

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013

A Bill

HOUSE BILL 1251

4
5 By: Representative Sabin
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE PARTNERSHIP FOR PUBLIC
9 FACILITIES AND INFRASTRUCTURE ACT; TO REGULATE
10 PUBLIC-PRIVATE PARTNERSHIPS FOR PUBLIC FACILITIES AND
11 INFRASTRUCTURE; AND FOR OTHER PURPOSES.
12
13

Subtitle

14
15 TO CREATE THE PARTNERSHIP FOR PUBLIC
16 FACILITIES AND INFRASTRUCTURE ACT; AND TO
17 REGULATE PUBLIC-PRIVATE PARTNERSHIPS FOR
18 PUBLIC FACILITIES AND INFRASTRUCTURE.
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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 SECTION 1. Arkansas Code Title 22 is amended to add an additional
24 chapter to read as follows:

25 Chapter 10 – PARTNERSHIP FOR PUBLIC FACILITIES AND INFRASTRUCTURE ACT
26

27 Subchapter 1 – General Provisions
28

29 22-10-101. Title.

30 This chapter shall be known and may be cited as the “Partnership for
31 Public Facilities and Infrastructure Act”.
32

33 22-10-102. Legislative findings and intent.

34 (a) The General Assembly finds that:

35 (1) There is a public need for the timely acquisition, design,
36 construction, improvement, renovation, expansion, equipping, maintenance,



operation, implementation, and installation of public infrastructure and government facilities within the state that serve a public purpose;

(2) The public need for government facilities and public infrastructure may not be satisfied by existing methods of procurement;

(3) There are inadequate resources to develop public infrastructure and government facilities for the benefit of citizens of the state, and there is demonstrated evidence that public-private partnerships can meet these needs by leveraging and supplementing the limited public funds available for public projects and providing other benefits to the public;

(4) Financial incentives exist that encourage public entities to enter into partnerships with private entities to develop qualifying projects; and

(5) Authorizing private entities to develop or operate one (1) or more qualifying projects may result in the availability of such projects to the public in a more timely or less costly manner, thereby serving the public safety, benefit, and welfare.

(b) This chapter is not intended to:

(1) Delegate the power of eminent domain to any private entity with respect to a qualifying project commenced or proposed under this chapter; or

(2) Alter the eminent domain laws of this state or grant the power of eminent domain to a person who is not expressly granted the power of eminent domain under other state law.

22-10-103. Definitions.

As used in this chapter:

(1) "Affected local jurisdiction" means a county, municipality, or school district in which all or a portion of a qualifying project is located;

(2) "Comprehensive agreement" means a required agreement between a private entity and a responsible public entity executed under § 22-10-303 that outlines the responsibilities and duties of the responsible public entity and the private entity in relation to a qualifying project;

(3) "Develop" and "development of" means to plan, design, develop, finance, lease, acquire, install, construct, operate, maintain, or expand;

1 (4) "Interim agreement" means an agreement between a private
2 entity and a responsible public entity executed under § 22-10-302 to provide
3 for the phasing of the development of a proposed qualifying project and to
4 address the compensable activities that a private entity may perform in
5 relation to a proposed qualifying project before the execution of a
6 comprehensive agreement;

7 (5) "Material default" means a default by a private entity in
8 the performance of the private entity's duties under a comprehensive
9 agreement that jeopardizes adequate service to the public from a qualifying
10 project;

11 (6) "Opportunity cost" means the cost of passing up an
12 alternative and the increase in costs as the result of delaying a decision;

13 (7) "Private entity" means a natural person, corporation,
14 general partnership, limited liability company, limited partnership, joint
15 venture, business trust, public benefit corporation, nonprofit entity, and
16 other business entity;

17 (8) "Public entity" means a department, agency, board, or
18 commission of the state and a political subdivision of the state, including
19 without limitation a city, county, institution of higher education, and
20 school district;

21 (9) "Qualifying project" means a project that meets a public
22 purpose and has previously been identified as serving a public need by the
23 elected or appointed leader of a public entity;

24 (10) "Responsible public entity" means a public entity that has
25 the power to develop the applicable qualifying project;

26 (11) "Revenues" means the revenues, income, earnings, user fees,
27 lease payments, and service payments arising out of or in connection with the
28 development of a qualifying project; and

29 (12) "User fees" means the rates, fees, or other charges imposed
30 by a private entity for use of all or a portion of a qualifying project
31 pursuant to a comprehensive agreement.

32 Subchapter 2 – Proposals for Qualifying Projects

33 22-10-201. Adoption of guidelines required.

34
35 (a) A responsible public entity shall adopt and make publicly
36

1 available the following guidelines before approving a qualifying project or
2 accepting a proposal for a qualifying project under this chapter:

3 (1) Reasonable criteria for choosing among competing proposals;

4 (2) Financial review and analysis procedures for financial and
5 technical advisors or consultants that include without limitation:

6 (A) A cost-benefit analysis;

7 (B) An assessment of the opportunity cost;

8 (C) An analysis of the lifecycle costs, including without
9 limitation the design and construction costs, operating costs, and
10 maintenance and upgrade costs; and

11 (D) Consideration of the results of relevant studies and
12 analyses related to the proposed qualifying project;

13 (3) Procedures for considering the nonfinancial benefits of a
14 proposed project;

15 (4) Suggested timelines for selecting proposals and negotiating
16 an interim agreement or a comprehensive agreement;

17 (5) Criteria for allowing the responsible public entity to
18 accelerate the selection, review, and documentation timelines for proposals
19 involving a qualifying project that the responsible public entity considers
20 to be a priority;

21 (6) Procedures to:

22 (A) Determine the adequacy of the information released
23 when seeking competing proposals under § 22-10-204; and

24 (B) Allow the responsible public entity to release more
25 detailed information when seeking competing proposals if the responsible
26 public entity determines that the release of additional information is
27 necessary to encourage competition;

28 (7) Criteria, key decision points, and approvals that are
29 required to ensure that the responsible public entity considers the extent of
30 competition before selecting proposals and negotiating an interim agreement
31 or a comprehensive agreement;

32 (8) Criteria for determining any fees that the public entity
33 elects to charge under § 22-10-202; and

34 (9) Procedures for posting and publishing the public notice of a
35 responsible public entity's request for proposals or a private entity's
36 request for approval of a proposal for a qualifying project, including

1 without limitation the following:

2 (A) Specific information and documentation to be released
3 regarding the nature, timing, and scope of the qualifying project submitted
4 under § 22-10-202(b) and the protection of confidential and proprietary
5 information provided by the private entity under the Freedom of Information
6 Act of 1967, § 25-19-101 et seq.;

7 (B)(i) A reasonable time period as determined by the
8 responsible public entity to encourage competition and public-private
9 partnerships in accordance with the purpose of this chapter.

10 (ii) The time period established under subdivision
11 (a)(9)(B)(i) of this section shall not to be less than forty-five (45) days,
12 during which time the responsible public entity shall accept the submission
13 of competing proposals for the qualifying project under § 22-10-204;

14 (C) A process for posting the notice required under this
15 subdivision (a)(9) on the responsible public entity's official website and
16 otherwise publishing the notice as required under the applicable procurement
17 laws; and

18 (D) For local government projects, confirmation that the
19 public notice complies with applicable local laws and regulations.

20 (b) The guidelines adopted by a responsible public entity under this
21 section shall be reasonable, encourage competition, and guide the selection
22 of qualifying projects by the responsible public entity.

23 (c) The responsible public entity shall:

24 (1) Make a representative of the responsible public entity
25 available to meet with private entities that are considering submitting a
26 proposal; and

27 (2) Provide notice of the representative's availability.

28
29 22-10-202. Request by responsible public entity – Initiation by private
30 entity – Fees – Notice.

31 (a) A responsible public entity may request proposals or invite bids
32 from private entities for the development of a qualifying project using the
33 guidelines adopted under § 22-10-201.

34 (b) A private entity may initiate approval of a qualifying project by
35 a responsible public entity by submitting a proposal requesting approval to
36 the responsible public entity under § 22-10-203.

1 (c) The responsible public entity may charge a reasonable fee of up to
2 five thousand dollars (\$5,000) to cover the costs of processing, reviewing,
3 and evaluating a proposal under subsection (b) of this section, including
4 without limitation reasonable attorney's fees and fees for financial,
5 technical, and other necessary advisors or consultants under § 22-10-201.

6 (d)(1) A private entity submitting a proposal to a responsible public
7 entity under subsection (b) of this section shall notify each affected local
8 jurisdiction by furnishing a copy of its proposal to each affected local
9 jurisdiction.

10 (2) Within sixty (60) days after receiving the private entity's
11 proposal under subdivision (d)(1) of this section, each affected local
12 jurisdiction that is not a responsible public entity for the respective
13 qualifying project may:

14 (A) Submit written comments regarding the proposed
15 qualifying project to the responsible public entity; and

16 (B) Indicate whether the proposed qualifying project is
17 compatible with local plans and budgets.

18 (3) The responsible public entity shall consider any comments
19 submitted under subdivision (d)(2) of this section before executing an
20 interim agreement or a comprehensive agreement with a private entity.

21
22 22-10-203. Requirements.

23 (a)(1) A private entity that seeks authorization under this chapter to
24 develop a qualifying project shall first obtain approval of the responsible
25 public entity.

26 (2) A private entity may initiate the approval process by
27 requesting approval under subsection (b) of this section, or the responsible
28 public entity may request proposals or invite bids under § 22-10-202(a).

29 (b)(1) A private entity that intends to be considered for a qualifying
30 project under subsection (a) of this section shall submit a proposal to the
31 responsible public entity.

32 (2) A proposal by a private entity under subdivision (b)(1) of
33 this section shall be accompanied by the following material and information:

34 (A) A project description, including without limitation
35 the following:

36 (i) The location of the qualifying project; and

1 (ii) The specific or conceptual design of the
2 proposed facility, building, infrastructure, or improvement or a conceptual
3 plan for the provision of services or technology infrastructure;

4 (B) A feasibility statement that includes without
5 limitation the following:

6 (i) The method by which the private entity proposes
7 to secure any necessary property interests required for the qualifying
8 project;

9 (ii) A list of all permits and approvals required
10 for the qualifying project from local, state, and federal agencies; and

11 (iii) A list of public utility facilities, if any,
12 that will be crossed by the qualifying project and a statement of how the
13 private entity will accommodate the crossings;

14 (C) A schedule for the initiation and completion of the
15 qualifying project, including without limitation the following:

16 (i) The proposed responsibilities of the responsible
17 public entity and the private entity;

18 (ii) A timeline of the activities to be performed by
19 the responsible public entity and the private entity; and

20 (iii) A proposed schedule for obtaining the permits
21 required under subdivision (b)(2)(B)(ii) of this section;

22 (D) A plan for financing the qualifying project, including
23 without limitation the following:

24 (i) The sources of the private entity's funds;

25 (ii) Any dedicated revenue source or proposed debt
26 or equity investment on the behalf of the private entity;

27 (iii) A description of any user fees, lease
28 payments, and other service payments to be paid over the term of the interim
29 agreement or the comprehensive agreement; and

30 (iv) The methodology and circumstances for modifying
31 any user fees, lease payments, and other service payments;

32 (E) A business case statement that includes a basic
33 description of the indirect and direct benefits that the private entity can
34 provide in delivering the qualifying project, including without limitation
35 relevant cost, quality, and time frame data;

36 (F) The names and addresses of the persons who may be

1 contacted for further information concerning the request; and

2 (G) Any additional material and information that the
3 responsible public entity reasonably requests.

4 (c) A qualifying project shall be located on real property owned or
5 leased by a public entity and include any improvements necessary or desirable
6 to unimproved real property owned by a public entity.

7
8 22-10-204. Consideration – Approval.

9 (a)(1) When a responsible public entity receives a proposal submitted
10 by a private entity, the responsible public entity shall determine whether to
11 accept the proposal for consideration under this section.

12 (2) If the responsible public entity does not accept for
13 consideration the proposal submitted by the private entity under § 22-10-
14 203(b), the responsible public entity shall return the proposal and all
15 accompanying fees and documentation to the private entity.

16 (3)(A) If the responsible public entity chooses to accept a
17 proposal for a qualifying project submitted under § 22-10-203(b), the
18 responsible public entity shall:

19 (i) Make the qualifying project public according to
20 the guidelines adopted under § 22-10-201; and

21 (ii)(a) Seek competing proposals through open
22 competition.

23 (b) In seeking competing proposals, the
24 responsible public entity shall protect confidential and proprietary
25 information provided by the private entity under the Freedom of Information
26 Act of 1967, § 25-19-101 et seq.

27 (B) Public notices of the request for proposals shall be
28 made at least forty-five (45) days before the date set for the receipt of
29 proposals.

30 (C) The responsible public entity shall evaluate all
31 proposals then submitted for qualifying projects under § 22-10-301 before
32 executing a comprehensive agreement with a private entity for the qualifying
33 project.

34 (b) A responsible public entity may approve the development of a
35 qualifying project if the responsible public entity determines that:

36 (1) There is a public need for or benefit to be derived from the

1 type of qualifying project that the private entity proposes;

2 (2) The estimated cost of the proposed qualifying project is
3 reasonable in relation to similar facilities; and

4 (3) The private entity's plans will result in the timely
5 development of the qualifying project.

6 (c) The responsible public entity's approval of the proposed
7 qualifying project is contingent on the private entity entering into an
8 interim agreement or a comprehensive agreement with the responsible public
9 entity.

10 (d) The responsible public entity may reject a proposal initiated by a
11 private entity under § 22-10-203 at any time.

12 (e) Neither this chapter nor an interim agreement or comprehensive
13 agreement entered into under this chapter enlarges, diminishes, or affects
14 the authority, if any, otherwise possessed by a responsible public entity to
15 take action that would impact the debt capacity of the state.

17 Subchapter 3 – Contracts Between Responsible Public Entity and Private Entity

19 22-10-301. Procurement requirements.

20 A responsible public entity may enter into a comprehensive agreement
21 only in accordance with:

22 (1) The guidelines adopted by the responsible public entity
23 under § 22-10-201; and

24 (2)(A) Construction procurement and delivery methods consistent
25 with §§ 19-11-807, 22-9-203, or 27-67-206.

26 (B) The responsible public entity is not required to
27 select the proposal with the lowest price offer, but the responsible public
28 entity may consider price as one factor in evaluating the proposals received.

29 (C) The other factors the responsible public entity may
30 consider include without limitation the following:

31 (i) The proposed cost of the qualifying facility;

32 (ii) The general reputation, industry experience,
33 and financial capacity of the private entity;

34 (iii) The proposed design of the qualifying project;

35 (iv) The eligibility of the facility for accelerated
36 selection, review, and documentation timelines under the responsible public

1 entity's guidelines;

2 (v) Local citizen and government comments;

3 (vi) Benefits to the public;

4 (vii) The private entity's compliance with a
5 minority business enterprise participation plan;

6 (viii) The private entity's plans to employ local
7 contractors and residents; and

8 (ix) Any other criteria that the responsible public
9 entity deems appropriate.

10
11 22-10-302. Interim agreement.

12 (a) A responsible public entity may enter into an interim agreement
13 with the private entity proposing the development of a qualifying project
14 either before or in connection with the negotiation of a comprehensive
15 agreement under § 22-10-303.

16 (b) An interim agreement entered into under this section may:

17 (1) Permit the private entity to commence activities for which
18 it may be compensated relating to the proposed qualifying project, including
19 without limitation project planning and developing, design and engineering,
20 environmental analysis and mitigation, surveying, and ascertaining the
21 availability of financing for the proposed qualifying project;

22 (2) Establish the process and timing of the negotiation of the
23 comprehensive agreement; and

24 (3) Contain any other provisions related to the development of a
25 proposed qualifying project that are agreed upon by the responsible public
26 entity and the private entity.

27
28 22-10-303. Comprehensive agreement.

29 (a) Before developing or operating the qualifying project, a private
30 entity shall enter into a comprehensive agreement with the responsible public
31 entity.

32 (b) The comprehensive agreement shall include the following:

33 (1) A thorough description of the duties of the responsible
34 public entity and the private entity in relation to the completion and
35 operation of the qualifying project;

36 (2) Dates and schedules for the completion of the qualifying

1 project;

2 (3) Any user fees, lease payments, or service payments agreed to
3 by the responsible public entity and the private entity and any process for
4 modifying the user fees, lease payments, or service payments during the term
5 of the comprehensive agreement;

6 (4) A copy of each service contract, if any;

7 (5) Reimbursements to be paid to the responsible public entity
8 for services provided by the responsible public entity, if any;

9 (6)(A) A process for the review of plans and specifications for
10 the qualifying project by the responsible public entity and approval by the
11 responsible public entity if the plans and specifications conform to
12 reasonable standards that are acceptable to the responsible public entity.

13 (B) However, the private entity shall not be required to
14 complete the design of a qualifying project before the execution of a
15 comprehensive agreement;

16 (7) A process for the periodic and final inspection of the
17 qualifying project by the responsible public entity to ensure that the
18 private entity's activities comply with the comprehensive agreement;

19 (8) For the components of the qualifying project that involve
20 construction, provisions for the delivery of maintenance, payment, and
21 performance bonds, letters of credit, or other forms of security acceptable
22 to the responsible public entity in connection with the development of the
23 qualifying project;

24 (9) Submission of one (1) of the following in a form and amount
25 satisfactory to the responsible public entity and reasonably sufficient to
26 ensure coverage of tort liability to the public and employees and to enable
27 the continued operation of the qualifying project:

28 (A) One (1) or more policies of public liability
29 insurance, copies of which shall be filed with the responsible public entity
30 accompanied by proofs of coverage; or

31 (B) Self-insurance;

32 (10) A process for the responsible public entity's monitoring of
33 the practices of the private entity to ensure that the qualifying project is
34 properly maintained;

35 (11) The filing of appropriate financial statements with the
36 responsible public entity on a periodic basis; and

1 (12)(A) Policies and procedures governing the rights and
2 responsibilities of the responsible public entity and the private entity if
3 the comprehensive agreement is terminated or there is a material default by
4 the private entity.

5 (B) The policies and procedures included in the
6 comprehensive agreement under this subdivision (b)(12) shall:

7 (i) Include conditions governing the assumption of
8 the duties and responsibilities of the private entity by the responsible
9 public entity and the transfer or purchase of property or other interests of
10 the private entity by the responsible public entity; and

11 (ii) Be consistent with § 22-10-304.

12 (c) The comprehensive agreement may include the following:

13 (1) Any terms and conditions that the responsible public entity
14 determines will serve the public purpose of this chapter, including without
15 limitation provisions regarding unavoidable delays;

16 (2) Provisions stating when the authority and duties of the
17 private entity under this chapter shall cease and the qualifying project is
18 accordingly dedicated to either the responsible public entity or, if the
19 qualifying project was initially dedicated by an affected local jurisdiction,
20 to the affected local jurisdiction for public use; and

21 (3) A provision for the development of phases or segments of the
22 qualifying project.

23 (d) A modification of the terms of the comprehensive agreement shall
24 be:

25 (1) Agreed upon by the responsible public entity and the private
26 entity; and

27 (2) Added to the comprehensive agreement by written amendment.

28
29 22-10-304. Material default – Assumption of responsibilities and
30 duties.

31 (a) If there is a material default by a private entity, the
32 responsible public entity may terminate an interim agreement or a
33 comprehensive agreement and exercise any other rights and remedies that may
34 be available to the responsible public entity, including without limitation
35 claims under the maintenance, payment, and performance bonds, letter of
36 credit, or other forms of security required under § 22-10-303.

1 (b)(1) The responsible public entity may assume the responsibilities
2 and duties of the private entity of the qualifying project.

3 (2) If a responsible public entity assumes the responsibilities
4 and duties of a private entity under this subsection, the responsible public
5 entity shall succeed to all of the rights, title, and interest in the
6 qualifying project subject to any liens on revenues previously granted by the
7 private entity to any person providing financing for the qualifying project.

8 (c)(1) A responsible public entity having the power of condemnation
9 under state law may exercise the power of condemnation to acquire a
10 qualifying project if there is a material default by a private entity.

11 (2) A person who has provided financing for a qualifying project
12 and the private entity, to the extent of its capital investment, may
13 participate in any condemnation proceedings brought by a responsible public
14 entity with the standing of a property owner.

15 (d)(1) If a responsible public entity assumes the responsibilities and
16 duties of a qualifying project under subsection (b) of this section, the
17 responsible public entity may develop the qualifying project, impose user
18 fees, impose and collect lease payments for the use of the qualifying
19 project, and comply with any service contracts as if it were the private
20 entity.

21 (2)(A) Revenues that are subject to a lien shall be collected
22 for the benefit of and paid to secured parties, as their interests may
23 appear, to the extent necessary to satisfy the private entity's obligations
24 to secured parties, including without limitation the maintenance of reserves.

25 (B) Liens paid under subdivision (d)(2)(A) of this section
26 shall be correspondingly reduced and released when paid off entirely.

27 (3)(A) Before making payments to or for the benefit of a secured
28 party, the responsible public entity may use revenues to pay current
29 operation and maintenance costs of the qualifying project, including without
30 limitation compensation to the responsible public entity for its services in
31 operating and maintaining the qualifying project.

32 (B) The responsible public entity's right to receive
33 payment under subdivision (d)(3)(A) of this section shall be considered just
34 compensation for the qualifying project.

35 (4)(A) The full faith and credit of the responsible public
36 entity shall not be pledged to secure any financing of the private entity

1 when the responsible public entity assumes the responsibilities and duties of
2 a qualifying project.

3 (B) The responsible public entity's assumption of the
4 operation of a qualifying project does not obligate the responsible public
5 entity to pay any obligation of the private entity from sources other than
6 revenues derived from the qualifying project.

7
8 22-10-305. Financing of a qualifying project.

9 (a)(1) Financing of a qualifying project may be in such amounts and
10 upon such terms and conditions as stated in the interim agreement or the
11 comprehensive agreement.

12 (2) The private entity and the responsible public entity may
13 propose to utilize any funding resources available to them and, to the
14 fullest extent permitted by applicable law, may issue debt, equity, or other
15 securities or obligations, enter into leases, access designated trust funds,
16 borrow or accept grants from a state infrastructure bank, and secure
17 financing with a pledge of, security interest in, or lien on the responsible
18 public entity's or the private entity's property, including without
19 limitation any property interests in the qualifying project.

20 (b)(1) The responsible public entity may take action to obtain
21 federal, state, or local assistance for a qualifying project that serves the
22 public purpose of this chapter, including without limitation entering into
23 any contracts required to receive such assistance.

24 (2) All or any portion of the costs of a qualifying project to
25 may be paid, directly or indirectly, from the proceeds of a grant or loan
26 made by a local government, the state government, the federal government, or
27 an agency or instrumentality of a local government, the state government, or
28 the federal government if it would serve the public purpose of this chapter.

29
30 22-10-306. Service contracts.

31 A public entity may contract with a private entity for the delivery of
32 services to be provided as part of a qualifying project in exchange for
33 service payments or other consideration that the public entity deems
34 appropriate.

35
36 Subchapter 4 – Other Powers and Responsibilities

1
2 22-10-401. Eminent domain – Dedication.

3 (a)(1) This chapter does not alter the eminent domain laws of this
4 state or grant the power of eminent domain to any person who is not expressly
5 granted that power under other state law.

6 (2) The power of eminent domain shall not be delegated to a
7 private entity with respect to a qualifying project commenced or proposed
8 under this chapter.

9 (b)(1) A responsible public entity may dedicate any property interest,
10 including land, improvements, and tangible personal property, that the
11 responsible public entity has for public use in a qualifying project if so
12 doing will serve the public purpose of this chapter by minimizing the cost of
13 a qualifying project to the responsible public entity or reducing the
14 delivery time of a qualifying project.

15 (2)(A) In connection with a dedication under subdivision (b)(1)
16 of this section, a responsible public entity may convey any property interest
17 that the responsible public entity has, subject to the conditions imposed by
18 general law governing such conveyances, to a private entity subject to this
19 chapter for adequate consideration as determined by the responsible public
20 entity.

21 (B) The consideration paid under subdivision (b)(2)(A) of
22 this section may include the agreement of the private entity to develop the
23 qualifying project.

24 (3) The property interests that a responsible public entity may
25 convey to a private entity in connection with a dedication under this section
26 may include licenses, franchises, easements, or any other right or interest
27 the responsible public entity deems appropriate.

28
29 22-10-402. Sovereign immunity.

30 The conduct of a public entity, an affected local jurisdiction, or an
31 officer or employee of a public entity or an affected local jurisdiction
32 under this chapter does not waive the sovereign immunity of the public
33 entity, the affected local jurisdiction, or the officer or employee of the
34 public entity or affected local jurisdiction with respect to the
35 participation in or approval of all or any part of a qualifying project or
36 its operation, including without limitation the interconnection of the

1 qualifying project with any other infrastructure or project.

3 22-10-403. Law enforcement jurisdiction.

4 Police officers of a responsible public entity and of each affected
5 local jurisdiction have the same powers and jurisdiction within the limits of
6 the qualifying project as the police officers have in their respective areas
7 of jurisdiction, and the police officers shall have access to each qualifying
8 project in their jurisdiction at any time for the purpose of exercising their
9 powers and jurisdiction.

11 22-10-404. Open meetings – Disclosure of records.

12 (a) This chapter does not abrogate the obligation of a responsible
13 public entity or the Legislative Task Force on the Partnership for Public
14 Facilities and Infrastructure to comply with the Freedom of Information Act
15 of 1967, § 25-19-101 et seq.

16 (b) However, records that would otherwise be exempt from disclosure
17 under the Freedom of Information Act of 1967, § 25-19-101 et seq., remain
18 exempt when in the custody or control of a responsible public entity or the
19 task force.

21 Subchapter 5 – Legislative Task Force on the Partnership for Public
22 Facilities and Infrastructure

24 22-10-501. Creation – Meetings – Staff.

25 (a) There is created the Legislative Task Force on the Partnership for
26 Public Facilities and Infrastructure.

27 (b)(1) The task force shall be composed of no more than twenty (20)
28 members. The number of members shall be determined by agreement between the
29 Chair of the Senate Committee on State Agencies and Governmental Affairs and
30 the Chair of the House Committee on State Agencies and Governmental Affairs.

31 (2) The Chair of the Senate Committee on State Agencies and
32 Governmental Affairs and the Chair of the House Committee on State Agencies
33 and Governmental Affairs shall appoint the membership for each biennium
34 pursuant to the procedure agreed upon by the respective chairs.

35 (3) The task force shall include members of the General Assembly
36 and members of the public.

1 (4)(A) The task force shall have two (2) cochair
2 members of the General Assembly.

3 (B) One (1) cochair shall be a member of the Senate, and
4 one (1) cochair shall be a member of the House of Representatives.

5 (c) The task force shall meet at least annually.

6 (d) The legislative members of the task force shall be entitled to
7 mileage and per diem at the same rate as for attending other legislative
8 committees.

9 (e) The task force shall receive staff support from the Bureau of
10 Legislative Research.

11
12 22-10-502. Powers and duties.

13 The Legislative Task Force on the Partnership for Public Facilities and
14 Infrastructure shall:

15 (1) Review, discuss, and advise on issues related to this
16 chapter;

17 (2) Monitor case-study projects and evaluate performance and
18 outcomes relevant to public-private partnerships;

19 (3) Serve as a reference for educational resources;

20 (4) Ask for a review of any request for proposals for a
21 qualifying project or any proposal for a qualifying project;

22 (5) Develop goals and strategies to promote public-private
23 partnerships under this chapter; and

24 (6) Develop model guidelines to assist responsible public
25 entities in adopting the guidelines required under § 22-10-201.