and 16352 of, the Government Code, relating to public works projects, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1620, Committee on Budget. Public works projects.

(1) Existing law prohibits any state agency from expending funds appropriated for capital outlay projects, and prohibits the expenditure of funds appropriated for design-build projects, until the Department of Finance and the State Public Works Board have approved preliminary plans for the project. Existing law authorizes the board to augment a major capital outlay or design-build project in an amount of up to 20% of the total appropriation for that project. Prior to board action on any capital outlay or design-build appropriation, the department is required to certify that the requested action is in accordance with the legislatively approved scope and cost. Existing law also requires, in specified circumstances, the board to defer action with respect to the approval of preliminary plans for a capital outlay project and the approval of concept drawings and performance criteria for a design-build project. Existing law authorizes the Director of General Services to enter into only 7 design-build contracts pursuant to these provisions, as specified, and effective July 1, 2009, provides that specified provisions remain operative for these 7 design-build projects.

This bill would make clarifying changes to the prohibition on the expenditure of capital outlay or design-build funds prior to approval by the Department of Finance and the State Public Works Board. The bill would provide that for specified projects, the department has full authority to determine which fund sources will bear all or part of a board augmentation. The bill would delete the department's certification requirement and, instead, authorize the department to change the administratively or legislatively approved

scope for major capital outlay or design-build projects and to report the changes and associated cost implications, as prescribed. The bill would also delete the board's requirement to defer action, in certain circumstances, with respect to the approval of preliminary plans for a capital outlay project or the approval of concept drawings and performance criteria for a design-build project and, instead, require the department to report to specified individuals 20 days prior to the proposed board approval. The bill would make further technical changes.

(2) Existing law establishes the State Public Works Board and prescribes its membership, which includes the Director of Finance.

This bill would permit the Director of Finance to designate a deputy to serve as his or her representative to the board and would require that the Director of Finance or his or her representative be chairperson of the board. The bill would authorize the board to delegate its powers to one or more of its members, or to any officer or employee of the board, as specified.

(3) Existing law establishes the powers of the State Public Works Board, for the purposes of the State Building Construction Act of 1955, including the authority to lease property as lessor, with the approval of the Department of General Services, to state agencies, and the authority to contract with other state agencies for the use of real property owned by the state, as specified. Existing law establishes certain definitions in this regard. Existing law requires that the board contract with the Department of General Services for the maintenance, repair, and equipment of all public buildings constructed, acquired, or operated by the board, when the Department of General Services elects to furnish maintenance and repair.

This bill would authorize the board to exercise its power to lease property, as described above, without the approval of the Department of General Services, would authorize the board to contract or enter into a lease with other state agencies for the use of real property without regard to whether the property is owned by the state, would revise the definition of public building, and would establish a definition of state agency that would include all state agencies, organizations, and offices, without limitation, including the University of California and the Judicial Council. The bill would also repeal provisions requiring the board to contract

with the Department of General Services for the maintenance, repair, and equipment of all public buildings, as described above.

(4) Existing law requires, except as specified, that the plans and specifications for any public building constructed pursuant to the State Building Construction Act of 1955 be prepared by the Department of General Services and that any building constructed under the act be constructed in accordance with the State Contract Act.

This bill would repeal these provisions of law.

(5) Existing law permits the Department of General Services, or another state agency with the approval of the department, to lease from the State Board of Public Works, a building constructed by the board for a term not exceeding 35 years, as specified.

This bill would provide that the leases described above do not require the approval of the Department of General Services, that a state agency or the board may act as either lessee or lessor, and that these provisions apply to any public building, regardless of whether it was constructed by the board.

(6) Existing law permits the State Board of Public Works, exclusively for the purpose of providing the financing for public buildings or equipment through the issuance of certain indebtedness, to buy or lease from any community college district, the Trustees of the California State University, or the Regents of the University of California public facilities and to sell or lease those public facilities back to the relevant entity. Existing law prescribes the terms of such a sale or lease and the public facilities or equipment to which these provisions apply.

This bill would revise and recast these provisions to authorize the board, until July 1, 2015, to acquire by lease from any state agency, as defined, buildings that are under the agency's control, for the purpose of facilitating the financing of public buildings, and then lease those buildings back to the agency and pledge the revenues, rentals, or receipts of the lease to secure the repayment of revenue bonds, notes, or certificates issued by the board. The bill would provide that the board is not required to apply the proceeds of the board's bonds, notes, or certificates to acquire, design, construct, or otherwise improve the same public buildings that are leased pursuant to these provisions. The bill would specify the characteristics of the buildings to which these leases would apply and provide that the leases do not require the approval of

the Department of General Services. The bill would require that leases made pursuant to this authority prior to July 1, 2015, continue in full force and effect in accordance with their applicable terms, and that any acquisitions made and bonds issued pursuant to this authority prior to that date are binding and valid. The bill would also make conforming, technical changes.

