



School Business Law Update

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AB 882 AND THE HIRING OF AN ARCHITECT TO MODIFY PLANS PREPARED BY ANOTHER

Assembly Bill 882 (Nation), enacted during the last session, addresses the reuse by a K-12 district of architectural plans and specifications when an architect or engineer other than the author of the plans and specifications is retained to modify them for reuse. With many districts planning construction projects during the coming year, it is important to clarify the relationship between the district and its architect of record on the proposed projects. As modified by this bill, Education Code Section 17316 provides that the hard copy of the final working drawings and specifications prepared by the architect and its consultants, and other documents such as estimates, are the property of the district for purposes relating to the project for which they were commissioned. However, the copyrights to these materials remain the property of the architect/consultant, unless the contract assigns these rights to the district. In the absence of a transfer or license of rights, the copyright owner retains the legal right to modify, copy, distribute, and sell the work. A transfer of rights to the district can be accomplished in the original architectural services agreement or subsequently in an amendment or addendum.

Sponsored by the American Institute of Architects, AB 882 modified Section 17316 to require a district that reuses plans and/or specifications prepared by an architect/engineer, and hires a different architect/engineer to handle the new project, to indemnify and hold harmless the original architect/engineer and its consultants and others from any harm arising out of the reuse. These provisions have long been part of the standard Schools Legal Service Architectural Services Agreement template. While the section does not specifically apply to community college districts, an architect or engineer may be expected to request such protection from a community college district as a condition of granting the right to reuse the plans on subsequent projects.

The Schools Legal Service Architectural Services Agreement template contains provisions granting the district a license to reuse the documents on the same or different projects. Use of the material for the purposes of "additions, alignments, or other developments on the site" continues to be permissible, even without special language in the contract.

Should you have any questions about AB 882 or this topic, feel free to contact me or the other members of our business practice group.

—*Bill Hornback*

School Business Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.