

SENATE BILL 559

By Ketron

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 29 and Title 54, Chapter 6, relative to the Public-Private Transportation Act of 2016.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-29-240(a), is amended by adding the following as a new, appropriately designated subdivision:

() Office of transportation public-private partnership ("OTP3"), created by Section 2 of this act;

SECTION 2. Tennessee Code Annotated, Title 54, Chapter 6, is amended by adding the following new section:

(a) There is created, as an independent entity of state government, the office of transportation public-private partnership ("OTP3"). The OTP3 shall be attached to the department for all administrative matters relating to receipts; disbursements; expense accounts; budget preparation; payroll; audit; and other similarly related administrative functions. The department shall provide the OTP3 with suitable office space and with all office equipment and supplies necessary to perform the duties of the office. The autonomy of the OTP3 and its authority are not affected by this subsection (a), and the department shall have no supervisory control over the OTP3. The purposes of the OTP3 are to provide a mechanism to facilitate collaboration between public and private entities in transportation facility development, redevelopment, and operation and to otherwise assist public entities in the implementation of this chapter.

(b) The governor shall appoint an executive director, who shall be the head of the OTP3, shall serve for a term of five (5) years, and shall serve at the pleasure of the

governor. The executive director shall have demonstrated knowledge, training, or experience in one (1) or more of the following areas:

- (1) Transportation facility development, redevelopment, or operation;
- (2) Capital markets and finance, including local government finance;
- (3) Public-sector planning; or
- (4) Procurement.

(c) No later than September 1, 2017, and every five (5) years thereafter, the governor shall make the appointment of the executive director. The term of office shall commence on November 1 following the appointment. Any vacancy that occurs as a result of resignation, removal, death, expiration of a term, or other cause shall be filled by appointment by the governor for the position to serve the unexpired term.

(d) The executive director is authorized to retain professional assistance and staff, including consultants, technical advisors, financial advisors, and legal support, and other personnel, including clerical assistants, as may reasonably be required to enable the OTP3 to efficiently perform its duties as provided in subsection (g). Employees of the OTP3 shall be employed in accordance with title 8, chapter 30, and the rules of the department of human resources, and shall be subject to personnel policies generally applicable to employees in the state service, such as leave, compensation, and classification. The employees may be classified as either executive service or preferred service in accordance with § 8-30-201.

(e) The executive director and all other employees are eligible for reimbursement of travel expenses in accordance with the comprehensive travel regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(f) All expenses of the OTP3, including salaries and benefits of its executive director and its employees, shall be paid out of monies appropriated by the general assembly to the highway fund, and made available to the commissioner of transportation in the general appropriations act. The salary and benefits of the executive director shall

be fixed by the commissioner and approved by the commissioner of human resources and the commissioner of finance and administration.

(g) The OTP3 shall perform the following duties:

(1) Assist responsible public entities with identifying projects, including opportunities for project aggregation, for which a public-private initiative for a transportation facility may be appropriate;

(2) Provide technical assistance and expertise to responsible public entities on using public-private initiatives to develop, redevelop, or operate transportation facilities, including analyzing benefits and costs and the innovative financing options available to support the initiatives;

(3) Establish a model process for evaluating solicited and unsolicited proposals from the private sector;

(4) Supply model contracts, including service contracts and comprehensive agreements;

(5) Track proposed, ongoing, and completed public-private initiatives;

(6) Identify methods of encouraging competition for the development, redevelopment, or operation of transportation facilities;

(7) Serve as a liaison to federal government officials responsible for promoting public-private partnerships for transportation facilities, other state public-private partnership offices, and regional, local, or metropolitan public-private partnership offices;

(8) Conduct public and stakeholder engagement and outreach, including efforts to encourage transparency and information-sharing regarding public-private initiatives via an OTP3 website;

(9) Create a process for updating, as necessary, the recommendations made by the OTP3 pursuant to subsection (h);

(10) Promote best practices, including standardized methodologies and processes; and

(11) Attract private investment in transportation facilities to the state.

(h) On or before February 1, 2018, the OTP3 shall:

(1) Make recommendations to responsible public entities on a model, uniform process for the review, solicitation, consideration, evaluation, and selection of proposals to enter into a public-private initiative for a transportation facility; provided, that the process complies with § 54-6-106; and

(2) Make any recommendations to the general assembly on any revisions to this chapter deemed necessary to carry out the purposes of this chapter.

(i) On or before October 1, 2018, and October 1 of each subsequent year, the executive director shall submit to the transportation and safety committee of the senate and the transportation committee of the house of representatives, and post to the OTP3 website, a written report that:

(1) Lists those public-private initiatives that:

(A) Are expected to be soliciting proposals within the next fiscal year;

(B) Are in progress in the then current fiscal year;

(C) Were completed during the prior fiscal year; and

(D) Were removed from consideration during the prior fiscal year;

and

(2) Summarizes actions taken by the OTP3 to fulfill its duties pursuant to subsection (g).

(j) A responsible public entity may, but is not required to, follow the final recommendations of the OTP3 that are made pursuant to subdivision (h)(1) with regard to any public-private initiative subject to this chapter. If a responsible public entity elects to adopt any process for review or guidelines for public-private initiatives other than those recommended pursuant to subdivision (h)(1), the process for review or guidelines must be consistent with this chapter.

(k)

(1) The OTP3 shall assist responsible public entities on state environmental reviews and permitting for all qualifying transportation facilities subject to this chapter.

(2) Prior to entering into a comprehensive agreement, the responsible public entity shall identify all necessary state permits and, in consultation with the OTP3 and relevant state offices, shall create a timeline for review and issuance of the permits.

(3) The OTP3 shall maintain on its website a listing of projects under this subsection (k) for which state permits are delayed more than ninety (90) days past the deadline specified in the projected schedule and post an official explanation for the delay, which shall come from the state agency in charge of approving the permit, or post a link to the state agency's website containing the information.

SECTION 3. This act shall take effect July 1, 2017, the public welfare requiring it.