
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: SB 297 **Hearing Date:** March 27, 2019
Author: Pan
Version: February 14, 2019
Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: School facilities: approval of plans.

SUMMARY

This bill allows school and community college districts to award construction contracts, but not perform any construction, prior to receiving plan approval from the State Architect.

BACKGROUND

Existing law:

- 1) Defines “construction or alteration” for purposes of school facilities projects to include any construction, reconstruction, or alteration of, or addition to, any school building.
- 2) Requires the Department of General Services (DGS) to pass upon and approve or reject all plans for the construction or, if the estimated cost exceeds \$100,000, the alteration of any school building.
- 3) Generally requires the governing board of each school and community college district, before adopting construction or alteration plans, to submit the plans to DGS for approval and pay all associated fees.
- 4) Establishes alternative methods for awarding school construction contracts, including lease-leaseback and design-build contracting.
- 5) Allows, for lease-leaseback and design-build contracting, the governing board of a school or community college district to award construction contracts prior to obtaining plan approval by DGS.

ANALYSIS

This bill allows school and community college districts to award construction contracts, but not perform any construction, prior to receiving plan approval from the State Architect.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “For decades, school districts have struggled to meet construction deadlines ahead of students arriving for classes in

the fall, often resulting in additional costs and displaced students (e.g. leased portable housing, seasonal prices, and labor shortages). The first few weeks of contractor activity under a newly awarded construction contract are focused on the preliminary work of awarding subcontracts, making submittals of shop drawings or samples, obtaining approval of those submittals, ordering approved materials and equipment, and delivering them to the construction site. Summer breaks offer a brief window for contractors to complete projects with little to no tolerance for delays. Costs during the summer months are typically higher and projects end up competing against each other as labor shortages cause districts to pay premiums to keep projects on schedule.

SB 297 amends the Education Code to permit districts to award construction contracts prior to Division of the State Architect (DSA) approval. Being able to award subcontracts and complete other preliminary work in the winter months when construction work is slow means better prices can be obtained, the subsequent summer construction work will be better planned, and materials can be delivered and ready for construction. The ability to operate under this revised regulation will allow school districts to operate more efficiently and provide much-needed space for students in a timely manner.”

- 2) ***Plan review for construction projects.*** The DSA reviews plans for public school construction and certain other state-funded building projects to ensure that plans, specifications, and construction comply with California's building codes (Title 24 of the California Code of Regulations). The majority of DSA's plan review and construction oversight focuses on new construction and alteration projects for California school and community college districts. DSA's plan review ensures the project's compliance with code requirements related to:
 - a) Structural safety, ensuring that facilities meet the high standards set in the Field Act to withstand an earthquake.
 - b) Fire and life safety, addressing the safety of occupants in buildings, as related to fire resistive building materials, fire alarms, fire suppression equipment, safe occupant egress, and firefighting equipment access.
 - c) Access compliance, ensuring that public schools and state-funded construction projects meet accessibility requirements for people with disabilities.
 - d) Energy efficiency, including compliance with applicable California Green Building Standards Code requirements for sustainability.
- 3) ***The Field Act.*** All school facilities must be built in compliance with specified earthquake safety standards, commonly known as the "Field Act." The Field Act was enacted following a severe earthquake in Long Beach in 1933. The Field Act requires a comprehensive design specification and construction inspection process for K-12 public school educational facilities. Community college facilities may be constructed in accordance with either the Field Act or the California Building Standards Code.

The Field Act requires the Division of the State Architect (DSA) within the Department of General Services (DGS) to review the construction plans for school buildings and requires school districts to hire onsite construction inspectors to ensure compliance with the structural safety standards. School and community college construction contracts may only be awarded after DSA approval of the plans and specifications on which the contracts are based.

- 4) ***This bill would codify one of the recommendations from DSA’s Alternate Delivery Task Force.*** In February 2014, the Alternate Project Delivery Task Force was established by the State Architect to review the procedures by which DSA administers school construction projects differently from traditional project delivery methods, including design-build, lease-leaseback, and other related alternative project delivery methods. The objective of the Task Force was to uncover issues in implementing alternative project delivery methods, clarify the role of DSA, and suggest clarifications and revisions to existing law. The Task Force included contractors, inspectors, program managers, engineers and architects, and DSA staff, representing diverse perspectives on alternative project delivery.

The changes proposed in this bill were included in the recommendations section of DSA’s task force report. According to the report, “In managing design and construction programs, particularly in the months when students are absent or fewer, schools and community colleges are prohibited from awarding projects timely if State architect approval is still pending, so that construction planning and scheduling, preparation of shop drawings and submittals, and inspection and testing can be provided for. Thus the construction is rushed at a risk of lesser construction execution, quality, and safety. This bill would allow award in time to do the planning to allow better planning and quality execution. Some Design Build provisions contradict some Field Act provisions. This bill would correct those contradictions. Some readings of the existing Field Act provisions would prohibit schools and community colleges from obtaining the benefit of early price guarantee. This bill would grant that benefit.”

- 5) ***Would this bill have a significant impact on school projects?*** Supporters of this bill cite reduced construction costs, increased efficiencies, reduced delays, and additional classroom time for students resulting from this bill. However, given that local educational agencies (LEAs) can already perform a wide array of preconstruction services before obtaining DSA plan approval—those services not necessitating an executed construction contract—the benefits of this bill may be overstated. Further, by allowing LEAs to execute construction contracts before their plans are approved, this bill could result in additional change orders to the extent that a DSA plan review requires substantive project modifications.

Even so, given that this bill would not infringe upon DSA’s authority to enforce the state’s building codes, and there may be specific instances where school and community college districts could save money by bidding and awarding their projects in advance of plan approval, the changes included in this bill have merit.

Association of California Construction Managers
Coalition for Adequate School Housing
Sacramento Regional Builders Exchange

OPPOSITION

Construction Employers' Association

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