

AN ACT

relating to the continuation and functions of the Texas Facilities Commission and to property development plans in connection with governmental entities; authorizing fees.

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

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

(h) Except as provided by Subsection (h-1), the ~~The~~ board has ~~exclusive~~ jurisdiction over the physical assets of the school and shall administer and spend appropriations made for the benefit of the school.

(h-1) The Texas Facilities Commission shall provide facilities maintenance services for the physical facilities of the school, including facilities construction, cabling, facility reconfiguration, and any other services as provided by a memorandum of understanding between the board and the Texas Facilities Commission.

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

(h) Except as provided by Subsection (h-1), the ~~The~~ board has ~~exclusive~~ jurisdiction over the physical assets of the school and shall administer and spend appropriations to carry out the

1 purposes of the school as provided by Section 30.051.

2 (h-1) The Texas Facilities Commission shall provide
3 facilities maintenance services for the physical facilities of the
4 school, including facilities construction, cabling, facility
5 reconfiguration, and any other services as provided by a memorandum
6 of understanding between the board and the Texas Facilities
7 Commission.

8 SECTION 3. Section 443.007, Government Code, is amended by
9 adding Subsection (a-1) to read as follows:

10 (a-1) If the board updates or modifies its long-range master
11 plan for the preservation, maintenance, restoration, and
12 modification of the Capitol and the Capitol grounds, the board must
13 conform its plan to the Capitol Complex master plan prepared by the
14 Texas Facilities Commission under Section 2166.105.

15 SECTION 4. Section 552.153, Government Code, is amended by
16 amending Subsection (b) and adding Subsection (d) to read as
17 follows:

18 (b) Information in the custody of a responsible
19 governmental entity that relates to a proposal for a qualifying
20 project authorized under Chapter 2267 is excepted from the
21 requirements of Section 552.021 if:

22 (1) the information consists of memoranda, staff
23 evaluations, or other records prepared by the responsible
24 governmental entity, its staff, outside advisors, or consultants
25 exclusively for the evaluation and negotiation of proposals filed
26 under Chapter 2267 for which:

27 (A) disclosure to the public before or after the

1 execution of an interim or comprehensive agreement would adversely
2 affect the financial interest or bargaining position of the
3 responsible governmental entity; and

4 (B) the basis for the determination under
5 Paragraph (A) is documented in writing by the responsible
6 governmental entity; or

7 (2) the records are provided by a proposer
8 [~~contracting person~~] to a responsible governmental entity or
9 affected jurisdiction under Chapter 2267 and contain:

10 (A) trade secrets of the proposer [~~contracting~~
11 ~~person~~];

12 (B) financial records of the proposer
13 [~~contracting person~~], including balance sheets and financial
14 statements, that are not generally available to the public through
15 regulatory disclosure or other means; or

16 (C) work product related to a competitive bid or
17 proposal [~~other information~~] submitted by the proposer
18 [~~contracting person~~] that, if made public before the execution of
19 an interim or comprehensive agreement, would provide a competing
20 proposer an unjust advantage or adversely affect the financial
21 interest or bargaining position of the responsible governmental
22 entity or the proposer [~~person~~].

23 (d) In this section, "proposer" has the meaning assigned by
24 Section 2267.001.

25 SECTION 5. Section 2152.002, Government Code, is amended to
26 read as follows:

27 Sec. 2152.002. SUNSET PROVISION. The Texas Facilities

1 ~~[Building and Procurement]~~ Commission is subject to Chapter 325
2 (Texas Sunset Act). Unless continued in existence as provided by
3 that chapter, the commission is abolished and this subtitle, except
4 for Chapter 2170 and Section 2157.121, expires September 1, 2021
5 ~~[2013]~~.

6 SECTION 6. Subchapter B, Chapter 2152, Government Code, is
7 amended by adding Section 2152.066 to read as follows:

8 Sec. 2152.066. NEGOTIATED RULEMAKING AND ALTERNATIVE
9 DISPUTE RESOLUTION POLICY. (a) The commission shall develop and
10 implement a policy to encourage the use of:

11 (1) negotiated rulemaking procedures under Chapter
12 2008 for the adoption of commission rules; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009 to assist in the resolution of
15 internal and external disputes under the commission's
16 jurisdiction.

17 (b) The commission's procedures relating to alternative
18 dispute resolution must conform, to the extent possible, to any
19 model guidelines issued by the State Office of Administrative
20 Hearings for the use of alternative dispute resolution by state
21 agencies.

22 (c) The commission shall:

23 (1) coordinate the implementation of the policy
24 adopted under Subsection (a);

25 (2) provide training as needed to implement the
26 procedures for negotiated rulemaking or alternative dispute
27 resolution; and

1 (3) collect data concerning the effectiveness of those
2 procedures.

3 SECTION 7. Section 2152.104, Government Code, is amended by
4 adding Subsection (e) to read as follows:

5 (e) The commission shall provide professional service staff
6 and the expertise of financial, technical, and other necessary
7 advisors and consultants, authorized under Section 2267.053(d), to
8 support the Partnership Advisory Commission in its review and
9 evaluation of qualifying project proposals.

10 SECTION 8. Subsection (b), Section 2165.007, Government
11 Code, is amended to read as follows:

12 (b) Notwithstanding any other law, the commission shall
13 provide facilities management services in relation to all state
14 agency facilities in Travis County or a county adjacent to Travis
15 County. The commission's duty does not apply to:

16 (1) a facility owned or operated by an institution of
17 higher education;

18 (2) military facilities;

19 (3) facilities owned or operated by the Texas
20 Department of Criminal Justice;

21 (4) facilities owned or operated by the Texas Juvenile
22 Justice Department [~~Youth Commission~~];

23 (5) facilities owned or operated by the Texas
24 Department of Transportation;

25 (6) the Capitol, including the Capitol Extension, the
26 General Land Office building, the Bob Bullock Texas State History
27 Museum, any museum located on the Capitol grounds, the Governor's

1 Mansion, and any property maintained by the Texas Historical
2 Commission under Sections 442.0072 and 442.0073;

3 (7) a facility determined by the commission to be
4 completely residential;

5 (8) a regional or field office of a state agency;

6 (9) a facility located within or on state park
7 property;

8 (10) the property known as the Finance Commission
9 Building described by deed recorded in Volume 5080, Page 1099, of
10 the Deed Records of Travis County, Texas; [~~or~~]

11 (11) the property known as the Credit Union Department
12 Building described by deed recorded in Volume 6126, Page 27, of the
13 Deed Records of Travis County, Texas;

14 (12) facilities owned or operated by the Texas School
15 for the Blind and Visually Impaired; or

16 (13) facilities owned or operated by the Texas School
17 for the Deaf.

18 SECTION 9. Section 2165.055, Government Code, is amended to
19 read as follows:

20 Sec. 2165.055. REPORT ABOUT IMPROVEMENTS AND REPAIRS. The
21 commission [~~biennially~~] on July 1 of each even-numbered year
22 [~~December 1st~~] shall electronically submit a report to the
23 governor, lieutenant governor, speaker of the house of
24 representatives, comptroller, and Legislative Budget Board on:

25 (1) all improvements and repairs that have been made,
26 with an itemized account of receipts and expenditures; and

27 (2) the condition of all property under its control,

1 with an estimate of needed improvements and repairs.

2 SECTION 10. Section 2165.2035, Government Code, is amended
3 by adding Subsection (d-1) and amending Subsection (e) to read as
4 follows:

5 (d-1) From the money received under Subsection (d), an
6 amount equal to the costs associated with the lease of state parking
7 lots and garages, including costs of trash collection and disposal,
8 grounds and other property maintenance, and the remedying of any
9 damage to state property, may be appropriated only to the
10 commission to pay those costs.

