



# State of Tennessee

## PUBLIC CHAPTER NO. 106

### SENATE BILL NO. 779

By Johnson, Stevens, Bowling

Substituted for: House Bill No. 923

By Lamberth, Gant, Carr, Whitson, Carter, Hardaway

AN ACT to amend Tennessee Code Annotated, Title 54, Chapter 1, relative to the construction manager/general contractor services method for the delivery of transportation projects.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 54-1-501, is amended by deleting the section and substituting instead the following:

(a) Notwithstanding any other law to the contrary, the department is authorized to use the project delivery method of construction manager/general contractor (CM/GC) services. The CM/GC method allows the department to engage a construction manager during the design process to provide input on the design. During the design phase, the construction manager provides advice, including, but not limited to, constructability review, scheduling, pricing, and phasing to assist the department in designing a more efficient and well-designed project. The construction manager/general contractor may subsequently construct the project if the department and the CM/GC reach agreement on a guaranteed maximum price for construction.

(b) The department will select CM/GC projects based upon generally accepted industry criteria that include factors such as fostering innovation, mitigating risk, improving design quality, improving cost control, and optimizing construction schedules. Projects suited for the CM/GC process include instances where the department needs feedback during the design phase due to complex components that require innovation. Other projects that are suited for CM/GC are projects that have public involvement, third-party considerations such as acquisition of right-of-way or utility relocation issues, or other factors that impact the overall schedule. Projects not suited for the CM/GC process include routine maintenance and resurfacing projects or other construction projects that present a low level of technical complexity, a low level of risk management, and simple traffic phasing, and that do not have any compelling need for project acceleration.

(c) Before using the CM/GC method of project delivery, the commissioner shall send written notice to the chair of the transportation and safety committee of the senate and the chair of the transportation committee of the house of representatives. The written notice must identify the project and the reasons for deciding to use the CM/GC method.

SECTION 2. Tennessee Code Annotated, Section 54-1-503, is amended by deleting the section and substituting instead the following:

The department's authority to use the CM/GC method as provided in this part is subject to the following limitations:

(1) If a proposed CM/GC contract has a total estimated contract amount in excess of seventy million dollars (\$70,000,000), then the department shall specifically identify the project as a proposed CM/GC project in the transportation improvement program submitted annually to the general assembly in support of the commissioner's annual funding recommendations; and

(2) The cumulative cost of the CM/GC projects awarded in any single fiscal year must not exceed twenty-five percent (25%) of the total amount of construction contract awards made in the previous fiscal year, except as the general assembly may otherwise approve in accordance with the annual appropriations act.

SECTION 3. Tennessee Code Annotated, Section 54-1-504(1)(C), is amended by deleting the subdivision and substituting instead the following:

(C) In addition, the commissioner shall appoint three (3) members who are not employees of the department, all of whom must be residents of this state, with one (1) member appointed from and residing in each grand division of the state. At least two (2) of these three (3) members must have a minimum of ten (10) years of construction or highway engineering design experience, and at least one (1) of these two (2) members must have a valid professional engineering license. The other one (1) of these three (3) members must have either a minimum of ten (10) years of construction or highway engineering design experience or a minimum of five (5) years of employment experience in a banking, finance, accounting, surety, or insurance position.

SECTION 4. Tennessee Code Annotated, Section 54-1-504(2)(B), is amended by deleting the language "For the purposes of the pilot program, the" and substituting instead the word "The".

SECTION 5. Tennessee Code Annotated, Section 54-1-504(4), is amended by deleting the language "IV" wherever it appears and substituting instead the language "4".

SECTION 6. Tennessee Code Annotated, Section 54-1-504(3)(G), is amended by deleting the language "1680-5-1" and substituting instead the language "1680-05-01".

SECTION 7. Tennessee Code Annotated, Section 54-1-504(3)(F)(ii), is amended by adding the following language after "points of contact": "and in accordance with procedures established in the RFP that allow proposers to communicate with entities such as utilities and permit agencies".

SECTION 8. Tennessee Code Annotated, Section 54-1-505(b)(3), is amended by deleting the language "five percent (5%)" and substituting instead the language "two percent (2%)".

SECTION 9. Tennessee Code Annotated, Section 54-1-506, is amended by deleting the language "within five (5) business days after the protest period has expired" and substituting instead the language ", upon request after award of the pre-construction services contract has been awarded".

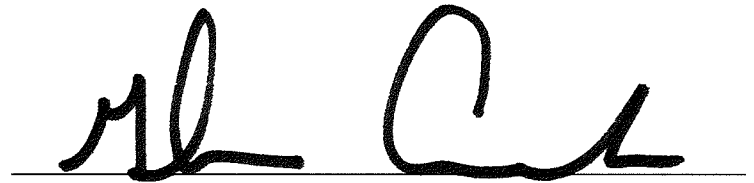
SECTION 10. Tennessee Code Annotated, Section 54-1-508, is amended by deleting the section in its entirety.

SECTION 11. This act shall take effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 779

PASSED: April 1, 2019

  
RANDY McNALLY  
SPEAKER OF THE SENATE

  
GLEN CASADA, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 11<sup>th</sup> day of April 2019

  
BILL LEE, GOVERNOR