

## HOUSE BILL NO. HB0126

Alternate construction delivery systems.

Sponsored by: Representative(s) Illoway, Latta, Nicholas  
and Ross and Senator(s) Cathcart and Coe

A BILL

for

1 AN ACT relating to cities, towns and schools; authorizing  
2 contracts for public improvements to be awarded based upon  
3 alternate construction delivery systems; modifying the  
4 school facilities commission duties; providing that the  
5 system be identified and project information be supplied;  
6 specifying applicable law; providing definitions; making  
7 conforming amendments; and providing for an effective date.

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9 *Be It Enacted by the Legislature of the State of Wyoming:*

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11       **Section 1.** W.S. 15-1-101(a) by creating new  
12 paragraphs (xv) through (xxii), by renumbering (xv) as  
13 (xxiii) and by creating a new subsection (b), 15-1-113(e)  
14 and by creating a new subsection (s), 16-6-701(a)(ii),  
15 21-15-111(a) by creating new paragraphs (viii) through  
16 (xiv) and by renumbering (viii) as (xv) and

1 21-15-114(a)(viii) by creating a new subparagraph (J) are  
2 amended to read:

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4 **15-1-101. Definitions and application.**

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6 (a) As used in W.S. 15-1-101 through 15-10-117:

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8 (xv) "Alternate delivery system" means a  
9 construction delivery system other than the traditional  
10 design bid build system that includes all the procedures,  
11 actions, sequence of events, contractual relations,  
12 obligations, interrelations and various forms of agreements  
13 needed for the successful completion of the design and  
14 construction of buildings, roads and structures;

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16 (xvi) "Construction delivery system" means the  
17 method used to construct public improvements pursuant to  
18 W.S. 15-1-113;

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20 (xvii) "Construction manager" means a  
21 construction professional who provides administration and  
22 management services to a governing body during design  
23 consultation and construction;

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1           (xviii) "Construction manager agency" means a  
2 construction delivery system where the construction manager  
3 has an administrative role throughout the project provided  
4 there is no common ownership between the architect or  
5 design firm and construction manager, and the governing  
6 body holds the trade contracts;

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8           (xix) "Construction manager at risk" means a  
9 construction delivery system where the construction manager  
10 shall bond a project, hold the trade contracts, may  
11 participate in the design and has the ability to execute  
12 the work;

13  
14           (xx) "Design bid build" means a construction  
15 delivery system where the work is bid based on detailed  
16 plans, specifications and contract documents;

17  
18           (xxi) "Design build" means a construction  
19 delivery system where a single contractor bonds a project  
20 and provides all services necessary to design and construct  
21 the project building, roads or other structures based upon  
22 a programmatic scope of work defined by the governing body;

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1            (xxii) "Job order contracting" means a  
2 construction delivery system where a contractor provides  
3 for minor construction, repair, rehabilitation or  
4 alteration of facilities when the work is of a recurring  
5 nature but the delivery times, type and quantities of work  
6 required are indefinite and the work does not exceed two  
7 (2) years;

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9            ~~(xv)~~ (xxiii) "This act", unless otherwise  
10 specified, means W.S. 15-1-101 through 15-10-117.

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12            (b) Unless otherwise specified, the provisions of  
13 this act shall apply regardless of the type of construction  
14 delivery system as defined under this section.

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16            **15-1-113. Contracts for public improvements.**

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18            (e) Before advertising for a bid for any work on the  
19 construction of any public improvements, the governing body  
20 shall determine whether the contract will be awarded under  
21 the design bid build system or an alternate delivery system  
22 as defined in W.S. 15-1-101. If the governing body decides  
23 that the contract will be awarded pursuant to the design  
24 bid build system, detailed plans and specifications shall

1 be prepared, together with an estimate of the probable cost  
2 and a form of the proposed contract. ~~Except as provided~~  
3 ~~under W.S. 16-6-701 through 16-6-706, no contract may~~  
4 ~~provide for the monthly retention of more than ten percent~~  
5 ~~(10%) of the contract price on the amount of work done~~  
6 ~~during the month, as shown by the estimate of the city or~~  
7 ~~town engineer or designated local official. No progress~~  
8 ~~payment may be made until the city or town engineer or~~  
9 ~~designated local official has furnished the estimate,~~  
10 ~~together with a certificate that the amount of work~~  
11 ~~estimated to have been done conforms in all material~~  
12 ~~respects with the requirements of the contract. A joint~~  
13 ~~powers board may designate an official of any member city~~  
14 ~~or town to perform the functions required by this~~  
15 ~~subsection.~~ If the governing body decides that the contract  
16 will be awarded pursuant to an alternate delivery system,  
17 the governing body shall identify the system to be used and  
18 provide sufficient information about the project to be  
19 constructed so that a bid can be submitted for the work.

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21 (s) Except as provided under W.S. 16-6-701 through  
22 16-6-706, no contract may provide for the monthly retention  
23 of more than ten percent (10%) of the contract price on the  
24 amount of work done during the month, as shown by the

1 estimate of the city or town engineer or designated local  
2 official. No progress payment shall be made until the city  
3 or town engineer or designated local official has furnished  
4 the estimate, together with a certificate that the amount  
5 of work estimated to have been done conforms in all  
6 material respects with the requirements of the contract. A  
7 joint powers board may designate an official of any member  
8 city or town to perform the functions required by this  
9 subsection.

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11 **16-6-701. Definitions.**

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13 (a) As used in this act:

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15 (ii) "Contractor" means any person who is a  
16 party to a contract with a public entity to construct,  
17 erect, alter, install or repair any highway, public  
18 building, public work or public improvement, structure or  
19 system regardless of the type of construction delivery  
20 system as defined under W.S. 15-1-101;

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22 **21-15-111. Definitions.**

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24 (a) As used in this act:

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(viii) "Alternate delivery system" means a construction delivery system other than the traditional design bid build system that includes all the procedures, actions, sequence of events, contractual relations, obligations, interrelations and various forms of agreements needed for the successful completion of the design and construction of school buildings and facilities;

(ix) "Construction delivery system" means the method used to construct school buildings and facilities pursuant to W.S. 21-15-114(a) (viii) (J);

(x) "Construction manager" means a construction professional who provides administration and management services to the commission and the school district during design consultation and construction;

(xi) "Construction manager agency" means a construction delivery system where the construction manager has an administrative role throughout the project provided there is no common ownership between the architect or design firm and construction manager, and the commission or the school district holds the trade contracts;

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(xii) "Construction manager at risk" means a construction delivery system where the construction manager shall bond a project, hold the trade contracts, may participate in the design and has the ability to execute the work;

(xiii) "Design bid build" means a construction delivery system where the work is bid based on detailed plans, specifications and contract documents;

(xiv) "Design build" means a construction delivery system where a single contractor bonds a project and provides all services necessary to design and construct the project based upon a programmatic scope of work defined by the commission and the school district;

~~(viii)~~ (xv) "This act" means W.S. 21-15-108, 21-15-109 and 21-15-111 through 21-15-121.

**21-15-114. Powers and duties; school facilities office created; director.**

(a) The school facilities commission shall:



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2 (viii) Enter into construction or renovation  
3 project agreements, as appropriate, with school districts.

4 The agreement shall:

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6 (J) Provide whether the contract will be  
7 awarded under the design bid build system or an alternate  
8 delivery system as defined in W.S. 21-15-111. If the  
9 commission and the school district identify an alternate  
10 delivery system, sufficient information shall be provided  
11 about the project to be constructed or renovated that a bid  
12 can be submitted for the work.

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14 **Section 2.** This act is effective July 1, 2003.

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(END)