

## **BILL ANALYSIS**

Senate Research Center

S.B. 211  
By: Nichols; Whitmire  
State Affairs  
7/16/2013  
Enrolled

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The Texas Facilities Commission (TFC) manages the building construction, maintenance, and leasing needs of state agencies. TFC also maintains state-owned facilities in a secure and cost-efficient manner.

The TFC is subject to the Sunset Act and will be abolished on September 1, 2013, unless continued by the legislature. The Sunset Commission found that TFC continues to be needed, but needs to operate with greater transparency, collaboration, and accountability, particularly when planning for the future development of the Capitol Complex and other state properties.

S.B. 211 continues TFC for eight years. It requires TFC to develop and adopt a Capitol Complex Master Plan to guide decision making on the Complex' future development. The bill additionally requires TFC to submit the Capitol Complex Master Plan to the State Preservation Board for review and comment, and potential disapproval.

It exempts the General Land Office from making recommendations on the use or sale of state property within the Capitol Complex, and requires TFC to adopt a comprehensive planning and development process that will ensure more meaningful public and stakeholder input in developing state properties.

The bill includes numerous safeguards to protect the state's interests, should TFC pursue public-private partnerships to develop state assets. Lastly, it requires TFC to develop a comprehensive plan for all its deferred maintenance and capital improvement needs.

S.B. 211 amends current law relating to the continuation and functions of the Texas Facilities Commission and to property development plans in connection with governmental entities, and authorizes fees.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Texas Facilities Commission in SECTION 6 (Section 2152.066, Government Code) and SECTION 20 (Section 2166.107, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 30.022, Education Code, by amending Subsection (h) and adding Subsection (h-1), as follows:

(h) Provides that, except as provided by Subsection (h-1), the governing board of the Texas School for the Blind and Visually Impaired (TSBVI board) (TSBVI) has jurisdiction, rather than exclusive jurisdiction, over the physical assets of TSBVI and is required to administer and spend appropriations made for the benefit of TSBVI. Makes a nonsubstantive change.

(h-1) Requires the Texas Facilities Commission (TFC) to provide facilities maintenance services for the physical facilities of TSBVI, including facilities construction, cabling,

facility reconfiguration, and any other services as provided by a memorandum of understanding between the TSBVI board and TFC.

SECTION 2. Amends Section 30.052, Education Code, by amending Subsection (h) and adding Subsection (h-1), as follows:

(h) Provides that, except as provided by Subsection (h-1), the governing board of the Texas School for the Deaf (TSD board) (TSD) has jurisdiction, rather than exclusive jurisdiction, over the physical assets of TSD and is required to administer and spend appropriations to carry out the purposes of TSD as provided by Section 30.051 (Purpose of Texas School for the Deaf). Makes a nonsubstantive change.

(h-1) Requires TFC to provide facilities maintenance services for the physical facilities of TSD, including facilities construction, cabling, facility reconfiguration, and any other services as provided by a memorandum of understanding between the TSD board and TFC.

SECTION 3. Amends Section 443.007, Government Code, by adding Subsection (a-1) to require the State Preservation Board (SPB), if SPB updates or modifies its long-range master plan for the preservation, maintenance, restoration, and modification of the Capitol and the Capitol grounds, to conform its plan to the Capitol Complex master plan prepared by TFC under Section 2166.105.

SECTION 4. Amends Section 552.153, Government Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Provides that information in the custody of a responsible governmental entity that relates to a proposal for a qualifying project authorized under Chapter 2267 (Public and Private Facilities and Infrastructure) is exempted from the requirements of Section 552.021 (Availability of Public Information) if:

(1) Makes no change to this subdivision; or

(2) the records are provided by a proposer, rather than a contracting person, to a responsible governmental entity or affected jurisdiction under Chapter 2267 and contain:

(A) trade secrets of the proposer;

(B) financial records of the proposer, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or other means; or

(C) work product related to a competitive bid or proposal submitted, rather than other information submitted, by the proposer that, if made public before the execution of an interim or comprehensive agreement, would provide a competing proposer an unjust advantage or adversely affect the financial interest or bargaining position of the responsible governmental entity or the proposer.

Makes conforming changes.

(d) Defines "proposer" in this section.

SECTION 5. Amends Section 2152.002, Government Code, as follows:

Sec. 2152.002. SUNSET PROVISION. Provides that TFC, rather than the Texas Building and Procurement Commission, is subject to Chapter 325 (Texas Sunset Act). Provides that TFC, unless continued in existence as provided by that chapter, is abolished and this subtitle, except for Chapter 2170 (Telecommunications Services) and Section

2157.121 (Acquisition Through Competitive Sealed Proposals), expires September 1, 2021, rather than September 1, 2013.

SECTION 6. Amends Subchapter B, Chapter 2152, Government Code, by adding Section 2152.066, as follows:

Sec. 2152.066. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (a) Requires TFC to develop and implement a policy to encourage the use of:

(1) negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking) for the adoption of TFC rules; and

(2) appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies) to assist in the resolution of internal and external disputes under TFC's jurisdiction.

(b) Requires TFC's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of alternative dispute resolution by state agencies.

(c) Requires TFC to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

SECTION 7. Amends Section 2152.104, Government Code, by adding Subsection (e), to require TFC to provide professional service staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d) (relating to authorizing the responsible governmental entity to charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal, including reasonable legal fees and fees for financial, technical, and other necessary advisors or consultants), to support the Partnership Advisory Commission in its review and evaluation of qualifying project proposals.

SECTION 8. Amends Section 2165.007(b), Government Code, as follows:

(b) Requires TFC, notwithstanding any other law, to provide facilities management services in relation to all state agency facilities in Travis County or a county adjacent to Travis County. Provides that TFC's duty does not apply to:

(1)-(3) Makes no change to these subdivisions;

(4) facilities owned or operated by the Texas Juvenile Justice Department, rather than the Texas Youth Commission;

(5)-(9) Makes no change to these subdivisions;

(10)-(11) Makes nonsubstantive changes;

(12) facilities owned or operated by TSBVI; or

(13) facilities owned or operated by TSD.

SECTION 9. Amends Section 2165.055, Government Code, to require TFC on July 1 of each even-numbered year, rather than biennially on December 1st, to electronically submit a report to the governor, lieutenant governor, speaker of the house of representatives, comptroller of public accounts of the State of Texas (comptroller), and Legislative Budget Board (LBB) on certain improvements, repairs, and conditions of property under its control.

SECTION 10. Amends Section 2165.2035, Government Code, by adding Subsection (d-1) and amending Subsection (e), as follows:

(d-1) Authorizes an amount equal to the costs associated with the lease of state parking lots and garages, including costs of trash collection and disposal, grounds and other property maintenance, and the remedying of any damage to state property, to be appropriated only to TFC to pay those costs from the money received under Subsection (d) (relating to requiring that money received from a lease under this program be deposited to the credit of the general revenue fund).

