

SENATE, No. 482

STATE OF NEW JERSEY
219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator NICHOLAS J. SACCO

District 32 (Bergen and Hudson)

SYNOPSIS

Establishes design-build delivery system for NJTA and DOT projects.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the procurement of certain goods and services
 2 by the New Jersey Turnpike Authority and the New Jersey
 3 Department of Transportation, amending P.L.1948, c.454, and
 4 supplementing Title 27 of the Revised Statutes.

5
 6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 7 *of New Jersey:*

8
 9 1. Section 4 of P.L.1948, c.454 (C.27:23-4) is amended to read
 10 as follows:

11 4. As used in this act, the following words and terms shall have
 12 the following meanings, unless the context shall indicate another or
 13 different meaning or intent:

14 "Act" means P.L.1948, c.454 (C.27:23-1 et seq.), as amended
 15 and supplemented.

16 "Authority" means the New Jersey Turnpike Authority, created
 17 by section 3 of this act, or, if said authority shall be abolished, the
 18 board, body or commission succeeding to the principal functions
 19 thereof or to whom the powers given by this act to the authority
 20 shall be given by law.

21 "Bonds" or "transportation revenue bonds" means any bonds,
 22 refunding bonds, notes or other obligations issued by the authority
 23 authorized under the provisions of this act or issued by or for the
 24 Highway Authority.

25 "Commissioner" means the Commissioner of Transportation.

26 "Construction" or "construct" means the planning, designing,
 27 construction, development, reconstruction, rehabilitation,
 28 redevelopment, replacement, repair, extension, enlargement,
 29 improvement, and betterment of highway and transportation
 30 projects and includes the demolition, clearance and removal of
 31 buildings or structures on land acquired, held, leased or used for
 32 those projects.

33 "Cost" means all or any part of the expenses incurred in
 34 connection with the acquisition, construction, operation,
 35 management and maintenance of any real property, lands,
 36 structures, real or personal property rights, rights-of-way,
 37 franchises, easements, and interests acquired or used for a project;
 38 any financing charges and reserves for the payment of principal,
 39 premium and interest on bonds; the expenses of engineering,
 40 appraisal, architectural, accounting, financial, legal and other
 41 consulting services; and other expenses as may be necessary,
 42 desirable, convenient, or incident to the financing, acquisition,
 43 construction, operation, improvement, management, repair, and
 44 maintenance of a project.

45 "Credit Agreement" means loan agreement, lease agreement,
 46 revolving credit agreement, agreement establishing a line of credit,
 47 letter of credit, reimbursement to purchase bonds, purchase or sale

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 agreements, or commitments or other contracts or agreements
2 authorized and approved by the authority in connection with the
3 authorization, issuance, security, purchase, tender, redemption, or
4 payment of bonds.

5 "Department" means the Department of Transportation.

6 "Design-build delivery system" means a project delivery method
7 in which there is a single contract between the authority and a
8 design-build entity to furnish the architectural, engineering, and
9 related design services of a project in addition to the labor,
10 materials, supplies, equipment, and construction services for any
11 project.

12 "Design-build entity" means a proprietorship, partnership,
13 limited liability company, limited liability partnership, joint
14 venture, corporation, or any other legal entity that provides design
15 and construction services under a single contract.

16 "Feeder road" means any road or highway project that in the
17 determination of the authority is necessary, desirable or convenient
18 to create or facilitate access to a transportation project.

19 "Garden State Arts Center" means the Garden State Arts Center,
20 sometimes referred to as the PNC Bank Arts Center, a highway
21 project of the authority.