11 (e) On or before December 1 of each even-numbered year, the
12 commission shall electronically submit a report to the legislature
13 and the Legislative Budget Board describing the effectiveness of
14 the program under this section.

15 SECTION 11. Section 2165.2046, Government Code, is amended
16 to read as follows:

17 Sec. 2165.2046. REPORTS ON PARKING PROGRAMS. On or before
18 December [~~October~~] 1 of each even-numbered year, the commission
19 shall electronically submit a report to the legislature and
20 Legislative Budget Board describing the effectiveness of parking
21 programs developed by the commission under this subchapter. The
22 report must, at a minimum, include:

- 23 (1) the yearly revenue generated by the programs;
24 (2) the yearly administrative and enforcement costs of
25 each program;
26 (3) yearly usage statistics for each program; and
27 (4) initiatives and suggestions by the commission to:

1 (A) modify administration of the programs; and

2 (B) increase revenue generated by the programs.

3 SECTION 12. Subchapter F, Chapter 2165, Government Code, is
4 amended by adding Section 2165.259 to read as follows:

5 Sec. 2165.259. CAPITOL COMPLEX. (a) In this section,
6 "Capitol Complex" has the meaning assigned by Section 443.0071.

7 (b) Notwithstanding Subchapter D and subject to Subsection
8 (d), the commission may not lease, sell, or otherwise dispose of
9 real property or an interest in real property located in the Capitol
10 Complex.

11 (c) This section does not affect the commission's authority
12 under Subchapter E to lease space in state office buildings and
13 parking garages.

14 (d) The commission may develop or operate a qualifying
15 project, as that term is defined by Section 2267.001, in the Capitol
16 Complex if:

17 (1) the legislature by general law specifically
18 authorizes the project; and

19 (2) before the commission enters into a comprehensive
20 agreement for the project, the legislature individually approves
21 the project under Section 2268.058.

22 SECTION 13. Chapter 2165, Government Code, is amended by
23 adding Subchapter H to read as follows:

24 SUBCHAPTER H. PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE:

25 QUALIFYING PROJECTS

26 Sec. 2165.351. DEFINITIONS. In this subchapter:

27 (1) "Partnership Advisory Commission" means the

1 Partnership Advisory Commission created by Chapter 2268.

2 (2) "Qualifying project" has the meaning assigned by
3 Section 2267.001, as added by Chapter 1334 (S.B. 1048), Acts of the
4 82nd Legislature, Regular Session, 2011.

5 Sec. 2165.352. COMMISSION REVIEW GUIDELINES AND POLICIES.

6 (a) In adopting the qualifying project review guidelines required
7 by Section 2267.052, as added by Chapter 1334 (S.B. 1048), Acts of
8 the 82nd Legislature, Regular Session, 2011, the commission must
9 include review criteria and documentation to guide the initial
10 review of each substantially complete qualifying project proposal
11 received by the commission.

12 (b) The review criteria required under Subsection (a) at a
13 minimum must include:

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

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

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

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

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

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

3 (c) The commission's qualifying project review guidelines
4 must:

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

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

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

19 (d) On completion of the negotiation phase for the
20 development of a comprehensive agreement and before a comprehensive
21 agreement is entered into, the commission shall:

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

25 (2) before posting the report and documents required
26 under Subdivision (1), redact all information included in the
27 report and documents that is considered confidential under Section

1 2267.066(c).

2 (e) The expertise described by Subsection (c) may be
3 provided by commission staff or outside experts.

4 Sec. 2165.353. QUALIFYING PROJECT FEES. (a) The
5 commission may charge a reasonable fee to cover the costs of
6 reviewing a qualifying project. The commission shall develop and
7 adopt a qualifying project proposal fee schedule sufficient to
8 cover its costs, including at a minimum the costs of processing,
9 reviewing, and evaluating the proposals.

10 (b) The commission shall use the professional expertise
11 information required under Section 2165.352(c) to determine the
12 amount of the fee charged by the commission to review a qualifying
13 project proposal. The amount must be reasonable in comparison to
14 the level of professional expertise required for the project and
15 may include the cost of staff time required to process the proposal
16 and other direct costs.

17 (c) The commission may use the money from the fees collected
18 under this section to hire or contract with persons who have the
19 professional expertise necessary to effectively evaluate a
20 qualifying project proposal.

21 Sec. 2165.354. INITIAL REVIEW OF QUALIFYING PROJECT
22 PROPOSAL. (a) The commission staff shall conduct an initial
23 review of each qualifying project proposal submitted to the
24 commission and provide to commission members a summary of the
25 review, including an analysis and recommendations.

26 (b) Subject to Subsection (c), the commission shall use a
27 value for money analysis in evaluating each qualifying project

1 proposal to:

2 (1) conduct a thorough risk analysis of the proposal
3 that identifies specific risks shared between this state and the
4 private partner and subjects the risks to negotiation in the
5 contract;

6 (2) determine if the proposal is in the best long-term
7 financial interest of this state; and

8 (3) determine if the project will provide a tangible
9 public benefit to this state.

10 (c) If commission staff determine that a value for money
11 analysis is not appropriate for evaluating a specific qualifying
12 project proposal, the staff shall submit to the commission a
13 written report stating the reasons for using an alternative
14 analysis methodology.

15 (d) The commission shall coordinate with the commission's
16 office of internal audit for review and receipt of comments on the
17 reasonableness of the assumptions used in the value for money
18 analysis or alternative analysis methodology used to evaluate a
19 qualifying project proposal under this section.

20 Sec. 2165.355. INITIAL PUBLIC HEARING ON QUALIFYING PROJECT
21 PROPOSAL. (a) Before submitting a detailed qualifying project
22 proposal to the Partnership Advisory Commission as required under
23 Section 2268.058, the commission must hold an initial public
24 hearing on the proposal.

25 (b) The commission must post a copy of the detailed
26 qualifying project proposal on the commission's Internet website
27 before the required public hearing and, before posting the

1 proposal, redact all information included in the proposal that is
2 considered confidential under Section 2267.066(c).

3 (c) After the hearing, the commission shall:

4 (1) modify the proposal as the commission determines
5 appropriate based on the public comments; and

6 (2) include the public comments in the documents
7 submitted to the Partnership Advisory Commission and provide any
8 additional information necessary for the evaluation required under
9 Chapter 2268.

10 Sec. 2165.356. SUBMISSION OF QUALIFYING PROJECT CONTRACT TO
11 CONTRACT ADVISORY TEAM. (a) Not later than the 60th day before the
12 date the commission is scheduled to vote on approval of a qualifying
13 project contract, the commission must submit to the Contract
14 Advisory Team established under Subchapter C, Chapter 2262,
15 documentation of the modifications to a proposed qualifying project
16 made during the commission's evaluation and negotiation process for
17 the project, including a copy of:

18 (1) the final draft of the contract;

19 (2) the detailed qualifying project proposal; and

20 (3) any executed interim or other agreement.

21 (b) The Contract Advisory Team shall review the
22 documentation submitted under Subsection (a) and provide written
23 comments and recommendations to the commission. The review must
24 focus on, but not be limited to, best practices for contract
25 management and administration.

26 (c) Commission staff shall provide to the commission
27 members:

1 (1) a copy of the Contract Advisory Team's written
2 comments and recommendations; and

3 (2) the staff's response to the comments and
4 recommendations.

