SENATE DOCKET, NO. 1210 FILED ON: 1/20/2011

SENATE . . . . . No. 1587

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act creating flexibility in contracting for public construction..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Brian A. Joyce	*Norfolk, Bristol, and Plymouth*

SENATE DOCKET, NO. 1210 FILED ON: 1/20/2011

SENATE . . . . . No. 1587

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1587) of Brian A. Joyce for legislation to create a performance management system for the Commonwealth. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1427* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

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

Section 14A. Design-bid-build

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

11 SECTION 2. Said chapter 149A, as appearing, is hereby amended by inserting
12 after 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
22 after 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
32 by 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
38 by 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
52 by 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
59 amended by 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
67 amended by striking out from the section heading the words "design build contract" and inserting
68 in place thereof the following words:- alternative delivery method contract.

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

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

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

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

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

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

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

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

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