
FACILITIES CONSTRUCTION COMMISSION

School facilities assistance programs

Classroom Facilities Assistance Program

- Requires the calculation of a school district's share for a Classroom Facilities Assistance Program project to be based solely on the required percentage based on the district's equity ranking.
- Requires a district that opts to segment its classroom facilities needs to calculate the required percentage based on equity ranking on the date the Controlling Board approves the first segment for both that segment and future segments.

Vocational School Facilities Assistance Program

- Permits the Facilities Construction Commission (FCC) to set aside a portion of its school facilities funds each biennium to assist at least two joint vocational school districts.

CTPD Construction Study Committee

- Establishes the Career-Technical Planning District Construction Study Committee to examine and make recommendations for creating an equitable and sustained funding model to build, renovate, and maintain career-technical education facilities.
- Requires the committee to submit a report of its findings and recommendations by June 30, 2026, to the Governor and General Assembly.

Major sports facilities funding

Sports facilities definitions

- Defines the following terms for the purpose of major sports facilities in Ohio:
 - "Major sports facility" means a facility designed for the use of a professional sports franchise from certain major sports leagues, the construction of which costs at least \$1 billion.
 - "Transformational major sports facility mixed-use project" means a mixed-use project that includes the construction of a major sports facility, and integrates retail, residential, recreational, or other uses.
 - "Transformational major sports facility mixed-use project district" means the geographic area encompassing the land upon which the transformational major sports facility mixed-use project is located.
 - "Base professional sports franchise state tax revenues" means a fixed dollar amount equal to all state tax revenues generated pursuant to state income, sales, and CAT taxes that are attributable to the professional sports franchise's operations at existing facilities in Ohio.

- “Total major sports facility mixed-use project district state tax revenues” means the total aggregate state tax revenue generated in the territory of a transformational major sports facility mixed-use project district.
- “Incremental major sports facility mixed-use project district state tax revenues” means the amount of state tax revenues received by the state, subtracting base professional sports franchise state tax revenues from total major sports facility mixed-use project district state tax revenues in a calendar year.

State funding of major sports facilities

- Permits state funds to be used to pay or reimburse up to 30% the costs of a major sports facility if certain criteria are met, including a contribution of at least 50% of the costs from the professional sports franchise that plans to use the facility.
- Permits state bond proceeds to be used if certain additional conditions are met, requiring that the amount of increased state tax revenues are projected to be in excess of the total debt service of the state bonds for their initial term of 25 years.
- Creates the Major Sports Facility District Fund, into which the TOS must deposit the total major sports facility mixed-use project district state tax revenues, to be used to pay debt service on state bond proceeds.
- If state bond proceeds are being used for the major sports facility, requires the professional sports franchise to deposit an amount equal to 8 $\frac{1}{3}$ % of the award into an escrow account, to be used to pay any deficits between tax revenues collected and the total bond amount, after the bonds are matured, or if the lease expires.
- Permits the OBM Director to transfer funds from the Major Sports Facility District Fund to the Ohio Cultural Facilities Bond Service Fund, which the bill also creates, to be held as trust funds pledged to the payment of bond service charges.

Tax reporting requirements

- Requires the governmental agency that owns or has an ownership interest in the major sports facility or its site to provide to TAX, monthly, a list of persons generating tax revenues in the territory of a transformational major sports facility mixed-use project district, including persons purchasing or leasing materials and items used in construction.
- Requires every person who owns real property in a project district to file taxes and register for a separate withholding account, remitting the wages and salaries withheld from employees for activities performed in the territory of a project district separately from all income taxes withheld by such employer.
- Requires persons that collect transformational major sports facility mixed-use project district tax revenues to report those tax revenues separately from other tax revenues in the state, on forms provided by TAX, including estimated payments on corporate income taxes and gross revenues generated from the district.

Rulemaking

- Requires FCC, in consultation with TAX and OBM, to adopt rules that establish criteria for project evaluation and other necessary rules.

