
The original instrument was prepared by Angela Lockett-De Jean. The following digest, which does not constitute a part of the legislative instrument, was prepared by James Benton.

SB 462 Engrossed

DIGEST
2022 Regular Session

Ward

Proposed law creates the Public-Private Partnerships Cooperative Endeavor Agreement Act which authorizes public entities to enter into public-private partnerships.

Proposed law provides that nothing proposed law provides any additional authority for a public entity to enter into a public-private partnership. If a public entity is otherwise authorized to enter into a public-private partnership pursuant to present law, the provisions of proposed law will apply as additional requirements for entering into a public-private partnership. Further provides that nothing in proposed law will constitute a waiver of or exemption from any other requirement of law.

Proposed law provides that nothing in proposed law will apply to an agency, as defined in present law, or a publicly funded institution of higher education or community or technical college within the state.

Proposed law provides for definitions of "infrastructure assets", "infrastructure services", "private entity", "private infrastructure investment", "public entity", "public-private partnership", "public services", "qualified transaction", "related", "traditional public project", and "user fees".

Proposed law provides the following requirements for private entities:

- (1) Prior to the governing authority of a public entity granting final approval of a public-private partnership, any private entity seeking to enter into a public-private partnership will provide the public entity with a copy of proposed law and a written proposal containing sufficient detail as the public entity determines is necessary to evaluate the proposal.
- (2) Any document or other information submitted by the private entity that contains proprietary or trade secret information may be designated as such in accordance with present law and will have the protections available to the document or information described therein.

Proposed law provides that the public entity may charge a reasonable application fee to a private entity in order to cover some or all of the public entity's cost of evaluating a proposed public-private partnership.

Proposed law provides for a public hearing to make a determination if the proposed public-private partnership is in the public interest, and thereafter the governing body may approve the public-private partnership by adoption of a resolution or ordinance authorizing the execution of the public-private partnership agreements.

Proposed law provides that the governing authority shall be authorized to grant final approval of a public-private partnership at the time of the public hearing if all requirements of proposed law are met.

Proposed law provides that for 30 calendar days following the public hearing, any person in interest may contest the legality of the public-private partnership, or any provision of the agreements related thereto, for any cause. After that time, no person will have a cause or right of action to contest the regularity, formality, or legality of the public-private partnership, any provision of the agreements related thereto, or the compliance with the public entity of any procedural requirements of proposed law. Further provides that thereafter, an irrebuttable presumption is created that every legal requirement for the confection of the public-private partnership and the execution of the agreements relating thereto has been complied with. Provides that no court will have authority to inquire into any of these matters after the 30 days.

Proposed law provides that a public-private partnership where the value of a private infrastructure investment is in excess of five million dollars will be subject to review, not approval, by the Joint Legislative Committee on the Budget prior to the governing authority of the public entity entering into a public-private partnership as provided in proposed law.

Proposed law provides that in each fiscal year in which a public entity is party to public-private partnership, the public entity will include in the notes to its comprehensive annual financial report a brief summary of the public-private partnership including a description of the general terms of the public-private partnership, the name of the private entity, and a schedule of payments expected to be made by or to the public entity.

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

(Adds R.S. 33:7641-7648)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Excludes certain agencies from proposed law.
2. Expands the definition of "Qualified Transaction".
3. Provides relative to the approval of a public-private partnership by the governing authority of a public entity.
4. Provides for review, not approval, by the Joint Legislative Committee on the Budget for public-private partnerships where the value of the private infrastructure investment is in excess of five million dollars.