SUBMISSION TO THE

2015 Commission on Legislative, Judicial and Executive Compensation

APPENDIX A

L. 2015, ch. 60, Part E

(Establishing Commission on Legislative, Judicial and Executive Compensation)

PART E

Section 1. Chapter 567 of the laws of 2010 relating to establishing a special commission on compensation, and providing for their powers and duties; and to provide periodic salary increases to state officers is REPEALED.

§ 2. 1. On the first of June of every fourth year, commencing June 1, 2015, there shall be established a commission on legislative, judicial and executive compensation to examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for members of the legislature, judges and justices of the state-paid courts of the unified court system, statewide elected officials, and those state officers referred to in section 169 of the executive law.

2. (a) In accordance with the provisions of this section, the commission shall examine: (1) the prevailing adequacy of pay levels and other non-salary benefits received by members of the legislature, statewide elected officials, and those state officers referred to in section 169 of the executive law; and

(2) the prevailing adequacy of pay levels and non-salary benefits received by the judges and justices of the state-paid courts of the unified court system and housing judges of the civil court of the city of New York and determine whether any of such pay levels warrant adjustment; and

(b) The commission shall determine whether: (1) for any of the four years commencing on the first of April of such years, following the year in which the commission is established, the annual salaries for the judges and justices of the state-paid courts of the unified court system and housing judges of the civil court of the city of New York warrant an increase; and

(2) on the first of January after the November general election at which members of the state legislature are elected following the year in which the commission is established, and on the first of January following the next such election, the like annual salaries and allowances of members of the legislature, and salaries of statewide elected officials and state officers referred to in section 169 of the executive law warrant an increase.

3. In discharging its responsibilities under subdivision two of this section, the commission shall take into account all appropriate factors including, but not limited to: the overall economic climate; rates of inflation; changes in public-sector spending; the levels of compensation and non-salary benefits received by executive branch officials and legislators of other states and of the federal government; the levels of compensation and non-salary benefits received by professionals in government, academia and private and nonprofit enterprise; and the state's ability to fund increases in compensation and non-salary benefits.

§ 3. 1. The commission shall consist of seven members to be appointed as follows: three shall be appointed by the governor; one shall be appointed by the temporary president of the senate; one shall be appointed by the speaker of the assembly; and two shall be appointed by the chief judge of the state, one of whom shall serve as chair of the commission. With regard to any matters regarding legislative or executive compensation, the chair shall preside but not vote. Vacancies in the commission shall be filled in the same manner as original appointments. To the extent practicable, members of the commission shall have

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experience in one or more of the following: determination of executive compensation, human resource administration or financial management.

2. The commission shall only meet within the state, may hold public hearings, at least one of which shall be open for the public to provide comments and shall have all the powers of a legislative committee pursuant to the legislative law. It shall be governed by articles 6, 6-A and 7 of the public officers law.

3. The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties hereunder.

4. No member of the commission shall be disqualified from holding any other public office or employment, nor shall he or she forfeit any such office or employment by reason of his or her appointment pursuant to this section, notwithstanding the provisions of any general, special or local law, regulation, ordinance or city charter.

5. To the maximum extent feasible, the commission shall be entitled to request and receive and shall utilize and be provided with such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof as it may reasonably request to carry out properly its powers and duties pursuant to this section.

6. The commission may request, and shall receive, reasonable assistance from state agency personnel as necessary for the performance of its function.

7. The commission shall make a report to the governor, the legislature and the chief judge of the state of its findings, conclusions, determinations and recommendations, if any, not later than the thirty-first of December of the year in which the commission is established for judicial compensation and the fifteenth of November the following year for legislative and executive compensation. Any findings, conclusions, determinations and recommendations in the report must be adopted by a majority vote of the commission and findings, conclusions, determinations and recommendations with respect to executive and legislative compensation shall also be supported by at least one member appointed by each appointing authority. Each recommendation made to implement a determination pursuant to section two of this act shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of article 7-B of the judiciary law, section 169 of the executive law, and sections 5 and 5-a of the legislative law, unless modified or abrogated by statute prior to April first of the year as to which such determination applies to judicial compensation and January first of the year as to which such determination applies to legislative and executive compensation.

8. Upon the making of its report as provided in subdivision seven of this section, each commission established pursuant to this section shall be deemed dissolved.

§ 4. Date of entitlement to salary increase. Notwithstanding the provisions of this act or of any other law, each increase in salary or compensation of any officer or employee provided by this act shall be added to the salary or compensation of such officer or employee at the beginning of that payroll period the first day of which is nearest to the effective date of such increase as provided in this act, or at the beginning of the earlier of two payroll periods the first days of which are nearest but equally near to the effective date of such increase as provided in this act; provided, however, the payment of such salary increase pursuant to this section on a date prior thereto instead of on

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such effective date, shall not operate to confer any additional salary rights or benefits on such officer or employee. The annual salaries as prescribed pursuant to this act whenever adjusted pursuant to the provisions of this act, shall be rounded up to the nearest multiple of one hundred dollars.

§ 5. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2015.

PART F

Section 1. This act shall be known and may be cited as the "Infrastructure investment act".

§ 2. For the purposes of this act:

(a) "authorized state entity" shall mean the New York state thruway authority, the department of transportation, the office of parks, recreation and historic preservation, the department of environmental conservation and the New York state bridge authority.

(b) "best value" shall mean the basis for awarding contracts for services to the offerer that optimize quality, cost and efficiency, price and performance criteria, which may include, but is not limited to:

1. The quality of the contractor's performance on previous projects;

2. The timeliness of the contractor's performance on previous projects;

3. The level of customer satisfaction with the contractor's performance on previous projects;

4. The contractor's record of performing previous projects on budget and ability to minimize cost overruns;

5. The contractor's ability to limit change orders;

6. The contractor's ability to prepare appropriate project plans;

7. The contractor's technical capacities;

8. The individual qualifications of the contractor's key personnel;

9. The contractor's ability to assess and manage risk and minimize risk impact; and

10. The contractor's past record of compliance with article 15-A of the executive law.

Such basis shall reflect, wherever possible, objective and quantifiable analysis.

(c) "capital project" shall have the same meaning as such term is defined by subdivision 2-a of section 2 of the state finance law.

(d) "cost plus" shall mean compensating a contractor for the cost to complete a contract by reimbursing actual costs for labor, equipment and materials plus an additional amount for overhead and profit.

(e) "design-build contract" shall mean a contract for the design and construction of a capital project with a single entity, which may be a team comprised of separate entities.

(f) "procurement record" means documentation of the decisions made and the approach taken in the procurement process.

§ 3. Notwithstanding the provisions of section 38 of the highway law, section 136-a of the state finance law, section 359 of the public authorities law, section 7210 of the education law, and the provisions of any other law to the contrary, and in conformity with the requirements of this act, an authorized state entity may utilize the alternative delivery method referred to as design-build contracts, in consultation with relevant local labor organizations and construction industry, for capital projects related to the state's physical infrastructure,