

**SENATE, No. 482**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Senator NICHOLAS J. SACCO**

**District 32 (Bergen and Hudson)**

**SYNOPSIS**

Establishes design-build delivery system for NJTA and DOT projects.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



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2

1 AN ACT concerning the procurement of certain goods and services  
2 by the New Jersey Turnpike Authority and the New Jersey  
3 Department of Transportation, amending P.L.1948, c.454, and  
4 supplementing Title 27 of the Revised Statutes.

5

6 BE IT ENACTED by the Senate and General Assembly of the State  
7 of New Jersey:

8

9 1. Section 4 of P.L.1948, c.454 (C.27:23-4) is amended to read  
10 as follows:

11 4. As used in this act, the following words and terms shall have  
12 the following meanings, unless the context shall indicate another or  
13 different meaning or intent:

14 "Act" means P.L.1948, c.454 (C.27:23-1 et seq.), as amended  
15 and supplemented.

16 "Authority" means the New Jersey Turnpike Authority, created  
17 by section 3 of this act, or, if said authority shall be abolished, the  
18 board, body or commission succeeding to the principal functions  
19 thereof or to whom the powers given by this act to the authority  
20 shall be given by law.

21 "Bonds" or "transportation revenue bonds" means any bonds,  
22 refunding bonds, notes or other obligations issued by the authority  
23 authorized under the provisions of this act or issued by or for the  
24 Highway Authority.

25 "Commissioner" means the Commissioner of Transportation.

26 "Construction" or "construct" means the planning, designing,  
27 construction, development, reconstruction, rehabilitation,  
28 redevelopment, replacement, repair, extension, enlargement,  
29 improvement, and betterment of highway and transportation  
30 projects and includes the demolition, clearance and removal of  
31 buildings or structures on land acquired, held, leased or used for  
32 those projects.

33 "Cost" means all or any part of the expenses incurred in  
34 connection with the acquisition, construction, operation,  
35 management and maintenance of any real property, lands,  
36 structures, real or personal property rights, rights-of-way,  
37 franchises, easements, and interests acquired or used for a project;  
38 any financing charges and reserves for the payment of principal,  
39 premium and interest on bonds; the expenses of engineering,  
40 appraisal, architectural, accounting, financial, legal and other  
41 consulting services; and other expenses as may be necessary,  
42 desirable, convenient, or incident to the financing, acquisition,  
43 construction, operation, improvement, management, repair, and  
44 maintenance of a project.

45 "Credit Agreement" means loan agreement, lease agreement,  
46 revolving credit agreement, agreement establishing a line of credit,  
47 letter of credit, reimbursement to purchase bonds, purchase or sale

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 agreements, or commitments or other contracts or agreements  
2 authorized and approved by the authority in connection with the  
3 authorization, issuance, security, purchase, tender, redemption, or  
4 payment of bonds.

5 "Department" means the Department of Transportation.

6 "Design-build delivery system" means a project delivery method  
7 in which there is a single contract between the authority and a  
8 design-build entity to furnish the architectural, engineering, and  
9 related design services of a project in addition to the labor,  
10 materials, supplies, equipment, and construction services for any  
11 project.

12 "Design-build entity" means a proprietorship, partnership,  
13 limited liability company, limited liability partnership, joint  
14 venture, corporation, or any other legal entity that provides design  
15 and construction services under a single contract.

16 "Feeder road" means any road or highway project that in the  
17 determination of the authority is necessary, desirable or convenient  
18 to create or facilitate access to a transportation project.

19 "Garden State Arts Center" means the Garden State Arts Center,  
20 sometimes referred to as the PNC Bank Arts Center, a highway  
21 project of the authority.

