



Sen. Antonio Muñoz

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10100SB3185sam001

LRB101 17347 RJF 71001 a

1 AMENDMENT TO SENATE BILL 3185

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3185 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Procurement Code is amended by  
5 changing Sections 1-15.93, 30-30, 33-5, and 33-50 as follows:

6 (30 ILCS 500/1-15.93)

7 (Section scheduled to be repealed on January 1, 2021)

8 Sec. 1-15.93. Single prime. "Single prime" means the  
9 design-bid-build procurement delivery method for a building  
10 construction project in which the Capital Development Board or  
11 a public institution of higher education is the construction  
12 agency procuring 2 or more subdivisions of work enumerated in  
13 paragraphs (1) through (5) of subsection (a) of Section 30-30  
14 of this Code under a single contract. This Section is repealed  
15 on January 1, 2031 ~~2021~~.

16 (Source: P.A. 101-369, eff. 12-15-19.)

1 (30 ILCS 500/30-30)

2 Sec. 30-30. Design-bid-build construction.

3 (a) The provisions of this subsection are operative through  
4 December 31, 2030 ~~2020~~.

5 Except as provided in subsections (a-5) or (a-10), for ~~For~~  
6 building construction contracts in excess of \$250,000,  
7 separate specifications may be prepared for all equipment,  
8 labor, and materials in connection with the following 5  
9 subdivisions of the work to be performed:

10 (1) plumbing;

11 (2) heating, piping, refrigeration, and automatic  
12 temperature control systems, including the testing and  
13 balancing of those systems;

14 (3) ventilating and distribution systems for  
15 conditioned air, including the testing and balancing of  
16 those systems;

17 (4) electric wiring; and

18 (5) general contract work.

19 Except as provided in subsections (a-5) or (a-10), the ~~The~~  
20 specifications may be so drawn as to permit separate and  
21 independent bidding upon each of the 5 subdivisions of work,  
22 and all. ~~All~~ contracts awarded for any part thereof may award  
23 the 5 subdivisions of work separately to responsible and  
24 reliable persons, firms, or corporations engaged in these  
25 classes of work. The contracts, at the discretion of the

1 construction agency, may be assigned to the successful bidder  
2 on the general contract work or to the successful bidder on the  
3 subdivision of work designated by the construction agency  
4 before the bidding as the prime subdivision of work, provided  
5 that all payments will be made directly to the contractors for  
6 the 5 subdivisions of work upon compliance with the conditions  
7 of the contract.

8 (a-5) Beginning on the effective date of this amendatory  
9 Act of the 101st General Assembly and through December 31,  
10 2030, for single prime projects in which the Capital  
11 Development Board is the construction agency procuring for  
12 building construction contracts in excess of \$250,000,  
13 separate specifications may be prepared for all equipment,  
14 labor, and materials in connection with the 5 subdivisions of  
15 work enumerated in subsection (a). Any Capital Development  
16 Board construction contracts awarded for any part thereof may  
17 award 2 or more of the 5 subdivisions of work together or  
18 separately to responsible and reliable persons, firms, or  
19 corporations engaged in these classes of work.

20 For Capital Development Board single prime projects: (i)  
21 the bid of the successful low bidder shall identify the name of  
22 the subcontractor, if any, and the bid proposal costs for each  
23 of the 5 subdivisions of work set forth in subsection (a); (ii)  
24 the contract entered into with the successful bidder shall  
25 provide that no identified subcontractor may be terminated  
26 without the written consent of the Capital Development Board;

1 (iii) the contract shall comply with the disadvantaged business  
2 practices of the Business Enterprise for Minorities, Women, and  
3 Persons with Disabilities Act and the equal employment  
4 practices of Section 2-105 of the Illinois Human Rights Act;  
5 (iv) the successful low bidder shall be prequalified by the  
6 Capital Development Board; and (v) until December 31, 2025, for  
7 building construction projects with a total construction cost  
8 valued at \$5,000,000 or less, the Capital Development Board  
9 shall not use the single prime delivery method for more than  
10 50% of the total number of projects bid for each fiscal year.

