

AMENDED IN SENATE AUGUST 31, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 294

Introduced by Assembly Member Portantino

February 9, 2011

An act to *add Section 133 to, and to add and repeal Article 6.3 (commencing with Section 217) of Chapter 1 of Division 1 of, the Streets and Highways Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

AB 294, as amended, Portantino. ~~Design-sequencing contracts.~~
Transportation projects: procurement.

(1) Existing law, until January 1, 2014, authorizes the design-build method of procurement to be used for up to 10 local transportation projects, 5 state transportation projects, and a specified project in Riverside County. Existing law, until January 1, 2017, authorizes certain transportation agencies to enter into comprehensive development lease agreements for public-private partnership transportation projects.

This bill, with respect to projects on the state highway system undertaken pursuant to these provisions, would require the Department of Transportation to use department employees or consultants under contract with the department to perform all project development services and preparation of documents and construction inspection services, as defined.

~~Until~~

(2) Until January 1, 2010, the Department of Transportation was authorized to conduct a pilot project to let design-sequencing contracts,

as defined, for design and construction of not more than 12 transportation projects. These provisions are now repealed.

This bill would enact new provisions, authorizing the department to let contracts for construction of not more than 5 transportation projects utilizing the design-sequencing method, to be effective until January 1, 2015. The bill would require the department to use department employees or consultants under contract with the department ~~for these design services~~ *to perform all project development services and preparation of documents and construction inspection services, as defined.* The bill would require the department to compile data on the transportation projects awarded under these provisions and ~~to include make that information in a report to the Legislature~~ *available on its Internet Web site* each year during which the projects are underway, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 133 is added to the Streets and Highways
2 Code, to read:

3 133. Notwithstanding any other provision of law, for a project
4 on the state highway system to be undertaken under Section 143
5 or 217.1, or subdivision (b) of Section 6802 of the Public Contract
6 Code, the department shall use department employees or
7 consultants under contract with the department to perform all
8 project development services and preparation of documents as
9 defined in paragraph (1) of subdivision (f) of Section 143 and
10 Section 6808 of the Public Contract Code, and construction
11 inspection services as defined in paragraph (2) of subdivision (c)
12 of Section 6802 of the Public Contract Code, consistent with Article
13 XXII of the California Constitution. Department resources,
14 including personnel requirements, necessary to perform those
15 services shall be included in the department's capital outlay
16 support program for workload purposes in the annual Budget Act.

17 SECTION 1.

18 SEC. 2. The Legislature finds and declares all of the following:

19 (a) The design-sequencing pilot program was established by
20 previous state legislation and administered by the Department of
21 Transportation. The first and second phases of the program

1 authorized a total of 24 design-sequencing projects and had a sunset
2 date of January 1, 2010. A report will be submitted to the
3 Legislature that will describe and evaluate the outcome of the
4 completed projects. Current design-sequencing indicators have
5 provided generally good assessments of the program.

6 (b) State and federal funds for transportation often require
7 projects to be awarded under time constraints.

8 (c) It is the intent of the Legislature, therefore, to provide the
9 Department of Transportation with a project delivery tool that has
10 the potential to increase efficiency, reduce costs incurred by the
11 state, and help California take advantage of available state and
12 federal funds.

13 (d) It is the intent of the Legislature that the Department of
14 Transportation be provided with interim authority to establish
15 design-sequencing contracts. Because current evaluations of the
16 pilot program show positive outcomes in time savings, the interim
17 authority will allow design-sequencing to be used as a valuable
18 tool on appropriately selected projects. This will help the state
19 utilize state and federal funds as they become available pending
20 conclusions of the pilot program’s final report scheduled for
21 completion in 2015.

22 ~~SEC. 2.~~

23 *SEC. 3.* Article 6.3 (commencing with Section 217) is added
24 to Chapter 1 of Division 1 of the Streets and Highways Code, to
25 read:

26
27 Article 6.3. Design-Sequencing Program

28
29 217. The following definitions apply for the purposes of this
30 article:

31 (a) “Design-sequencing” is a method of contracting that enables
32 the sequencing of design activities to permit each construction
33 phase to commence when design for that phase is complete, instead
34 of requiring design for the entire project to be completed before
35 commencing construction.

36 (b) A “design-sequencing contract” is a contract between the
37 department and a construction contractor in which the department
38 is the responsible agency for, and performs the design of, a project
39 that permits construction of the project to commence upon
40 completion of design for a construction phase.

1 217.1. (a) Notwithstanding Section 10120 of the Public
2 Contract Code, the department, at the director's discretion, may
3 let contracts for construction of not more than five transportation
4 projects, to be selected based on criteria established by the director,
5 utilizing the design-sequencing method. For the purpose of this
6 article, these projects shall be deemed public works.

7 ~~(b) The department shall use department employees or~~
8 ~~consultants under contract with the department to perform all~~
9 ~~design services related to the design of plans for contracts~~
10 ~~authorized in this article, consistent with Article XXII of the~~
11 ~~California Constitution. Department resources, including personnel~~
12 ~~requirements, necessary for the performance of those services shall~~
13 ~~be included in the department's capital outlay support program for~~
14 ~~workload purposes in the annual Budget Act.~~

15 (e)

16 (b) To the extent available, the department shall seek to
17 incorporate existing knowledge and experience on
18 design-sequencing contracts in carrying out its responsibilities
19 under subdivision (a).

20 (d) Not later than July 1 of each year during which projects
21 pursuant to design-sequencing contracts awarded under this article
22 are underway, the department shall, for each of those projects,
23 compile data, including the stage of completion, district, cost,
24 description, status, estimated time to complete the project, and, as
25 appropriate, actual time to complete the project, ~~to be included as~~
26 ~~an attachment to any annual status reporting performed by the~~
27 ~~department pursuant to Section 3 of Chapter 795 of the Statutes~~
28 ~~of 2004, on design-sequencing projects awarded prior to January~~
29 ~~1, 2011. The reports and attachments described in this subdivision~~
30 ~~shall be submitted to the Legislature pursuant to Section 9795 of~~
31 ~~the Government Code. and shall make this information available~~
32 ~~on its public Internet Web site.~~

33 217.2. Design-sequencing contracts under the program, as
34 described in Section 217.1, shall be awarded in accordance with
35 both of the following:

36 (a) The department shall advertise design-sequencing projects
37 by special public notice to contractors.

38 (b) Contractors shall be required to provide prequalification
39 information establishing appropriate licensure and successful past
40 experience with the proposed work.

1 217.3. The department may utilize design-sequencing authority
2 only on projects that are deemed to have a high probability of
3 success as determined by the “Design-Sequencing Project Selection
4 Criteria” contained in the “Design-Sequencing Nomination Fact
5 Sheet” developed by the department. For the purposes of this
6 section, “high probability” means there is a likelihood that a time
7 savings will be realized, construction costs will be reduced, or
8 available state or federal funds will be captured by utilizing
9 design-sequencing.

10 217.4. This article shall remain in effect only until January 1,
11 2015, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, 2015, deletes or extends that date.

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