22 "Highway project" means the acquisition, operation,
23 improvement, management, repair, construction, including express
24 E-ZPass where determined by the authority, and maintenance of the
25 New Jersey Turnpike and of the Garden State Parkway, including
26 the demolition and removal of toll houses and toll barriers, and of
27 the Garden State Arts Center, as transferred to the authority
28 pursuant to P.L.2003, c.79 (C.27:23-41 et al.), and of any other
29 highway or feeder road at the locations and between the termini as
30 may hereafter be established by the authority or by law and
31 acquired or constructed under the provisions of this act by the
32 authority, and shall include but not be limited to all bridges, parking
33 facilities, public highways, feeder roads, tunnels, overpasses,
34 underpasses, interchanges, traffic circles, grade separations,
35 entrance and exit plazas, approaches, toll houses, service areas,
36 stations and facilities, communications facilities, administration,
37 storage and other buildings and facilities, and other structures
38 directly or indirectly related to a transportation project, intersecting
39 highways and bridges and feeder roads which the authority may
40 deem necessary, desirable, or convenient in its discretion for the
41 operation, maintenance or management, either directly or indirectly,
42 of a transportation project, and includes any planning, design or
43 other preparation work necessary for the execution of any highway
44 project, and adjoining park or recreational areas and facilities,
45 directly or indirectly related to the use of a transportation project as
46 the authority shall find to be necessary and desirable, and the costs
47 associated therewith.

1 "Land and improvements" means any area or lands, any interest,
2 right or title in land, including but not limited to, any reversionary
3 right, fee, license or leasehold interest and any real or personal
4 property, structure, facility, building or equipment.

5 "Owner" means all individuals, copartnerships, associations,
6 private or municipal corporations and all political subdivisions of
7 the State having any title or interest in any property, rights,
8 easements and interests authorized to be acquired by this act.

9 "Parking facility" means any area or place, garage, building, or
10 other improvement or structure for the parking or storage of motor
11 or other vehicles, including but not limited to all real property and
12 personal property, driveways, roads and other structures or areas
13 necessary, useful or convenient for access to a facility from a public
14 street, road or highway, or from any project; meters, mechanical
15 equipment necessary, useful or convenient for or in connection with
16 that parking or storage; and any structures, buildings, space or
17 accommodations, whether constructed by the authority or by the
18 lessee, to be leased for any business, commercial or other use,
19 including the sale of gasoline or accessories for, or the repair or
20 other servicing of automobiles and other motor vehicles, or motorist
21 services, if, in the opinion of the authority, the inclusion, provision
22 and leasing is necessary, desirable or convenient to assist in
23 defraying the expenses of the authority and make possible the
24 operation of the parking facility at reasonable rates.

25 "Public highway" means all public highways, roads and streets in
26 the State, whether maintained by the State or by any county, city,
27 borough, town, township, village or other political subdivision.

28 "Real property" means lands within the State, above or below
29 water, and improvements thereof or thereon, or any riparian or other
30 rights or interests therein.

31 "Request for proposal" means a document issued by the authority
32 to solicit technical proposals from prequalified design-build entities
33 for a project.

34 "Request for qualifications" means a document issued by the
35 authority to prequalify potential design-build entities.

36 "Stipend" means the fee paid to a design-build entity by the
37 authority in exchange for design, construction information, or
38 materials prepared by the design-build entity and retained by the
39 authority.

40 "Transfer Date" means, with respect to the assumption by the
41 authority of the powers, duties, assets and responsibilities of the
42 New Jersey Highway Authority, the date on which the Chair of the
43 authority and the commissioner certify to the Governor that: (i) all
44 bonds issued by the New Jersey Highway Authority cease to be
45 outstanding within the meaning of the resolutions pursuant to which
46 those bonds were issued; and (ii) upon which the authority assumes
47 all debts, and statutory responsibilities and obligations of the New
48 Jersey Highway Authority.

1 "Transportation project" or "project" means, in addition to
2 highway projects, any other transportation facilities or activities
3 determined necessary or appropriate by the authority in its
4 discretion to fulfill the purposes of the authority, and the costs
5 associated therewith.

6 (cf: P.L.2003, c.79, s.8)

7
8 2. (New section) a. Notwithstanding section 1 of
9 P.L.1968, c.461 (C.27:23-6.1) or any other law, rule, or regulation
10 to the contrary, the authority may, in its discretion, and in the
11 exercise of its power to make and enter into contracts and
12 agreements necessary or incidental to the performance of its duties
13 and the execution of its powers, use a design-build delivery system
14 for the procurement of any project of the authority which will serve
15 the public interest. In determining whether the authority shall use a
16 design-build delivery system for a project, the authority shall
17 consider the following factors:

18 (1) The extent to which the authority can adequately define the
19 project requirements in a proposed scope of the design and
20 construction desired;

21 (2) The time constraints for delivery of the project;

22 (3) The capability and experience of contractors with a design-
23 build delivery system or similar experience;

24 (4) The suitability of the project for use of a design-build
25 delivery system with respect to time, schedule, costs, and quality
26 factors;

27 (5) The capability of the authority to manage the project,
28 including the employment of experienced personnel or outside
29 consultants;

30 (6) The capability of the authority to oversee the project with
31 design-build entities who are familiar and experienced with a
32 design-build delivery system or similar experience;

33 (7) The original character of the product or the services;

34 (8) The work to be performed on the project is necessary to the
35 authority's achievement of its statutory responsibilities; and

36 (9) Any other factor the authority deems relevant in making its
37 determination.

38 The authority shall provide in a written statement its reasons for
39 using a design-build delivery system for a project. This statement,
40 along with other relevant project information, shall be available
41 upon request.

42 b. After considering the factors set forth in subsection a. of this
43 section and deciding to proceed with a design-build delivery
44 system, the authority shall establish a two-phase procedure for
45 awarding design-build delivery system contracts as provided for in
46 sections 3 and 4 of P.L. , c. (C.) (pending before the
47 Legislature as this bill).

1 3. (New section) a. After the authority has determined to
2 utilize a design-build delivery system pursuant to subsection b. of
3 section 2 of P.L. , c. (C.) (pending before the Legislature
4 as this bill), the authority shall prepare a request for qualifications
5 to qualify design-build entities.

6 b. The request for qualifications shall include, but not be
7 limited to, the following criteria, which shall be weighted by the
8 authority:

9 (1) The minimum qualifications of design-build entities
10 necessary to meet the requirements for acceptance;

11 (2) Requirements for construction experience, design
12 experience, financial, personnel, and equipment resources available
13 from design-build entities for the project and the experience the
14 design-build entities have in other similar design-build delivery
15 system projects, unless the design-build entity has had previous
16 experience with other department or authority construction projects
17 and an acceptable performance rating as determined by the
18 authority, provided that these requirements may not unduly restrict
19 competition;

20 (3) A scope of work statement and schedule;

21 (4) Documents and reference materials made available by the
22 authority defining the project requirements;

23 (5) The form of contract to be awarded;

24 (6) A description of the request for proposal requirements;

25 (7) The maximum time allowed for design and construction;

26 (8) The authority's estimated cost of design and construction;

27 (9) A statement that "past performance" or "experience" does
28 not include the exercise or assertion of a person's legal rights; and

29 (10) Any other factor the authority deems appropriate.

30 c. The authority shall evaluate the qualifications of the design-
31 build entities responding to the request for qualifications and
32 prepare a list of design-build entities that meet the criteria
33 established pursuant to subsection b. of this section, and shall solicit
34 from those entities a request for proposals in accordance with
35 section 4 of P.L. , c. (C.) (pending before the Legislature
36 as this bill).

37
38 4. (New section) a. The authority shall prepare and solicit
39 a request for proposals from the list of qualified design-build
40 entities as determined by the authority pursuant to subsection c. of
41 section 3 of P.L. , c. (C.) (pending before the Legislature
42 as this bill). The request for proposals shall include any
43 information a design-build entity may need, including, but not
44 limited to, the weighted criteria to be used to score the request for
45 proposals and require separate submissions for a technical proposal,
46 price bid, and any other information the authority deems
47 appropriate. The request for proposals shall establish and provide
48 the date on which the technical proposal and price bids are to be

1 submitted to the authority by the qualified design-build entities.
2 The technical proposal and price bids shall be clearly identified and
3 include the date and time of the submittal deadline.

