



Rep. Anthony DeLuca

**Filed: 4/21/2023**

10300SB1570ham001

LRB103 05684 RJT 60871 a

1 AMENDMENT TO SENATE BILL 1570

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1570 on page 14,  
3 immediately below line 5, by inserting the following:

4 "Section 10. The School Code is amended by adding Article  
5 15A as follows:

6 (105 ILCS 5/Art. 15A heading new)

7 ARTICLE 15A. SCHOOL DESIGN-BUILD CONTRACTS

8 (105 ILCS 5/15A-1 new)

9 Sec. 15A-1. Short title. This Article may be cited as the  
10 School Design-Build Authorization Law.

11 (105 ILCS 5/15A-5 new)

12 Sec. 15A-5. Purpose. The purpose of this Article is to  
13 authorize school districts to use design-build processes to  
14 increase the efficiency and effectiveness of delivering public

1 projects.

2 (105 ILCS 5/15A-10 new)

3 Sec. 15A-10. Definitions. As used in this Article:

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

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

11 "Design-build contract" means a contract for a public  
12 project under this Article between a school district and a  
13 design-build entity to furnish: architecture, engineering,  
14 land surveying, public art or interpretive exhibits, and  
15 related services, as required, and the labor, materials,  
16 equipment, and other construction services for the project.

17 "Design-build entity" means an 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 Article.

21 "Design professional" means an individual, sole  
22 proprietorship, firm, partnership, joint venture, corporation,  
23 professional corporation, or other entity that offers services  
24 under the Illinois Architecture Practice Act of 1989, the  
25 Professional Engineering Practice Act of 1989, the Structural

1 Engineering Practice Act of 1989, or the Illinois Professional  
2 Land Surveyor Act of 1989.

3 "Evaluation criteria" means the requirements for the  
4 separate phases of the selection process as set forth in this  
5 Article and may include the specialized experience, technical  
6 qualifications and competence, capacity to perform, past  
7 performance, experience with similar projects, assignment of  
8 personnel to the project, and other appropriate factors.

9 "Proposal" means the offer to enter into a design-build  
10 contract as submitted by a design-build entity in accordance  
11 with this Article.

12 "Public art designer" means an individual, sole  
13 proprietorship, firm, partnership, joint venture, corporation,  
14 professional corporation, or other entity that has  
15 demonstrated experience with the design and fabrication of  
16 public art, including any media that has been planned and  
17 executed with the intention of being staged in the physical  
18 public domain outside and accessible to all or any art that is  
19 exhibited in a public space, including publicly accessible  
20 buildings, or interpretive exhibits, including communication  
21 media that is designed to engage, excite, inform, relate, or  
22 reveal the intrinsic nature or indispensable quality of a  
23 topic or story being presented.

24 "Request for proposal" means the document used by the  
25 school district to solicit proposals for a design-build  
26 contract.

1       "Scope and performance criteria" means the requirements  
2 for the public project, such as the intended usage, capacity,  
3 size, scope, quality and performance standards, life-cycle  
4 costs, and other programmatic criteria that are expressed in  
5 performance-oriented and quantifiable specifications and  
6 drawings that can be reasonably inferred and are suited to  
7 allow a design-build entity to develop a proposal.

8       (105 ILCS 5/15A-15 new)

9       Sec. 15A-15. Solicitation of proposals.

10       (a) A school district may enter into design-build  
11 contracts. In addition to the requirements set forth by the  
12 school board, if the school district elects to use the  
13 design-build delivery method, it must issue a notice of intent  
14 to receive proposals for the project at least 14 days before  
15 issuing the request for the proposal. The school district must  
16 publish the advance notice in the manner prescribed by the  
17 school board, which must include posting the advance notice  
18 online on its website. The school district may publish the  
19 notice in construction industry publications or post the  
20 notice on construction industry websites. A brief description  
21 of the proposed procurement must be included in the notice.  
22 The school district must provide a copy of the request for  
23 proposal to any party requesting a copy.

24       (b) The request for proposal must be prepared for each  
25 project and must contain, without limitation, the following

1 information:

2 (1) The name of the school district.

3 (2) A preliminary schedule for the completion of the  
4 contract.

5 (3) The proposed budget for the project, the source of  
6 funds, and the currently available funds at the time the  
7 request for proposal is submitted.

8 (4) Prequalification criteria for design-build  
9 entities wishing to submit proposals. The school district  
10 must include, at a minimum, its normal qualifications,  
11 licensing, registration, and other requirements; however,  
12 nothing precludes the use of additional prequalification  
13 criteria by the school district.

14 (5) Material requirements of the contract, such as the  
15 proposed terms and conditions, required performance and  
16 payment bonds, insurance, and the entity's plan to comply  
17 with the utilization goals for business enterprises  
18 established in the Business Enterprise for Minorities,  
19 Women, and Persons with Disabilities Act and with Section  
20 2-105 of the Illinois Human Rights Act.

21 (6) The performance criteria.

