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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2026

AN ACT

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PUBLIC-PRIVATE PARTNERSHIP INFRASTRUCTURE PROGRAM

Introduced By: Senators DiPalma, Tikoian, Ciccone, Burke, Britto, LaMountain, Felag, Gallo, Patalano, and Dimitri
Date Introduced: January 23, 2026

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 13.2

PUBLIC-PRIVATE PARTNERSHIP INFRASTRUCTURE PROGRAM

42-13.2-1. Short title.

6 This chapter shall be known and may be cited as the "Public-Private Partnership
7 Infrastructure Program."

42-13.2-2. Definitions.

9 As used in this chapter, the following words shall have the following meanings, unless the
10 context clearly requires otherwise:

11 (1) "Affected jurisdiction" means any city or town, or other unit of government within the
12 state in which all or part of a qualified facility is located or any other public entity directly affected
13 by the qualified facility.

14 (2) "Architectural and engineering services" means:

15 (i) Professional services of an architectural or engineering nature, as defined by applicable
16 state law, which are required to be performed or approved by a person licensed, registered or
17 certified to provide such services as described in this definition;

(ii) Professional services of an architectural or engineering nature performed by contract

1 that are associated with research, planning, development, design, construction, alteration or repair
2 of real property; and

3 (iii) Such other professional services of an architectural or engineering nature or incidental
4 services, which members of the architectural and engineering professions and employees thereof
5 may logically or justifiably perform, including: studies, investigations, surveying, mapping, tests,
6 evaluations, consultations, comprehensive planning, program management, conceptual designs,
7 plans and specifications, value engineering, construction phase services, soils engineering, drawing
8 reviews, preparation of operating and maintenance manuals and other related services.

9 (3) "Construction" means the process of building, altering, repairing, improving or
10 demolishing any qualified facility, including any structure, building or other improvements of any
11 kind to real property. "Construction" shall not include the routine operation, routine repair or
12 routine maintenance of any existing qualified facility, including structures, buildings or real
13 property.

14 (4) "Contract" means any agreement, including a public-private agreement for the
15 procurement, operation or disposal under this chapter of a qualified facility by the department.

16 (5) "Contract modification" means any written alteration in specifications, delivery point,
17 rate of delivery, period of performance, price, quantity or other provisions of any contract
18 accomplished by mutual action of the parties to the contract.

19 (6) "Contractor" means any person having a contract with the department pursuant to the
20 provisions of this chapter.

21 (7) "Cooperative purchasing" means procurement conducted by, or on behalf of, an
22 affected jurisdiction.

23 (8) "Department" means any department of state government in accordance with § 42-6-1.

24 (9) "Design-build-finance-operate-maintain" means a project delivery method in which the
25 department enters into a single contract for design, construction, finance, maintenance and
26 operation of a qualified facility over a contractually defined period. Any potential available
27 payments to be appropriated by the state while services are being provided by the contractor during
28 the contract period shall be identified in the request for proposals and contract. The financial
29 amount and duration of such potential available payments, and the terms and conditions upon which
30 they may be appropriated, shall be identified in the request for proposals and contract.

31 (10) "Design-build-operate-maintain" means a project delivery method in which the
32 department enters into a single contract for design, construction, maintenance and operation of a
33 qualified facility over a contractually defined period and all or a portion of the funds required to
34 pay for the services provided by the contractor during the contract period shall either be

1 appropriated by the state or by the department prior to award of the contract or secured by the state
2 or by the department through fare or user charges.

3 (11) "Design requirements" means the written description of the qualified facility or service
4 to be procured under this chapter including:

5 (i) Required features, functions, characteristics, qualities and properties required by the
6 department;

7 (ii) The anticipated schedule, including start, duration and completion; and

8 (iii) Estimated budgets as applicable to the specific procurement for design, construction,
9 operation and maintenance; provided, however, that design requirements may include drawings
10 and other documents illustrating the scale and relationship of the features, functions and
11 characteristics of the project.

12 (12) "Force majeure" means an uncontrollable force or natural disaster not within the power
13 of the operator or the state.

