

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 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. Design-sequencing contracts.

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 These provisions are now repealed.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 ~~reenact similar~~ *enact new* provisions, authorizing the department to let ~~design-sequencing~~ contracts for ~~the design and~~ construction of not more than 5 transportation projects *utilizing the design-sequencing method*, to be effective until January 1, 2015. *The bill would require the department to use department employees or consultants under contract with the department for these design services.* The bill would require the department to compile data on the transportation projects ~~pursuant to the design-sequencing contracts~~ awarded under these provisions and to include that ~~material~~ *information* in a report to the Legislature 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:

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

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

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

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

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

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

Article 6.3. Design-Sequencing Program

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

~~(a) "Design" is a plan completed to a level of 30 percent.~~

~~(b)~~

(a) "Design-sequencing" is a method of contracting that enables the sequencing of design activities to permit each construction

1 phase to commence when design for that phase is complete, instead
2 of requiring design for the entire project to be completed before
3 commencing construction.

4 (e)

5 (b) A “design-sequencing contract” is a contract between the
6 department and a *construction* contractor in which the department
7 is the responsible agency for the performance of design and, *and*
8 *performs the design of, a project* that permits construction of a *the*
9 project to commence upon completion of design for a construction
10 phase.

11 217.1. (a) Notwithstanding Section 10120 of the Public
12 Contract Code, the department, at the director’s discretion, may
13 ~~let design-sequencing contracts for the design and~~ construction of
14 not more than five transportation projects, to be selected based on
15 criteria established by the director, *utilizing the design-sequencing*
16 *method*. For the purpose of this article, these projects shall be
17 deemed public works.

18 (b) The department ~~may use~~ *shall use* department employees
19 or consultants *under contract with the department to perform all*
20 *design services related to the design of plans* for contracts
21 authorized in this article, consistent with Article XXII of the
22 California Constitution. Department resources, including personnel
23 requirements, necessary for the performance of those services shall
24 be included in the department’s capital outlay support program for
25 workload purposes in the annual Budget Act.

26 (c) To the extent available, the department shall seek to
27 incorporate existing knowledge and experience on
28 design-sequencing contracts in carrying out its responsibilities
29 under subdivision (a).

30 (d) Not later than July 1 of each year during which projects
31 pursuant to design-sequencing contracts awarded under this article
32 are underway, the department shall, for each of those projects
33 ~~awarded prior to January 1, 2012~~, compile data, including the stage
34 of completion, district, cost, description, status, estimated time to
35 complete the project, and, as appropriate, actual time to complete
36 the project, *to be included as an attachment to any annual status*
37 *reporting performed by the department pursuant to Section 3 of*
38 *Chapter 795 of the Statutes of 2004, on design-sequencing projects*
39 *awarded prior to January 1, 2011. A report containing the material*
40 *The reports and attachments* described in this subdivision shall

1 be submitted to the Legislature pursuant to Section 9795 of the
2 Government Code.

3 217.2. Design-sequencing contracts under the program, as
4 described in Section 217.1, shall be awarded in accordance with
5 both of the following:

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

8 (b) Contractors shall be required to provide prequalification
9 information establishing appropriate licensure and successful past
10 experience with the proposed work.

11 217.3. The department may utilize design-sequencing authority
12 only on projects that are deemed to have a high probability of
13 success as determined by the “Design-Sequencing Project Selection
14 Criteria” contained in the “Design-Sequencing Nomination Fact
15 Sheet” developed by the department. For the purposes of this
16 section, “high probability” means there is a likelihood that a time
17 savings will be realized, construction costs will be reduced, or
18 available state or federal funds will be captured by utilizing
19 design-sequencing.

20 217.4. This article shall remain in effect only until January 1,
21 2015, and as of that date is repealed, unless a later enacted statute,
22 that is enacted before January 1, 2015, deletes or extends that date.