(7) Existing law authorizes the State Public Works Board to issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment, as authorized by the Legislature. Existing law provides that this authorization be applicable to, but not limited to, debt service authorized by appropriations of the Legislature made prior to the effective date of the act adding this provision.

This bill would repeal and reinstate this provision of law.

(8) Existing law appropriates from each special fund in the State Treasury from which an appropriation is available for acquisition of real property or for construction and equipment of state public works projects an amount sufficient to provide for the payment of the project if the project cannot be undertaken due to insufficient appropriation of funds, as described.

This bill would recast these provisions of law and appropriate, without regard to fiscal years, any augmentation of an appropriation for a state public works project from the General Fund or any other fund from which a capital outlay appropriation has been authorized.

(9) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

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

SECTION 1. Section 13332.11 of the Government Code is amended to read:

13332.11. (a) (1) Except as otherwise specified in paragraph (2), no funds appropriated for capital outlay may be expended by any state agency, including the University of California, the California State University, the California Community Colleges, and the Judicial Council until the Department of Finance and the State Public Works Board have approved preliminary plans for the project to be funded from a capital outlay appropriation.

(2) Paragraph (1) shall not apply to any of the following:

(A) Amounts for acquisition of real property in fee, or any other lesser interest.

(B) Amounts for equipment or minor capital outlay projects.

(C) Amounts appropriated for preliminary plans, surveys, and studies.

(b) Notwithstanding subdivision (a), approvals by the State Public Works Board and the Department of Finance for the University of California and the California Community Colleges shall apply only to the allocation of state capital outlay funds appropriated by the Legislature, including land acquisition and equipment funds.

(c) Any appropriated amounts for working drawings or construction where the working drawings or construction have been started by any state agency prior to approval of the preliminary plans by the State Public Works Board shall be reverted to the fund from which the appropriation was made, as approved by the Department of Finance. No major project for which a capital outlay appropriation is made shall be put out to bid until the working drawings have been approved by the Department of Finance. No substantial change shall be made to the approved preliminary plans or approved working drawings without written approval by the Department of Finance. Any proposed construction bid alternates shall be approved by the Department of Finance.

(d) The Department of Finance shall approve the use of funds from a capital outlay appropriation for the purchase of any significant unit of equipment.

(e) The State Public Works Board may augment a major project in an amount of up to 20 percent of the total of the capital outlay appropriations for the project, irrespective of whether any such appropriation has reverted. For projects authorized through multiple fund sources, including, but not limited to, general obligation bonds and lease-revenue bonds, to the extent otherwise permissible, the Department of Finance shall have full authority to determine which of the fund sources will bear all or part of an augmentation. The board shall defer all augmentations in excess of 20 percent of the amount appropriated for each capital outlay project until the Legislature makes additional funds available for the specific project.

(f) In addition to the powers provided by Section 15849.6, the State Public Works Board may further increase the additional

amount in Section 15849.6 to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The amount of the construction reserve shall be within the 20 percent augmentation limitation. The board may use this amount to augment the project, when and if necessary, after the lease revenue bonds are sold to assure completion of the project. Upon completion of the project, any amount remaining in the construction reserve funds shall be used to offset rental payments.

(g) Augmentations in excess of 10 percent of the amount appropriated for each capital outlay project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine.

(h) (1) The Department of Finance may change the administratively or legislatively approved scope for major capital outlay projects.

(2) If the Department of Finance changes the approved scope pursuant to paragraph (1), the department shall report the changes and associated cost implications to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative advisers of the State Public Works Board 20 days prior to the proposed board action to recognize the scope change.

(i) The State Public Works Board shall defer action with respect to approval of an acquisition project, when it is determined that the estimated cost of the total acquisition project, as approved by the Legislature is in excess of 20 percent of the amount appropriated, unless it is determined that a lesser portion of the property is sufficient to meet the objectives of the project approved by the Legislature, and the Chairperson of the Joint Legislative Budget Committee, or his or her designee, is provided a 20-day prior notification of the proposed reductions in the acquisition project, or whatever lesser period the chairperson, or his or her designee, may in each instance determine.

