

1 **EXTENSION OF SUNSET FOR**
2 **DESIGN-BUILD CONTRACT AWARD**
3 **AUTHORIZATION**

4 2010 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Julie Fisher**

7 Senate Sponsor: Kevin T. Van Tassell

8
9 **LONG TITLE**

10 **Committee Note:**

11 The Transportation Interim Committee recommended this bill.

12 **General Description:**

13 This bill amends provisions relating to the procurement of design-build transportation
14 project contracts.

15 **Highlighted Provisions:**

16 This bill:

17 ▶ extends until July 1, 2015, the sunset of the provision authorizing a transportation
18 agency to award a design-build contract for a transportation project that has an
19 estimated cost of \$5,000,000 or less to a qualified eligible proposer if:

- 20 • only a single proposal is received; and
21 • the transportation agency determines that the proposal is advantageous to the
22 state and the proposal price is reasonable; and

23 ▶ makes technical changes.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **63G-6-502**, as renumbered and amended by Laws of Utah 2008, Chapter 382

31 **63I-1-263**, as last amended by Laws of Utah 2009, Chapters 334 and 356



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **63G-6-502** is amended to read:

35 **63G-6-502. Procurement of design-build transportation project contracts.**

36 (1) As used in this section:

37 (a) "Design-build transportation project contract" means the procurement of both the
38 design and construction of a transportation project in a single contract with a company or
39 combination of companies capable of providing the necessary engineering services and
40 construction.

41 (b) "Transportation agency" means:

- 42 (i) the Department of Transportation;
- 43 (ii) a county of the first or second class, as defined in Section 17-50-501;
- 44 (iii) a municipality of the first class, as defined in Section 10-2-301;
- 45 (iv) a public transit district that has more than 200,000 people residing within its
46 boundaries; and
- 47 (v) a public airport authority.

48 (2) Except as provided in Subsection (3), a transportation agency may award a
49 design-build transportation project contract for any transportation project that has an estimated
50 cost of at least \$50,000,000 by following the requirements of this section.

51 (3) (a) The Department of Transportation:

- 52 (i) may award a design-build transportation project contract for any transportation
53 project by following the requirements of this section; and
- 54 (ii) shall make rules, by following the procedures and requirements of Title 63G,
55 Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for the
56 procurement of its design-build transportation project contracts in addition to those required by
57 this section.

58 (b) A public transit district that has more than 200,000 people residing within its

59 boundaries:

60 (i) may award a design-build transportation project contract for any transportation
61 project by following the requirements of this section; and

62 (ii) shall pass ordinances or a resolution establishing requirements for the procurement
63 of its design-build transportation project contracts in addition to those required by this section.

64 (c) A design-build transportation project contract authorized under this Subsection (3)
65 is not subject to the estimated cost threshold under Subsection (2).

66 (4) (a) Before entering a design-build transportation project contract, a transportation
67 agency may issue a request for qualifications to prequalify potential contractors.

68 (b) Public notice of the request for qualifications shall be given in accordance with
69 policy board rules.

70 (c) A transportation agency shall require, as part of the qualifications specified in the
71 request for qualifications, that potential contractors at least demonstrate their:

72 (i) construction experience;

73 (ii) design experience;

74 (iii) financial, manpower, and equipment resources available for the project; and

75 (iv) experience in other design-build transportation projects with attributes similar to
76 the project being procured.

77 (d) The request for qualifications shall identify the number of eligible competing
78 proposers that the transportation agency will select to submit a proposal, which must be at least
79 two.

80 (5) (a) The transportation agency shall:

81 (i) evaluate the responses received from the request for qualifications;

82 (ii) select from their number those qualified to submit proposals; and

83 (iii) invite those respondents to submit proposals based upon the transportation
84 agency's request for proposals.

85 (b) (i) Except as provided in Subsection (5)(b)(ii), if the transportation agency fails to
86 receive at least two qualified eligible competing proposers, the transportation agency shall
87 readvertise the project.

