

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2594
99TH GENERAL ASSEMBLY

6539H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 227.600, RSMo, and to enact in lieu thereof two new sections relating to concession agreements.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 227.600, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 227.600 and 227.601, to read as follows:

227.600. 1. Sections 227.600 to 227.669 shall be known and may be cited as the "Missouri Public-Private Partnerships Transportation Act".

2. As used in sections 227.600 to 227.669, unless the context clearly requires otherwise, the following terms mean:

(1) "Commission", the Missouri highways and transportation commission;

(2) "Comprehensive agreement", the final binding written comprehensive project agreement between a private partner and the commission required in section 227.621 to finance, develop, and/or operate the project;

(3) "Department", the Missouri department of transportation;

(4) "Develop" or "development", to plan, locate, relocate, establish, acquire, lease, design, or construct;

(5) "Finance", to fund the costs, expenses, liabilities, fees, profits, and all other charges incurred to finance, develop, and/or operate the project;

(6) "Interim agreement", a preliminary binding written agreement between a private partner and the commission that provides for completion of studies and any other activities to advance the financing, development, and/or operation of the project required by section 227.618;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (7) "Material default", any uncured default by a private partner in the performance of its
18 duties that jeopardizes adequate service to the public from the project as determined by the commission;

19 (8) "Operate" or "operation", to improve, maintain, equip, modify, repair, administer, or
20 collect user fees;

21 (9) "Private partner", any natural person, corporation, partnership, limited liability
22 company, joint venture, business trust, nonprofit entity, other business entity, or any combination
23 thereof;

24 (10) "Project", exclusively includes any pipeline, ferry, port facility, water facility, water
25 way, water supply facility or pipeline, **stormwater facility or system**, wastewater **system** or
26 [~~wastewater~~] treatment facility, public building, airport, railroad, light rail, vehicle parking
27 facility, mass transit facility, or other similar facility currently available or to be made available
28 to a government entity for public use, including any structure, parking area, appurtenance and
29 other property required to operate the structure or facility to be financed, developed, and/or
30 operated under agreement between the commission and a private partner. The commission or
31 private partner shall not have the authority to collect user fees in connection with the project
32 from motor carriers as defined in section 227.630. Project shall not include any highway,
33 interstate or bridge construction, or any rest area, rest stop, or truck parking facility connected
34 to an interstate or other highway under the authority of the commission. Any project not
35 specifically included in this subdivision shall not be financed, developed, or operated by a private
36 partner until such project is approved by a vote of the people;

37 (11) "Public use", a finding by the commission that the project to be financed, developed,
38 and/or operated by a private partner under sections 227.600 to 227.669 will improve or is needed
39 as a necessary addition to the state transportation system;

40 (12) "Revenues", include but are not limited to the following which arise out of or in
41 connection with the financing, development, and/or operation of the project:

42 (a) Income;

43 (b) Earnings;

44 (c) Proceeds;

45 (d) User fees;

46 (e) Lease payments;

47 (f) Allocations;

48 (g) Federal, state, and local moneys; or

49 (h) Private sector moneys, grants, bond proceeds, and/or equity investments;

50 (13) "State", the state of Missouri;

51 (14) "State highway system", the state system of highways and bridges planned, located,
52 relocated, established, acquired, constructed, and maintained by the commission under Section
53 30(b), Article IV, Constitution of Missouri;

54 (15) "State transportation system", the state system of nonhighway transportation
55 programs, including but not limited to aviation, transit and mass transportation, railroads, ports,
56 waterborne commerce, freight and intermodal connections;

57 (16) "User fees", tolls, fees, or other charges authorized to be imposed by the
58 commission and collected by the private partner for the use of all or a portion of a project under
59 a comprehensive agreement.

**227.601. 1. Notwithstanding any provision of sections 227.600 to 227.669 to the
2 contrary, the process and approval for concession agreements to build, maintain, operate,
3 or finance projects owned by a political subdivision shall be approved by the governing
4 body of such political subdivision and shall not be subject to approval by the commission.
5 Notwithstanding the provisions of subsection 5 of this section, the sale or conveyance of any
6 project owned by a political subdivision shall be subject to voter approval if required by
7 law.**

8 **2. As used in this section, the term "concession agreement" shall mean a license or
9 lease between a private partner and a political subdivision for the development, finance,
10 operation, or maintenance of a project, as such term is defined in section 227.600.**

11 **3. Notwithstanding any provision of law to the contrary, political subdivisions may
12 enter into concession agreements provided that:**

13 **(1) The term of the concession agreement shall be for a term not exceeding thirty
14 years;**

15 **(2) The political subdivision shall retain oversight of operations of any such project;**

16 **(3) The political subdivision shall retain oversight of rate setting methodology;**

17 **(4) The political subdivision shall have the right to terminate the agreement if the
18 private partner does not comply with the concession agreement.**

19 **4. The commission shall not be required to oversee, or issue an annual report under
20 section 227.669 for, projects approved by political subdivisions, provided that any political
21 subdivision entering into a concession agreement shall use a public-private partnership
22 framework that shall include a competitive bidding process.**

23 **5. Except as provided in subsection 1 of this section, the provisions of sections
24 71.530, 71.550, 78.190, 78.630, 81.190, 88.251, 88.633, 88.770, 88.773, 91.550, and 91.600
25 shall not apply to concession agreements that are approved as provided in this section.**

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