

## **BILL ANALYSIS**

Senate Research Center  
83R5489 YDB-D

S.B. 507  
By: Watson; Eltife  
Economic Development  
3/5/2013  
As Filed

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

This bill is designed to reform public-private partnerships (PPP) to increase transparency and accountability and ensure the state gets the best deal on these contracts.

This bill:

- requires PPP projects to comply with local zoning regulations (unless the purpose is the same as what the state is currently using the property for);
- establishes conflict-of-interest language prohibiting recent state employees or their family members from profiting from entities entering into these arrangements, and prohibiting recent employees from working for contracting entities;
- substantially tightens requirements on PPP guidelines that must be adopted by local entities and requires that they meet the same standards that state agency guidelines must meet, and requires that they be approved by the Partnership Advisory Commission (the legislative group put in place to review these deals);
- requires agencies to seek Requests for Proposals after receiving unsolicited bids;
- requires a governmental entity approving a PPP project to declare its public purpose;
- requires a public hearing to be held in the vicinity of the proposed project;
- requires the governmental entity to hold a hearing and to have a public final vote on any project; and
- allows the Partnership Advisory Commission to veto any project.

As proposed, S.B. 507 amends current law relating to public and private facilities and infrastructure.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 2267.001, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by adding Subdivision (1-a) to define "commission."

SECTION 2. Amends Subchapter A, Chapter 2267, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by adding Sections 2267.005, 2267.006, and 2267.007, as follows:

Sec. 2267.005. APPLICABILITY OF MUNICIPAL ZONING REGULATIONS. (a) Requires a qualifying project that is to be performed or located in a municipality, except as provided by Subsection (b), to comply with the zoning and land use regulations of the municipality.

(b) Provides that this section does not apply to a qualifying project that uses a building, other structure, or land under the control, administration, or jurisdiction of a state agency for the same purposes for which the state agency used the building, structure, or land.

Sec. 2267.006. 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. 2267.007. 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.

SECTION 3. Amends Section 2267.052, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by amending Subsection (c) and adding Subsection (d), as follows:

(c) Requires, rather than authorizes, the guidelines of a responsible governmental entity described by Section 2267.001 (5)(B) (defining "governmental entity") to include the provisions required under Subsection (b) and makes nonsubstantive changes.

(d) Requires a responsible governmental entity described by Section 2267.001(5)(B) to submit a copy of the guidelines adopted by the entity under this section to the Partnership Advisory Commission (commission) for approval by the commission. Requires the commission to prescribe the procedure for submitting the guidelines for review under this section. Prohibits the governmental entity from requesting or considering a proposal for a qualifying project until the guidelines are approved by the commission.

SECTION 4. Amends Section 2267.053, Government Code, as added by Chapter 1334 (S.B. 1048), Acts of the 82nd Legislature, Regular Session, 2011, by adding Subsections (a-1) and (b-1), as follows:

(a-1) Requires a responsible governmental entity that approves a proposal for a qualifying project under Subsection (a) to select the contracting person for the project by soliciting additional proposals through a request for proposals or invitation to bid.

(b-1) Authorizes a responsible governmental entity to approve a qualifying project that the governmental entity determines serves a public purpose. Requires the governmental

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

SECTION 5. 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 6. Amends Section 2267.066, Government Code, by amending Subsection (d) and adding Subsection (e-1), as follows:

(d) Requires that the public hearing of the responsible government entity be held in the area in which the proposed qualifying project is to be performed.

(e-1) Requires the responsible governmental entity, after making the proposed comprehensive agreement available as required by Subsection (e), to hold a public hearing on the final version of the proposed comprehensive agreement and vote on the proposed comprehensive agreement after the hearing. 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 7. Amends Subchapter B, Chapter 2268, Government Code, by adding Section 2268.0585, as follows:

Sec. 2268.0585. DISAPPROVAL OF QUALIFYING PROJECT PROPOSALS OF CERTAIN RESPONSIBLE GOVERNMENTAL ENTITIES. Authorizes the commission, by majority vote to disapprove a qualifying project proposal submitted by a governmental entity described by Section 2267.001(5)(A) (defining "government entity").

SECTION 8. Amends Section 211.013(c), Local Government Code, to provide that, except as provided by Section 2267.005, Government Code, this subchapter does not apply to a building, other structure, or land under the control, administration, or jurisdiction of a state or federal agency.

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: September 1, 2013.