

BILL ANALYSIS

Senate Research Center
88R1130 YDB-F

S.B. 1984
By: Alvarado; Blanco
Business & Commerce
4/11/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Public-private partnerships, or P3's, are an infrastructure delivery model in which government bundles planning, design, construction, operations, and maintenance into a single procurement. They enable governments to save time and money by streamlining procurements and efficiently allocating risk. They also enable governments to procure infrastructure at a lower cost to the public and deliver projects that would not otherwise be financially possible.

Texas currently has public-private partnership legislation in place, but its complexity and ambiguity have resulted in zero partnerships since its passage in 2011. Meanwhile, a third of the rest of the United States has adopted streamlined legislation.

S.B. 1984 introduces similar streamlined legislation that would make more public private-partnerships possible. Texas has more counties and municipalities than any other state in the U.S. Projects like city halls, medical examiners buildings, recreation centers, and courthouses are in desperate need of new infrastructure and public-private partnerships can help address those needs.

Texas needs to remain competitive with other states. S.B. 1984 will unlock more opportunities for infrastructure development across the state, as well as establish financial safeguards and transparency that protect the rights and interests of our citizens and communities.

As proposed, S.B. 1984 amends current law relating to public-private partnerships for 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. Requires that this Act be known as the Public-Private Partnership Act.

SECTION 2. Amends Subtitle F, Title 10, Government Code, by adding Chapter 2267A as follows:

CHAPTER 2267A. PUBLIC-PRIVATE PARTNERSHIPS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2267A.001. DEFINITIONS. Defines "definitive agreement," "governmental entity," "interim agreement," "private entity," "public-private partnership," and "qualifying project."

Sec. 2267A.002. APPLICABILITY OF CHAPTER; EXEMPTIONS. (a) Provides that this chapter, except as provided by Subsection (b), applies to:

(1) a state agency as defined by Section 2151.002 (Definition);

(2) a local government or political subdivision of this state, including:

(A) a county;

(B) a municipality;

(C) a public school district;

(D) a local government corporation;

(E) a public facilities corporation; and

(F) a special district or authority, including:

(i) a hospital district;

(ii) a defense base development authority established under Chapter 379B (Defense Base Development Authorities), Local Government Code;

(iii) a conservation and reclamation district; and

(iv) a river authority or another type of water district;

(3) a public junior college as defined by Section 61.003 (Definitions), Education Code;

(4) a board of trustees for a port improvement or facility that is governed by Chapter 54 (Harbor and Port Facilities in Certain Municipalities), Transportation Code; or

(5) another state or local governmental entity authorized by state law to undertake a qualifying project.

(b) Provides that this chapter does not apply to:

(1) the Texas Department of Transportation (TxDOT) regarding a contract executed by TxDOT or a project funded with money from the state highway fund; or

(2) a regional tollway authority organized under Chapter 366 (Regional Tollway Authorities), Transportation Code.

Sec. 2267A.003. QUALIFYING PROJECTS. Authorizes a governmental entity to enter into a public-private partnership under this chapter to accomplish:

(1) a public work, public improvement, or other project or facility, with its related equipment and appurtenances, that serves a public purpose of the governmental entity, regardless of its public ownership, including:

(A) a public utility and related infrastructure, including a road, bridge, multimodal transportation project, right-of-way improvement, water and wastewater utility, stormwater and flood management infrastructure, street lighting, and electric and autonomous vehicle infrastructure;

(B) smart technology infrastructure and a broadband or telecommunications facility;

(C) an electric transmission and generation utility;

(D) a facility for commerce or other critical infrastructure, including a ferry or mass transit facility and related equipment, vehicle parking facility, airport or seaport facility, rail facility and related equipment, fuel supply facility, and oil or gas pipeline;

(E) civic infrastructure and related public facilities, including a courthouse, justice facility, administrative facility, workforce or affordable housing, first or emergency response facility and related equipment, hospital, nursing facility, civic center, park, public venue, recreational facility, cultural facility, educational facility, public health facility, laboratory, and research facility; and

(F) social infrastructure and a public facility for entertainment, economic development, or promotion of the hospitality and tourism industry, including an auditorium, coliseum, stadium, theater, amphitheater, museum, conference and convention facility, and convention center hotel; or

(2) a project or improvement, regardless of its public ownership, that the governmental entity determines:

(A) promotes state or local economic development or stimulates business and commercial activity within the governmental entity's jurisdiction; or

(B) benefits the public through the use of public property and other resources to generate income for the governmental entity.

Sec. 2267A.004. DELIVERY METHODS FOR QUALIFYING PROJECTS. Authorizes a governmental entity to use any of the following methods for delivery of a qualifying project through a public-private partnership under this chapter:

(1) the design-build-finance-maintain method to design, construct, finance, and maintain a qualifying project over a contractually defined period;

(2) the design-build-operate method to design, construct, and operate a qualifying project over a contractually defined period;

(3) the design-build-finance-operate-maintain method to design, construct, finance, operate, and maintain a qualifying project over a contractually defined period; or

(4) the design-build-finance-transfer method to design, construct, finance, and deliver a qualifying project.

Sec. 2267A.005. LOCATION OF QUALIFYING PROJECT. (a) Prohibits a political subdivision from undertaking a qualifying project at a location outside of its boundaries or the limits of its jurisdiction, except as provided by an interlocal agreement with another governmental entity where the qualifying project will be located.

(b) Prohibits a local government corporation, public facilities corporation, or other specially created corporation or district from undertaking a qualifying project at a location outside of the boundaries or the limits of the jurisdiction of its sponsoring political subdivision, except as provided by an interlocal agreement with another governmental entity where the qualifying project will be located.

Sec. 2267A.006. CONFLICTS OF INTEREST. Prohibits an employee of a 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

private entity that has executed an interim agreement or definitive agreement with the governmental entity under this chapter.

Sec. 2267A.007. PARKLAND. Prohibits this chapter from being construed as superseding any requirement or limitation relating to the conversion or repurposing of public parkland as provided by the Natural Resources Code.

Sec. 2267A.008. APPLICABILITY OF EMINENT DOMAIN LAW. Prohibits this chapter from being construed to alter the eminent domain laws of this state or grant the power of eminent domain to a person who is not expressly granted that power under other state law.

SUBCHAPTER B. PUBLIC-PRIVATE PARTNERSHIPS

Sec. 2267A.051. PUBLIC-PRIVATE PARTNERSHIPS. (a) Authorizes a governmental entity to enter into a public-private partnership under this chapter to plan, develop, redevelop, design, construct, equip, finance, use, operate, or maintain a qualifying project using a delivery method authorized under Section 2267A.004.

(b) Requires that a public-private partnership entered into under this chapter be evidenced by a definitive agreement.

(c) Provides that a governmental entity does not violate this chapter by soliciting, procuring, or contracting for a project by another means authorized under state law.

Sec. 2267A.052. COOPERATION BETWEEN GOVERNMENTAL ENTITIES. Authorizes two or more governmental entities to enter into an interlocal cooperation agreement to pursue a public-private partnership under this chapter to plan, develop, redevelop, design, construct, equip, finance, use, operate, or maintain a qualifying project using a delivery method authorized under Section 2267A.004.

Sec. 2267A.053. RULES, POLICIES, GUIDELINES, AND ASSISTANCE. (a) Authorizes a governmental entity to adopt rules, policies, and guidelines the entity considers necessary or desirable governing the consideration, solicitation, evaluation, and implementation of a public-private partnership under this chapter.

(b) Authorizes a governmental entity to seek the assistance of the center for alternative finance and procurement established under Section 2152.110 (Center for Alternative Finance and Procurement) regarding best practices, model guidelines, procurement resources, and professional and advisory services for public-private partnerships.

Sec. 2267A.054. PUBLIC-PRIVATE PARTNERSHIP ADVISORY SERVICES. (a) Authorizes a governmental entity to use professional advisory, legal, financial, consulting, pre-design, pre-development, brokerage, or other professional services in considering, soliciting, evaluating, negotiating, or implementing a public-private partnership under this chapter.

(b) Requires that a professional services contract for an amount exceeding \$150,000 be procured in the manner established by Section 2254.004 (Contract for Professional Services of Architect, Engineer, or Surveyor) to the extent Chapter 2254 (Professional and Consulting Services) otherwise applies to those services.

SUBCHAPTER C. SOLICITATION AND SELECTION OF PUBLIC-PRIVATE PARTNERSHIP

Sec. 2267A.101. INDUCEMENT RESOLUTION OR ORDER. Requires the governing body of a governmental entity to adopt an inducement resolution or similar order granting

preliminary authorization to solicit proposals for the public-private partnership before issuing a request for qualifications or proposals for a public-private partnership under this chapter.

Sec. 2267A.102. **AUTHORITY TO SOLICIT PUBLIC-PRIVATE PARTNERSHIP.** Requires a governmental entity to solicit proposals to enter into a public-private partnership for a qualifying project by:

- (1) issuing a single request for proposals and concurrently evaluating with the submitted proposals the qualifications of the private entities that submit the proposals; or
- (2) issuing an initial request for qualifications, evaluating the qualifications of the private entities that submit qualifications, and inviting the most qualified private entities to submit proposals if the governmental entity proceeds with a request for proposals.

Sec. 2267A.103. **SOLICITATION REQUIREMENTS.** Requires that a request for qualifications or proposals for a public-private partnership under this chapter:

- (1) state the request is for a public-private partnership under this chapter;
- (2) generally describe the qualifying project, the public purpose or public benefit to be achieved through the qualifying project, and the objectives and priorities of the governmental entity in using a public-private partnership;
- (3) identify the delivery method the governmental entity prefers and whether the governmental entity will consider alternate delivery methods;
- (4) clearly describe the evaluation criteria for submitted qualifications or proposals and the weighted value for each criterion; and
- (5) identify the process and schedule for the request for qualifications or proposals and the place and delivery method for submitting qualifications or proposals.

Sec. 2267A.104. **EVALUATION CRITERIA.** Authorizes a governmental entity, when establishing the evaluation criteria and corresponding weighted values for a request for qualifications or proposals, to consider any factor not otherwise prohibited by law that the governmental entity determines is relevant to achieving the public purposes, objectives, and priorities of the governmental entity, including:

- (1) the professional qualifications, experience, and reputation of the private entity and the private entity's employees;
- (2) the plan of finance, including the total cost of capital that accounts for both public and private sources of funding;
- (3) innovative design techniques, construction methods, or cost-saving methods;
- (4) quality of design and construction and project delivery schedule;
- (5) a private entity's ability to access federal money and grants available for the qualifying project;
- (6) lease revenue generation, revenue participation, and total rate of return to the governmental entity;
- (7) the operational capabilities, qualifications, and experience of the private entity;

- (8) operating and maintenance costs, useful life, and the total life-cycle cost of the project;
- (9) general business terms, risk allocation, and risk mitigation methodologies;
- (10) the project's environmental, social, cultural, equitable, and community impacts, including impacts on properties and residents surrounding the project location;
- (11) job creation and the private entity's commitment to employment of local residents and workforce training;
- (12) the private entity's commitment to prevailing or living wages, workplace safety standards, and workers' rights;
- (13) the private entity's plans and commitments to subcontract with historically small businesses, local businesses, underutilized businesses, or otherwise disadvantaged businesses;
- (14) financing or investment commitments from local residents; and
- (15) the private entity's community engagement plan and strategy.

Sec. 2267A.105. NOTICE OF REQUEST FOR QUALIFICATIONS OR PROPOSALS.

(a) Requires a governmental entity at a minimum to provide notice of a request for qualifications or proposals on the entity's Internet website and in the procurement directory on the Internet website of the Comptroller of Public Accounts of the State of Texas not later than the 30th day before the last date for submission.

(b) Requires that the notice at a minimum include:

- (1) a brief description of the qualifying project and services desired;
- (2) the last date for submission; and
- (3) the name and contact information of the individual an interested private entity is authorized to contact to inquire about the solicitation.

Sec. 2267A.106. EVALUATION AND SELECTION OF PROPOSALS. (a) Requires that a governmental entity select the proposal the governmental entity determines will provide the best overall value to the governmental entity, considering the public purposes, public benefits, objectives, and priorities of the governmental entity as stated in the request for proposals.

(b) Authorizes a governmental entity to reject all proposals if the governmental entity determines none of the submitted proposals demonstrate sufficient value to justify a public-private partnership.

Sec. 2267A.107. NOTICE OF SELECTION OR NON-SELECTION. Requires a governmental entity to notify each private entity that submits qualifications or a proposal under this chapter of the private entity's selection or non-selection.

Sec. 2267A.108. REQUEST FOR EVALUATION AND RANKING DOCUMENTS. (a) Authorizes a private entity that submits to a governmental entity qualifications or a proposal for a public-private partnership under this chapter, after receiving notice required under Section 2267A.107, to submit a written request to the governmental entity for the documents evaluating the private entity's submission.

(b) Requires the governmental entity, not later than the 30th day after the date a private entity submits a request under Subsection (a), to deliver to the private

entity the documents evaluating the private entity's qualifications or proposal, including any applicable ranking of the entity's qualifications or proposal.

SUBCHAPTER D. NEGOTIATIONS AND AGREEMENTS

Sec. 2267A.151. NEGOTIATIONS WITH PRIVATE ENTITY. (a) Authorizes a governmental entity to negotiate the terms of an interim agreement or definitive agreement with the selected private entity following the notice required under Section 2267A.107.

(b) Authorizes a governmental entity, if the governmental entity is unable to negotiate a satisfactory agreement with the selected private entity, to end negotiations with that private entity and begin negotiations with the next highest ranking private entity as listed in the ranking of proposals for the qualifying project.

Sec. 2267A.152. INTERIM AGREEMENT. (a) Authorizes the governing body of a governmental entity to execute an interim agreement with a private entity before entering into a definitive agreement with the selected private entity.

(b) Authorizes an interim agreement to:

(1) authorize the selected private entity to begin activities or provide services relating to the qualifying project, including project planning and development, site due diligence, design, engineering, environmental analysis and mitigation, surveying, and economic and financial feasibility analysis;

(2) provide for compensation to be paid to the selected private entity for goods or services provided to the governmental entity before the definitive agreement is executed;

(3) establish for the definitive agreement the preliminary terms, significant development points, processes, and timing for negotiation; or

(4) include other terms or provisions governing any aspect of qualifying project development that the governmental entity and private entity consider appropriate.

(c) Requires that an interim agreement:

(1) have a defined term, which is authorized to be subject to renewal or extension; and

(2) expressly provide that the interim agreement will be superseded by a definitive agreement.

Sec. 2267A.153. DEFINITIVE AGREEMENT. (a) Requires the governing body of a governmental entity to authorize the execution of a definitive agreement with a private entity and any necessary ancillary agreements relating to the qualifying project if the governmental entity proceeds with a public-private partnership after selecting a proposal and completing negotiations with the private entity.

(b) Requires that a definitive agreement include all the material terms relating to the public-private partnership, including a definitive scope of work and pricing methodology for the services to be provided under the agreement.

(c) Requires that a definitive agreement have a defined term, which is authorized to be subject to renewal or extension.

Sec. 2267A.154. AFFILIATE OR SUBSIDIARY OF SELECTED PRIVATE ENTITY. Authorizes a governmental entity, notwithstanding any other provision of this chapter, to enter into an interim agreement or a definitive agreement with a private entity that is an affiliate or subsidiary of the selected private entity if:

- (1) the selected private entity retains a majority of the voting interests of the affiliate or subsidiary;
- (2) the selected private entity retains managerial control over the business affairs of the affiliate or subsidiary; and
- (3) the governmental entity determines the governmental entity will continue to benefit from the material terms, conditions, and considerations presented in the selected private entity's proposal.

SUBCHAPTER E. FINANCING FOR PUBLIC-PRIVATE PARTNERSHIPS; PREVAILING WAGE

Sec. 2267A.201. GRANT OR COMMITMENT OF PUBLIC MONEY. (a) Authorizes a governmental entity, subject to Subsection (b), to grant public money for a qualifying project or commit to payment of public money in an interim agreement or definitive agreement.

(b) Requires the governing body of the governmental entity, before granting or committing public money for a period that extends beyond a governmental entity's current budget year, to determine that:

- (1) the grant or commitment of public money, considering the collective benefits and other consideration provided for in the interim agreement or definitive agreement, serves a legitimate public purpose of the governmental entity and will result in adequate consideration and benefits to the governmental entity;
- (2) the interim agreement or definitive agreement contains or will contain sufficient safeguards to ensure the public purposes of the governing body will continue to be satisfied throughout the term of the agreement; and
- (3) the interim agreement or definitive agreement expressly provides that the payment of commitments for the project beyond the current budget year is expressly conditioned on continued:

(A) funding by the governing body; or

(B) for a state agency, appropriations by the legislature.

Sec. 2267A.202. PRIVATE FINANCING. (a) Authorizes a definitive agreement to provide for private financing of part or all of a qualifying project through one or more debt or equity financing arrangements.

(b) Requires that any private financing payable from or secured by a private entity's right to receive public money or any other contractual obligations of the governmental entity expressly provide that financing is not a debt or obligation of the governmental entity or of this state.

(c) Prohibits private financing used in connection with a qualifying project from being guaranteed by the governmental entity or secured by a pledge or lien on any public property or money of the governmental entity or of this state.

(d) Authorizes private financing to be secured by a pledge or lien on a borrower's leasehold or other possessory interest in public property or a private entity's contractual right to receive public money.

Sec. 2267A.203. PERFORMANCE AND PAYMENT BONDS. (a) Provides that Section 2253.021 (Performance and Payment Bonds Required) applies to the components of a qualifying project that are financed wholly or partly by public money.

(b) Requires that the amount of the performance and payment bonds delivered to the governmental entity be based on the full value of the construction elements of the components of the qualifying project described by Subsection (a) and not on the total value of the definitive agreement, except as provided by Subsection (c).

(c) Authorizes a governmental entity to accept a performance and payment bond for less than full value if the governmental entity reasonably determines the full value is not commercially available or practical, except as otherwise provided by Subsection (d).

(d) Prohibits a governmental entity from accepting a performance and payment bond in an amount less than 50 percent of full value.

Sec. 2267A.204. PREVAILING WAGE. Provides that Chapter 2258 (Prevailing Wage Rates) applies to a prime contract for the construction of a qualifying project for a governmental entity, but only for those components of a qualifying project that are financed wholly or partly by public money.

SUBCHAPTER F. PUBLIC PROPERTY; STATE TAXES

Sec. 2267A.251. SALE OR CONVEYANCE OF PUBLIC PROPERTY. (a) Authorizes a governmental entity, after obtaining a certified independent appraisal, to sell, transfer, or otherwise convey its interests in public land or real property for use in a qualifying project or as consideration for a qualifying project.

(b) Authorizes a governmental entity's interest in land or real property to be sold or conveyed for less than fair market value if the governing body of the governmental entity determines that the conveyance will result in adequate consideration and benefits to the governmental entity that are reasonably expected to be commensurate with the property's current appraised value, after considering retained repurchase options, possessory interests, uses, or other property interests received in return, and all other public benefits realized from the qualifying project.

Sec. 2267A.252. LEASE OF PUBLIC PROPERTY. (a) Authorizes a governmental entity to grant to a private entity for use in a qualifying project a leasehold or other possessory interest in public land or real property, including a ground lease, facility lease, master lease, or a lease-leaseback transaction, and any furnishings, fixtures, and equipment relating to the land or property.

(b) Provides that a qualifying project improvement constructed on public property and leased to a private entity as part of a qualifying project reverts to the governmental entity on termination of the lease, including any improvement installed during the term of the lease.

Sec. 2267A.253. CONDOMINIUM OWNERSHIP. (a) Authorizes a governmental entity to submit its interests in public land to a condominium declaration under Chapter 82 (Uniform Condominium Act), Property Code, in connection with a qualifying project.

(b) Provides that a condominium unit conveyed by a governmental entity for use in a qualifying project is subject to the conditions established by Section 2267A.251.

Sec. 2267A.254. PRIVATE USE OF QUALIFYING PROJECT. Authorizes a qualifying project to include private commercial, residential, retail, and other private uses on public land or real property that the governmental entity determines:

- (1) are necessary, desirable, or appurtenant to a qualifying project's public purpose; or
- (2) otherwise serve, promote, or advance the legitimate public purposes of the governmental entity, including, as applicable, the promotion of state or local economic development.

Sec. 2267A.255. USE OF STATE PROPERTY. Provides that a qualifying project located on real property belonging to this state for purposes of Section 31.161 (Development Plan), Natural Resources Code, is considered to be for governmental purposes and a development plan is not required for any part of the qualifying project.

Sec. 2267A.256. PROPERTY TAX. (a) Provides that a portion of a qualifying project is property used for public purposes within the meaning of Section 11.11 (Public Property), Tax Code, and exempt from taxation if the portion is for:

- (1) the primary use of the governmental entity or a combination of governmental entities under an interlocal agreement;
- (2) general public use; or
- (3) the support, maintenance, and benefit of the governmental entity, a combination of governmental entities under an interlocal agreement, or the general public.

(b) Requires an appraisal district to value the interest in a portion of a qualifying project that is a possessory interest in public property and that is required to be listed under Section 25.07 (Leasehold and Other Possessory Interests in Exempt Property), Tax Code, after considering the legal restrictions, reservations, and limitations on use of that interest.

(c) Provides that a qualifying project undertaken by a local government corporation, public facilities corporation, or other specially created corporation or partnership is not exempt from property tax unless the exemption is approved by the governing body of its sponsoring political subdivision.

Sec. 2267A.257. STATE SALES AND USE TAX. Provides that an improvement to real property or a component of a qualifying project, including fixtures, furniture, equipment, and supplies used in maintenance or operations encompassed in the scope of a definitive agreement, that a private entity purchases is exempt from state sales and use tax under Section 151.311 (Taxable Items Incorporated Into or Used for Improvement of Realty of an Exempt Entity), Tax Code, if the improvement or component is purchased for the primary use and benefit of a governmental entity.

SECTION 3. Amends Section 552.153, Government Code, as follows:

Sec. 552.153. PROPRIETARY RECORDS AND TRADE SECRETS INVOLVED IN CERTAIN PARTNERSHIPS. (a) Defines "definitive agreement," "governmental entity," "private entity," and "qualifying project." Deletes existing text defining "affected jurisdiction," "comprehensive agreement," "contracting person," and "responsible governmental entity."

(b) Provides that information in the custody of a governmental entity, rather than a responsible governmental entity, that relates to a proposal for a qualifying project authorized under Chapter 2267A, rather than Chapter 2267 (Public and

Private Facilities and Infrastructure), is excepted from the requirements of Section 552.021 (Availability of Public Information) if:

- (1) the information consists of memoranda, staff evaluations, or other records prepared by the governmental entity, rather than the responsible governmental entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under Chapter 2267A, rather than Chapter 2267, for which:
 - (A) disclosure to the public before or after the execution of an interim or definitive agreement, rather than comprehensive agreement, would adversely affect the financial interest or bargaining position of the governmental entity, rather than the responsible governmental entity; and
 - (B) makes a conforming change to this paragraph; or
- (2) the records are provided by a private entity, rather than a proposer, to a governmental entity, rather than a responsible governmental entity or affected jurisdiction, under Chapter 2267A, rather than Chapter 2267, and contain:
 - (A)-(B) makes conforming changes to these paragraphs; or
 - (C) work product related to a competitive bid or proposal submitted by the private entity, rather than the proposer, that, if made public before the execution of an interim or definitive agreement, rather than comprehensive agreement, would provide a competing private entity, rather than proposer, an unjust advantage or adversely affect the financial interest or bargaining position of the governmental entity, rather than the responsible governmental entity, or the private entity, rather than the proposer.
- (c) Provides that this section, except as specifically provided by Subsection (b), does not authorize the withholding of information concerning:
 - (1) the terms of any interim or definitive agreement, rather than comprehensive agreement, service contract, lease, partnership, or agreement of any kind entered into by the governmental entity, rather than the responsible governmental entity, and the contracting private entity, rather than contracting person, or the terms of any financing arrangement that involves the use of any public money; or
 - (2) the performance of any person developing or operating a qualifying project under Chapter 2267A, rather than Chapter 2267.

Deletes existing text defining "proposer."

SECTION 4. Amends Section 2152.104(e), Government Code, as follows:

- (e) Requires the Texas Facilities Commission (TFC) to provide professional service staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2152.111, rather than Section 2267.053(d) (relating to authorizing the responsible governmental entity to charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the proposal), to support the center for alternative finance and procurement, rather than the Partnership Advisory Commission, in its review and evaluation of qualifying project proposals.

SECTION 5. Amends Section 2152.110, Government Code, as follows:

Sec. 2152.110. CENTER FOR ALTERNATIVE FINANCE AND PROCUREMENT. Requires TFC to establish the center for alternative finance and procurement to consult with governmental entities regarding best practices for procurement and the financing of qualifying projects and to assist governmental entities in the receipt of proposals, negotiation of interim and definitive agreements, rather than comprehensive agreements, and management of qualifying projects under Chapter 2267A, rather than Chapters 2267 and 2268 (Partnership Advisory Commission).

SECTION 6. Amends Subchapter C, Chapter 2152, Government Code, by adding Section 2152.111, as follows:

Sec. 2152.111. PROFESSIONAL AND CONSULTING SERVICES. (a) Authorizes the center for alternative finance and procurement established under Section 2152.110 to retain one or more providers of professional or non-professional services, or a group or association of providers, in accordance with Chapter 2254 to provide the services for qualifying projects under Chapter 2267A.

(b) Authorizes a governmental entity to which Chapter 2267A applies to use the professional or non-professional services of a provider of services retained by the center for alternative finance and procurement for purposes of considering, soliciting, evaluating, negotiating, and administering a public-private partnership under Chapter 2267A, and those services are required to be provided on the same terms as agreed on by the provider and the center.

(c) Authorizes the center for alternative finance and procurement to charge a reasonable fee to the governmental entity for the services available to the governmental entity related to a qualifying project. Prohibits the fee from exceeding an amount of \$5,000 or 10 percent of the contract value of the professional services provided to the governmental entity.

SECTION 7. Amends Section 2165.259(d), Government Code, as follows:

(d) Authorizes TFC to enter into a public-private partnership in accordance with Chapter 2267A to develop or operate a qualifying project, as that term is defined by Section 2267A.001, rather than 2267.001, in the Capitol Complex if:

(1) makes no change to this subdivision; and

(2) before TFC enters into a definitive agreement, rather than a comprehensive agreement, for the project, the legislature individually approves the project, rather than approves the project under Section 2268.058 (Submission of Detailed Proposals for Qualifying Projects; Exemption; Commission Review).

SECTION 8. Section 379B.0012(b), Local Government Code, as follows:

(b) Provides that Chapters 2267A and 2269 (Contracting and Delivery Procedures for Construction Projects), rather than Chapters 2267 and 2269, Government Code, do not apply to a qualifying project of a defense base authority.

SECTION 9. Amends Section 3501.005(b), Special District Local Laws Code, as follows:

(b) Provides that Chapters 2267A and 2269, rather than Chapters 2267 and 2269, Government Code, do not apply to a qualifying project of the Lubbock Reese Redevelopment Authority.

SECTION 10. Amends Section 172.211(b), Transportation Code, as follows:

(b) Authorizes a county acting through the commissioners court or a local government corporation to adopt an order that authorizes the county and a navigation district located wholly or partly in the county to:

(1) develop rail facilities as a qualifying project under Chapter 2267A, rather than Chapter 2267, Government Code; and

(2) makes no changes to this subdivision.

SECTION 11. Repealer: Subchapter H (Public and Private Facilities and Infrastructure: Qualifying Projects), Chapter 2165, Government Code.

Repealer: Section 2166.106 (Review of Proposed Capitol Complex Master Plan by Partnership Advisory Commission), Government Code.

Repealers: Chapters 2267 (Public and Private Facilities and Infrastructure) and 2268 (Partnership Advisory Commission), Government Code.

SECTION 12. Makes application of Chapter 2267A, Government Code, as added by this Act, prospective.

SECTION 13. Effective date: September 1, 2023.