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**SB-374 Local agency design-build projects: transit districts.** (2015-2016)

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**Senate Bill No. 374**

**CHAPTER 715**

An act to amend Sections 20209.14 and 22161 of the Public Contract Code, relating to local public contracts.

[ Approved by Governor October 09, 2015. Filed with Secretary of State October 09, 2015. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 374, Hueso. Local agency design-build projects: transit districts.

Existing law authorizes local agencies to use the design-build method of project delivery for specified projects, except for projects on the state highway system. Existing law defines "local agency" for purposes of these provisions as cities and counties, certain special districts relating to wastewater, solid waste, water recycling, and fire protection facilities, joint powers authorities formed to provide transit service, and specified types of local public entities responsible for the construction of transit projects. These provisions further define "project" specifically for each category of local agency. Existing law requires specified information submitted by a design-build entity, as defined, in the design-build procurement process to be certified under penalty of perjury.

This bill would specify that the definition of a local agency authorized to use the design-build method of project delivery includes the San Diego Association of Governments. The bill would define projects, as it pertains to the San Diego Association of Governments, to include development projects adjacent, or physically or functionally related, to transit facilities developed by the association. By expanding the design-build authorization of the San Diego Association of Governments to additional development projects, the bill would expand the scope of crime of perjury and would impose a state-mandated local program.

This bill also makes a technical correction to a cross-reference.

This bill would make legislative findings and declarations as to the necessity of a special statute for the San Diego Association of Governments.

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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 20209.14 of the Public Contract Code is amended to read:

**20209.14.** (a) This article shall remain in effect only until January 1, 2017, and as of that date is repealed.

(b) This article shall only apply to transit operators that begin a project solicitation before January 1, 2015. A transit operator that begins a project solicitation on or after January 1, 2015, is subject to Chapter 4 (commencing with Section 22160).

**SEC. 2.** Section 22161 of the Public Contract Code is amended to read:

**22161.** For purposes of this chapter, the following definitions apply:

(a) "Best value" means a value determined by evaluation of objective criteria that may include, but not be limited to price, features, functions, life-cycle costs, experience, and past performance. A best value determination may involve the selection of the lowest cost proposal meeting the interests of the local agency and meeting the objectives of the project, selection of the best proposal for a stipulated sum established by the procuring agency, or a tradeoff between price and other specified factors.

(b) "Construction subcontract" means each subcontract awarded by the design-build entity to a subcontractor that will perform work or labor or render service to the design-build entity in or about the construction of the work or improvement, or a subcontractor licensed by the State of California that, under subcontract to the design-build entity, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications produced by the design-build team.

(c) "Design-build" means a project delivery process in which both the design and construction of a project are procured from a single entity.

(d) "Design-build entity" means a corporation, limited liability company, partnership, joint venture, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(e) "Design-build team" means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team. Members shall include the general contractor and, if utilized in the design of the project, all electrical, mechanical, and plumbing contractors.

(f) "Local agency" means the following:

(1) A city, county, or city and county.

(2) A special district that operates wastewater facilities, solid waste management facilities, water recycling facilities, or fire protection facilities.

(3) Any transit district, included transit district, municipal operator, included municipal operator, any consolidated agency, as described in Section 132353.1 of the Public Utilities Code, any joint powers authority formed to provide transit service, any county transportation commission created pursuant to Section 130050 of the Public Utilities Code, or any other local or regional agency, responsible for the construction of transit projects.

(4) The San Diego Association of Governments, as referenced in the San Diego Regional Transportation Consolidation Act (Chapter 3 (commencing with Section 132350) of Division 12.7 of the Public Utilities Code).

(g) (1) For a local agency defined in paragraph (1) of subdivision (f), "project" means the construction of a building or buildings and improvements directly related to the construction of a building or buildings, county sanitation wastewater treatment facilities, and park and recreational facilities, but does not include the construction of other infrastructure, including, but not limited to, streets and highways, public rail transit, or water resources facilities and infrastructure. For a local agency defined in paragraph (1) of subdivision (f) that operates wastewater facilities, solid waste management facilities, or water recycling facilities, "project" also means the construction of regional and local wastewater treatment facilities, regional and local solid waste facilities, or regional and local water recycling facilities.

(2) For a local agency defined in paragraph (2) of subdivision (f), "project" means the construction of regional and local wastewater treatment facilities, regional and local solid waste facilities, regional and local water recycling facilities, or fire protection facilities.

(3) For a local agency defined in paragraph (3) of subdivision (f), "project" means a transit capital project that begins a project solicitation on or after January 1, 2015. A "project," as defined by this paragraph, that begins the solicitation process before January 1, 2015, is subject to Article 6.8 (commencing with Section 20209.5) of Chapter 1. "Project," as defined by this paragraph, does not include state highway construction or local street and road projects.

(4) For a local agency defined in paragraph (4) of subdivision (f), "project" has the same meaning as in paragraph (3), and in addition shall include development projects adjacent, or physically or functionally related, to transit facilities developed or jointly developed by the local agency.

**SEC. 3.** The Legislature finds and declares 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 San Diego Association of Governments' unique responsibilities as the consolidated transportation agency with capital project implementation responsibilities, which include design and construction of transit infrastructure, and to bring the San Diego Association of Governments into alignment with existing authority held by other agencies with transit development responsibilities.

**SEC. 4.** 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.