

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2753

Introduced by Assembly Member Furutani

February 19, 2010

~~An act to amend Section 102475 of the Health and Safety Code, relating to birth certificates. An act to add and repeal Chapter 3.6 (commencing with Section 81710) of Part 49 of Division 7 of Title 3 of the Education Code, relating to community colleges.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2753, as amended, Furutani. ~~Birth certificates: confidentiality.~~ *Los Angeles Community College District: design-assist contract pilot program.*

(1) Existing law authorizes a community college district governing board to enter into a design-build contract, as defined, until January 1, 2014, in which factors in addition to price and cost may be considered in awarding a contract for the design and construction of a community college facility for an amount that exceeds \$2,500,000.

This bill would establish a design-assist contract pilot program that would authorize the Los Angeles Community College District governing board to enter into a design-assist contract, as defined, for a project with an estimated cost exceeding \$2,500,000. The bill would prohibit expenditure of state funds appropriated for a design-assist capital outlay project until the Department of Finance and State Public Works Board have approved performance criteria and concept drawings. The bill would impose various requirements on the governing board related to the design-assist construction process and would prohibit the governing board from entering into more than 8 design-assist contracts under

these provisions before January 1, 2017. If the governing board elects to award a design-assist contract for a construction project, the bill would require the governing board to submit a report to the Legislative Analyst’s Office in compliance with a specific provision of existing law, and would require the Legislative Analyst’s Office to submit an interim report to the Legislature by January 1, 2013, and a final report by January 1, 2016.

The bill would require design-assist entities to verify certain information under oath, thereby imposing a state-mandated local program by expanding the scope of an existing crime.

The provisions of the bill would be repealed on January 1, 2017.

The bill would make legislative findings and declarations as to the necessity of a special statute.

(2) 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.

~~Existing law requires a certificate of live birth to contain specified information, including specified confidential information. Under existing law, a person who releases a copy of the confidential portion of a certificate of live birth, except as allowed by statute, is guilty of a misdemeanor punishable by a fine of \$500 or 6 months in jail.~~

~~This bill would increase the fine to \$1,000. By increasing the penalty for an existing crime, the bill would create a state-mandated local program.~~

~~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.
State-mandated local program: yes.

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

- 1 SECTION 1. Chapter 3.6 (commencing with Section 81710)
- 2 is added to Part 49 of Division 7 of Title 3 of the Education Code,
- 3 to read:

1 *CHAPTER 3.6. DESIGN-ASSIST ALTERNATIVE PILOT PROGRAM*

2
3 81710. (a) *It is the intent of the Legislature to provide, as a*
4 *pilot program in the Los Angeles Community College District, an*
5 *optional, alternative procedure for bidding and building community*
6 *college construction projects, known as design-assist.*

7 (b) *It is the intent of the Legislature that the design-assist*
8 *procurement, as authorized by this chapter, shall not be construed*
9 *to extend, limit, or change in any manner the legal responsibility*
10 *of public agencies and contractors to comply with existing law,*
11 *except as set forth in this chapter.*

12 (c) *It is the intent of the Legislature to authorize the Los Angeles*
13 *Community College District to use the procedures of this chapter,*
14 *and to receive from the district a report detailing the effectiveness*
15 *of these procedures.*

16 81711. (a) *This chapter applies only to the Los Angeles*
17 *Community College District.*

18 (b) *Except as otherwise expressly provided in this chapter, the*
19 *definitions and provisions of Chapter 3.5 (commencing with Section*
20 *81700) shall apply to the design-assist procedure authorized by*
21 *this chapter.*

22 81712. *As used in this chapter, the following terms have the*
23 *following meanings:*

24 (a) *“Best value” has the same meaning as defined in subdivision*
25 *(a) of Section 81701.*

26 (b) *“Design-assist” means a procurement process in which the*
27 *community college district engages a contractor to assist the*
28 *district and its design professionals in developing the design for,*
29 *and then the construction of, the project.*

30 (c) *“Design-assist entity” means an individual, corporation,*
31 *limited partnership, partnership, or other association that is*
32 *licensed to act as contractor and has the qualifications to assist*
33 *in the development of the design.*

34 81713. (a) *Upon a determination by a community college*
35 *district governing board that it is in the best interest of the*
36 *community college district, the governing board may enter into a*
37 *design-assist contract for any project with an estimated cost*
38 *greater than two million five hundred thousand dollars*
39 *(\$2,500,000) if, after evaluation of the traditional design-bid-build*
40 *process and the design-build process in a public meeting, the*

1 governing board makes written findings that use of the
2 design-assist process on the specific project under consideration
3 will accomplish one of the following objectives:

- 4 (1) Reduce comparable project costs.
- 5 (2) Facilitate control over design elements.
- 6 (3) Optimize use of construction means, methods, and
7 technologies.
- 8 (4) Provide features not achievable through the traditional
9 design-bid-build method or the alternative design-build method.

10 (b) The governing board shall also review the guidelines
11 developed pursuant to this chapter, and shall adopt a resolution
12 approving the use of the design-assist process pursuant to this
13 chapter, prior to entering into a design-assist contract.

14 (c) State funds appropriated for a design-assist capital outlay
15 project shall not be expended until the Department of Finance and
16 the State Public Works Board have approved performance criteria
17 and concept drawings for the project to be financed from the
18 appropriation for capital outlay.

19 81714. Design-assist projects shall progress as follows:

20 (a) The community college district governing board shall
21 provide for the selection of professional design services pursuant
22 to Chapter 10 (commencing with Section 4525) of Division 5 of
23 the Government Code. Any architect or structural engineer
24 retained pursuant to this section shall be duly licensed and
25 registered in this state.

26 (b) The community college district governing board shall
27 prepare a request for proposal for preconstruction services
28 pursuant to the requirements of subdivision (a) of Section 81703.

29 (c) (1) The community college district shall establish a
30 procedure to prequalify design-assist entities using a standard
31 questionnaire developed by the Director of Industrial Relations
32 pursuant to subdivision (b) of Section 17250.25.

33 (2) Information required pursuant to this subdivision shall be
34 verified under oath by the design-assist entity and its members in
35 the manner in which civil pleadings in civil actions are verified.
36 Information provided pursuant to this subdivision that is not a
37 public record pursuant to the California Public Records Act
38 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
39 Title 1 of the Government Code) shall not be open to public
40 inspection.

1 (d) The community college district shall establish a procedure
2 for final selection of the design-assist entity. Selection shall be
3 based on either of the following:

4 (1) The lowest responsible bid price.

5 (2) The best value to the community college district based on
6 the criteria set forth in the request for proposal.

7 (e) The community college district governing board shall
8 prepare a request for proposal for construction services pursuant
9 to Article 1 (commencing with Section 20100) of Chapter 1 of Part
10 3 of Division 2 of the Public Contract Code.

11 (f) The community college district shall award the contract for
12 construction services to the lowest responsible bidder pursuant to
13 Section 20103.8 of the Public Contract Code.

14 81716. (a) Sections 81704 and 81705 apply to all design-assist
15 projects under this chapter to the extent that those sections are
16 not in conflict with this section.

17 (b) All subcontracts that are not listed by the design-assist entity
18 in accordance with Section 81714, if any, shall be awarded by the
19 community college district to the lowest responsible bidder.

20 (c) Once bids have been opened and contracts have been
21 awarded pursuant to this chapter, the design-assist entity shall be
22 responsible for building the facility to specifications set forth, and
23 for the price stipulated, in the bid, in the absence of contractual
24 language to the contrary.

25 81717. If the Los Angeles Community College District elects
26 to enter into design-assist contracts pursuant to this chapter, the
27 district shall develop guidelines for design-assist projects on or
28 before June 30, 2011. The guidelines shall be based on applicable
29 guidelines developed pursuant to Section 81706.

30 81718. (a) The Los Angeles Community College District
31 governing board, for each design-assist contract awarded for a
32 project pursuant to this chapter, shall submit to the Legislative
33 Analyst's Office a report on the project at the completion of the
34 project. The report shall be submitted within 60 days after
35 completion of the project.

36 (b) The Legislative Analyst's Office shall submit an interim
37 report to the Legislature by January 1, 2013, and a final report
38 to the Legislature by January 1, 2016. The reports shall include,
39 but not necessarily be limited to, all of the following information
40 as to each project:

- 1 (1) *The type of facility.*
- 2 (2) *The gross square footage of the facility.*
- 3 (3) *The company or contractor who was awarded the project.*
- 4 (4) *The estimated and actual length of time to complete the*
5 *project.*
- 6 (5) *The estimated and actual project cost.*
- 7 (6) *A description of the relative merits of a project procured*
8 *pursuant to this chapter and similar projects procured pursuant*
9 *to other provisions of this code.*
- 10 (7) *A description of any written protest concerning any aspect*
11 *of the solicitation, bid, proposal, or award of the design-assist*
12 *project, including the resolution of the protest.*
- 13 (8) *Other pertinent information that may be instructive in*
14 *evaluating whether the design-assist method of procurement should*
15 *be continued, expanded, or prohibited.*
- 16 (9) *The findings established pursuant to Section 81713 and a*
17 *postcompletion evaluation as to whether the findings were*
18 *achieved.*
- 19 (10) *Any Labor Code violations discovered during the course*
20 *of construction or following completion of the project, and any*
21 *fines or penalties assessed.*
- 22 (c) *A report to be submitted pursuant to subdivision (b) shall*
23 *be submitted in compliance with Section 9795 of the Government*
24 *Code.*
- 25 (d) *As used in this section, “completion” has the same meaning*
26 *as defined in subdivision (c) of Section 7107 of the Public Contract*
27 *Code.*
- 28 81719. (a) *This chapter does not exempt a design-assist*
29 *contract from any provision of the Public Contract Code that*
30 *would otherwise apply to the contract, unless an exemption is*
31 *granted expressly, or by necessary implication, by a provision of*
32 *this chapter.*
- 33 (b) *Unless expressly authorized by this chapter, the community*
34 *college district and the design-assist entity shall not waive, amend,*
35 *or ignore any otherwise applicable provision of the Field Act, as*
36 *defined in Section 17281.*
- 37 81720. *The Los Angeles Community College District shall not*
38 *enter into more than eight design-assist contracts prior to January*
39 *1, 2017.*

1 81722. (a) *This chapter does not apply to contracts that are*
2 *in effect prior to January 1, 2011.*

3 (b) *Unless expressly provided, this chapter is not intended to*
4 *affect, expand, alter, or limit any rights or remedies otherwise*
5 *available.*

6 81725. *This chapter shall remain in effect only until January*
7 *1, 2017, and as of that date is repealed, unless a later enacted*
8 *statute, that is enacted before January 1, 2017, deletes or extends*
9 *that date.*

10 SEC. 2. *The Legislature finds and declares that a special law*
11 *is necessary and that a general law cannot be made applicable*
12 *within the meaning of Section 16 of Article IV of the California*
13 *Constitution because this act will serve as a pilot program for*
14 *providing the Los Angeles Community College District with the*
15 *authority to enter into design-assist contracts for the design and*
16 *construction and there is a need to enact this act on a trial basis*
17 *only, and to study the implementation of this act in only one*
18 *community college district, prior to extending the act to every*
19 *community college district.*

20 SEC. 3. *No reimbursement is required by this act pursuant to*
21 *Section 6 of Article XIII B of the California Constitution because*
22 *the only costs that may be incurred by a local agency or school*
23 *district will be incurred because this act creates a new crime or*
24 *infraction, eliminates a crime or infraction, or changes the penalty*
25 *for a crime or infraction, within the meaning of Section 17556 of*
26 *the Government Code, or changes the definition of a crime within*
27 *the meaning of Section 6 of Article XIII B of the California*
28 *Constitution.*

29 ~~SECTION 1. Section 102475 of the Health and Safety Code~~
30 ~~is amended to read:~~

31 ~~102475. (a) A person who releases a copy of the confidential~~
32 ~~portion of the certificate of live birth, except as specifically~~
33 ~~provided by this part, shall be guilty of a misdemeanor, punishable~~
34 ~~by a fine of one thousand dollars (\$1,000) or six months in jail.~~
35 ~~The criminal penalty shall not preclude suit for civil or punitive~~
36 ~~damages by an individual harmed by the unauthorized release.~~

37 ~~(b) A person who is the subject of, or the source of information~~
38 ~~for, a birth certificate, who has reason to believe there has been~~
39 ~~linkage of confidential information with his or her identity and~~
40 ~~disclosure of the confidential information to a person not specified~~

1 ~~in subdivision (a) of Section 102430, shall have a civil right of~~
2 ~~action against the person releasing the information and may seek~~
3 ~~punitive damages.~~

4 ~~SEC. 2. No reimbursement is required by this act pursuant to~~
5 ~~Section 6 of Article XIII B of the California Constitution because~~
6 ~~the only costs that may be incurred by a local agency or school~~
7 ~~district will be incurred because this act creates a new crime or~~
8 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
9 ~~for a crime or infraction, within the meaning of Section 17556 of~~
10 ~~the Government Code, or changes the definition of a crime within~~
11 ~~the meaning of Section 6 of Article XIII B of the California~~
12 ~~Constitution.~~