Municipal-designated districts

- Permits the legislative authorities of certain large municipal corporations to declare one area of the municipal corporation to be a transformational major sports facility mixed-use project district if certain conditions are met.
- Requires a legislative authority to certify the resolution or ordinance creating or enlarging the district to the Tax Commissioner within five days of its passage or adoption, along with a description of district boundaries.
- Requires each real property owner, lessee, licensee, user, or operator in the proposed district to provide to the governmental agency that owns or has an ownership interest in a major sports facility or its site with certain tax information.
- Requires the fiscal officer of the municipal corporation, each January and July, to certify to the Tax Commissioner a list of businesses located within the transformational major sports facility mixed-use project district.

Authorization to issue and sell bonds

- Authorizes the TOS to issue and sell bonds in the amount of up to \$600 million deposited to the credit of the Cultural and Sports Facilities Building Fund (Fund 7030) to pay the costs of the Cleveland Browns major sports facility stadium project in the City of Brook Park, Ohio.

Public improvements contracts

Electronic notices, advertisements, and filings

- Requires several types of notices or advertisements to be sent via electronic media.
- Requires FCC to make copies of the plans, details, estimates of cost, and specifications available electronically.
- Removes the requirement that a public authority file a notice of commencement of a public improvement in affidavit form.
- Permits a bidder for most contracts with the state or a political subdivision to file a bid guaranty by electronic verification through an electronic verification and security system, if the state or political subdivision accepts bids electronically.

Declaration of exigency

- Requires that, when the FCC Executive Director issues a declaration of public exigency at the request of a state agency, the director of the state agency, at the determination of the FCC Executive Director, must enter into a contract with the proper persons to address the exigency.

Building information modeling systems

- For public works contracts of \$200,000 or more, permits a public authority to require an architect or engineer, in preparing plans, details, specifications, estimates, analyses, or other data, to use a building information model system, if the system is based on a nationally recognized standard for building information models.
- Defines “building information model” as a digital representation of physical and functional characteristics of a facility, and electronic files used to design and coordinate the project, whether it is a single model or multiple models used in the aggregate.

Public improvements contracts retainage and escrow

- For partial payments on a public improvements contract, decreases the public authority’s required retainage amount from 8% of the contractor’s estimate to 4% or less, but repeals a provision requiring the public authority to retain 0% after the job is 50% completed.
- Prohibits contractors from paying subcontractors at a retainage rate lower than the rate being paid to the contractor by the public authority.
- Repeals provisions of law requiring the public authority to deposit the retained amount in an escrow account.
- Clarifies that retained funds and the interest accrued by the funds is property of the contractor, and must be paid to the contractor not later than 30 days after the substantial completion of the work.

Integrated project delivery contracts

- Permits public authorities to enter into integrated project delivery contracts with integrated project contractors for capital projects, using selection and evaluation processes similar to existing design-build firm and professional design services contracts.

Application, evaluation, selection, and negotiation

- Requires public authorities, for integrated project delivery contracts, to evaluate and rank each applicant contractor, considering each contractor’s proposed costs and qualifications, and enter into contract negotiations for integrated project delivery services with the highest ranked contractor.
- Requires the public authority, if it fails to negotiate a contract with the highest ranked contractor, to terminate the negotiations and move on to the second highest ranked contractor, and if that fails, the third, and so forth.
- Permits the public authority, if these subsequent negotiations fail, to select additional integrated project contractors to provide pricing proposals, or select an alternative delivery method for the project.

Project requirements

- Requires the integrated project contractor, before construction begins, to provide a surety bond to the public authority in accordance with rules adopted by the FCC Executive Director.
- Exempts integrated project delivery contracts from certain existing processes and requirements for capital contracts, replacing them with the bill's procedures.
- Requires integrated project contractors to establish criteria to prequalify prospective bidders on subcontracts, subject to the approval of the public authority and consistent with FCC rules.
- Requires the integrated project contractor to identify at least three prospective prequalified bidders (unless less than three exist), verified by the public authority, then solicit proposals from each bidder, under an open book pricing method.
- Clarifies that an integrated project contractor is not required to award a subcontract to a low bidder.
- Requires FCC to adopt rules related to integrated project contractors and subcontractors.

