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AB-1499 Transportation: design-build: highways. (2021-2022)

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Date Published: 09/23/2021 02:00 PM

Assembly Bill No. 1499

CHAPTER 212

An act to amend Section 6829 of, and to add Section 6826.5 to, the Public Contract Code, and to amend Section 91.2 of the Streets and Highways Code, relating to transportation.

[Approved by Governor September 22, 2021. Filed with Secretary of State September 22, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1499, Daly. Transportation: design-build: highways.

(1) Existing law authorizes the Department of Transportation to utilize design-build procurement for up to 10 projects on the state highway system, based on either best value or lowest responsible bid. Existing law authorizes regional transportation agencies, as defined, to utilize design-build procurement for projects on or adjacent to the state highway system. Existing law also authorizes those regional transportation agencies to utilize design-build procurement for projects on expressways that are not on the state highway system, as specified. Existing law repeals these provisions on January 1, 2024, or one year from the date that the Department of Transportation posts on its internet website that the provisions described below related to construction inspection services for these projects have been held by a court to be invalid.

This bill would extend the operation of these provisions until January 1, 2034. The bill would require the department to submit a report to specified committees of the Legislature on or before January 1, 2033, on its experience with design-build procurement.

(2) Existing law provides that these design-build authorizations do not include construction inspection services for projects on or interfacing with the state highway system. Existing law requires the Department of Transportation to perform construction inspection services for projects on or interfacing with the state highway system, as specified. Existing law repeals these provisions on January 1, 2024.

This bill would extend the operation of these provisions until January 1, 2034.

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

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

SECTION 1. Section 6826.5 is added to the Public Contract Code, to read:

6826.5. The department shall submit a report to the transportation and fiscal committees of the Legislature on or before January 1, 2033, on its experience with use of the design-build method of procurement pursuant to this chapter, in terms of the relative costs and value of, and time to complete, projects that used the design-build method of procurement.

SEC. 2. Section 6829 of the Public Contract Code is amended to read:

6829. (a) This chapter shall remain in effect only until January 1, 2034, and as of that date is repealed.

(b) Notwithstanding subdivision (a), if any provision or application of Section 91.2 of the Streets and Highways Code is held invalid by a court of competent jurisdiction, this chapter shall be repealed one year from the date in which the department posts on its internet website that Section 91.2 of the Streets and Highways Code has been held invalid.

(c) The repeal of this chapter shall not affect an executed design-build contract or cooperative agreement entered into pursuant to this chapter prior to the date of its repeal, regardless of the stage of the project at the time of repeal.

SEC. 3. Section 91.2 of the Streets and Highways Code is amended to read:

91.2. (a) The department shall perform construction inspection services for projects on or interfacing with the state highway system authorized pursuant to Chapter 6.5 (commencing with Section 6820) of Part 1 of Division 2 of the Public Contract Code. The department shall use department employees or consultants under contract with the department to perform the services described in this subdivision and subdivision (b), consistent with Article XXII of the California Constitution. Construction inspection services performed by the department for those projects include, but are not limited to, material source testing, certification testing, surveying, monitoring of environmental compliance, independent quality control testing and inspection, and quality assurance audits. The construction inspection duties and responsibilities of the department shall include a direct reporting relationship between the inspectors and senior department engineers responsible for all inspectors and construction inspection services. The senior department engineer responsible for construction inspection services shall be responsible for the acceptance or rejection of the work.

(b) Notwithstanding any other law, the department shall retain the authority to stop the contractor's operation wholly or in part and take appropriate action when public safety is jeopardized on a project on or interfacing with the state highway system authorized pursuant to Chapter 6.5 (commencing with Section 6820) of Part 1 of Division 2 of the Public Contract Code. The department shall ensure that public safety and convenience is maintained whenever work is performed under an encroachment permit within the state highway right-of-way, including, but not limited to, work performed that includes lane closures, signing, work performed at night, detours, dust control, temporary pavement quality, crash cushions, temporary railings, pavement transitions, falsework, shoring, and delineation. The department shall regularly inspect the job sites for safety compliance and any possible deficiencies. If any deficiency is observed, a written notice shall be sent by the department to the regional transportation agency's designated resident engineer to correct the deficiency. Once the deficiency is corrected, a written notice describing the resolution of the deficiency shall be sent to the department and documented.

(c) The department shall use department employees or consultants under contract with the department to perform the services described in subdivisions (a) and (b), consistent with Article XXII of the California Constitution. Department employee and consultant resources necessary for the performance of those services, including personnel requirements, shall be included in the department's capital outlay support program for workload purposes in the annual Budget Act.

(d) "Construction inspection services" shall not include surveying work performed as part of a design-build contract.

(e) This section shall remain in effect only until January 1, 2034, and as of that date is repealed.

(f) If any provision or application of this section is held invalid by a court of competent jurisdiction, the department shall post on its internet website within 10 business days of the decision of invalidity that this section has been held invalid.