

## Architects Support Bond Issuance

Legislation: *SB1450 (Barnes) HB1986 (Johnson C.)*  
*SB1517 (Norris) HB1988 (McCormick)*  
*SB1773 (McNally) HB2036 (Fitzhugh)*  
*SB1904 (Kyle) HB0314 (Fitzhugh)*

Position: The design and construction industry accounts for one in nine dollars of our Gross Domestic Product (12%). This industry has disproportionately suffered during our economic decline, with a downward spiral of 35-50% losses since 2008. McGraw-Hill Construction data indicates a decline of 43%. The loss of jobs has been catastrophic.

In this weak economy, there is no better investment than building. In addition to putting so many Tennesseans back to work, the cost of goods and services is also down between 20-40%. Previous price declines in metals, lumber and plywood have provided unprecedented value in new buildings and renovations.

Higher education is challenged as never before. The lottery bonanza that promises college educations to so many Tennesseans has stressed college campuses as never before. With record enrollment, colleges need buildings to educate and house these new students.

AIA Tennessee urges legislation to issue and sell direct general obligation interest-bearing bonds to be used for the purposes of capital outlay and maintenance.

Please support a bill that allows Tennessee to take advantage of low cost in leaner economic times.

## Architects Oppose Piecemeal Energy Legislation

Legislation: *SB1626 (Marrero) HB0096 (Hardaway)*  
*SB1701 (Burks) HB2033 (Curtiss)*  
*SB1702 (Burks) HB2032 (Curtiss)*  
*SB1586 (Marrero) HB1792 (Hardaway)*

Position: We support the creation of performance standards for both the public and private sector that protect the environment and conserve energy. In order to be effective, these standards must be created by the experts in state government as comprehensive policies and standards, and not piecemeal legislation. The expertise of the State Architect's Office and the State Building Commission are essential to environmental and energy policy and must be incorporated into any standards under consideration.

In addition to existing performance standards, Tennessee has adopted a family of building codes promulgated by the International Codes Council that regulates energy and conservation standards. Current bills threaten to undo this recent progress.

We oppose legislation that contradicts the experts in the State Architect's office and the State Building Commission and the International Codes Council.

### INTERESTING STUDIES RELATED TO GREEN BUILDING:

- The U.S. building sector has been shown to be the major consumer of fossil fuels and other sources of energy.
- A recent study completed by Lawrence Berkeley National Laboratory, the most definitive cost-benefit analysis of green buildings ever conducted, concluded that the financial benefits of green design are between \$50 and \$70 per square foot, more than 10 times the additional cost associated with energy efficient design.
- The large positive impact on employee productivity and health gains suggests that building sustainably has a cost-effective impact beyond just the utility bill savings.
- Studies have indicated that student attendance and performance is higher in high performance school buildings.
- A building's initial construction costs represents only 20-30 percent of the building's entire costs over its 30 to 40 year life, so emphasis placed on the life cycle costs, specifically operating expenses and occupant wellness, of a public building makes good sense, economically.

## Architects Oppose Licensure of Interior Designers

Legislation: *SB867 (Crowe)/HB1741 (Sontany)*

Position: AIA Tennessee works to strengthen collaboration among architects and allied professions in the design and construction industries and supports existing state licensure laws and rules that serve to protect public health, safety and welfare. Currently proposed interior design practice legislation raises many concerns for industry professionals as well as the public.

**FACT:** Proposed interior design legislation would create public health, safety and welfare risks.

The act would have negative implications for ADA accessibility compliance and life safety and egress of commercial spaces. The purpose of regulating a profession is to protect the public from incompetent practice by unqualified individuals.

**FACT:** Proposed legislation would lower the standard for the practice of interior design in Tennessee.

Minimum competency of interior designers is defined by the underlying standards of (1) CIDA for accreditation of ID degree programs, (2) the NCIDQ IDEP program for experience and (3) the NCIDQ examination. These standards would need to be analyzed to determine whether they adequately address the health safety and welfare issues impacted by proposed legislation. Currently, the proposed act provides a way to circumvent the established standards through grandfathering, providing no means for verification of the minimum competency of individuals who could become newly licensed.

**FACT:** Interior design practice acts have faced costly legal challenges in the few states that have adopted them.

In Alabama, an act was approved by the Legislature, and was held unconstitutional by the state supreme court in a decision that removed the regulating board. Florida's interior design act was declared unconstitutional in February 2010 through a court decision that created uncertainty for those attempting to practice interior design in the state.

**FACT:** Proposed legislation would cause state and local agencies to incur significant administrative costs.

Costs associated with the act would include state oversight and regulation of new requirements for the practice of interior design and modification to the approval process of local building officials. Additionally, the public may face increased costs for procuring interior design services that are currently not subject to state regulation.

**FACT:** Proposed legislation would create increased costs for interior designers.

The Act would require interior designers to comply with new state regulation including new fees. Interior designers would likely face increased liability insurance premiums under the act.

**PROPOSED SOLUTION:** AIA Tennessee will facilitate negotiations to address maintenance and remodeling projects through a rules change of the A/E Licensing Law.

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## Architects Oppose Limiting Bid Specification Changes

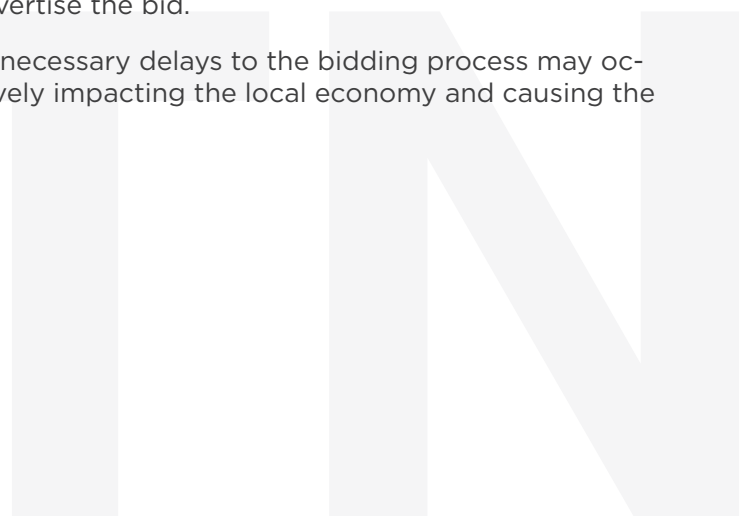
Legislation: *SB1042 (Ketron) HB965 (Curtiss)*

Position: AIA Tennessee opposes this legislation. As introduced, the bill would limit changes of any kind to bid specifications or bid requirements within 48 hours of the bid opening or acceptance.

Responsible design and contracting firms have business practices and procedures that govern how the bidding process is managed. Legal mandates have totally unnecessary and may have unintended consequences. It is not in the best interests of the owners, the design community or contractors.

Frequently, new information needs to be communicated to prospective bidders within the 48 hour time period prior to bid opening. This new information may be the result of questions that potential bidders have asked in order to clarify the terms of the bid. With many jurisdictions, including the state, postponing a bid is not a simple process and may delay the bid opening for several weeks due to requirements to re-advertise the bid.

If the legislation is passed, unnecessary delays to the bidding process may occur, delaying projects, negatively impacting the local economy and causing the loss of jobs.



## Architects Oppose Legislation to Restrict Contracts for Services

Legislation: *SB1041 (Ketron) HB478 (Curtiss) Please vote 'NO.'*

Position: This bill requires state agencies who wish to contract with outside entities for services to certify that no state employee in the department is capable of doing the work and that no vacant positions which might be filled by individuals who could perform the work exist.

State employees who are professionals manage and process this work as the owner's representative. The issue is not whether they are qualified to do the work, because they all should be, the issue is the separation between responsibilities. The quantity, quality and diversely experienced personnel required to provide all design for state projects—highways, hospitals, high-rise office buildings, data processing centers, day care centers, schools, bridges, storage for hazardous materials, dams—boggles the mind. State employees need to be free to look out for the departments they represent and be removed from the responsibility and details of design.

