

SENATE BILL REPORT

HB 1023

As of March 16, 2021

Title: An act relating to predesign requirements and thresholds.

Brief Description: Concerning predesign requirements and thresholds.

Sponsors: Representatives Steele, Tharinger, Callan and Young.

Brief History: Passed House: 2/26/21, 95-0.

Committee Activity: Ways & Means: 3/16/21.

Brief Summary of Bill

- Increases the threshold for non-higher education capital construction projects requiring predesign to \$10 million, which establishes the same threshold for all capital project types.
- Provides the Office of Financial Management (OFM) the authority to waive some or all predesign requirements on capital projects exceeding the \$10 million threshold.
- Requires OFM to notify the legislative fiscal committees of any waivers.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Richard Ramsey (786-7412)

Background: Predesign. Major state capital construction projects are subject to both codified and uncoded predesign requirements. The Office of Financial Management (OFM) incorporates these requirements into a predesign manual that outlines these requirements and related guidance for completing a predesign. Predesigns include identification of the problem the project would address, analysis of project alternatives, detailed analysis of the preferred alternative, and project budget analysis. Within these categories, predesigns also include building massing schemes, site planning, planning and

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regulatory analysis, risk assessment, and detailed consideration of the preferred alternative's programmatic use and planned occupancy of the facility.

Primary Codified Requirements for Major Capital Project. Completion of a predesign is required prior to OFM's approval of allotments for major capital projects valued over \$5 million, except for projects at institutions of higher education, for which the predesign requirement threshold is \$10 million. The predesign must include review of procedures for long-term cost reduction and increased facility efficiency. These procedures must include, but are not limited to, the following elements:

- evaluation of facility program requirements and consistency with long-range plans;
- utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and
- a requirement to incorporate value-engineering analysis and constructability review into the project schedule.

Uncodified Requirements. Uncodified requirements are also contained in the enacted 2019-21 capital budget. The uncodified predesign requirements are similar to those codified requirements discussed above, but contain a number of additional elements, including:

- a statement that predesigns are intended to ensure projects are carried out in accordance with legislative and executive intent;
- a definition of a project's total cost which includes predesign, design, and construction;
- a requirement for OFM's predesign review and approval prior to the expenditure or encumbrance of appropriations;
- a requirement that predesigns consider at least three distinct, viable alternatives;
- an exception process that enables OFM to waive predesign requirements after notifying the legislative fiscal committees and waiting ten days for comment by the Legislature regarding the proposed exception; and
- other analyses related to project costs, reasonableness, and cost-effectiveness.

Summary of Bill: The threshold for non-higher education capital construction projects requiring predesign is increased from \$5 million to \$10 million, which establishes the same threshold for all capital project types. OFM may waive some or all predesign requirements for capital projects that exceed the \$10 million threshold. When OFM exempts a project from some or all predesign requirements, it must also notify legislative fiscal committees of the waiver and provide an explanation, a project description, and a project cost estimate.

OFM must also consider the following factors in deliberations related to predesign waivers:

- whether there is any siting determination to be made;
- whether there is any determination to be made about the type of project work—new construction or renovation;
- whether the agency administering the project has completed, or initiated construction of, a similar project within the past six years;
- whether there is any planned change in the programming or service delivery at the

- facility;
- whether the agency requesting the project indicates that the project may not require some or all predesign requirements due to a lack of complexity; and
 - whether there are any other factors related to project complexity and risk, as determined by OFM, that could reduce the need for, or scope of, a predesign.

If some or all project predesign requirements are waived, the OFM may propose a professional cost estimate in lieu of a request for predesign funding. Other predesign-related thresholds are changed to conform with the adjustment of the predesign cost threshold.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The origin of this bill lies in the many hours of presentations and conversations about major project pre-designs. This bill reduces the cost to the state of conducting some pre-designs by increasing the state agency threshold for conducting pre-designs to \$10 million, the same threshold as applies for institutions of higher education. It does not preclude a pre-design; a pre-design could still be required if the complexity of a project warrants it. The bill does not change any of the requirements for green-build.

Persons Testifying: PRO: Representative Mike Steele, Prime Sponsor.

Persons Signed In To Testify But Not Testifying: No one.