

Victor P. Poteat, P.E.

PBS&J, consistently ranked among the top 10 transportation firms in the U.S. by *Engineering News Record*, is also a leader in serving clients in the toll market place. As Senior Vice President with PBS&J, Mr. Poteat leads the company's National Toll Market practice, including over 300 professionals serving both public and private toll clients throughout the U.S. and into Canada. His personal experience includes 33 years of involvement in transportation policy, planning and traffic engineering, project and operations management, and the development of strategic programs.

His toll industry experience spans over 20 years and includes assignments for clients that include Florida's Turnpike Enterprise, the Orlando-Orange County Expressway Authority, the North Carolina Turnpike Authority, the Pennsylvania House of Representatives, and Washington State Transportation Commission, to name a few. He has spoken at numerous conferences on the topic of Public Private Partnerships in transportation.

Pennsylvania House of Representatives
Transportation Committee Hearing:
P3 Enabling Legislation For PA
*A Comparison of the Pennsylvania
House and Senate P-3 Bills*



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Agenda

- Key Legislation Elements
 - Projects
 - Processes
 - Approvals
 - Finance and Revenues
- Summary of Key Differences Between the Bills



A Summary of Key Legislation Elements: Projects

Key Issues/Elements of Legislation (Desirable)	House Bill	Senate Bill
Allows Solicited and Unsolicited (Y)	Yes, both permitted	Yes, both permitted
Limited number of projects (N)	No limit given	No limit given
Geographic restrictions on projects (N)	No geographic Restrictions	No geographic Restrictions
Mode restrictions on projects (N)	No modal restrictions	No modal restrictions
Conversion of existing or partially constructed projects (N)	Only if substantial new capacity is added	Only if substantial new capacity is added
Are project delivery methods limited (N)	None stated	None stated
Are there restrictions to what entities can enter into PPP's (N)	Not restricted, though DOT serves as RPE	Not restricted



A Summary of Key Legislation Elements: Process

Key Issues/Elements of Legislation (Desirable)	House Bill	Senate Bill
Is confidentiality of the PPP proposals protected (Y)	Yes, until a Comprehensive Agreement	Yes, until a Transp. Development Agreement
Is a specific review process outlined (Y)	Generally	Generally
Are evaluation criteria specified	Yes, general criteria	Yes, general criteria
Is there adequate time for preparation, submission, and evaluation of competitive proposals (Y)	Yes	Yes
Can the responsible agency charge a fee for proposal review (Y)	Yes	Yes
Are there procurement rules specific for PPP methods (Y)	Yes	Yes
Does the responsible public agency have the authority to hire its own technical, legal, and financial advisors (Y)	Yes	Yes
Is the responsible public agency permitted to make payments to unsuccessful bidders for work products (Y)	Yes	Not addressed



A Summary of Key Legislation Elements: Approvals

Key Issues/Elements of Legislation (Desirable)	House Bill	Senate Bill
Is the PPP agreement subject to local jurisdiction veto (N)	No, subject to comment and input	No, subject to comment and input
Is legislative approval required when an individual PPP proposal is received (N)	No	No
Does the public sector have the authority to grant long-term leases/franchises for construction, operation, and maintenance of toll facilities (Y)	Yes	Yes
Are Interim and Final Agreements defined (Y)	Yes, Interim Agreement; and Comprehensive Agreements	No Interim Agreement; Final agreement defined as a Transportation Development Agreement



A Summary of Key Legislation Elements: Finance & Revenues

Key Issues/Elements of Legislation (Desirable)	House Bill	Senate Bill
Is the combination of private funds with local, state, and federal funds allowed (Y)	Yes	Yes
Is rate-setting authority over user fees specified and how a change is initiated or required (N)	No; part of the development agreement	No; part of the development agreement
Does the public sector have the authority to issue toll revenue bonds (Y)	Yes	Yes
Does the public sector have the authority to form nonprofits and issue debt (Y)	Yes	Yes (Regional Mobility Authority)
Are there restrictions that prohibits revenues from PPP projects from being diverted into the state general fund (Y)	Yes	Yes
Are tolls required to be removed after payment of debt (N)	No; may be extended or removed at end of agreement	No; may be extended or removed at end of agreement
Is a Value for Money Analysis required before proceeding with a project (Y)	Yes	Yes

Summary of Key Differences



- **Responsible Public Entity**
 - House: Designates the State DOT as the Responsible Public Entity
 - Senate: Designates the State Transportation Commission as the Proprietary Public Entity
- **Solicited Proposals**
 - House: only the Responsible Public Entity may issue a RFP; Affected Public Entities can issue an RFP jointly with the Responsible Public Entity.
 - Senate: Proprietary Public Entity may issue a RFP; if subject to Transportation Commission review and approval, the RFP must be issued jointly.
- **Interim Agreements**
 - House: allows Interim Agreements to be entered into to allow a private entity to begin specific activities.
 - Senate: does not include an Interim Agreement process

Summary of Key Differences



- **Final Agreement**
 - House: referred to as a Comprehensive Agreement, sets forth specific provisions of the agreement.
 - Senate: referred to as a Transportation Development Agreement, sets forth specific provision of the agreement.
- **Development of Rules and Regulations**
 - House: the Responsible Public Entity will issue and publish draft interim regulations – not subject to regulatory review, but subject to 60-day public review.
 - Senate: the Transportation Commission is responsible for establishing rules and procedures; and proprietary public entities shall establish rules and regulations for projects not subject to Transportation Commission approval.

Summary of Key Differences



- **Leasing of the Pennsylvania Turnpike**
 - House: would allow a long term lease.
 - Senate: specifically precludes a long term lease.
- **Revenue from Public Private Partnership projects**
 - House: establishes the Public Private Transportation Partnership Fund, wherein deposited funds are non-lapsing, allocated by the Transportation Commission, and require a 2/3 majority vote of the General Assembly to be moved from the Fund.
 - Senate: established the Pennsylvania Transportation Development Fund, with administration and management of the fund by the Transportation Commission by majority vote of the Transportation Commission. Funds can only be moved from the Fund through direction of the Transportation Commission, not by the General Assembly.

Questions?



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