



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

SENATE BILL NO. 382

PRINTERS NO. 1231

PRIME SPONSOR: Langerholc

### COST / (SAVINGS)

FUND	FY 2021/22	FY 2022/23
Motor License Fund	See "Fiscal Impact"	See "Fiscal Impact"

**SUMMARY:** Amends Title 74 (Transportation) to make changes to the transportation public-private partnership (P3) approval process and require legislative approval of transportation P3s that impose user fees. This legislation would take effect immediately.

**ANALYSIS:** The legislation amends the P3 chapter of Title 74 to make several changes to the transportation P3 approval process.

**Department Analysis:** PennDOT is required to develop a detailed analysis of a proposed transportation P3 project prior to approval by the P3 Board. The analysis shall include all of the following:

- The exact location of the project.
- The type of transportation facility or transportation service being improved.
- The estimated cost of the P3 project to the public entity.
- The estimated length of the P3 agreement.
- The social, economic, and environmental impacts of the P3 project.
- If the P3 project will include a user fee, the estimated user fee amounts.
- Applicable Federal and state laws.
- Alternative courses of action to improve a transportation facility or transportation-related service without utilizing a P3 agreement.

The aforementioned analysis is to be posted on PennDOT's website and transmitted to the majority and minority chairs of the transportation committees and the Legislative Reference Bureau (LRB) for publication in the PA Bulletin. PennDOT may develop evaluations in addition to the aforementioned mandatory analysis.

**Public Comment:** The P3 Board may not take action on a proposed transportation P3 project for at least 30 days from the date the analysis is published in the PA Bulletin. During this minimum 30-day period, PennDOT is required to collect public comments regarding the proposed P3 transportation project and shall transmit the collected public comments and a summary of the

comments to the chairs of the transportation committees and post the comments and summary on its website. The summary of the public comments shall include all of the following:

- A description of the proposed transportation P3 project.
- A copy of the notice published in the PA Bulletin.
- The time period in which public comments were solicited.
- An overview of the outreach plan PennDOT implemented to ensure equitable solicitation of public comments from individuals affected by the P3 project.
- A chart or graph summarizing the submitted comments.

**P3 Board Approval:** After consideration of PennDOT's analysis and the public comments, the P3 Board may approve a proposed transportation P3 project if the P3 Board determines the project is in the best interest of the Commonwealth. Approval shall be in the form of resolution. A copy of the resolution shall be posted on PennDOT's website and transmitted, within 24 hours, to the chairs of the transportation committees and the LRB. The LRB shall publish the resolution in the PA Bulletin.

**Legislative Oversight for User Fee Project:** A proposed transportation P3 project that includes a user fee requires legislative approval as follows:

- Within five days of the LRB publication of the P3 Board's resolution approving the project, PennDOT shall transmit the resolution to the Governor.
- The Governor shall have 10 days to approve or disapprove the resolution. If the Governor takes no action within 10 days, the resolution shall be deemed approved by the Governor.
- If the Governor approves the resolution, or fails to act within 10 days, the Governor shall transmit the resolution to the House and Senate.
- If the Governor disapproves the resolution, the Governor shall transmit his disapproval comments within 10 days to PennDOT.
- Upon receipt of the resolution from the Governor, the General Assembly may adopt a concurrent resolution approving the resolution submitted by the Governor subject to the following:
  - The House and Senate shall each have 20 calendar days or 10 legislative days, whichever is longer, from the date the Governor transmitted his approval of the resolution to the General Assembly to adopt the concurrent resolution.
  - If one or both chambers of the General Assembly is prevented from adopting a concurrent resolution because of the adjournment sine die or the expiration of the legislative session in an even-numbered year, each chamber shall have 20 calendar days or 10 legislative days, whichever is longer, from the first legislative day of the succeeding legislative session to adopt the concurrent resolution.
  - If the General Assembly adopts the concurrent resolution disapproving the resolution submitted by the Governor during the allowable timeframe, the public entity may not proceed with the public-private partnership agreement.
- If either chamber of the General Assembly fails to adopt the concurrent resolution in the time periods provided, the resolution submitted by the Governor shall be deemed

disapproved and the public entity may not proceed with the public-private partnership agreement. The presiding officer of a chamber that fails to adopt a concurrent resolution shall transmit the objections of the chamber to PennDOT within 10 calendar days of the date on which the time periods expires.

