

By: J. Davis of Harris

H.B. No. 2096

A BILL TO BE ENTITLED

AN ACT

relating to the review and oversight of public and private partnership agreements and projects.

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

SECTION 1. Subchapter A, Chapter 403, Government Code, is amended by adding Section 403.0071 to read as follows:

Sec. 403.0071. PUBLIC AND PRIVATE PARTNERSHIP DIVISION.
The comptroller shall establish a public and private partnership division within the comptroller's office to perform the duties assigned under Chapter 2268. The comptroller may hire the staff necessary for the division to perform its assigned duties.

SECTION 2. Section 2267.053(h), Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, is amended to read as follows:

(h) Before entering into the negotiation of an interim or comprehensive agreement, each responsible governmental entity described by Section 2267.001(5)(A) must submit copies of detailed proposals to the comptroller's public and private partnership division [~~Partnership Advisory Commission~~] in accordance with Chapter 2268.

SECTION 3. The heading to Chapter 2268, Government Code, is amended to read as follows:

CHAPTER 2268. REVIEW OF DETAILED PROPOSALS FOR QUALIFYING PROJECTS

[~~PARTNERSHIP ADVISORY COMMISSION~~]

SECTION 4. Section 2268.001, Government Code, is amended by adding Subdivision (3-a) to read as follows:

(3-a) "Division" means the comptroller's public and private partnership division established under Section 403.0071.

SECTION 5. The heading to Subchapter B, Chapter 2268, Government Code, is amended to read as follows:

SUBCHAPTER B. DIVISION REVIEW ~~[COMMISSION]~~

SECTION 6. Sections 2268.058 and 2268.059, Government Code, are amended to read as follows:

Sec. 2268.058. SUBMISSION OF DETAILED PROPOSALS FOR QUALIFYING PROJECTS; EXEMPTION; DIVISION ~~[COMMISSION]~~ REVIEW. (a) Before beginning to negotiate an interim or comprehensive agreement, each responsible governmental entity receiving a detailed proposal for a qualifying project must provide copies of the proposal to:

(1) the division ~~[presiding officer of the commission]~~; and

(2) the chairs of the House Appropriations Committee and Senate Finance Committee or their designees.

(b) The following qualifying projects are not subject to review by the division ~~[commission]~~:

(1) any proposed qualifying project with a total cost of less than \$5 million; and

(2) any proposed qualifying project with a total cost of more than \$5 million but less than \$50 million for which money has been specifically appropriated as a public-private partnership in the General Appropriations Act.

1 (c) The division [~~commission~~] may undertake additional
2 reviews of any qualifying project that will be completed in phases
3 and for which an appropriation has not been made for any phase other
4 than the current phase of the project.

5 (d) Not later than the 10th day after the date the division
6 [~~commission~~] receives a complete copy of the detailed proposal for
7 a qualifying project, the division [~~commission~~] shall determine
8 whether to accept or decline the proposal for review and notify the
9 responsible governmental entity of the division's [~~commission's~~]
10 decision.

11 (e) If the division [~~commission~~] accepts a proposal for
12 review, the division [~~commission~~] shall provide its findings and
13 recommendations to the responsible governmental entity not later
14 than the 45th day after the date the division [~~commission~~] receives
15 complete copies of the detailed proposal. If the division
16 [~~commission~~] does not provide its findings or recommendations to
17 the responsible governmental entity by that date, the division
18 [~~commission~~] is considered to have declined review of the proposal
19 and to not have made any findings or recommendations on the
20 proposal.

21 (f) The responsible governmental entity on request of the
22 division [~~commission~~] shall provide any additional information
23 regarding a qualifying project reviewed by the division
24 [~~commission~~] if the information is available to or can be obtained
25 by the responsible governmental entity.

26 (g) The division [~~commission~~] shall review accepted
27 detailed proposals and provide findings and recommendations to the

1 responsible governmental entity that include:

2 (1) a determination on whether the terms of the
3 proposal and proposed qualifying project create state
4 tax-supported debt, taking into consideration the specific
5 findings of the comptroller with respect to the recommendation;

6 (2) an analysis of the potential financial impact of
7 the qualifying project;

8 (3) a review of the policy aspects of the detailed
9 proposal and the qualifying project; and

10 (4) proposed general business terms.

11 (h) Review by the division [~~commission~~] does not constitute
12 approval of any appropriations necessary to implement a subsequent
13 interim or comprehensive agreement.

14 (i) Except as provided by Subsection (e), the responsible
15 governmental entity may not begin negotiation of an interim or
16 comprehensive agreement until the division [~~commission~~] has
17 submitted its recommendations or declined to accept the detailed
18 proposals for review.

19 (j) Not later than the 30th day before the date a
20 comprehensive or interim agreement is executed, the responsible
21 governmental entity shall submit to the division [~~commission~~] and
22 the chairs of the House Appropriations Committee and Senate Finance
23 Committee or their designees:

24 (1) a copy of the proposed interim or comprehensive
25 agreement; and

26 (2) a report describing the extent to which the
27 division's [~~commission's~~] recommendations were addressed in the

1 proposed interim or comprehensive agreement.

2 (k) Each year, not later than June 30 and December 31, the
3 division shall prepare a report of the detailed proposals reviewed
4 by the division during the preceding six months.

5 (1) The comptroller may adopt rules necessary to implement
6 this section.

7 Sec. 2268.059. CONFIDENTIALITY OF CERTAIN RECORDS
8 SUBMITTED TO DIVISION [~~COMMISSION~~]. Records and information
9 afforded protection under Section 552.153 that are provided by a
10 responsible governmental entity to the division [~~commission~~] shall
11 continue to be protected from disclosure when in the possession of
12 the division [~~commission~~].

13 SECTION 7. Chapter 2268, Government Code, is amended by
14 adding Subchapter C to read as follows:

15 SUBCHAPTER C. LEGISLATIVE OVERSIGHT COMMITTEE

16 Sec. 2268.101. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The
17 legislative oversight committee for public and private
18 partnerships consists of four members as follows:

19 (1) two senators appointed by the lieutenant governor;
20 and

21 (2) two members of the house of representatives
22 appointed by the speaker of the house of representatives.

23 (b) Members of the committee serve four-year terms that
24 expire September 1, 2017.

25 (c) If a member of the committee ceases to be a member of the
26 house from which the member was appointed, the member vacates the
27 member's position on the committee.

1 (d) If a vacancy occurs on the committee, the appropriate
2 appointing authority shall appoint a person to serve for the
3 remainder of the unexpired term in the same manner as the original
4 appointment.

5 (e) The division shall submit to the legislative oversight
6 committee the report required under Section 2268.058(k) in
7 accordance with the schedule established by the committee. The
8 committee shall meet to discuss the report not later than the 30th
9 day after the date each report is submitted.

10 Sec. 2268.102. EXPIRATION. This subchapter expires
11 September 1, 2017.

12 SECTION 8. Sections 2268.001(1), 2268.051, 2268.052,
13 2268.053, 2268.054, 2268.055, 2268.056, and 2268.057, Government
14 Code, are repealed.

15 SECTION 9. (a) As soon as practicable after the effective
16 date of this Act, but not later than September 1, 2013:

17 (1) the lieutenant governor shall appoint two senators
18 to the legislative oversight committee under Section 2268.101,
19 Government Code, as added by this Act;

20 (2) the speaker of the house of representatives shall
21 appoint two members of the house of representatives to the
22 legislative oversight committee under Section 2268.101, Government
23 Code, as added by this Act; and

24 (3) the comptroller of public accounts shall establish
25 the public and private partnership division under Section 403.0071,
26 Government Code, as added by this Act.

27 (b) On September 1, 2013, the Partnership Advisory

1 Commission is abolished, the terms of the commission members
2 expire, and all powers, duties, functions, and activities performed
3 by the commission are transferred to the comptroller's public and
4 private partnership division established under Section 403.0071,
5 Government Code, as added by this Act.

6 SECTION 10. This Act takes effect immediately if it
7 receives a vote of two-thirds of all the members elected to each
8 house, as provided by Section 39, Article III, Texas Constitution.
9 If this Act does not receive the vote necessary for immediate
10 effect, this Act takes effect September 1, 2013.