22 "Highway project" means the acquisition, operation,  
23 improvement, management, repair, construction, including express  
24 E-ZPass where determined by the authority, and maintenance of the  
25 New Jersey Turnpike and of the Garden State Parkway, including  
26 the demolition and removal of toll houses and toll barriers, and of  
27 the Garden State Arts Center, as transferred to the authority  
28 pursuant to P.L.2003, c.79 (C.27:23-41 et al.), and of any other  
29 highway or feeder road at the locations and between the termini as  
30 may hereafter be established by the authority or by law and  
31 acquired or constructed under the provisions of this act by the  
32 authority, and shall include but not be limited to all bridges, parking  
33 facilities, public highways, feeder roads, tunnels, overpasses,  
34 underpasses, interchanges, traffic circles, grade separations,  
35 entrance and exit plazas, approaches, toll houses, service areas,  
36 stations and facilities, communications facilities, administration,  
37 storage and other buildings and facilities, and other structures  
38 directly or indirectly related to a transportation project, intersecting  
39 highways and bridges and feeder roads which the authority may  
40 deem necessary, desirable, or convenient in its discretion for the  
41 operation, maintenance or management, either directly or indirectly,  
42 of a transportation project, and includes any planning, design or  
43 other preparation work necessary for the execution of any highway  
44 project, and adjoining park or recreational areas and facilities,  
45 directly or indirectly related to the use of a transportation project as  
46 the authority shall find to be necessary and desirable, and the costs  
47 associated therewith.

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1 "Land and improvements" means any area or lands, any interest,  
2 right or title in land, including but not limited to, any reversionary  
3 right, fee, license or leasehold interest and any real or personal  
4 property, structure, facility, building or equipment.

5 "Owner" means all individuals, copartnerships, associations,  
6 private or municipal corporations and all political subdivisions of  
7 the State having any title or interest in any property, rights,  
8 easements and interests authorized to be acquired by this act.

9 "Parking facility" means any area or place, garage, building, or  
10 other improvement or structure for the parking or storage of motor  
11 or other vehicles, including but not limited to all real property and  
12 personal property, driveways, roads and other structures or areas  
13 necessary, useful or convenient for access to a facility from a public  
14 street, road or highway, or from any project; meters, mechanical  
15 equipment necessary, useful or convenient for or in connection with  
16 that parking or storage; and any structures, buildings, space or  
17 accommodations, whether constructed by the authority or by the  
18 lessee, to be leased for any business, commercial or other use,  
19 including the sale of gasoline or accessories for, or the repair or  
20 other servicing of automobiles and other motor vehicles, or motorist  
21 services, if, in the opinion of the authority, the inclusion, provision  
22 and leasing is necessary, desirable or convenient to assist in  
23 defraying the expenses of the authority and make possible the  
24 operation of the parking facility at reasonable rates.

25 "Public highway" means all public highways, roads and streets in  
26 the State, whether maintained by the State or by any county, city,  
27 borough, town, township, village or other political subdivision.

28 "Real property" means lands within the State, above or below  
29 water, and improvements thereof or thereon, or any riparian or other  
30 rights or interests therein.

31 "Request for proposal" means a document issued by the authority  
32 to solicit technical proposals from prequalified design-build entities  
33 for a project.

34 "Request for qualifications" means a document issued by the  
35 authority to prequalify potential design-build entities.

36 "Stipend" means the fee paid to a design-build entity by the  
37 authority in exchange for design, construction information, or  
38 materials prepared by the design-build entity and retained by the  
39 authority.

40 "Transfer Date" means, with respect to the assumption by the  
41 authority of the powers, duties, assets and responsibilities of the  
42 New Jersey Highway Authority, the date on which the Chair of the  
43 authority and the commissioner certify to the Governor that: (i) all  
44 bonds issued by the New Jersey Highway Authority cease to be  
45 outstanding within the meaning of the resolutions pursuant to which  
46 those bonds were issued; and (ii) upon which the authority assumes  
47 all debts, and statutory responsibilities and obligations of the New  
48 Jersey Highway Authority.

1 "Transportation project" or "project" means, in addition to  
2 highway projects, any other transportation facilities or activities  
3 determined necessary or appropriate by the authority in its  
4 discretion to fulfill the purposes of the authority, and the costs  
5 associated therewith.

