



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB2639

by Rep. Jaime M. Andrade, Jr.

#### SYNOPSIS AS INTRODUCED:

50 ILCS 20/2.5  
50 ILCS 20/20.3  
50 ILCS 20/20.4  
50 ILCS 20/20.5  
50 ILCS 20/20.10  
50 ILCS 20/20.15  
50 ILCS 20/20.20  
50 ILCS 20/20.25  
50 ILCS 20/23.6 new

Amends the Public Building Commission Act. Reenacts certain Sections that were repealed on June 1, 2018. Provides for their continuation and validation, and extends their repeal to June 1, 2023. Effective immediately.

LRB101 08629 AWJ 53713 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Building Commission Act is amended by  
5 reenacting and changing Sections 2.5, 20.3, 20.4, 20.5, 20.10,  
6 20.15, 20.20, and 20.25 and adding Section 23.6 as follows:

7 (50 ILCS 20/2.5)

8 Sec. 2.5. Legislative policy; conditions for use of  
9 design-build. It is the intent of the General Assembly that a  
10 commission be allowed to use the design-build delivery method  
11 for public projects if it is shown to be in the commission's  
12 best interest for that particular project.

13 It shall be the policy of the commission in the procurement  
14 of design-build services to publicly announce all requirements  
15 for design-build services and to procure these services on the  
16 basis of demonstrated competence and qualifications and with  
17 due regard for the principles of competitive selection.

18 The commission shall, prior to issuing requests for  
19 proposals, promulgate and publish procedures for the  
20 solicitation and award of contracts pursuant to this Act.

21 The commission shall, for each public project or projects  
22 permitted under this Act, make a written determination,  
23 including a description as to the particular advantages of the

1 design-build procurement method, that it is in the best  
2 interests of the commission to enter into a design-build  
3 contract for the project or projects.

4 In making that determination, the following factors shall  
5 be considered:

6 (1) The probability that the design-build procurement  
7 method will be in the best interests of the commission by  
8 providing a material savings of time or cost over the  
9 design-bid-build or other delivery system.

10 (2) The type and size of the project and its  
11 suitability to the design-build procurement method.

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

15 The commission shall require the design-build entity to  
16 comply with the utilization goals established by the corporate  
17 authorities of the commission for minority and women business  
18 enterprises and to comply with Section 2-105 of the Illinois  
19 Human Rights Act.

20 This Section is repealed on June 1, 2023 ~~2018~~; provided  
21 that any design-build contracts entered into before such date  
22 or any procurement of a project under this Act commenced before  
23 such date, and the contracts resulting from those procurements,  
24 shall remain effective.

25 (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,  
26 eff. 1-7-14.)

1 (50 ILCS 20/20.3)

2 Sec. 20.3. Solicitation of design-build proposals.

3 (a) When the Commission elects to use the design-build  
4 delivery method, it must issue a notice of intent to receive  
5 proposals for the project at least 14 days before issuing the  
6 request for the proposal. The Commission must publish the  
7 advance notice in a daily newspaper of general circulation in  
8 the county where the Commission is located. The Commission is  
9 encouraged to use publication of the notice in related  
10 construction industry service publications. A brief  
11 description of the proposed procurement must be included in the  
12 notice. The Commission must provide a copy of the request for  
13 proposal to any party requesting a copy.

14 (b) The request for proposal shall be prepared for each  
15 project and must contain, without limitation, the following  
16 information:

17 (1) The name of the Commission.

18 (2) A preliminary schedule for the completion of the  
19 contract.

20 (3) The proposed budget for the project, the source of  
21 funds, and the currently available funds at the time the  
22 request for proposal is submitted.

23 (4) Prequalification criteria for design-build  
24 entities wishing to submit proposals. The Commission shall  
25 include, at a minimum, its normal prequalification,

1           licensing, registration, and other requirements, but  
2           nothing contained herein precludes the use of additional  
3           prequalification criteria by the Commission.

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

11          (6) The performance criteria.

12          (7) The evaluation criteria for each phase of the  
13          solicitation.

14          (8) The number of entities that will be considered for  
15          the technical and cost evaluation phase.

16          (c) The Commission may include any other relevant  
17          information that it chooses to supply. The design-build entity  
18          shall be entitled to rely upon the accuracy of this  
19          documentation in the development of its proposal.

20          (d) The date that proposals are due must be at least 21  
21          calendar days after the date of the issuance of the request for  
22          proposal. In the event the cost of the project is estimated to  
23          exceed \$12,000,000, then the proposal due date must be at least  
24          28 calendar days after the date of the issuance of the request  
25          for proposal. The Commission shall include in the request for  
26          proposal a minimum of 30 days to develop the Phase II

1 submissions after the selection of entities from the Phase I  
2 evaluation is completed.

3 (e) This Section is repealed on June 1, 2023 ~~2018~~; provided  
4 that any design-build contracts entered into before such date  
5 or any procurement of a project under this Act commenced before  
6 such date, and the contracts resulting from those procurements,  
7 shall remain effective.

8 (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,  
9 eff. 1-7-14.)

10 (50 ILCS 20/20.4)

11 Sec. 20.4. Development of design-build scope and  
12 performance criteria.

13 (a) The Commission shall develop, with the assistance of a  
14 licensed design professional, a request for proposal, which  
15 shall include scope and performance criteria. The scope and  
16 performance criteria must be in sufficient detail and contain  
17 adequate information to reasonably apprise the qualified  
18 design-build entities of the Commission's overall programmatic  
19 needs and goals, including criteria and preliminary design  
20 plans, general budget parameters, schedule, and delivery  
21 requirements.

22 (b) Each request for proposal shall also include a  
23 description of the level of design to be provided in the  
24 proposals. This description must include the scope and type of  
25 renderings, drawings, and specifications that, at a minimum,

1 will be required by the Commission to be produced by the  
2 design-build entities.

3 (c) The scope and performance criteria shall be prepared by  
4 a design professional who is an employee of the Commission, or  
5 the Commission may contract with an independent design  
6 professional selected under the Local Government Professional  
7 Services Selection Act (50 ILCS 510/) to provide these  
8 services.

9 (d) The design professional that prepares the scope and  
10 performance criteria is prohibited from participating in any  
11 design-build entity proposal for the project.

12 (e) This Section is repealed on June 1, 2023 ~~2018~~; provided  
13 that any design-build contracts entered into before such date  
14 or any procurement of a project under this Act commenced before  
15 such date, and the contracts resulting from those procurements,  
16 shall remain effective.

17 (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,  
18 eff. 1-7-14.)

19 (50 ILCS 20/20.5)

20 Sec. 20.5. Procedures for design-build selection.

21 (a) The Commission must use a two-phase procedure for the  
22 selection of the successful design-build entity. Phase I of the  
23 procedure will evaluate and shortlist the design-build  
24 entities based on qualifications, and Phase II will evaluate  
25 the technical and cost proposals.

1           (b) The Commission shall include in the request for  
2 proposal the evaluating factors to be used in Phase I. These  
3 factors are in addition to any prequalification requirements of  
4 design-build entities that the Commission has set forth. Each  
5 request for proposal shall establish the relative importance  
6 assigned to each evaluation factor and subfactor, including any  
7 weighting of criteria to be employed by the Commission. The  
8 Commission must maintain a record of the evaluation scoring to  
9 be disclosed in event of a protest regarding the solicitation.

10           The Commission shall include the following criteria in  
11 every Phase I evaluation of design-build entities: (1)  
12 experience of personnel; (2) successful experience with  
13 similar project types; (3) financial capability; (4)  
14 timeliness of past performance; (5) experience with similarly  
15 sized projects; (6) successful reference checks of the firm;  
16 (7) commitment to assign personnel for the duration of the  
17 project and qualifications of the entity's consultants; and (8)  
18 ability or past performance in meeting or exhausting good faith  
19 efforts to meet the utilization goals for minority and women  
20 business enterprises established by the corporate authorities  
21 of the Commission and in complying with Section 2-105 of the  
22 Illinois Human Rights Act. The Commission may include any  
23 additional relevant criteria in Phase I that it deems necessary  
24 for a proper qualification review.

25           The Commission may not consider any design-build entity for  
26 evaluation or award if the entity has any pecuniary interest in



1 the project or has other relationships or circumstances,  
2 including but not limited to, long-term leasehold, mutual  
3 performance, or development contracts with the Commission,  
4 that may give the design-build entity a financial or tangible  
5 advantage over other design-build entities in the preparation,  
6 evaluation, or performance of the design-build contract or that  
7 create the appearance of impropriety. No design-build proposal  
8 shall be considered that does not include an entity's plan to  
9 comply with the requirements established in the minority and  
10 women business enterprises and economically disadvantaged  
11 firms established by the corporate authorities of the  
12 Commission and with Section 2-105 of the Illinois Human Rights  
13 Act.

14 Upon completion of the qualifications evaluation, the  
15 Commission shall create a shortlist of the most highly  
16 qualified design-build entities. The Commission, in its  
17 discretion, is not required to shortlist the maximum number of  
18 entities as identified for Phase II evaluation, provided  
19 however, no less than 2 design-build entities nor more than 6  
20 are selected to submit Phase II proposals.

21 The Commission shall notify the entities selected for the  
22 shortlist in writing. This notification shall commence the  
23 period for the preparation of the Phase II technical and cost  
24 evaluations. The Commission must allow sufficient time for the  
25 shortlist entities to prepare their Phase II submittals  
26 considering the scope and detail requested by the Commission.

1           (c) The Commission shall include in the request for  
2 proposal the evaluating factors to be used in the technical and  
3 cost submission components of Phase II. Each request for  
4 proposal shall establish, for both the technical and cost  
5 submission components of Phase II, the relative importance  
6 assigned to each evaluation factor and subfactor, including any  
7 weighting of criteria to be employed by the Commission. The  
8 Commission must maintain a record of the evaluation scoring to  
9 be disclosed in event of a protest regarding the solicitation.

10           The Commission shall include the following criteria in  
11 every Phase II technical evaluation of design-build entities:

12           (1) compliance with objectives of the project; (2) compliance  
13 of proposed services to the request for proposal requirements;  
14           (3) quality of products or materials proposed; (4) quality of  
15 design parameters; (5) design concepts; (6) innovation in  
16 meeting the scope and performance criteria; and (7)  
17 constructability of the proposed project. The Commission may  
18 include any additional relevant technical evaluation factors  
19 it deems necessary for proper selection.

20           The Commission shall include the following criteria in  
21 every Phase II cost evaluation: the guaranteed maximum project  
22 cost and the time of completion. The Commission may include any  
23 additional relevant technical evaluation factors it deems  
24 necessary for proper selection. The guaranteed maximum project  
25 cost criteria weighing factor shall not exceed 30%.

26           The Commission shall directly employ or retain a licensed

1 design professional to evaluate the technical and cost  
2 submissions to determine if the technical submissions are in  
3 accordance with generally accepted industry standards.

4 Upon completion of the technical submissions and cost  
5 submissions evaluation, the Commission may award the  
6 design-build contract to the highest overall ranked entity.

7 (d) This Section is repealed on June 1, 2023 ~~2018~~; provided  
8 that any design-build contracts entered into before such date  
9 or any procurement of a project under this Act commenced before  
10 such date, and the contracts resulting from those procurements,  
11 shall remain effective.

12 (Source: P.A. 100-201, eff. 8-18-17.)

13 (50 ILCS 20/20.10)

14 Sec. 20.10. Small design-build projects. In any case where  
15 the total overall cost of the project is estimated to be less  
16 than \$12,000,000, the Commission may combine the two-phase  
17 procedure for design-build selection described in Section 20.5  
18 into one combined step, provided that all the requirements of  
19 evaluation are performed in accordance with Section 20.5.

20 This Section is repealed on June 1, 2023 ~~2018~~; provided  
21 that any design-build contracts entered into before such date  
22 or any procurement of a project under this Act commenced before  
23 such date, and the contracts resulting from those procurements,  
24 shall remain effective.

25 (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,

1 eff. 1-7-14.)

2 (50 ILCS 20/20.15)

3 Sec. 20.15. Submission of design-build proposals.

4 Design-build proposals must be properly identified and sealed.

5 Proposals may not be reviewed until after the deadline for

6 submission has passed as set forth in the request for

7 proposals. All design-build entities submitting proposals

8 shall be disclosed after the deadline for submission, and all

9 design-build entities who are selected for Phase II evaluation

10 shall also be disclosed at the time of that determination.

11 Phase II design-build proposals shall include a bid bond in

12 the form and security as designated in the request for

13 proposals. Proposals shall also contain a separate sealed

14 envelope with the cost information within the overall proposal

15 submission. Proposals shall include a list of all design

16 professionals and other entities to which any work identified

17 in Section 30-30 of the Illinois Procurement Code as a

18 subdivision of construction work may be subcontracted during

19 the performance of the contract.

20 Proposals must meet all material requirements of the

21 request for proposal or they may be rejected as non-responsive.

22 The Commission shall have the right to reject any and all

23 proposals.

24 The drawings and specifications of any unsuccessful

25 design-build proposal shall remain the property of the

1 design-build entity.

2 The Commission shall review the proposals for compliance  
3 with the performance criteria and evaluation factors.

4 Proposals may be withdrawn prior to the due date and time  
5 for submissions for any cause. After evaluation begins by the  
6 Commission, clear and convincing evidence of error is required  
7 for withdrawal.

8 This Section is repealed on June 1, 2023 ~~2018~~; provided  
9 that any design-build contracts entered into before such date  
10 or any procurement of a project under this Act commenced before  
11 such date, and the contracts resulting from those procurements,  
12 shall remain effective.

13 (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,  
14 eff. 1-7-14.)

