

HOUSE BILL REPORT

HB 2936

As Reported by House Committee On: Capital Budget

Title: An act relating to predesign requirements and thresholds.

Brief Description: Adjusting predesign requirements and thresholds.

Sponsors: Representative Steele.

Brief History:

Committee Activity:

Capital Budget: 2/20/20, 2/25/20 [DPS].

Brief Summary of Substitute 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: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Tharinger, Chair; Callan, Vice Chair; Doglio, Vice Chair; Smith, Assistant Ranking Minority Member; Steele, Assistant Ranking Minority Member; Corry, Davis, Dye, Eslick, Gildon, Harris, Jenkin, Leavitt, Lekanoff, Maycumber, Morgan, Pellicciotti, Peterson, Riccelli, Santos, Sells, Stonier and Walsh.

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

Background:

Predesign.

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

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. 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 building massing schemes, site planning, planning and regulatory analysis, risk assessment, as well as 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 uncoded 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 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 Substitute 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 is provided the authority to 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, 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 is provided authority to 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.

Substitute Bill Compared to Original Bill:

The substitute bill removes permissive authority for agencies to waive some or all predesign requirements for capital projects that exceed the uniform \$10 million threshold established in the bill. Instead, the OFM is provided the authority to 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, provide an explanation, a project description, and a project cost estimate. The substitute bill converts a list of conditions under which agencies may waive some or all predesign requirements to a list of factors that the OFM must consider in deliberations related to predesign waivers. If some or all project predesign requirements are waived, the OFM is provided authority to 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 of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The predesign exemption process and the increased predesign cost threshold that would be provided under the proposed substitute bill are appreciated. These changes would provide the OFM with more flexibility in the capital project predesign process.

(Opposed) None.

Persons Testifying: Representative Steele, prime sponsor; and Jen Masterson, Office of Financial Management.

Persons Signed In To Testify But Not Testifying: None.