14 (13) "Independent peer reviewer services" means additional architectural and engineering
15 services provided to the department in design-build-operate-maintain or design-build-finance-
16 operate-maintain procurements to confirm that the key elements of the professional engineering
17 and architectural design provided by the contractor are in conformance with the applicable standard
18 of care.

19 (14) "Large-scale construction project" means a construction project subject to this chapter
20 with a total projected cost value at or in excess of twenty-five million dollars (\$25,000,000).

21 (15) "Maintenance" means and includes routine operation, routine maintenance, routine
22 repair, rehabilitation, capital maintenance, maintenance replacement and any other categories of
23 maintenance that may be designated by the department.

24 (16) "Material default" means failure of a contractor to perform any duties under a public-
25 private agreement which jeopardizes delivery of adequate service to the public which remains
26 unsatisfied after a reasonable period of time and after the operator has received written notice from
27 the department of the failure.

28 (17) "Operate" means any action to operate, maintain, repair, rehabilitate, improve, equip
29 or modify a qualified facility, including the design and construction of repairs, improvements or
30 modifications to a qualified facility.

31 (18) "Operator" means a private entity that has entered into a public-private agreement to
32 provide design-build-finance-operate-maintain or design-build-operate-maintain services under
33 this chapter.

34 (19) "Private entity" means a natural person, corporation, general partnership, limited

1 - liability company, limited partnership, joint venture, business trust, public benefit corporation,
2 nonprofit entity or other business entity.

3 (20) "Proposal development documents" means drawings and other design-related
4 documents that are sufficient to fix and describe the size and character of a qualified facility as to
5 architectural, structural, mechanical and electrical systems, materials and such other elements as
6 may be appropriate to the applicable project delivery method.

7 (21) "Public-private agreement" means the contract between a private entity/operator and
8 the department that relates to the development, financing, maintenance or operation of a qualified
9 facility subject to this chapter.

10 (22) "Qualified facility" or "facility" means a public transportation facility, terminal
11 facility, seaport facility, rail facility, intermodal facility or similar facility open to the public and
12 used for the transportation of persons or goods, water supply facility, water treatment intake and
13 distribution facility, waste water treatment and collection facility, waste treatment facility, higher
14 educational facility, medical or nursing care facility, recreational facility, state agency supportive
15 facility, or appurtenances or other property needed to operate such facility that is subject to a public-
16 private agreement.

17 (23) "Request for proposals" means all documents, whether attached to or incorporated by
18 reference, utilized for soliciting proposals for a qualified facility under this chapter.

19 (24) "Responsible bidder" means a person who has the capability in all respects to fully
20 perform the contract requirements, and the integrity and reliability to assure good faith
21 performance.

22 (25) "Responsive bidder" means a person who has submitted a bid which conforms in all
23 material respects to the invitation for bids.

24 (26) "User fees" means the rate, fee or other charges imposed by an operator or by the
25 department for use of all or part of a qualified facility.

26 (27) "Utility" means a privately, publicly or cooperatively owned line, facility or system
27 for producing, transmitting or distributing communications, cable television, power, electricity,
28 light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway
29 drainage, or any other similar commodity, including any fire or police signal system or street
30 lighting system, which directly or indirectly serves the public.

31 **42-13.2-3. Establishment of special public-private partnership infrastructure**
32 **oversight commission.**

33 (a) There is hereby established a special public-private partnership infrastructure oversight
34 commission to comment on and approve all requests for proposals for design-build-finance-

1 operate-maintain or design-build-operate-maintain services.

2 (b) The commission shall have seven (7) members to be appointed by the governor for a
3 term of two (2) years. One of whom shall be a representative from the Rhode Island Society of
4 Professional Engineers and three (3) of whom shall reside in different geographic regions of the
5 state, and one of whom shall be an expert in the field of transportation and one of whom shall be
6 an expert in the field of public finance. Each member of the commission shall be an expert with
7 experience in either the fields of transportation, law, construction, labor, engineering, real estate,
8 public policy, public finance or management consulting. One of the members shall be appointed
9 by the governor to serve as chairperson of the commission. The members appointed by the governor
10 may be eligible for reappointment; provided, however, that no such member shall serve for more
11 than three (3) terms.

