



Rep. Thaddeus Jones

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1 AMENDMENT TO HOUSE BILL 5593

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 5593 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Design-Build for Public Schools Act.

6 Section 5. Legislative intent. It is the intent of the  
7 General Assembly to authorize up to 5 design-build  
8 demonstration projects statewide where it is shown to be in a  
9 school district's best interest, as determined by the State  
10 Board of Education.

11 Section 10. Scope. This Act shall not apply to entities  
12 subject to the Public Building Commission Act.

13 Section 15. Definitions. In this Act:

14 "Delivery system" means the design and construction

1 approach used to develop and construct a project.

2 "Design-bid-build" means the traditional delivery system  
3 used on public projects in this State that incorporates the  
4 Architectural, Engineering, and Land Surveying Qualifications  
5 Based Selection Act and the principles of competitive selection  
6 in the Illinois Procurement Code.

7 "Design-build" means a delivery system that is responsible  
8 within a single contract for the furnishing of architecture,  
9 engineering, land surveying, and related services, as  
10 required, and the labor, materials, equipment, and other  
11 construction services for the project.

12 "Design-build contract" means a contract for a project  
13 between a school district and a design-build entity to furnish  
14 architecture, engineering, land surveying, and related  
15 services, as required, and to furnish the labor, materials,  
16 equipment, and other construction services for the project.

17 "Design-build entity" means any individual, sole  
18 proprietorship, firm, partnership, joint venture, corporation,  
19 professional corporation, or other entity that proposes to  
20 design and construct any public project under this Act. A  
21 design-build entity and any associated design-build  
22 professionals shall conduct themselves in accordance with the  
23 laws of this State and the related provisions of the Illinois  
24 Administrative Code, as referenced by the licensed design  
25 professionals Acts of this State.

26 "Design professional" means any individual, sole

1 proprietorship, firm, partnership, joint venture, corporation,  
2 professional corporation, or other entity that offers services  
3 under the Illinois Architecture Practice Act of 1989,  
4 Professional Engineering Practice Act of 1989, Structural  
5 Engineering Practice Act of 1989, or Illinois Professional Land  
6 Surveyor Act of 1989.

7 "Evaluation criteria" means the requirements for the  
8 separate phases of the selection process and may include  
9 specialized experience, technical qualifications and  
10 competence, capacity to perform, past performance, experience  
11 with similar projects, assignment of personnel to the project,  
12 and other appropriate factors.

13 "Proposal" means the offer to enter into a design-build  
14 contract as submitted by a design-build entity in accordance  
15 with this Act.

16 "Request for proposals" means the document used by a school  
17 district to solicit proposals for a design-build contract.

18 "School district" means a public school district that  
19 operates under the authority of the School Code, except for a  
20 school district organized under Article 34 of that Code.

21 "Scope and performance criteria" means the requirements  
22 for the project, including, but not limited to, the intended  
23 usage, capacity, size, scope, quality and performance  
24 standards, life-cycle costs, and other programmatic criteria  
25 that are expressed in performance-oriented and quantifiable  
26 specifications and drawings that can be reasonably inferred and

1 are suited to allow a design-build entity to develop a  
2 proposal.

3 Section 20. Procedures.

4 (a) It shall be the policy of a school district in the  
5 procurement of design-build services to publicly announce all  
6 requirements for design-build services and to procure these  
7 services on the basis of demonstrated competence and  
8 qualifications, with due regard for the principles of  
9 competitive selection. A school district shall, prior to  
10 issuing a request for proposals, promulgate and publish  
11 procedures for the solicitation and award of contracts pursuant  
12 to this Act.

13 (b) A school district shall, for each project or projects  
14 permitted under this Act, make a written determination,  
15 including a description as to the particular advantages of the  
16 design-build procurement method, that it is in the best  
17 interests of the school district to enter into a design-build  
18 contract for the project or projects. In making that  
19 determination, a school district shall consider all of the  
20 following factors:

21 (1) The probability that the design-build procurement  
22 method will be in the best interests of the school district  
23 by providing a material savings of time or cost over the  
24 design-bid-build or other delivery system.

25 (2) The type and size of the project and its

1           suitability to the design-build procurement method.

2           (3) The ability of the design-build entity to define  
3           and provide comprehensive scope and performance criteria  
4           for the project.

5           Section 25. Solicitation of proposals.

6           (a) If a school district elects to use the design-build  
7           delivery method under this Act, it must issue a notice of  
8           intent to receive proposals for the project no less than 14  
9           days before issuing the request for proposals. A school  
10          district must publish the advance notice in a daily newspaper  
11          of general circulation in the area where the school district is  
12          located. A school district may publish the notice in related  
13          construction-industry service publications. A brief  
14          description of the proposed procurement must be included in the  
15          notice. A school district must provide a copy of the request  
16          for proposals to any party requesting a copy.

17          (b) A request for proposals under subsection (a) of this  
18          Section shall be prepared for each project and must include,  
19          but is not limited to, all of the following:

20                 (1) The name of the school district.

21                 (2) A preliminary schedule for the completion of the  
22                 contract.

23                 (3) The proposed budget for the project, the source of  
24                 the required funds, and the currently available funds at  
25                 the time the request for proposals is submitted.

1           (4) Prequalification criteria for the design-build  
2 entities that submit proposals. A school district shall  
3 include, at a minimum, its normal prequalification,  
4 licensing, and registration requirements. Nothing  
5 contained in this paragraph (4) shall preclude the use of  
6 additional prequalification criteria by a school district.

7           (5) Material requirements of the contract, including,  
8 but not limited to, the proposed terms and conditions,  
9 required performance and payment bonds, insurance, and the  
10 design-build entity's plan to comply with the utilization  
11 goals established by the corporate authorities of the  
12 school district for minority-owned and women-owned  
13 business enterprises and to comply with Section 2-105 of  
14 the Illinois Human Rights Act.

15           (6) The performance criteria.

16           (7) The evaluation criteria for each phase of the  
17 solicitation. Price may not be used as a factor in the  
18 evaluation of Phase I proposals.

19           (8) The number of entities that shall be considered for  
20 the technical and cost evaluation phase.

21           (c) A school district may include any other relevant  
22 information in the request for proposals. The design-build  
23 entity shall be entitled to rely upon the accuracy of this  
24 documentation in the development of its proposal.

25           (d) The date that proposals are due must be no less than 21  
26 calendar days after the date of the issuance of the request for

1 proposals. If the cost of the project is estimated to exceed  
2 \$10,000,000, then the proposal's due date must be no less than  
3 28 calendar days after the date of the issuance of the request  
4 for proposals. A school district shall include in the request  
5 for proposals a minimum of 30 days to develop the Phase II  
6 submissions after the selection of entities from the Phase I  
7 evaluation is completed.

8 Section 30. Development of scope and performance criteria.

9 (a) A request for proposals under this Act shall be  
10 developed with the assistance of a licensed design professional  
11 and shall include scope and performance criteria. The scope and  
12 performance criteria must be in sufficient detail and contain  
13 adequate information to reasonably apprise the qualified  
14 design-build entities of the school district's overall  
15 programmatic needs and goals, including criteria and  
16 preliminary design plans, general budget parameters, schedule,  
17 and delivery requirements. Each request for proposals shall  
18 also include a description of the level of design to be  
19 provided in the proposals. This description must include the  
20 scope and type of renderings, drawings, and specifications  
21 that, at a minimum, shall be required by the school district to  
22 be produced by the design-build entities.

23 (b) The scope and performance criteria shall be prepared by  
24 a design professional who is an employee of the school district  
25 or by an independent design professional selected under the

1 Architectural, Engineering, and Land Surveying Qualifications  
2 Based Selection Act contracted by the school district to  
3 provide these services.

4 (c) The design professional that prepares the scope and  
5 performance criteria is prohibited from participating in any  
6 design-build entity proposal for the project.

7 (d) The design-build contract may be conditioned upon  
8 subsequent refinements in scope and price and may allow the  
9 school district to make modifications in the project scope  
10 without invalidating the design-build contract.

11 Section 35. Selection committee.

12 (a) A school district that elects to use the design-build  
13 delivery method under this Act shall establish a committee to  
14 evaluate and select the design-build entity. The committee,  
15 under the discretion of the school district, shall consist of  
16 no less than 5 members and no more than 7 members and shall  
17 include no less than one licensed design professional.

18 (b) Each member of the selection committee must certify for  
19 each request for proposals that no conflict of interest exists  
20 between the member and the design-build entities submitting  
21 proposals. If a conflict is discovered before proposals are  
22 reviewed, the member must be replaced before any review of  
23 proposals. If a conflict is discovered after proposals are  
24 reviewed, the member with the conflict shall be removed and, if  
25 no less than 5 members remain, the remaining committee members



1 may complete the selection process.

