

By: Nichols
(Kolkhorst)

S.B. No. 731

Substitute the following for S.B. No. 731:

By: Harper-Brown

C.S.S.B. No. 731

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the attorney general's legal sufficiency review of a
3 comprehensive development agreement.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 371.051, Transportation Code, is amended
6 to read as follows:

7 Sec. 371.051. ATTORNEY GENERAL REVIEW AND EXAMINATION FEE.

8 (a) A toll project entity may not enter into a comprehensive
9 development agreement unless the attorney general reviews the
10 proposed agreement and determines that it is legally sufficient.

11 (b) A toll project entity shall pay a nonrefundable
12 examination fee to the attorney general on submitting a proposed
13 comprehensive development agreement for review. At the time the
14 examination fee is paid, the toll project entity shall also submit
15 for review a complete transcript of proceedings related to the
16 comprehensive development agreement.

17 (c) If the toll project entity submits multiple proposed
18 comprehensive development agreements relating to the same toll
19 project for review, the entity shall pay the examination fee under
20 Subsection (b) for each proposed comprehensive development
21 agreement.

22 (d) The attorney general shall provide a legal sufficiency
23 determination not later than the 60th business day after the date
24 the examination fee and transcript of the proceedings required

1 under Subsection (b) are received. If the attorney general cannot
2 provide a legal sufficiency determination within the
3 60-business-day period, the attorney general shall notify the toll
4 project entity in writing of the reason for the delay and may extend
5 the review period for not more than 30 business days.

6 (e) After the attorney general issues a legal sufficiency
7 determination, a toll project entity may supplement the transcript
8 of proceedings or amend the comprehensive development agreement to
9 facilitate a redetermination by the attorney general of the prior
10 legal sufficiency determination issued under this section.

11 (f) The toll project entity may collect or seek
12 reimbursement of the examination fee under Subsection (b) from the
13 private participant.

14 (g) The attorney general by rule shall set the examination
15 fee required under Subsection (b) in a reasonable amount and may
16 adopt other rules as necessary to implement this section. The fee
17 may not be set in an amount that is determined by a percentage of the
18 cost of the toll project. The amount of the fee may not exceed
19 reasonable attorney's fees charged for similar legal services in
20 the private sector.

21 SECTION 2. The requirements of Section 371.051,
22 Transportation Code, as amended by this Act, apply only to a
23 comprehensive development agreement submitted to the office of the
24 attorney general on or after the effective date of this Act.

25 SECTION 3. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2011.