Expedited processes for design-build firms and managers at risk

- For contracts between public authorities and construction managers at risk or design-build firms, creates an expedited proposal and selection process for projects under \$4 million, adjusted biannually for the rate of inflation by FCC.
- Permits construction managers at risk or design-build firms, for contracts under \$4 million, to submit both an initial qualification proposal or statement along with a pricing proposal, instead of sending them in separate rounds.
- Requires the public authority to have a pre-proposal meeting with any such contractors who desire to jointly submit a statement or proposal and pricing proposal.
- Exempts these contractors from the requirement to submit a sealed bid to self-perform a portion of work before accepting opening any bids for the same work when the public authority requests a guaranteed maximum price proposal due at the time of selection.

School facilities assistance programs

Classroom Facilities Assistance Program

(R.C. 3318.032)

The bill changes the calculation of the portion of the basic project cost a school district must supply for its Classroom Facilities Assistance Program (CFAP) project from the greater of either the required percentage based on its equity ranking or an amount necessary to raise the school district's net bonded indebtedness to a prescribed level, to just the required percentage based on its equity ranking.

It also requires a district that opts to segment its classroom facilities needs the required percentage based on its equity ranking on the date the Controlling Board approves the first segment for both that segment and future segments.

Vocational school facilities assistance program

(R.C. 3318.40 and 3318.12)

The bill changes how the Facilities Construction Commission (FCC) allocates funding for the Vocational School Facilities Assistance Program. Specifically, it eliminates FCC's authority to annually set aside up to 2% of its aggregate funds to provide school facilities assistance to joint vocational school districts (JVSDs). Instead, the bill permits FCC to set aside a portion of its aggregate school facilities assistance funds each biennium to assist at least two JVSDs.

CTPD Construction Study Committee

(Section 733.50)

The bill establishes the Career-Technical Planning District Construction Study Committee to examine and make recommendations for creating an equitable and sustained funding model within FCC for career-technical planning district (CTPD) lead districts to build, renovate, and maintain career-technical education facilities.

The committee must consist of:

1. Two representatives from joint vocational school districts appointed by the Ohio Association of Career-Technical Superintendents;
2. Two representatives from comprehensive or compact career-technical districts appointed by the Ohio Association of Comprehensive and Compact Career-Technical Schools;
3. Two representatives from CTPD lead districts appointed by the Ohio Association for Career and Technical Education;
4. One representative from FCC;
5. One representative from the Governor's Office of Workforce Transformation;
6. One member of the Senate, appointed by the Senate President;
7. One member of the House, appointed by the Speaker.

The committee must:

1. Assess FCC's facilities funding regulations and processes for joint vocational comprehensive, and compact career-technical district and compare the processes for those of Ohio's K through 12 school facilities;
2. Identify barriers to flexibility for career-technical education facilities construction and renovation and propose solutions to mitigate those barriers;
3. Evaluate best practices in other states and jurisdictions that allow for greater flexibility for career-technical education facilities construction and renovation related to workforce development; and

4. Make recommendations for policy changes, funding mechanisms, and resources to enhance funding opportunities for career-technical education facilities construction projects, including a dedicated funding stream for career-technical education facilities.

The bill requires the committee to convene at least quarterly or as needed. FCC must provide administrative support to the committee. The committee must issue a comprehensive report on its findings and recommendations to the Governor and the General Assembly by June 30, 2026. The committee terminates when it submits its report.

Background

Several programs provide state assistance to school districts and other public schools in constructing classroom facilities. The main program, CFAP, is a graduated, cost-sharing program that provides each city, local, and exempted village school district with partial funding to address all of its classroom facilities needs. Because priority for state funding is based on a district's relative wealth, poorer districts were served first and received a greater amount of state assistance than wealthier districts will receive when it is their turn to be served. Each year, all districts are ranked into percentiles according to the three-year average adjusted tax valuations per pupil. A school district may divide the district's entire classroom facilities project under CFAP into discrete segments.

