

## **Summary of S.B. 211 Enrolled, 83 R.S. Related to Planning, Development and P3s**

Below is a section by section summary of S.B. No. 211 and other Acts of the 83rd Legislature, Regular Session, 2013 relating to the authority and functions of the Texas Facilities Commission; real property development plans in connection with long-range planning by the Facilities Commission for governmental entities; and the authorization of fees.

**SECTION 3.** Section 443.007(a-1), Government Code states that if the [State Preservation] board updates or modifies its long-range master plan for the preservation, maintenance, restoration, and modification of the Capitol and the Capitol grounds, the board must conform its plan to the Capitol Complex master plan prepared by the Facilities Commission under Section 2166.105.

**SECTION 4.** Section 552.153, Government Code was amended to correct the inaccurate use of the defined term "Contracting person" by changing the term to "Proposer" which accurately characterizes the private entity during the conceptual evaluation stage. A "Proposer" becomes a "Contracting person" only after being selected over other competing proposals, if any, and successfully completing the detailed evaluation stage and being awarded an executed "Comprehensive agreement". Subsection (C) was amended to provide protection of work product related to a competitive [sealed] bid or proposal submitted by the proposer that, if made public before the execution of an interim or comprehensive agreement, would provide a competing proposer an unjust advantage or adversely affect the financial interest or bargaining position of the responsible governmental entity or the proposer.

**SECTION 7.** Section 2152.104(e), Government Code was amended to add the requirement that the Facilities Commission staff the Partnership-Advisory Commission by providing professional service staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), to support the appointees of the Partnership Advisory Commission in the review and evaluation of qualifying project proposals submitted for approval under Chapter 2268, Government Code.

**SECTION 12.** Subchapter F, Chapter 2165, Government Code, was amended by adding Sec. 2165.259. CAPITOL COMPLEX. This section provides that only the Facilities Commission has the authority to develop and operate qualifying [P3] projects in the Capitol Complex through comprehensive agreements approved by the Partnership Advisory Commission and the Legislature. Upon adoption of the Capitol Complex Master Plan, this section provides legislative oversight and direction for the governing body of the Facilities Commission to: authorize staff to conduct conceptual stage evaluations of proposed qualifying projects; and upon completion of prepositioning for detailed stage proposals and interim or comprehensive agreements, approve qualifying project proposals for submission to the Partnership Advisory Commission and Legislature for project authorization.

**SECTION 13.** Chapter 2165, Government Code, was amended by adding SUBCHAPTER H. PUBLIC AND PRIVATE FACILITIES AND INFRASTRUCTURE: QUALIFYING PROJECTS. The new subchapter includes

**Sec. 2165.353. QUALIFYING PROJECT FEES** provides that the Facilities Commission may charge a reasonable fee to cover the costs of reviewing

**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

a qualifying project by developing and adopting a qualifying project proposal fee schedule sufficient to cover its costs, including at a minimum the costs of processing, reviewing, and evaluating the proposals. The Facilities Commission is authorized to use the money from the fees collected under this section to hire or contract with persons who have the professional expertise necessary to effectively evaluate a qualifying project proposal.

Sec. 2165.354. INITIAL REVIEW OF QUALIFYING PROJECT PROPOSAL is consistent with existing Commission guidelines which require staff to conduct an initial review of each qualifying project proposal and provide to commission members a summary of the review, including an analysis and recommendations. This section requires that the commission utilize value for money analyses to evaluate qualifying projects by conducting risk analyses; identify specific risks shared between the state and the private partner, subjecting the risks to negotiation in the contract; determine if the proposal is in the best long-term financial interest of the state; and to determine if the project will provide a tangible public benefit to the state.

This section provides that if staff determines that a value for money analysis is not appropriate for evaluating a specific qualifying project, the staff shall submit to the commission a written report stating the reasons for using an alternative analysis methodology.

