

STATEMENT TO
[Third Reprint]
ASSEMBLY, No. 1285

with Assembly Floor Amendments
(Proposed by Assemblyman GREENWALD)

ADOPTED: JANUARY 11, 2021

These Assembly floor amendments would:

- revise the required qualifications for design professionals under the bill;
- provide that contracting units may enter into design-build contracts if it determines in its discretion that the design-build approach meets their needs better than the traditional design-bid-build approach;
- permit an independent State transportation authority that already has an established prequalification, project rating, or proposal process for design-build contracts in place as of the bill's effective date to continue to award design-build contracts pursuant to that process;
- remove the contracting unit's attorney from the technical review committee, but allow the attorney to advise the committee;
- prohibit a member of the technical review committee from having a personal or financial interest in any of the design-builders submitting proposals;
- increase the maximum number of design-builders specified in a solicitation that are to be selected to submit proposals to six;
- make it optional for a contracting unit to offer a stipend;
- require that solicitations for each design-build contract include requirements for the design professional to have performance bonds, payment bonds, and insurance, and to meet certain other qualifications if applicable;
- provide that all proposals be received and opened at a previously announced time, where a synopsis of each is publicly read and recorded consistent with the bill's confidentiality provisions;
- provide that the contracting unit make public the sealed price bid for each proposal submitted to the contracting unit by a design-builder after the award decision is made;
- provide that the contracting unit solicit new proposals using the same evaluation factors, budget constraints, or qualifications, unless there has been a material change in circumstances affecting the needs of the contracting unit, including but not limited to an environmental issue, natural disaster, state of emergency, or unforeseen fiscal constraint;

- provide that when a design-builder receives notification from a public body that the proposal, which it has submitted, has not been accepted, the design-builder may, within 30 days, request to review the design-build proposals submitted, technical review committee evaluation scores from the selection process, and the final recommendation of award document;
- delete references to the Division of Property Management and Construction in the Department of the Treasury and the Department of Transportation, and replace with references to the appropriate rulemaking agencies;
- exclude the Department of Transportation from the requirement that design-build construction projects be encouraged to adhere to the Leadership in Energy and Environmental Design Green Building Rating System or a comparable sustainable development system;
- provide that, for local government contracting units, the technical review committee make an award recommendation to the governing body of the contracting unit, and that the governing body of the contracting unit make the design-build contract award decision, consistent with the award recommendation;
- require that a project or projects under consideration by a local government or public school contracting unit have a cost equal to or exceeding \$5 million in order to be contracted for through a design-build contract;
- permit the State Comptroller to review all design-build contracts awarded by local government or public school contracting units;
- have the Department of Community Affairs, in consultation with the Department of Education, adopt the regulations under the bill for public school design-build contracts; and
- eliminate the requirement that the State compile all proceedings, records, contracts, and other public records relating to procurement transactions authorized under the bill and provide that these materials be accessible to the public pursuant to P.L.1963, c.73 (C.47:1A-1 et seq.), except as otherwise may be provided under the bill.