

AMENDED IN SENATE MAY 20, 1997

AMENDED IN SENATE APRIL 17, 1997

**SENATE BILL**

**No. 776**

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**Introduced by Senator Johannessen**  
(Coauthors: Assembly Members Campbell, Morrow, ~~and~~  
~~Oller~~ *Oller, and Woods*)

February 26, 1997

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An act to add Section 14661 to the Government Code, relating to state property.

LEGISLATIVE COUNSEL'S DIGEST

SB 776, as amended, Johannessen. State property: design-build.

Existing law requires the Department of General Services to perform various functions and duties with respect to state property.

This bill would authorize the Director of General Services when authorized by the Legislature to use the design-build procurement process, notwithstanding other provisions of law, to contract and procure state office facilities, other buildings, structures, and related facilities pursuant to these provisions. This bill would require the director, prior to contracting for the procurement of state office facilities and other state buildings and structures, to prepare a program setting forth the scope of the project and to establish a competitive prequalification and selection process for design-build teams. This bill would provide that when a design-build procurement process is selected, the listing

requirements of the Subletting and Subcontracting Fair Practices Act shall not be required, but the Director of General Services shall require the design-builder to provide reasonable notice of the availability of work to be subcontracted and to bid that work on a competitive basis.

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. (a) The Legislature finds and declares  
2 that it is in the best interests of the state to construct state  
3 office and other facilities in a cost-efficient manner that  
4 represents the best overall value to the taxpayers. In  
5 order for this goal to be accomplished, state agencies need  
6 to be able to use the best possible project delivery  
7 procurement systems.

8 (b) The Legislature finds and declares that the  
9 design-build process can be an attractive option to a  
10 public entity in comparison to the existing three-step  
11 (design-bid-build) process. The design-build process can  
12 improve the project delivery process by accelerating  
13 delivery schedules and saving costs by promoting  
14 improved coordination between contractor and  
15 architect, shifting management risk from the public  
16 entity to the design-build team, and minimizing change  
17 orders through early collaboration between design and  
18 construction disciplines.

19 (c) The Legislature has recognized the merits of the  
20 design-build procurement process in the past by  
21 authorizing its use for projects undertaken by the  
22 University of California, joint-venture public school  
23 projects, specified local government projects, and several  
24 state office buildings under construction in Oakland, San  
25 Francisco, and Los Angeles. The design-build  
26 procurement process has also been approved for use by  
27 public entities in other states, as well as the federal  
28 government.

29 (d) Therefore, it is the intent of the Legislature in  
30 enacting this act to define the design-build construction



1 procurement process for state facilities to establish the  
2 parameters for its use when the Legislature authorizes  
3 the Director of General Services to use this process for the  
4 construction of state office and other facilities.

5 (e) In addition, it is the intent of the Legislature that  
6 the full scope of design, construction, and equipment  
7 awarded to a design-build team shall be budgeted in a  
8 single funding phase.

9 SEC. 2. Section 14661 is added to the Government  
10 Code, to read:

11 14661. (a) Notwithstanding any provision of the  
12 Public Contract Code or any other provision of law, when  
13 the Legislature authorizes the use of the design-build  
14 construction procurement process, the Director of  
15 General Services may contract and procure state office  
16 facilities and other buildings, structures, and related  
17 facilities pursuant to this section.

18 (b) For purposes of this section, “design-build” means  
19 a procurement process in that both the design and  
20 construction of a project are procured from a single  
21 entity.

22 (c) For purposes of this section, “design-build team”  
23 means a partnership, corporation, or other legal entity  
24 consisting, at a minimum, of a licensed general contractor  
25 ~~and a licensed architect.~~ *and either a licensed architect or*  
26 *registered engineer. A licensed general contractor may*  
27 *constitute a design-build team pursuant to this*  
28 *subdivision if the contractor subcontracts for, or*  
29 *otherwise provides, the services of a licensed architect or*  
30 *registered engineer.*

31 (d) Prior to contracting for the procurement of state  
32 office facilities and other state buildings and structures,  
33 the director shall:

34 (1) Prepare a program setting forth the scope of the  
35 project that may include, but is not limited to, the size,  
36 type, and desired design character of the buildings and  
37 site, performance criteria covering the quality of  
38 materials, equipment, and workmanship, or any other  
39 information deemed necessary to describe adequately  
40 the state’s needs. The performance criteria shall be



1 prepared by a design professional duly licensed and  
2 registered in the State of California.

3 (2) Establish a competitive prequalification and  
4 selection process for design-build teams that clearly  
5 specifies the prequalification criteria as well as the  
6 manner in which the winning bidder will be selected.

7 (A) Prequalification shall be based upon criteria that  
8 shall include, but are not limited to, the management  
9 qualifications, financial capability, and relevant work  
10 experience of the design-build teams and their members.

11 (B) The process for the selection of the winning bidder  
12 shall be by any of the following methods as deemed by the  
13 director to be in the best interests of the state:

14 (i) A design competition based upon an approved  
15 budget.

16 (ii) A competition based upon maximum project  
17 benefit for the lowest price.

18 (iii) A competition based solely upon price.

19 (e) For purposes of this section, “best interests of the  
20 state” shall mean a design-build process that is projected  
21 by the director to reduce the project delivery schedule  
22 and total cost of a project while maintaining a high level  
23 of quality workmanship and materials, when compared to  
24 the traditional design-bid-build process.

25 (f) It is recognized by the Legislature that the  
26 design-build entity is charged with performing both  
27 design and construction. Because a design-build contract  
28 may be awarded prior to the completion of the design, it  
29 is impracticable for the design-build entity to list the  
30 subcontractors at the time of award. Therefore, the listing  
31 requirements contained in Chapter 4 (commencing with  
32 Section 6100) of Part 1 of Division 2 of the Public Contract  
33 Code shall not be required when the design-build  
34 procurement process is selected. However, the Director  
35 of General Services shall require the design-builder to  
36 provide reasonable notice of the availability of work to be  
37 subcontracted, including the date on which the work will  
38 be awarded, and to bid the subcontracted work on a  
39 competitive basis.



1    (g) *This section shall not be construed and is not*  
2 *intended to extend or limit the authority specified in*  
3 *Section 19130.*

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