4 b. The authority shall offer a stipend, based upon the project
5 size and type, but not to exceed one percent of the project's
6 estimated cost, to any design-build entity whose design,
7 construction information, or materials presented in a request for
8 proposals the authority desires to retain for its exclusive use. A
9 design-build entity may accept the authority's offer of a stipend for
10 use of its design, construction information, or materials or may
11 decline such offer, in which case the authority may not retain or use
12 in any manner any of the design, construction information, or
13 materials presented to the authority by the corresponding design-
14 build entity.

15
16 5. (New section) a. The authority shall create a technical
17 review committee whose purpose and function shall be to evaluate
18 and score each technical proposal submitted to the authority by
19 qualified design-build entities in accordance with section 4 of
20 P.L. , c. (C.) (pending before the Legislature as this bill).
21 The technical review committee shall establish and provide a
22 detailed description of the criteria to be used in the technical
23 proposal and shall give weight to the established criteria for the
24 technical proposal as the committee sees fit. The technical review
25 committee shall have the authority to reject any technical proposal
26 submitted by a qualified design-build entity that the committee
27 deems incomplete for any reason, provided that a qualified design-
28 build entity shall have a reasonable opportunity, as determined by
29 the authority, to correct deficiencies in the rejected technical
30 proposal.

31 b. Each technical proposal shall be reviewed by the technical
32 review committee appointed by the authority pursuant to subsection
33 a. of this section. The technical proposal shall include, but need not
34 be limited to, the following criteria, which shall be weighted by the
35 technical review committee in accordance with subsection a. of this
36 section:

37 (1) The scope of the project, including, but not limited to,
38 performance and technical standards, design, and functional and
39 operational elements, which shall be prepared by a registered or
40 licensed professional engineer;

41 (2) The maximum time allowable for design and construction;

42 (3) An estimated cost range for design and construction;

43 (4) A critical path method, bar schedule of the work to be
44 performed, or similar schematic;

45 (5) Design plans and specifications, technical reports, and
46 calculations;

47 (6) Permit requirements and applicable development fees;

1 (7) Copies of the contract documents that the successful design-
2 build entity will be expected to enter into;

3 (8) A statement of the specialized experience and technical
4 competence required for the project, the capability of the design-
5 build entity to perform, and other appropriate technical and
6 qualification factors; and

7 (9) Any other information deemed relevant to the project by the
8 authority.

9 c. The technical review committee shall evaluate the technical
10 proposals using the criteria in the request for proposals and shall
11 create a shortlist of qualified design-build entities based on their
12 qualifications.

13

14 6. (New section) a. (1) On the basis of the technical
15 proposals, the authority shall select at least two, but no more than
16 five, of the most highly qualified design-build entities that meet the
17 criteria established pursuant to subsection b. of section 5 of
18 P.L. , c. (C.) (pending before the Legislature as this bill)
19 and shall solicit from those entities a request to submit cost and
20 price information. Cost and price information shall contain all
21 design, construction, engineering, and inspection costs of the
22 project.

23 (2) The authority shall evaluate each two-part proposal from
24 design-build entities selected pursuant to paragraph (1) of this
25 subsection based on the technical proposal and cost and price
26 information.

27 b. The authority shall separately evaluate each technical
28 proposal and the corresponding cost and price information and
29 award the design-build delivery system contract based on the
30 proposal that is considered most advantageous to the authority.

31 c. The authority shall make public the cost and price
32 information for each proposal submitted to the authority by a
33 selected design-build entity. The authority shall also make public
34 the design-build entity awarded the contract for the project.