- If the Governor disapproves a resolution adopted by the board or if the General Assembly fails to adopt a concurrent resolution, PennDOT may, in consultation with the public entity that is the subject of the proposed transportation project (if the public entity is not PennDOT), amend the proposed transportation project and submit an amended resolution to the board for approval, subject to all of the following:
  - An amended resolution submitted to the board shall not be subject to public input but shall be subject to all the other requirements for the approval of a proposed transportation project through a resolution adopted by the board.
  - If the Governor disapproves an amended resolution adopted by the board or if the General Assembly fails to adopt a concurrent resolution approving the amended resolution submitted by the Governor, the public entity may not proceed with the public-private partnership agreement and additional amended resolutions may not be considered, provided that the proposed transportation project that is the subject of the disapproved amended resolution may be subsequently submitted for approval to the board as a new resolution.

**Legislative Oversight for Project Without User Fee:** A proposed transportation P3 project without a user fee may be disapproved by the General Assembly as follows:

- Within 5 days of the LRB publication of the P3 Board's resolution approving the project, PennDOT shall transmit the resolution to the Governor.
- The Governor shall have 10 days to approve or disapprove the resolution. If the Governor takes no action within 10 days, the resolution shall be deemed approved by the Governor.
- If the Governor approves the resolution, or fails to act within 10 days, the Governor shall transmit the resolution to the House and Senate.
- If the Governor disapproves the resolution, the Governor shall transmit his disapproval comments within 10 days to PennDOT.
- Upon receipt of the resolution from the Governor, the General Assembly may adopt a concurrent resolution approving the resolution submitted by the Governor subject to the following:
  - The House and Senate shall each have 20 calendar days or 10 legislative days, whichever is longer, from the date the Governor transmitted his approval of the resolution to the General Assembly to adopt the concurrent resolution.
  - If one or both chambers of the General Assembly is prevented from adopting a concurrent resolution because of the adjournment sine die or the expiration of the legislative session in an even-numbered year, each chamber shall have 20 calendar days or 10 legislative days, whichever is longer, from the first legislative day of the succeeding legislative session to adopt the concurrent resolution.

- If the General Assembly adopts the concurrent resolution disapproving the resolution submitted by the Governor during the time periods provided, the public entity may not proceed with the public-private partnership agreement.
- If either chamber of the General Assembly fails to adopt the concurrent resolution in the time periods provided, the resolution submitted by the Governor shall be deemed approved and the public entity may proceed with the public-private partnership agreement.
- If the Governor disapproves a resolution adopted by the board or if the General Assembly adopts a concurrent resolution, the department may, in consultation with the public entity that is the subject of the proposed transportation project (if the public entity is not PennDOT), amend the proposed transportation project and submit an amended resolution to the board for approval, subject to all of the following:
  - An amended resolution submitted to the board shall not be subject to public input but shall be subject to all other requirements applicable to the approval of a proposed transportation project through a resolution adopted by the board.
  - If the Governor disapproves an amended resolution adopted by the board or if the General Assembly adopts a concurrent resolution, the public entity may not proceed with the public-private partnership agreement and additional amended resolutions may not be considered, provided that the proposed transportation project that is the subject of the disapproved amended resolution may be subsequently submitted for approval to the board as a new resolution.

**Approval of Local Transportation Projects:** The provisions regarding approval by the General Assembly shall not apply to a proposed transportation project if the transportation facility which is the subject of the proposed transportation project is not owned by the Commonwealth.

A proposed local transportation project shall be deemed approved upon the adoption of a resolution by the board under section Title 74, Section 9104(a)(4) (relating to duties of board).

**Retroactive Applicability:** The legislation applies retroactively to P3 projects approved by the P3 board after October 31, 2020, including PennDOT's Pathway's Major Bridge P3 initiative. An approval by the P3 Board after this date shall be considered void. PennDOT is prohibited from entering into a public-private transportation partnership agreement with a development entity to utilize a public-private partnership delivery model for interstate bridges or expressway bridges, including associated roadwork, unless PennDOT submits a resolution to the Public-Private Transportation Partnership Board and the resolution is approved under 74 Pa.C.S. Ch. 91 as amended by this act.

**FISCAL IMPACT:** According to PennDOT, the Major Bridge P3 Initiative is anticipated to invest approximately \$2.2 billion in the replacement and rehabilitation of major bridges across the state. This legislation would simply require further approvals by the Governor and the General Assembly in addition to the Public-Private Transportation Partnership (P3) Board.

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**DATE:** November 15, 2021

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