

LUTHER L. LIGGETT, JR.
ATTORNEY AT LAW

May 14, 2025

Hon. Andrew O. Brenner, Senator
Chair, Senate Education Committee
Senate Building, Room 140
Columbus OH 43215

Brenner@ohiosenate.gov
Rachel.Tracy@ohiosenate.gov
Quinne.Naegeli@ohiosenate.gov

RE: HB 96, Construction Industry Amendments

Dear Senator Brenner:

On behalf of the American Institute of Architects, Ohio Society; the Ohio Chapter of the American Society of Landscape Architects, and the National Electrical Contractors Association, Toledo Chapter, these associations request that the amendments to public works construction law in Substitute House Bill 96 Budget provisions be deleted.

None of these provisions relate to appropriations. The provisions are substantive law which require stand-alone consideration and full debate. Our trade associations object to the substance, but have no real opportunity to develop our concerns given the nature of the budget process.

Enclosed is a one-page summary of the construction provisions in the legislation. I am pleased to meet with you or to discuss by phone any details.

Thank you for your consideration.

Sincerely,

/s/ Luther L. Liggett, Jr.

Luther L. Liggett, Jr.

lll/encl.

5053 GRASSLAND DRIVE, DUBLIN, OHIO 43016
614-561-2892 LIGGETT@COLUMBUS.RR.COM

May 14, 2025, Substitute House Bill 96 as Passed by the House
Construction Industry Language Removal

Integrated Project Delivery (IPD)

[Public indemnification violates debt prohibition, Constitution, Article II, Section 22]

R.C. 153.01(B)(1), line 15806, page 555

R.C. 153.50, line 16102, page 565

R.C. 153.502, line 16142, page 567

R.C. 153.503, line 16192, page 568

R.C. 153.65(J), line 16563, page 581

R.C. 153.695, line 16708, page 586

Best Value Selection [Pricing violates prohibition R.C. 153.691]

R.C. 9.334, line 1669, page 56

R.C. 153.693, line 16590, page 581

Building Information Modeling (BIM) [“Contract Document unsealed blueprint]

R.C. 153.01(A), line 15793, page 555

Construction Manager Self-Performance [Conflict of Interest]

R.C. 153.501, line 16138, page 566

Public Exigency [Exempts from law]

R.C. 123.10, line 8785, page 300

Electronic Advertisement [Lack of actual notice]

R.C. 9.331, line 1643, page 55

R.C. 153.07, line 15816, page 556

R.C. 153.09, line 15883, page 558

Mechanics’ Liens [No consensus]

R.C. 1311.04, line 29165, page 1014; line 29408, page 1022; line 29411, page 1023

R.C. 1311.252, line 29453, page 1024

Ohio Basic Building Code Exception [Vetoed in HB 33, 2023]

R.C. 3737.83(G), line 76805, page 2657



March 18, 2025

Mr. Craig Weise, Chief of Projects
Ohio Facilities Construction Commission
30 West Spring Street, 4th Floor
Columbus, OH 43215

Re: HB96 Budget Bill Proposed Changes

Dear Mr. Weise,

On behalf of the members of AIA Ohio, a Society of the American Institute of Architects, we wish to express our concern on proposed language contained in House Bill 96. These proposed changes directly affect the work of the Ohio Facilities Construction Commission (OFCC) and as proposed, may significantly alter the way design and construction services are provided for public entities in the state of Ohio.

Retainage Reform (HB 96, Line 12512): AIA Ohio SUPPORTS the retainage reform. This language simplifies the retainage formula and makes retainage fair for all parties involved.

AIA Ohio is, however, opposed to language in other areas of the bill. The issues we oppose are as follows:

Integrated Project Delivery (IPD, HB 96, Line 13212): AIA Ohio OPPOSES the inclusion of Integrated Project Delivery as a public project delivery method in Ohio. We do not believe that IPD has been tested in the private sector to the degree necessary to include it as part of an approved delivery method in the public sector. Shared financial risk, insurability of the parties involved, and relationships necessary to execute a project via IPD have not been fully discussed in the public realm.

Building Information Modeling (BIM, HB 96, Line 12304): AIA Ohio OPPOSES the option to require the use of Building Information Modeling (BIM) in public projects. While BIM may be appropriate for some services, it is not appropriate for all. Additionally, based on our understanding of the sealing requirements of the Ohio Architects Board, there are concerns as to how the submission of BIM documents may be provided to the OFCC and still meet the licensing

AIA Ohio
400 W. Wilson Bridge Rd., Ste. 120
Worthington, OH 43085

(614) 221 0338

www.aiaohio.org

board requirements. These concerns, plus added costs to the design professionals, cause us to oppose the proposed language.

Best Value Selection (BVS, HB 96, Line 758): AIA Ohio OPPOSES combining RFQs and RFPs for Best Value Selection. By combining the RFQ and RFP steps into a single process, we believe that BVS for projects under \$4 million violates the intent of Qualification Based Selection(QBS). By combining this process from one of qualifications to a submission of both qualifications and price, the focus on best qualified service providers is lost.

For the reasons stated, we are opposing the above three proposed OFCC related changes in HB96 and ask that these changes be removed from consideration.

Respectfully submitted,

A handwritten signature in black ink that reads "David L. Robar." The signature is written in a cursive, slightly stylized font.

David L. Robar, AIA, NCARB, IIDA
Chair, AIA Ohio Government Advocacy Committee



Craig A. Weise, Chief of Projects
Ohio Facilities Construction Commission
30 West Spring Street, 4th Floor
Columbus OH 43215

RE: HB 96 Budget Bill Proposals

Dear Craig:

On behalf of the Ohio Chapter, American Society of Landscape Architects, this is to comment on the language contained in House Bill 96, the Budget, including the Ohio Facilities Construction Commission proposed substantive language related to the construction industry.

HB 96 Lines 12306 and 12514. "Architect or Engineer" is still being used in place of "Design Professional" as we had adjusted on the OFCC Request for Qualifications Form.

Building Information Modeling. While Building Information Modeling is commonly used for the development of construction documents, the models that it produces are not currently capable of being constructed to a level of accuracy that would be acceptable for use as a contract document. We therefore recommend that BIM models are not considered to be contract documents.

Integrated Project Delivery: Integrated Project Delivery requires that there is a multi-party agreement between the owner, design professional, and contractor where the financial risk and reward is shared by all three parties. We cannot foresee a scenario in which a public authority would be willing to share financial risk and reward with the design professional and contractor. We therefore recommend that the language either be clarified to ensure that all three would share financial risk and reward, or that it is not added as a project delivery method.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Boyer", with a stylized flourish at the end.

Doug Boyer, ASLA, PLA



727 Lime City Road, Suite 100 Rossford, OH 43460

March 10, 2025

Hon. Jerry Cirino, Chair
Senate Finance Committee
Senate Building, Room 127
Columbus OH 43215

RE: HB 96 Budget Bill Proposals

Dear Senator Cirino:

On behalf of the National Electrical Contractors Association, Ohio Michigan Chapter, this is to comment on the language contained in House Bill 96, the Budget, including the Ohio Facilities Construction Commission proposed substantive language related to the construction industry.

1. NECA opposes the Integrated Project Delivery that the Associated General Contractors also opposes, HB 96, Line 13212.
2. NECA opposes the Best Value Selection that the Associated General Contractors also opposes, HB 96, Line 758.
3. We support the Retainage Reform that the Associated General Contractors also supports, HB 96, Line 12512.
4. We oppose the Indefinite Quantity Indefinite Delivery proposal. This will commoditize our work and it is not a good fit. This would ask a standard price for any level of quantity such as installing electric plugs. The problem is that it costs us a lot more to mobilize to put in two boxes rather than 200 and putting them in concrete walls rather than wood studs is also different in our costs, HB 96, Line 12354.
5. We oppose the BIM method. Though this is a good method we are concerned that it would limit bidders who do not use BIM. Additionally, we are concerned that even for BIM contractors they would not start with full and proper plans and specifications

making it much harder for us to get needed change orders when changes happen after the bid, HB 96, Line 12304.

6. We oppose the self-performance language. We feel this is just a method to allow public owners to pick their favorite contractor and circumvent awarding to the lowest responsive bidder.

Thank you for your consideration.

Sincerely,



Todd Michaelson, Executive Director
Ohio/Michigan Chapter NECA

DB / Cc: Interested Parties



Bryan Williams

To: Joy.Bledsoe@ofcc.ohio.gov Cc: Craig.Weise@ofcc.ohio.gov ?

Thursday

Integrated Project Delivery

Director Bledsoe,

The ABC of Ohio legislative committee examined all the “integrated project delivery” (IPD) information provided by your team. After consideration, we recommend the removal of the legislative proposal currently in HB 96 (budget amendment attached).

We make this request for the following reasons:

- **Insufficient need.** At the moment IPD seems to solve a problem that is not yet demonstrated. The stated goal is increased collaboration which will result in less litigation and faster delivery. Whether Ohio’s procurement process lacks acceptable collaboration or has extensive delivery delays has not been documented.
- **Insufficient detail.** The budget language allows OFCC to establish IPD but does not provide sufficient detail defining IPD is or how it is to be implemented. For example, key questions of contract privity and bonding impact are completely unaddressed in the proposal.
- **Insufficient collaboration.** ABC appreciates the four IPD discussions held to date with numerous construction constituencies. These discussions revealed numerous important unanswered questions. The IPD proponents in these meetings were all private sector and not able to address unique public sector construction questions.

ABC recommends OFCC continue to convene an IPD study work group that can more fully address the unanswered questions and result in drafting legislation with greater clarity – *legislation your industry partners can support because they understand the benefits and the implementation requirements.*

We look forward to hosting your department at our May 27 Columbus legislative conference. At this meeting many experienced contractors will be on hand to listen, learn and advise.



Bryan C. Williams

Director, ABC of Ohio

(614) 359-4846

bwilliams@abcfohio.org

www.ABCofOhio.com  





OHIO HOUSE FINANCE COMMITTEE
SUB.HOUSE BILL 96
Construction Industry's Opposition to the Bill's
Integrated Project Delivery Systems Provisions

Chair Stewart, Vice Chair Dovilla, Ranking Member Sweeney, and Representatives on the Ohio House Finance Committee:

The following organizations – Associated General Contractors of Ohio, ACT Ohio, Central Midwest Carpenters, Construction Employers Association, Mechanical Contractors Association of Ohio, chapters of the National Electrical Contractors Association, Ohio Contractors Association, Ohio Operating Engineers Local 18 – would like to share our opposition to the provisions in Substitute House Bill 96 that would codify integrated project delivery as a procurement method for public building construction. The proposal is contained under Ch. 153.65, 153.695 and referenced throughout the bill. We urge you to remove the language.

Integrated Project Delivery is a construction delivery method involving a contractual arrangement among a minimum of the owner, constructor, and design professional, seeking to align the business interests of all parties. All IPD stakeholders (owner, contractor, designer) have shared risk that compels collaboration by tying stakeholder success to project success.

IPD is an extremely complex delivery system. It is used sparingly in the private sector with varying results; **it is not used for public projects in other states or by the federal government.** On February 24, the Ohio Facilities Construction Commission (OFCC) held its first meeting to learn more about IPD and to educate interested parties. **Codifying IPD before understanding the delivery method, whether it is feasible in the public sector, and how it would function within Ohio's public procurement laws that protect taxpayer dollars would be irresponsible.**

Some concerns with Integrated Project Delivery are highlighted below.

UNTESTED IN THE PUBLIC SECTOR: No state permits IPD as a public procurement method, and the federal government does not use it. While IPD is sometimes used in large private projects with mixed results, some state and federal procurement entities apply its principles with more commonly used delivery methods like design build.

A BLANK CHECK FOR PUBLIC OWNERS: Under IPD contracts, public owners share financial risk with design and contractor partners who lack cost-control incentives. This exposes taxpayer dollars to a greater risk of cost overruns than traditional project delivery methods.

LACK OF PUBLIC TRANSPARENCY AND OVERSIGHT: IPD's integrated approach reduces transparency with financial and contractual decision-making, making public oversight more challenging.

LACK OF ACCOUNTABILITY: The collaborative nature of IPD means all primary stakeholders, including the owner, share the cost of design flaws, project delays, budget excess, construction defects, etc.

CONFLICTS WITH COMPETITIVE PROCUREMENT LAWS: Ohio law requires competition to ensure fairness and cost-effectiveness. IPD relies on the early selection of project partners based on collaboration, with little to no consideration of costs.



INCREASED LEGAL COMPLEXITY: IPD's shared-risk, shared-reward contract structure does not align with existing public procurement laws and could introduce legal uncertainties for state agencies and the design and construction project partners.

BONDING AND INSURANCE DIFFICULTIES: Obtaining bonding and insurance for IPD projects is extremely difficult due to a lack of clear risk assignment, performance bond complications, limited market familiarity, the potential for higher costs, etc.

CHALLENGES WITH PUBLIC AGENCY CULTURE: Public entities' bureaucratic structures hinder the quick decision-making needed for successful IPD. For these reasons, most public owners have not realized the efficiencies in other codified delivery systems like design build and construction management at risk.

The construction industry opposes codifying integrated project delivery until its use in public construction is thoroughly vetted and there is broad consensus of its viability for public procurement in Ohio. We urge you to remove the integrated project delivery provisions from the budget.