

GREEN SHEET REDIGEST

HB 1160

2016 Regular Session

Davis

(KEYWORD, SUMMARY, AND DIGEST as amended by Senate committee amendments)

HIGHER EDUCATION: Provides relative to construction projects undertaken by nonprofit corporations that support the Louisiana Community and Technical College System.

DIGEST

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 education, 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 associated with a project.
- (2) Provides that the president of the LCTCS or his designee shall be provided reasonable notice of and all materials relating to and be allowed to attend and participate in all meetings of the corporation's board of directors, and any committee thereof charged with the procurement, management, or oversight for any project.
- (3)(a) Requires disclosure of specified information by corporation board members and his family members to the Bd. of Ethics of any thing of economic value received directly through a transaction or indirectly through a person with an interest in any contract, subcontract, or any transaction under the supervision or jurisdiction of the corporation.
- (b) Requires the corporation to 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 in excess of \$50k of total installed cost and requires the corporation to consider public input.
- (5) Requires the corporation to issue a request for qualifications or request for proposals to select contractors for any project in excess of \$50k of installed cost that it undertakes; requires the procedures for issuing such requests be consistent with procurement through competitive sealed bid or competitive negotiation; requires the corporation to provide a request for qualifications or request for proposals 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 any thing 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 shall evaluate and grade all responses to the request for qualifications or proposals. 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.
- (10) Authorizes maintaining records that are public records pursuant to proposed law in an electronic format.

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))

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Remove subcontracts from records that must be made public.
2. Add request for proposals as an alternative to request for qualifications in the process of soliciting contractors; add requirement that process for solicitation be consistent with procurement through competitive sealed bid or competitive negotiation.
3. Rather than providing that the president of the LCTCS or his designee serves as a nonvoting member of the board of the corporation, provide that the president or his designee shall have information on and be able to participate in meetings of the board.
4. Remove requirement that the corporation comply with the Code of Government Ethics; require instead disclosure of things of value received by board members and their families pursuant to a contract or from a person involved in a contract.
5. Add provision that records that are public pursuant to proposed law may be maintained in electronic format.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Makes technical changes.
2. Provides that projects in excess of \$50k of installed costs shall be subject to a public meeting in accordance with open meetings law. Further provides that projects in excess of \$50k of installed costs shall be subject to a request for qualifications or request for proposals to select contractors.