

**Introduced by Senator Johannessen**

February 26, 1997

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An act to add Section 14661 to the Government Code, relating to state property.

LEGISLATIVE COUNSEL'S DIGEST

SB 776, as introduced, Johannessen. State property: design-build.

Existing law requires the Department of General Services, notwithstanding other provisions of law, to perform various functions and duties with respect to state property.

This bill would authorize the Director of General Services, notwithstanding other provisions of law, to contract and procure state office facilities, other buildings, structures, and related facilities through a design-build procurement process when he or she determines that it is in the best interests of the state. This bill would require the director, prior to contracting for the procurement of state office facilities and other state buildings and structures, to prepare a program setting forth the scope of the project and to establish a competitive prequalification and selection process for design-build teams. This bill would provide that when a design-build procurement process is selected, the listing requirements of the Subletting and Subcontracting Fair Practices Act shall not be required.

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

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

1 SECTION 1. (a) The Legislature finds and declares  
2 that it is in the best interests of the state to construct new  
3 state office and other facilities in a cost efficient manner  
4 that represents the best overall value to the taxpayers. In  
5 order for this goal to be accomplished, state agencies need  
6 to be able to use the best possible project delivery  
7 procurement systems.

8 (b) The Legislature finds and declares that the  
9 design-build process can be an attractive option to a  
10 public entity in comparison to the existing three-step  
11 (design-bid-build) process. The design-build process can  
12 improve the project delivery process by accelerating  
13 delivery schedules and saving costs by promoting  
14 improved coordination between contractor and  
15 architect, shifting management risk from the public  
16 entity to the design-build team, and minimizing change  
17 orders through early collaboration between design and  
18 construction disciplines.

19 (c) The Legislature has recognized the merits of the  
20 design-build procurement process in the past by  
21 authorizing its use for projects undertaken by the  
22 University of California, joint-venture public school  
23 projects, specified local government projects, and several  
24 state office buildings under construction in Oakland, San  
25 Francisco, and Los Angeles. The design-build  
26 procurement process has also been approved for use by  
27 public entities in other states, as well as the federal  
28 government.

29 (d) Therefore, it is the intent of the Legislature in  
30 enacting this act to authorize the Director of General  
31 Services to use the design-build construction  
32 procurement process for state facilities when he or she  
33 deems it in the best interests of the state.

34 SEC. 2. Section 14661 is added to the Government  
35 Code, to read:

36 14661. (a) Notwithstanding any provision of the  
37 Public Contract Code or any other provision of law, the  
38 Director of General Services may contract and procure



1 state office facilities and other buildings, structures, and  
2 related facilities pursuant to this section through a  
3 design-build procurement process when he or she  
4 determines that it is in the best interests of the state.

5 (b) For purposes of this section, “design-build” means  
6 a procurement process in that both the design and  
7 construction of a project are procured from a single  
8 entity.

9 (c) For purposes of this section, “design-build team”  
10 means a partnership, corporation, or other legal entity  
11 consisting, at a minimum, of a licensed general contractor  
12 and a licensed architect.

13 (d) Prior to contracting for the procurement of state  
14 office facilities and other state buildings and structures,  
15 the director shall:

16 (1) Prepare a program setting forth the scope of the  
17 project that may include, but is not limited to, the size,  
18 type, and desired design character of the buildings and  
19 site, performance criteria covering the quality of  
20 materials, equipment, and workmanship, or any other  
21 information deemed necessary to describe adequately  
22 the state’s needs. The performance criteria shall be  
23 prepared by a design professional duly licensed and  
24 registered in the State of California.

25 (2) Establish a competitive prequalification and  
26 selection process for design-build teams that clearly  
27 specifies the prequalification criteria as well as the  
28 manner in that the winning bidder will be selected.  
29 Prequalification shall be based upon criteria that may  
30 include, but are not limited to, the management  
31 qualifications, financial capability, and relevant work  
32 experience of the design-build teams and their members.  
33 The process for the selection of the winning bidder may  
34 include, but is not limited to, design competitions, project  
35 quality after establishing a guaranteed maximum price  
36 for the project, competition based upon maximum  
37 project benefit for lowest price, or competition based  
38 solely upon price, as deemed by the director to be in the  
39 best interests of the state.



1 (e) For purposes of this section, “best interests of the  
2 state” shall mean the procurement of state office facilities  
3 and other state buildings and structures in a manner that  
4 is projected by the director to reduce the project delivery  
5 schedule and total cost of a project while maintaining a  
6 high level of quality workmanship and materials, when  
7 compared to the traditional design-bid-build process.

8 (f) It is recognized by the Legislature that the  
9 design-build entity is charged with performing both  
10 design and construction. Because a design-build contract  
11 may be awarded prior to the completion of the design, it  
12 is impracticable for the design-build entity to list the  
13 subcontractors at the time of award, therefore, the listing  
14 requirements contained in Chapter 4 (commencing with  
15 Section 6100) of Part 1 of Division 2 of the Public Contract  
16 Code shall not be required when the design-build  
17 procurement process is selected.