JVSDs are served by a similar program, the Vocational School Facilities Assistance Program. Other programs address the needs of particular types of districts and schools. Generally, they all operate on a cost-sharing basis.

Major sports facilities funding

(R.C. 123.28, 123.281, and 715.016; Section 287.80)

The bill creates the Major Sports Facility District Fund, to be administered by FCC, the proceeds of which must be used to support construction of major sports facilities in counties with a population of at least 1 million people, for the economic benefit of the state. The bill permits the use of state funds to pay up to 30% of the costs of a major sports facility, as long as certain conditions are met.

The bill authorizes the Treasurer of State (TOS) to issue and sell bonds in the amount of up to \$600 million, deposited to the credit of the Cultural and Sports Facilities Building Fund (Fund 7030) to pay the costs of the Cleveland Browns major sports facility stadium project in the City of Brook Park, Ohio, in Cuyahoga County.

Sports facilities definitions

The bill defines a "major sports facility" as a sports facility that meets the following criteria:

- The facility's primary purpose is to provide a site or venue for the presentation of events of a professional sports franchise that is committed to playing a majority of the franchise's home games at the sports facility for a period of at least 30 years after completion of the construction of the sports facility.

- The initial total estimated construction cost, excluding any site acquisition cost, is greater than \$1 billion.

A “professional sports franchise” is a member of the National Football League, Women’s National Football Conference, Women’s Football Alliance, Women’s Football League Association, National Hockey League, Professional Women’s Hockey League, Major League Baseball, Women’s Professional Baseball League, Major League Soccer, National Women’s Soccer League, National Basketball Association, Women’s National Basketball Association, or a successor of such an entity.

A “transformational major sports facility mixed-use project” is a mixed-use project that includes the construction of a major sports facility; integrates some combination of retail, office, hotel, residential, recreation, structured parking, or other similar uses into one or more mixed-use developments; has secured project funding from sources other than state funds of at least 60% of the total project cost; and is expected to generate increased state sales tax revenues.

A major sports facility mixed-use project also may include:

- Other projects supporting or relating to the major sports facility or the professional sports franchise, including portions of the project located on parcels of property that are noncontiguous with the primary site of the major sports facility mixed-use project, if the property is within Ohio, under the control of the professional sports franchise or the franchise’s affiliated entities or joint venture partners, and is within a ten-mile radius of the major sports facility;
- Any mixed-use project adjacent or relating to practice facilities for the professional sports franchise;
- Conference centers, concert, or other entertainment venues and facilities;
- Retail, food, restaurant, and beverage facilities, whether fixed or mobile;
- Parks and other public open spaces or facilities;
- Related on-site infrastructure necessary or desirable for all these elements for the major sports facility mixed-use project.

A “transformational major sports facility mixed-use project district” is the geographic area encompassing the land upon which the transformational major sports facility mixed-use project is located, as designated by a municipal corporation.

Major sports facility tax revenue definitions

The bill creates tax reporting requirements by which increased tax revenues of the major sports facility mixed-use project district may be measured.

First, the “base professional sports franchise state tax revenue” is calculated. It measures how much income, sales, and CAT tax revenue the professional sports franchise currently generates in its existing facilities. It is calculated by the Tax Commissioner in the calendar year occurring immediately before the calendar year in which the professional sports franchise plays its initial regular season home game in the new major sports facility.

Then, the “total major sports facility mixed-use project district state tax revenues” is calculated by determining the total aggregate state tax revenue generated in the territory of a transformational major sports facility mixed-use project district, including state tax revenues attributable to purchasing or leasing materials and items used in construction in the territory of a transformational major sports facility mixed-use project district, in a calendar year during the initial term of the applicable major sports facility lease.

The “incremental major sports facility mixed-use project district state tax revenues” is determined by subtracting base professional sports franchise state tax revenues from total major sports facility mixed-use project district state tax revenues in a calendar year, beginning with the calendar year in which the professional sports franchise plays its initial regular season home game in the major sports facility.