(j) The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and legislative advisers of the State Public Works Board 20 days prior to the proposed board approval

of preliminary plans when it is determined that the estimated cost of the total capital outlay construction project is in excess of 20 percent of the amount recognized by the Legislature.

(k) Nothing in this section shall be construed to limit or control the Department of Transportation or the California Exposition and State Fair in the expenditure of all funds appropriated to the department for capital outlay purposes.

SEC. 2. Section 13332.19 of the Government Code is amended to read:

13332.19. (a) For the purposes of this section, the following definitions shall apply:

(1) “Design-build” means a construction procurement process in which both the design and construction of a project are procured from a single entity.

(2) “Design-build project” means a capital outlay project using the design-build construction procurement process.

(3) “Design-build entity” means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed.

(4) “Design-build solicitation package” means the performance criteria, any concept drawings, the form of contract, and all other documents and information that serve as the basis on which bids or proposals will be solicited from the design-build entities.

(5) “Design-build phase” means the period following the award of a contract to a design-build entity in which the design-build entity completes the design and construction activities necessary to fully complete the project in compliance with the terms of the contract.

(6) “Performance criteria” means the information that fully describes the scope of the proposed project and includes, but is not limited to, the size, type, and design character of the buildings and site; the required form, fit, function, operational requirements, and quality of design, materials, equipment, and workmanship; and any other information deemed necessary to sufficiently describe the state’s needs.

(7) “Concept drawings” means any schematic drawings or architectural renderings that are prepared, in addition to performance criteria, in such detail as is necessary to sufficiently describe the state’s needs.

(b) Except as otherwise specified in paragraphs (1) to (4), inclusive, no funds appropriated for a design-build project may be expended by any state agency, including, but not limited to, the University of California, the California State University, the California Community Colleges, and the Judicial Council, until the Department of Finance and the State Public Works Board have approved performance criteria or performance criteria and concept drawings for the project.

This section shall not apply to any of the following:

(1) Amounts for acquisition of real property, in fee or any lesser interest.

(2) Amounts for equipment or minor capital outlay projects.

(3) Amounts appropriated for performance criteria and concept drawings.

(4) Amounts appropriated for preliminary plans, if the appropriation was made prior to January 1, 2005.

(c) Any appropriated amounts for the design-build phase of a design-build project, where funds have been expended on the design-build phase by any state agency prior to the approval of the performance criteria or the performance criteria and concept drawings by the State Public Works Board, and all amounts not approved by the board under this section shall be reverted to the fund from which the appropriation was made. No design-build project for which a capital outlay appropriation is made shall be put out to design-build solicitation until the bid package has been approved by the Department of Finance. No substantial change shall be made to the performance criteria or to performance criteria and concept drawings as approved by the board and the Department of Finance without written approval by the Department of Finance. Any proposed bid or proposal alternates set forth in the design-build solicitation package shall be approved by the Department of Finance.

(d) The State Public Works Board may augment a design-build project in an amount of up to 20 percent of the capital outlay appropriations for the project, irrespective of whether any such appropriation has reverted. For projects authorized through multiple fund sources, including, but not limited to, general obligation bonds and lease-revenue bonds, to the extent permissible, the Department of Finance shall have full authority to determine which of the fund sources will bear all or part of an augmentation. The board shall

defer all augmentations in excess of 20 percent of the amount appropriated for each design-build project until the Legislature makes additional funds available for the specific project.

(e) In addition to the powers provided by Section 15849.6, the State Public Works Board may further increase the additional amount in Section 15849.6 to include a reasonable construction reserve within the construction fund for any capital outlay project without augmenting the project. The amount of the construction reserve shall be within the 20 percent augmentation limitation. The board may use this amount to augment the project, when and if necessary, after the lease-revenue bonds are sold to assure completion of the project. Upon completion of the project, any amount remaining in the construction reserve fund shall be used to offset rental payments.

(f) Any augmentation in excess of 10 percent of the amounts appropriated for each design-build project shall be reported to the Chairperson of the Joint Legislative Budget Committee, or his or her designee, 20 days prior to board approval, or not sooner than whatever lesser time the chairperson, or his or her designee, may in each instance determine.

(g) (1) The Department of Finance may change the administratively or legislatively approved scope for major design-build projects.

(2) If the Department of Finance changes the approved scope pursuant to paragraph (1), the department shall report the changes and associated cost implications to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the State Public Works Board 20 days prior to the proposed board action to recognize the scope change.

(h) The Department of Finance shall report to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the respective fiscal committees, and the legislative members of the State Public Works Board 20 days prior to the proposed board approval of performance criteria or performance criteria and concept drawings for any project when it is determined that the estimated cost of the total design-build project is in excess of 20 percent of the amount recognized by the Legislature.

SEC. 3. Section 15770.2 is added to the Government Code, to read:

15770.2. (a) The Director of Finance may designate a deputy or other official in the Department of Finance to act for him or her and represent him or her at meetings of the board.

(b) The Director of Finance or his or her representative shall serve as chairperson of the board.

(c) The board may, by resolution, delegate to one or more of its members, or to any other official or employee of the board, any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the board.

SEC. 4. Section 15802 of the Government Code is amended to read:

15802. The following terms whenever used in this part have the meanings given in this section except where the context clearly indicates otherwise:

(a) “Board” means the State Public Works Board.

(b) “Construction” includes the extension, enlargement, repair, renovation, restoration, improvement, furnishing, and equipping of any public building.

(c) “Public building” includes any structure, building, facility, or work that a state agency has jurisdiction of, or is authorized to design or construct, including, but not limited to, infrastructure, parking lots, landscaping, and other ancillary facilities, including furnishings and equipment, incidental to the use of any building, and also includes the site thereof, and any easements or rights of way appurtenant thereto or necessary for its full use.

(d) “Acquire” includes purchase, condemnation, lease, and gift.

(e) “Cost of a public building” includes, but is not limited to, the cost of all real estate, properties, rights, and easements acquired, the cost of construction of public buildings and the furnishing and equipment of them, all financing charges, interest prior to, during and for a period of six months after construction, engineering, architects’ and legal expenses, including the cost of plans, specifications, and surveys, estimates of cost and revenues, administrative expenses, and such other expenses as are necessary or incident to the financing of public buildings, or to determine the feasibility or practicability of any public buildings, and the condemnation of property necessary for use of, or in connection with, any public building.

(f) “Property” includes all property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of this part.

(g) “State agency” includes any state office, officer, department, division, bureau, board, commission, organization, or agency including, without limitation, the University of California, the California State University, the California Community Colleges, and the Judicial Council.

SEC. 5. Section 15807 of the Government Code is repealed.

SEC. 6. Section 15809 of the Government Code is amended to read:

15809. The board may do any of the following:

(a) Acquire in the name of the State of California, and use any property, and lease as lessor, without the approval of the Department of General Services, any property or any interest therein at any time acquired by it to state agencies, or in the event of default upon any certificates, bonds, negotiable notes, or negotiable bond anticipation notes to other than state agencies.

(b) Construct public buildings.

(c) Contract or lease with other state agencies for the use of real property upon which to construct a public building.

(d) Fix, alter, charge, and collect rentals and other charges for the use of public buildings, or for the services rendered by the board, at reasonable rates to be determined by the board for the purpose of providing for the payment of the expenses of the board, not provided for by state appropriations or otherwise, operation of its public buildings, and the payment of the principal of, and interest on, its certificates, revenue bonds, negotiable notes, or negotiable bond anticipation notes.

(e) Make contracts of every kind and nature, and execute all instruments necessary or convenient for the carrying on of its business.

(f) Obtain insurance against loss by fire or other hazards on public buildings, both during and after construction, and obtain insurance against loss of revenues from any cause whatsoever, for the protection of the certificate holders, bondholders, or holders of any of its negotiable notes or negotiable bond anticipation notes.

(g) Issue certificates or revenue bonds, as provided in this part, to obtain funds to pay the cost of public buildings, secure the payment of certificates or revenue bonds and interest thereon by

pledging all or part of its revenues, rentals, and receipts, and provide for the security of the certificates or revenue bonds and the rights of the holders thereof.

(h) Issue negotiable notes, including commercial paper notes or other forms of negotiable short-term indebtedness, and negotiable bond anticipation notes, as provided in this part, to obtain interim funds to pay the cost of public buildings, secure the payment of negotiable notes, including commercial paper notes or other forms of negotiable short-term indebtedness, and negotiable bond anticipation notes and interest thereon as provided in this part, and provide for the security of negotiable notes, including commercial paper notes or other forms of negotiable short-term indebtedness, and negotiable bond anticipation notes and the rights of the holders thereof.

(i) The board may authorize the preparation of bid proposals and the securing of bids for the construction of projects prior to obtaining interim financing. However, no contracts shall be executed until interim financing is available to the board.