35

36 7. (New section) Within 90 days of the effective date of this
37 act, the authority, in accordance with the provisions of the
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
39 seq.), shall promulgate rules and regulations to effectuate the
40 purposes of sections 1 through 6 of P.L. , c. (C.) (pending
41 before the Legislature as this bill).

42

43 8. (New section) As used in sections 8 through 14 of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 the following words and terms shall have the following meanings,
46 unless the context shall indicate another or different meaning or
47 intent:

1 "Authority" means the New Jersey Turnpike Authority, created
2 by section 3 of P.L.1948, c.454 (C.27:23-3), or, if said authority
3 shall be abolished, the board, body or commission succeeding to the
4 principal functions thereof or to whom the powers given by
5 P.L.1948, c.454 (C.27:23-1 et seq.) to the authority shall be given
6 by law.

7 "Commissioner" means the Commissioner of Transportation.

8 "Construction" or "construct" means the planning, designing,
9 construction, development, reconstruction, rehabilitation,
10 redevelopment, replacement, repair, extension, enlargement,
11 improvement, and betterment of highway and transportation
12 projects and includes the demolition, clearance and removal of
13 buildings or structures on land acquired, held, leased or used for
14 those projects.

15 "Cost" means all or any part of the expenses incurred in
16 connection with the acquisition, construction, operation,
17 management and maintenance of any real property, lands,
18 structures, real or personal property rights, rights-of-way,
19 franchises, easements, and interests acquired or used for a project;
20 any financing charges and reserves for the payment of principal,
21 premium and interest on bonds; the expenses of engineering,
22 appraisal, architectural, accounting, financial, legal and other
23 consulting services; and other expenses as may be necessary,
24 desirable, convenient, or incident to the financing, acquisition,
25 construction, operation, improvement, management, repair, and
26 maintenance of a project.

27 "Department" means the Department of Transportation.

28 "Design-build delivery system" means a project delivery method
29 in which there is a single contract between the department and a
30 design-build entity to furnish the architectural, engineering, and
31 related design services of a project in addition to the labor,
32 materials, supplies, equipment, and construction services for any
33 project.

34 "Design-build entity" means a proprietorship, partnership,
35 limited liability company, limited liability partnership, joint
36 venture, corporation, or any other legal entity that provides design
37 and construction services under a single contract.

38 "Feeder road" means any road or highway project that in the
39 determination of the department is necessary, desirable or
40 convenient to create or facilitate access to a transportation project.

41 "Highway project" means the acquisition, operation,
42 improvement, management, repair, or construction of any highway
43 or feeder road at the locations and between the termini as may
44 hereafter be established by the department or by law and acquired
45 or constructed by the department, and shall include but not be
46 limited to all bridges, parking facilities, public highways, feeder
47 roads, tunnels, overpasses, underpasses, interchanges, traffic
48 circles, grade separations, entrance and exit plazas, approaches, toll

1 houses, service areas, stations and facilities, communications
2 facilities, administration, storage and other buildings and facilities,
3 and other structures directly or indirectly related to a transportation
4 project, intersecting highways and bridges and feeder roads which
5 the department may deem necessary, desirable, or convenient in its
6 discretion for the operation, maintenance or management, either
7 directly or indirectly, of a transportation project, and includes any
8 planning, design, or other preparation work necessary for the
9 execution of any highway project, and adjoining park or
10 recreational areas and facilities, directly or indirectly related to the
11 use of a transportation project as the department shall find to be
12 necessary and desirable, and the costs associated therewith.

13 "Land and improvements" means any area or lands, any interest,
14 right or title in land, including but not limited to, any reversionary
15 right, fee, license or leasehold interest and any real or personal
16 property, structure, facility, building or equipment.

17 "Public highway" means all public highways, roads and streets in
18 the State, whether maintained by the State or by any county, city,
19 borough, town, township, village, or other political subdivision.

20 "Real property" means lands within the State, above or below
21 water, and improvements thereof or thereon, or any riparian or other
22 rights or interests therein.

