



Sen. Heather A. Steans

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1 AMENDMENT TO SENATE BILL 313

2 AMENDMENT NO. _____. Amend Senate Bill 313 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Alternative Finance and Procurement Agreement Act.

6 Section 5. Definitions. As used in this Act:

7 "Alternative finance and procurement agreement" means a
8 contract for a project which transfers the business rights for
9 the use or control, in whole or in part, of a public building,
10 public service, public asset, or transportation asset, by a
11 public agency to a development entity for a definite term
12 during which the development entity shall provide the project
13 to the public agency in return for the right to receive all or
14 a portion of the revenue generated from the use of the
15 facility, or other payment, such as the following services:
16 operations and maintenance; revenue collection; user fee

1 collection or enforcement; design; construction; development;
2 and other activities that expand or enhance existing or new
3 public buildings, public assets, public services, or
4 transportation assets.

5 "Board" means the Alternative Finance and Procurement
6 Board.

7 "Consultant" means any person or entity who, within the
8 preceding 4 years, has been or is employed by a private entity
9 or public agency to make recommendations in developing a
10 project or assist with finding appropriate advisers.

11 "Consultant" does not include professionals or professionals
12 offering services, who are not directly or indirectly related
13 to the development of a project.

14 "Development entity" means an entity which is a party to an
15 alternative finance and procurement agreement and which is a
16 private entity or public agency, other than the public agency
17 providing or improving its own facilities.

18 "Gift" means a gift as defined in Section 1-5 of the State
19 Officials and Employees Ethics Act.

20 "Life of the project" means the amount of time required for
21 construction of a project, financing of a project, operational
22 period of a project, maintenance term of a project, or other
23 method of determining that a project has been completed.

24 "Offeror" means a person or private entity that submits a
25 proposal or a response in answer to a request for proposals or
26 transportation projects.

1 "Party in interest" means a person who with respect to a
2 proposed project under this Act is:

3 (1) a current or former counsel or employee of the
4 offeror;

5 (2) currently or in the past has provided services to
6 the offeror; or

7 (3) a relative of a person described in subparagraph
8 (1) or (2) of this paragraph.

9 "P3 project" means a contractual agreement between a public
10 entity and private entity that:

11 (1) transfers the responsibility of a facility's
12 engineering, construction, operation, or maintenance to
13 the private sector for a defined period of time;

14 (2) allows the private sector to perform by contract a
15 service previously provided by the public sector; and

16 (3) ensures the private entity receives payments
17 either from existing revenue sources or through the
18 collection of new tolls or user fees.

19 "Private entity" means a person, entity, group, or
20 organization that is not the federal government, the State, or
21 other public agency.

22 "Prohibited source" means a person or entity who:

23 (1) is seeking official action:

24 (A) by the Board; or

25 (B) by a Board member;

26 (2) does business or seeks to do business:

1 (A) with the Board; or

2 (B) with a Board member;

3 (3) has interests that may be substantially affected by
4 the performance or non-performance of the official duties
5 of a Board member; or

6 (4) is registered or required to be registered with the
7 Secretary of State under the Lobbyist Registration Act,
8 except that an entity not otherwise a prohibited source
9 does not become a prohibited source merely because a
10 registered lobbyist is one of its members or serves on its
11 board of directors.

12 "Project" means an undertaking by a development entity
13 under an alternative finance and procurement agreement that is
14 entered into under this Act to provide or improve a public
15 asset, public building, public service, or transportation
16 asset which is totally or partially located within the State.

17 "Public agency" means any municipality or unit of local
18 government, any public school district, any public college or
19 university, any public building commission, the State, an
20 instrumentality and an administrative agency or any other
21 agency of the State or of the United States, or of any other
22 state, any political subdivision of another state, and any
23 combination of the above under an intergovernmental agreement
24 which includes provisions for a governing body of the agency
25 created by the agreement.

26 "Public asset" means any proposed or existing park, clean

1 water system, waste water system, energy asset,
2 telecommunications asset, or any other asset owned by a public
3 agency.

4 "Public building" means any proposed or existing school,
5 community center, fire station, police station, community
6 college, university, hospital, library, or other building
7 owned by a public agency.

8 "Public service" means any proposed or existing service
9 performed or provided by a public agency or private entity.

10 "Transportation asset" means a proposed or existing road,
11 toll highway, bridge, tunnel, overpass, ferry, bus way,
12 guideway, public transportation facility, vehicle parking
13 facility, port facility, commercial and public navigation lock
14 and dam, commercial waterway, multimodal transportation
15 facility, airport, station, hub, terminal or similar facility
16 used or to be used for the transportation of persons, animals
17 or goods, together with any buildings, structures, parking
18 areas, appurtenances, intelligent transportation systems, and
19 other property needed to operate or related to the operation of
20 the transportation facility. "Transportation asset" includes
21 any improvements or substantial enhancements or modifications
22 to an existing transportation facility.

23 "Unit of local government" has the meaning ascribed to that
24 term in Article VII, Section 1 of the Constitution of the State
25 of Illinois and also means any unit designated as a municipal
26 corporation.

1 Section 10. Alternative Finance and Procurement Board.

2 (a) An Alternative Finance and Procurement Board is hereby
3 created, which shall be composed of 9 members appointed by the
4 Governor. The members of the Board shall be residents of this
5 State and have expertise or substantial experience in one or
6 more of the following areas:

7 (1) public buildings;

8 (2) agriculture;

9 (3) public utilities;

10 (4) finance;

11 (5) transportation;

12 (6) law; or

13 (7) land use and public planning.

14 (b) Board members shall not hold any other position as an
15 elected official or employee of the State or other public
16 agency. No member of the Board during his or her term of office
17 shall directly or indirectly own or have any financial interest
18 in, be associated with or receive any fee, commission,
19 compensation or anything of value from any state agency or
20 private entity seeking to engage in an alternative finance and
21 procurement agreement that will be under the consideration of
22 the Board.

23 (c) Of the initial appointments, 3 members shall be
24 appointed for one-year terms, 3 members shall be appointed for
25 2-year terms, and 3 members shall be appointed for 4-year

1 terms. Members shall serve until their successor is appointed
2 and may not serve more than one 4-year term. After the initial
3 terms have expired, all members shall be appointed for 4-year
4 terms. A member may resign or be removed by the Governor. If a
5 vacancy occurs, the Governor shall make an appointment to fill
6 the vacancy for the remainder of the unexpired term.

7 (d) The Board members shall designate a Chairperson from
8 among the appointed members of the Board.

9 (e) The Chairperson, after consultation with the members
10 and any appropriate State agencies, shall designate
11 representatives of any State agencies deemed necessary to serve
12 on the Board as ex officio members to provide technical
13 background support to the Board.

14 (f) A majority of the appointed members of the Board shall
15 constitute a quorum. The adoption of any action of the Board
16 shall require a majority vote of the appointed members of the
17 Board.

18 (g) The Board shall meet as necessary to conduct business,
19 but shall meet at least once every 2 months.

20 (h) Board members shall serve without compensation, but may
21 be reimbursed for reasonable expenses.

22 Section 15. Alternative finance and procurement
23 agreements.

24 (a) Any public agency may enter into an alternative finance
25 and procurement agreement with any private entity for improving

1 transportation assets, public buildings, public services, or
2 other public assets.

3 (b) The Board shall review and provide input on project
4 financing, procurement, and project delivery in the State. The
5 Board may review and approve alternative and procurement
6 projects that improve or construct public assets, public
7 buildings, public services, and transportation assets, except
8 those entered into under the Public-Private Partnerships for
9 Transportation Act. However, public agencies are not required
10 to use the Board, but may bring projects before the Board to
11 determine the types of financing, procurement, and project
12 delivery that are possible for a project, which includes, but
13 is not limited to, traditional and alternative modes of
14 financing including those that result in an infrastructure
15 agreement. No person who is a party in interest or a consultant
16 may participate in the evaluation of proposals on behalf of the
17 Board.

18 (c) The Board shall submit an annual report to the Governor
19 and the General Assembly detailing all projects evaluated,
20 adopted, and completed, and the evidence used in making the
21 Board's decisions.

22 Section 20. Alternative finance and procurement agreement
23 procedure.

24 (a) Within 120 days after the effective date of this Act,
25 the Board shall adopt:

1 (1) a governing structure for the conduct of Board
2 business, including how and when the Board shall meet, make
3 decisions, inform the public of its decisions, and function
4 as an independent entity;

5 (2) the procedure by which a public agency can submit a
6 request for a project;

7 (3) the procedure by which an offeror may submit a
8 solicited or an unsolicited plan for a project to the
9 Board, including adequate time for the preparation,
10 submission, and evaluation of competitive proposals on a
11 case-by-case basis;

12 (4) clear standards of project approval for different
13 project types, such as standards for schools, roads, or
14 waterways;

15 (5) the procedure of which the Board collects and
16 compiles a list of all projects that improve or construct
17 public assets, public buildings, public services, and
18 transportation assets within this State;

19 (6) guidelines to aggregate several projects to form
20 one alternative finance and procurement agreement;

21 (7) guidelines for a public agency to make payments to
22 unsuccessful bidders for work product contained in their
23 proposals if that part is chosen as a component of a
24 project;

25 (8) guidelines for allowing more than one public agency
26 to enter into a single alternative finance and procurement

1 agreement; and

2 (9) clear standards identifying traditional,
3 nontraditional, or innovative project delivery methods or
4 agreements that public agencies can utilize to address
5 their needs and serve the public interest.

6 (b) Projects submitted to the Board must have an
7 identified, stable, and predictable funding source for the life
8 of the project. Projects shall be assessed on a case by case
9 basis with performance outcomes project to project. Projects
10 and agreements shall be structured to achieve the best method
11 to implement the established and approved goals of the Board;
12 however, there may not be restrictions concerning the
13 geographic location of P3 projects or restrictions regarding
14 the asset type eligible to be developed as a P3 project.

15 (c) The Board shall evaluate and rule upon a project within
16 3 months of submission of the project to the Board.

17 (d) The Board may charge application fees for unsolicited
18 proposals to offset proposal review costs.

19 (e) Within a 120 days after the effective date of this Act,
20 the Board shall establish and implement a publicly accessible
21 Internet website.

22 Section 25. Ethics.

23 (a) No member of the Board shall intentionally solicit or
24 accept any gift from any prohibited source as prescribed in
25 Article 10 of the State Officials and Employees Ethics Act. The

1 exceptions contained in Section 10-15 of that Act, other than
2 paragraphs (4) and (5) of Section 10-15 of that Act shall apply
3 to members of the Board. However, solicitation or acceptance of
4 educational materials is not prohibited. For the purposes of
5 this Section, references to "State employee" and "employee" in
6 Article 10 of the State Officials and Employees Ethics Act
7 shall include a trustee or employee of a retirement system,
8 pension fund, or investment board created under State law.

9 (1) A municipality may adopt or maintain policies or
10 ordinances that are more restrictive than those under this
11 subsection (a) and may continue to follow any existing
12 policies or ordinances that are more restrictive or are in
13 addition to those under this subsection (a).

14 (2) To the extent that the provisions of this
15 subsection (a) conflict with the provisions of the State
16 Officials and Employees Ethics Act, the provisions of this
17 subsection (a) control.

18 (3) Violation of this subsection (a) is a Class A
19 misdemeanor.

20 (b) No member of the Board nor any spouse of a member shall
21 knowingly have any direct interest in the income, gains, or
22 profits of any projects brought before the Board, nor receive
23 any pay or emolument for services in connection with any
24 project. No member of the Board shall become an endorser of any
25 project under this Act. Violation of this subsection is a Class
26 3 felony."