SEC. 7. Section 15814.11 of the Government Code is amended to read:

15814.11. For purposes of this chapter, the following terms have the following meanings:

(a) “Public building” means a public building as defined in Section 15802, and includes the cogeneration and alternative energy equipment, water conservation equipment, and conservation measures which the board is authorized by this chapter to acquire and construct. “Public Building” also means any publicly funded school that includes kindergarten and grades 1 to 12, inclusive, or any portion of those grades, provided that publicly funded schools that include kindergarten and grades 1 to 12, inclusive, shall be authorized to finance only conservation measures and water conservation equipment as defined in subdivisions (e) and (g).

(b) “Energy service contract” means a contract entered into by the board or any other state agency with any person, including, but not limited to, an individual, company, corporation, partnership, state agency, or other entity or group of entities, pursuant to which the person will provide electrical or thermal energy or water or water conservation or energy conservation measures.

(c) “Cogeneration equipment” means equipment for cogeneration, as defined in Section 216.6 of the Public Utilities Code.

(d) “Alternative energy equipment” means equipment for the production or conversion of energy from alternative sources, including, but not limited to, solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts, or any other source of energy or water, the efficient use of which will reduce the use of fossil or nuclear fuels or water from established sources of supply.

(e) “Conservation measures” means equipment, maintenance, meters, load management techniques and equipment, or other measures to reduce energy or water use or make for a more efficient use of energy or water.

(f) “State agency” means any state agency, board, department or commission, including, but not limited to, the entities specified in Section 15814.12, and any school district as defined in Section 80 of the Education Code.

(g) “Water conservation equipment” means any device or modification that reduces water use from established water sources.

SEC. 8. Section 15815 of the Government Code is repealed.

SEC. 9. Section 15817 of the Government Code is amended to read:

15817. Any state agency may lease, as lessee or lessor, and the board may lease, as lessee or lessor, any public building for a term not exceeding 35 years from the date of occupancy at such rentals as are determined by the board. Rentals under a lease shall commence upon the date of occupancy, irrespective of whether the public building has been finally accepted by the state agency. These leases do not require the approval of the Director of General Services.

SEC. 10. Section 15817.1 of the Government Code is amended to read:

15817.1. (a) Exclusively for the purpose of facilitating the financing of public buildings pursuant to this part through the issuance of revenue bonds, notes, or certificates by the board, and notwithstanding any other law, the board may acquire by lease from any state agency public buildings identified by, and under the jurisdiction or control of, the state agency, and, in that connection, the board may then lease those public buildings back to the state agency and may pledge the revenues, rentals, or receipts

to the lease to secure the repayment of revenue bonds, notes, or certificates issued by the board. The board is not required to apply the proceeds of the board's bonds, notes, or certificates to acquire, design, construct, or otherwise improve the same public buildings that are leased pursuant to this section. In each case, the lease shall provide rental provisions, term, payment, security, default, remedy, and other terms or provisions as may be specified in the lease or other agreement or agreements between the board and the state agency and may provide for the substitution of other public buildings for the public buildings initially leased by the board and the state agency pursuant to this section. The public buildings that are leased pursuant to this section may be existing public buildings, as determined by the board and the state agency, and which the board and the state agency also determine to have both of the following:

(1) A fair rental value that is consistent with the principal amount of the bonds, notes, or certificates of the board authorized to be issued for the purpose of providing the financing of public buildings pursuant to this part.

(2) An economic useful life that is not shorter than the final maturity of the bonds, notes, or certificates of the board authorized to be issued for the purpose of providing the financing of public buildings pursuant to this part.

(b) These determinations by the board and the state agency pursuant to subdivision (a) shall be final and conclusive.

(c) A lease made pursuant to this section does not require the approval of the Director of General Services.

(d) The board or a state agency may utilize subdivision (a) in connection with the issuance of any revenue bonds, notes, or certificates previously authorized but not issued, or any revenue bonds, notes, or certificates authorized subsequent to the effective date of the act adding this subdivision.

(e) The acquisition by lease authority provided in this section shall become inoperative on July 1, 2015, unless a later enacted statute, that is enacted before that date, deletes or extends that date. Leases made pursuant to this authority prior to July 1, 2015, shall continue in full force and effect in accordance with their applicable terms. Any acquisitions made and bonds issued pursuant to this authority prior to July 1, 2015, shall be deemed binding and valid.

