



Sen. Antonio Muñoz

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10200SB1535sam001

LRB102 15919 RJF 23447 a

1 AMENDMENT TO SENATE BILL 1535

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1535 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7 (Section scheduled to be repealed on January 1, 2022)

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 This Section is repealed  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, 2025 ~~2022~~.

16 (Source: P.A. 101-369, eff. 12-15-19; 101-645, eff. 6-26-20.)

1 (30 ILCS 500/30-30)

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

3 (a) The provisions of this subsection are operative  
4 through December 31, 2024 ~~2021~~.

5 Except as provided in subsections (a-5), for ~~For~~ building  
6 construction contracts in excess of \$250,000, separate  
7 specifications may be prepared for all equipment, labor, and  
8 materials in connection with the following 5 subdivisions of  
9 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), 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 102nd General Assembly and through December 31,  
10 2024, for single prime projects in which a public institution  
11 of higher education is a 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 public institution of  
16 higher education contract 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 if: (i) the  
20 public institution of higher education has submitted to the  
21 Procurement Policy Board a written notice that shall include  
22 the reasons for using the single prime method and an  
23 explanation of why the use of that method is in the best  
24 interest of the State. The notice provided under this item (i)  
25 shall be posted on the public institution of higher  
26 education's online procurement webpage and on the online

1 Procurement Bulletin at least 3 business days following  
2 submission to the Procurement Policy Board; (ii) the  
3 successful low bidder has prequalified with the public  
4 institution of higher education; (iii) the bid of the  
5 successful low bidder identifies the name of the  
6 subcontractor, if any, and the bid proposal costs for each of  
7 the 5 subdivisions of work set forth in subsection (a); (iv)  
8 the contract entered into with the successful bidder provides  
9 that no identified subcontractor may be terminated without the  
10 written consent of the public institution of higher education;  
11 and (v) the successful low bidder has prequalified with the  
12 University of Illinois or with Capital Development Board.

13 For building construction projects with a total  
14 construction cost valued at \$20,000,000 or less, public  
15 institutions of higher education shall not use the single  
16 prime delivery method for more than 50% of the total number of  
17 projects bid for each fiscal year. Projects with a total  
18 construction cost valued greater than \$20,000,000 may be bid  
19 using the single prime delivery method at the discretion of  
20 the public institution of higher education.

21 With respect to any construction project described in this  
22 subsection (a-5), the public institution of higher education  
23 shall: (i) specify in writing as a public record that the  
24 project shall comply with the Business Enterprise for  
25 Minorities, Women, and Persons with Disabilities Act and the  
26 equal employment practices of Section 2-105 of the Illinois

1 Human Rights Act; and (ii) report annually to the Governor,  
2 General Assembly, Procurement Policy Board, and Auditor  
3 General on the bidding, award, and performance of all single  
4 prime projects. On or after the effective date of this  
5 amendatory Act of the 102nd General Assembly, the public  
6 institution of higher education may award in each fiscal year  
7 single prime contracts with an aggregate total value of no  
8 more than \$100,000,000. The Board of Trustees of the  
9 University of Illinois may award in each fiscal year single  
10 prime contracts with an aggregate total value of no more than  
11 \$300,000,000.

12 Beginning on the effective date of this amendatory Act of  
13 the 101st General Assembly and through December 31, 2024 ~~2020~~,  
14 for single prime projects: (i) the bid of the successful low  
15 bidder shall identify the name of the subcontractor, if any,  
16 and the bid proposal costs for each of the 5 subdivisions of  
17 work set forth in this Section; (ii) the contract entered into  
18 with the successful bidder shall provide that no identified  
19 subcontractor may be terminated without the written consent of  
20 the Capital Development Board; (iii) the contract shall comply  
21 with the disadvantaged business practices of the Business  
22 Enterprise for Minorities, Women, and Persons with  
23 Disabilities Act and the equal employment practices of Section  
24 2-105 of the Illinois Human Rights Act; and (iv) the Capital  
25 Development Board shall submit an annual report to the General  
26 Assembly and Governor on the bidding, award, and performance

1 of all single prime projects.

2 For building construction projects with a total  
3 construction cost valued at \$5,000,000 or less, the Capital  
4 Development Board shall not use the single prime procurement  
5 delivery method for more than 50% of the total number of  
6 projects bid for each fiscal year. Any project with a total  
7 construction cost valued greater than \$5,000,000 may be bid  
8 using single prime at the discretion of the Executive Director  
9 of the Capital Development Board.

10 (b) The provisions of this subsection are operative on and  
11 after January 1, 2025 ~~2022~~. For building construction  
12 contracts in excess of \$250,000, separate specifications shall  
13 be prepared for all equipment, labor, and materials in  
14 connection with the following 5 subdivisions of the work to be  
15 performed:

16 (1) plumbing;

17 (2) heating, piping, refrigeration, and automatic  
18 temperature control systems, including the testing and  
19 balancing of those systems;

20 (3) ventilating and distribution systems for  
21 conditioned air, including the testing and balancing of  
22 those systems;

23 (4) electric wiring; and

24 (5) general contract work.