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

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

1       (c) The school district may include any other relevant  
2 information that it chooses to supply. The design-build entity  
3 may rely upon the accuracy of this documentation in the  
4 development of its proposal.

5       (d) The date that proposals are due must be at least 21  
6 calendar days after the date of the issuance of the request for  
7 proposal. If the cost of the project is estimated to exceed  
8 \$12,000,000, then the proposal due date must be at least 28  
9 calendar days after the date of the issuance of the request for  
10 proposal. The school district must include in the request for  
11 proposal a minimum of 30 days to develop the Phase II  
12 submissions after the selection of entities from the Phase I  
13 evaluation is completed.

14       (105 ILCS 5/15A-20 new)

15       Sec. 15A-20. Development of scope and performance  
16 criteria.

17       (a) The school district must develop, with the assistance  
18 of a licensed design professional or public art designer, a  
19 request for proposal, which must include scope and performance  
20 criteria. The scope and performance criteria must be in  
21 sufficient detail and contain adequate information to  
22 reasonably apprise the qualified design-build entities of the  
23 school district's overall programmatic needs and goals,  
24 including criteria, general budget parameters, schedule, and  
25 delivery requirements.

1       (b) Each request for proposal must also include a  
2 description of the level of design to be provided in the  
3 proposals. This description must include the scope and type of  
4 renderings, drawings, and specifications that, at a minimum,  
5 will be required by the school district to be produced by the  
6 design-build entities.

7       (c) The scope and performance criteria must be prepared by  
8 a design professional or public art designer who is an  
9 employee of the school district, or the school district may  
10 contract with an independent design professional or public art  
11 designer selected under the Local Government Professional  
12 Services Selection Act to provide these services.

13       (d) The design professional or public art designer that  
14 prepares the scope and performance criteria is prohibited from  
15 participating in any design-build entity proposal for the  
16 project.

17       (e) The design-build contract may be conditioned upon  
18 subsequent refinements in scope and price and may allow the  
19 school district to make modifications in the project scope  
20 without invalidating the design-build contract.

21       (105 ILCS 5/15A-25 new)

22       Sec. 15A-25. Procedures for selection.

23       (a) The school district must use a 2-phase procedure for  
24 the selection of the successful design-build entity. Phase I  
25 of the procedure must evaluate and shortlist the design-build

1 entities based on qualifications, and Phase II must evaluate  
2 the technical and cost proposals.

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

13 The school district must include the following criteria in  
14 every Phase I evaluation of design-build entities:

15 (1) experience of personnel;

16 (2) successful experience with similar project types;

17 (3) financial capability;

18 (4) timeliness of past performance;

19 (5) experience with similarly sized projects;

20 (6) successful reference checks of the firm;

21 (7) commitment to assign personnel for the duration of  
22 the project and qualifications of the entity's  
23 consultants; and

24 (8) ability or past performance in meeting or  
25 exhausting good faith efforts to meet the utilization  
26 goals for business enterprises established in the Business



1       Enterprise for Minorities, Women, and Persons with  
2       Disabilities Act and with Section 2-105 of the Illinois  
3       Human Rights Act.

4       The school district may include any additional, relevant  
5       criteria in Phase I that it deems necessary for a proper  
6       qualification review.

7       The school district may not consider a design-build entity  
8       for evaluation or an award if the entity has any pecuniary  
9       interest in the project or has other relationships or  
10      circumstances, such as long-term leasehold, mutual  
11      performance, or development contracts with the school  
12      district, that may give the design-build entity a financial or  
13      tangible advantage over other design-build entities in the  
14      preparation, evaluation, or performance of the design-build  
15      contract or that create the appearance of impropriety. A  
16      design-build entity shall not be disqualified under this  
17      Section solely due to having previously been awarded a project  
18      or projects under any applicable public procurement law of the  
19      State. No proposal may be considered that does not include an  
20      entity's plan to comply with the requirements established in  
21      the Business Enterprise for Minorities, Women, and Persons  
22      with Disabilities Act, for both the design and construction  
23      areas of performance, and with Section 2-105 of the Illinois  
24      Human Rights Act.

25      Upon completion of the qualification evaluation, the  
26      school district must create a shortlist of the most highly

1 qualified design-build entities. The school district, in its  
2 discretion, is not required to shortlist the maximum number of  
3 entities as identified for Phase II evaluation if no less than  
4 2 design-build entities nor more than 6 are selected to submit  
5 Phase II proposals. If a school district receives one response  
6 to Phase I, nothing herein shall prohibit the school district  
7 from proceeding with a Phase II evaluation of the single  
8 respondent, if the school district, in its discretion, finds  
9 proceeding to be in its best interest.

10 The school district must notify the entities selected for  
11 the shortlist in writing. This notification must commence the  
12 period for the preparation of the Phase II technical and cost  
13 evaluations. The school district must allow sufficient time  
14 for the shortlist entities to prepare their Phase II  
15 submittals considering the scope and detail requested by the  
16 school district.

