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SENATE BILL NO. 101

Offered January 13, 2010

Prefiled January 6, 2010

A *BILL to amend and reenact §§ 30-279 and 30-280 of the Code of Virginia, relating to the Public-Private Partnership Advisory Commission.*

Patron—Stosch

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:**1. That §§ 30-279 and 30-280 of the Code of Virginia are amended and reenacted as follows:**

§ 30-279. Public-Private Partnership Advisory Commission established; membership; terms; compensation; staff; quorum.

A. The Public-Private Partnership Advisory Commission (the Commission) is established as an advisory commission in the legislative branch. The purpose of the Commission shall be to advise responsible public entities that are agencies or institutions of the Commonwealth on proposals received pursuant to the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

B. The Commission shall consist of 11 members, including eight legislative members, as follows: (i) the Chair of the House Committee on Appropriations or his designee and four members of the House of Delegates appointed by the Speaker of the House, (ii) the Chair of the Senate Committee on Finance or his designee and two members of the Senate appointed by the Senate Committee on Rules, and (iii) the Secretary of Administration, the Secretary of Finance, and the Secretary of Technology or their designees. Legislative members shall serve on the Commission until the expiration of their terms of office or until their successors shall qualify. Executive branch agency members shall serve only as long as they retain their positions.

C. The members of the Commission shall elect from among the legislative membership a chairman and a vice-chairman who shall serve for two-year terms. The Commission shall hold meetings quarterly or upon the call of the chairman. A majority of the Commission shall constitute a quorum.

D. Members of the Commission shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12, as appropriate.

E. Administrative staff support shall be provided by the Office of the Clerk of the Senate or the Office of the Clerk of the House of Delegates as may be appropriate for the house in which the chairman of the Commission serves. *The Division of Legislative Services shall provide legal, research, and policy analysis services to the Commission.* Technical assistance shall be provided by the Department of General Services. *Additional assistance as needed shall be provided by the staffs of the House Committee on Appropriations and the Senate Finance Committee and the Auditor of Public Accounts. Additional assistance as needed shall be provided by the Department of General Services.*

F. A copy of the proceedings of the Commission shall be filed with the Division of Legislative Services.

§ 30-280. Submission by responsible public entities of detailed proposals for qualifying projects; exclusion of certain qualifying projects; review of detailed proposals; copies of interim and comprehensive agreements to be provided.

A. Each responsible public entity receiving detailed proposals from private entities for a qualifying project shall provide copies of such proposals to the *clerk of the* Commission, the chairmen of the House Committee on Appropriations, House Committee on Appropriations, House Committee on Finance or their designees, and the Director of the Department of General Services prior to entering into the negotiation of an interim or comprehensive agreement.

B. The following qualifying projects shall not be subject to review by the Commission:

1. Any proposed qualifying project with a total cost of less than \$3 million.

2. Any proposed qualifying project with a total cost of more than \$3 million but less than \$50 million for which funds have been specifically appropriated as a public-private partnership in the general appropriation act or capital construction projects that have been authorized in the appropriation act, provided such project does not increase in size more than five percent beyond the plans and justifications that were the basis of the appropriation. For any qualifying project that will be completed in phases and for which no appropriation has been made for phases other than the current phase of the project, the Commission may undertake additional reviews of such projects.

C. Within 10 days of receipt of a complete copy of the detailed proposals for a qualifying project,

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59 the Commission shall determine whether to accept or decline such proposals for review and notify the
60 responsible public entity of its decision. If the Commission accepts a proposal for review, the findings
61 and recommendations of the Commission shall be provided to the responsible public entity within 45
62 days of receiving complete copies of the detailed proposals. If no findings or recommendations are
63 provided by the Commission to the responsible public entity within the 45-day period, the Commission
64 shall be deemed to have no findings or recommendations. Upon acceptance for review, the responsible
65 public entity shall provide any additional information regarding the qualifying project upon the request
66 of the Commission, provided such information is available to or can be obtained by the responsible
67 public entity.

68 D. The Commission shall review accepted detailed proposals and provide findings and
69 recommendations to the responsible public entity, including (i) whether the terms and conditions of the
70 proposals and proposed qualifying project create state tax-supported debt taking into consideration the
71 specific findings of the Secretary of Finance with respect to such recommendation, (ii) an analysis of the
72 potential financial impact of the qualifying project, (iii) a review of the policy aspects of the detailed
73 proposals and the qualifying project, and (iv) proposed general business terms and conditions. Review
74 by the Commission shall not be construed to constitute approval of any appropriations necessary to
75 implement any subsequent interim or comprehensive agreement.

76 E. The responsible public entity shall not commence negotiation of an interim or comprehensive
77 agreement until the Commission has submitted its recommendations or declined to accept the detailed
78 proposals for review.

79 F. The responsible public entity shall submit a copy of the proposed interim or comprehensive
80 agreement to the Commission, the chairmen of the House Committee on Appropriations, House
81 Committee on Finance, and Senate Committee on Finance or their designees, and the Director of the
82 Department of General Services at least 30 days prior to execution of the agreement along with a report
83 describing the extent to which the Commission's recommendations were addressed in the proposed
84 interim or comprehensive agreement.