5 Sec. 2165.3561. MUNICIPAL PROJECT. Not later than the 30th
6 day before the date the commission is scheduled to meet and vote on
7 a project to develop or improve state property in a municipality,
8 the commission staff must:

9 (1) place the project on the commission's meeting
10 agenda to provide the public with notice of the meeting and an
11 opportunity to comment; and

12 (2) present sufficient information to commission
13 members to enable the members to adequately prepare for the meeting
14 and to address the members' questions and concerns.

15 Sec. 2165.357. PROHIBITED EMPLOYMENT OF COMMISSION
16 EMPLOYEE. (a) A commission employee may not be employed or hired
17 by another person to perform duties that relate to the employee's
18 specific duties in developing and implementing a qualifying
19 project, including review, evaluation, development, and
20 negotiation of a qualifying project proposal.

21 (b) The commission shall obtain from each commission
22 employee sufficient information for the commission to determine
23 whether:

24 (1) the employee is employed by another person; and

25 (2) a potential conflict of interest exists between
26 the employee's commission duties and the employee's duties with the
27 other employer.

1 disposition of real property owned by the state.

2 SECTION 17. Subsection (d), Section 2166.101, Government
3 Code, is amended to read as follows:

4 (d) The commission shall summarize its findings on the
5 status of state-owned buildings and current information on
6 construction costs in an electronically submitted ~~[a]~~ report ~~[it~~
7 ~~shall make available]~~ to the governor, lieutenant governor, speaker
8 of the house of representatives, comptroller, and Legislative
9 Budget Board not later than July 1 of each even-numbered year ~~[the~~
10 ~~legislature, and the state's budget offices]~~.

11 SECTION 18. Subsection (b), Section 2166.102, Government
12 Code, is amended to read as follows:

13 (b) The commission shall maintain a six-year capital
14 planning cycle and shall electronically submit ~~[file]~~ a master
15 facilities plan with the governor, lieutenant governor, speaker of
16 the house of representatives, ~~[Governor's Office of Budget and~~
17 ~~Planning, the]~~ Legislative Budget Board, and ~~[the]~~ comptroller
18 before July 1 of each even-numbered year.

19 SECTION 19. Subsection (b), Section 2166.103, Government
20 Code, is amended to read as follows:

21 (b) Not later than July 1 of each even-numbered year ~~[Before~~
22 ~~each legislative session]~~, the commission shall electronically
23 submit ~~[send]~~ to the governor, the lieutenant governor, the speaker
24 of the house of representatives, the comptroller, and the
25 Legislative Budget Board a report identifying counties in which
26 more than 50,000 square feet of usable office space is needed and
27 the commission's recommendations for meeting that need. The

1 commission may recommend leasing or purchasing and renovating one
2 or more existing buildings or constructing one or more buildings.

3 SECTION 20. Subchapter C, Chapter 2166, Government Code, is
4 amended by adding Sections 2166.105, 2166.106, 2166.1065,
5 2166.107, and 2166.108 to read as follows:

6 Sec. 2166.105. CAPITOL COMPLEX MASTER PLAN. (a) The
7 commission shall prepare a Capitol Complex master plan that at a
8 minimum includes:

9 (1) an overview and summary of the previous plans for
10 the Capitol Complex;

11 (2) a stated strategic vision and long-term goals for
12 the Capitol Complex;

13 (3) an analysis of state property, including
14 buildings, in the Capitol Complex and of the extent to which this
15 state satisfies its space needs through use of the property;

16 (4) detailed, site-specific proposals for state
17 property in the Capitol Complex, including proposals on the use of
18 property and space for public sector purposes;

19 (5) an analysis of and recommendations for building
20 design guidelines to ensure appropriate quality in new or remodeled
21 buildings in the Capitol Complex;

22 (6) an analysis of and recommendations for Capitol
23 Complex infrastructure needs, including transportation, utilities,
24 and parking;

25 (7) for projects identified in the plan, an analysis
26 of and recommendations for financing options;

27 (8) time frames for implementing the plan components

1 and any projects identified in the plan;

2 (9) consideration of alternative options for meeting
3 state space needs outside the Capitol Complex; and

4 (10) other information relevant to the Capitol Complex
5 as the commission determines appropriate.

6 (b) The commission shall ensure that the General Land
7 Office, the State Preservation Board, the Texas Historical
8 Commission, and other relevant interested parties are included in
9 each stage of the development of the Capitol Complex master plan.

10 (c) The commission shall submit to the governor, lieutenant
11 governor, speaker of the house of representatives, comptroller, and
12 Legislative Budget Board:

13 (1) not later than April 1, 2016, the initial Capitol
14 Complex master plan; and

15 (2) not later than July 1 of each even-numbered year
16 thereafter, updates to the plan.

17 (d) The commission shall ensure that the Capitol Complex
18 master plan and the master facilities plan developed under Section
19 2166.102 do not conflict and together comprehensively address the
20 space needs of state agencies.

21 Sec. 2166.106. REVIEW OF PROPOSED CAPITOL COMPLEX MASTER
22 PLAN BY PARTNERSHIP ADVISORY COMMISSION. (a) Before a proposed
23 Capitol Complex master plan or proposed update to the plan is
24 submitted and considered approved under Section 2166.1065 and
25 before the commission adopts the plan or update, the commission
26 must submit the plan or update to the Partnership Advisory
27 Commission established under Chapter 2268 for review and comment.

1 (b) Not later than the 60th day after the date the
2 Partnership Advisory Commission receives the plan or update, the
3 advisory commission shall in a public hearing by majority vote of
4 the members present:

5 (1) vote to approve the plan or update; or

6 (2) submit to the commission written comments and
7 recommended modifications to the plan or update.

8 Sec. 2166.1065. REVIEW OF CAPITOL COMPLEX MASTER PLAN BY
9 STATE PRESERVATION BOARD AND GENERAL LAND OFFICE. (a) Not later
10 than the 90th day before the date the commission holds a public
11 meeting to discuss a proposed Capitol Complex master plan, the
12 commission must submit the proposed plan to the State Preservation
13 Board for review and comment. Not later than the 60th day before
14 the date the commission holds a public meeting to discuss a proposed
15 Capitol Complex master plan, the commission must submit the
16 proposed plan to the General Land Office for review and comment.

17 (b) Not later than the 60th day before the date the
18 commission holds a public meeting to discuss a proposed update to
19 the Capitol Complex master plan, the commission must submit the
20 proposed update to the State Preservation Board and the General
21 Land Office for review and comment.

22 (c) Not later than the 90th day after the date the State
23 Preservation Board receives from the commission a proposed Capitol
24 Complex master plan and not later than the 60th day after the date
25 the board receives from the commission a proposed update to the
26 plan, the board may:

27 (1) by a public vote disapprove the plan or update if

1 the board determines that the goals or recommendations in the plan
2 or update are not in the best interest of the state or of the Capitol
3 Complex; and

4 (2) submit to the commission written comments and
5 recommended modifications to the plan or update.

6 (d) The proposed Capitol Complex master plan or the proposed
7 update to the plan is considered to be approved by the State
8 Preservation Board if the board does not hold the public vote
9 authorized by Subsection (c) on or before the date required under
10 that subsection.

11 (e) The review of the Capitol Complex master plan under this
12 section is in addition to the review required for a proposed project
13 under Section 443.0071.

14 Sec. 2166.107. COMPREHENSIVE PLANNING AND DEVELOPMENT
15 PROCESS. (a) The commission by rule shall adopt a comprehensive
16 process for planning and developing state property in the
17 commission's inventory and for assisting state agencies in space
18 development planning for state property under Sections 2165.105 and
19 2165.1061.

20 (b) The process under this section at a minimum must
21 include:

22 (1) a clear approach and specific time frames for
23 obtaining input throughout the planning and development process
24 from the public, interested parties, and state agencies, including
25 the General Land Office;

26 (2) specific schedules for providing to the commission
27 regular updates on planning and development efforts;

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

5 (4) confidentiality policies consistent with Chapter
6 552.

7 Sec. 2166.108. COMPREHENSIVE CAPITAL IMPROVEMENT AND
8 DEFERRED MAINTENANCE PLAN. (a) The commission shall develop a
9 comprehensive capital improvement and deferred maintenance plan
10 that clearly defines the capital improvement needs and critical and
11 noncritical maintenance needs of state buildings.

12 (b) The comprehensive capital improvement and deferred
13 maintenance plan must:

14 (1) with respect to deferred maintenance projects:

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

18 (B) state the commission's plan for addressing
19 the projects;

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

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

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

26 (2) contain a list of all predictable capital
27 improvement projects, including a time frame and a cost estimate

1 for each project; and

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

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

12 (d) The commission shall include the comprehensive capital
13 improvement and deferred maintenance plan and regular updates to
14 the plan in its long-range plan under Section 2166.102. The
15 information included in the long-range plan must include the
16 aggregate project costs for each state agency but may exclude the
17 cost of each specific facility project.

18 SECTION 21. Section 2175.184, Government Code, is amended
19 to read as follows:

20 Sec. 2175.184. DIRECT TRANSFER. (a) During the 10
21 business days after the date the property is posted on the
22 comptroller's website, a state agency, political subdivision, or
23 assistance organization shall coordinate with the commission for a
24 transfer of the property at a price established by the
25 commission. A transfer to a state agency has priority over any
26 other transfer during this period.

27 (b) A political subdivision or assistance organization may

1 not lease, lend, bail, deconstruct, encumber, sell, trade, or
2 otherwise dispose of property acquired under this section or
3 acquired from a state agency under Section 2175.241 before the
4 second anniversary of the date the property was acquired. A
5 political subdivision or an assistance organization that violates
6 this subsection shall remit to the commission the amount the
7 political subdivision or assistance organization received from the
8 lease, loan, bailment, deconstruction, encumbrance, sale, trade,
9 or other disposition of the property unless the commission
10 authorizes the action taken by the political subdivision or
11 assistance organization with respect to the property.

12 SECTION 22. Section 2175.905, Government Code, is amended
13 by adding Subsection (d) to read as follows:

14 (d) An assistance organization may not lease, lend, bail,
15 deconstruct, encumber, sell, trade, or otherwise dispose of data
16 processing equipment acquired under this section. The assistance
17 organization may dispose of the equipment only by transferring the
18 equipment to the school district that specified the assistance
19 organization for transfer under this section.

20 SECTION 23. Section 2267.001, Government Code, as added by
21 Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular
22 Session, 2011, is amended by adding Subdivisions (1-a), (5-a),
23 (9-a), (9-b), (9-c), (10-a), and (14-a) and amending Subdivisions
24 (10) and (12) to read as follows:

25 (1-a) "Commission" means the Partnership Advisory
26 Commission established under Chapter 2268.

27 (5-a) "Improvement" means:

1 (A) a building, structure, fixture, or fence
2 erected on or affixed to land;

3 (B) the installation of water, sewer, or drainage
4 lines on, above, or under land;

5 (C) the paving of undeveloped land; and

6 (D) specialized software that in any manner is
7 related to the control, management, maintenance, or operation of an
8 improvement.

9 (9-a) "Private entity" means any individual person,
10 corporation, general partnership, limited liability company,
11 limited partnership, joint venture, business trust, public benefit
12 corporation, nonprofit entity, or other business entity.

13 (9-b) "Property" means any matter or thing capable of
14 public or private ownership.

15 (9-c) "Proposer" means a private entity that submits a
16 proposal to a responsible governmental entity or affected
17 jurisdiction.

18 (10) "Qualifying project" means:

19 (A) any ferry, mass transit facility, vehicle
20 parking facility, port facility, power generation facility, fuel
21 supply facility, oil or gas pipeline, water supply facility, public
22 work, waste treatment facility, hospital, school, medical or
23 nursing care facility, recreational facility, public building, or
24 other similar facility currently available or to be made available
25 to a governmental entity for public use, including any structure,
26 parking area, appurtenance, and other property required to operate
27 the structure or facility and any technology infrastructure

1 installed in the structure or facility that is essential to the
2 project's purpose; or

3 (B) any improvements necessary or desirable to
4 ~~[unimproved]~~ real property ~~[estate]~~ owned by a governmental entity.

5 (10-a) "Real property" means:

6 (A) improved or unimproved land;

7 (B) an improvement;

8 (C) a mine or quarry;

9 (D) a mineral in place;

10 (E) standing timber; or

11 (F) an estate or interest, other than a mortgage
12 or deed of trust creating a lien on property or an interest securing
13 payment or performance of an obligation, in a property described by
14 Paragraphs (A) through (E).

15 (12) "Revenue" means all revenue, income, earnings,
16 user fees, lease payments, or other service payments that arise out
17 of or in connection with ~~[support]~~ the development or operation of a
18 qualifying project, including money received as a grant or
19 otherwise from the federal government, a governmental entity, or
20 any agency or instrumentality of the federal government or
21 governmental entity in aid of the project.

22 (14-a) "State entity" means a governmental entity
23 described by Subdivision (5)(A).

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

27 Sec. 2267.003. APPLICABILITY. This chapter does not apply

1 to:

2 (1) the financing, design, construction, maintenance,
3 or operation of a highway in the state highway system;

4 (2) a transportation authority created under Chapter
5 451, 452, 453, or 460, Transportation Code; [~~or~~]

6 (3) any telecommunications, cable television, video
7 service, or broadband infrastructure other than technology
8 installed as part of a qualifying project that is essential to the
9 project; or

10 (4) except as provided by Section 2165.259, a
11 qualifying project located in the Capitol Complex, as defined by
12 Section 443.0071.

13 SECTION 25. Subchapter A, Chapter 2267, Government Code, as
14 added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature,
15 Regular Session, 2011, is amended by adding Sections 2267.005,
16 2267.0051, 2267.0052, 2267.006, 2267.0061, 2267.0062, 2267.0063,
17 2267.0064, 2267.0065, 2267.0066, and 2267.0067 to read as follows:

18 Sec. 2267.005. CONFLICT OF INTEREST. An employee of a
19 responsible governmental entity or a person related to the employee
20 within the second degree by consanguinity or affinity, as
21 determined under Chapter 573, may not accept money, a financial
22 benefit, or other consideration from a contracting person that has
23 entered into a comprehensive agreement with the responsible
24 governmental entity.

25 Sec. 2267.0051. PROHIBITED EMPLOYMENT WITH FORMER OR
26 RETIRED GOVERNMENTAL ENTITY EMPLOYEES. (a) A contracting person
27 may not employ or enter into a professional services contract or a

1 consulting services contract under Chapter 2254 with a former or
2 retired employee of the responsible governmental entity with which
3 the person has entered into a comprehensive agreement before the
4 first anniversary of the date on which the former or retired
5 employee terminates employment with the entity.

6 (b) This section does not prohibit the contracting person
7 from entering into a professional services contract with a
8 corporation, firm, or other business organization that employs a
9 former or retired employee of the responsible governmental entity
10 before the first anniversary of the date the former or retired
11 employee terminates employment with the entity if the former or
12 retired employee does not perform services for the corporation,
13 firm, or other business organization under the comprehensive
14 agreement with the responsible governmental entity that the former
15 or retired employee worked on before terminating employment with
16 the entity.

17 Sec. 2267.0052. PROHIBITED EMPLOYMENT OF RESPONSIBLE
18 GOVERNMENTAL ENTITY EMPLOYEES. (a) An employee of a responsible
19 governmental entity may not be employed or hired by another person
20 to perform duties that relate to the employee's specific duties in
21 developing and implementing a qualifying project, including
22 review, evaluation, development, and negotiation of a qualifying
23 project proposal.

24 (b) The responsible governmental entity shall obtain from
25 each employee sufficient information to determine whether:

26 (1) the employee is employed by another person; and

27 (2) a potential conflict of interest exists between

1 the employee's duties for the entity and the employee's duties with
2 the other employer.

3 (c) Each employee of a responsible governmental entity
4 whose duties relate to a qualifying project shall attest that the
5 employee is aware of and agrees to the responsible governmental
6 entity's ethics and conflict-of-interest policies.

7 (d) To the extent the other employment is authorized by the
8 responsible governmental entity's policy, this section does not
9 prohibit additional employment for an employee of a responsible
10 governmental entity whose duties are not related to a qualifying
11 project.

12 Sec. 2267.006. DEVELOPMENT PLAN. (a) If the state intends
13 to develop or operate a qualifying project under this chapter, the
14 state entity proposing to develop or operate the project may adopt a
15 development plan on the real property associated with the project.

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

21 (c) The plan must address local land use planning
22 ordinances, which may include the following:

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

26 (2) densities and intensities of designated land uses;

27 (3) the timing and rate of development;

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

6 (5) needed zoning and other land use regulations.

7 (d) The plan must comply with existing rules, regulations,
8 orders, or ordinances for real property development to the extent
9 the rules, regulations, orders, or ordinances are not detrimental
10 to the interests of the state as determined by the special board of
11 review.

12 Sec. 2267.0061. PUBLIC HEARING BEFORE PREPARATION OF
13 DEVELOPMENT PLAN. (a) If the state entity is requested to prepare
14 a development plan under Section 2267.006, the state entity shall
15 notify the local government to which the plan will be submitted
16 under Section 2267.0062 of the state entity's intent to prepare a
17 development plan. The state entity shall provide the local
18 government with information relating to:

19 (1) the location of the real property to be offered for
20 sale or lease;

21 (2) the highest and best use of the real property; and

22 (3) the process for preparing the development plan
23 under Section 2267.006 and the process provided under Sections
24 2267.0065 and 2267.0066 for the special board of review.

25 (b) Not later than the 30th day after the date the local
26 government receives the notice provided under Subsection (a), the
27 local government may request the state entity to hold a public

1 hearing to solicit public comment. If requested by the local
2 government, the state entity shall hold a public hearing. The local
3 government shall provide notice of the hearing to real property
4 owners in at least the same manner that notice is provided for
5 adopting zoning regulations or subdivision requirements in the
6 local government's jurisdiction. The state entity shall set the
7 agenda for the hearing, which must be completed not later than the
8 120th day after the date notice is provided under Subsection (a).

9 (c) If the local government does not request a public
10 hearing under Subsection (b), the state entity may hold a hearing to
11 solicit public comment. The state entity shall provide notice of
12 the hearing in the same manner that a local government is required
13 to provide notice under Subsection (b). The state entity shall set
14 the agenda for the hearing and must complete the hearing not later
15 than the 120th day after the date the notice is provided under
16 Subsection (a).

17 (d) A public hearing under this section may include:

18 (1) a presentation by the state entity relating to the
19 state entity's classification of the real property as unused or
20 substantially underused and the state entity's recommendation of
21 the highest and best use to which the real property may legally be
22 placed;

23 (2) a presentation by the local government relating to
24 relevant local plans, development principles, and ordinances that
25 may affect the development of the real property; and

26 (3) oral comments and presentations of information by
27 and written comments received from other persons relating to the

1 development of the real property.

2 (e) The state entity shall prepare a summary of the
3 information and testimony presented at a hearing conducted under
4 this section and may develop recommendations based on the
5 information and testimony. The state entity shall prepare a report
6 summarizing the information and testimony presented at the hearing
7 and the views presented by the state, the affected local
8 governments, and other persons who participated in the hearing
9 process. The governing body of the state entity shall review the
10 state entity's report and may instruct the state entity to
11 incorporate information based on the report in preparing the
12 development plan under Section 2267.006.

13 (f) The state entity may adopt rules to implement this
14 section. The state entity shall administer the process provided by
15 this section.

16 Sec. 2267.0062. SUBMISSION OF PLAN TO AFFECTED LOCAL
17 GOVERNMENT. (a) The development plan adopted under Section
18 2267.006 shall be submitted to any local government having
19 jurisdiction over the real property in question for consideration.

20 (b) The local government shall evaluate the plan and either
21 accept or reject the plan not later than the 120th day after the
22 date the state entity submits the plan.

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

26 (d) If the plan is rejected, the local government shall
27 specifically identify any ordinance with which the plan conflicts

1 and propose specific modifications to the plan that will bring it
2 into compliance with the local ordinance.

3 (e) If the plan is rejected by the affected local
4 government, the state entity may modify the plan to conform to the
5 ordinances specifically identified by the local government and
6 resubmit the plan for approval, or the state entity may apply for
7 necessary rezoning or variances from the local ordinances.

8 (f) Failure by the local government to act within the
9 120-day period prescribed by Subsection (b) is considered an
10 acceptance by the local government of the plan.

11 Sec. 2267.0063. REZONING. (a) If the plan would require
12 zoning inconsistent with any existing zoning or other land use
13 regulation, the state entity or its designated representative may
14 at any time submit a request for rezoning to the local government
15 with jurisdiction over the real property in question.

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

21 (c) Failure by the local government to act within the
22 120-day period prescribed by Subsection (b) is considered an
23 approval of the rezoning request by the local government.

24 Sec. 2267.0064. FEES AND ASSESSMENTS. (a) The local
25 government may not impose application, filing, or other fees or
26 assessments on the state for consideration of the plan or the
27 application for rezoning or variance submitted by the state.

1 (b) The local government may not require the submission of
2 architectural, engineering, or impact studies to be completed at
3 state expense before considering the plan or application for
4 rezoning or variance.

5 Sec. 2267.0065. SPECIAL BOARD OF REVIEW. (a) If the local
6 government denies the rezoning request submitted under this
7 chapter, the matter may be appealed to a special board of review
8 consisting of the following members:

9 (1) the land commissioner;

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

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

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

17 (5) a member appointed by the governor.

18 (b) The land commissioner shall serve as the presiding
19 officer of the special board of review.

20 Sec. 2267.0066. HEARING. (a) The special board of review
21 shall conduct one or more public hearings to consider the proposed
22 development plan.

23 (b) Hearings shall be conducted in accordance with rules
24 adopted by the General Land Office for conducting a special review.

25 (c) If real property is located in more than one
26 municipality, the hearings on any single tract of real property may
27 be combined.

1 (d) Any political subdivision in which the tract in question
2 is located and the appropriate central appraisal district shall
3 receive written notice of board hearings at least 14 days before the
4 date of the hearing.

5 (e) At least one hearing shall be conducted in the county
6 where the real property is located.

7 (f) If after the hearings the special board of review
8 determines that local zoning requirements are detrimental to the
9 best interest of the state, the board shall issue an order
10 establishing a development plan to govern the use of the real
11 property as provided in this section.

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

21 (h) The hearing may not be considered a contested case
22 proceeding under Chapter 2001 and is not subject to appeal under
23 that chapter.

24 Sec. 2267.0067. BINDING EFFECT OF DEVELOPMENT PLAN.

25 (a) Except as provided by this subsection, a development plan
26 promulgated by the special board of review under this chapter and
27 any plan accepted by a local government shall be final and binding

1 on the state, its lessees, successors in interest and assigns, and
2 affected local governments or political subdivisions unless
3 revised by the special board of review. If the state entity does
4 not receive a bid or auction solicitation for the real property
5 subject to the development plan, the state entity, at the direction
6 of the executive director of the entity, may revise the development
7 plan to conserve and enhance the value and marketability of the real
8 property.

9 (b) A local government, political subdivision, owner,
10 builder, developer, or any other person may not modify the
11 development plan without specific approval by the special board of
12 review.

13 (c) The special board of review must file a copy of the
14 development plan in the deed records of the county in which the real
15 property is located. Revisions to the development plan that are
16 requested after the later of the 10th anniversary of the date on
17 which the development plan was adopted by the special board of
18 review or the date on which the state no longer holds a financial or
19 property interest in the real property subject to the plan are
20 governed by local development policies and procedures.

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

25 (a) Except as provided by Subsection (a-1), a [A] person may
26 not develop or operate a qualifying project unless the person
27 obtains the approval of and contracts with the responsible

1 governmental entity under this chapter. The person may initiate
2 the approval process by submitting a proposal requesting approval
3 under Section 2267.053(a), or the responsible governmental entity
4 may request proposals or invite bids under Section 2267.053(b).

5 (a-1) A person may not develop or operate a qualifying
6 project on property located within the Capitol Complex, as defined
7 by Section 411.061(a)(1), unless the person obtains the approval of
8 and contracts with the responsible governmental entity under this
9 chapter. The person may not initiate the approval process by
10 submitting a proposal requesting approval under Section
11 2267.053(a). The responsible governmental entity may request
12 proposals or invite bids under Section 2267.053(b).

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

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

21 (b) The guidelines for a responsible governmental entity
22 described by Section 2267.001(5)(A) must:

23 (1) require the responsible governmental entity to:

24 (A) make a representative of the entity available
25 to meet with persons who are considering submitting a proposal; and

26 (B) provide notice of the representative's
27 availability;

1 (2) provide reasonable criteria for choosing among
2 competing proposals;

3 (3) contain suggested timelines for selecting
4 proposals and negotiating an interim or comprehensive agreement;

5 (4) allow the responsible governmental entity to
6 accelerate the selection, review, and documentation timelines for
7 proposals involving a qualifying project considered a priority by
8 the entity;

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

11 (A) a cost-benefit analysis;

12 (B) an assessment of opportunity cost;

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

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

19 (6) allow the responsible governmental entity to
20 consider the nonfinancial benefits of a proposed qualifying
21 project;

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

26 (8) include criteria for:

27 (A) the qualifying project, including the scope,

1 costs, and duration of the project and the involvement or impact of
2 the project on multiple public entities;

3 (B) the creation of and the responsibilities of
4 an oversight committee, with members representing the responsible
5 governmental entity, that acts as an advisory committee to review
6 the terms of any proposed interim or comprehensive agreement; and

7 (C) compliance with the requirements of Chapter
8 2268;

9 (9) [~~(8)~~] require the responsible governmental entity
10 to analyze the adequacy of the information to be released by the
11 entity when seeking competing proposals and require that the entity
12 provide more detailed information, if the entity determines
13 necessary, to encourage competition, subject to Section
14 2267.053(g);

15 (10) [~~(9)~~] establish criteria, key decision points,
16 and approvals required to ensure that the responsible governmental
17 entity considers the extent of competition before selecting
18 proposals and negotiating an interim or comprehensive agreement;
19 and

20 (11) [~~(10)~~] require the posting and publishing of
21 public notice of a proposal requesting approval of a qualifying
22 project, including:

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

26 (B) a reasonable period, as determined by the
27 responsible governmental entity, of not less than 45 days or more

1 than 180 days, or a longer period specified by the governing body of
2 the responsible governmental entity to accommodate a large-scale
3 project, [~~as determined by the responsible governmental entity,~~] to
4 encourage competition and partnerships with private entities and
5 other persons in accordance with the goals of this chapter, during
6 which the responsible governmental entity must accept submission of
7 competing proposals for the qualifying project; and

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

11 (c) The guidelines of a responsible governmental entity
12 described by Section 2267.001(5)(B) must include:

13 (1) [~~may include~~] the provisions required under
14 Subsection (b); and

15 (2) [~~must include~~] a requirement that the governmental
16 entity engage the services of qualified professionals, including an
17 architect, professional engineer, or certified public accountant,
18 not otherwise employed by the governmental entity, to provide
19 independent analyses regarding the specifics, advantages,
20 disadvantages, and long-term and short-term costs of any proposal
21 requesting approval of a qualifying project unless the governing
22 body of the governmental entity determines that the analysis of the
23 proposal is to be performed by similarly qualified employees of the
24 governmental entity.

25 (c-1) For a proposal with an estimated cost of \$5 million or
26 more for the construction or renovation of a structure or project,
27 the analysis conducted under Subsection (c)(2) must include review

1 of the proposal by an architect, a professional engineer, and a
2 certified public accountant not otherwise employed by the
3 governmental entity.

4 (d) A responsible governmental entity described by Section
5 2267.001(5)(A) shall submit a copy of the guidelines adopted by the
6 entity under this section to the commission for approval by the
7 commission consistent with the requirements of Subsection (b). The
8 commission shall prescribe the procedure for submitting the
9 guidelines for review under this section. The commission must
10 complete its review of the guidelines not later than the 60th day
11 after the date the commission receives the guidelines and provide
12 written comments and recommendations to the governmental entity to
13 ensure timely compliance with Subsection (b). The governmental
14 entity may not request or consider a proposal for a qualifying
15 project until the guidelines are approved by the commission.

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

21 (a) A private entity or other person may submit a proposal
22 requesting approval of a qualifying project by the responsible
23 governmental entity. The proposal must be accompanied by the
24 following, unless waived by the responsible governmental entity:

25 (1) a topographic map, with a 1:2,000 or other
26 appropriate scale, indicating the location of the qualifying
27 project;

1 (2) a description of the qualifying project,
2 including:

3 (A) the conceptual design of any facility or a
4 conceptual plan for the provision of services or technology
5 infrastructure; and

6 (B) a schedule for the initiation of and
7 completion of the qualifying project that includes the proposed
8 major responsibilities and timeline for activities to be performed
9 by the governmental entity and the person;

10 (3) a statement of the method the person proposes for
11 securing necessary property interests required for the qualifying
12 project;

13 (4) information relating to any current plans for the
14 development of facilities or technology infrastructure to be used
15 by a governmental entity that are similar to the qualifying project
16 being proposed by the person for each affected jurisdiction;

17 (5) a list of all permits and approvals required for
18 the development and completion of the qualifying project from
19 local, state, or federal agencies and a projected schedule for
20 obtaining the permits and approvals;

21 (6) a list of any facilities that will be affected by
22 the qualifying project and a statement of the person's plans to
23 accommodate the affected facilities;

24 (7) a statement on the person's general plans for
25 financing the qualifying project, including the sources of the
26 person's funds and identification of any dedicated revenue source
27 or proposed debt or equity investment for the person;

1 (8) the name and address of each individual who may be
2 contacted for further information concerning the request;

3 (9) user fees, lease payments, and other service
4 payments over the term of any applicable interim or comprehensive
5 agreement and the methodology and circumstances for changes to the
6 user fees, lease payments, and other service payments over time;

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

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

12 (12) [~~(10)~~] any additional material and information
13 the responsible governmental entity reasonably requests.