17 (c) The school district must include in the request for  
18 proposal the evaluating factors to be used in the technical  
19 and cost submission components of Phase II. Each request for  
20 proposal must establish, for both the technical and cost  
21 submission components of Phase II, the relative importance  
22 assigned to each evaluation factor and subfactor, including  
23 any weighting of criteria to be employed by the school  
24 district. The school district must maintain a record of the  
25 evaluation scoring to be disclosed in event of a protest  
26 regarding the solicitation.

1       The school district must include the following criteria in  
2 every Phase II technical evaluation of design-build entities:

3           (1) compliance with objectives of the project;

4           (2) compliance of proposed services to the request for  
5 proposal requirements;

6           (3) quality of products or materials proposed;

7           (4) quality of design parameters;

8           (5) design concepts;

9           (6) innovation in meeting the scope and performance  
10 criteria; and

11           (7) constructability of the proposed project.

12       The school district may include any additional relevant  
13 technical evaluation factors it deems necessary for proper  
14 selection.

15       The school district must include the following criteria in  
16 every Phase II cost evaluation: the total project cost, the  
17 construction costs, and the time of completion. The school  
18 district may include any additional relevant technical  
19 evaluation factors it deems necessary for proper selection.  
20 The total project cost criteria weighting factor may not  
21 exceed 30%.

22       The school district must directly employ or retain a  
23 licensed design professional or a public art designer to  
24 evaluate the technical and cost submissions to determine if  
25 the technical submissions are in accordance with generally  
26 accepted industry standards. Upon completion of the technical

1 submissions and cost submissions evaluation, the school  
2 district may award the design-build contract to the highest  
3 overall ranked entity.

4 (105 ILCS 5/15A-30 new)

5 Sec. 15A-30. Small projects. In any case in which the  
6 total overall cost of the project is estimated to be  
7 \$12,000,000 or less, the school district may combine the  
8 2-phase procedure for selection described in Section 15A-25  
9 into one combined step if all the requirements of evaluation  
10 are performed in accordance with Section 15A-25.

11 (105 ILCS 5/15A-35 new)

12 Sec. 15A-35. Submission of proposals. Proposals must be  
13 properly identified and sealed. Proposals may not be reviewed  
14 until after the deadline for submission has passed as set  
15 forth in the request for proposal.

16 Proposals must include a bid bond in the form and security  
17 as designated in the request for proposal. Proposals must also  
18 contain a separate sealed envelope with the cost information  
19 within the overall proposal submission. Proposals must include  
20 a list of all design professionals, public art designers, and  
21 other entities to which any work may be subcontracted during  
22 the performance of the contract.

23 Proposals must meet all material requirements of the  
24 request for proposal, or they may be rejected as

1 nonresponsive. The school district may reject any and all  
2 proposals.

3 The drawings and specifications of the proposal may remain  
4 the property of the design-build entity.

5 The school district must review the proposals for  
6 compliance with the performance criteria and evaluation  
7 factors.

8 Proposals may be withdrawn prior to evaluation for any  
9 cause. After evaluation begins by the school district, clear  
10 and convincing evidence of error is required for withdrawal.

11 After a response to a request for qualifications or a  
12 request for proposal has been submitted under this Section, a  
13 design-build entity may not replace, remove, or otherwise  
14 modify any firm identified as a member of the proposer's team  
15 unless authorized to do so by the school district.

16 (105 ILCS 5/15A-40 new)

17 Sec. 15A-40. Award; performance. The school district may  
18 award the contract to the highest overall ranked design-build  
19 entity. Notice of award must be made in writing. Unsuccessful  
20 design-build entities must also be notified in writing. The  
21 school district may not request a best and final offer after  
22 the receipt of proposals of all qualified design-build  
23 entities. The school district may negotiate with the selected  
24 design-build entity after the award, but prior to contract  
25 execution, for the purpose of securing better terms than

1 originally proposed if the salient features of the request for  
2 proposal are not diminished.

3 A design-build entity and associated design professionals  
4 must conduct themselves in accordance with the relevant laws  
5 of this State and the related provisions of the Illinois  
6 Administrative Code.

7 (105 ILCS 5/15A-45 new)

8 Sec. 15A-45. Evaluation and report. At the end of every  
9 6-month period following the contract award, and again prior  
10 to final contract payout and closure, a selected design-build  
11 entity must detail, in a written report submitted to the  
12 school district, its efforts and success in implementing the  
13 entity's plan to comply with the utilization goals for  
14 business enterprises established in the Business Enterprise  
15 for Minorities, Women, and Persons with Disabilities Act and  
16 the provisions of Section 2-105 of the Illinois Human Rights  
17 Act.

18 (105 ILCS 5/15A-50 new)

19 Sec. 15A-50. Exception. Nothing in this Article prevents a  
20 school district from using a qualification-based selection  
21 process for design professionals or construction managers for  
22 design-build projects.

23 (105 ILCS 5/15A-90 new)

1           Sec. 15A-90. Severability. The provisions of this Article  
2           are severable under Section 1.31 of the Statute on Statutes."