Finally, the “total incremental major sports facility mixed-use project district state tax revenues” is the sum of both of the total aggregate incremental major sports facility mixed-use project district state tax revenues during the initial term of the applicable major sports facility lease, and the total major sports facility mixed-use project district tax revenues received in the calendar years before the calendar year in which the professional sports franchise plays its initial regular season home game in the major sports facility.

A “major sports facility lease” is the lease or other agreement held by the professional sports franchise for the use of the major sports facility, the site of the major sports facility, or both.

State funding of major sports facilities

The bill permits state funds to be used to pay or reimburse up to 30% of the costs of a major sports facility if the following criteria are met:

- The major sports facility upon completion will be a part of a transformational major sports facility mixed-use project;
- FCC has received a satisfactory financial and development plan, including provision of 70% of the total initial estimated construction cost from sources other than the state, with at least 50% of the total from the professional sports franchise that plans to use the facility; and
- The General Assembly has specifically authorized, or appropriated money for, the construction of the major sports facility;

If state bond proceeds are being used, the following additional conditions must be met:

- The amount of increased state tax revenues is projected to be in excess of the total debt service of the state bonds for their initial term;
- The state or a state agency owns or has sufficient property interests in the major sports facility, which may include the right to use the major sports facility for the presentation of sport and athletic events to the public;
- The bonds have a maturity of not less than 25 years.

If state bond proceeds are being used for the major sports facility, TOS must deposit the total major sports facility mixed-use project district state tax revenues into the Major Sports Facility District Fund, which the bill creates for the deposit of sales, income, and CAT tax revenues attributable to the major sports facility mixed-use project district, to be used to pay debt service.

Additionally, if state bond proceeds are being used for the major sports facility, the professional sports franchise must deposit an amount equal to 8½% of the award into an escrow account, to be used to pay any deficits between tax revenues collected and the total bond amount, after the bonds are matured, or if the lease expires.

The bill permits the OBM Director to transfer funds from the Major Sports Facility District Fund to the Ohio Cultural Facilities Bond Service Fund, which the bill also creates, to be held as trust funds pledged to the payment of bond service charges.

Tax reporting requirements

The bill requires the governmental agency that owns or has an ownership interest in the major sports facility or its site to provide to TAX, monthly, a list of persons, including names and Social Security numbers, generating tax revenues in the territory of a transformational major sports facility mixed-use project district, including persons purchasing or leasing materials and items used in construction.

Every person who owns real property in a project district, or leases, licenses, uses, or operates all or a portion of a building or facilities in the project district, is subject to special reporting requirements as the governmental entity may require, in order to make the monthly report to TAX. These may be evidenced by an instrument duly recorded with the county recorder.

Each person doing business in a project district must file taxes and register for a separate withholding account, remitting the wages and salaries withheld from employees for activities performed in the territory of a project district separately from all income taxes withheld by the employer. If they collect transformational major sports facility mixed-use project district tax revenues, they must report those tax revenues separately from other tax revenues in Ohio, on forms provided by TAX, including estimated payments on corporate income taxes and gross revenues generated from the district. This includes tax revenues from construction or transactions in the territory of a project district, estimated payments for corporate income taxes generated from the project district, information regarding gross revenues generated from activities in the project district and gross revenues from all activities in Ohio, and payments to independent contractors attributable to construction or transactions in the territory of a project district, by January 31 of each year.

TAX must promulgate the forms necessary to implement and administer these requirements. The Tax Commissioner can disclose to the governmental agency taxpayer information regarding transactions, real or personal property, income, or business of any person as necessary to administer these provisions.

Rulemaking

The bill requires FCC, in consultation with TAX and OBM, to adopt rules that establish criteria for project evaluation and other necessary rules.

Municipal-designated districts

The bill permits the legislative authority of a municipal corporation located in a county with a population greater than 1,000,000 to declare one and only one area of the municipal corporation to be a transformational major sports facility mixed-use project district, and a public purpose, for the purpose of fostering and developing a major sports facility and economic development, if the following conditions are met:

- All territory in the district is contiguous;
- The legislative authority holds at least two public hearings concerning the creation of the district;
- The legislative authority receives a petition signed by every owner of a parcel of real property located in the proposed district, and the owner of every business that operates in the proposed district;
- The legislative authority determines that a transformational major sports facility mixed-use project will be located on the territory of the proposed district.