6 (cf: P.L.2003, c.79, s.8)

7

8 2. (New section) a. Notwithstanding section 1 of  
9 P.L.1968, c.461 (C.27:23-6.1) or any other law, rule, or regulation  
10 to the contrary, the authority may, in its discretion, and in the  
11 exercise of its power to make and enter into contracts and  
12 agreements necessary or incidental to the performance of its duties  
13 and the execution of its powers, use a design-build delivery system  
14 for the procurement of any project of the authority which will serve  
15 the public interest. In determining whether the authority shall use a  
16 design-build delivery system for a project, the authority shall  
17 consider the following factors:

18 (1) The extent to which the authority can adequately define the  
19 project requirements in a proposed scope of the design and  
20 construction desired;

21 (2) The time constraints for delivery of the project;

22 (3) The capability and experience of contractors with a design-  
23 build delivery system or similar experience;

24 (4) The suitability of the project for use of a design-build  
25 delivery system with respect to time, schedule, costs, and quality  
26 factors;

27 (5) The capability of the authority to manage the project,  
28 including the employment of experienced personnel or outside  
29 consultants;

30 (6) The capability of the authority to oversee the project with  
31 design-build entities who are familiar and experienced with a  
32 design-build delivery system or similar experience;

33 (7) The original character of the product or the services;

34 (8) The work to be performed on the project is necessary to the  
35 authority's achievement of its statutory responsibilities; and

36 (9) Any other factor the authority deems relevant in making its  
37 determination.

38 The authority shall provide in a written statement its reasons for  
39 using a design-build delivery system for a project. This statement,  
40 along with other relevant project information, shall be available  
41 upon request.

42 b. After considering the factors set forth in subsection a. of this  
43 section and deciding to proceed with a design-build delivery  
44 system, the authority shall establish a two-phase procedure for  
45 awarding design-build delivery system contracts as provided for in  
46 sections 3 and 4 of P.L. , c. (C. ) (pending before the  
47 Legislature as this bill).

1       3. (New section) a. After the authority has determined to  
2 utilize a design-build delivery system pursuant to subsection b. of  
3 section 2 of P.L. , c. (C. ) (pending before the Legislature  
4 as this bill), the authority shall prepare a request for qualifications  
5 to qualify design-build entities.

6       b. The request for qualifications shall include, but not be  
7 limited to, the following criteria, which shall be weighted by the  
8 authority:

9       (1) The minimum qualifications of design-build entities  
10 necessary to meet the requirements for acceptance;

11       (2) Requirements for construction experience, design  
12 experience, financial, personnel, and equipment resources available  
13 from design-build entities for the project and the experience the  
14 design-build entities have in other similar design-build delivery  
15 system projects, unless the design-build entity has had previous  
16 experience with other department or authority construction projects  
17 and an acceptable performance rating as determined by the  
18 authority, provided that these requirements may not unduly restrict  
19 competition;

20       (3) A scope of work statement and schedule;

21       (4) Documents and reference materials made available by the  
22 authority defining the project requirements;

23       (5) The form of contract to be awarded;

24       (6) A description of the request for proposal requirements;

25       (7) The maximum time allowed for design and construction;

26       (8) The authority's estimated cost of design and construction;

27       (9) A statement that "past performance" or "experience" does  
28 not include the exercise or assertion of a person's legal rights; and

29       (10) Any other factor the authority deems appropriate.

30       c. The authority shall evaluate the qualifications of the design-  
31 build entities responding to the request for qualifications and  
32 prepare a list of design-build entities that meet the criteria  
33 established pursuant to subsection b. of this section, and shall solicit  
34 from those entities a request for proposals in accordance with  
35 section 4 of P.L. , c. (C. ) (pending before the Legislature  
36 as this bill).

37  
38       4. (New section) a. The authority shall prepare and solicit  
39 a request for proposals from the list of qualified design-build  
40 entities as determined by the authority pursuant to subsection c. of  
41 section 3 of P.L. , c. (C. ) (pending before the Legislature  
42 as this bill). The request for proposals shall include any  
43 information a design-build entity may need, including, but not  
44 limited to, the weighted criteria to be used to score the request for  
45 proposals and require separate submissions for a technical proposal,  
46 price bid, and any other information the authority deems  
47 appropriate. The request for proposals shall establish and provide  
48 the date on which the technical proposal and price bids are to be

1 submitted to the authority by the qualified design-build entities.  
2 The technical proposal and price bids shall be clearly identified and  
3 include the date and time of the submittal deadline.