11 With respect to any construction project described in this  
12 subsection (a-5), the Capital Development Board shall: (i)  
13 specify in writing as a public record that the project shall  
14 comply with the Business Enterprise for Minorities, Women, and  
15 Persons with Disabilities Act and the equal employment  
16 practices of Section 2-105 of the Illinois Human Rights Act;  
17 and (ii) report annually to the Governor and General Assembly  
18 on the bidding, award, and performance of all single prime  
19 projects.

20 (a-10) Beginning on the effective date of this amendatory  
21 Act of the 101st General Assembly and through December 31,  
22 2030, for single prime projects in which a public institution  
23 of higher education is a construction agency procuring for  
24 building construction contracts in excess of \$250,000,  
25 separate specifications may be prepared for all equipment,  
26 labor, and materials in connection with the 5 subdivisions of

1 work enumerated in subsection (a). Any public institution of  
2 higher education contract awarded for any part thereof may  
3 award 2 or more of the 5 subdivisions of work together or  
4 separately to responsible and reliable persons, firms, or  
5 corporations engaged in these classes of work if: (i) the  
6 public institution of higher education has submitted to the  
7 Procurement Policy Board a written notice that shall include  
8 the reasons for using the single prime method and an  
9 explanation of why the use of that method is in the best  
10 interest of the State. The notice provided under this item (i)  
11 shall be posted on the public institution of higher education's  
12 online procurement webpage and on the online Procurement  
13 Bulletin at least 3 business days following submission to the  
14 Procurement Policy Board; (ii) the successful low bidder has  
15 prequalified with the public institution of higher education;  
16 (iii) the bid of the successful low bidder identifies the name  
17 of the subcontractor, if any, and the bid proposal costs for  
18 each of the 5 subdivisions of work set forth in subsection (a);  
19 (iv) the contract entered into with the successful bidder  
20 provides that no identified subcontractor may be terminated  
21 without the written consent of the public institution of higher  
22 education; and (v) the successful low bidder has prequalified  
23 with the University of Illinois or with Capital Development  
24 Board.

25 For building construction projects with a total  
26 construction cost valued at \$20,000,000 or less, public

1 institutions of higher education shall not use the single prime  
2 delivery method for more than 50% of the total number of  
3 projects bid for each fiscal year. Projects with a total  
4 construction cost valued greater than \$20,000,000 may be bid  
5 using the single prime delivery method at the discretion of the  
6 public institution of higher education.

7 With respect to any construction project described in this  
8 subsection (a-10), the public institution of higher education  
9 shall: (i) specify in writing as a public record that the  
10 project shall comply with the Business Enterprise for  
11 Minorities, Women, and Persons with Disabilities Act and the  
12 equal employment practices of Section 2-105 of the Illinois  
13 Human Rights Act; and (ii) report annually to the Governor,  
14 General Assembly, Procurement Policy Board, and Auditor  
15 General on the bidding, award, and performance of all single  
16 prime projects. On or after the effective date of this  
17 amendatory Act of the 101st General Assembly, the public  
18 institution of higher education may award in each fiscal year  
19 single prime contracts with an aggregate total value of no more  
20 than \$100,000,000. The Board of Trustees of the University of  
21 Illinois may award in each fiscal year single prime contracts  
22 with an aggregate total value of no more than \$300,000,000.

23 ~~Beginning on the effective date of this amendatory Act of~~  
24 ~~the 101st General Assembly and through December 31, 2020, for~~  
25 ~~single prime projects: (i) the bid of the successful low bidder~~  
26 ~~shall identify the name of the subcontractor, if any, and the~~

1 ~~bid proposal costs for each of the 5 subdivisions of work set~~  
2 ~~forth in this Section; (ii) the contract entered into with the~~  
3 ~~successful bidder shall provide that no identified~~  
4 ~~subcontractor may be terminated without the written consent of~~  
5 ~~the Capital Development Board; (iii) the contract shall comply~~  
6 ~~with the disadvantaged business practices of the Business~~  
7 ~~Enterprise for Minorities, Women, and Persons with~~  
8 ~~Disabilities Act and the equal employment practices of Section~~  
9 ~~2-105 of the Illinois Human Rights Act; and (iv) the Capital~~  
10 ~~Development Board shall submit an annual report to the General~~  
11 ~~Assembly and Governor on the bidding, award, and performance of~~  
12 ~~all single prime projects.~~

13 ~~For building construction projects with a total~~  
14 ~~construction cost valued at \$5,000,000 or less, the Capital~~  
15 ~~Development Board shall not use the single prime procurement~~  
16 ~~delivery method for more than 50% of the total number of~~  
17 ~~projects bid for each fiscal year. Any project with a total~~  
18 ~~construction cost valued greater than \$5,000,000 may be bid~~  
19 ~~using single prime at the discretion of the Executive Director~~  
20 ~~of the Capital Development Board.~~

21 (b) The provisions of this subsection are operative on and  
22 after January 1, 2031 ~~2021~~. For building construction contracts  
23 in excess of \$250,000, separate specifications shall be  
24 prepared for all equipment, labor, and materials in connection  
25 with the following 5 subdivisions of the work to be performed:

- 26 (1) plumbing;

1           (2) heating, piping, refrigeration, and automatic  
2           temperature control systems, including the testing and  
3           balancing of those systems;

4           (3) ventilating and distribution systems for  
5           conditioned air, including the testing and balancing of  
6           those systems;

7           (4) electric wiring; and

8           (5) general contract work.

9           The specifications must be so drawn as to permit separate  
10          and independent bidding upon each of the 5 subdivisions of  
11          work. All contracts awarded for any part thereof shall award  
12          the 5 subdivisions of work separately to responsible and  
13          reliable persons, firms, or corporations engaged in these  
14          classes of work. The contracts, at the discretion of the  
15          construction agency, may be assigned to the successful bidder  
16          on the general contract work or to the successful bidder on the  
17          subdivision of work designated by the construction agency  
18          before the bidding as the prime subdivision of work, provided  
19          that all payments will be made directly to the contractors for  
20          the 5 subdivisions of work upon compliance with the conditions  
21          of the contract.

22          (Source: P.A. 100-391, eff. 8-25-17; 101-369, eff. 12-15-19.)

23           (30 ILCS 500/33-5)

24           Sec. 33-5. Definitions. In this Article:

25           "Construction management services" includes:



1           (1) services provided in the planning and  
2 pre-construction phases of a construction project  
3 including, but not limited to, consulting with, advising,  
4 assisting, and making recommendations to the ~~Capital~~  
5 ~~Development~~ Board and architect, engineer, or licensed  
6 land surveyor on all aspects of planning for project  
7 construction; reviewing all plans and specifications as  
8 they are being developed and making recommendations with  
9 respect to construction feasibility, availability of  
10 material and labor, time requirements for procurement and  
11 construction, and projected costs; making, reviewing, and  
12 refining budget estimates based on the Board's program and  
13 other available information; making recommendations to the  
14 Board and the architect or engineer regarding the division  
15 of work in the plans and specifications to facilitate the  
16 bidding and awarding of contracts; soliciting the interest  
17 of capable contractors and taking bids on the project;  
18 analyzing the bids received; and preparing and maintaining  
19 a progress schedule during the design phase of the project  
20 and preparation of a proposed construction schedule; and

21           (2) services provided in the construction phase of the  
22 project including, but not limited to, maintaining  
23 competent supervisory staff to coordinate and provide  
24 general direction of the work and progress of the  
25 contractors on the project; directing the work as it is  
26 being performed for general conformance with working

1 drawings and specifications; establishing procedures for  
2 coordinating among the Board, architect or engineer,  
3 contractors, and construction manager with respect to all  
4 aspects of the project and implementing those procedures;  
5 maintaining job site records and making appropriate  
6 progress reports; implementing labor policy in conformance  
7 with the requirements of the public owner; reviewing the  
8 safety and equal opportunity programs of each contractor  
9 for conformance with the public owner's policy and making  
10 recommendations; reviewing and processing all applications  
11 for payment by involved contractors and material suppliers  
12 in accordance with the terms of the contract; making  
13 recommendations and processing requests for changes in the  
14 work and maintaining records of change orders; scheduling  
15 and conducting job meetings to ensure orderly progress of  
16 the work; developing and monitoring a project progress  
17 schedule, coordinating and expediting the work of all  
18 contractors and providing periodic status reports to the  
19 owner and the architect or engineer; and establishing and  
20 maintaining a cost control system and conducting meetings  
21 to review costs.

22 "Construction manager" means any individual, sole  
23 proprietorship, firm, partnership, corporation, or other legal  
24 entity providing construction management services for the  
25 Board and prequalified by the State in accordance with 30 ILCS  
26 500/33-10.

1 "Board" means the Capital Development Board and public  
2 institutions of higher education.

3 (Source: P.A. 94-532, eff. 8-10-05.)

4 (30 ILCS 500/33-50)

5 Sec. 33-50. Duties of construction manager; additional  
6 requirements for persons performing construction work.

7 (a) Upon the award of a construction management services  
8 contract, a construction manager must contract with the Board  
9 to furnish his or her skill and judgment in cooperation with,  
10 and reliance upon, the services of the project architect or  
11 engineer. The construction manager must furnish business  
12 administration, management of the construction process, and  
13 other specified services to the Board and must perform his or  
14 her obligations in an expeditious and economical manner  
15 consistent with the interest of the Board. If it is in the  
16 State's best interest, the construction manager may provide or  
17 perform basic services for which reimbursement is provided in  
18 the general conditions to the construction management services  
19 contract.

20 (b) The actual construction work on the project must be  
21 awarded to contractors under this Code. The ~~Capital Development~~  
22 Board may further separate additional divisions of work under  
23 this Article. This subsection is subject to the applicable  
24 provisions of the following Acts:

25 (1) the Prevailing Wage Act;

- 1 (2) the Public Construction Bond Act;
- 2 (3) the Public Works Employment Discrimination Act;
- 3 (4) the Public Works Preference Act (repealed on June
- 4 16, 2010 by Public Act 96-929);
- 5 (5) the Employment of Illinois Workers on Public Works
- 6 Act;
- 7 (6) the Public Contract Fraud Act;
- 8 (7) (blank); and
- 9 (8) the Illinois Architecture Practice Act of 1989, the
- 10 Professional Engineering Practice Act of 1989, the
- 11 Illinois Professional Land Surveyor Act of 1989, and the
- 12 Structural Engineering Practice Act of 1989.
- 13 (Source: P.A. 101-149, eff. 7-26-19.)

14 Section 10. The Design-Build Procurement Act is amended by

15 changing Sections 5 and 10 as follows:

16 (30 ILCS 537/5)

17 (Section scheduled to be repealed on July 1, 2022)

18 Sec. 5. Legislative policy. It is the intent of the

19 General Assembly that the State construction agency ~~Capital~~

20 ~~Development Board~~ be allowed to use the design-build delivery

21 method for public projects if it is shown to be in the State's

22 best interest for that particular project. It shall be the

23 policy of the State construction agency ~~Capital Development~~

24 ~~Board~~ in the procurement of design-build services to publicly

1 announce all requirements for design-build services and to  
2 procure these services on the basis of demonstrated competence  
3 and qualifications and with due regard for the principles of  
4 competitive selection.