23 "Request for proposal" means a document issued by the
24 department to solicit technical proposals from prequalified design-
25 build entities for a project.

26 "Request for qualifications" means a document issued by the
27 department to prequalify potential design-build entities.

28 "Stipend" means the fee paid to a design-build entity by the
29 department in exchange for design, construction information, or
30 materials prepared by the design-build entity and retained by the
31 department.

32 "Transportation project" or "project" means, in addition to
33 highway projects, any other transportation facilities or activities
34 determined necessary or appropriate by the authority in its
35 discretion to fulfill the purposes of the department, and the costs
36 associated therewith.

37

38 9. (New section) a. Notwithstanding any other law, rule, or
39 regulation to the contrary, the department may, in its discretion, and
40 in the exercise of its power to make and enter into contracts and
41 agreements necessary or incidental to the performance of its duties
42 and the execution of its powers, use a design-build delivery system
43 for the procurement of any project of the department which will
44 serve the public interest. In determining whether the department
45 shall use a design-build delivery system for a project, the
46 department shall consider the following factors:

- 1 (1) The extent to which the department can adequately define
2 the project requirements in a proposed scope of the design and
3 construction desired;
- 4 (2) The time constraints for delivery of the project;
- 5 (3) The capability and experience of contractors with a design-
6 build delivery system or similar experience;
- 7 (4) The suitability of the project for use of a design-build
8 delivery system with respect to time, schedule, costs, and quality
9 factors;
- 10 (5) The capability of the department to manage the project,
11 including the employment of experienced personnel or outside
12 consultants;
- 13 (6) The capability of the department to oversee the project with
14 design-build entities who are familiar and experienced with a
15 design-build delivery system or similar experience;
- 16 (7) The original character of the product or the services;
- 17 (8) The work to be performed on the project is necessary to the
18 department's achievement of its statutory responsibilities; and
- 19 (9) Any other factor the department deems relevant in making
20 its determination.
- 21 The department shall provide in a written statement its reasons
22 for using a design-build delivery system for a project. This
23 statement, along with other relevant project information, shall be
24 available upon request.
- 25 b. After considering the factors set forth in subsection a. of this
26 section and deciding to proceed with a design-build delivery
27 system, the department shall establish a two-phase procedure for
28 awarding design-build delivery system contracts as provided for in
29 sections 10 and 11 of P.L. , c. (C.) (pending before the
30 Legislature as this bill).
- 31
- 32 10. (New section) a. After the department has determined to
33 utilize a design-build delivery system pursuant to subsection b. of
34 section 9 of P.L. , c. (C.) (pending before the Legislature
35 as this bill), the department shall prepare a request for qualifications
36 to qualify design-build entities.
- 37 b. The request for qualifications shall include, but not be
38 limited to, the following criteria, which shall be weighted by the
39 department:
- 40 (1) The minimum qualifications of design-build entities
41 necessary to meet the requirements for acceptance;
- 42 (2) Requirements for construction experience, design
43 experience, financial, personnel, and equipment resources available
44 from design-build entities for the project and the experience the
45 design-build entities have in other similar design-build delivery
46 system projects, unless the design-build entity has had previous
47 experience with other department or authority construction projects

1 and an acceptable performance rating as determined by the
2 department, provided that these requirements may not unduly
3 restrict competition;

4 (3) A scope of work statement and schedule;

5 (4) Documents and reference materials made available by the
6 department defining the project requirements;

7 (5) The form of contract to be awarded;

8 (6) A description of the request for proposal requirements;

9 (7) The maximum time allowed for design and construction;

10 (8) The department's estimated cost of design and construction;

11 (9) A statement that "past performance" or "experience" does
12 not include the exercise or assertion of a person's legal rights; and

13 (10) Any other factor the department deems appropriate.