12 (c)(1) No member or employee of the general assembly or an employee of the executive
13 branch shall be eligible for appointment to the commission for a period of two (2) years subsequent
14 to leaving their office or employment with the general assembly or executive branch prior to their
15 appointment.

16 (2) In the event that the department director was employed by an organization that has
17 business before the department, or any predecessor agency or authority, for a period of at least two
18 (2) years prior to their appointment, the governor shall appoint an appropriate replacement from
19 within the department to fulfill the duties of the department required by this chapter.

20 (d) Whenever the department notifies the commission of its intent to issue a request for
21 proposal for design-build-finance-operate-maintain or design-build-operate-maintain services, the
22 department shall submit a draft of the request for proposal to the commission for its review and
23 approval. Pursuant to § 42-13.2-4, no request for proposal shall be issued by the department for a
24 public-private agreement for design-build-finance-operate-maintain or design-build-operate-
25 maintain services without the commission's written approval. The commission shall provide an
26 initial written response to the request for proposal within fifteen (15) days, and shall request any
27 information necessary to comply with subsection (e) of this section.

28 (e) For each request for proposal for design-build-finance-operate-maintain or design-
29 build-operate-maintain services, the commission shall report on issues surrounding the request for
30 proposal including, but not limited to:

31 (1) The status of current employees;
32 (2) The policy and regulatory structure for overseeing a privately-operated facility and on-
33 going legislative oversight;
34 (3) Issues of taxation, profit-sharing and resolution of new revenue producing ideas;

- 1 (4) Advertising and marketing;
- 2 (5) Use of new technologies;
- 3 (6) Lease terms and termination clauses;
- 4 (7) Additional responsibilities by both the private infrastructure operator and the state
- 5 during the lease period;
- 6 (8) The financial valuation of the state facility;
- 7 (9) Issues of public concern; and
- 8 (10) The anticipated advantages of entering into the anticipated public-private agreement
- 9 for design-build-finance-operate-maintain or design-build-operate-maintain services.

10 (f) The report shall be delivered within thirty (30) days of the commission's approval of a
11 request for proposal for design-build-finance-operate-maintain or design-build-operate-maintain
12 services to the director of administration, the house and senate committees on finance, the speaker
13 of the house and the senate president.

14 (g) Any research, analysis or other staff support that the commission reasonably requires
15 shall be provided by the department.

42-13.2-4. Issuance of contracts.

33 (1) Each request for proposals for design-build-operate-maintain and design-build-finance-
34 operate-maintain services;

(i) Shall include design requirements, and shall provide notice that the contractor is required to comply with § 37-13-6, and that all contractors and subcontractors performing or assisting in work on the project worksite shall pay their laborers, mechanics, teamsters, other craft members and employees employed under the contract no less than the locally prevailing wage and benefits for corresponding work on similar projects in the state;

(ii) Shall solicit proposal development documents; and

(iii) May, if the department determines that the cost of preparing proposals is high, considering the size, estimated price and complexity of the procurement:

(A) Prequalify responsible bidders by issuing a request for qualifications in advance of the request for proposals; and

(B) Select a short list of responsible bidders prior to discussions and evaluations, if the

number of proposals that will be short-listed is stated in the request for proposals and prompt public notice is provided to all bidders as to which proposals have been short-listed; or

(C) Pay stipends to unsuccessful bidders; provided, however, that the amount of such

stipends and the terms under which such stipends shall be paid shall be included in the request for proposals.

(2) Adequate public notice of the request for proposals, posted and published on the department's website at least three (3) weeks prior to the deadline for submission of proposals, with an opportunity for public comment, shall be provided;

(3) Proposals shall be opened so as to avoid disclosure of contents to competing bidders
during the process of negotiation and a register of proposals shall be prepared by the department

and shall be open for public inspection after contract award;

(4) Proposals for large-scale construction projects shall include a project labor feasibility analysis conducted by the public department, prior to the issuance of a request for proposals, of

whether:

(i) The size and complexity of the project indicate that a project labor agreement (PLA) would achieve economy, efficiency, project stability and cost certainty; and

(ii) The record demonstrates that an objective, reasoned study is completed using reviewable criteria in determining that the adoption of a project labor agreement helps to achieve these objectives;

(5) Proposals for a public-private agreement for design-build-finance-operate-maintain or design-build-operate-maintain services, shall include a contractual commitment to honor existing and future collective bargaining agreements with a certified bargaining unit for maintenance work where applicable;

1 (6)(i) The request for proposals shall state the relative importance of price and other factors
2 and subfactors, if any.

