

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 562

Introduced by Senator Lara

February 26, 2015

An act to add Chapter 15 (commencing with Section 5975) to Division 6 of Title 1 of the Government Code, relating to infrastructure financing.

LEGISLATIVE COUNSEL'S DIGEST

SB 562, as amended, Lara. Infrastructure financing: City of Long Beach Civic Center.

The Local Agency Public Construction Act prescribes procedures for contracting by local public agencies, including specific provisions for cities.

Existing law permits a governmental agency to solicit proposals and enter into agreements with private entities for the design, construction, or reconstruction by, and may lease to, private entities, for specified types of fee-producing infrastructure projects. Existing law permits these agreements to provide for the lease of, or ownership of, infrastructure facilities owned by a governmental entity, but constructed by a private entity, to that private entity for a period of up to 35 years.

This bill, notwithstanding the act and any other law, would authorize the City of Long Beach to contract and procure a project for the revitalization and redevelopment of the Long Beach Civic Center, as defined, in accordance with prescribed procedures for ~~qualification, solicitation,~~ proposal evaluation, and contract award. The bill would authorize the lease of *all or a portion of* the project to, or ownership by, a private entity or entities, for a term of up to ~~65~~ 50 years. The bill would make a statement that a special law is necessary and that a general

law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique and special circumstances surrounding the existing Long Beach Civic Center, and the need to immediately, quickly, and efficiently develop the project, and to resolve property issues potentially delaying the project.

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

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

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

3 (a) The City of Long Beach has experienced an increasing
4 demand to fund infrastructure repairs, replacements, and new
5 improvements.

6 (b) The existing civic center is nearing the end of its useful life
7 and contains significant seismic deficiencies that the City of Long
8 Beach seeks to address as soon as feasibly possible to ensure the
9 public's health and safety.

10 (c) The City Council of the City of Long Beach seeks to address
11 public health and safety in the earliest possible timeframe and
12 understands that the development of a new Long Beach Civic
13 Center using the public-private partnership procurement process
14 presents the most expedient route to protecting the safety of its
15 employees in and visitors to the civic center.

16 (d) The public-private partnership procurement process has
17 demonstrated precedence for the expedient, efficient, and
18 economical delivery of projects, through the delivery of the Long
19 Beach Courthouse, which was completed under budget and ahead
20 of schedule.

21 (e) The ability to utilize private sector investment capital is
22 essential to the *timely* development of a cost-effective and
23 ~~time-sensitive~~ *long-lasting* Long Beach Civic Center.

24 (f) A public-private partnership procurement method provides
25 the City of Long Beach with an alternative and optional procedure
26 for developing a new civic center that can provide a cost-effective
27 benefit to the City of Long Beach by shifting the liability and risk
28 for cost containment, project completion, and life-cycle
29 maintenance to a private entity.

1 SEC. 2. Chapter 15 (commencing with Section 5975) is added
2 to Division 6 of Title 1 of the Government Code, to read:

3
4 CHAPTER 15. LONG BEACH CIVIC CENTER

5
6 5975. As used in this chapter:

7 (a) “Best interests of the city” means a procurement process
8 that is determined by the city to ~~reduce the project delivery~~
9 ~~schedule and total cost of the project~~ *provide the best value and*
10 *an expedited delivery schedule* while maintaining a high level of
11 quality workmanship and materials.

12 (b) “Best value” means a value determined by objective criteria
13 that ~~may include, but are not limited to,~~ *shall include a combination*
14 *of price, financing costs, features, functions, performance, life-cycle*
15 *costs, experience, and other criteria deemed appropriate by the*
16 *city. maintenance costs and abatement offsets, and development*
17 *experience.*

18 (c) “Business entity” means a partnership, corporation, or other
19 legal entity that is able to provide appropriately licensed
20 contracting, architectural, engineering, financial, operations,
21 management, facilities maintenance, and other services for
22 development of a new *Long Beach* Civic Center.

