



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 3

PRINTERS NO. 3769

PRIME SPONSOR: Geist

COST / (SAVINGS)

FUND	FY 2011/12	FY 2012/13
Motor License Fund	\$0	See Fiscal Impact
Public-Private Transportation Account	\$0	See Fiscal Impact

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 with the sections relating to regulations and the Board taking effect immediately.

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.

A development entity entering into a public-private transportation partnership agreement (agreement) is entitled to all or a portion of the revenue generated from a transportation facility in return for providing the transportation-related service of the facility.

The Pennsylvania Turnpike Commission may not enter into an agreement with respect to control or oversight of the Turnpike Mainline without an act of the General Assembly granting authority.

A public entity is defined as the Commonwealth or a municipal authority that owns a transportation facility. Prior to entering into an agreement, a public entity is required to receive approval from the Board. The Board is composed of seven members as follows:

- 1.) The Secretary of Transportation, who shall serve as chair, or a designee who is an employee of the Department of Transportation (PennDOT);
- 2.) The Secretary of the Budget or a designee who is an employee of the Office of the Budget;
- 3.) One individual appointed by the Governor;
- 4.) One individual appointed by the President Pro Tempore of the Senate;
- 5.) One individual appointed by the Minority Leader of the Senate;
- 6.) One individual appointed by the Speaker of the House of Representatives;
- 7.) One individual appointed by the Minority Leader of the House of Representatives.

Gubernatorial and legislative appointees shall serve at the pleasure of their appointing authorities and are required to have expertise or substantial experience in transportation, finance, law, or land use and public planning. Gubernatorial appointees may not hold any other position as an elected official or employee of the Commonwealth.

The Board is charged with evaluating requests or plans for public-private transportation projects, whether solicited or unsolicited. If the Board determines such projects are in the best interests of the Commonwealth and any other applicable public entity, the Board is required to approve such projects through resolution. Within 20 calendar days or nine legislative days, whichever is longer, of the adoption of a resolution approving a public-private transportation partnership project, the General Assembly may rescind the Board's approval by passing a concurrent resolution if the project involves a facility owned by the Commonwealth.

PennDOT shall develop a detailed analysis of a request or recommendation for a public-private transportation project prior to Board approval and retain oversight and monitor selected projects. In addition, the legislation requires PennDOT to supply all necessary assistance to the Board in carrying out its duties and responsibilities, including retention of legal, financial and technical consultants.

Upon approval by the Board, a public entity is authorized to enter into an agreement by competitive sealed proposals. The public entity is required to solicit proposals through a request for proposals. A public entity shall evaluate proposals to determine which proposal has the best value for and is in the best interest of the public entity. The weight accorded to evaluation factors shall be fixed prior to opening the proposals. The proposal submitted by a responsible offeror that the public entity determines in writing to be the best value for and in the best interest of the public entity shall be selected. Upon selection, the public entity and the development entity selected shall enter into an agreement. The term of the agreement shall not exceed 99 years. The agreement shall also include, among other things, a requirement that the transportation facility acquired or constructed by the development entity go to or remain with the public entity.

The net proceeds received by a public entity under an agreement shall be used exclusively for transportation funding needs in the Commonwealth. The use of such proceeds and any other revenues from a public-private partnership project shall comply with any federal or state laws. In order to deposit funds owed to PennDOT where it is the public entity in an agreement, the legislation establishes the Public-Private Transportation Account within the Motor License Fund. Funds in the Account are appropriated to PennDOT on a continuing basis to pay costs incurred by the Board and PennDOT from entering into public-private transportation agreements and for the maintenance, operation and financing of transportation facilities in the Commonwealth.

FISCAL IMPACT: The legislation has the possibility to generate significant revenue or reduce expenses for the Commonwealth if public-private transportation agreements are entered into. Estimating those increased revenues or reduced expenses are impossible at this point. It is important to note that any expenses incurred by PennDOT or the Board 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 fiscal impact on Commonwealth funds.

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House Appropriations Committee (R)

DATE: June 30, 2012

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