The legislative authority must certify the resolution or ordinance creating the district to the Tax Commissioner within five days of its passage or adoption, along with a description of district boundaries.

The legislative authority may enlarge the territory of an existing transformational major sports facility mixed-use project district in the same manner, except that the petition must be signed by every real property owner located in the area proposed to be added to the district.

Each real property owner in the proposed district must provide, or cause lessees, licensees, users, or operators to provide, to the governmental agency that owns or has an ownership interest in a major sports facility or its site, with the tax information which the governmental agency is required to report to the Tax Commissioner (see “**Tax reporting requirements**,” above). This may be evidenced by filing an instrument with the county recorder.

The fiscal officer of the municipal corporation, each January and July, must certify to the Tax Commissioner a list of businesses located within the transformational major sports facility mixed-use project district.

Public improvements contracts

Electronic notices, advertisements, and filings

(R.C. 9.312, 9.331, 153.07, 153.09, 153.54, and 1311.252)

The bill requires certain notices, advertisements, and filings to be made via electronic media, rather than through various physical media like newspapers.

Competitive bidding notices

For contracts let by competitive bidding, when a state agency or political subdivision finds that a low bidder is not responsive or responsible, the bill requires the state agency or political

subdivision to send the bidder a notice in writing by an internet identifier of record associated with the bidder (such as an email address), and by certified mail only if an electronic method is not available. Current law permits either method.

Public improvements notices and advertisements

For contracts to employ a construction manager or a construction manager at risk, the bill requires a public authority to advertise its intended contract by electronic means, and permits advertising in news media available in the county. Current law requires advertisement in a newspaper of general circulation, and permits electronic advertisement.

The bill requires the notice to be published at least 14 calendar days in advance, rather than 30 days.

For public improvements contracts, the bill requires the public authority to give notice of the time and place where bids will be received by electronic means at least 14 days in advance, and permits the authority to publish the notice in other news media in the county where the work is to occur. Current law requires publication in a newspaper at least eight days in advance.

The bill also requires plans, details, estimates of cost, and specifications to be available electronically.

When the public authority rejects all bids and re-advertises, the bill requires the advertisement to be in electronic media, rather than newspaper, as FCC directs.

Notices of commencement

The bill removes the requirement that the notice of commencement be in affidavit form.

Under current law, before work on a public improvement contract may begin, the public authority must file a notice of commencement of the work in affidavit form, with details about the work to be performed, the contractor, the public authority, and the bid guaranty.

Bid guaranties

The bill permits a bidder for most contracts with the state or a political subdivision to file a bid guaranty in the form of an electronic verification through an electronic verification and security system, if the state or political subdivision accepts bids electronically. Continuing law also permits the bidder to file it in the form of a bond, certified check, cashier's check, or letter of credit. Under continuing law, this requirement does not apply to contracts with construction managers at risk and design build firms.

Declaration of exigency

(R.C. 123.10)

The bill requires the director of a state agency, when the FCC Executive Director issues a declaration of public exigency at the request of the state agency, and at the determination of the FCC Executive Director, to enter into a contract with the proper persons to address the exigency.

Continuing law permits the FCC Executive Director, upon the Director's own initiative or at the request of the director of a state agency, state institution of higher education, or state instrumentality, to issue a declaration of public exigency in the event of one of the following:

- An injury or obstruction that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it;
- An immediate danger of such an injury or obstruction; or
- An injury or obstruction, or an immediate danger of an injury or obstruction, that occurs in any public works of the state and that materially impairs its immediate use or places in jeopardy property adjacent to it.

Current law requires the FCC Executive Director to enter into contracts with proper persons to alleviate or respond to the exigency.

The bill continues to require the FCC Executive Director to enter into these contracts when the FCC Executive Director issued the declaration of exigency at the Executive Director's own initiative. But the bill permits the FCC Executive Director, when the Executive Director issued the declaration at the request of one of the state bodies listed above, to require the state body to enter into the contract instead.