Sec. 2165.355. INITIAL PUBLIC HEARING ON QUALIFYING PROJECT PROPOSAL is consistent with existing Commission guidelines which require that before submitting a detailed proposal to the Partnership Advisory Commission, the Facilities Commission must hold an initial public hearing on the proposal; post a copy of the detailed qualifying project proposal on the commission's website before the required public hearing; and before posting the proposal, redact all information included in the proposal that is considered confidential under Section 2267.066(c). After the hearing, the commission shall: modify the proposal as the commission determines appropriate based on public comments; and include the public comments in the documents submitted to the Partnership Advisory Commission and provide any additional information necessary for the evaluation required under Chapter 2268.

Sec. 2165.356. SUBMISSION OF QUALIFYING PROJECT CONTRACT TO CONTRACT ADVISORY TEAM was added and includes the requirement that not later than the 60th day before the date the commission votes to approve an interim or comprehensive agreement, the commission must submit to the Contract Advisory Team, documentation of the modifications to a proposed qualifying project made during the commission's evaluation and negotiation process for the project, including copies of the final draft of the contract; the detailed proposal; and any executed interim or other agreement.

The Contract Advisory Team shall review the documentation and provide written comments and recommendations to the commission. The review must focus on, but not be limited to, best practices for contract management and administration.

Sec. 2165.3561. MUNICIPAL PROJECT was added as a new section and is consistent with existing Facilities Commission guidelines and policies, and requirements of the Open Meeting Act. This section

**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

requires that not later than the 30<sup>th</sup> day before the date the Facilities Commission is scheduled to meet and vote on a qualifying project to develop or improve state property in a municipality, the commission staff must place the project on the commission's meeting agenda to provide the public with notice of the meeting and an opportunity to comment; and (2) present sufficient information to commission members to enable the members to adequately prepare for the meeting and to address the members' questions and concerns.

SECTION 14. The heading to Chapter 2166, Government Code, was amended to read BUILDING CONSTRUCTION AND ACQUISITION AND DISPOSITION OF REAL PROPERTY. This amendment aligned the title of the chapter with the commission's existing authorities under this chapter which include the authority to: construct facilities; acquire the necessary real property to support construction of such facilities; and to dispose of real property owned by the state.

**SECTION 16.** Amended Sec. 2166.002. APPLICABILITY OF CHAPTER to align with existing authorities of the Facilities Commission related to building construction projects of the state, the acquisition of real property for state purposes, and the disposition of real property owned by the state. This amendment broadened the definition of applicability of Chapter 2166 to encompass the commission's existing authority under Sec. 2166.052 of this Chapter to: acquire real property to construct a facility, and to dispose of real property owned by the state with approval: (a) by the legislature when in session, and (b) jointly by the governor and LBB when the legislature is not in session.

SECTION 20. Subchapter C, Chapter 2166, Government Code, was amended by adding Sections 2166.105, 2166.106, 2166.1065, 2166.107, and 2166.108 including new requirements as follows:

**Sec. 2166.105.** CAPITOL COMPLEX MASTER PLAN requires that the commission prepare a Capitol Complex master plan including certain minimum requirements which are consistent with the scope of work prepared for the Capitol Area Development Study, not later than April 1, 2016 and updates to the plan not later than July 1 of each even-numbered year thereafter.

**Sec. 2166.106.** REVIEW OF PROPOSED CAPITOL COMPLEX MASTER PLAN BY PARTNERSHIP ADVISORY COMMISSION requires that within 60 days before the Facilities Commission can approve and adopt or update the master plan the Partnership Advisory Commission in a public hearing by majority vote may approve the master plan or update; or submit to the commission written comments and recommended modifications to the master plan or update.

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

Not later than the 60th day before the date the commission holds a public meeting to discuss a proposed update to the Capitol Complex

## **Summary of S.B. 211 Enrolled, 83 R.S. Related to Planning, Development and P3s**

master plan, the commission must submit the proposed update to the SPB and GLO for review and comment.

Not later than the 90th day after the date the SPB receives from the commission a proposed master plan and not later than the 60th day after the date SPB receives from the commission a proposed update to the plan, the board may: (1) by a public vote disapprove the plan or update if the board determines that the goals or recommendations in the plan or update are not in the best interest of the state or of the Capitol Complex; and (2) submit to the commission written comments and recommended modifications to the plan or update. The proposed master plan or update is considered to be approved by the SPB if the board does not take the public vote on or before the date required under Subsection (c). The review of the Capitol Complex master plan under this section is in addition to the review required for a proposed project under Section 443.0071.

**Sec. 2166.107.** COMPREHENSIVE PLANNING AND DEVELOPMENT PROCESS was added and requires that the commission by rule adopt a comprehensive process including certain requirements for planning and developing state property in the commission's inventory and for assisting state agencies in space development planning for state property under Sections 2165.105 and 2165.1061.

**Sec. 2166.108.** COMPREHENSIVE CAPITAL IMPROVEMENT AND DEFERRED MAINTENANCE PLAN was added and requires that the commission develop a comprehensive capital improvement and deferred maintenance plan that among other things defines the capital improvement needs and critical and noncritical maintenance needs of state buildings. The commission is mandated to include the comprehensive capital improvement and deferred maintenance plan and regular updates to the plan in the Facilities Master Plan under long-range planning as required by Section 2166.102, Government Code. The information included in the long-range plan must include the aggregate project costs for each state agency but may exclude the cost of each specific facility project.

SECTION 23. Amended Section 2267.001, to provide definitions for undefined terms used in Chapter 2267 PUBLIC PRIVATE FACILITIES AND INFRASTRUCTURE. Among other definitions the term "Improvement" was defined to mean (A) a building, structure, fixture, or fence erected on or affixed to land; (B) the installation of water, sewer, or drainage lines on, above, or under land; (C) the paving of undeveloped land; and (D) specialized software that in any manner is related to the control, management, maintenance, or operation of an improvement. The definition of "Qualifying project" was amended to apply to any improvements necessary or desirable to real property owned by a governmental entity. The applicability of the previous definition was limited to unimproved real estate. The term "Real property" was added to mean: (A) improved or unimproved land; (B) an improvement; (C) a mine or quarry; (D) a mineral in place; (E) standing timber; or (F) an estate or interest, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property described by Paragraphs (A) through (E). The term "Revenue" was amended to include revenue, income, earnings, user fees, lease payments, or other service payments that arise out of or in connection with the development or operation of a qualifying project.

**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

**SECTION 24.** Section 2267.003 APPLICABILITY the introduced version of the bill included language in this section which would have prohibited development or operation of P3s in the Capitol Complex. However this section was amended, authorizing only the Facilities Commission to develop and operate qualifying [P3] projects in the Capitol Complex as provided by Section 2165.259.

**SECTION 25.** Amended Subchapter A, Chapter 2267, Government Code by adding Sections 2267.005, 2267.0051, 2267.0052, 2267.006, 2267.0061, 2267.0062, 2267.0063, 2267.0064, 2267.0065, 2267.0066, and 2267.0067.

Sec. 2267.005. **CONFLICT OF INTEREST** provides that an employee or relative within the second degree by consanguinity or affinity may not accept money, a financial benefit, or other consideration from a contracting person that has entered into a comprehensive agreement with the responsible governmental entity.

Sec. 2267.0051. **PROHIBITED EMPLOYMENT WITH FORMER OR RETIRED GOVERNMENTAL ENTITY EMPLOYEES** applies statewide and was added to prohibit a contracting person from employing or entering into a professional services contract or a consulting services contract under Chapter 2254 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. It 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 under the comprehensive agreement with the responsible governmental entity that the former or retired employee worked on before terminating employment with the entity.

Sec. 2267.0052. **PROHIBITED EMPLOYMENT OF RESPONSIBLE GOVERNMENTAL ENTITY EMPLOYEES** was added to provide that the prohibitions which applied only to TFC in the introduced version of the bill under Section 2165.357 apply statewide to any responsible governmental entity.

**Sec. 2267.006. DEVELOPMENT PLAN** was added and modeled on the process beginning in Section 31.161, Natural Resource Code which applies to private development on state land. This section is permissive and provides that if a responsible governmental entity intends to develop or operate a qualifying project [for private purposes] the responsible governmental entity proposing the project may adopt a development plan on the real property associated with the project. The term "qualifying project" is defined in Sec. 2267.001(10), Government Code. The purpose of a development plan is to conserve [create], and enhance the [market] value of real property belonging to the state [before entering into a comprehensive agreement with a contracting person], taking into consideration the preservation of the health, safety, and general welfare of the communities in which the real property is situated.



**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

If the responsible governmental entity chooses to promulgate a development plan, the plan must address local land use planning ordinances and must comply with existing rules, regulations, orders, or ordinances for real property development to the extent the rules, regulations, orders, or ordinances are not detrimental to the interests of the state as determined by the special board of review.

Sec. 2267.0061. PUBLIC HEARING BEFORE PREPARATION OF DEVELOPMENT PLAN. Requires that if the responsible governmental entity is requested to prepare a development plan under Section 2267.006, the responsible governmental entity shall notify the local government to which the plan will be submitted and provide the local government with certain information related to the property.

Not later than the 30th day after the date the local government receives the notice; the local government may request that the responsible governmental entity hold a public hearing to solicit public comment. The local government shall provide notice of the hearing to real property owners in at least the same manner that notice is provided for adopting zoning regulations or subdivision requirements in the local government's jurisdiction. The responsible governmental entity shall set the agenda for the hearing and must complete the hearing not later than the 120th day after the date the notice is provided to the local government.

The responsible governmental entity is required to prepare a summary of the information and testimony presented at a hearing and may develop recommendations based on the information and testimony. The state entity shall prepare a report summarizing the information and testimony presented at the hearing and the views presented by the state, the affected local governments, and other persons who participated in the hearing process. The governing body of the state entity shall review the report and may instruct the state entity to incorporate information based on the report in preparing the development plan under Section 2267.006.

Sec. 2267.0062. SUBMISSION OF PLAN TO AFFECTED LOCAL GOVERNMENT this section requires that a development plan adopted under Section 2267.006 be submitted to any local government which the real property is located within. The local government shall evaluate the plan and either accept or reject the plan not later than the 120th day after the date the responsible governmental entity submits the plan.

The plan may be rejected by the local government only on grounds that it does not comply with local ordinances and land use regulations, including zoning and subdivision ordinances. If the plan is rejected, the local government shall specifically identify any ordinance with which the plan conflicts and propose specific modifications to the plan that will bring it into compliance with the local ordinance.

If the plan is rejected, the responsible governmental entity may modify the plan to conform to the ordinances specifically identified by the local government and resubmit the plan for approval, or the state entity may apply for necessary rezoning or variances from the local ordinances. If the local government does not act within the 120-day period the plan is deemed approved.

**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

Sec. 2267.0063. REZONING. was added and provides that if the development plan requires zoning inconsistent with any existing zoning or other land use regulation, the responsible governmental entity or its designee may submit a request for rezoning to the local government. Failure by the local government to act within the 120 days is considered an approval of the rezoning request by the local government.

Sec. 2267.0064. FEES AND ASSESSMENTS was added and prevents the local government from imposing application, filing, or other fees or assessments on the state for consideration of the development plan or the application for rezoning or variance submitted by the state. This section also prevents the local government from requiring the submission of architectural, engineering, or impact studies to be completed at state expense before considering the plan or application for rezoning or variance.

Sec. 2267.0065. SPECIAL BOARD OF REVIEW was added creating a special board of review to consider appeals by a responsible governmental entity whose rezoning request was denied by a local government. The special board of review consists of the following members: the land commissioner; the mayor of the municipality where the real property is located; the county judge of the county in which the qualifying project is located; the executive director of the state entity that proposes to develop or operate the qualifying project; and a member appointed by the governor. The land commissioner serves as the presiding officer of the special board of review.

Sec. 2267.0066. HEARING the special board of review is required to conduct one or more public hearings to consider the proposed development plan. Hearings shall be conducted in accordance with rules adopted by the General Land Office for conducting a special review. Political subdivision in which the property is located and the central appraisal district shall receive written notice of board hearings at least 14 days before the date of the hearing.

If after the hearings the special board of review determines that local zoning requirements are detrimental to the best interest of the state, the board shall issue an order establishing a development plan to govern the use of the real property. Development of the real property shall be in accordance with the plan and must comply with all local rules, regulations, orders, or ordinances except as specifically identified in an order of the special board of review. In the event that substantial progress is not made toward development of the tract within five years of the date of adoption by the special board of review, local development policies and procedures shall become applicable to development of the tract, unless the special board of review promulgates a new plan.

Sec. 2267.0067. BINDING EFFECT OF DEVELOPMENT PLAN except as provided by this subsection, a development plan promulgated by the special board of review and any plan accepted by a local government shall be final and binding on the state, its lessees, successors in interest and assigns, and affected local governments or political subdivisions unless revised by the special board of review.

This section authorizes the responsible governmental entity, at the direction of the executive director of the entity, to revise the

## **Summary of S.B. 211 Enrolled, 83 R.S. Related to Planning, Development and P3s**

development plan to conserve and enhance the value and marketability of the real property if the responsible governmental entity does not receive a bid or auction solicitation for the real property subject to the development plan.

This section also prevents a local government, political subdivision, owner, builder, developer, or any other person from modifying the development plan without specific approval by the special board of review.

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

**SECTION 26** Sec. 2267.051 (a-1) which prohibited unsolicited proposals in the Capitol Complex has no effect. As stated in subsection (b) if S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation relating to real property within the Capitol Complex are enacted and become law, this section has no effect. S.B. No. 894 was enacted and S.B. No. 211 and H.B. 3436 included similar provisions as S.B. No. 894 and both were enacted on 6/14/13.

**SECTION 27** Section 2267.052, Government Code, was amended by amending Subsections (b) and (c) and adding Subsections (c-1) and (d)

**Subsection (b)** ensures that the governmental entity, for a proposed project to improve real property: evaluates design quality; life-cycle costs; and the proposed project's relationship to any relevant comprehensive planning or zoning requirements. Subsection (b) was amended to provide a cap for the competitive posting period, as determined by the responsible governmental entity, of not less than 45 days or more than 180 days, except a longer period may be specified by the governing body of the responsible governmental entity to accommodate a large-scale project, to encourage competition and partnerships with private entities and other persons in accordance with the goals of this chapter, during which the responsible governmental entity must accept submission of competing proposals for the qualifying project.

Subsections (c) and (c-1) apply to local government entities that choose to develop or operate a qualifying project under this chapter and do not apply to the Facilities Commission.

Subsection (d) requires that a responsible governmental entity described by Section 2267.001(5)(A) submit a copy of the [P3] guidelines adopted by the entity to the Partnership Advisory Commission for approval consistent with the requirements of Subsection (b). The commission must complete its review of the guidelines not later than the 60th day after the date the commission receives the guidelines and provide written comments and recommendations to the governmental entity to ensure timely compliance with Subsection (b). The governmental entity may not request or consider a proposal for a



## **Summary of S.B. 211 Enrolled, 83 R.S. Related to Planning, Development and P3s**

qualifying project until the guidelines are approved by the commission.

**SECTION 28.** Amended Subsections (a), (b), (g), and (h) and added Subsections (a-1), (b-1), and (b-2) to Section 2267.053, Government Code. Requirements related to the contents of proposals were amended to include, unless waived by the responsible governmental entity: a statement of the specific public purpose served by the qualifying project; and a statement describing the qualifying project's compliance with the responsible governmental entity's best value determination under Subsection (b-1).

Subsection (a-1) was added to clarify that a responsible governmental entity that accepts an unsolicited proposal for evaluation does not by that act approve the unsolicited proposal. Under this subsection a responsible governmental entity that accepts an unsolicited proposal for a qualifying project, in accordance with the requirements of Section 2267.052(b)(11)(B), is required to solicit additional [competing] proposals through a request for qualifications, request for proposals, or invitation to bid.

Subsection (b-1) requires a responsible governmental entity to make a best value determination [value for money analysis] in evaluating the proposals received. Under this subsection the responsible governmental entity is not required to select the proposal that offers the lowest total project cost and may consider the following factors: the relationship and conformity of the qualifying project to a state or local community plan impacted by the qualifying project or to the uses of property surrounding the qualifying project; the historic significance of the property on which the qualifying project is proposed to be located; the environmental impact of the qualifying project.

Subsection (b-2) provides that a responsible governmental entity may approve a qualifying project that the governmental entity determines serves a public purpose so long as the comprehensive agreement for the qualifying project includes a written declaration of the specific public purpose served by the project.

**Subsection (g)** was amended to extend to proposers, the protection of confidential and proprietary information included in a competitive sealed proposal. A "Proposer" becomes a "Contracting person" only after being selected over other competing proposals, if any, successfully completing the detailed evaluation stage and being awarded an executed "Comprehensive agreement". The protections of this subsection were previously applicable only to a "Contracting person" which created a loophole where competing proposers could submit an open records request to obtain copies of proposals in the possession of a responsible governmental entity to: copy, mildly alter and submit their competing proposal; avoid the cost and time to prepare a proposal; or gain other unjust competitive advantages.

Subsection (h) was amended to address a practical error which now allows responsible governmental entities to begin negotiation and preposition an interim or comprehensive agreement before submitting the detailed proposal and drafts of the interim and comprehensive agreement to the Partnership Advisory Commission in accordance with Chapter 2268.

## Summary of S.B. 211 Enrolled, 83 R.S. Related to Planning, Development and P3s

**SECTION 29.** Amended Section 2267.055(a), Government Code to exempt proposals accepted by a responsible governmental entity for "service contracts" [to operate or maintain facilities] from the requirement that a proposer submit copies of their proposals to an affected local government for review. This amendment also addressed a practical error by providing the time [upon acceptance of a proposal for conceptual stage evaluation] when a Proposer is required to provide copies of their conceptual stage proposal to the affected local government.

**SECTION 30.** Added Subsection (g) to Section 2267.058 to prevent subordination of the state's real property interest to the debt or obligations of the Contracting person awarded the right to develop and operate a qualifying project. This section states that the comprehensive agreement must provide that a security document or other instrument purporting to mortgage, pledge, encumber, or create a lien, charge, or security interest on or against the contracting party's interest may not extend to or affect the fee simple interest of the state in the qualifying project or the state's rights or interests under the comprehensive agreement. Any holder of debt shall acknowledge that the mortgage, pledge, or encumbrance or a lien, charge, or security interest on or against the contracting party's interest is subordinate to the fee simple interest of the state in the qualifying project and the state's rights or interests under the comprehensive agreement.

**SECTION 32.** Section 2267.066, Government Code, subsection (c) was amended to protect the integrity of the competitive sealed bidding process. This section provides that trade secrets, proprietary information, financial records, and work product of a proposer are excluded from disclosure under Section 552.101 and may not be posted or made available for public inspection except as otherwise agreed to by the responsible governmental entity and the proposer. After submission by a responsible governmental entity of a detailed qualifying project proposal to the Partnership Advisory Commission, the trade secrets, proprietary information, financial records, and work product of the proposer are not protected from disclosure unless expressly excepted from the requirements of Chapter 552 or considered confidential under other law.

*Overall Agreement*  
**Subsection (e-1)** was added and is consistent with current commission policy that requires a public hearing be held on the final version of a proposed comprehensive agreement including a vote on the proposed comprehensive agreement after the hearing. The hearing must be held not later than the 10th day before the date the entity enters into a comprehensive agreement with a contracting person.

**SECTION 33** added Sec. 2267.067 which included requirements for compliance with design guidelines, approval of qualifying project proposals by the SPB, and a moratorium on qualifying project proposals until September 1, 2015 but this section has no effect. As stated in subsection (b), if S.B. No. 894, Acts of the 83rd Legislature, Regular Session, 2013, or similar legislation relating to real property within the Capitol Complex are enacted and become law, this section [Sec. 2267.067] has no effect. S.B. No. 894 was enacted on 6/14/13.

**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

SECTION 34. Section 2268.055, Government Code, was amended to provide that Partnership Advisory Commission meetings are subject to Chapter 551.

**SECTION 35.** Amended Subsection (d), Section 2268.056, Government Code, by removing the requirement that Comptroller provide staff support for the Partnership Advisory Commission. This section now requires the Facilities Commission, using the qualifying project fees authorized under Section 2165.353, provide on a cost recovery basis, the professional services of its architectural, engineering, and real estate staff and the expertise of financial, technical, and other necessary advisors and consultants, authorized under Section 2267.053(d), as necessary to support the Partnership Advisory Commission in its review and evaluation of proposals, including financial and risk allocation analysis and ongoing contract performance monitoring of qualifying projects. This section also requires that the Facilities Commission assign staff and contracted advisors and consultants necessary to perform the duties required by this subsection.

SECTION 36. Amended Subsections (e), (g), and (i), Section 2268.058, Government Code.

**Subsection (e)** provides that the Partnership Advisory Commission in a public hearing, by majority vote of the members present, the authority to approve or disapprove each detailed proposal submitted to the Partnership Advisory Commission for review, and may provide its findings and recommendations to the responsible governmental entity not later than the 45th day after the date the Partnership Advisory Commission receives complete copies of the detailed proposal.

Subsection (g) provides that the Partnership Advisory Commission shall include in any findings and recommendations a determination on whether the terms of the proposal and proposed qualifying project create state tax-supported debt, taking into consideration the specific findings of the comptroller with respect to the recommendation; an analysis of the potential financial impact of the qualifying project; a review of the policy aspects of the detailed proposal and the qualifying project; and proposed general business terms.

Subsection (i) prevents a responsible governmental entity from negotiating an interim or comprehensive agreement for a detailed proposal that has been disapproved by the Partnership Advisory Commission.

**SECTION 37.** Amended subsection (d), Section 31.155, Natural Resources Code, removing authority of the General Land Office related to real property owned by the state in the Capitol Complex. This section precludes the General Land Office from selling, leasing, or developing real property owned by the state in the Capitol Complex as defined by Section 411.061(a)(1), Government Code, by removing the duty of the General Land Office to: review and verify real property records, make recommendations to sell, lease, or develop real property; and the duty of the land commissioner to prepare a report relating to real property in the Capitol Complex.

SECTION 38. Repealed subsection (d), Section 2268.058, Government Code due to the change under SECTION 36 of the bill, Section 2268.058 (e)

**Summary of S.B. 211 Enrolled, 83 R.S.  
Related to Planning, Development and P3s**

that was amended to authorize the Partnership Advisory Commission in a public hearing by majority vote of the members present to approve or disapprove each detailed proposal not later than the 45th day after the date the commission receives complete copies of the detailed proposal. The amendment of Section 2268.058 (e) made the 10 day requirement, in subsection (d), for the Partnership Advisory Commission to determine whether to accept or decline a proposal for review frivolous.

SECTION 41. Requires that the Texas Facilities Commission shall: (1) not later than January 1, 2014: (A) develop the qualifying project review guidelines required by Section 2165.352, Government Code, as added by this Act; (B) develop the qualifying project proposal fee schedule required by Section 2165.353, Government Code; and (C) adopt the comprehensive planning and development process required by Section 2166.107, Government Code; (2) not later than July 1, 2014, prepare the comprehensive capital improvement and deferred maintenance plan required by Section 2166.108, Government Code; and (3) not later than April 1, 2016, prepare the Capitol Complex master plan required by Section 2166.105, Government Code.

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