5 The State construction agency ~~Capital Development Board~~  
6 shall, prior to issuing requests for proposals, promulgate and  
7 publish procedures for the solicitation and award of contracts  
8 pursuant to this Act.

9 The State construction agency ~~Capital Development Board~~  
10 shall, for each public project or projects permitted under this  
11 Act, make a written determination, including a description as  
12 to the particular advantages of the design-build procurement  
13 method, that it is in the best interests of this State to enter  
14 into a design-build contract for the project or projects. In  
15 making that determination, the following factors shall be  
16 considered:

17 (1) The probability that the design-build procurement  
18 method will be in the best interests of the State by  
19 providing a material savings of time or cost over the  
20 design-bid-build or other delivery system.

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

23 (3) The ability of the State construction agency to  
24 define and provide comprehensive scope and performance  
25 criteria for the project.

26 No State construction agency may use a design-build

1 procurement method unless the agency determines in writing that  
2 the project will comply with the disadvantaged business and  
3 equal employment practices of the State as established in the  
4 Business Enterprise for Minorities, Women, and Persons with  
5 Disabilities Act and Section 2-105 of the Illinois Human Rights  
6 Act.

7 The State construction agency ~~Capital Development Board~~  
8 shall within 15 days after the initial determination provide an  
9 advisory copy to the Procurement Policy Board and maintain the  
10 full record of determination for 5 years.

11 (Source: P.A. 100-391, eff. 8-25-17.)

12 (30 ILCS 537/10)

13 (Section scheduled to be repealed on July 1, 2022)

14 Sec. 10. Definitions. As used in this Act:

15 "State construction agency" means the Capital Development  
16 Board and public institutions of higher education.

17 "Delivery system" means the design and construction  
18 approach used to develop and construct a project.

19 "Design-bid-build" means the traditional delivery system  
20 used on public projects in this State that incorporates the  
21 Architectural, Engineering, and Land Surveying Qualification  
22 Based Selection Act (30 ILCS 535/) and the principles of  
23 competitive selection in the Illinois Procurement Code (30 ILCS  
24 500/).

25 "Design-build" means a delivery system that provides

1 responsibility within a single contract for the furnishing of  
2 architecture, engineering, land surveying and related services  
3 as required, and the labor, materials, equipment, and other  
4 construction services for the project.

5 "Design-build contract" means a contract for a public  
6 project under this Act between the State construction agency  
7 and a design-build entity to furnish architecture,  
8 engineering, land surveying, and related services as required,  
9 and to furnish the labor, materials, equipment, and other  
10 construction services for the project. The design-build  
11 contract may be conditioned upon subsequent refinements in  
12 scope and price and may allow the State construction agency to  
13 make modifications in the project scope without invalidating  
14 the design-build contract.

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

24 "Design professional" means any individual, sole  
25 proprietorship, firm, partnership, joint venture, corporation,  
26 professional corporation, or other entity that offers services

1 under the Illinois Architecture Practice Act of 1989 (225 ILCS  
2 305/), the Professional Engineering Practice Act of 1989 (225  
3 ILCS 325/), the Structural Engineering Licensing Act of 1989  
4 (225 ILCS 340/), or the Illinois Professional Land Surveyor Act  
5 of 1989 (225 ILCS 330/).

6 "Evaluation criteria" means the requirements for the  
7 separate phases of the selection process as defined in this Act  
8 and may include the specialized experience, technical  
9 qualifications and competence, capacity to perform, past  
10 performance, experience with similar projects, assignment of  
11 personnel to the project, and other appropriate factors. Price  
12 may not be used as a factor in the evaluation of Phase I  
13 proposals.

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

17 "Request for proposal" means the document used by the State  
18 construction agency to solicit proposals for a design-build  
19 contract.

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



1 proposal.

2 (Source: P.A. 94-716, eff. 12-13-05.)

3 Section 99. Effective date. This Act takes effect December

4 15, 2020.".