

# **Public-Private Education Facilities and Infrastructure Act**

## **Overview of Amendments - Senate Bill 1107**

### **1. Definitions (§ 56-575.1)**

- Adds definition of “*develop or development*”, which means to plan, design, develop, finance, lease, acquire, install, construct or expand. This term is used to replace the former list of activities (*acquisition, construction, improvement, maintenance and/or operation*). **Page 1, line 19.**
- Adds definition of “*interim agreement*”, with the objective of providing for partial planning and development while other aspects of a project are being negotiated and analyzed. **Page 1, line 21.**
- Adds definition of “*operate*”, which means “finance, maintain, improve, equip, modify, repair or operate.” **Page 1, line 31.**
- Expands definition of “*private entity*” to include other types and forms of entities. **Page 1, line 36.**
- Changes definition of “qualifying project” by providing that a qualifying project may be a building or facility that meets a public purpose and developed or operated by or for a public entity. **Page 1, line 46**
- Expands definition of “*revenue*” to include income, earnings and money received as grants. **Page 1, line 56 through Page 2, line 60.**

### **2. Policy statement. (§ 56-575.2)**

- Clarifies statement of intent to include encouragement of “investment in the Commonwealth by private entities.” **Page 2, Line 91.**

### **3. Adoption of guidelines. (§ 56-575.3:1)**

- Requires any responsible public entity requesting or considering a proposal for a qualifying facility to first adopt guidelines relating to the selection of projects including reasonable criteria for choosing between competitive proposals and timelines for selecting proposals and negotiating a comprehensive agreement. Includes requirement that guidelines permit accelerated selection, review and documentation timelines for priority projects. **Page 2, line 117 through Page 3, line 125.**

### **4. Material accompanying request for approval. (§ 56-575.4)**

- Specifies that the private entity must identify any dedicated revenue source or proposed debt or equity investment to be made on behalf of the private entity. **Page 3, line 149.**

## **5. Property interests that may be conveyed. (§ 56-575.7)**

- Expands and clarifies the property interests that a responsible public entity may convey to include licenses, franchises, easements, or any other interests that the public entity deems appropriate. **Page 4, lines 206 through 208.**

## **6. Comprehensive agreement provisions (§ 56-575.9)**

- Provides that the comprehensive agreement may provide for the development or operation of phases or segments of the qualifying project. **Page 6, line 312.**
- Changes reference from "procedures" to "guidelines" throughout.

## **7. Interim Agreements (New § 56-575.9:1)**

- Permits negotiation and execution of interim agreements prior to or in connection with the negotiation of the comprehensive agreement. The interim agreement may i) permit commencement of some activities on the part of the private entity as well as compensation for such activities, ii) establish a process and timing for negotiation of the comprehensive agreement, and iii) other provisions deemed appropriate. **Page 6, lines 314 through 323.**

## **8. Financing resources (§ 56-575.10)**

- Includes a statement authorizing a private entity and responsible public entity to utilize all funding resources that may be available to them. **Page 6, line 325.**
- Provides a list of financing resources that the parties may choose to use to the fullest extent permitted by law, including specifically (i) issuance of debt, equity, or other securities or obligations; (ii) entering into leases; (iii) accessing designated trust funds; (iv) borrowing or accepting grants from state infrastructure bonds; (v) securing financing with pledge of security interest including property interest in the qualifying transportation facility. **Page 6, lines 326 through 332.**

## **9. Procurement (§ 56-575.16)**

- Changes reference from "procedures" to "guidelines" throughout.
- Provides additional factors that may be considered, in addition to lowest price, under competition negotiation. **Page 7, lines 415 through 422.**
- Adds consideration of the private entity's i) guaranteed cost or completion guarantees and ii) proposed debt or equity investment as factors that must be considered in justification of proceeding under competitive negotiation. **Page 8, lines 427 through 428.**