

Assembly Bill No. 729

Passed the Assembly September 2, 2009

Chief Clerk of the Assembly

Passed the Senate August 31, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 20209.12 and 20209.14 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 729, Evans. Public contracts: transit design-build contracts.

Existing law authorizes transit operators to enter into a design-build contract, as defined, according to specified procedures. Existing law requires a transit operator that uses the design-build process to report to the Legislative Analyst on each public works project procured through the design-build process within 120 days of the design-build project being put into operation or by December 1, 2005, whichever occurs first. Existing law requires certain information submitted under the design-build provisions to be submitted under penalty of perjury. Existing law repeals provisions regarding transit design-build contracts on January 1, 2011.

This bill would instead repeal these provisions on January 1, 2015. The bill would require a transit operator that uses the design-build process to report to the Legislative Analyst on each public works project procured through the design-build process within 120 days of the design-build project being put into operation or by December 1, 2015, whichever occurs first. Because the bill would expand the crime of perjury, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 20209.12 of the Public Contract Code is amended to read:

20209.12. Each transit operator that elects to proceed under this article and use the design-build method on a public works

project shall prepare and deliver to the Legislative Analyst's Office within 120 days of the design-build project being put into operation or by December 1, 2015, whichever occurs first, a report containing a description of each public works project financed with public funds, procured through the design-build process, and completed on or before November 1, 2015. However, if a project has been commenced, but not completed on or before November 1, 2015, the transit operator shall complete a report no later than 120 days after completion of the project. The report shall include, but not be limited to, all of the following information:

- (a) The type of facility.
- (b) The gross square footage of the facility.
- (c) The company or contractor who was awarded the project.
- (d) The estimated and actual length of time to complete the project.
- (e) The findings established pursuant to Section 20133.
- (f) Any Labor Code violations discovered during the course of construction or following completion of the project, as well as any fines or penalties assessed.
- (g) The estimated and actual project cost.
- (h) A description of any written protests concerning any aspect of the solicitation, bid, proposal, or award of the design-build project, including the resolution of the protest.
- (i) An assessment of the prequalification process and criteria.
- (j) An assessment of the impact of retaining 5 percent retention on the project.
- (k) A description of the labor force compliance program and an assessment of the project impact, where required.
- (l) A description of the method used to award the contract. If best value was the method, the factors used to evaluate the bid shall be described, including the weighting of each factor and an assessment of the effectiveness of the methodology.
- (m) An assessment of the project impact of "skilled labor force availability."
- (n) An assessment of the design-build dollar limits on transit projects. This shall include projects where the transit operator wanted to use design-build and was precluded by the dollar limitation. It shall also include projects where the best value method of awarding contracts was not used, due to dollar limitations.

(o) An assessment of the most appropriate uses for the design-build approach.

(p) Any transit operator that elects not to use the authority granted may also submit a report to the entities named in accordance with the schedule in this section. This report may include an analysis of why the authority granted was not used by the operator.

SEC. 2. Section 20209.14 of the Public Contract Code is amended to read:

20209.14. This article shall remain in effect only until January 1, 2015, and as of that date is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor