

HCS HB 2376 -- CONSTRUCTION MANAGEMENT

SPONSOR: Hough

COMMITTEE ACTION: Voted "Do Pass with Amendments" by the Standing Committee on Emerging Issues by a vote of 11 to 0. Voted "Do Pass with HCS" by the Select Committee on General Laws by a vote of 10 to 0.

The bill authorizes any political subdivision to use the construction manager-at-risk method, as defined in the bill, for specified civil works projects. Before or concurrently with selecting a construction manager-at-risk, the political subdivision shall select or designate an engineer or architect who shall prepare the construction documents for the project and who shall comply with all state laws, as applicable. If the engineer or architect is not a full-time employee of the political subdivision, the political subdivision shall select the engineer or architect on the basis of demonstrated competence and qualifications. This bill also allows for and defines specialty construction design contracts.

The bill specifies definitions for use in regulating design build projects.

In using a design-build contract, the political subdivision shall determine the scope and level of detail required to permit qualified persons to submit proposals in accordance with the request for proposals given the nature of the project. The design criteria consultant may evaluate construction as to the adherence to the design criteria. The consultant shall be selected and its contract negotiated in compliance with Sections 8.285 to 8.291, RSMo, unless the consultant is a direct employee of the political subdivision.

Criteria for notice and content regarding requests for proposals are specified in the bill. The political subdivision shall solicit proposals in a three-stage process. The bill describes these phases in detail.

As an inducement to qualified design-builders, the political subdivision shall pay a reasonable stipend, the amount of which shall be established in the request for proposal, to each prequalified design-builder whose proposal is responsive but not accepted. Upon payment of the stipend to any unsuccessful design-builder, the political subdivision shall acquire a nonexclusive right to use the design submitted by the design-builder, and the design-builder shall have no further liability for the use of the design. If the design-builder desires to retain all rights and

interest in the design proposed, the design-builder shall forfeit the stipend. The payment bond requirements of Section 107.170 shall apply to the design-build project.

The bill does not apply to any metropolitan sewer district established under Article VI, Section 30(a) of the Constitution of Missouri, or any charter city or charter county governed by home rule under Article VI, Section 18 or 19 of the Constitution of Missouri. The authority to use construction manager-at-risk, design-build, and design-build contracts expires September 1, 2026.

This bill is similar to SB 595 (2016).

PROPOSERS: Supporters say that construction manager-at-risk and design-build are useful tools for political subdivisions to use on certain types of projects where the city or town has a small, but knowledgeable, staff. The design-build process eliminates a great deal of administrative work and transaction costs. The bill requires advertising for contracts and ensures that licensed subcontractors are used.

Testifying for the bill were Representative Hough; Phil Donnellan, Je Dunn Construction; American Institute Of Architects Of Missouri; Brian Hess, City Of Liberty; Associated General Contractors Of Missouri; Missouri Chamber of Commerce and Industry; Burns And McDonnell Engineering; Kansas City Missouri; Site Improvement Association; Robert Pitkin, DBIA Mid American Region; and the American Council Of Engineering Companies Of Missouri.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say they are not opposed to the concept of the bill but would like to see some changes made.