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

20 (b) A responsible governmental entity may request proposals
21 or invite bids from persons for the development or operation of a
22 qualifying project.

23 (b-1) A responsible governmental entity shall make a best
24 value determination in evaluating the proposals received and
25 consider the total project cost as one factor in evaluating the
26 proposals. The responsible governmental entity [~~received, but~~] is
27 not required to select the proposal that offers the lowest total

1 project cost and [~~The responsible governmental entity~~] may
2 consider the following factors:

3 (1) the proposed cost of the qualifying project;

4 (2) the general reputation, industry experience, and
5 financial capacity of the person submitting a proposal;

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

8 (4) the eligibility of the project for accelerated
9 selection, review, and documentation timelines under the
10 responsible governmental entity's guidelines;

11 (5) comments from local citizens and affected
12 jurisdictions;

13 (6) benefits to the public;

14 (7) the person's good faith effort to comply with the
15 goals of a historically underutilized business plan;

16 (8) the person's plans to employ local contractors and
17 residents;

18 (9) for a qualifying project that involves a
19 continuing role beyond design and construction, the person's
20 proposed rate of return and opportunities for revenue sharing;

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

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

27 (12) the environmental impact of the qualifying

1 project; and

2 (13) [~~(10)~~] other criteria that the responsible
3 governmental entity considers appropriate.

4 (b-2) A responsible governmental entity may approve a
5 qualifying project that the governmental entity determines serves a
6 public purpose. The responsible governmental entity must include
7 in the comprehensive agreement for the qualifying project a written
8 declaration of the specific public purpose served by the project.

9 (g) The responsible governmental entity shall take action
10 appropriate under Section 552.153 to protect confidential and
11 proprietary information provided by a private entity submitting the
12 proposal and by the contracting person under an agreement.

13 (h) Before completing the negotiation and entering into
14 [~~the negotiation of~~] an interim or comprehensive agreement, each
15 responsible governmental entity described by Section
16 2267.001(5)(A) must submit copies of detailed proposals, including
17 drafts of any interim agreement and the comprehensive agreement, to
18 the Partnership Advisory Commission in accordance with Chapter
19 2268.

20 SECTION 29. Subsection (a), Section 2267.055, Government
21 Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd
22 Legislature, Regular Session, 2011, is amended to read as follows:

23 (a) A private entity whose proposal, other than a proposal
24 for a service contract, is accepted for conceptual stage evaluation
25 [~~A person submitting a proposal to a responsible governmental~~
26 ~~entity]~~ under Section 2267.053 shall notify each affected
27 jurisdiction by providing a copy of its proposal to the affected

1 jurisdiction.

2 SECTION 30. Section 2267.058, Government Code, as added by
3 Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular
4 Session, 2011, is amended by amending Subsection (a) and adding
5 Subsection (g) to read as follows:

6 (a) Before developing or operating the qualifying project,
7 the contracting person must enter into a comprehensive agreement
8 with a responsible governmental entity. The comprehensive
9 agreement shall provide for:

10 (1) delivery of letters of credit or other security in
11 connection with the development or operation of the qualifying
12 project, in the forms and amounts satisfactory to the responsible
13 governmental entity, and delivery of performance and payment bonds
14 in compliance with Chapter 2253 for all construction activities;

15 (2) review of plans and specifications for the
16 qualifying project by the responsible governmental entity and
17 approval by the responsible governmental entity indicating that
18 ~~[if]~~ the plans and specifications conform to standards acceptable
19 to the responsible governmental entity, except that the contracting
20 person may not be required to provide final design documents for
21 ~~[complete the design of]~~ a qualifying project before the execution
22 of a comprehensive agreement;

23 (3) inspection of the qualifying project by the
24 responsible governmental entity to ensure that the contracting
25 person's activities are acceptable to the responsible governmental
26 entity in accordance with the comprehensive agreement;

27 (4) maintenance of a public liability insurance

1 policy, copies of which must be filed with the responsible
2 governmental entity accompanied by proofs of coverage, or
3 self-insurance, each in the form and amount satisfactory to the
4 responsible governmental entity and reasonably sufficient to
5 ensure coverage of tort liability to the public and project
6 employees and to enable the continued operation of the qualifying
7 project;

8 (5) monitoring of the practices of the contracting
9 person by the responsible governmental entity to ensure that the
10 qualifying project is properly maintained;

11 (6) reimbursement to be paid to the responsible
12 governmental entity for services provided by the responsible
13 governmental entity;

14 (7) filing of appropriate financial statements on a
15 periodic basis; and

16 (8) policies and procedures governing the rights and
17 responsibilities of the responsible governmental entity and the
18 contracting person if the comprehensive agreement is terminated or
19 there is a material default by the contracting person, including
20 conditions governing:

21 (A) assumption of the duties and
22 responsibilities of the contracting person by the responsible
23 governmental entity; and

24 (B) the transfer or purchase of property or other
25 interests of the contracting person to the responsible governmental
26 entity.

27 (g) The comprehensive agreement must provide that a

1 security document or other instrument purporting to mortgage,
2 pledge, encumber, or create a lien, charge, or security interest on
3 or against the contracting party's interest may not extend to or
4 affect the fee simple interest of the state in the qualifying
5 project or the state's rights or interests under the comprehensive
6 agreement. Any holder of debt shall acknowledge that the mortgage,
7 pledge, or encumbrance or a lien, charge, or security interest on or
8 against the contracting party's interest is subordinate to the fee
9 simple interest of the state in the qualifying project and the
10 state's rights or interests under the comprehensive agreement.

11 SECTION 31. The heading to Section 2267.066, Government
12 Code, is amended to read as follows:

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

15 SECTION 32. Section 2267.066, Government Code, is amended
16 by amending Subsections (c) and (d) and adding Subsection (e-1) to
17 read as follows:

18 (c) Trade secrets, proprietary information, financial
19 records, and work product [~~or other records~~] of a proposer are [~~the~~
20 ~~contracting person~~] excluded from disclosure under Section 552.101
21 and may not be posted or made available for public inspection except
22 as otherwise agreed to by the responsible governmental entity and
23 the proposer [~~contracting person~~]. After submission by a
24 responsible governmental entity of a detailed qualifying project
25 proposal to the commission, the trade secrets, proprietary
26 information, financial records, and work product of the proposer
27 are not protected from disclosure unless expressly excepted from

1 the requirements of Chapter 552 or considered confidential under
2 other law.

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

9 (e-1) After making the proposed comprehensive agreement
10 available as required by Subsection (e), the responsible
11 governmental entity shall hold a public hearing on the final
12 version of the proposed comprehensive agreement and vote on the
13 proposed comprehensive agreement after the hearing. The hearing
14 must be held not later than the 10th day before the date the entity
15 enters into a comprehensive agreement with a contracting person.

16 SECTION 33. (a) Subchapter B, Chapter 2267, Government
17 Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd
18 Legislature, Regular Session, 2011, is amended by adding Section
19 2267.067 to read as follows:

20 Sec. 2267.067. QUALIFYING PROJECT IN CAPITOL COMPLEX.

21 (a) A qualifying project for property located in the Capitol
22 Complex, as defined by Section 411.061(a)(1), must be consistent
23 with Capitol Complex design guidelines or standards adopted as part
24 of the Capitol Complex master plan developed under Section
25 2166.105.