15 (50 ILCS 20/20.20)

16 Sec. 20.20. Design-build award. The Commission may award a  
17 design-build contract to the highest overall ranked entity.  
18 Notice of award shall be made in writing. Unsuccessful entities  
19 shall also be notified in writing. The Commission may not  
20 request a best and final offer after the receipt of proposals.  
21 The Commission may negotiate with the selected design-build  
22 entity after award but prior to contract execution for the  
23 purpose of securing better terms than originally proposed,  
24 provided that the salient features of the request for proposal  
25 are not diminished.

1           This Section is repealed on June 1, 2023 ~~2018~~; provided  
2           that any design-build contracts entered into before such date  
3           or any procurement of a project under this Act commenced before  
4           such date, and the contracts resulting from those procurements,  
5           shall remain effective.

6           (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,  
7           eff. 1-7-14.)

8           (50 ILCS 20/20.25)

9           Sec. 20.25. Minority and female owned enterprises; total  
10          construction budget.

11          (a) Each year, within 60 days following the end of a  
12          commission's fiscal year, the commission shall provide a report  
13          to the General Assembly addressing the utilization of minority  
14          and female owned business enterprises on design-build  
15          projects.

16          (b) The payments for design-build projects by any  
17          commission in one fiscal year shall not exceed 50% of the  
18          moneys spent on construction projects during the same fiscal  
19          year.

20          (c) This Section is repealed on June 1, 2023 ~~2018~~; provided  
21          that any design-build contracts entered into before such date  
22          or any procurement of a project under this Act commenced before  
23          such date, and the contracts resulting from those procurements,  
24          shall remain effective.

25          (Source: P.A. 98-299, eff. 8-9-13; reenacted by P.A. 98-619,

1 eff. 1-7-14.)

2 (50 ILCS 20/23.6 new)

3 Sec. 23.6. Continuation of Sections 2.5, 20.3, 20.4, 20.5,  
4 20.10, 20.15, 20.20, and 20.25; validation under this  
5 amendatory Act of the 101st General Assembly.

6 (a) The General Assembly finds and declares all of the  
7 following:

8 (1) Public Act 100-736, which took effect on January 1,  
9 2019, changed the repeal dates of Sections 2.5, 20.3, 20.4,  
10 20.5, 20.10, 20.15, 20.20, and 20.25 of this Act from June  
11 1, 2018 to June 1, 2023.

12 (2) The Statute on Statutes sets forth general rules on  
13 the repeal of statutes and the construction of multiple  
14 amendments, but Section 1 of that Act also states that  
15 these rules will not be observed when the result would be  
16 "inconsistent with the manifest intent of the General  
17 Assembly or repugnant to the context of the statute".

18 (3) This amendatory Act of the 101st General Assembly  
19 manifests the intention of the General Assembly to extend  
20 the repeal of Sections 2.5, 20.3, 20.4, 20.5, 20.10, 20.15,  
21 20.20, and 20.25 of this Act and have those Sections  
22 continue in effect until they are otherwise lawfully  
23 repealed.

24 (4) Sections 2.5, 20.3, 20.4, 20.5, 20.10, 20.15,  
25 20.20, and 20.25 of this Act were originally enacted to

1 protect, promote, and preserve the general welfare. Any  
2 construction of this Act that results in the repeal of  
3 those Sections on June 1, 2018 would be inconsistent with  
4 the manifest intent of the General Assembly and repugnant  
5 to the context of this Act.

6 (b) It is declared to have been the intent of the General  
7 Assembly that Sections 2.5, 20.3, 20.4, 20.5, 20.10, 20.15,  
8 20.20, and 20.25 of this Act not be subject to repeal on June  
9 1, 2018.

10 (c) Sections 2.5, 20.3, 20.4, 20.5, 20.10, 20.15, 20.20,  
11 and 20.25 of this Act shall be deemed to have been in  
12 continuous effect since June 1, 2018, and they shall continue  
13 to be in effect until they are otherwise lawfully repealed. All  
14 previously enacted amendments to those Sections taking effect  
15 on or after June 1, 2018 are validated. All actions taken in  
16 reliance on or under those Sections by any person or entity are  
17 validated.

18 (d) In order to ensure the continuing effectiveness of  
19 Sections 2.5, 20.3, 20.4, 20.5, 20.10, 20.15, 20.20, and 20.25  
20 of this Act, those Sections are set forth in full and reenacted  
21 by this amendatory Act of the 101st General Assembly. Striking  
22 and underscoring are used only to show changes being made to  
23 the base text. This reenactment is intended as a continuation  
24 of those Sections. It is not intended to supersede any  
25 amendment to those Sections that is enacted by the 101st  
26 General Assembly. This reenactment applies to all claims, civil



1 actions, and proceedings pending on or filed on or before the  
2 effective date of this amendatory Act of the 101st General  
3 Assembly.

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.