14 c. The department shall evaluate the qualifications of the
15 design-build entities responding to the request for qualifications and
16 prepare a list of design-build entities that meet the criteria
17 established pursuant to subsection b. of this section, and shall solicit
18 from those entities a request for proposals in accordance with
19 section 11 of P.L. , c. (C.) (pending before the
20 Legislature as this bill).

21

22 11. (New section) a. The department shall prepare and
23 solicit a request for proposals from the list of qualified design-build
24 entities as determined by the department pursuant to subsection c.
25 of section 10 of P.L. , c. (C.) (pending before the
26 Legislature as this bill). The request for proposals shall include any
27 information a design-build entity may need, including, but not
28 limited to, the weighted criteria to be used to score the request for
29 proposals and shall require separate submissions for a technical
30 proposal, price bid, and any other information the department
31 deems appropriate. The request for proposals shall establish and
32 provide the date on which the technical proposal and price bids are
33 to be submitted to the department by the qualified design-build
34 entities. The technical proposal and price bids shall be clearly
35 identified and include the date and time of the submittal deadline.

36 b. The department shall offer a stipend, based upon the project
37 size and type, but not to exceed one percent of the project's
38 estimated cost, to any design-build entity whose design,
39 construction information, or materials presented in a request for
40 proposals the department desires to retain for its exclusive use. A
41 design-build entity may accept the department's offer of a stipend
42 for use of its design, construction information, or materials or may
43 decline such offer, in which case the department may not retain or
44 use in any manner any of the design, construction information, or
45 materials presented to the department by the corresponding design-
46 build entity.

1 12. (New section) a. The department shall create a technical
2 review committee whose purpose and function shall be to evaluate
3 and score each technical proposal submitted to the department by
4 qualified design-build entities in accordance with section 11 of
5 P.L. , c. (C.) (pending before the Legislature as this bill).
6 The technical review committee shall establish and provide a
7 detailed description of the criteria to be used in the technical
8 proposal and shall give weight to the established criteria for the
9 technical proposal as the committee sees fit. The technical review
10 committee shall have the authority to reject any technical proposal
11 submitted by a qualified design-build entity that the committee
12 deems incomplete for any reason, provided that a qualified design-
13 build entity shall have a reasonable opportunity, as determined by
14 the department, to correct deficiencies in the rejected technical
15 proposal.

16 b. Each technical proposal shall be reviewed by the technical
17 review committee appointed by the department pursuant to
18 subsection a. of this section. The technical proposal shall include,
19 but need not be limited to, the following criteria, which shall be
20 weighted by the technical review committee in accordance with
21 subsection a. of this section:

22 (1) The scope of the project, including, but not limited to,
23 performance and technical standards, design, and functional and
24 operational elements, which shall be prepared by a registered or
25 licensed professional engineer;

26 (2) The maximum time allowable for design and construction;

27 (3) An estimated cost range for design and construction;

28 (4) A critical path method, bar schedule of the work to be
29 performed, or similar schematic;

30 (5) Design plans and specifications, technical reports, and
31 calculations;

32 (6) Permit requirements and applicable development fees;

33 (7) Copies of the contract documents that the successful design-
34 build entity will be expected to enter into;

35 (8) A statement of the specialized experience and technical
36 competence required for the project, the capability of the design-
37 build entity to perform, and other appropriate technical and
38 qualification factors; and

39 (9) Any other information deemed relevant to the project by the
40 department.

41 c. The technical review committee shall evaluate the technical
42 proposals using the criteria in the request for proposals and shall
43 create a shortlist of qualified design-build entities based on their
44 qualifications.

45

46 13. (New section) a. (1) On the basis of the technical
47 proposals, the department shall select at least two, but no more than
48 five, of the most highly qualified design-build entities that meet the

1 criteria established pursuant to subsection b. of section 12 of
2 P.L. , c. (C.) (pending before the Legislature as this bill)
3 and shall solicit from those entities a request to submit cost and
4 price information. Cost and price information shall contain all
5 design, construction, engineering, and inspection costs of the
6 project.

7 (2) The department shall evaluate each two-part proposal from
8 design-build entities selected pursuant to paragraph (1) of this
9 subsection based on the technical proposal and cost and price
10 information.

11 b. The department shall separately evaluate each technical
12 proposal and the corresponding cost and price information and
13 award the design-build delivery system contract based on the
14 proposal that is considered most advantageous to the department.

15 c. The department shall make public the cost and price
16 information for each proposal submitted to the department by a
17 selected design-build entity. The department shall also make public
18 the design-build entity awarded the contract for the project.

19
20 14. (New section) Within 90 days of the effective date of this
21 act, the department, in accordance with the provisions of the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.), shall promulgate rules and regulations to effectuate the
24 purposes of sections 8 through 13 of P.L. , c. (C.)
25 (pending before the Legislature as this bill).

26
27 15. This act shall take effect on the first day of the sixth month
28 following enactment.

30 31 STATEMENT

32
33 This bill allows the New Jersey Turnpike Authority ("authority")
34 and the New Jersey Department of Transportation ("department") to
35 make and enter into contracts to use a design-build delivery system
36 for the procurement of authority or department projects which will
37 serve the public interest. A design-build delivery system is defined
38 to mean a project delivery method in which there is a single
39 contract between the authority or the department and a design-build
40 entity to furnish the architectural, engineering, and related design
41 services of a project, in addition to the labor, materials, supplies,
42 equipment, and construction services for the project. The bill
43 establishes various factors which the authority and the department
44 are to consider in determining whether to use a design-build
45 delivery system for a project.

46 The authority and department are to establish the following two-
47 phase procedure for awarding design-build delivery system
48 contracts: (1) request for qualifications ("RFQ"); and (2) request for

1 proposals (“RFP”). The RFQ prepared by the authority or
2 department is to be used to qualify design-build entities from which
3 the authority and department may solicit an RFP for a project. The
4 proposal submitted by a design-build entity is to include a separate
5 technical proposal, cost and price information, and any other
6 information that the authority or department deems appropriate.

7 The bill requires the authority and the department to establish a
8 technical review committee to evaluate the technical proposals
9 submitted with the RFP by the qualified design-build entities in
10 accordance with the weighted criteria established by the technical
11 review committee.

12 The authority and department are to separately evaluate each
13 technical proposal and the cost and price information and award the
14 design-build delivery system contract based on the proposal that is
15 considered most advantageous to the authority or department. The
16 cost and price information of each selected design-build entity are
17 to be made public by the authority or the department as well as the
18 entity awarded the contract for the project.

19 Finally, the bill provides that the authority and department are to
20 offer a stipend, based upon the project size and type, but not to
21 exceed one percent of the project’s estimated cost, to any design-
22 build entity whose design, construction information, or materials
23 presented in an RFP the authority or department desires to retain for
24 its exclusive use. A design-build entity may accept the authority or
25 department’s offer or may decline such an offer, in which case the
26 authority and department may not retain or use in any manner any
27 of the design, construction information, or materials presented to
28 the authority or department by the corresponding design-build
29 entity.

30 This bill allows the department to make and enter into contracts
31 to use a design-build delivery system for the procurement of
32 department projects. The bill alters the RFQ process to allow for
33 more design-build entities to qualify to submit technical proposals
34 and allow design-build entities with previous experience with other
35 department or authority projects and acceptable performance ratings
36 to be considered for qualification by the authority or department.

37 The bill allows a qualified design-build entity to have a
38 reasonable opportunity to correct deficiencies in a rejected technical
39 proposal. The bill requires the technical review committee to
40 evaluate, instead of score, the technical proposals and from that
41 evaluation create a shortlist of qualified design-build entities based
42 on their qualifications. The bill requires the authority or department
43 to create a shortlist of design-build entities and to select a design-
44 build entity from that shortlist based upon a combination of the
45 technical proposal and the cost and price information.