

AMENDED IN SENATE AUGUST 23, 2012

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. Transportation projects: ~~procurement.~~ *procurement: design-sequencing.*

~~(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.~~

~~(2) Until~~

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 These provisions are now repealed.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~~ 8 transportation projects utilizing the design-sequencing method, to be effective until January 1, ~~2015~~ 2017. The bill would require the department 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~~ *design services related to design plans for the transportation projects, as specified*. The bill would require the department to compile data on the transportation projects awarded under these provisions and to make that information 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 (e)~~
12 ~~of Section 6802 of the Public Contract Code, consistent with~~
13 ~~Article 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 support~~
16 ~~program for workload purposes in the annual Budget Act.~~

17 SEC. 2.

18 SECTION 1. The Legislature finds and declares all of the
19 following:

1 (a) The design-sequencing pilot program was established by
2 previous state legislation and administered by the Department of
3 Transportation. The first and second phases of the program
4 authorized a total of 24 design-sequencing projects and had a sunset
5 date of January 1, 2010. A report will be submitted to the
6 Legislature that will describe and evaluate the outcome of the
7 completed projects. Current design-sequencing indicators have
8 provided generally good assessments of the program.

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

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

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

25 ~~SEC. 3.~~

26 *SEC. 2.* Article 6.3 (commencing with Section 217) is added
27 to Chapter 1 of Division 1 of the Streets and Highways Code, to
28 read:

29
30 Article 6.3. Design-Sequencing Program

31
32 217. The following definitions apply for the purposes of this
33 article:

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

39 (b) A "design-sequencing contract" is a contract between the
40 department and a construction contractor in which the department

1 is the responsible agency for, and performs the design of, a project
2 that permits construction of the project to commence upon
3 completion of design for a construction phase.

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

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

18 ~~(b)~~

19 (c) To the extent available, the department shall seek to
20 incorporate existing knowledge and experience on
21 design-sequencing contracts in carrying out its responsibilities
22 under subdivision (a).

23 (d) Not later than July 1 of each year during which projects
24 pursuant to design-sequencing contracts awarded under this article
25 are underway, the department shall, for each of those projects,
26 compile data, including the stage of completion, district, cost,
27 description, status, estimated time to complete the project, and, as
28 appropriate, actual time to complete the project, and shall make
29 this information available on its public Internet Web site.

30 217.2. Design-sequencing contracts under the program, as
31 described in Section 217.1, shall be awarded in accordance with
32 both of the following:

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

35 (b) Contractors shall be required to provide prequalification
36 information establishing appropriate licensure and successful past
37 experience with the proposed work.

38 217.3. The department may utilize design-sequencing authority
39 only on projects that are deemed to have a high probability of
40 success as determined by the “Design-Sequencing Project Selection

1 Criteria” contained in the “Design-Sequencing Nomination Fact
2 Sheet” developed by the department. For the purposes of this
3 section, “high probability” means there is a likelihood that a time
4 savings will be realized, construction costs will be reduced, or
5 available state or federal funds will be captured by utilizing
6 design-sequencing.

7 217.4. This article shall remain in effect only until January 1,
8 2015-2017, and as of that date is repealed, unless a later enacted
9 statute, that is enacted before January 1, ~~2015~~ 2017, deletes or
10 extends that date.

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