



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 3

PRINTERS NO.

PRIME SPONSOR: Geist

COST / (SAVINGS)

FUND	FY 2010/11	FY 2011/12
Motor License Fund	\$0	\$0
Public-Private Transportation Restricted Account	\$0	See Analysis

SUMMARY: Provides a broad-based legislative framework authorizing the implementation of transportation-specific public-private partnerships to help the Commonwealth meet its substantial transportation infrastructure needs. This legislation would take effect in 60 days.

ANALYSIS: This legislation would amend Title 74 (Transportation) to enable PennDOT or proprietary public entities to enter into transportation development agreements with private entities and/or other public entities for the development, operation and financing of transportation facilities. The major provisions of the bill are included below:

- Defines a “public-private transportation partnership” as a binding agreement transferring the rights for use or control, whether in whole or in part, of a transportation facility by PennDOT or a proprietary public entity to a development entity for a term not to exceed 99 years. A public-private transportation partnership may include a development entity providing a service such as maintenance, operation, user fee collection, design, construction, and/ or development of new transportation facilities.
- This legislation establishes the Public-Private Transportation Partnership Board, which is authorized to evaluate and then decide on public-private partnership proposals but would have no post-procurement role. Proposals may be solicited or unsolicited transportation projects. If a prospective offeror, offeror, or development entity is aggrieved by a project selection, they may file a protest or claim as appropriate.
- The Board will be made up by the Secretary of Transportation, the Secretary of the Budget, one member appointed by the Governor, and one member appointed by each of the 4 Caucuses. Legislative appointees shall not be members of the General Assembly. The Legislature would be allowed to block a project approval if both the House and Senate adopt a resolution within 30 days of the Board’s approval of a project.
- PennDOT shall supply all necessary assistance to the Board in carrying out its duties and responsibilities, including retention of legal, financial and technical consultants to assist

with this role and shall retain oversight and monitor the project, including periodic reports to the Board, as necessary.

- Any public-private transportation agreement shall include a description of any of the planning, expansion, replacement, management, control, etc. of the transportation facility, the term, the type of property interest or other relationship the development entity will have with respect to the project, authorization for PennDOT and the proprietary public entity to inspect all assets and properties of the transportation facility and books and records of the development entity, grounds for termination, and standards relating to how the parties will allocate and share management. Any lease of the Pennsylvania Turnpike would be prohibited without an Act by the General Assembly.
- This legislation establishes the Public-Private Transportation Account as a separate account within the Motor License Fund. The net proceeds received by PennDOT shall be used exclusively to provide funding for transportation needs in this Commonwealth. Funds in the account shall also be continuously appropriated to PennDOT to repay the Federal Highway Administration, for repayment of defeasance of outstanding bonds, paying expenses incurred under or in connection with any Agreement by PennDOT, including professional fees and expenses, paying the costs of PennDOT relating to performing and administering duties under this legislation, and paying all expenses approved by the Board for its costs incurred to perform its duties, including professional fees and expenses. Any money related to an agreement by a proprietary public entity that is not PennDOT, shall not be held in the account but shall be held by that entity.
- PennDOT shall promulgate regulations or publish guidelines that detail the process for submission, receipt and review of requests for solicitations and responses to those requests, including the type and amount of information necessary for adequate review, specific time frames for response and review, and any other provisions that PennDOT deems appropriate for the implementation of the process. Regulations promulgated during the first two years after enactment of this legislation shall be deemed temporary regulations, which shall expire no later than three years after enactment of this legislation or upon promulgation of final regulations.
- PennDOT or the proprietary public entity shall include in the Agreement provisions that authorize the collection of user fees, tolls, fares or similar charge and those provisions shall include specifying the technology to be used.
- Expands the existing worker-protection language contained in the required contract provisions to clarify that the obligation of a development entity to offer employment, including the same salary, benefits and retirement, to existing employees in good standing extends through the term of the collective bargaining agreement in place at the time the public-private partnership agreement is signed.
- Reaffirms that the Commonwealth shall continue to enjoy Sovereign Immunity with several exceptions including specific performance, actual costs of environmental remediation of existing contamination, appeal by an aggrieved offeror, and torts currently excluded under Title 42 for both states and local governments.

FISCAL IMPACT: The legislation has the possibility to generate significant revenue or reduce costs for the Commonwealth if public-private transportation agreements are entered into. It is important to note that any expenses incurred by PennDOT in performing the duties as outlined in this legislation will be funded via the new Public-Private Transportation Account, therefore this legislation will have no adverse impact on the Motor License Fund.

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House Appropriations Committee (R)

DATE: December 6, 2011

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.