Senate

General Assembly **File No. 423**

January Session, 2021 Substitute Senate Bill No. 920

Senate, April 13, 2021

The Committee on Transportation reported through SEN. HASKELL of the 26th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PUBLIC-PRIVATE PARTNERSHIPS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 4-255 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) As used in this section and sections 4-256 to 4-263, inclusive, as amended by this act, unless the context indicates a different meaning:

(1) "State agency" or "agency" means any office, department, board, council, commission, institution or other agency in the executive branch of state government or a quasi-public agency as defined in section 1-120;

(2) "Private entity" means any individual, corporation, general partnership, limited partnership, limited liability partnership, joint venture, nonprofit organization or other business entity;

(3) "Public-private partnership" means the relationship established between a state agency and a private entity by contracting for the performance of any combination of specified functions or

responsibilities to design, develop, finance, construct, operate or maintain one or more state facilities; [where the agency has estimated that the revenue generated by such facility or facilities, in combination with other previously identified funding sources, including any appropriated funds, will be sufficient to fund the cost to develop, maintain and operate such facility or facilities, provided state support of a partnership agreement shall not exceed twenty-five per cent of the cost of the project;]

(4) "Partnership agreement" means an agreement executed between a state agency and a private entity to establish a public-private partnership;

(5) "Project" means a project that an agency has submitted to the Governor for approval as a public-private partnership;

(6) "Contractor" means a private entity that has entered into a public-private partnership agreement with a state agency;

(7) "Facility" means any public works or transportation project used as public infrastructure; [that generates revenue as a function of its operation;] and

(8) "Proposer" means a private entity submitting a competitive bid in response to solicitation or a proposal in response to a request for proposals for an approved project for consideration.

(b) Notwithstanding the provisions of section 4b-51, once the project is approved by the Governor in accordance with section 4-256, as amended by this act, any state agency may establish one or more public-private partnerships and execute a partnership agreement for a project in accordance with this section and sections 4-256 to 4-263, inclusive, as amended by this act. A partnership agreement may not be established for the operation or maintenance of a facility unless such agreement also provides for the financing and development of such facility.

(c) The design, development, operation or maintenance of the following new or existing project types are eligible for consideration as a public-private partnership if approved as a project in accordance with section 4-256, as amended by this act:

(1) Early childcare, educational, health or housing facilities;

(2) Transportation systems, including ports, transit-oriented development and related infrastructure; and

(3) Any other kind of facility that may from time to time be designated as such by an act of the General Assembly.

Sec. 2. Section 4-256 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) On and after October 27, 2011, **[**and prior to January 1, 2020,**]** the Governor shall approve not more than five projects to be implemented as public-private partnership projects. The Governor shall not approve any such project unless the Governor finds that the project will result in job creation and economic growth. Any agency seeking to establish a public-private partnership shall, after consultation with the Commissioners of Economic and Community Development, Administrative Services and Transportation, the State Treasurer and the Secretary of the Office of Policy and Management, submit one or more projects to the Governor for approval.

(b) In determining whether a project is suitable for a public-private partnership agreement, the agency shall conduct an analysis of the feasibility, desirability and the convenience to the public of the project and whether the project furthers the public policy goals of section 4-255, as amended by this act, this section and sections 4-257 to 4-263, inclusive, taking into consideration the following, when applicable:

(1) The essential characteristics of the proposed facility;

(2) The projected demand for use of the facility and its economic and social impact on the community and the state;

(3) The technical function and feasibility of the project and its

conformity with the state plan of conservation and development adopted under chapter 297;

(4) The benefit to clients of the agency and the public as a whole;

(5) An analysis of the value provided for the cost of the project, that at a minimum includes a cost-benefit analysis, an assessment of opportunity costs and any nonfinancial benefits of the project;

(6) Any operational or technological risk associated with the proposed project;

(7) The cost of the investment to be made and the economic and financial feasibility of the project;

(8) An analysis of public versus private financing on a present value basis, and the eligibility of the project for other public funds from local or federal government sources;

(9) The impact to the state's finances of undertaking the project by the agency; and

(10) The advantages and disadvantages of using a public-private partnership rather than having the state agency perform the function.

(c) An agency shall not include a project solely based upon the amount of potential revenue generated by such project.

(d) Any agency submitting a project in accordance with subsection (a) of this section shall at the same time transmit, in accordance with the provisions of section 11-4a, a copy of its submission to the joint standing committees of the General Assembly having cognizance of matters relating to finance, revenue and bonding and appropriations and the budgets of state agencies. Said committees shall hold public hearings on any such submission.