SEC. 11. Section 15849.2 of the Government Code is amended to read:

15849.2. In order to more fully secure the bonds authorized to be issued pursuant to this part, when during any fiscal year any appropriation is made to a state agency which has leased or otherwise contracted with the board for a public building pursuant to this part, the state agency shall allocate from the first lawfully available funds so appropriated that amount necessary to pay in full all amounts which are anticipated to become due and payable during the fiscal year under the lease or contract.

SEC. 12. Section 15849.6 of the Government Code is repealed.

SEC. 13. Section 15849.6 is added to the Government Code, to read:

15849.6. Notwithstanding any provision of this part to the contrary, the board may issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as authorized by the Legislature, in the total amount authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing. This additional amount may include interest during acquisition or interest prior to, during, and for a period of six months after construction of the public building, facility, or equipment, interest payable on any interim loan for the public building, facility, or equipment from the General Fund or from the Pooled Money Investment Account, a reasonably required reserve fund, and the costs of issuance of any interim financing and permanent financing after completion of the construction or acquisition of the public building, facility, or equipment.

This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board that were authorized by appropriations of the Legislature made prior to the effective date of this section.

SEC. 14. Section 16352 of the Government Code is repealed.

SEC. 15. Section 16352 is added to the Government Code, to read:

16352. Notwithstanding Section 13340, any augmentation of an appropriation for a state public works project from the General Fund or any other fund in the State Treasury from which a capital outlay appropriation has been authorized for acquisition, design, construction, or equipping of a state public works project is hereby

appropriated, without regard to fiscal years. The augmentation shall be in an amount sufficient to provide for payment of those public works projects where the project cannot proceed because the bids received are in excess of the estimate, notwithstanding the provisions of Section 10125 of the Public Contract Code, or the estimate otherwise exceeds the amount available. Augmentations for a state public works project are subject to the limitations in Sections 13332.11 and 13332.19 and shall be made pursuant to executive orders of the Director of Finance upon approval of the State Public Works Board.

SEC. 16. Section 70374 of the Government Code is amended to read:

70374. (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for projects paid for with moneys in the State Court Facilities Construction Fund. The use of the appropriated moneys is subject to subdivision (l) of Section 70391.

(b) Acquisition and construction of court facilities shall be subject to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2) and the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2), except that (1) notwithstanding any other provision of law, the Administrative Office of the Courts shall serve as an implementing agency upon approval of the Department of Finance, and (2) the provisions of subdivision (e) shall prevail. Acquisition and construction of facilities are not subject to the provisions of the Public Contract Code, but shall be subject to facilities contracting policies and procedures adopted by the Judicial Council after consultation and review by the Department of Finance.

(c) Moneys in the State Court Facilities Construction Fund shall only be used for either of the following:

(1) The planning, design, construction, rehabilitation, renovation, replacement, leasing, or acquisition of court facilities, as defined by subdivision (d) of Section 70301.

(2) The rehabilitation of one or more existing court facilities in conjunction with the construction, acquisition, or financing of one or more new court facilities.

(d) (1) Except as provided in Section 70374.2 and paragraph (2) of this subdivision, 25 percent of all moneys collected for the

State Court Facilities Construction Fund from any county shall be designated for implementation of trial court projects in that county. The Judicial Council shall determine the local projects after consulting with the trial court in that county and based on the locally approved trial court facilities master plan for that county.

(2) Paragraph (1) shall not apply to moneys that have been deposited in the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5.

(e) The following provisions shall prevail over provisions of the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2) in regard to buildings subject to this section.

(1) The Administrative Office of the Courts shall be responsible for the operation, including, but not limited to, the maintenance and repair, of all court facilities whose title is held by the state. The operation of buildings under this section shall be the responsibility of the Judicial Council.

(2) Notwithstanding Section 15808.1, the Judicial Council shall have the responsibility for determining whether a building under the act shall be located within or outside of an existing public transit corridor.

(3) The buildings under this section are subject to Section 15814.12 concerning cogeneration and alternative energy sources at the request of, or with the consent of, the Judicial Council. Any building acquired by the state pursuant to this section on or before July 1, 2007, is not subject to subdivision (b) of Section 15814.12 concerning the acquisition of cogeneration or alternative energy equipment if the building, when acquired, already had cogeneration or alternative energy equipment. Section 15814.17 only applies to buildings to which the Judicial Council has given its consent under subdivision (a) of Section 15814.12.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the Budget Act of 2010, it is necessary that this act take effect immediately.

Approved _____, 2010

Governor