Building information modeling systems

(R.C. 153.01)

The bill permits a public authority, for public improvements contracts worth \$200,000 or more, to require an architect or engineer, in preparing plans, details, specifications, estimates, analyses, or other data, to use a building information model system, if the system is based on a nationally recognized standard for building information models.

The bill defines a "building information model" as a digital representation of physical and functional characteristics of a facility, and electronic files used to design and coordinate the project, whether it is a single model or multiple models used in the aggregate.

Public improvements contracts retainage and escrow

(R.C. 153.12, 153.13, 153.14, and 153.63)

The bill makes changes to the process by which contractors are paid for completing public improvements contracts.

Under current law, the public authority must pay 92% of the contract price for labor performed before and up to the point when the job is 50% completed. After it is 50% completed, the public entity must pay 100% of the contract price during the remaining 50% of the project, and deposit the 8% that had been collected into an escrow account. When the major portion of the project is substantially completed and occupied, or in use, or otherwise accepted, the retained amount, with accumulated interest, is released from escrow and paid to the contractor within 30 days of completion of the contract.

The bill changes this process in the following ways: first, instead of 8% being retained for the first half of the contract, 4% or less is retained for the entirety of the contract. The total amount being retained is the same, and perhaps less if the public authority so chooses.

Second, the bill removes the escrow account provisions, instead merely specifying that the public authority must release the amount to the contractor upon, and within 30 days of,

substantial completion of the work. The bill clarifies that the retained funds and the accrued interest are the property of the contractor.

Finally, the bill prohibits contractors from paying subcontractors at a retainage rate lower than the rate paid to the contractor by the public authority. For instance, if FCC is paying a contractor at a retainage rate of 97% (withholding 3%), the contractor is not permitted to pay a subcontractor at a retainage rate of 96% (withholding 4%). In other words, the contractor may not retain more from a subcontract than is being retained from the contractor's contract.

Integrated project delivery contracts

(R.C. 153.01, 153.50, 153.502, 153.503, 153.65, and 153.695)

The bill permits public authorities to enter into integrated project delivery contracts with integrated project contractors for capital projects, using selection and evaluation processes similar to existing design-build firm and professional design services contracts.

Integrated project delivery definitions

An integrated project contract is a contract for integrated project delivery, which the bill defines as a method to deliver a capital project through a multi-party agreement, executed by at least three parties, among a team comprised of a public authority, a professional design firm, and an integrated project contractor, commencing at early design and continuing through to project completion.

An integrated project contractor is a person with the ability to plan, coordinate, manage, direct, and execute all phases of a capital project through integrated project delivery, including the construction, demolition, alteration, repair, or reconstruction of any public building, structure, or other improvement.

Application and evaluation

The bill requires public authorities to evaluate the statements of qualifications submitted by integrated project contractors, and select at least three of the most qualified firms, unless the public authority determines in writing that fewer than three qualified firms are available.

Then, the public authority must provide each selected contractor with each of the following:

- A description of the project and project delivery;
- A preliminary project schedule;
- A description of any preconstruction services;
- A description of a target price, including the estimated level of design on which such target price is based;
- The form of the integrated project delivery contract, which must define target price, schedule, and quality of the project, establish collaboration and decision making processes, and share risk by linking compensation and incentives to project outcomes;

- A request for a pricing proposal that must be divided into a preconstruction and integrated project delivery services fee, must include at least a list of key personnel and consultants for the project, and must include a preliminary project schedule.

The public authority then must evaluate the pricing proposal submitted by each firm, and may hold discussions with each firm about the scope and nature of the proposed services and potential technical approaches.

The public authority then ranks the selected firms based on the public authority's evaluation, considering the proposed costs and the firm's qualifications, and enters contract negotiations with the contractor whose pricing proposal is ranked highest.