3 (ii) Each request for proposals for design-build-operate-maintain and design-build-finance-
4 operate-maintain:

5 (A) Shall state the relative importance of:

6 (I) Demonstrated compliance with the design requirements;

7 (II) Bidder qualifications;

8 (III) Financial capacity;

9 (IV) Project schedule;

10 (V) Elimination of existing public debt with respect to the facility; and

11 (VI) Lowest user charges or price over the term of the design-build-operate-maintain and
12 design-build-finance-operate-maintain contract.

13 (B) Shall, if the contract price is estimated to exceed ten million dollars (\$10,000,000) or
14 if the contract period of operations and maintenance is five (5) years or longer, or if circumstances
15 established by the department require each bidder to identify an independent peer reviewer whose
16 competence and qualification to provide such services shall be an additional evaluation factor in
17 the award of the contract; and

18 (C) Shall not include, as an evaluation factor in the award of the contract, the amount, if
19 any, paid by a contractor to the department for procurement using design-build-operate-maintain
20 and design-build-finance-operate-maintain;

21 (7) As provided in the request for proposals and under regulations issued by the department,
22 discussions may be conducted with responsible bidders who submit proposals determined to be
23 reasonably susceptible of being selected for award for the purpose of clarification to assure full
24 understanding of, and responsiveness to, the solicitation requirements. Bidders shall be accorded
25 fair and equal treatment with respect to any opportunity for discussion and revision of proposals,
26 and such revisions may be permitted after submissions and prior to award for the purpose of
27 obtaining best and final offers. In conducting discussions, there shall be no disclosure of any
28 information derived from proposals submitted by competing bidders;

29 (8) Award shall be made to the responsible bidder whose proposal conforms to the
30 solicitation and is determined in writing to be the most advantageous to the acquiring agency, taking
31 into consideration the price and the evaluation factors set forth in the request for proposals. No
32 other factors or criteria shall be used in the evaluation. The contract file shall contain the basis upon
33 which the award is made. Written notice of the award of a contract to the successful bidder shall be
34 promptly provided to all bidders; and

1 (9) The department may provide debriefings that furnish the basis for the source selection
2 decision and contract award.

3 (c)(1) A private entity/operator may request a review, prior to submission of a solicited
4 proposal, by the department of administration that the private entity/operator has identified as
5 confidential or proprietary to determine whether such administration is subject to disclosure
6 pursuant to chapter 2 of title 38.

7 (2) The department shall take appropriate action to protect confidential or proprietary
8 information that a private entity/operator provides as part of a solicited proposal and that is exempt
9 from disclosure pursuant to chapter 2 of title 38.

10 **42-13.2-5. Request for proposals - Content of public-private agreement.**

11 (a) The request for proposals shall contain the proposed form of contract or public-private
12 agreement to be executed between the successful bidder and the department upon award, and shall
13 have been approved as to content and form by the special public-private infrastructure oversight
14 commission and by the department before the request for proposals is issued, pursuant to § 42-13.2-
15 4. The director of the department of administration or designee shall have thirty (30) days from the
16 receipt of a draft of the proposed form of contract to notify the special public-private infrastructure
17 oversight commission in writing of any material objections to the draft form of the contract. Before
18 issuing any request for proposal, the department shall prepare a written response to reports
19 submitted to it by the special public-private infrastructure oversight commission which response
20 shall state the basis for any substantial divergence between the actions of the department and the
21 recommendations contained in such reports of said commission. The department and the successful
22 bidder shall only make non-material changes in the content and form of the public-private
23 agreement contained in the request for proposals.

24 (b)(1) After selecting a solicited or unsolicited proposal for a public-private initiative, the
25 department shall enter into the public-private agreement for the subject facility with the selected
26 private entity/operator.

27 (2) An affected jurisdiction may be a party to a public-private agreement entered into by
28 the department and a selected private entity/operator or combination of private entities.

29 (c) A public-private agreement under this chapter shall provide for the following:

30 (1) The planning, acquisition, engineering, financing, development, design, construction,
31 reconstruction, replacement, improvement, maintenance, management, repair, leasing or operation
32 of a facility including provisions for the replacement and relocation of utility facilities;

33 (2) The term of the public-private agreement, which shall not exceed fifty (50) years
34 without written approval of the governor;

(3) The type of property interest, if any, the private entity/operator shall have in the facility;

(4) A description of the actions the department may take to ensure proper maintenance of the facility;

(5) Whether user fees will be collected on the facility and the basis by which such user fees shall be determined and modified;

(6) Compliance with applicable federal, state and local laws;

(7) Grounds for termination of the public-private agreement by the department or private entity/operator;

(8) Procedures for amendment of the agreement by mutual agreement and for changes in the agreement by written order from the department;

(9) Review and approval by the department of the private entity/operator's plans for the development and operation of the facility;

(10) Inspection by the department and the independent peer reviewer of the design and construction of, or improvements to, the facility;

(11) Maintenance by the private entity/operator of a policy of liability insurance or self-insurance reasonably acceptable to the department;

(12) Filing by the private entity/operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(13) Filing by the private entity/operator, on a periodic basis, of traffic reports, service quality standards, ridership reports, on time performance reports, or other reports identified by the department, in a form acceptable to the department;

(14) Financing obligations of the private entity/operator and the department;

(15) Apportionment of expenses between the private entity/operator and the department;

(16) The rights and duties of the private entity/operator, the department, and other state and local governmental entities with respect to use of the facility;

(17) The rights and remedies available in the event of default or delay;

(18) The terms and conditions of indemnification of the private entity/operator by the department, as required by applicable law;

(19) Assignment, subcontracting or other delegation of responsibilities of the private entity/operator or the department under the agreement to third parties, including other private entities and other state agencies;

(20) Sale or lease to the private entity/operator of private property related to the facility;

(21) If, and how, the parties shall share costs of development of the project;

(22) If, and how, the parties shall allocate financial responsibility for cost overruns;

1 (23) Liability for nonperformance;
2 (24) Any incentives for performance;
3 (25) Any accounting and auditing standards to be used to evaluate progress on the project;
4 (26) The private entity/operator's plans to obtain a labor and material payment bond, in
5 accordance with chapter 2 of title 37, covering all construction, reconstruction or maintenance,
6 including capital maintenance, work of the project and require the payment of prevailing wages for
7 labor performed on the project in accordance with chapters 13, 14.1 and 14.3 of title 37;
8 (27) The private entity/operator's plans for labor harmony for the entire term of the
9 agreement, including construction, reconstruction and capital and routine maintenance and
10 adequate remedies to address the private entity/operator's failure to maintain labor harmony which
11 shall include, but not be limited to, assessment of liquidated damages and contract termination;
12 (28) A project labor feasibility study if the request for proposal relates to a large-scale
13 construction project;
14 (29) Traffic enforcement and other policing issues, subject to § 42-13.2-11, including any
15 reimbursement by the private entity/operator for such services;
16 (30) Notwithstanding any general law or special law to the contrary, prior to the award of
17 any pending/all public private partnership agreement, whereby any/all state, municipal, and or
18 quasi-public employees represented by a bargaining unit may be displaced, pursuant to the
19 provisions of chapters 148 and 149 of title 42; and
20 (31) Any other terms and conditions.

21 **42-13.2-6. End of term or termination of public-private agreement.**

22 Upon the end of the term of the public-private agreement or in the event of termination of
23 the public-private agreement, the department and duties of the private entity/operator shall cease,
24 except for any duties and obligations that extend beyond the termination as provided in the public-
25 private agreement, and all the rights, title and interest in such qualified facility shall revert to the
26 department and shall be dedicated to the department for public use.