2 Section 40. Procedures for selection.

3 (a) A school district electing to use the design-build  
4 delivery method must use a 2-phase procedure for the selection  
5 of the successful design-build entity. Phase I of the procedure  
6 shall evaluate and shortlist the design-build entities based on  
7 qualifications and Phase II of the procedure shall evaluate the  
8 technical and cost proposals.

9 (b) A school district shall include in the request for  
10 proposal the evaluating factors to be used in Phase I. These  
11 factors are in addition to any prequalification requirements of  
12 design-build entities that the school district has set forth.  
13 Each request for proposals shall establish the relative  
14 importance assigned to each evaluation factor and subfactor,  
15 including any weighing of criteria to be employed by the school  
16 district. A school district must maintain a record of the  
17 evaluation scoring to be disclosed in event of a protest  
18 regarding the solicitation.

19 (c) A school district shall include the following criteria  
20 in every Phase I evaluation of design-build entities: (i)  
21 experience of personnel; (ii) successful experience with  
22 similar project types; (iii) financial capability; (iv)  
23 timeliness of past performance; (v) experience with  
24 similarly-sized projects; (vi) successful reference checks of  
25 the entity; (vii) commitment to assign personnel for the

1 duration of the project and qualifications of the entity's  
2 consultants; and (viii) ability or past performance in meeting  
3 or exhausting good faith efforts to meet the utilization goals  
4 for minority-owned and women-owned business enterprises  
5 established by the corporate authorities of the school district  
6 and in complying with Section 2-105 of the Illinois Human  
7 Rights Act. A school district may include any additional  
8 relevant criteria in Phase I that it deems necessary for a  
9 proper qualification review. The school district may not  
10 consider any design-build entity for evaluation or award if the  
11 entity has any pecuniary interest in the project or has other  
12 relationships or circumstances, including, but not limited to,  
13 a long-term leasehold, mutual performance, or development  
14 contracts with the school district that may give the  
15 design-build entity a financial or tangible advantage over  
16 other design-build entities in the preparation, evaluation, or  
17 performance of the design-build contract or that create the  
18 appearance of impropriety. No design-build proposal shall be  
19 considered that does not include a design-build entity's plan  
20 to comply with the utilization goals established by the  
21 corporate authorities of the school district for  
22 minority-owned and women-owned business enterprises and with  
23 Section 2-105 of the Illinois Human Rights Act.

24 (d) Upon completion of the qualifications evaluation, a  
25 school district shall create a shortlist of the most highly  
26 qualified design-build entities. A school district is not

1 required to shortlist the maximum number of entities as  
2 identified for Phase II evaluation, provided that no less than  
3 2 and no more than 6 design-build entities are selected to  
4 submit Phase II proposals. A school district shall provide  
5 written notification to the entities selected for the  
6 shortlist. This notification shall commence the period for the  
7 preparation of the Phase II technical and cost evaluations. A  
8 school district must allow sufficient time for the shortlist  
9 entities to prepare their Phase II submittals considering the  
10 scope and detail requested by the school district.

11 (e) A school district shall include in the request for  
12 proposals the evaluating factors to be used in the technical  
13 and cost submission components of Phase II. Each request for  
14 proposals shall establish, for both the technical and cost  
15 submission components of Phase II, the relative importance  
16 assigned to each evaluation factor and subfactor, including any  
17 weighing of criteria to be employed by the school district. The  
18 school district must maintain a record of the evaluation  
19 scoring, to be disclosed in the event of a protest regarding  
20 the solicitation.

21 (f) A school district shall include the following criteria  
22 in every Phase II technical evaluation of design-build  
23 entities: (i) compliance with objectives of the project; (ii)  
24 compliance of proposed services to the request for proposals  
25 requirements; (iii) quality of products or materials proposed;  
26 (iv) quality of design parameters; (v) design concepts; (vi)

1 innovation in meeting the scope and performance criteria; and  
2 (vii) constructability of the proposed project. A school  
3 district may include any additional relevant technical  
4 evaluation factors it deems necessary for proper selection. A  
5 school district shall include the following criteria in every  
6 Phase II cost evaluation: (I) the total project cost; (II) the  
7 construction costs; and (III) the time of completion. A school  
8 district may include any additional relevant cost evaluation  
9 factors it deems necessary for proper selection. The total  
10 project cost criteria weighing factor shall not exceed 30%.

11 (g) A school district shall directly employ or retain a  
12 licensed design professional to evaluate the technical and cost  
13 submissions to determine if the technical submissions are in  
14 accordance with generally accepted industry standards. Upon  
15 completion of the technical submissions and cost submissions  
16 evaluation, a school district may award the design-build  
17 contract to the highest overall ranked entity.

18 Section 45. Small projects. In any case where the total  
19 overall cost of the project is estimated to be less than  
20 \$10,000,000, a school district may combine the 2-phase  
21 procedure for selection under Section 40 of this Act into one  
22 combined step; provided that all the requirements of evaluation  
23 are performed in accordance with Section 40 of this Act.

24 Section 50. Submission of proposals.

1 (a) Proposals under this Act must be properly identified  
2 and sealed. Proposals may not be reviewed until after the  
3 deadline for submission has passed as set forth in the request  
4 for proposals. All design-build entities submitting proposals  
5 shall be disclosed after the deadline for submission, and all  
6 design-build entities who are selected for Phase II evaluation  
7 shall be disclosed at the time of that determination.

8 (b) Proposals shall include a bid bond in the form and  
9 security as designated in the request for proposals. Proposals  
10 shall also contain a separate sealed envelope with the cost  
11 information within the overall proposal submission. Proposals  
12 shall include a list of all design professionals and other  
13 entities, in accordance with Section 30-30 of the Illinois  
14 Procurement Code, to which any work may be subcontracted during  
15 the performance of the contract.

16 (c) Proposals must meet all material requirements of the  
17 request for proposals, or they may be rejected as  
18 non-responsive. A school district shall have the right to  
19 reject any and all proposals. The drawings and specifications  
20 of the proposal shall remain the property of the design-build  
21 entity. A school district shall review the proposals for  
22 compliance with the performance criteria and evaluation  
23 factors. Proposals may be withdrawn prior to evaluation for any  
24 cause. After evaluation begins by a school district, clear and  
25 convincing evidence of error is required for withdrawal.

26 (d) After a proposal has been submitted in accordance with

1 this Act, a design-build entity may not replace, remove, or  
2 otherwise modify any firm identified as a member of the  
3 design-build team unless one of the following criteria is met:

4 (1) The firm is no longer in business.

5 (2) The firm is unable to fulfill its legal, financial,  
6 or business obligations.

7 (3) The firm no longer meets the terms of the agreement  
8 with the design-build entity.

9 (4) The firm voluntarily removes itself from the  
10 design-build entity.

11 (5) The firm fails to provide a sufficient number of  
12 qualified personnel to fulfill the duties identified in the  
13 proposal.

14 (6) The firm fails to negotiate in good faith and in a  
15 timely manner in accordance with the provisions  
16 established in the agreement with the design-build entity.

17 If the design-build entity modifies the team, any cost  
18 savings shall accrue to the school district and not to the  
19 design-build entity. If a design-build entity is modified at  
20 any time during the term of a design-build contract, the  
21 design-build entity shall notify the State Board of Education  
22 and the school district in writing within 15 calendar days of  
23 making the change.

24 Section 55. Award. A school district may award the contract  
25 to the highest overall ranked entity. A school district shall

1 provide a written notification to the awarded entity and all  
2 unsuccessful entities of its decision. A school district may  
3 not request a best and final offer after the receipt of  
4 proposals. A school district may negotiate with the selected  
5 design-build entity after the award, but prior to contract  
6 execution, for the purpose of securing better terms than  
7 originally proposed; provided that the salient features of the  
8 request for proposal are not diminished.

9 Section 60. Reports. The design-build entity, regional  
10 superintendent of schools, and State Board of Education shall  
11 annually submit a detailed report to the General Assembly on  
12 the status of projects procured under this Act, including  
13 estimated and actual project costs, estimated and actual  
14 project delivery schedules, estimated cost differences  
15 resulting from the design-build delivery system over the  
16 traditional design-bid-build delivery system, and any other  
17 impacts resulting from the use of the design-build delivery  
18 system. The report shall also document the design-build  
19 entity's success in complying with the utilization goals  
20 established by the corporate authorities of the school district  
21 for minority-owned and women-owned business enterprises and  
22 Section 2-105 of the Illinois Human Rights Act. The report  
23 shall be filed with the Clerk of the House of Representatives  
24 and the Secretary of the Senate in electronic form only, in the  
25 manner that the Clerk and the Secretary shall direct.

1           Section 65. Compliance. All projects procured under this  
2 Act using the design-build delivery method shall comply with  
3 Section 2-3.12 of the School Code and shall be subject to  
4 review and approval by the State Board of Education.

5           Section 90. Repeal. This Act is repealed on July 1, 2023.

6           Section 97. Severability. The provisions of this Act are  
7 severable under Section 1.31 of the Statute on Statutes.

8           Section 99. Effective date. This Act takes effect upon  
9 becoming law.".