

BILL ANALYSIS

Senate Research Center

S.B. 1138
By: Watson
Transportation & Homeland Security
3/29/2011
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Comprehensive development agreements (CDAs) cover a range of contracting options from the most basic, from solely design and construction (design-build) to the most inclusive (design-build-finance-operate-maintain-concession payment). The ability to contract for multiple services at once can save significant time for full build-out and cost for a major infrastructure project.

The authorization for regional mobility authorities (RMAs) to enter design-build contracts that include both design and construction or design, contraction, and traditional financing, expires August 31, 2011.

Public approval of CDAs varies by community, but most opposition has been focused on the most inclusive CDAs. However, the more modest design-build-finance approach, which does not include toll collection, operation, maintenance, ownership, or leasehold, has been more acceptable to Texans.

S.B. 1138 gives RMAs permanent authority to enter into agreements for the design, construction, and finance of a project, but not ownership, leasehold, operation, retention of revenue from the project, or concession payments.

As proposed, S.B. 1138 amends current law relating to the authority of regional mobility authorities to enter into comprehensive development agreements.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 370.305, Transportation Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Deletes existing Subsection (a) authorizing an authority to use a comprehensive development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a transportation project. Redesignates existing Subsection (b) as Subsection (a). Makes no further changes.

(b) Authorizes an authority, except as provided by Subsection (b-1), to enter into a comprehensive development agreement with a private entity for the design and construction of a transportation project and which may also provide for financing of a project.

(b-1) Prohibits an authority, unless specifically authorized by the legislature, from entering into a comprehensive development agreement with a private entity for the design and construction of a transportation project if the comprehensive development agreement entitles the private entity:

- (1) to an ownership or leasehold interest in the transportation project; or
- (2) to the right to operate or retain revenue from the transportation project.

SECTION 2. Repealers: Sections 370.305(d) (relating to the expiration date of the authority to enter into comprehensive development agreements), (e) (relating to certain exceptions to the expiration date of the authority under Subsection (d)), and (f) (relating to the expiration date for exempted projects under Subsection (e)), Transportation Code.

SECTION 3. Makes application of Section 370.305, Transportation Code, as amended by this Act, prospective.

SECTION 4. Effective date: upon passage or the 91st day after the last day of the legislative session.