

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 CONFERENCE COMMITTEE
4 SUBSTITUTE
5 FOR ENGROSSED
6 HOUSE BILL NO. 3123

By: Jones of the House

and

Garrison of the Senate

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9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to public buildings and public works;
11 amending 61 O.S. 2001, Section 202.1, as last amended
12 by Section 28, Chapter 271, O.S.L. 2006 (61 O.S.
13 Supp. 2007, Section 202.1), which relates to design-
14 build and at-risk construction management project
15 delivery methods; limiting certain prohibitions for
16 the design-build and at-risk construction management
17 project delivery methods to certain projects;
18 exempting projects by school districts, technology
19 center school districts, or higher education
20 institutions from certain prohibitions; and declaring
21 an emergency.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 61 O.S. 2001, Section 202.1, as
24 last amended by Section 28, Chapter 271, O.S.L. 2006 (61 O.S. Supp.
2007, Section 202.1), is amended to read as follows:

Section 202.1 A. The design-build and at-risk construction
management project delivery methods shall not be used without the
written approval of the Director of Central Services, or the

1 Director's designee, when those projects are constructed for a state
2 agency or by an act of the Legislature specifying design-build or
3 at-risk construction management for a project. In all instances
4 where the design-build project or at-risk construction management
5 delivery method is authorized, construction administration shall be
6 performed by the State Construction Administrator, the
7 Administrator's designee or designees, or otherwise by contract or
8 contract provision approved by the Director of Central Services for
9 construction administration by another party.

10 B. Municipalities, counties, public trusts, or any other
11 political subdivision in this state shall not be required to get
12 approval of any other state agency in order to use design-build
13 construction management or at-risk construction management as a
14 construction management delivery method. However, municipalities,
15 counties, public trusts, and any other political subdivision shall
16 be subject to all other provisions of the Public Building
17 Construction and Planning Act.

18 C. ~~The~~ For projects constructed by a state agency, for projects
19 authorized by an act of the Legislature specifying design-build or
20 at-risk construction management, or for projects constructed by a
21 municipality, county, public trust or other political subdivision,
22 the design-build and construction management project delivery
23 methods shall not be used ~~for any project~~ unless the project meets
24 the criteria established by the administrative rules promulgated as

1 required by this act. Such methods shall not be used unless there
2 is a need for compressed construction time as required to respond to
3 a natural disaster or other emergency situation affecting public
4 health and safety, or all of the following criteria for designation
5 are met:

- 6 1. The project benefits the public;
- 7 2. There is a need for cost control; and
- 8 3. The need exists for specialized or complex construction
9 methods due to the unique nature of the project.

10 D. The For projects constructed by a state agency, for projects
11 authorized by an act of the Legislature specifying design-build or
12 at-risk construction management, or for projects constructed by a
13 municipality, county, public trust or other political subdivision,
14 the use of design-build and construction management project delivery
15 methods shall not interfere or inhibit the opportunity for
16 subcontractors to openly and freely compete for subcontracts
17 pursuant to the Public Competitive Bidding Act of 1974.

18 E. The provisions of subsections A and B of this section shall
19 not apply to projects by contract pursuant to an interagency
20 agreement under Section 581 of Title 74 of the Oklahoma Statutes or
21 to projects a state agency performs solely with the staff of the
22 agency.

23 F. The provisions of subsections C and D of this section shall
24 not apply to projects constructed by school districts, technology

1 center school districts or higher education institutions within The
2 Oklahoma State System of Higher Education.

3 G. The State Construction Administrator shall file an annual
4 report to the legislature summarizing cost information for each
5 construction management project completed the preceding year.

6 ~~G.~~ H. The Department of Central Services shall, pursuant to the
7 Administrative Procedures Act, promulgate rules to effect
8 procedures, processes and design-build/construction management fee
9 guidelines necessary to the fulfillment of its responsibilities
10 under this section.

11 ~~H.~~ I. As used in the Public Building Construction and Planning
12 Act, public trusts shall not include state beneficiary public
13 trusts.

14 SECTION 2. It being immediately necessary for the preservation
15 of the public peace, health and safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

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