

AMENDED IN SENATE APRIL 9, 2008

AMENDED IN SENATE JANUARY 14, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 983

Introduced by Assembly Member Ma

February 22, 2007

An act to amend Section 1104 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 983, as amended, Ma. Public contracts: plans and specifications.

Existing law contains various provisions relating to the bidding process for public works projects. Existing law prohibits a local public entity, charter city, or charter county from requiring a bidder to assume responsibility for the completeness and accuracy of architectural or engineering plans and specifications on public works projects, except on clearly designated design-build projects.

~~This bill would provide that there is an implied warranty of the accuracy and completeness of the plans and specifications provided to the contractor by the public entity, charter city, or charter county. This~~

This bill would require a local public entity, charter city, or charter county, before entering into any contract for a project, to provide full, complete, and accurate plans and specifications and estimates of cost, giving such direction as will enable any competent mechanic or other builder to carry them out. This bill would exempt from these provisions any clearly identified design-build projects or design-build portions thereof. This bill would further provide that these provisions shall not be construed to require a contractor to prove an affirmative or intentional

misrepresentation or active concealment on the part of the public entity, charter city, or charter county that provides the plans and specifications.

This bill would also specify that these provisions would not expand, restrict, or otherwise change the liability or potential liability of a design professional, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

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

1 SECTION 1. Section 1104 of the Public Contract Code is
 2 amended to read:

3 1104. (a) No local public entity, charter city, or charter county
 4 shall require a bidder to assume responsibility for the completeness
 5 and accuracy of architectural or engineering plans and
 6 specifications on public works projects, except on clearly
 7 designated ~~design-build~~ *design-build* projects. Nothing in this
 8 section shall be construed to prohibit a local public entity, charter
 9 city, or charter county from requiring a bidder to review
 10 architectural or engineering plans and specifications prior to
 11 submission of a bid, and report any errors and omissions noted by
 12 the contractor to the architect or owner. The review by the
 13 contractor shall be confined to the contractor’s capacity as a
 14 contractor, and not as a licensed design professional.

15 ~~(b) When plans and specifications are provided by a public~~
 16 ~~entity, charter city, or charter county, there is an implied warranty~~
 17 ~~of the accuracy and completeness of those plans and specifications.~~

18 *(b) Except for clearly identified design-build projects or*
 19 *design-build portions thereof, before entering into any contract*
 20 *for a project, a local public entity, charter city, or charter county*
 21 *shall provide full, complete, and accurate plans and specifications*
 22 *and estimates of cost, giving such direction as will enable any*
 23 *competent mechanic or other builder to carry them out.*

24 Nothing in this section shall be construed to require a contractor
 25 to prove an affirmative or intentional misrepresentation or active
 26 concealment on the part of the *local* public entity, charter city, or
 27 charter county that provides the plans and specifications.

28 *Nothing contained in this section shall expand, restrict, or*
 29 *otherwise change the liability or potential liability of a design*

- 1 *professional as defined in paragraph (2) of subdivision (b) of*
- 2 *Section 2782.8 of the Civil Code.*

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