4 b. The authority shall offer a stipend, based upon the project  
5 size and type, but not to exceed one percent of the project's  
6 estimated cost, to any design-build entity whose design,  
7 construction information, or materials presented in a request for  
8 proposals the authority desires to retain for its exclusive use. A  
9 design-build entity may accept the authority's offer of a stipend for  
10 use of its design, construction information, or materials or may  
11 decline such offer, in which case the authority may not retain or use  
12 in any manner any of the design, construction information, or  
13 materials presented to the authority by the corresponding design-  
14 build entity.

15  
16 5. (New section) a. The authority shall create a technical  
17 review committee whose purpose and function shall be to evaluate  
18 and score each technical proposal submitted to the authority by  
19 qualified design-build entities in accordance with section 4 of  
20 P.L. , c. (C. ) (pending before the Legislature as this bill).  
21 The technical review committee shall establish and provide a  
22 detailed description of the criteria to be used in the technical  
23 proposal and shall give weight to the established criteria for the  
24 technical proposal as the committee sees fit. The technical review  
25 committee shall have the authority to reject any technical proposal  
26 submitted by a qualified design-build entity that the committee  
27 deems incomplete for any reason, provided that a qualified design-  
28 build entity shall have a reasonable opportunity, as determined by  
29 the authority, to correct deficiencies in the rejected technical  
30 proposal.

31 b. Each technical proposal shall be reviewed by the technical  
32 review committee appointed by the authority pursuant to subsection  
33 a. of this section. The technical proposal shall include, but need not  
34 be limited to, the following criteria, which shall be weighted by the  
35 technical review committee in accordance with subsection a. of this  
36 section:

37 (1) The scope of the project, including, but not limited to,  
38 performance and technical standards, design, and functional and  
39 operational elements, which shall be prepared by a registered or  
40 licensed professional engineer;

41 (2) The maximum time allowable for design and construction;

42 (3) An estimated cost range for design and construction;

43 (4) A critical path method, bar schedule of the work to be  
44 performed, or similar schematic;

45 (5) Design plans and specifications, technical reports, and  
46 calculations;

47 (6) Permit requirements and applicable development fees;

1 (7) Copies of the contract documents that the successful design-  
2 build entity will be expected to enter into;

3 (8) A statement of the specialized experience and technical  
4 competence required for the project, the capability of the design-  
5 build entity to perform, and other appropriate technical and  
6 qualification factors; and

7 (9) Any other information deemed relevant to the project by the  
8 authority.

9 c. The technical review committee shall evaluate the technical  
10 proposals using the criteria in the request for proposals and shall  
11 create a shortlist of qualified design-build entities based on their  
12 qualifications.

13

14 6. (New section) a. (1) On the basis of the technical  
15 proposals, the authority shall select at least two, but no more than  
16 five, of the most highly qualified design-build entities that meet the  
17 criteria established pursuant to subsection b. of section 5 of  
18 P.L. , c. (C. ) (pending before the Legislature as this bill)  
19 and shall solicit from those entities a request to submit cost and  
20 price information. Cost and price information shall contain all  
21 design, construction, engineering, and inspection costs of the  
22 project.

23 (2) The authority shall evaluate each two-part proposal from  
24 design-build entities selected pursuant to paragraph (1) of this  
25 subsection based on the technical proposal and cost and price  
26 information.

27 b. The authority shall separately evaluate each technical  
28 proposal and the corresponding cost and price information and  
29 award the design-build delivery system contract based on the  
30 proposal that is considered most advantageous to the authority.

31 c. The authority shall make public the cost and price  
32 information for each proposal submitted to the authority by a  
33 selected design-build entity. The authority shall also make public  
34 the design-build entity awarded the contract for the project.

