



P3 in Minnesota

A Roadmap for establishing a Minnesota Transportation Public-Private Partnership Act

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You've heard what can be done...



**...so what is the road ahead in
Minnesota?**

- 1. Minnesota's Statutory Roadblocks to Comprehensive P3 Legislation**
- 2. Eliminating the Roadblocks**
- 3. MnDOT's Proposed Legislation**
- 4. An Alternative Proposal: The Minnesota Transportation Public-Private Partnership Act ("MTP3")**



Are we there yet?

Minnesota's Statutory Roadblocks to Comprehensive P3 Legislation

Statutory Roadblocks

1. Minnesota's current P3 enabling legislation is limited.

- Minn. Stat. §§ 160.84-160.98**
- Limited to toll facilities, defined as bridges, causeways, tunnels and approaches, road street, or highway; appurtenant buildings, structures, or other improvements; and land lying within applicable rights-of-way**

Statutory Roadblocks

2. Minnesota's current P3 enabling legislation is restrictive.

- Minn. Stat. §§ 160.84-160.98**
- Prohibition on converting, transferring, or utilizing any portion of a highway for use as a toll facility**
- Exception for toll facilities established before 9/1/2007, additional lanes added to a highway after 9/1/2007, and other general purpose lane that adds capacity**

Statutory Roadblocks

3. Minnesota's current P3 enabling legislation is prohibitive.

- Minn. Stat. §§ 160.84-160.98**
- A road authority may not relinquish management of a highway, if the highway is retained or utilized by the buyer, lessor, or operator for highway purposes.**



Road Work Ahead

Eliminating the Roadblocks

Eliminating the Roadblocks

- **Two Options**
 - **1) Amend the existing law – piecemeal approach**
 - **2) Enact a comprehensive Act authorizing public-private partnerships for transportation projects**



Entering Construction Zone

MnDOT's Proposed Legislation

MnDOT's Proposed Legislation

- **Proposal would add two new subdivisions to Minn. Stat. § 174.02**
 - **Subd. 8: would authorize the Commissioner to enter into agreements with private and nonprofit entities to finance or invest in transportation projects.**
 - **Subd. 9: would authorize the Commissioner to apply for and receive financial assistance under the federal Transportation Infrastructure and Innovation Act of 1998.**

MnDOT's Proposed Legislation

- **Does not address/fix existing statutory roadblocks**
- **Is part of a piecemeal approach, not comprehensive legislation**
- **Does not effectively and explicitly define the players and their roles, powers, and responsibilities in public-private partnership agreements**



Alternative Proposal:

The Minnesota Transportation Public-Private Partnership Act (“MTP3”)

Minnesota Transportation Public-Private Partnership Act

- **Purpose and Intent**
 - **To provide sufficient quality public transportation infrastructure by authorizing private entities to undertake all or a portion of the study, planning, design, development, financing, acquisition, installation, construction, reconstruction, improvement, operation, and/or maintenance of public transportation infrastructure facilities.**

Minnesota Transportation Public-Private Partnership Act

- **Key Definitions**
 - **Private Partner:** person, entity, or organization that is not the federal government, a state, or a political subdivision of a state.
 - **Public Partner:** any federal or state unit of government or any political subdivision of a state.
 - **Eligible Project**
 - Transportation projects that facilitate the safe transport of people or goods via any mode of travel.
 - Facilities, structures, operations, properties, vehicles, vessels, or the like that are developed concurrently with a transportation project.

Minnesota Transportation Public-Private Partnership Act

- **MnDOT Powers**
 - **Oversight - approve Partnership Agreements between Public Partners and Private Partners**
 - **Adopt Rules**
 - **Types of projects allowed**
 - **Minimum standards**
 - **Procedures for solicitation, acceptance, review, and evaluation of projects**
 - **Criteria to be considered in the evaluation and selection of projects**

Minnesota Transportation Public-Private Partnership Act

- **Public Partner Powers**
 - **May enter into public-private partnership agreements for eligible projects with private partners**
 - **May procure private partners and award public-private partnerships under this Act by:**
 - **Calls for project proposals**
 - **Solicitations using requests for qualifications, short-listing of qualified proposers, and requests for proposals**
 - **Unsolicited proposals**

Minnesota Transportation Public-Private Partnership Act

- **Private Partner Powers**
 - **May develop and/or operate eligible projects and impose user fees May own, lease, or acquire any other right to use, develop, and/or operate the eligible project**
 - **May make and enforce reasonable rules with respect to an eligible project**
 - **May impose, collect, and enforce user fees with respect to an eligible project**

Minnesota Transportation Public-Private Partnership Act

- **Partnership Agreement Terms**
 - How the public and private partners will allocate risks of the project
 - How the public and private partners will share the costs of development, including responsibility for cost overruns
 - Penalties for nonperformance and incentives for performance
 - Accounting and auditing standards
 - Responsibility for reconstruction or renovations that are required before the project may revert to public ownership
 - Provisions for patrolling and law enforcement

Minnesota Transportation Public-Private Partnership Act

- **Partnership Agreement Terms (continued)**
 - **Mechanism for the private partner to impose, collect, and enforce user fees, tolls, fares, rents, or similar charges**
 - **Mechanism for the public partner to accept payments and share revenue with the private partner**
 - **Acquisition of rights-of-way and any necessary exercise of eminent domain**
 - **Authorization for the private partner to receive a reasonable rate of return on its investment**

Minnesota Transportation Public-Private Partnership Act

- **Financing**
 - **Any lawful source of funds/financing may be utilized for the development or operation of an eligible project**
 - **Public partner may accept federal and state funds or loans**
 - **Public partner may accept private grants and donations**
 - **Public partner may impose and collect user fees, tolls, fares, rents, or similar charges and/or authorize private partner to impose and collect such charges**
 - **Public partner may issue debt**
 - **Any eligible project may be financed in whole or in part by the private partner**

Minnesota Transportation Public-Private Partnership Act

- **Existing Minnesota Statutes;**
 - **To the extent inconsistent with any provision of Minnesota law, the specific provisions of the Act supersede such inconsistent provision**
 - **Where not inconsistent, all other provisions of Minnesota law will apply**



Questions?