We urge you to trust the wisdom of the State Building Commission which has spent the past 60 years developing procedures for the design and construction of state buildings. The procedures that are currently in place and those being continually developed and updated work well and will continue to work better provided that the trusted state employees responsible for this work are not shackled with this additional responsibility.

AIA Tennessee supports state and local procurement policies that provide for the selection of design firms that best meet all substantive requirements for a project, including managerial and technical capabilities, related experience, state licensure requirements and adequate local project support.

## CONCERNS ABOUT SB1916/HB1132

Legislation: *SB1916/HB1132*

Position: We have been very reluctant to oppose this bill because we fully recognize the difficulty in obtaining financing for schools—or any building program at all. We further recognize the tremendous need for either new or renovated schools across the state; and we have urged that new buildings can be more economically built today because costs have gone down in the past two years; and putting architects and builders back to work is good for the economy. However, we have learned from school authorities and from architects that this leaseback process creates far more problems than would be solved, including:

- First of all, the basic premise is flawed. Adding two profit centers--developer and construction manager--would either increase the cost of the school or reduce the building quality. Developers do not have a magic wand that allows them to build more cheaply than any other entity. While schools can avoid the initial capital outlay for school construction, their overall costs will be increased.
- This process could encourage irresponsible budgeting as bond limits are imposed based on the ability of the municipality to repay the debt. Adding a second means of financing could allow school systems to spend beyond their ability to pay back their indebtedness.
- Government has accepted the challenge and responsibility for providing quality public education. Turning over responsibility for the student's physical environment to a private profit center is simply wrong, especially since Tennessee does not have state-wide design standards for schools. (Some communities have recognized the importance of quality building and created their own standards.)
- Liability insurance experts have also advised us of increased claims exposure for architects and engineers, derived from inexperienced, underfinanced developers providing project direction.
- Typical square footage costs for a school range from \$120-150 per square foot, depending upon the location and local market conditions. Currently proposed school projects have a stipulated per square foot cost of less than \$100. Quality design and construction, an appropriate environment for Tennessee's students and code compliance simply cannot be executed with a cost reduction of 20-50%.
- More important, a study of life cycle costs of a school, conducted by school authorities, yields the following information: design/construction accounts for 9% of the total cost; maintenance accounts for 50%. Cost cutting on the front end rarely benefits the school program in the long run.
- The Tennessee State Fire Marshal and the International Building Code view schools, day care facilities and facilities for the aged as buildings for our most vulnerable populations—children and senior citizens. These types of cost cutting pressures put these populations at risk.
- The life of the building and its components is a sustainability and maintenance concern. How does this fit in a lease arrangement? At the end of the lease term, will the school system be faced with a building that is not fit for occupancy?

## CONCERNS ABOUT SB1916/HB1132 (continued)

- Architects who participate in this process must provide basic design services without payment. Only the architect selected is paid for his/her services—a business model that will put architects out of business if widely embraced.
- Brown Academy, Chattanooga, TN: unforeseen conditions are a reality in any building project. Brown Academy was hindered by soil conditions that added significantly to the project cost. Since the developer was locked into a guaranteed price, building components were sacrificed; and the finished building was sub-par.
- UT Chattanooga Student Housing: 1,000 apartments were built based on a developer-leaseback arrangement, with UT Chattanooga owning the apartments after twenty years' of rent and maintenance being paid. Unfortunately, the apartments are wood frame construction, and the buildings cannot sustain 20 years' heavy use by students.
- East Tennessee State University in Johnson City used a similar, developer led process in the late 1990's to build an apartment style dormitory complex. The complex was poorly built, had very lax specifications and has been an ongoing maintenance problem ever since. The university has stated that they will never use this process again.
- The proposed arrangement, placing the developer rather than the school board with oversight of the architect, inserts a third party between the school system's needs and the building design. This will invariably lead to cost being the driving factor in the process rather than the well being of the students.

For all the reasons cited above, we respectfully suggest that this bill be amended to create a one-time pilot study of the Carter School project with a report back to the General Assembly about the long term viability of such an approach.

## Architects Support Qualifications Based Selection (QBS)

**Legislation:** Davidson County Resolution RS2011-1705 ([Full Text](#))

**Position:** Governments are increasingly challenged to meet expectations with a deteriorating economy and a deteriorating infrastructure. Understandably, contracting officers are seeking more efficient and cost effective ways of operating. However, choosing professional services based on the lowest cost is not smart business or smart government. Consider:

2008 Study conducted by American Public Works Association (APWA) determined:

- QBS is the most competitive and cost effective process for owners.
- Procuring the most qualified design services at a reasonable price results in projects completed on time and on budget.
- Enhances Product Effectiveness. The QBS process emphasizes design capability and experience, and the effect that these attributes can have on safety, function, performance, constructability and life cycle costs of facilities. The initial cost of design is outweighed by the final product performance that results from good design solutions.
- Addresses Incomplete Scope - QBS allows design professionals to provide input to the evolution of the design solution and provide owners with options for completing the project prior to a final price being budgeted.
- In summary, according to APWA, projects incorporating the QBS procurement method outperform the national average in traditional measures and exhibit positive results in emerging areas. The combination of these results indicates that QBS should be the procurement method of choice for contracting entities. The combination of historical success with continued positive performance should dissuade contracting entities from abandoning this procurement method. The factors that prompted the passage of the Brooks Act have not changed. Rather, the increasing number of factors that design firms must address reinforces the need for Qualifications-Based Selection.

A 1996 study by School Planning and Management determined that initial design and construction costs of a school are only 11% of the building's lifetime expenses. The breakdown:

- Initial construction: 11%
- Alterations & Renovations: 23%
- Long term financing: 16%
- Maintenance & Operations: 50%

Clearly, quality design and construction will have a major impact on maintenance and operations and represent an excellent investment.

**The Reality of Bidding:** a system that simply seeks the cheapest design cost is bound to produce lower quality projects – not every time, but most of the time. A design firm's approach to a project must change when fee becomes a major criterion for selection. These firms may develop a means of cutting their time on a project by minimizing the level of service such as:

- Using less experienced personnel and evaluating fewer alternatives.
- Developing plans with minimal details that often require much layout and decision making in the field.
- Selecting systems that are easiest to design as opposed to selecting those that are the most economical and cost-effective for the owner over the life of the project.
- On a structural project, designing only the most heavily loaded members and

## Architects Support Qualifications Based Selection (QBS)

(Continued)

then repeating these conservative member sizes throughout, resulting in oversizing of most members.

- Providing minimal review of drawings and observation of the work during construction, leaving the owner with lower quality construction and higher maintenance costs.

**Qualifications is the solution.** A QBS process allows the owner to choose the firm determined to be most qualified by objective criteria, whereas selecting design professionals by low bid takes this process out of the hands of the owner. The owner's challenge is to get a good return on investment. This is achieved by selecting a qualified A/E and negotiating the appropriate scope and compensation to permit the A/E to work toward a successful constructed project.

QBS has the advantages that a well qualified firm is selected; scope of work is satisfactory to both parties; a mutually agreed on price is paid for the services; a team approach between the owner and consultant can be developed so that both parties have an interest in the project's success.

47 states and the federal government have found qualifications based selection to be the preferred and most efficient way of purchasing architectural and engineering services.

Groups who endorse or support the QBS process include:

- American Institute of Architects
- American Council of Engineering Companies
- National Society of Professional Engineers
- American Public Works Association
- American WaterWorks Association
- American Bar Association
- Associated General Contractors of America

**Note:** Information for this report was gleaned from published reports from the American Institute of Architects, American Council of Engineering Companies, American Public Works Association and School Planning and Management.