

**SENATE . . . . . No. 1427**

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The Commonwealth of Massachusetts

\_\_\_\_\_ **In the Year Two Thousand Nine** \_\_\_\_\_

An Act Creating flexibility in contracting for public construction..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Chapter 149A of the General Laws is hereby amended by inserting after  
2 section 14 the following section:-

3 Section 14A. Design-bid-build

4 Notwithstanding section 39M of chapter 30, for each contract for the construction,  
5 reconstruction, alteration, remodeling or repair of a public works project by an awarding  
6 authority and estimated by the awarding authority to cost not less than \$5,000,000, the awarding  
7 authority may utilize design-bid-build for the construction, reconstruction, alteration, remodeling  
8 or repair of any public works project pursuant to this section and sections 15 to 21, inclusive;  
9 but, before using the design build, the awarding authority shall seek the approval of the inspector  
10 general pursuant to section 16.

11 SECTION 2. Said chapter 149A, as appearing, is hereby amended by inserting after  
12 section 14A the following section:-

13 Section 14B. design-build-finance-operate-maintain

14 Notwithstanding section 39M of chapter 30, for each contract for the construction,  
15 reconstruction, alteration, remodeling or repair of a public works project by an awarding  
16 authority and estimated by the awarding authority to cost not less than \$5,000,000, the awarding  
17 authority may utilize design-build-finance-operate-maintain for the construction, reconstruction,  
18 alteration, remodeling or repair of any public works project pursuant to this section and sections  
19 15 to 21, inclusive; but, before using the design build, the awarding authority shall seek the  
20 approval of the inspector general pursuant to section 16.

21 SECTION 3. Said chapter 149A, as appearing, is hereby amended by inserting after  
22 section 14B the following section:-

23 Section 14C. design-build-operate-maintain

24 Notwithstanding section 39M of chapter 30, for each contract for the construction,  
25 reconstruction, alteration, remodeling or repair of a public works project by an awarding  
26 authority and estimated by the awarding authority to cost not less than \$5,000,000, the awarding  
27 authority may utilize design-build-operate-maintain for the construction, reconstruction,  
28 alteration, remodeling or repair of any public works project pursuant to this section and sections  
29 15 to 21, inclusive; but, before using the design build, the awarding authority shall seek the  
30 approval of the inspector general pursuant to section 16.

31 SECTION 4. Section 15 of aid chapter 149A, as appearing, is hereby amended by  
32 inserting after line 7 the following:

33 “Design-bid-build” a project delivery method in which the awarding authority  
34 sequentially awards separate contracts, the first for architectural and engineering services to

35 design an infrastructure facility and the second for construction of the infrastructure facility  
36 according to the design.

37 SECTION 5. Section 15 of said chapter 149A, as appearing, is hereby amended by  
38 striking out “Design build contract, a contract for a public works project between an awarding  
39 authority and a design build entity to furnish design build services,” from lines 10-11, inclusive  
40 and insert in place thereof the following:-

41 “Alternative delivery method contract “, a contract for a public works project between an  
42 awarding authority and an alternative delivery method entity to furnish design build, design-bid-  
43 build, design-build-operate-maintain or design-build-finance-operate-maintain services

44 SECTION 6. Section 15 of said chapter 149A, as appearing, is hereby amended  
45 by striking out “Design build entity, an individual sole proprietorship, firm, partnership, joint  
46 venture, corporation, or other entity that provides design build services,” from lines 12-13,  
47 inclusive and insert in place thereof the following:-

48 “Alternative delivery method entity”, an individual sole proprietorship, firm, partnership,  
49 joint venture, corporation, or other entity that provides design build, design-bid-build, design-  
50 build-operate-maintain or design-build-finance-operate-maintain services

51 SECTION 7. Section 15 of aid chapter 149A, as appearing, is hereby amended by  
52 inserting after line 9 the following:

53 “Design-build-finance-operate-maintain”, a project delivery method in which the  
54 awarding authority enters into a single contract for design, construction, finance, maintenance,  
55 and operation of an infrastructure facility over a contractually defined period. Money

56 appropriated by the State is not used to pay for a part of the services provided by the contractor  
57 during the contract period.

58 SECTION 8. Section 15 of said chapter 149A, as appearing, is hereby amended by  
59 inserting after line 9 the following:

60 “Design-build-operate-maintain”, a project delivery method in which the awarding  
61 authority enters into a single contract for design, construction, maintenance, and operation of an  
62 infrastructure facility over a contractually defined period. All or a portion of the money required  
63 to pay for the services provided by the contractor during the contract period are either  
64 appropriated by the State before the award of the contract or secured by the State through fare,  
65 toll, or user charges.

66 SECTION 9. Section 16 of said chapter 149A, as appearing, is hereby amended by  
67 striking out from the section heading the words “design build contract” and inserting in place  
68 thereof the following words:- alternative delivery method contract.

69 SECTION 10. Section 16 of said chapter 149A, as appearing, is hereby amended by  
70 striking out, in lines 1, 9, 14, 17, 24, 30, 32 and 42 the words “design build” and inserting in  
71 place thereof the following words:- design build, design-bid-build, design-build-finance-  
72 operate-maintain or design-build-operate-maintain.

73 SECTION 11. Section 17 of said chapter 149A, as appearing, is hereby amended by  
74 striking out, from the section heading and lines 2-3 the following words “ design build contract”  
75 and inserting in place thereof the following words:- Alternative method delivery contract.

76 SECTION 12. Section 17 of said chapter 149A, as appearing, is hereby further amended  
77 by striking out, from lines 5, 18, 19, 20, 32, 50, 53 the following words “design build entities”  
78 and inserting in place thereof the following words:- Alternative delivery method entities

79 SECTION 13. Section 17 of said chapter 149A, as appearing, is hereby further amended  
80 by striking out, from line 36 the following words “design build” and inserting in place thereof  
81 the following words:- design build, design-bid-build, design-build-finance-operate-maintain or  
82 design-build-operate-maintain.

83 SECTION 14. Section 18 of said chapter 149A, as appearing, is hereby amended by  
84 striking out, from lines 10, 13, 17 and 23 the following words “design build entities” and  
85 inserting in place thereof the following words:- alternative delivery method entities

86 SECTION 15. Section 18 of said chapter 149A, as appearing, is hereby further amended  
87 by striking out, from line 24 the following words “ design build contract” and inserting in place  
88 thereof the following words:- alternative delivery method contract.

89 SECTION 16. Section 19 of said chapter 149A, as appearing, is hereby amended by  
90 striking out, from line 1 the following words “design build entity” and inserting in place thereof  
91 the following words:- alternative delivery method entity.

92 SECTION 17. Section 20 of said chapter 149A, as appearing, is hereby amended by  
93 striking out, from lines 29 and 31 the following words “ design build entity” and inserting in  
94 place thereof the following words:- alternative delivery method entity.

95           SECTION 18. Section 20 of said chapter 149A, as appearing, is hereby further amended  
96 by striking out, from line 30 the following words “design build contract” and inserting in place  
97 thereof the following words:- alternative delivery method contract.