26 (b) A responsible governmental entity shall include design
27 guidelines and standards defined in Subsection (a) in the request

1 for proposals or invitation for bids for the development or
2 operation of a qualifying project and inform the persons who submit
3 proposals of the requirement to comply with the design guidelines
4 and standards. The final proposal or invitation must be submitted
5 to the State Preservation Board for verification that the proposal
6 complies with the design guidelines and standards.

7 (c) A responsible governmental entity shall submit a final
8 qualifying project proposal for property in the area described by
9 Subsection (a) to the State Preservation Board. The board by
10 majority vote may disapprove the proposal not later than the 60th
11 day after the date the proposal is received by the board.

12 (d) A responsible governmental entity may not approve a
13 qualifying project proposal for property in the area described by
14 Subsection (a) before September 1, 2015. This subsection expires
15 September 1, 2015.

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

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

22 Sec. 2268.055. MEETINGS. (a) The commission shall hold
23 meetings quarterly or on the call of the presiding officer.

24 (b) Commission meetings are subject to Chapter 551.

25 SECTION 35. Subsection (d), Section 2268.056, Government
26 Code, is amended to read as follows:

27 (d) The Texas Facilities Commission, using the qualifying

1 project fees authorized under Section 2165.353, [comptroller or a
2 state agency] shall provide, on a cost recovery basis, professional
3 services of its architectural, engineering, and real estate staff
4 and the expertise of financial, technical, and other necessary
5 advisors and consultants, authorized under Section 2267.053(d), as
6 necessary to support the Partnership Advisory Commission in its
7 review and evaluation of proposals, including financial and risk
8 allocation analysis and ongoing contract performance monitoring of
9 qualifying projects. The Texas Facilities Commission shall assign
10 staff and contracted advisors and consultants necessary to perform
11 the duties required by this subsection [additional assistance as
12 needed].

13 SECTION 36. Subsections (e), (g), and (i), Section
14 2268.058, Government Code, are amended to read as follows:

15 (e) The [If the] commission in a public hearing by majority
16 vote of the members present shall approve or disapprove each
17 detailed [accepts a] proposal submitted to the commission for
18 review and may[, the commission shall] provide its findings and
19 recommendations to the responsible governmental entity not later
20 than the 45th day after the date the commission receives complete
21 copies of the detailed proposal. If the commission does not
22 provide its findings or recommendations to the responsible
23 governmental entity by that date, the commission is considered to
24 [have declined review of the proposal and to] not have made any
25 findings or recommendations on the proposal.

26 (g) The commission shall include in any [review accepted
27 detailed proposals and provide] findings and recommendations

1 provided to the 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 (i) The [~~Except as provided by Subsection (e), the~~]
12 responsible governmental entity may not negotiate [~~begin~~
13 ~~negotiation of~~] an interim or comprehensive agreement for a
14 detailed proposal that has been disapproved by [~~until~~]
15 commission [~~has submitted its recommendations or declined to accept~~
16 ~~the detailed proposals for review~~].

17 SECTION 37. Subsection (d), Section 31.155, Natural
18 Resources Code, is amended to read as follows:

19 (d) The duty under this subchapter of the division to review
20 and verify real property records and to make recommendations
21 regarding real property and of the commissioner to prepare a report
22 involving real property does not apply to:

23 (1) the real property of an institution of higher
24 education;

25 (2) the real property that is part of a fund created or
26 specifically authorized by the constitution of this state and that
27 is administered by or with the assistance of the land office;

1 (3) the real property of the Employees Retirement
2 System of Texas; [~~and~~]

3 (4) the real property of the Teacher Retirement System
4 of Texas; and

5 (5) the real property included in the Capitol Complex
6 as defined by Section 411.061(a)(1), Government Code.

7 SECTION 38. Subsection (d), Section 2268.058, Government
8 Code, is repealed.

9 SECTION 39. (a) Not later than January 1, 2014, the
10 following are transferred from the Texas School for the Blind and
11 Visually Impaired to the Texas Facilities Commission:

12 (1) the powers, duties, functions, programs, and
13 activities of the Texas School for the Blind and Visually Impaired
14 relating to the maintenance of the school's physical facilities;

15 (2) any obligations and contracts of the Texas School
16 for the Blind and Visually Impaired that are directly related to
17 implementing a power, duty, function, program, or activity
18 transferred under this subsection; and

19 (3) all property and records in the custody of the
20 Texas School for the Blind and Visually Impaired that are related to
21 a power, duty, function, program, or activity transferred under
22 this subsection and all funds appropriated by the legislature for
23 that power, duty, function, program, or activity.

24 (b) The Texas Facilities Commission and the Texas School for
25 the Blind and Visually Impaired shall enter into a memorandum of
26 understanding as provided by Subsection (h-1), Section 30.022,
27 Education Code, as added by this Act, that:

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

4 (2) establishes a plan for the identification and
5 transfer of the records, personnel, property, and unspent
6 appropriations of the Texas School for the Blind and Visually
7 Impaired that are used for purposes of the commission's powers and
8 duties directly related to the maintenance of the school's physical
9 facilities under Section 30.022, Education Code.

10 SECTION 40. (a) Not later than January 1, 2014, the
11 following are transferred from the Texas School for the Deaf to the
12 Texas Facilities Commission:

13 (1) the powers, duties, functions, programs, and
14 activities of the Texas School for the Deaf relating to the
15 maintenance of the school's physical facilities;

16 (2) any obligations and contracts of the Texas School
17 for the Deaf that are directly related to implementing a power,
18 duty, function, program, or activity transferred under this
19 subsection; and

20 (3) all property and records in the custody of the
21 Texas School for the Deaf that are related to a power, duty,
22 function, program, or activity transferred under this subsection
23 and all funds appropriated by the legislature for that power, duty,
24 function, program, or activity.

25 (b) The Texas Facilities Commission and the Texas School for
26 the Deaf shall enter into a memorandum of understanding as provided
27 by Subsection (h-1), Section 30.052, Education Code, as added by

1 this Act, that:

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

5 (2) establishes a plan for the identification and
6 transfer of the records, personnel, property, and unspent
7 appropriations of the Texas School for the Deaf that are used for
8 purposes of the commission's powers and duties directly related to
9 the maintenance of the school's physical facilities under Section
10 30.052, Education Code.

11 SECTION 41. The Texas Facilities Commission shall:

12 (1) not later than January 1, 2014:

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

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

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

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

26 (3) not later than April 1, 2016, prepare the Capitol
27 Complex master plan required by Section 2166.105, Government Code,

1 as added by this Act, and submit the plan as required by that
2 section.

3 SECTION 42. Not later than December 1, 2016, the
4 Partnership Advisory Commission established under Chapter 2268,
5 Government Code, shall submit to the lieutenant governor, the
6 speaker of the house of representatives, and the appropriate
7 legislative standing committees recommendations on proposed
8 amendments to Chapters 2267 and 2268, Government Code.

9 SECTION 43. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 211 passed the Senate on April 11, 2013, by the following vote: Yeas 31, Nays 0; May 21, 2013, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 2013, House granted request of the Senate; May 26, 2013, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 211 passed the House, with amendments, on May 15, 2013, by the following vote: Yeas 141, Nays 2, three present not voting; May 22, 2013, House granted request of the Senate for appointment of Conference Committee; May 26, 2013, House adopted Conference Committee Report by the following vote: Yeas 144, Nays 0, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor