

HOUSE BILL REPORT

HB 1023

As Passed Legislature

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:

Committee Activity:

Capital Budget: 1/19/21, 2/17/21 [DP].

Floor Activity:

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

Passed Senate: 4/5/21, 48-0.

Passed Legislature.

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 the OFM to notify the legislative fiscal committees of any waivers.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: Do pass. Signed by 23 members: Representatives Tharinger, Chair; Callan, Vice Chair; Hackney, Vice Chair; Steele, Ranking Minority Member; Abbarno, Assistant Ranking Minority Member; McEntire, Assistant Ranking Minority Member;

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Bateman, Dye, Eslick, Gilday, Kloba, Kraft, Leavitt, MacEwen, Maycumber, Mosbrucker, Peterson, Riccelli, Rule, Santos, Sells, Shewmake and Volz.

Staff: John Wilson-Tepeli (786-7115).

Background:

Predesign.

Major state capital construction projects are subject to both codified and uncodified 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. Broadly, predesigns include identification of the problem that the project would address, analysis of project alternatives, detailed analysis of the preferred alternative, and project budget analysis. Within these categories, predesigns also include: (a) building massing schemes; (b) site planning; (c) planning and regulatory analysis; (d) risk assessment; and (e) 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: (a) evaluation of facility program requirements and consistency with long-range plans; (b) utilization of a system of cost, quality, and performance standards to compare major capital construction projects; and (c) 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) a statement that predesigns are intended to ensure projects are carried out in accordance with legislative and executive intent; (b) a definition of a project's total cost which includes predesign, design, and construction; (c) a requirement for the OFM's predesign review and approval prior to the expenditure or encumbrance of appropriations; (d) a requirement that predesigns consider at least three distinct, viable alternatives; (e) an exception process that enables the OFM to waive predesign requirements after notifying the legislative fiscal committees and waiting 10 days for comment by the Legislature regarding the proposed exception; and (f) 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. The OFM may waive some or all predesign requirements for capital projects that exceed the \$10 million threshold. When the 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.

The OFM must also consider the following factors in deliberations related to predesign waivers: (a) whether there is any siting determination to be made; (b) whether there is any determination to be made about the type of project work (new construction or renovation); (c) whether the agency administering the project has completed, or initiated construction of, a similar project within the past six years; (d) whether there is any planned change in the programming or service delivery at the facility; (e) 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 (f) whether there are any other factors related to project complexity and risk, as determined by the 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.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) There are state costs related to requiring predesigns. Raising the threshold for non-higher education projects to the same threshold as is required for higher education projects creates efficiency and cost savings, and it updates the amount of the threshold to reflect inflationary changes.

(Opposed) Predesigns are important to capital project development. Predesign is critical for project planning, as well as balancing scope and budget. When good planning and communication between agencies and design professionals occurs, prior to design, efficiencies are created. Starting design without these steps, and therefore not being aware of all the design and development requirements, creates rework. However, the changes to the language of the bill since last session, when it was initially introduced, are appreciated. The increases to the cost thresholds in the bill reflect changes in the market since the

threshold was originally introduced.

Persons Testifying: (In support) Representative Steele, prime sponsor.

(Opposed) Walter Schacht, American Institute of Architects Washington Council.

Persons Signed In To Testify But Not Testifying: None.