27 **42-13.2-7. Rights of department upon material default by a private entity/operator.**

28 (a) Upon the occurrence and during the continuation of a material default by a private
29 entity/operator, not caused by an event of force majeure, and upon the failure by the private
30 entity/operator acting in the capacity as a contractor or its financing institution on the contractor's
31 behalf, to cure such material default within thirty (30) days of written notice of such default by the
32 department, the department of administration may:

33 (1) Elect to take over the facility, including the succession of all right, title and interest in
34 the facility; and

1 (2) Terminate the public-private agreement and exercise any other rights and remedies
2 available.

3 (b) In the event that the department elects to take over a facility under subsection (a) of this
4 section, the department:

5 (1) Shall make interim payments, on behalf of the contractor and for the contractor's
6 account, of any amounts subject to a mechanics lien law of the state;

7 (2) May develop and operate the facility, impose user fees for the use of the facility and
8 comply with any service contracts; and

9 (3) May solicit proposals for the maintenance and operation of the facility under § 42-13.2-

10 4.

11 **42-13.2-8. Issue and sale of bonds or notes of the department.**

12 (a)(1) The department may request authorization from the state to issue and sell bonds or
13 notes of the department for the purpose of providing funds to carry out the provisions of this
14 chapter, with respect to the development, financing or operation of a facility or the refunding of
15 any bonds or notes, together with any costs associated with the transaction.

16 (2) Any bond or note issued under this section:

17 (i) Shall constitute the corporate obligation of the department;

18 (ii) Shall not constitute a debt of the state within the meaning or application of the
19 constitution of the state; and

20 (iii) Shall be payable solely as to both principal and interest from:

21 (A) The revenues from a lease to the department, if any;

22 (B) Proceeds of bonds or notes, if any;

23 (C) Investment earnings on the proceeds of bonds or notes; or

24 (D) Other funds available to the department for such purpose.

25 (b)(1) For the purpose of financing a facility, the department and operator may apply for,
26 obtain, issue and use private activity bonds available under any federal law or program.

27 (2) Any bonds, debt, other securities or other financing issued for the purposes of this
28 chapter, shall not be considered a debt of the state or any political subdivision thereof or a pledge
29 of the full faith and credit of the state or any political subdivision of the state.

30 (c) Nothing in this section shall be construed as a prohibition on a local government or any
31 authority of the state to issue authorized bonds for infrastructure projects.

32 **42-13.2-9. Acceptance of funds from the federal government and other sources.**

33 (a)(1) The department may accept from the federal government or any of its agencies funds
34 that are available to the state for carrying out the provisions of this chapter, whether the funds are

1 made available by grant, or other financial assistance.

2 (2) The department may enter into agreements or other arrangements with the federal
3 government or any of its agencies as may be necessary for implementing the purposes of this
4 chapter.

5 (b) The department may accept from any source any grant, donation, gift or other form of
6 conveyance of land, money, other real or personal property or other item of value made to the state
7 or the department for implementing the purposes of this chapter.

8 (c) Any facility may be financed, in whole or in part, by contribution of any funds or
9 property made by any private entity/operator or affected jurisdiction that is party to a public-private
10 agreement under this chapter.

11 (d) The department may combine federal, state, local and private funds to finance a facility
12 under this chapter.

13 **42-13.2-10. Exercise of power of eminent domain.**

14 The State of Rhode Island may exercise the power of eminent domain to acquire property,
15 rights of way or other rights in property for projects that are part of a public-private agreement for
16 design-build-finance-operate-maintain or design-build-operate-maintain services.

17 **42-13.2-11. Sovereign immunity.**

18 Nothing in this chapter shall limit any waiver of the sovereign immunity of the state or any
19 officer or employee of the state or any officer or employee of the state with respect to the
20 participation in or approval of all or any part of the facility or its operation.

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- PUBLIC-PRIVATE
PARTNERSHIP INFRASTRUCTURE PROGRAM

- 1 This act would establish a seven (7) member public-private partnership infrastructure
- 2 oversight commission to approve all requests for proposals submitted for public-private partnership
- 3 construction of qualified facilities. This act would also establish a new scheme outlining the request
- 4 for proposal process for the construction of public-private qualified facilities and would further
- 5 provide for the state to exercise the power of eminent domain relating to the construction of such
- 6 qualified facilities.

7 This act would take effect upon passage.

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