(e) Requires TFC, on or before December 1 of each even-numbered year, to electronically submit a report to the legislature and LBB describing the effectiveness of the program under this section.

SECTION 11. Amends Section 2165.2046, Government Code, to require TFC, on or before December 1, rather than on or before October 1, of each even-numbered year, to electronically submit a report to the legislature and LBB describing the effectiveness of parking programs developed by TFC under this subchapter.

SECTION 12. Amends Subchapter F, Chapter 2165, Government Code, by adding Section 2165.259, as follows:

Sec. 2165.259. CAPITOL COMPLEX. (a) Defines "Capitol Complex" in this section.

(b) Prohibits TFC, notwithstanding Subchapter D (Lease of Public Grounds) and Subject to Subsection (d), from leasing, selling, or otherwise disposing of real property or an interest in real property located in the Capitol Complex.

(c) Provides that this section does not affect TFC's authority under Subchapter E (Lease of Space In State-Owned Buildings to Private Tenants) to lease space in state office buildings and parking garages.

(d) Authorizes TFC to develop or operate a qualifying project, as that term is defined by Section 2267.001, in the Capitol Complex if the legislature by general law specifically authorizes the project, and before TFC enters into a comprehensive agreement for the project, the legislature individually approves the project under Section 2268.058 (Submission of Detailed Proposals for Qualifying Projects; Exemption; Commission Review).

SECTION 13. Amends Chapter 2165, Government Code, by adding Subchapter H, as follows:

**SUBCHAPTER H. PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE:  
QUALIFYING PROJECTS**

Sec. 2165.351. DEFINITIONS. Defines "Partnership Advisory Commission" and "qualifying project" in this subchapter.

Sec. 2165.352. COMMISSION REVIEW GUIDELINES AND POLICIES. (a) Requires TFC, in adopting the qualifying project review guidelines required by Section 2267.052 (Notice Requirements), as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, to include review criteria and documentation to guide the initial review of each substantially complete qualifying project proposal received by TFC.

(b) Requires that the review criteria required under Subsection (a) at a minimum include:

(1) the extent to which the qualifying project meets a public need;

(2) the extent to which the project meets the objectives and priorities of TFC and aligns with any applicable TFC plans and design guidelines or zoning requirements, including the Capitol Complex master plan developed under Section 2166.105;

(3) the technical and legal feasibility of the project;

(4) the adequacy of the qualifications, experience, and financial capacity of a private entity or other person submitting the proposal;

(5) any potentially unacceptable risks to this state; and

(6) whether an alternative delivery method is feasible and more effectively meets this state's goals.

(c) Requires TFC's qualifying project review guidelines to:

(1) specify the types of professional expertise, including financial, real estate, design, legal, and other related expertise, needed to effectively protect this state's interest when considering and implementing a qualifying project;

(2) specify the range of professional expertise needed at each stage of the project, including proposal evaluation, financial analysis, risk allocation analysis, design review, contract negotiation, and contract and performance monitoring, to evaluate the qualifying project proposal; and

(3) require the oversight committee established by TFC for each qualifying project (oversight committee) to report to TFC the results of the committee's evaluation of the project, including the schedules, procedures, proposal evaluation criteria, and documentation required in the guidelines for the evaluation.

(d) Requires TFC, on completion of the negotiation phase for the development of a comprehensive agreement and before a comprehensive agreement is entered into, to:

(1) for each qualifying project proposal, post on TFC's Internet website the oversight committee's review report and other evaluation documents; and

(2) before posting the report and documents required under Subdivision (1), redact all information included in the report and documents that is considered confidential under Section 2267.066(c) (relating to the prohibition of responsible governmental entities posting, or making available for public inspection, trade secrets, financial records, or other records of the contracting person excluded from disclosure through certain notices).

(e) Authorizes the expertise described by Subsection (c) to be provided by TFC staff or outside experts.

Sec. 2165.353. **QUALIFYING PROJECT FEES.** (a) Authorizes TFC to charge a reasonable fee to cover the costs of reviewing a qualifying project. Requires TFC to develop and adopt a qualifying project proposal fee schedule sufficient to cover its costs, including at a minimum the costs of processing, reviewing, and evaluating the proposals.

(b) Requires TFC to use the professional expertise information required under Section 2165.352(c) to determine the amount of the fee charged by TFC to review a qualifying project proposal. Requires that the amount be reasonable in

comparison to the level of professional expertise required for the project and authorizes the amount to include the cost of staff time required to process the proposal and other direct costs.

(c) Authorizes TFC to use the money from the fees collected under this section to hire or contract with persons who have the professional expertise necessary to effectively evaluate a qualifying project proposal.

Sec. 2165.354. INITIAL REVIEW OF QUALIFYING PROJECT PROPOSAL. (a) Requires TFC staff to conduct an initial review of each qualifying project proposal submitted to TFC and provide to TFC members a summary of the review, including an analysis and recommendations.

(b) Requires TFC, subject to Subsection (c), to use a value for money analysis in evaluating each qualifying project proposal to conduct a thorough risk analysis of the proposal that identifies specific risks shared between this state and the private partner and subjects the risks to negotiation in the contract, determine if the proposal is in the best long-term financial interest of this state, and determine if the project will provide a tangible public benefit to this state.

(c) Requires TFC staff, if the staff determine that a value for money analysis is not appropriate for evaluating a specific qualifying project proposal, to submit to TFC a written report stating the reasons for using an alternative analysis methodology.

(d) Requires TFC to coordinate with TFC's office of internal audit for review and receipt of comments on the reasonableness of the assumptions used in the value for money analysis or alternative analysis methodology used to evaluate a qualifying project proposal under this section.

Sec. 2165.355. INITIAL PUBLIC HEARING ON QUALIFYING PROJECT PROPOSAL. (a) Requires TFC, before submitting a detailed qualifying project proposal to the Partnership Advisory Commission as required under Section 2268.058, to hold an initial public hearing on the proposal.

(b) Requires TFC to post a copy of the detailed qualifying project proposal on TFC's Internet website before the required public hearing and, before posting the proposal, redact all information included in the proposal that is considered confidential under Section 2267.066(c).

(c) Requires TFC, after the hearing, to modify the proposal as TFC determines appropriate based on the public comments, and include the public comments in the documents submitted to the Partnership Advisory Commission and provide any additional information necessary for the evaluation required under Chapter 2268 (Partnership Advisory Commission).

Sec. 2165.356. SUBMISSION OF QUALIFYING PROJECT CONTRACT TO CONTRACT ADVISORY TEAM. (a) Requires TFC, not later than the 60th day before the date TFC is scheduled to vote on approval of a qualifying project contract, to submit to the Contract Advisory Team established under Subchapter C (Contract Advisory Team), Chapter 2262 (Statewide Contract Management), documentation of the modifications to a proposed qualifying project made during TFC's evaluation and negotiation process for the project, including a copy of the final draft of the contract, the detailed qualifying project proposal, and any executed interim or other agreement.

(b) Requires the Contract Advisory Team to review the documentation submitted under Subsection (a) and provide written comments and recommendations to TFC. Requires that the review focus on, but not be limited to, best practices for contract management and administration.

(c) Requires TFC staff to provide to TFC members a copy of the Contract Advisory Team's written comments and recommendations, and the staff's response to the comments and recommendations.

Sec. 2165.3561. MUNICIPAL PROJECT. Requires TFC staff, not later than the 30th day before the date TFC is scheduled to meet and vote on a project to develop or improve state property in a municipality, to place the project on TFC's meeting agenda to provide the public with notice of the meeting and an opportunity to comment, and present sufficient information to TFC members to enable the members to adequately prepare for the meeting and to address the members' questions and concerns.

Sec. 2165.357. PROHIBITED EMPLOYMENT OF COMMISSION EMPLOYEE. (a) Prohibits a TFC employee from being employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) Requires TFC to obtain from each TFC employee sufficient information for TFC to determine whether the employee is employed by another person, and a potential conflict of interest exists between the employee's commission duties and the employee's duties with the other employer.

(c) Requires each TFC employee whose TFC duties relate to a qualifying project, including long-range planning, real estate management, space management, and leasing services, to attest that the employee is aware of and agrees to TFC's ethics and conflict-of-interest policies.

(d) Provides that to the extent the employment is authorized by TFC policy, this section does not prohibit additional employment for a TFC employee whose TFC duties are not related to a qualifying project.

SECTION 14. Amends the heading to Chapter 2166, Government Code, to read as follows:

CHAPTER 2166. BUILDING CONSTRUCTION AND ACQUISITION AND  
DISPOSITION OF REAL PROPERTY

SECTION 15. Amends Section 2166.001, Government Code, by amending Subdivision (1) and (1-a) and adding Subdivision (1-b), to define "Capitol Complex" and to make nonsubstantive changes.

SECTION 16. Amends Section 2166.002, Government Code, to provide that this chapter applies only to a building construction project of the state, the acquisition of real property for state purposes, and the disposition of real property owned by the state.

SECTION 17. Amends Section 2166.101(d), Government Code, to require TFC to summarize its findings on the status of state-owned buildings and current information on construction costs in an electronically submitted report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and LBB, not later than July 1 of each even-numbered year, rather than to require TFC to summarize its findings on the status of state-owned buildings and current information on construction costs in a report it is required to make available to the governor, the legislature, and the state's budget offices.

SECTION 18. Amends Section 2166.102(b), Government Code, as follows:

(b) Requires TFC to maintain a six-year capital planning cycle and electronically submit, rather than file, a master facilities plan with the governor, lieutenant governor, speaker of the house of representatives, LBB, and comptroller before July 1 of each even-numbered

year. Deletes existing text requiring a master facilities plan to be filed with the Governor's Office of Budget and Planning. Makes nonsubstantive changes.

SECTION 19. Amends Section 2166.103(b), Government Code, to require TFC, not later than July 1 of each even-numbered year, to electronically submit to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and LBB a report identifying counties in which more than 50,000 square feet of usable office space is needed and TFC's recommendations for meeting that need. Deletes existing text requiring TFC, before each legislative session, to send to the governor, the lieutenant governor, the speaker of the house of representatives, and LBB the report.

SECTION 20. Amends Subchapter C, Chapter 2166, Government Code, by adding Sections 2166.105, 2166.106, 2166.1065, 2166.107, and 2166.108, as follows:

Sec. 2166.105. CAPITOL COMPLEX MASTER PLAN. (a) Requires TFC to prepare a Capitol Complex master plan that at a minimum includes:

- (1) an overview and summary of the previous plans for the Capitol Complex;
- (2) a stated strategic vision and long-term goals for the Capitol Complex;
- (3) an analysis of state property, including buildings, in the Capitol Complex and of the extent to which this state satisfies its space needs through use of the property;
- (4) detailed, site-specific proposals for state property in the Capitol Complex, including proposals on the use of property and space for public sector purposes;
- (5) an analysis of and recommendations for building design guidelines to ensure appropriate quality in new or remodeled buildings in the Capitol Complex;
- (6) an analysis of and recommendations for Capitol Complex infrastructure needs, including transportation, utilities, and parking;
- (7) for projects identified in the plan, an analysis of and recommendations for financing options;
- (8) time frames for implementing the plan components and any projects identified in the plan;
- (9) consideration of alternative options for meeting state space needs outside the Capitol Complex; and
- (10) other information relevant to the Capitol Complex as TFC determines appropriate.

(b) Requires TFC to ensure that the General Land Office (GLO), SPB, the Texas Historical Commission (THC), and other relevant interested parties are included in each stage of the development of the Capitol Complex master plan.

(c) Requires TFC to submit to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and LBB, not later than April 1, 2016, the initial Capitol Complex master plan, and not later than July 1 of each even-numbered year thereafter, updates to the plan.

(d) Requires TFC to ensure that the Capitol Complex master plan and the master facilities plan developed under Section 2166.102 (Long-Range Plan for State



Agency Space Needs) do not conflict and together comprehensively address the space needs of state agencies.

Sec. 2166.106. REVIEW OF PROPOSED CAPITOL COMPLEX MASTER PLAN BY PARTNERSHIP ADVISORY COMMISSION. (a) Requires TFC, before a proposed Capitol Complex master plan or proposed update to the plan is submitted and considered approved under Section 2166.1065 and before TFC adopts the plan or update, to submit the plan or update to the Partnership Advisory Commission established under Chapter 2268 for review and comment.

(b) Requires the Partnership Advisory Commission, not later than the 60th day after the date the Partnership Advisory Commission receives the plan or update, in a public hearing by majority vote of the members present, to vote to approve the plan or update, or submit to Partnership Advisory Commission written comments and recommended modifications to the plan or update.

Sec. 2166.1065. REVIEW OF PROPOSED CAPITOL COMPLEX MASTER PLAN BY STATE PRESERVATION BOARD AND GENERAL LAND OFFICE. (a) Requires TFC, not later than the 90th day before the date TFC holds a public meeting to discuss a proposed Capitol Complex master plan, to submit the proposed plan to SPB for review and comment. Requires TFC to submit the proposed plan to GLO for review and comment not later than the 60th day before the date TFC holds a public meeting to discuss a proposed plan.

(b) Requires TFC, not later than the 60th day before the date TFC holds a public meeting to discuss a proposed update to the Capitol Complex master plan, to submit the proposed update to SPB and GLO for review and comment.

(c) Authorizes SPB, not later than the 90th day after the date SPB receives from TFC a proposed Capitol Complex master plan, and not later than the 60th day after the date SPB receives from TFC a proposed update to the plan, to, by a public vote, disapprove the plan or update if SPB determines that the goals or recommendations in the plan or update are not in the best interest of the state or of the Capitol Complex, and submit to TFC written comments and recommended modifications to the plan or update.

(d) Provides that the proposed Capitol Complex master plan or the proposed update to the plan is considered to be approved by SPB if SPB does not hold the public vote authorized by Subsection (c) on or before the date required under that subsection.

(e) Provides that the review of the Capitol Complex master plan under this section is in addition to the review required for a proposed project under Section 443.0071 (Review of Construction in Capitol Complex).

Sec. 2166.107. COMPREHENSIVE PLANNING AND DEVELOPMENT PROCESS. (a) Requires TFC by rule to adopt a comprehensive process for planning and developing state property in TFC's inventory and for assisting state agencies in space development planning for state property under Sections 2165.105 (State Agency Request for Space; Commission Determinations) and 2165.1061 (Space Allocation Plans; Transition Plans).

(b) Requires that the process under this section at a minimum include:

(1) a clear approach and specific time frames for obtaining input throughout the planning and development process from the public, interested parties, and state agencies, including GLO;

(2) specific schedules for providing to TFC regular updates on planning and development efforts;

(3) a public involvement policy to ensure that before TFC makes a decision on the use or development of state property the public and interested parties have the opportunity to review and comment on TFC's plans; and

(4) confidentiality policies consistent with Chapter 552 (Public Information).

Sec. 2166.108. COMPREHENSIVE CAPITAL IMPROVEMENT AND DEFERRED MAINTENANCE PLAN. (a) Requires TFC to develop a comprehensive capital improvement and deferred maintenance plan that clearly defines the capital improvement needs and critical and noncritical maintenance needs of state buildings.

(b) Requires that the comprehensive capital improvement and deferred maintenance plan:

(1) with respect to deferred maintenance projects:

(A) list, with regular updates, deferred maintenance projects that contain critical high-priority projects and lower-priority, non-health and safety projects;

(B) state TFC's plan for addressing the projects;

(C) account for the completion of high-priority projects;

(D) estimate when the lower-priority projects may become higher-priority projects; and

(E) be modified as necessary to include additional maintenance projects;

(2) contain a list of all predictable capital improvement projects, including a time frame and a cost estimate for each project; and

(3) contain a plan, updated biennially, for responding to emergency repairs and replacements that, in consultation with LBB, identifies potential sources of funds, which may include bonds and bond interest, that may be used to pay the costs of emergency repair and replacement projects.

(c) Requires that the comprehensive capital improvement and deferred maintenance plan include for each segment of the plan described by Subsection (b) a prioritized list by state agency facility of each project that includes an estimate of the project's cost and the aggregate costs for all facility projects.

(d) Requires TFC to include the comprehensive capital improvement and deferred maintenance plan and regular updates to the plan in its long-range plan under Section 2166.102. Requires that the information included in the long-range plan include the aggregate project costs for each state agency but is authorized to exclude the cost of each specific facility project.

SECTION 21. Amends Section 2175.184, Government Code, as follows:

Sec. 2175.184. DIRECT TRANSFER. (a) Creates this subsection from existing text. Requires a state agency, political subdivision, or assistance organization to coordinate with TFC for a transfer of the property at a price established by TFC during the 10 business days after the date the property is posted on the comptroller's website. Provides that a transfer to a state agency has priority over any other transfer during this period.

(b) Prohibits a political subdivision or assistance organization from leasing, lending, bailing, deconstructing, encumbering, selling, trading, or otherwise disposing of property acquired under this section or acquired from a state agency under Section 2175.241 (Deconstruction or Donation of Surplus or Salvage Property) before the second anniversary of the date the property was acquired. Requires a political subdivision or an assistance organization that violates this subsection to remit to TFC the amount the political subdivision or assistance organization received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless TFC authorizes the action taken by the political subdivision or assistance organization with respect to the property.

SECTION 22. Amends Section 2175.905, Government Code, by adding Subsection (d), as follows:

(d) Prohibits an assistance organization from leasing, lending, bailing, deconstructing, encumbering, selling, trading, or otherwise disposing of data processing equipment acquired under this section. Authorizes the assistance organization to dispose of the equipment only by transferring the equipment to the school district that specified the assistance organization for transfer under this section.

SECTION 23. Amends Section 2267.001, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by adding Subdivisions (1-a), (5-a), (9-a), (9-b), (9-c), (10-a), and (14-a) to define "commission," "improvement," "private entity," "property," "proposer," "real property," and "state entity;" and amending Subdivisions (10) and (12) to redefine "qualifying project" and "revenue."

SECTION 24. Amends Section 2267.003, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, as follows:

Sec. 2267.003. APPLICABILITY. Provides that this chapter does not apply to:

- (1) Makes no change to this subdivision;
- (2)-(3) Makes nonsubstantive changes; or
- (4) except as provided by Section 2165.259, a qualifying project located in the Capitol Complex, as defined by Section 443.0071.

SECTION 25. Amends Subchapter A, Chapter 2267, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended by adding Sections 2267.005, 2267.0051, 2267.0052, 2267.006, 2267.0061, 2267.0062, 2267.0063, 2267.0064, 2267.0065, 2267.0066, and 2267.0067, as follows:

Sec. 2267.005. CONFLICT OF INTEREST. Prohibits an employee of a responsible governmental entity or a person related to the employee within the second degree by consanguinity or affinity, as determined under Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), from accepting money, a financial benefit, or other consideration from a contracting person that has entered into a comprehensive agreement with the responsible governmental entity.

Sec. 2267.0051. PROHIBITED EMPLOYMENT WITH FORMER OR RETIRED GOVERNMENTAL ENTITY EMPLOYEES. (a) Prohibits a contracting person from employing or entering into a professional services contract or a consulting services contract under Chapter 2254 (Professional and Consulting Services) with a former or retired employee of the responsible governmental entity with which the person has entered into a comprehensive agreement before the first anniversary of the date on which the former or retired employee terminates employment with the entity.

(b) Provides that this section does not prohibit the contracting person from entering into a professional services contract with a corporation, firm, or other business organization that employs a former or retired employee of the responsible governmental entity before the first anniversary of the date the former or retired employee terminates employment with the entity if the former or retired employee does not perform services for the corporation, firm, or other business organization under the comprehensive agreement with the responsible governmental entity that the former or retired employee worked on before terminating employment with the entity.

Sec. 2267.0052. PROHIBITED EMPLOYMENT OF RESPONSIBLE GOVERNMENTAL ENTITY EMPLOYEES. (a) Prohibits an employee of a responsible governmental entity from being employed or hired by another person to perform duties that relate to the employee's specific duties in developing and implementing a qualifying project, including review, evaluation, development, and negotiation of a qualifying project proposal.

(b) Requires the responsible governmental entity to obtain from each employee sufficient information to determine whether the employee is employed by another person, and a potential conflict of interest exists between the employee's duties for the entity and the employee's duties with the other employer.

(c) Requires each employee of a responsible governmental entity whose duties relate to a qualifying project to attest that the employee is aware of and agrees to the responsible governmental entity's ethics and conflict-of-interest policies.

(d) Provides that this section does not prohibit additional employment for an employee of a responsible governmental entity whose duties are not related to a qualifying project to the extent the other employment is authorized by the responsible governmental entity's policy.

Sec. 2267.006. DEVELOPMENT PLAN. (a) Authorizes a state entity proposing to develop or operate the project to adopt a development plan on the real property associated with the project if the state intends to develop or operate a qualifying project under this chapter.

(b) Provides that the purpose of a development plan is to conserve and enhance the value of real property belonging to the state, taking into consideration the preservation of the health, safety, and general welfare of the communities in which the real property is situated.

(c) Requires that the plan address local land use planning ordinances, which is authorized to include the following:

(1) allocation and location of specific uses of the real property, including residential, commercial, industrial, recreational, or other appropriate uses;

(2) densities and intensities of designated land uses;

(3) the timing and rate of development;

(4) timely delivery of adequate facilities and services, including water, wastewater collection and treatment systems, parks and public recreational facilities, drainage facilities, school sites, and roads and transportation facilities; or

(5) needed zoning and other land use regulations.

(d) Requires that the plan comply with existing rules, regulations, orders, or ordinances for real property development to the extent the rules, regulations,

orders, or ordinances are not detrimental to the interests of the state as determined by the special board of review.

Sec. 2267.0061. PUBLIC HEARING BEFORE PREPARATION OF DEVELOPMENT PLAN. (a) Requires a state entity to notify the local government to which the plan will be submitted under Section 2267.0062 of the state entity's intent to prepare a development plan if the state entity is requested to prepare a development plan under Section 2267.006. Requires the state entity to provide the local government with information relating to:

- (1) the location of the real property to be offered for sale or lease;
- (2) the highest and best use of the real property; and
- (3) the process for preparing the development plan under Section 2267.006 and the process provided under Sections 2267.0065 and 2267.0066 for the special board of review.

(b) Authorizes the local government to request the state entity to hold a public hearing to solicit public comment not later than the 30th day after the date the local government receives the notice provided under Subsection (a). Requires the state entity to hold a public hearing if requested by the local government. Requires the local government to provide notice of the hearing to real property owners in at least the same manner that notice is provided for adopting zoning regulations or subdivision requirements in the local government's jurisdiction. Requires the state entity to set the agenda for the hearing, which is required to be completed not later than the 120th day after the date notice is provided under Subsection (a).

(c) Authorizes the state entity may hold a hearing to solicit public comment if the local government does not request a public hearing under Subsection (b). Requires the state entity to provide notice of the hearing in the same manner that a local government is required to provide notice under Subsection (b). Requires the state entity to set the agenda for the hearing and complete the hearing not later than the 120th day after the date the notice is provided under Subsection (a).

(d) Authorizes a public hearing under this section to include:

- (1) a presentation by the state entity relating to the state entity's classification of the real property as unused or substantially underused and the state entity's recommendation of the highest and best use to which the real property may legally be placed;
- (2) a presentation by the local government relating to relevant local plans, development principles, and ordinances that may affect the development of the real property; and
- (3) oral comments and presentations of information by and written comments received from other persons relating to the development of the real property.

(e) Requires the state entity to prepare a summary of the information and testimony presented at a hearing conducted under this section and authorizes it to develop recommendations based on the information and testimony. Requires the state entity to prepare a report summarizing the information and testimony presented at the hearing and the views presented by the state, the affected local governments, and other persons who participated in the hearing process. Requires the governing body of the state entity to review the state entity's report and authorizes the governing body to instruct the state entity to incorporate

information based on the report in preparing the development plan under Section 2267.006.

(f) Authorizes the state entity to adopt rules to implement this section. Requires the state entity to administer the process provided by this section.

**Sec. 2267.0062. SUBMISSION OF PLAN TO AFFECTED LOCAL GOVERNMENT.**

(a) Requires the development plan adopted under Section 2267.006 to be submitted to any local government having jurisdiction over the real property in question for consideration.

(b) Requires the local government to evaluate the plan and either accept or reject the plan not later than the 120th day after the date the state entity submits the plan.

(c) Authorizes the plan to be rejected by the local government only on grounds that it does not comply with local ordinances and land use regulations, including zoning and subdivision ordinances.

(d) Requires the local government to specifically identify any ordinance with which the plan conflicts and propose specific modifications to the plan that will bring it into compliance with the local ordinance if the plan is rejected.

(e) Authorizes the state entity, if the plan is rejected by the affected local government, to modify the plan to conform to the ordinances specifically identified by the local government and resubmit the plan for approval, or the state entity is authorized to apply for necessary rezoning or variances from the local ordinances.

(f) Provides that failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an acceptance by the local government of the plan.

**Sec. 2267.0063. REZONING.** (a) Authorizes the state entity or its designated representative to at any time submit a request for rezoning to the local government with jurisdiction over the real property in question if the plan would require zoning inconsistent with any existing zoning or other land use regulation.

(b) Requires that the rezoning or variance request be submitted in the same manner as any such request is submitted to the affected local government provided the local government takes final action on the request not later than the 120th day after the date the request for rezoning or variance is submitted.

(c) Provides that failure by the local government to act within the 120-day period prescribed by Subsection (b) is considered an approval of the rezoning request by the local government.

**Sec. 2267.0064. FEES AND ASSESSMENTS.** (a) Prohibits the local government from imposing application, filing, or other fees or assessments on the state for consideration of the plan or the application for rezoning or variance submitted by the state.

(b) Prohibits the local government from requiring the submission of architectural, engineering, or impact studies to be completed at state expense before considering the plan or application for rezoning or variance.

**Sec. 2267.0065. SPECIAL BOARD OF REVIEW.** (a) Authorizes the matter, if the local government denies the rezoning request submitted under this chapter, to be appealed to a special board of review consisting of the following members:

- (1) the land commissioner;

(2) the mayor of the municipality within whose corporate boundaries or extraterritorial jurisdiction the real property is located;

(3) the county judge of the county in which the qualifying project is located;

(4) the executive director of the state entity that proposes to develop or operate the qualifying project; and

(5) a member appointed by the governor.

(b) Requires the land commissioner to serve as the presiding officer of the special board of review.

Sec. 2267.0066. HEARING. (a) Requires the special board of review to conduct one or more public hearings to consider the proposed development plan.

(b) Requires that hearings be conducted in accordance with rules adopted by GLO for conducting a special review.

(c) Authorizes the hearings on any single tract of real property to be combined if real property is located in more than one municipality.

(d) Requires any political subdivision in which the tract in question is located and the appropriate central appraisal district to receive written notice of special board of review hearings at least 14 days before the date of the hearing.

(e) Requires that at least one hearing be conducted in the county where the real property is located.

(f) Requires the special board of review to issue an order establishing a development plan to govern the use of the real property as provided in this section if after the hearings the special board of review determines that local zoning requirements are detrimental to the best interest of the state.

(g) Requires that development of the real property be in accordance with the plan and comply with all local rules, regulations, orders, or ordinances except as specifically identified in an order of the special board of review issued pursuant to Subsection (f). Requires that, in the event that substantial progress is not made toward development of the tract within five years of the date of adoption by the special board of review, local development policies and procedures become applicable to development of the tract, unless the special board of review promulgates a new plan.

(h) Prohibits the hearing from being considered a contested case proceeding under Chapter 2001 (Administrative Procedure) and is not subject to appeal under that chapter.

Sec. 2267.0067. BINDING EFFECT OF DEVELOPMENT PLAN. (a) Requires that a development plan promulgated by the special board of review under this chapter and any plan accepted by a local government be final and binding on the state, its lessees, successors in interest and assigns, and affected local governments or political subdivisions unless revised by the special board of review except as provided by this subsection. Authorizes the state entity, at the direction of the executive director of the entity, to revise the development plan to conserve and enhance the value and marketability of the real property if the state entity does not receive a bid or auction solicitation for the real property subject to the development plan.

(b) Prohibits a local government, political subdivision, owner, builder, developer, or any other person from modifying the development plan without specific approval by the special board of review.

(c) Requires the special board of review to file a copy of the development plan in the deed records of the county in which the real property is located. Provides that revisions to the development plan that are requested after the later of the 10th anniversary of the date on which the development plan was adopted by the special board of review or the date on which the state no longer holds a financial or property interest in the real property subject to the plan are governed by local development policies and procedures.

SECTION 26. (a) Amends Section 2267.051, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsection (a) and adding Subsection (a-1), as follows:

(a) Prohibits a person, except as provided by Subsection (a-1), from developing or operating a qualifying project unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter. Authorizes the person to initiate the approval process by submitting a proposal requesting approval under Section 2267.053(a), or the responsible governmental entity is authorized to request proposals or invite bids under Section 2267.053(b). Makes a nonsubstantive change.

(a-1) Prohibits a person from developing or operating a qualifying project on property located within the Capitol Complex, as defined by Section 411.061(a)(1) (relating to the geographic area of the "Capitol Complex"), unless the person obtains the approval of and contracts with the responsible governmental entity under this chapter. Prohibits the person from initiating the approval process by submitting a proposal requesting approval under Section 2267.053(a). Authorizes the responsible governmental entity to request proposals or invite bids under Section 2267.053(b).

(b) Provides that if S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation relating to real property within the Capitol Complex is enacted and becomes law, this section has no effect.

SECTION 27. Amends Section 2267.052, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsections (b) and (c) and adding Subsections (c-1) and (d), as follows:

(b) Requires that the guidelines for a responsible governmental entity described by Section 2267.001(5)(A):

(1)-(4) Makes no change to these subdivisions;

(5) include financial review and analysis procedures that at a minimum consist of:

(A) a cost-benefit analysis;

(B) an assessment of opportunity cost;

(C) consideration of the degree to which functionality and services similar to the functionality and services to be provided by the proposed project are already available in the private market; and

(D) consideration of the results of all studies and analyses related to the proposed qualifying project;

(6) Makes no change to this subdivision;



(7) ensure that the governmental entity, for a proposed project to improve real property, evaluates design quality, life-cycle costs, and the proposed project's relationship to any relevant comprehensive planning or zoning requirements;

(8)-(10) Makes nonsubstantive changes; and

(11) require the posting and publishing of public notice of a proposal requesting approval of a qualifying project, including:

(A) specific information and documentation regarding the nature, timing, and scope of the qualifying project, as required under Section 2267.053(a);

(B) a reasonable period, as determined by the responsible governmental entity, of not less than 45 days or more than 180 days, or a longer period specified by the governing body of the responsible governmental entity to accommodate a large-scale project, to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity is required to accept submission of competing proposals for the qualifying project; and

(C) a requirement for advertising the notice on the governmental entity's Internet website and on TexasOnline or the state's official Internet website.

Makes nonsubstantive changes.

(c) Requires that the guidelines of a responsible governmental entity described by Section 2267.001(5)(B) include:

(1) the provisions required under Subsection (b); and

(2) a requirement that the governmental entity engage the services of qualified professionals, including an architect, professional engineer, or certified public accountant, not otherwise employed by the governmental entity, to provide independent analyses regarding the specifics, advantages, disadvantages, and long-term and short-term costs of any proposal requesting approval of a qualifying project unless the governing body of the governmental entity determines that the analysis of the proposal is to be performed by similarly qualified employees of the governmental entity.

Deletes existing text authorizing the guidelines of a responsible governmental entity described by Section 2267.001(5)(B) to include the provisions required under Subsection (b). Makes a nonsubstantive change.

(c-1) Requires that, for a proposal with an estimated cost of \$5 million or more for the construction or renovation of a structure or project, the analysis conducted under Subsection (c)(2) include review of the proposal by an architect, a professional engineer, and a certified public accountant not otherwise employed by the governmental entity.

(d) Requires a responsible governmental entity described by Section 2267.001(5)(A) to submit a copy of the guidelines adopted by the entity under this section to the Partnership Advisory Commission for approval by the Partnership Advisory Commission consistent with the requirements of Subsection (b). Requires the Partnership Advisory Commission to prescribe the procedure for submitting the guidelines for review under this section. Requires the Partnership Advisory Commission to complete its review of the guidelines not later than the 60th day after the date the Partnership Advisory Commission receives the guidelines and provide written comments and recommendations to the governmental entity to ensure timely compliance with Subsection (b). Prohibits the governmental

entity from requesting or considering a proposal for a qualifying project until the guidelines are approved by the Partnership Advisory Commission.

SECTION 28. Amends Section 2267.053, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsections (a), (b), (g), and (h) and adding Subsections (a-1), (b-1), and (b-2), as follows:

(a) Authorizes a private entity or other person to submit a proposal requesting approval of a qualifying project by the responsible governmental entity. Requires that the proposal be accompanied by the following, unless waived by the responsible governmental entity:

(1)-(9) Makes no change to these subdivisions;

(10) a statement of the specific public purpose served by the qualifying project;

(11) a statement describing the qualifying project's compliance with the responsible governmental entity's best value determination under Subsection (b-1); and

(12) any additional material and information the responsible governmental entity reasonably requests.

Makes a nonsubstantive change.

(a-1) Requires a responsible governmental entity that accepts an unsolicited proposal for a qualifying project under Subsection (a), in accordance with the requirements of Section 2267.052(b)(11)(B), to select the contracting person for the project by soliciting additional proposals through a request for qualifications, request for proposals, or invitation to bid.

(b) Authorizes a responsible governmental entity to request proposals or invite bids from persons for the development or operation of a qualifying project.

(b-1) Requires a responsible governmental entity to make a best value determination in evaluating the proposals received and consider the total project cost as one factor in evaluating the proposals. Provides that the responsible governmental entity is not required to select the proposal that offers the lowest total project cost and is authorized to consider the following factors:

(1)-(2) Makes no change to these subdivisions;

(3) the proposed design and overall quality of the qualifying project;

(4)-(9) Makes no change to these subdivisions;

(10) the relationship and conformity of the qualifying project to a state or local community plan impacted by the qualifying project or to the uses of property surrounding the qualifying project;

(11) the historic significance of the property on which the qualifying project is proposed to be located;

(12) the environmental impact of the qualifying project; and

(13) other criteria that the responsible governmental entity considers appropriate.

Makes nonsubstantive changes.

(b-2) Authorizes a responsible governmental entity to approve a qualifying project that the governmental entity determines serves a public purpose. Requires the responsible

governmental entity to include in the comprehensive agreement for the qualifying project a written declaration of the specific public purpose served by the project.

(g) Requires the responsible governmental entity to take action appropriate under Section 552.153 (Exception: Name of Applicant for Executive Director, Chief Investment Officer, or Chief Audit Executive of Teacher Retirement System of Texas) to protect confidential and proprietary information provided by a private entity submitting the proposal and by the contracting person under an agreement.

(h) Requires each responsible governmental entity described by Section 2267.001(5)(A) to submit copies of detailed proposals, including drafts of any interim agreement and the comprehensive agreement, to the Partnership Advisory Commission in accordance with Chapter 2268 before completing the negotiation and entering into an interim or comprehensive agreement, rather than before entering into the negotiation of an interim or comprehensive agreement.

SECTION 29. Amends Section 2267.055(a), Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, to require a private entity whose proposal, other than a proposal for a service contract, is accepted for conceptual stage evaluation under Section 2267.053 to notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction, rather than requiring a person submitting a proposal to a responsible governmental entity under Section 2267.053 to notify each affected jurisdiction by providing a copy of its proposal to the affected jurisdiction.

SECTION 30. Amends Section 2267.058, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsection (a) and adding Subsection (g), as follows:

(a) Requires the contracting person, before developing or operating the qualifying project, to enter into a comprehensive agreement with a responsible governmental entity. Requires that the comprehensive agreement provide for:

(1) Makes no change to this subdivision;

(2) review of plans and specifications for the qualifying project by the responsible governmental entity and approval by the responsible governmental entity indicating that the plans and specifications conform to standards acceptable to the responsible governmental entity, except that the contracting person is prohibited from being required to provide final design documents for a qualifying project, rather than complete the design of a qualifying project, before the execution of a comprehensive agreement; and

(3)-(8) Makes no change to these subdivisions;

Makes a nonsubstantive change.

(g) Requires that the comprehensive agreement provide that a security document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge, or security interest on or against the contracting party's interest is prohibited from extending to or affecting the fee simple interest of the state in the qualifying project or the state's rights or interests under the comprehensive agreement. Requires any holder of debt to acknowledge that the mortgage, pledge, or encumbrance or a lien, charge, or security interest on or against the contracting party's interest is subordinate to the fee simple interest of the state in the qualifying project and the state's rights or interests under the comprehensive agreement.

SECTION 31. Amends the heading to Section 2267.066, Government Code, to read as follows:

Sec. 2267.066. POSTING OF PROPOSALS; PUBLIC COMMENT; PUBLIC ACCESS TO PROCUREMENT RECORDS; FINAL VOTE.

SECTION 32. Amends Section 2267.066, Government Code, by amending Subsections (c) and (d) and adding Subsection (e-1), as follows:

(c) Provides that trade secrets, proprietary information, financial records, and work product of a proposer are excluded from disclosure under Section 552.101 (Exception: Confidential Information) and are prohibited from being posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the proposer. Provides that, after submission by a responsible governmental entity of a detailed qualifying project proposal to the Partnership Advisory Commission, the trade secrets, proprietary information, financial records, and work product of the proposer are not protected from disclosure unless expressly excepted from the requirements of Chapter 552 or considered confidential under other law. Deletes existing text prohibiting other records of the contracting person excluded from disclosure under Section 552.101 from being posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the contracting person.

(d) Requires the responsible governmental entity to hold a public hearing on the proposal during the proposal review process not later than the 30th day before the date the entity enters into an interim or comprehensive agreement. Requires that the public hearing be held in the area in which the proposed qualifying project is to be performed.

(e-1) Requires the responsible governmental entity to hold a public hearing on the final version of the proposed comprehensive agreement and vote on the proposed comprehensive agreement after the hearing after making the proposed comprehensive agreement available as required by Subsection (e). Requires that the hearing be held not later than the 10th day before the date the entity enters into a comprehensive agreement with a contracting person.

SECTION 33. (a) Amends Subchapter B, Chapter 2267, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by adding Section 2267.067, as follows:

Sec. 2267.067. QUALIFYING PROJECT IN CAPITOL COMPLEX.

(a) Requires that a qualifying project for property located in the Capitol Complex, as defined by Section 411.061(a)(1), be consistent with Capitol Complex design guidelines or standards adopted as part of the Capitol Complex master plan developed under Section 2166.105.

(b) Requires a responsible governmental entity to include design guidelines and standards defined in Subsection (a) in the request for proposals or invitation for bids for the development or operation of a qualifying project and inform the persons who submit proposals of the requirement to comply with the design guidelines and standards. Requires that the final proposal or invitation be submitted to SPB for verification that the proposal complies with the design guidelines and standards.

(c) Requires a responsible governmental entity to submit a final qualifying project proposal for property in the area described by Subsection (a) to SPB. Authorizes SPB by majority vote to disapprove the proposal not later than the 60th day after the date the proposal is received by SPB.

