STATE OF RHODE ISLAND
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2016

AN ACT
RELATING TO STATE AFFAIRS AND GOVERNMENT - PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP ACT

Introduced By: Representatives Nunes, Hearn, Marcello, Morgan, and Reilly
Date Introduced: January 27, 2016
Referred To: House Finance

It is enacted by the General Assembly as follows:

SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND GOVERNMENT" is hereby amended by adding thereto the following chapter:

CHAPTER 13.1

THE PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP ACT

42-13.1-1. Short title. -- This chapter shall be known as "The Public-Private Transportation Partnership Act".

42-13.1-2. Definitions. -- The following words and phrases when used in this chapter shall have the meanings given to them in this section:

(1) "Account" means the public-private transportation account;
(2) "Board" means the public-private transportation partnership board;
(3) "Department" means the Rhode Island department of transportation;
(4) "Development entity" means an entity which is a party to a public-private transportation partnership agreement and which is any of the following:
   (i) A private entity; or
   (ii) A public entity, other than the public entity providing or improving its own transportation facilities.
(5) "Offeror" means a person that submits a proposal or a response in answer to a request for proposals or transportation projects;
(6) "Private entity" means a person, entity, group or organization that is not the federal government, the state or a municipal authority;

(7) "Proprietary public entity" means a public entity which owns a public-private transportation project and which is a party to a public-private transportation partnership agreement;

(8) "Public entity" means an agency, a municipal authority or an authority created by statute which owns a transportation facility;

(9) "Public-private transportation partnership agreement" means a contract for a transportation project which transfers the rights for the use or control, in whole or in part, of a transportation facility by a public entity to a development entity for a definite term during which the development entity will provide the transportation project to the public entity in return for the right to receive all or a portion of the revenue generated from the use of the transportation facility, or other payment, such as the following transportation-related services:

(i) Operations and maintenance;

(ii) Revenue collection;

(iii) User fee collection or enforcement;

(iv) Design;

(v) Construction;

(vi) Development and other activities with respect to existing or new transportation facilities that enhance traffic throughput, reduce congestion, improve safety or otherwise manage or improve a transportation facility; and

(vii) Financing.

(10) "Public-private transportation project" means a transportation project undertaken by a development entity pursuant to a public-private transportation partnership agreement;

(11) "Request for transportation projects" means a solicited or unsolicited plan for a transportation project submitted to the board by a public entity;

(12) "Responsible offeror" means an offeror that has submitted a responsive proposal and that possesses the capability to fully perform the public-private transportation partnership agreement requirements in all respects and the integrity and reliability to assure good faith performance;

(13) "Responsive proposal" means a proposal that conforms in all material aspects to the requirements and criteria in the request for proposals;

(14) "Transportation facility" means a proposed or existing road, bridge, tunnel, overpass, ferry, busway, guideway, public transportation facility, vehicle parking facility, port facility;
multimodal transportation facility, airport, station, hub, terminal or similar facility used or to be
used for the transportation of persons, animals or goods, together with any buildings, structures,
parking areas, appurtenances, intelligent transportation systems and other property needed to
operate or related to the operation of the transportation facility. The term includes any
improvements or substantial enhancements or modifications to an existing transportation facility;
(15) "Transportation project" means an undertaking by a private entity or a public entity,
other than the public entity providing or improving its own transportation facilities, to provide or
improve a transportation facility or transportation-related service which is totally or partially
located within this state.

42-13.1-3. Public-private transportation partnership board. -- (a) There is established
a board to be known as the public-private transportation partnership board.
(b) The board shall be composed of the following members:
(1) The director of the department of transportation;
(2) The state budget officer or a designee who shall be an employee of the state budget
office;
(3) Five (5) members appointed by the general assembly under subsection (c) of this
section;
(4) One member appointed by the governor under subsection (d) of this section.
(c) Legislative appointments.
(1) Appointments of members by the general assembly shall be made as follows:
(i) One individual appointed by the president of the senate;
(ii) One individual appointed by the minority leader of the senate;
(iii) Two (2) individual appointed by the speaker of the house of representatives; and
(iv) One individual appointed by the minority leader of the house of representatives,
(2) Legislative appointees shall be residents of this state and serve at the pleasure of the
appointing authority.
(3) Legislative appointees shall have expertise or substantial experience in one or more of
the following areas:
(i) Transportation;
(ii) