
DIGEST

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HB 1160 Engrossed

2016 Regular Session

Davis

Abstract: Provides relative to specified capital projects for the Board of Supervisors of Community and Technical Colleges undertaken by a nonprofit corporation.

Present law provides that a nonprofit corporation that has as its principal purpose the support of public institutions of higher education, including a corporation to finance, design, construct, renovate, or equip facilities to be leased to such public institutions of higher learning, and that meets the following criteria is a private entity and not a public or quasi public corporation or an administrative unit, public servant, employee, or agent of any institution of higher education:

- (1) The majority of the voting members of the corporation's board of directors are not members or employees of a higher education management board.
- (2) The corporation is under the management and control of a board of directors elected by the members or shareholders of the corporation.
- (3) The corporation reimburses the cost of any housing, personnel, and other support furnished to the corporation by any institution of higher education.

Present law authorizes the Bd. of Supervisors of Community and Technical Colleges (LCTCS bd.), operating through a nonprofit corporation established for the purpose, to incur debt to finance specific capital projects at specified amounts. Provides that such financing may be excluded from the state's comprehensive capital outlay budget. Provides relative to the financing of such projects through direct state appropriation.

Present law requires that the construction projects provided for in present law be managed and administered by a nonprofit corporation established for such purposes, regardless of the source of revenues used to fund the projects. Proposed law retains present law and provides as follows with respect to projects managed and administered by the nonprofit corporation:

- (1) Requires that the corporation disclose the following information on the LCTCS bd.'s website and in response to any public records request: its property interest and that of all other contracting parties in a project, its responsibilities and those of all other contracting parties in the development of a project, its responsibilities and those of all other contracting parties with respect to financing of a project, and the contracts and subcontracts associated with a project.

- (2) Provides that the president of the LCTCS or his designee shall serve as a nonvoting member of the corporation's board of directors, and any committee thereof charged with the procurement, management or oversight for any project.
- (3) Requires the corporation to comply with the Code of Governmental Ethics and adopt and maintain a policy on conflicts of interest that shall include provisions requiring the corporation's board of directors and committee members to make appropriate disclosures of any actual or potential conflicts of interest and, following disclosure of a conflict, requiring the disclosing member, physically leave any meetings for the duration of any discussions concerning the matter disclosed, abstain from voting on any issues relating to the matter disclosed, and refrain from any discussion with any person designed to influence or otherwise participating in any decision-making process relating to the matter disclosed.
- (4) Requires a public meeting in accordance with present law relative to open meetings prior to beginning any project and requires the corporation to consider public input.
- (5) Requires the corporation to issue a request for qualifications to select contractors for any project it undertakes; requires the corporation to provide a request for qualifications package to any contractor who submits a letter of interest.
- (6) Requires interested contractors to include the following in their responses to the request for qualifications package: financial disclosure statements by which a contractor or his immediate family who derives anything of economic value, directly, through any transaction involving the board or the corporation or who derives anything of economic value of which he may be reasonably expected to know through a person which has bid on or entered into or is in any way financially interested in any contract, subcontract, or any transaction involving the board or the corporation shall disclose the following: the amount of income or value of anything of economic value derived; the nature of the business activity the name and address, and relationship to the contractor, if applicable; and the name and business address of the legal entity, if applicable.
- (7) Provides that the corporation or an advisory committee authorized by a cooperative endeavor agreement with the state of La. shall evaluate and grade all responses to the request for qualifications. In selecting contractors, requires the corporation to develop and make public its selection criteria. Provides relative to factors used as part of the selection. Provides that cost may be a factor, but the corporation is not required to select the lowest cost submission.
- (8) Provides for notification to successful and unsuccessful bidders. Requires the corporation to make available for inspection by any proposing party any scoring sheets or other materials utilized in selecting the contractor. Provides further for the availability of proposals and contracts for public inspection but allows for protection of specified information from disclosure.
- (9) Requires the corporation to review and monitor the ongoing status and contractor performance of any project that the corporation undertakes. Requires annual reports on

status of projects and contractor performance.

Proposed law is applicable to projects that are administered by the nonprofit corporation and that commence on or after July 1, 2016.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:3394.3(A)(4))