88 (ii) [~~Until July 1, 2010, a~~] A transportation agency may award a contract for a
89 transportation project that has an estimated cost of \$5,000,000 or less to a qualified eligible

90 proposer if:

91 (A) only a single proposal is received; and

92 (B) the transportation agency determines that:

93 (I) the proposal is advantageous to the state; and

94 (II) the proposal price is reasonable.

95 ~~[(iii) The Transportation Interim Committee and Government Operations Interim~~
96 ~~Committee of the Legislature shall review Subsection (5)(b)(ii) prior to November 30, 2009.]~~

97 (6) The transportation agency shall issue a request for proposals to those qualified
98 respondents that:

99 (a) includes a scope of work statement constituting an information for proposal that
100 may include:

101 (i) preliminary design concepts;

102 (ii) design criteria, needs, and objectives;

103 (iii) warranty and quality control requirements;

104 (iv) applicable standards;

105 (v) environmental documents;

106 (vi) constraints;

107 (vii) time expectations or limitations;

108 (viii) incentives or disincentives; and

109 (ix) other special considerations;

110 (b) requires submitters to provide:

111 (i) a sealed cost proposal;

112 (ii) a critical path matrix schedule, including cash flow requirements;

113 (iii) proposal security; and

114 (iv) other items required by the department for the project; and

115 (c) may include award of a stipulated fee to be paid to submitters who submit
116 unsuccessful proposals.

117 (7) The transportation agency shall:

118 (a) evaluate the submissions received in response to the request for proposals from the
119 prequalified proposers;

120 (b) comply with rules relating to discussion of proposals, best and final offers, and

121 evaluations of the proposals submitted; and

122 (c) after considering price and other identified factors, award the contract to the
123 responsible proposer whose proposal is most advantageous to the state.

124 Section 2. Section **63I-1-263** is amended to read:

125 **63I-1-263. Repeal dates, Titles 63 to 63M.**

126 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
127 any public school district which chooses to participate, is repealed July 1, 2016.

128 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

129 (3) Section 63C-8-106, Rural residency training program, is repealed July 1, 2015.

130 (4) Subsection 63G-6-502(5)(b)(ii) authorizing certain transportation agencies to award
131 a contract for a design-build transportation project in certain circumstances, is repealed July 1,
132 2015.

133 [~~4~~] (5) The Resource Development Coordinating Committee, created in Section
134 63J-4-501, is repealed July 1, 2015.

135 [~~5~~] (6) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

136 [~~6~~] (7) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
137 repealed July 1, 2010.

138 (b) Sections 59-7-610 and 59-10-1007 regarding tax credits for certain persons in
139 recycling market development zones, are repealed for taxable years beginning on or after
140 January 1, 2011.

141 (c) Notwithstanding Subsection [~~6~~] (7)(b), a person may not claim a tax credit under
142 Section 59-7-610 or 59-10-1007:

143 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
144 59-10-1007, if the machinery or equipment is purchased on or after July 1, 2010; or

145 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
146 the expenditure is made on or after July 1, 2010.

147 (d) Notwithstanding Subsections [~~6~~] (7)(b) and (c), a person may carry forward a tax
148 credit in accordance with Section 59-7-610 or 59-10-1007 if:

149 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

150 (ii) (A) for the purchase price of machinery or equipment described in Section
151 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before June 30, 2010;

152 or

153 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
154 expenditure is made on or before June 30, 2010.

155 [~~7~~] (8) Title 63M, Chapter 7, Part 4, Sentencing Commission, is repealed January 1,
156 2012.

157 [~~8~~] (9) The Crime Victim Reparations Board, created in Section 63M-7-504, is
158 repealed July 1, 2017.

159 [~~9~~] (10) Title 63M, Chapter 8, Utah Commission for Women and Families Act, is
160 repealed July 1, 2011.

161 [~~10~~] (11) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
162 Children and Youth At Risk Act, is repealed July 1, 2016.

163 [~~11~~] (12) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
164 2012.

Legislative Review Note
as of 11-18-09 5:36 PM

Office of Legislative Research and General Counsel

H.B. 57 - Extension of Sunset for Design-build Contract Award Authorization

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
