



The Senate of the State of New Hampshire

107 North Main Street, Concord, N.H. 03301-4951

January 21, 2016

The Honorable Maggie Hassan
Governor of New Hampshire
State House, Room 208
Concord, NH 03301

The Honorable Chuck Morse
President of the Senate
State House, Room 302
Concord, NH 03301

The Honorable Shawn Jasper
Speaker of the House
State House, Room 311
Concord, NH 03301

Re: SB 88, Chaptered Law 184:1, Laws of 2015, "AN ACT establishing a committee to study public-private partnerships for intermodal transportation."

Dear Governor Hassan, Senate President Morse and Speaker Jasper:

As required by SB 88, Chaptered Law 184:1, Laws of 2015, I present the Findings and Recommendations of the Committee.

Should you have any questions or comments regarding this report or the work of the Committee, please do not hesitate to contact me.

Respectfully,

A handwritten signature in cursive script that reads "Bette Lasky".

Senator Bette Lasky
SB 88 Study Committee Chair
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(603) 271-7803

cc: Tammy Wright, Senate Clerk
Paul Smith, Clerk of the House
Michael York, State Librarian
Members of the Committee

SB 88
Chapter 184:1, Laws of 2015

*AN ACT establishing a committee to study public-private partnerships
for intermodal transportation.*

FINAL REPORT

The committee established by Senate Bill 88 to study public-private partnerships for intermodal transportation met during the months of August, October, November, and December.

In summary, the general consensus of the members of the committee was that public-private partnerships (P3s) can be an important tool in getting infrastructure needs met with limited financial resources from the State of NH. We endorse the passage of enabling legislation to facilitate the use of P3s and both advance and protect the State's interest in such projects. The committee's findings and recommendations are as follows:

FINDINGS

1. A P3 is a contractual arrangement between a public agency and a private sector entity to design, build, finance, operate, and/or maintain a project. The contract allows the private sector to earn an appropriate risk-adjusted return on their investment and is structured to meet public needs by:
 - a. Optimizing the skills and resources of each party (both public and private)
 - b. Allocating the risks in the delivery of the service and/or facility to the parties best able to manage them

2. Enabling statutes that grant an existing or new executive agency the authority to enter into one or more P3 agreements for transportation projects (and define the limits of that authority) are a necessary and beneficial precursor to P3 implementation. These statutes set conditions that promote or prevent P3s, guide

development of state P3 programs, provide foundations for P3 contracts, and outline the risks involved for each party.


3. After the legislature creates a policy framework for P3s, the authorized executive agency, such as a state or local transportation agency, is generally responsible for implementing the P3 program and/or executing specific projects within the established guidelines. This involves development of a P3 program; project development, evaluation, and selection; procurement, including negotiation and bidding; contracting; and contract management and oversight.
4. Currently, 33 states and Puerto Rico have laws authorizing P3s for highway and bridge projects.
5. Benefits of using P3s are as follows:
 - a. Risk sharing and transfer
 - b. Maintaining or improving service levels
 - c. Reducing costs/improving revenue
 - d. Accessing private sector at-risk capital
 - e. Accessing new or better skills
 - f. Realizing the value of under-utilized assets
 - g. Realizing economic development opportunities
 - h. Improving accountability for performance
 - i. Private sector investment and diligence
 - j. Budgetary certainty
 - k. Public ownership of asset
6. Considerations of using P3s are as follows:
 - a. Complex early planning
 - b. Poorly designed contracts can result in too much or too little compensation to the different players in relation to their efforts and bearing of risks
 - c. Private sector companies may fail to provide required level of service if contract not designed and monitored appropriately
 - d. Changes in policy may require contract changes
 - e. Public perception that critical 'public' assets are controlled by private sector

- f. May require reallocation or transfer of jobs to the private sector


RECOMMENDATIONS

1. Passage of legislation enabling the state to enter into P3s. In conjunction with that, the establishment a P3 Oversight Commission using statute in Massachusetts as a model.
2. The size and diversity of our legislature and the oftentimes difficult task of quickly and non-politically getting approval needs to be recognized. It was discussed that such authority might be granted to the Fiscal Committee or the Long Range Capital Planning and Utilization Committee.


Respectfully submitted,



Senator Bette Lasky
Chair
Senate District 13



Senator Gary Daniels
Senate District 11



Representative John Cloutier *KE*
Sullivan - District 10

Representative Mark McConkey
Carroll - District 3

Representative Sherman Packard
Rockingham - District 5

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