

HCS HB 1042 -- DESIGN-BUILD CONTRACTS

SPONSOR: Korman

COMMITTEE ACTIONS: Voted "Do Pass" by the Standing Committee on Emerging Issues by a vote of 12 to 0. Voted "Do Pass with HCS" by the Select Committee on General Laws by a vote of 9 to 0.

This bill changes the laws regarding design-build contracts.

CONSTRUCTION MANAGER-AT-RISK CONTRACTS (Section 67.5050, RSMo)

The bill allows any political subdivision to use the construction-manager-at-risk method for a construction project. The bill specifies the required procedures that the political subdivision must follow, including the selection of a construction manager-at-risk, the advertising of proposals, and the receiving and review of bids or proposals. These provisions must not apply to the St. Louis Metropolitan Sewer District or a home rule charter city or county. Civil works projects using this method must be limited to projects in excess of \$2 million and non-civil works projects must be limited to projects in excess of \$7 million. A political subdivision may choose to allow the construction manager-at-risk to perform some projects himself or herself if he or she meets the same bidding requirements as all other trade contractors or subcontractors and the subdivision determines that the construction manager-at-risk's bid or proposal provides the best value or it may restrict him or her from submitting a bid. These provisions will expire September 1, 2025.

DESIGN-BUILD CONTRACTS (Section 67.5060)

The bill specifies that in using a design-build contract, a political subdivision must 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. An architect or engineer must be employed or retained by the political subdivision to assist in specified tasks regarding the project. A political subdivisions must follow specified bidding procedures and solicit proposals using a three-stage process as specified in the bill. Civil works projects using this method must be limited to projects in excess of \$2 million and non-civil works projects must be limited to projects in excess of \$7 million. These provisions must not apply to charter or home rule cities or counties or the St. Louis Metropolitan Sewer District. The authority to use design-build contracts under these provisions will expire September 1, 2025.

SPECIALTY CONSTRUCTION DESIGN CONTRACTS (Section 67.5070)

Any political subdivision may enter into a special construction design contract for engineering, design, and construction of a wastewater or water treatment project. In disbursing community development block grants under 42 U.S.C. Sections 5301 to 5321, the Department of Economic Development must not reject wastewater or water treatment projects solely for utilizing specialty construction design contracts. The Department of Natural Resources must not preclude specialty construction design contracts from consideration for funding provided by the Water and Wastewater Loan Fund. A political subdivision planning a specialty construction design project must retain an engineer duly licensed in this state to assist in preparing any necessary bid documents and specifications and evaluations of submissions and bids.

PROPOSERS: Supporters say that the bill is based on ensuring good value for political subdivisions and has safeguards to ensure that they are not taken advantage of by sophisticated business partners. The bill will allow better communication between political subdivisions, contractors, and subcontractors. Everyone is involved in the contractual planning and obligation so that a clear picture of the division of labor and the political subdivisions goal's for the construction project are available.

Testifying for the bill were Representative Korman; Dennis Randoff; American Institute of Architects of Missouri; Mark Deaton; and Thomas Whittaker, JE Dune Construction Co.

OPPOSERS: Those who oppose the bill say that it still allows for construction managers to both supervise others and perform their own work which is a possible conflict of interest and could cost more money.

Testifying against the bill were Terry W. Briggs, Site Improvement Association and Construction Employers Coalition.

OTHERS: Others testifying on the bill say that the design-build process does not work for all types of projects. This particular bill has excellent safeguards to prevent problems with construction contracting that typically arise.

Testifying on the bill were Missouri Society Of Professional Engineers and Kansas City Missouri.