(e) The Governor shall notify the agency when a project has been approved as a public-private partnership project.

(f) On or before January 15, 2013, and annually thereafter, the Governor shall report, in accordance with the provisions of section 11-4a, to the General Assembly concerning the status of the public-private partnerships established under this section.

Sec. 3. (NEW) (*Effective from passage*) There shall be within the Department of Transportation the Office of Innovative Finance and Project Delivery. The Commissioner of Transportation shall assign personnel to the office as required for the office to fulfill the duties of this section. The office shall: (1) Evaluate opportunities to use innovative financing and risk management to deliver transportation projects, (2) focus on the effective and accelerated delivery of transportation projects to assure the development and maintenance of a safe and efficient transportation system, and (3) recommend opportunities for public-private partnerships to the commissioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*from passage*	4-255
Sec. 2	*from passage*	4-256
Sec. 3	*from passage*	New section

Statement of Legislative Commissioners:
In Section 3, "may be required to:" was changed to "required for the office to fulfill the duties of this section. The office shall:" for clarity.

TRA *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 $	FY 23 $
Department of Transportation	TF - Potential Cost	Up to 376,777	Up to 377,780
State Comptroller - Fringe Benefits[1]	TF - Potential Cost	Up to 151,479	Up to 156,023
Quasi-Public Agencies	Various - Cost	Potential Significant	Potential Significant
Various State Agencies	Various - Cost	Potential Significant	Potential Significant

Note: TF=Transportation Fund; Various=Various

Municipal Impact: None

Explanation

The bill expands the authority of executive branch state and quasi-public agencies to enter into contracts with public-private partnerships. This bill reestablishes the governor's authority to approve up to five public-private partnership (P3) project agreements and makes the authority permanent.

The bill eliminates provisions restricting P3 projects to revenue-generating facilities and limiting the state's share of project costs to 25%. This is expected to significantly increase project costs to the state.

The bill establishes an Office of Innovative Finance and Project Delivery within the Department of Transportation (DOT) and requires

[1]The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 41.77% of payroll in FY 21 and FY 22.

the Commissioner of Transportation to assign personnel to the office in order to fulfill the duties described in the bill. To the extent that DOT assigns existing personnel to the office and subsequently hires new personnel to fulfill their former duties, this section results in a cost of up to $518,256 in FY 22 and up to $533,803 in FY 23 for salary and fringe benefit costs associated with as many as four fiscal/administrative officer positions.[2]

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

[2] The cost will depend on the number of personnel hired and the actual job classes used.

OLR Bill Analysis
sSB 920

AN ACT CONCERNING PUBLIC-PRIVATE PARTNERSHIPS.

SUMMARY

This bill reestablishes the governor's authority to approve up to five public-private partnership (P3) project agreements and makes the authority permanent (see BACKGROUND). This authority previously expired on January 1, 2020.

The bill eliminates provisions restricting P3 projects to revenue-generating facilities and limiting the state's share of project costs. Under current law, these provisions (1) require that facilities, in order to be eligible for a P3 project, generate estimated revenue that, together with other identified funding sources, will sufficiently fund the facility's development, maintenance, and operating costs and (2) limit state support of the P3 to 25% of the project's cost.

The bill also establishes the Office of Innovative Finance and Project Delivery within the Department of Transportation (DOT) and requires the DOT commissioner to assign personnel to the office as needed to fulfill the bill's requirements. It charges the office with the following:

1. evaluating opportunities to use innovative financing and risk management to deliver transportation projects,
2. focusing on effective and accelerated delivery of transportation projects to assure the development and maintenance of a safe and efficient transportation system, and
3. recommending P3 opportunities to the commissioner.

EFFECTIVE DATE: Upon passage

BACKGROUND

Public Private Partnerships

Generally, a P3 is an agreement between a state executive branch or quasi-public agency and a private entity to finance, design, construct, develop, operate, or maintain certain “facilities.” The agreement may authorize any combination of these functions for one or more facilities and must be approved by the governor. The governor cannot approve the agreement unless he finds it will create jobs and economic growth.

By law, the following are eligible facilities:

1. educational, health, early childcare, or housing facilities;
2. transportation systems, including ports, transit-oriented development, and related infrastructure; and
3. any other type of facility designated as a P3 by an act of the legislature (CGS § 4-255).

COMMITTEE ACTION

Transportation Committee

Joint Favorable Substitute
Yea 34 Nay 1 (03/24/2021)