23 (d) “City” means the City of Long ~~Beach~~. *Beach and its*
24 *departments, including, without limitation, the Harbor Department.*

25 (e) “Long Beach Civic Center” means the area bounded by
26 *Broadway, Pacific Avenue, Ocean Boulevard, and Magnolia*
27 *Avenue, containing approximately 14.98 acres, and the parcel on*
28 *the south side of 3rd Street between Pacific Avenue and Cedar*
29 *Avenue, containing approximately 0.89 acres.*

30 ~~(e)~~

31 (f) “Private entity” means an individual, business entity, or
32 combination of individuals and business entities.

33 (g) “Private portion of the project” means *those parcels of land*
34 *within the Long Beach Civic Center to be conveyed to a private*
35 *entity and developed as residential, retail, hospitality, institutional,*
36 *or industrial facilities.*

37 ~~(f)~~

38 (h) “Project” means the revitalization and redevelopment of the
39 Long Beach Civic Center, ~~which is bounded by Broadway, Pacific~~
40 ~~Avenue, Ocean Boulevard, and Magnolia Avenue, containing~~

1 approximately 15.87 acres, and may include additional property
 2 as deemed necessary by the city for the project. *Center with a new*
 3 *city hall, port headquarters, public library, and public park, and*
 4 *residential, retail, hospitality, institutional, and industrial facilities.*

5 (i) “Public portion of the project” means those parcels of land
 6 within the Long Beach Civic Center to be developed as a city hall,
 7 port headquarters, public park, public library, or other government
 8 facilities.

9 ~~(g)~~

10 (j) “Public-private partnership” means a cooperative arrangement
 11 between the public and private sectors, built on the expertise of
 12 each partner, that best meets the city’s needs through the
 13 appropriate allocation of resources, risks, and rewards for the
 14 purposes of, and, including, but not limited to, studying, planning,
 15 designing, constructing, developing, financing, operating,
 16 maintaining, or any combination thereof, the project.

17 5976. (a) ~~Notwithstanding any provision of the Public Contract~~
 18 ~~Code or any other law, the~~ The city may contract and procure the
 19 project pursuant to this chapter.

20 (b) ~~The city may use a request for qualifications process to~~
 21 ~~prequalify and shortlist the number of private entities that will be~~
 22 ~~allowed to submit proposals. The request for qualifications shall~~
 23 ~~generally describe the project, the private entity’s necessary~~
 24 ~~qualifications and responsibilities, and the procurement process.~~

25 (c) ~~The city shall gather information and prepare a solicitation~~
 26 ~~package for a public-private partnership, which shall generally~~
 27 ~~describe an approved process for methods of project delivery,~~
 28 ~~including a project description and requirements, process and~~
 29 ~~submission requirements, evaluation criteria, or any other~~
 30 ~~information deemed necessary by the city to describe adequately~~
 31 ~~the project requirements and procurement process.~~

32 ~~(d)~~

33 (b) The city shall evaluate the *project proposals it solicits and*
 34 *receives* and ~~make its determination by choosing~~ *choose* the private
 35 entity or entities whose proposal is, or proposals are, judged as
 36 providing the best value in meeting the best interests of the city
 37 and meeting the objectives of the project. The city retains the right
 38 to hold and enter into a negotiation process with selected private
 39 entities in performing the evaluation and making its determination.
 40 *city.* The city may enter into a public-private partnership through

1 ~~a lease-purchase, concession agreement, design-build agreement,~~
2 ~~design-build-finance agreement, project agreement,~~
3 ~~lease-leaseback, or other appropriate agreements, with one or more~~
4 ~~private entities for delivery of the project. The city may retain the~~
5 ~~right to select all or any portion of any proposal or reject any or~~
6 ~~all proposals as determined in the best interests of the city.~~
7 ~~agreements combining one or more major elements of the forgoing~~
8 ~~agreements, with one or more private entities for delivery of the~~
9 ~~project. The city shall retain the right to terminate the project prior~~
10 ~~to project award should the city determine that the project is not~~
11 ~~in the best interests of the city or should the negotiations with the~~
12 ~~private entity or entities otherwise fail.~~

