

RÉSUMÉ DIGEST

ACT 511 (HB 1160)

2016 Regular Session

Davis

Existing 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 institutions, 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.

Existing law authorizes the Bd. of Supervisors of Community and Technical Colleges (LCTCS board), 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.

Existing law requires that the construction projects provided for in existing law be managed and administered by a nonprofit corporation established for such purposes. New law 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 board's website and consistent with the Public Records Law: its property interest and that of all contracting parties in a project, its responsibilities and those of all contracting parties in the development and 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 participate in all meetings of the corporation's board of directors, and any committee thereof charged with the procurement, management, or oversight for a project.
- (3)(a) Requires disclosures by corporation board members and their 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 a contract, subcontract, or transaction under the supervision or jurisdiction of the corporation.
 - (b) Requires the corporation to adopt a policy on conflicts of interest that includes requirements for its directors and committee members to make appropriate disclosures of conflicts of interest. Such policy shall also require the disclosing member to physically leave a meeting during discussions concerning the matter disclosed and shall prohibit his participation in any decisionmaking process relating to the matter disclosed.
- (4) Requires a public meeting in accordance with Open Meetings Law prior to beginning any project in excess of \$50,000 of total installed cost and requires consideration of 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 \$50,000 of total installed cost; requires the procedures for issuing such requests be consistent with procurement through competitive sealed bid or competitive negotiation.

- (6) Requires interested contractors to include in their responses to the request for qualifications package financial disclosure statements by which the contractor or his immediate family disclose anything of economic value received from the corporation.
- (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, 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, monitor, and report on the ongoing status of projects and on contractor performance.
- (10) Authorizes maintaining records that are public records pursuant to proposed law in an electronic format.

New 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 (June 16, 2016).

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