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SB-562 Infrastructure financing: City of Long Beach Civic Center. (2015-2016)

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Senate Bill No. 562

CHAPTER 178

An act to add Chapter 15 (commencing with Section 5975) to Division 6 of Title 1 of the Government Code, relating to infrastructure financing.

[Approved by Governor August 11, 2015. Filed with Secretary of State August 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 562, 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 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 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 City of Long Beach has experienced an increasing demand to fund infrastructure repairs, replacements, and new improvements.
- (b) The existing civic center is nearing the end of its useful life and contains significant seismic deficiencies that the City of Long Beach seeks to address as soon as feasibly possible to ensure the public's health and safety.

(c) The City of Long Beach City Council seeks to address public health and safety in the earliest possible timeframe and understands that the development of a new Long Beach Civic Center using the public-private partnership procurement process presents the most expedient route to protecting the safety of its employees in and visitors to the civic center.

(d) The public-private partnership procurement process has demonstrated precedence for the expedient, efficient, and economical delivery of projects, through the delivery of the Governor George Deukmejian Courthouse in the City of Long Beach, which was completed under budget and ahead of schedule.

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

(f) A public-private partnership procurement method provides the City of Long Beach with an alternative and optional procedure for developing a new civic center that can provide a cost-effective benefit to the City of Long Beach by shifting the liability and risk for cost containment, project completion, and life-cycle maintenance to a private entity.

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

CHAPTER 15. Long Beach Civic Center

5975. As used in this chapter:

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

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

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

(d) "City" means the City of Long Beach and its departments, including the City of Long Beach Harbor Department.

(e) "Long Beach Civic Center" means the area bounded by Broadway, Pacific Avenue, Ocean Boulevard, and Magnolia Avenue, containing approximately 14.98 acres, and the parcel on the south side of 3rd Street between Pacific Avenue and Cedar Avenue, containing approximately 0.89 acres.

(f) "Private entity" means an individual, business entity, or combination of individuals and business entities.

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

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

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

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

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

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

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

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

(e) All documents related to the project shall be subject to disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7), except those exempted from disclosure under that act.

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

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

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

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

(e) This chapter shall not be construed to authorize the city to use tidelands trust revenues that are subject to Section 6306 of the Public Resources Code or any other applicable granting statute for general municipal purposes or any other purpose unconnected with the public trust.

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

5979. 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 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.