25 The specifications must be so drawn as to permit separate  
26 and independent bidding upon each of the 5 subdivisions of

1 work. All contracts awarded for any part thereof shall award  
2 the 5 subdivisions of work separately to responsible and  
3 reliable persons, firms, or corporations engaged in these  
4 classes of work. The contracts, at the discretion of the  
5 construction agency, may be assigned to the successful bidder  
6 on the general contract work or to the successful bidder on the  
7 subdivision of work designated by the construction agency  
8 before the bidding as the prime subdivision of work, provided  
9 that all payments will be made directly to the contractors for  
10 the 5 subdivisions of work upon compliance with the conditions  
11 of the contract.

12 (Source: P.A. 100-391, eff. 8-25-17; 101-369, eff. 12-15-19;  
13 101-645, eff. 6-26-20.)

14 (30 ILCS 500/33-5)

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

16 "Construction management services" includes:

17 (1) services provided in the planning and  
18 pre-construction phases of a construction project  
19 including, but not limited to, consulting with, advising,  
20 assisting, and making recommendations to the ~~Capital~~  
21 ~~Development~~ Board and architect, engineer, or licensed  
22 land surveyor on all aspects of planning for project  
23 construction; reviewing all plans and specifications as  
24 they are being developed and making recommendations with  
25 respect to construction feasibility, availability of

1 material and labor, time requirements for procurement and  
2 construction, and projected costs; making, reviewing, and  
3 refining budget estimates based on the Board's program and  
4 other available information; making recommendations to the  
5 Board and the architect or engineer regarding the division  
6 of work in the plans and specifications to facilitate the  
7 bidding and awarding of contracts; soliciting the interest  
8 of capable contractors and taking bids on the project;  
9 analyzing the bids received; and preparing and maintaining  
10 a progress schedule during the design phase of the project  
11 and preparation of a proposed construction schedule; and

12 (2) services provided in the construction phase of the  
13 project including, but not limited to, maintaining  
14 competent supervisory staff to coordinate and provide  
15 general direction of the work and progress of the  
16 contractors on the project; directing the work as it is  
17 being performed for general conformance with working  
18 drawings and specifications; establishing procedures for  
19 coordinating among the Board, architect or engineer,  
20 contractors, and construction manager with respect to all  
21 aspects of the project and implementing those procedures;  
22 maintaining job site records and making appropriate  
23 progress reports; implementing labor policy in conformance  
24 with the requirements of the public owner; reviewing the  
25 safety and equal opportunity programs of each contractor  
26 for conformance with the public owner's policy and making



1 recommendations; reviewing and processing all applications  
2 for payment by involved contractors and material suppliers  
3 in accordance with the terms of the contract; making  
4 recommendations and processing requests for changes in the  
5 work and maintaining records of change orders; scheduling  
6 and conducting job meetings to ensure orderly progress of  
7 the work; developing and monitoring a project progress  
8 schedule, coordinating and expediting the work of all  
9 contractors and providing periodic status reports to the  
10 owner and the architect or engineer; and establishing and  
11 maintaining a cost control system and conducting meetings  
12 to review costs.

13 "Construction manager" means any individual, sole  
14 proprietorship, firm, partnership, corporation, or other legal  
15 entity providing construction management services for the  
16 Board and prequalified by the State in accordance with 30 ILCS  
17 500/33-10.

18 "Board" means the Capital Development Board and public  
19 institutions of higher education.

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

21 (30 ILCS 500/33-50)

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

24 (a) Upon the award of a construction management services  
25 contract, a construction manager must contract with the Board

1 to furnish his or her skill and judgment in cooperation with,  
2 and reliance upon, the services of the project architect or  
3 engineer. The construction manager must furnish business  
4 administration, management of the construction process, and  
5 other specified services to the Board and must perform his or  
6 her obligations in an expeditious and economical manner  
7 consistent with the interest of the Board. If it is in the  
8 State's best interest, the construction manager may provide or  
9 perform basic services for which reimbursement is provided in  
10 the general conditions to the construction management services  
11 contract.

12 (b) The actual construction work on the project must be  
13 awarded to contractors under this Code. The ~~Capital~~  
14 ~~Development~~ Board may further separate additional divisions of  
15 work under this Article. This subsection is subject to the  
16 applicable provisions of the following Acts:

17 (1) the Prevailing Wage Act;

18 (2) the Public Construction Bond Act;

19 (3) the Public Works Employment Discrimination Act;

20 (4) the Public Works Preference Act (repealed on June  
21 16, 2010 by Public Act 96-929);

22 (5) the Employment of Illinois Workers on Public Works  
23 Act;

24 (6) the Public Contract Fraud Act;

25 (7) (blank); and

26 (8) the Illinois Architecture Practice Act of 1989,

1 the Professional Engineering Practice Act of 1989, the  
2 Illinois Professional Land Surveyor Act of 1989, and the  
3 Structural Engineering Practice Act of 1989.

4 (Source: P.A. 101-149, eff. 7-26-19.)