35

36 7. (New section) Within 90 days of the effective date of this  
37 act, the authority, in accordance with the provisions of the  
38 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
39 seq.), shall promulgate rules and regulations to effectuate the  
40 purposes of sections 1 through 6 of P.L. , c. (C. ) (pending  
41 before the Legislature as this bill).

42

43 8. (New section) As used in sections 8 through 14 of  
44 P.L. , c. (C. ) (pending before the Legislature as this bill),  
45 the following words and terms shall have the following meanings,  
46 unless the context shall indicate another or different meaning or  
47 intent:

1 "Authority" means the New Jersey Turnpike Authority, created  
2 by section 3 of P.L.1948, c.454 (C.27:23-3), or, if said authority  
3 shall be abolished, the board, body or commission succeeding to the  
4 principal functions thereof or to whom the powers given by  
5 P.L.1948, c.454 (C.27:23-1 et seq.) to the authority shall be given  
6 by law.

7 "Commissioner" means the Commissioner of Transportation.

8 "Construction" or "construct" means the planning, designing,  
9 construction, development, reconstruction, rehabilitation,  
10 redevelopment, replacement, repair, extension, enlargement,  
11 improvement, and betterment of highway and transportation  
12 projects and includes the demolition, clearance and removal of  
13 buildings or structures on land acquired, held, leased or used for  
14 those projects.

15 "Cost" means all or any part of the expenses incurred in  
16 connection with the acquisition, construction, operation,  
17 management and maintenance of any real property, lands,  
18 structures, real or personal property rights, rights-of-way,  
19 franchises, easements, and interests acquired or used for a project;  
20 any financing charges and reserves for the payment of principal,  
21 premium and interest on bonds; the expenses of engineering,  
22 appraisal, architectural, accounting, financial, legal and other  
23 consulting services; and other expenses as may be necessary,  
24 desirable, convenient, or incident to the financing, acquisition,  
25 construction, operation, improvement, management, repair, and  
26 maintenance of a project.

27 "Department" means the Department of Transportation.

28 "Design-build delivery system" means a project delivery method  
29 in which there is a single contract between the department and a  
30 design-build entity to furnish the architectural, engineering, and  
31 related design services of a project in addition to the labor,  
32 materials, supplies, equipment, and construction services for any  
33 project.

34 "Design-build entity" means a proprietorship, partnership,  
35 limited liability company, limited liability partnership, joint  
36 venture, corporation, or any other legal entity that provides design  
37 and construction services under a single contract.

38 "Feeder road" means any road or highway project that in the  
39 determination of the department is necessary, desirable or  
40 convenient to create or facilitate access to a transportation project.

41 "Highway project" means the acquisition, operation,  
42 improvement, management, repair, or construction of any highway  
43 or feeder road at the locations and between the termini as may  
44 hereafter be established by the department or by law and acquired  
45 or constructed by the department, and shall include but not be  
46 limited to all bridges, parking facilities, public highways, feeder  
47 roads, tunnels, overpasses, underpasses, interchanges, traffic  
48 circles, grade separations, entrance and exit plazas, approaches, toll

1 houses, service areas, stations and facilities, communications  
2 facilities, administration, storage and other buildings and facilities,  
3 and other structures directly or indirectly related to a transportation  
4 project, intersecting highways and bridges and feeder roads which  
5 the department may deem necessary, desirable, or convenient in its  
6 discretion for the operation, maintenance or management, either  
7 directly or indirectly, of a transportation project, and includes any  
8 planning, design, or other preparation work necessary for the  
9 execution of any highway project, and adjoining park or  
10 recreational areas and facilities, directly or indirectly related to the  
11 use of a transportation project as the department shall find to be  
12 necessary and desirable, and the costs associated therewith.

13 "Land and improvements" means any area or lands, any interest,  
14 right or title in land, including but not limited to, any reversionary  
15 right, fee, license or leasehold interest and any real or personal  
16 property, structure, facility, building or equipment.

17 "Public highway" means all public highways, roads and streets in  
18 the State, whether maintained by the State or by any county, city,  
19 borough, town, township, village, or other political subdivision.

20 "Real property" means lands within the State, above or below  
21 water, and improvements thereof or thereon, or any riparian or other  
22 rights or interests therein.

23 "Request for proposal" means a document issued by the  
24 department to solicit technical proposals from prequalified design-  
25 build entities for a project.

26 "Request for qualifications" means a document issued by the  
27 department to prequalify potential design-build entities.

28 "Stipend" means the fee paid to a design-build entity by the  
29 department in exchange for design, construction information, or  
30 materials prepared by the design-build entity and retained by the  
31 department.

32 "Transportation project" or "project" means, in addition to  
33 highway projects, any other transportation facilities or activities  
34 determined necessary or appropriate by the authority in its  
35 discretion to fulfill the purposes of the department, and the costs  
36 associated therewith.

37

38 9. (New section) a. Notwithstanding any other law, rule, or  
39 regulation to the contrary, the department may, in its discretion, and  
40 in the exercise of its power to make and enter into contracts and  
41 agreements necessary or incidental to the performance of its duties  
42 and the execution of its powers, use a design-build delivery system  
43 for the procurement of any project of the department which will  
44 serve the public interest. In determining whether the department  
45 shall use a design-build delivery system for a project, the  
46 department shall consider the following factors:

- 1 (1) The extent to which the department can adequately define  
2 the project requirements in a proposed scope of the design and  
3 construction desired;
- 4 (2) The time constraints for delivery of the project;
- 5 (3) The capability and experience of contractors with a design-  
6 build delivery system or similar experience;
- 7 (4) The suitability of the project for use of a design-build  
8 delivery system with respect to time, schedule, costs, and quality  
9 factors;
- 10 (5) The capability of the department to manage the project,  
11 including the employment of experienced personnel or outside  
12 consultants;
- 13 (6) The capability of the department to oversee the project with  
14 design-build entities who are familiar and experienced with a  
15 design-build delivery system or similar experience;
- 16 (7) The original character of the product or the services;
- 17 (8) The work to be performed on the project is necessary to the  
18 department's achievement of its statutory responsibilities; and
- 19 (9) Any other factor the department deems relevant in making  
20 its determination.

21 The department shall provide in a written statement its reasons  
22 for using a design-build delivery system for a project. This  
23 statement, along with other relevant project information, shall be  
24 available upon request.

25 b. After considering the factors set forth in subsection a. of this  
26 section and deciding to proceed with a design-build delivery  
27 system, the department shall establish a two-phase procedure for  
28 awarding design-build delivery system contracts as provided for in  
29 sections 10 and 11 of P.L. , c. (C. ) (pending before the  
30 Legislature as this bill).

31  
32 10. (New section) a. After the department has determined to  
33 utilize a design-build delivery system pursuant to subsection b. of  
34 section 9 of P.L. , c. (C. ) (pending before the Legislature  
35 as this bill), the department shall prepare a request for qualifications  
36 to qualify design-build entities.

37 b. The request for qualifications shall include, but not be  
38 limited to, the following criteria, which shall be weighted by the  
39 department:

- 40 (1) The minimum qualifications of design-build entities  
41 necessary to meet the requirements for acceptance;
- 42 (2) Requirements for construction experience, design  
43 experience, financial, personnel, and equipment resources available  
44 from design-build entities for the project and the experience the  
45 design-build entities have in other similar design-build delivery  
46 system projects, unless the design-build entity has had previous  
47 experience with other department or authority construction projects

1 and an acceptable performance rating as determined by the  
2 department, provided that these requirements may not unduly  
3 restrict competition;

4 (3) A scope of work statement and schedule;

5 (4) Documents and reference materials made available by the  
6 department defining the project requirements;

7 (5) The form of contract to be awarded;

8 (6) A description of the request for proposal requirements;

9 (7) The maximum time allowed for design and construction;

10 (8) The department's estimated cost of design and construction;

11 (9) A statement that "past performance" or "experience" does  
12 not include the exercise or assertion of a person's legal rights; and

13 (10) Any other factor the department deems appropriate.