13 ~~(e)~~

14 (c) The contract award for the project shall be made to the
15 private entity or entities whose proposal or proposals are
16 determined by the city, in writing, to be the most advantageous by
17 providing the best value in meeting the best interests of the city
18 ~~and meeting the objectives of the project. city.~~

19 ~~(f)~~

20 (d) The negotiation process shall specifically prohibit practices
21 that may result in unlawful activity, including, but not limited to,
22 rebates, kickbacks, or other unlawful consideration, and shall
23 specifically prohibit city employees from participating in the
24 selection process when those employees have a relationship with
25 a person or business entity seeking a contract under this chapter
26 that would subject those employees to the prohibition of Section
27 87100. ~~Other than these criteria, the city is not subject to any other~~
28 ~~provisions of the Public Contract Code or this code that relates to~~
29 ~~procurement for the project.~~

30 ~~(g) Notwithstanding any provision of this code, upon issuance~~
31 ~~of an award for the project, the city shall publicly announce its~~
32 ~~award, identifying the private entity or entities to whom the award~~
33 ~~is made, along with a written decision supporting its award and~~
34 ~~stating the basis of the award. All~~

35 (e) All documents related to the project shall be subject to
36 disclosure under the California Public Records Act (Chapter 3.5
37 (commencing with Section 6250) of Division 7), except those
38 exempted from disclosure under that act.

39 5977. (a) The project is subject to compliance with the
40 California Environmental Quality Act (Division 13 (commencing

1 with Section 21000) of the Public Resources Code). Neither the
2 act of selecting a private entity, nor the execution of an agreement
3 with the private entity, shall require prior compliance with the act.
4 However, appropriate compliance with the act shall thereafter
5 occur before project construction commences.

6 (b) The public portion of the project, at all times, shall be owned
7 by the city, unless the city, in its discretion, elects to provide for
8 ownership of the project by the private entity through a separate
9 lease agreement during the term of the agreement. Notwithstanding
10 Section 5956.6 or any other provision of this code, the agreement
11 shall provide for the lease of *all or a portion of* the project to, or
12 ownership by, the private entity or entities, for a term up to ~~65~~ 50
13 years. In consideration therefor, the agreement shall provide for
14 complete reversion of the *public portion of the* project to the city
15 at the expiration of the lease or transfer term.

16 (c) *The private portion of the project shall not be financed or*
17 *developed by the public-private partnership or otherwise using*
18 *public or tax-exempt financing.*

19 (e)

20 (d) The plans and specifications for the project shall comply
21 with all applicable governmental design standards for that particular
22 infrastructure project. The private entity studying, planning,
23 designing, constructing, developing, financing, operating,
24 maintaining, or any combination thereof, the project shall utilize
25 private sector firms for studying, planning, designing, constructing,
26 developing, financing, operating, maintaining, or any combination
27 thereof, the project. However, a facility subject to this chapter and
28 leased to a private entity, during the term of the lease, shall be
29 deemed to be public property for purposes of identification,
30 maintenance, enforcement of laws, and for purposes of Division
31 3.6 (commencing with Section 810). All public works constructed
32 pursuant to this chapter shall comply with Chapter 1 (commencing
33 with Section 1720) of Part 7 of Division 2 of the Labor Code.

34 5978. The provisions of this chapter are severable. If any
35 provision of this chapter or its application is held invalid, that
36 invalidity shall not affect other provisions or applications that can
37 be given effect without the invalid provision or application.

38 5979. The Legislature finds and declares that a special law is
39 necessary and that a general law cannot be made applicable within
40 the meaning of Section 16 of Article IV of the California

- 1 Constitution because of the unique and special circumstances
- 2 surrounding the existing Long Beach Civic Center, and the need
- 3 to immediately, quickly and efficiently develop the project, and
- 4 to resolve property issues potentially delaying the project.

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