

AMENDED IN ASSEMBLY JUNE 16, 2015

AMENDED IN SENATE APRIL 14, 2015

**SENATE BILL**

**No. 562**

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**Introduced by Senator Lara**

February 26, 2015

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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 proposal ~~evaluation~~, *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 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 *city council*  
11 seeks to address public health and safety in the earliest possible  
12 timeframe and understands that the development of a new Long  
13 Beach Civic Center using the public-private partnership  
14 procurement process presents the most expedient route to protecting  
15 the safety of its 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  
19 *Governor George Deukmejian Courthouse in the City of Long*  
20 ~~Beach Courthouse, Beach~~, which was completed under budget and  
21 ahead of schedule.

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

25 (f) A public-private partnership procurement method provides  
26 the City of Long Beach with an alternative and optional procedure  
27 for developing a new civic center that can provide a cost-effective  
28 benefit to the City of Long Beach by shifting the liability and risk

1 for cost containment, project completion, and life-cycle  
2 maintenance to a private entity.

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

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CHAPTER 15. LONG BEACH CIVIC CENTER

7

8 5975. As used in this chapter:

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

13 (b) “Best value” means a value determined by objective criteria  
14 that shall include a combination of price, financing costs, features,  
15 functions, performance, life-cycle maintenance costs and abatement  
16 offsets, and development experience.

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

22 (d) “City” means the City of Long Beach and its departments,  
23 ~~including, without limitation,~~ *including the City of Long Beach*  
24 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 (f) “Private entity” means an individual, business entity, or  
31 combination of individuals and business entities.

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

36 (h) “Project” means the revitalization and redevelopment of the  
37 Long Beach Civic Center with a new city hall, port headquarters,  
38 public library, and public park, and residential, retail, hospitality,  
39 institutional, and industrial facilities.

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

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

12 5976. (a) The city may contract and procure the project  
13 pursuant to this chapter.

14 (b) The city shall evaluate the project proposals it solicits and  
15 receives and choose the private entity or entities whose proposal  
16 is, or proposals are, judged as providing the best value in meeting  
17 the best interests of the city. The city may enter into a  
18 public-private partnership through a concession agreement,  
19 design-build agreement, design-build-finance agreement, project  
20 agreement, lease-leaseback, or other appropriate agreements  
21 combining one or more major elements of the ~~forgoing~~ *foregoing*  
22 agreements, with one or more private entities for delivery of the  
23 project. The city shall retain the right to terminate the project prior  
24 to project award should the city determine that the project is not  
25 in the best interests of the city or should the negotiations with the  
26 private entity or entities otherwise fail.

27 (c) The contract award for the project shall be made to the  
28 private entity or entities whose proposal or proposals are  
29 determined by the city, in writing, to be the most advantageous by  
30 providing the best value in meeting the best interests of the city.

31 (d) The negotiation process shall specifically prohibit practices  
32 that may result in unlawful activity, including, but not limited to,  
33 rebates, kickbacks, or other unlawful consideration, and shall  
34 specifically prohibit city employees from participating in the  
35 selection process when those employees have a relationship with  
36 a person or business entity seeking a contract under this chapter  
37 that would subject those employees to the prohibition of Section  
38 87100.

39 (e) All documents related to the project shall be subject to  
40 disclosure under the California Public Records Act (Chapter 3.5

1 (commencing with Section 6250) of Division 7), except those  
2 exempted from disclosure under that act.

3 5977. (a) The project is subject to compliance with the  
4 California Environmental Quality Act (Division 13 (commencing  
5 with Section 21000) of the Public Resources Code). Neither the  
6 act of selecting a private entity, nor the execution of an agreement  
7 with the private entity, shall require prior compliance with the act.  
8 However, appropriate compliance with the act shall thereafter  
9 occur before project construction commences.

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

20 (c) The private portion of the project shall not be financed or  
21 developed by the public-private partnership or otherwise using  
22 public or tax-exempt financing.

23 (d) The plans and specifications for the project shall comply  
24 with all applicable governmental design standards for that particular  
25 infrastructure project. The private entity studying, planning,  
26 designing, constructing, developing, financing, operating,  
27 maintaining, or any combination thereof, the project shall utilize  
28 private sector firms for studying, planning, designing, constructing,  
29 developing, financing, operating, maintaining, or any combination  
30 thereof, the project. However, a facility subject to this chapter and  
31 leased to a private entity, during the term of the lease, shall be  
32 deemed to be public property for purposes of identification,  
33 maintenance, enforcement of laws, and for purposes of Division  
34 3.6 (commencing with Section 810). All public works constructed  
35 pursuant to this chapter shall comply with Chapter 1 (commencing  
36 with Section 1720) of Part 7 of Division 2 of the Labor Code.

37 (e) *This chapter shall not be construed to authorize the city to*  
38 *use tidelands trust revenues that are subject to Section 6306 of the*  
39 *Public Resources Code or any other applicable granting statute*

1 *for general municipal purposes or any other purpose unconnected*  
2 *with the public trust.*

3 5978. The provisions of this chapter are severable. If any  
4 provision of this chapter or its application is held invalid, that  
5 invalidity shall not affect other provisions or applications that can  
6 be given effect without the invalid provision or application.

7 5979. The Legislature finds and declares that a special law is  
8 necessary and that a general law cannot be made applicable within  
9 the meaning of Section 16 of Article IV of the California  
10 Constitution because of the unique and special circumstances  
11 surrounding the existing Long Beach Civic Center, and the need  
12 to immediately, ~~quickly~~ *quickly*, and efficiently develop the project,  
13 and to resolve property issues potentially delaying the project.