14 c. The department shall evaluate the qualifications of the  
15 design-build entities responding to the request for qualifications and  
16 prepare a list of design-build entities that meet the criteria  
17 established pursuant to subsection b. of this section, and shall solicit  
18 from those entities a request for proposals in accordance with  
19 section 11 of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill).

21

22 11. (New section) a. The department shall prepare and  
23 solicit a request for proposals from the list of qualified design-build  
24 entities as determined by the department pursuant to subsection c.  
25 of section 10 of P.L. , c. (C. ) (pending before the  
26 Legislature as this bill). The request for proposals shall include any  
27 information a design-build entity may need, including, but not  
28 limited to, the weighted criteria to be used to score the request for  
29 proposals and shall require separate submissions for a technical  
30 proposal, price bid, and any other information the department  
31 deems appropriate. The request for proposals shall establish and  
32 provide the date on which the technical proposal and price bids are  
33 to be submitted to the department by the qualified design-build  
34 entities. The technical proposal and price bids shall be clearly  
35 identified and include the date and time of the submittal deadline.

36 b. The department shall offer a stipend, based upon the project  
37 size and type, but not to exceed one percent of the project's  
38 estimated cost, to any design-build entity whose design,  
39 construction information, or materials presented in a request for  
40 proposals the department desires to retain for its exclusive use. A  
41 design-build entity may accept the department's offer of a stipend  
42 for use of its design, construction information, or materials or may  
43 decline such offer, in which case the department may not retain or  
44 use in any manner any of the design, construction information, or  
45 materials presented to the department by the corresponding design-  
46 build entity.

1       12. (New section) a. The department shall create a technical  
2 review committee whose purpose and function shall be to evaluate  
3 and score each technical proposal submitted to the department by  
4 qualified design-build entities in accordance with section 11 of  
5 P.L. , c. (C. ) (pending before the Legislature as this bill).  
6 The technical review committee shall establish and provide a  
7 detailed description of the criteria to be used in the technical  
8 proposal and shall give weight to the established criteria for the  
9 technical proposal as the committee sees fit. The technical review  
10 committee shall have the authority to reject any technical proposal  
11 submitted by a qualified design-build entity that the committee  
12 deems incomplete for any reason, provided that a qualified design-  
13 build entity shall have a reasonable opportunity, as determined by  
14 the department, to correct deficiencies in the rejected technical  
15 proposal.

16       b. Each technical proposal shall be reviewed by the technical  
17 review committee appointed by the department pursuant to  
18 subsection a. of this section. The technical proposal shall include,  
19 but need not be limited to, the following criteria, which shall be  
20 weighted by the technical review committee in accordance with  
21 subsection a. of this section:

22       (1) The scope of the project, including, but not limited to,  
23 performance and technical standards, design, and functional and  
24 operational elements, which shall be prepared by a registered or  
25 licensed professional engineer;

26       (2) The maximum time allowable for design and construction;

27       (3) An estimated cost range for design and construction;

28       (4) A critical path method, bar schedule of the work to be  
29 performed, or similar schematic;

30       (5) Design plans and specifications, technical reports, and  
31 calculations;

32       (6) Permit requirements and applicable development fees;

33       (7) Copies of the contract documents that the successful design-  
34 build entity will be expected to enter into;

35       (8) A statement of the specialized experience and technical  
36 competence required for the project, the capability of the design-  
37 build entity to perform, and other appropriate technical and  
38 qualification factors; and

39       (9) Any other information deemed relevant to the project by the  
40 department.

41       c. The technical review committee shall evaluate the technical  
42 proposals using the criteria in the request for proposals and shall  
43 create a shortlist of qualified design-build entities based on their  
44 qualifications.

45

46       13. (New section) a. (1) On the basis of the technical  
47 proposals, the department shall select at least two, but no more than  
48 five, of the most highly qualified design-build entities that meet the

1 criteria established pursuant to subsection b. of section 12 of  
2 P.L. , c. (C. ) (pending before the Legislature as this bill)  
3 and shall solicit from those entities a request to submit cost and  
4 price information. Cost and price information shall contain all  
5 design, construction, engineering, and inspection costs of the  
6 project.

7 (2) The department shall evaluate each two-part proposal from  
8 design-build entities selected pursuant to paragraph (1) of this  
9 subsection based on the technical proposal and cost and price  
10 information.

11 b. The department shall separately evaluate each technical  
12 proposal and the corresponding cost and price information and  
13 award the design-build delivery system contract based on the  
14 proposal that is considered most advantageous to the department.

15 c. The department shall make public the cost and price  
16 information for each proposal submitted to the department by a  
17 selected design-build entity. The department shall also make public  
18 the design-build entity awarded the contract for the project.

19

20 14. (New section) Within 90 days of the effective date of this  
21 act, the department, in accordance with the provisions of the  
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
23 seq.), shall promulgate rules and regulations to effectuate the  
24 purposes of sections 8 through 13 of P.L. , c. (C. )  
25 (pending before the Legislature as this bill).

26

27 15. This act shall take effect on the first day of the sixth month  
28 following enactment.

29

30

31

STATEMENT

32

33 This bill allows the New Jersey Turnpike Authority ("authority")  
34 and the New Jersey Department of Transportation ("department") to  
35 make and enter into contracts to use a design-build delivery system  
36 for the procurement of authority or department projects which will  
37 serve the public interest. A design-build delivery system is defined  
38 to mean a project delivery method in which there is a single  
39 contract between the authority or the department and a design-build  
40 entity to furnish the architectural, engineering, and related design  
41 services of a project, in addition to the labor, materials, supplies,  
42 equipment, and construction services for the project. The bill  
43 establishes various factors which the authority and the department  
44 are to consider in determining whether to use a design-build  
45 delivery system for a project.

46 The authority and department are to establish the following two-  
47 phase procedure for awarding design-build delivery system  
48 contracts: (1) request for qualifications ("RFQ"); and (2) request for

1 proposals (“RFP”). The RFQ prepared by the authority or  
2 department is to be used to qualify design-build entities from which  
3 the authority and department may solicit an RFP for a project. The  
4 proposal submitted by a design-build entity is to include a separate  
5 technical proposal, cost and price information, and any other  
6 information that the authority or department deems appropriate.

7 The bill requires the authority and the department to establish a  
8 technical review committee to evaluate the technical proposals  
9 submitted with the RFP by the qualified design-build entities in  
10 accordance with the weighted criteria established by the technical  
11 review committee.

12 The authority and department are to separately evaluate each  
13 technical proposal and the cost and price information and award the  
14 design-build delivery system contract based on the proposal that is  
15 considered most advantageous to the authority or department. The  
16 cost and price information of each selected design-build entity are  
17 to be made public by the authority or the department as well as the  
18 entity awarded the contract for the project.

19 Finally, the bill provides that the authority and department are to  
20 offer a stipend, based upon the project size and type, but not to  
21 exceed one percent of the project’s estimated cost, to any design-  
22 build entity whose design, construction information, or materials  
23 presented in an RFP the authority or department desires to retain for  
24 its exclusive use. A design-build entity may accept the authority or  
25 department’s offer or may decline such an offer, in which case the  
26 authority and department may not retain or use in any manner any  
27 of the design, construction information, or materials presented to  
28 the authority or department by the corresponding design-build  
29 entity.

30 This bill allows the department to make and enter into contracts  
31 to use a design-build delivery system for the procurement of  
32 department projects. The bill alters the RFQ process to allow for  
33 more design-build entities to qualify to submit technical proposals  
34 and allow design-build entities with previous experience with other  
35 department or authority projects and acceptable performance ratings  
36 to be considered for qualification by the authority or department.

37 The bill allows a qualified design-build entity to have a  
38 reasonable opportunity to correct deficiencies in a rejected technical  
39 proposal. The bill requires the technical review committee to  
40 evaluate, instead of score, the technical proposals and from that  
41 evaluation create a shortlist of qualified design-build entities based  
42 on their qualifications. The bill requires the authority or department  
43 to create a shortlist of design-build entities and to select a design-  
44 build entity from that shortlist based upon a combination of the  
45 technical proposal and the cost and price information.