Selection and negotiations

During negotiations, the public authority must ensure that the contractor and the public authority mutually understand the essential requirements involved in providing the required integrated project delivery construction services, the provisions for the use of contingency funds, and the terms of the contract, including terms related to the possible distribution of savings in the final costs of the project. The public authority must also ensure that the contractor will be able to provide the necessary personnel, equipment, and facilities to perform the integrated project services within the time required by the contract.

The public authority must use an open book pricing method to attempt to agree upon a procedure and schedule for determining a target price for the project, which must include the cost of all work, the cost of its general conditions, the contingency, and the fee payable to the contractor.

If the public authority fails to negotiate a contract with the highest ranked contractor, it must terminate the negotiations and inform the contractor in writing, and move on to the second highest ranked contractor, and if that fails, the third, and so forth. If these subsequent negotiations fail, the public authority may select additional integrated project contractors to provide pricing proposals, or select an alternative delivery method for the project.

Public authorities may accept or reject any proposals in whole or in part.

Project requirements

Before construction begins, the integrated project contractor must provide a surety bond to the public authority in accordance with rules adopted by the FCC Executive Director.

FCC must adopt rules setting procedures and criteria for determining the best value selection of an integrated project contractor, standards the contractor must follow, and the form of the contract, including multi-party contracts with a professional design firm, and subcontracts.

Additionally, the bill exempts integrated project delivery contracts from certain existing processes and requirements for capital contracts, replacing them with the bill's procedures.

Under continuing law, public authorities entering into public works contracts must prepare full and accurate plans, details to scale and full-sized, definite and complete specifications of the work to be performed, a full and accurate estimate of each item of expense and the aggregate cost of those items of expense, a life-cycle cost analysis, and further data as

may be required by FCC. They also are required to post separate bids for plumbing and gas fitting; steam and hot-water heating, ventilating apparatus, and steam-power plant; and electrical equipment. And under continuing law, contracts with construction managers at risk and design-build firms are exempted from these requirements.

Subcontractors

The bill requires integrated project contractors to establish criteria to prequalify prospective bidders on subcontracts, subject to the approval of the public authority and consistent with the rules adopted by FCC.

For subcontracts, the integrated project contractor must identify at least three prospective prequalified bidders (unless less than three exist), verified by the public authority, then solicit proposals from each bidder, under an open book pricing method. An integrated project contractor is not required to award a subcontract to a low bidder.

This mirrors existing provisions for construction managers at risk and design-build firms.

Expedited processes for design-build firms and managers at risk

(R.C. 9.334, 153.501, and 153.693)

The bill creates an expedited proposal and selection process for contracts between public authorities and construction managers at risk or design-build firms, for projects under \$4 million, adjusted biannually for inflation by FCC, which number FCC must post on its website.

Under the expedited process, the construction managers at risk or design-build firms may submit both an initial qualification proposal or statement, respectively, and a pricing proposal in the same submission. Current law (and continuing law, in the case of contracts worth more than \$4 million), requires the manager or firm to submit a proposal or statement, then for the public authority to rank and select at least three firms from the submissions, who then must submit a pricing proposal. After the proposal is submitted, the public authority must hold discussions with each applicant before making a final selection.

The bill permits these contractors to submit both at once for contracts under \$4 million, and also requires a public authority to provide each such contractor using the expedited process with a pre-proposal meeting to explore the proposals further, in which the public authority provides the manager or firm with a description of the project, including the scope and nature of the proposed services and potential technical approaches.

Under the normal process, the manager or firm submits a proposal or statement of qualifications, is selected to move on, has a meeting with the public authority, and then submits a pricing proposal for final approval.

Under the expedited process, an interested manager or firm has a pre-proposal meeting with the public authority, then submits a proposal or statement of qualifications along with a pricing proposal. The public authority reviews the initial qualification proposal or statement, selects a certain number of managers or firms for the next round, reviews the pricing proposals only of those selected, and then continues the negotiation and selection process from there.

The bill also exempts these contractors from the requirement to submit a sealed bid to self-perform a portion of the work if the public authority requests a guaranteed maximum price proposal due at the time of selection. This essentially means that a manager or firm may more easily subcontract with themselves as long as they have agreed to a certain price cap.