(d) Prohibits a responsible governmental entity from approving a qualifying project proposal for property in the area described by Subsection (a) before September 1, 2015. Provides that this subsection expires September 1, 2015.

(b) Provides that, if S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation relating to real property within the Capitol Complex is enacted and becomes law, this section has no effect.

SECTION 34. Section 2268.055, Government Code, is amended to read as follows:

Sec. 2268.055. MEETINGS. (a) Creates this subsection from existing text and makes no further change.

(b) Provides that Partnership Advisory Commission meetings are subject to Chapter 551 (Open Meetings).

SECTION 35. Amends Section 2268.056(d), Government Code, as follows:

(d) Requires TFC, using the qualifying project fees authorized under Section 2165.353, to provide, on a cost recovery basis, professional services of its architectural, engineering, and real estate staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), as necessary to support the Partnership Advisory Commission in its review and evaluation of proposals, including financial and risk allocation analysis and ongoing contract performance monitoring of qualifying projects. Requires TFC to assign staff and contracted advisors and consultants necessary to perform the duties required by this subsection. Deletes existing text requiring the comptroller or a state agency to provide additional assistance as needed.

SECTION 36. Amends Sections 2268.058(e), (g), and (i), Government Code, as follows:

(e) Requires the Partnership Advisory Commission, in a public hearing by majority vote of the members present, to approve or disapprove each detailed proposal submitted to the Partnership Advisory Commission for review and authorizes the Partnership Advisory Commission to provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the Partnership Advisory Commission receives complete copies of the detailed proposal, rather than requiring the Partnership Advisory Commission to provide its finding and recommendations to the responsible governmental entity not later than the 45th day after the date the Partnership Advisory Commission receives complete copies of the detailed proposal if the Partnership Advisory Commission accepts a proposal for review. Provides that, if the Partnership Advisory Commission does not provide its findings or recommendations to the responsible governmental entity by that date, the Partnership Advisory Commission is considered to not have made any findings or recommendations on the proposal, rather than considered to have declined review of the proposal and to not have made any findings or recommendations on the proposal.

(g) Requires the Partnership Advisory Commission to include in any findings and recommendations provided to the responsible governmental entity:

- (1) a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt, taking into consideration the specific findings of the comptroller with respect to the recommendation;
- (2) an analysis of the potential financial impact of the qualifying project;
- (3) a review of the policy aspects of the detailed proposal and the qualifying project; and
- (4) proposed general business terms.

Deletes existing text requiring the Partnership Advisory Commission to review accepted detailed proposals and provide findings and recommendations to the responsible government entity that include a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt, taking into consideration the

specific findings of the comptroller with respect to the recommendation; an analysis of the potential financial impact of the qualifying project; a review of the policy aspects of the detailed proposal and the qualifying project; and proposed general business terms.

(i) Prohibits the responsible governmental entity from negotiating an interim or comprehensive agreement for a detailed proposal that has been disapproved by the Partnership Advisory Commission, rather than prohibiting the responsible governmental entity, except as provided by Subsection (e), from beginning negotiation of an interim or comprehensive agreement until the Partnership Advisory Commission has submitted its recommendations or declined to accept the detailed proposals for review.

SECTION 37. Amends Section 31.155(d), Natural Resources Code, to provide that the duty under this subchapter of the asset management division of GLO or any other division delegated the duties of the asset management division by the commissioner of GLO (division) to review and verify real property records and to make recommendations regarding real property and of the commissioner of GLO to prepare a report involving real property does not apply to certain real property, including the real property included in the Capitol Complex as defined by Section 411.061(a)(1), Government Code.

SECTION 38. Repealer: Section 2268.058(d) (relating to requiring the Partnership Advisory Commission to determine whether to accept or decline the proposal for review and notify the responsible governmental entity of the Partnership Advisory Commission's decision not later than the 10th day after the date the Partnership Advisory Commission receives a complete copy of the detailed proposal for a qualifying project), Government Code.

SECTION 39. (a) Provides that, not later than January 1, 2014, the following are transferred from the TSBVI to TFC:

- (1) the powers, duties, functions, programs, and activities of TSBVI relating to the maintenance of the TSBVI's physical facilities;
- (2) any obligations and contracts of TSBVI that are directly related to implementing a power, duty, function, program, or activity transferred under this subsection; and
- (3) all property and records in the custody of TSBVI that are related to a power, duty, function, program, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) Requires TFC and TSBVI to enter into a memorandum of understanding as provided by Section 30.022(h-1), Education Code, as added by this Act, that:

- (1) identifies in detail the applicable powers and duties that are transferred between the two agencies by this Act; and
- (2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of TSBVI that are used for purposes of the Partnership Advisory Committee's powers and duties directly related to the maintenance of the school's physical facilities under Section 30.022 (Governance of the Texas School for the Blind and Visually Impaired), Education Code.

SECTION 40. Provides that, not later than January 1, 2014, the following are transferred from TSD to TFC:

- (1) the powers, duties, functions, programs, and activities of TSD relating to maintenance of TSD's physical facilities;
- (2) any obligations and contracts of TSD that are directly related to implementing a power, duty, function, program, or activity transferred under this subsection; and

(3) all property and records in the custody of TSD that are related to a power, duty, function, program, or activity transferred under this subsection and all funds appropriated by the legislature for that power, duty, function, program, or activity.

(b) Requires TFC and TSD to enter into a memorandum of understanding as provided by Section 30.052(h-1), Education Code, as added by this Act, that:

(1) identifies in detail the applicable powers and duties that are transferred between the two agencies by this Act; and

(2) establishes a plan for the identification and transfer of the records, personnel, property, and unspent appropriations of TSD that are used for purposes of the Partnership Advisory Commission's powers and duties directly related to the maintenance of TSD's physical facilities under Section 30.052, Education Code.

SECTION 41. Requires TFC to:

(1) not later than January 1, 2014:

(A) develop the qualifying project review guidelines required by Section 2165.352, Government Code, as added by this Act;

(B) develop the qualifying project proposal fee schedule required by Section 2165.353, Government Code, as added by this Act;

(C) adopt the comprehensive planning and development process required by Section 2166.107, Government Code, as added by this Act; and

(2) not later than July 1, 2014, prepare the comprehensive capital improvement and deferred maintenance plan required by Section 2166.108, Government Code, as added by this Act; and

(3) not later than April 1, 2016, prepare the Capitol Complex master plan required by Section 2166.105, Government Code, as added by this Act, and submit the plan as required by that section.

SECTION 42. Requires the Partnership Advisory Commission established under Chapter 2268, Government Code, not later than December 1, 2016, to submit to the lieutenant governor, the speaker of the house of representatives, and the appropriate legislative standing committees recommendations on proposed amendments to Chapters 2267 and 2268, Government Code.

SECTION 43. Effective date: upon passage or September 1, 2013.