5 Section 10. The Design-Build Procurement Act is amended by  
6 changing Sections 5, 10, and 90 as follows:

7 (30 ILCS 537/5)

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

9 Sec. 5. Legislative policy. It is the intent of the  
10 General Assembly that the State construction agency ~~Capital~~  
11 ~~Development Board~~ be allowed to use the design-build delivery  
12 method for public projects if it is shown to be in the State's  
13 best interest for that particular project. It shall be the  
14 policy of the State construction agency ~~Capital Development~~  
15 ~~Board~~ in the procurement of design-build services to publicly  
16 announce all requirements for design-build services and to  
17 procure these services on the basis of demonstrated competence  
18 and qualifications and with due regard for the principles of  
19 competitive selection.

20 The State construction agency ~~Capital Development Board~~  
21 shall, prior to issuing requests for proposals, promulgate and  
22 publish procedures for the solicitation and award of contracts  
23 pursuant to this Act.

24 The State construction agency ~~Capital Development Board~~

1 shall, for each public project or projects permitted under  
2 this Act, make a written determination, including a  
3 description as to the particular advantages of the  
4 design-build procurement method, that it is in the best  
5 interests of this State to enter into a design-build contract  
6 for the project or projects. In making that determination, the  
7 following factors shall be considered:

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

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

14 (3) The ability of the State construction agency to  
15 define and provide comprehensive scope and performance  
16 criteria for the project.

17 No State construction agency may use a design-build  
18 procurement method unless the agency determines in writing  
19 that the project will comply with the disadvantaged business  
20 and equal employment practices of the State as established in  
21 the Business Enterprise for Minorities, Women, and Persons  
22 with Disabilities Act and Section 2-105 of the Illinois Human  
23 Rights Act.

24 The State construction agency ~~Capital Development Board~~  
25 shall within 15 days after the initial determination provide  
26 an advisory copy to the Procurement Policy Board and maintain

1 the full record of determination for 5 years.

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

3 (30 ILCS 537/10)

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

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

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

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

10 "Design-bid-build" means the traditional delivery system  
11 used on public projects in this State that incorporates the  
12 Architectural, Engineering, and Land Surveying Qualification  
13 Based Selection Act (30 ILCS 535/) and the principles of  
14 competitive selection in the Illinois Procurement Code (30  
15 ILCS 500/).

16 "Design-build" means a delivery system that provides  
17 responsibility within a single contract for the furnishing of  
18 architecture, engineering, land surveying and related services  
19 as required, and the labor, materials, equipment, and other  
20 construction services for the project.

21 "Design-build contract" means a contract for a public  
22 project under this Act between the State construction agency  
23 and a design-build entity to furnish architecture,  
24 engineering, land surveying, and related services as required,  
25 and to furnish the labor, materials, equipment, and other

1 construction services for the project. The design-build  
2 contract may be conditioned upon subsequent refinements in  
3 scope and price and may allow the State construction agency to  
4 make modifications in the project scope without invalidating  
5 the design-build contract.

6 "Design-build entity" means any individual, sole  
7 proprietorship, firm, partnership, joint venture, corporation,  
8 professional corporation, or other entity that proposes to  
9 design and construct any public project under this Act. A  
10 design-build entity and associated design-build professionals  
11 shall conduct themselves in accordance with the laws of this  
12 State and the related provisions of the Illinois  
13 Administrative Code, as referenced by the licensed design  
14 professionals Acts of this State.

15 "Design professional" means any individual, sole  
16 proprietorship, firm, partnership, joint venture, corporation,  
17 professional corporation, or other entity that offers services  
18 under the Illinois Architecture Practice Act of 1989 (225 ILCS  
19 305/), the Professional Engineering Practice Act of 1989 (225  
20 ILCS 325/), the Structural Engineering Licensing Act of 1989  
21 (225 ILCS 340/), or the Illinois Professional Land Surveyor  
22 Act of 1989 (225 ILCS 330/).

23 "Evaluation criteria" means the requirements for the  
24 separate phases of the selection process as defined in this  
25 Act and may include the specialized experience, technical  
26 qualifications and competence, capacity to perform, past

1 performance, experience with similar projects, assignment of  
2 personnel to the project, and other appropriate factors. Price  
3 may not be used as a factor in the evaluation of Phase I  
4 proposals.

5 "Proposal" means the offer to enter into a design-build  
6 contract as submitted by a design-build entity in accordance  
7 with this Act.

8 "Request for proposal" means the document used by the  
9 State construction agency to solicit proposals for a  
10 design-build contract.

11 "Scope and performance criteria" means the requirements  
12 for the public project, including but not limited to, the  
13 intended usage, capacity, size, scope, quality and performance  
14 standards, life-cycle costs, and other programmatic criteria  
15 that are expressed in performance-oriented and quantifiable  
16 specifications and drawings that can be reasonably inferred  
17 and are suited to allow a design-build entity to develop a  
18 proposal.

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

20 (30 ILCS 537/90)

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

22 Sec. 90. Repealer. This Act is repealed on January 1, 2025  
23 ~~July 1, 2022~~.

24 (Source: P.A. 100-1189, eff. 4-5-19.)

1           Section 99. Effective date. This Act takes effect December  
2   15, 2021."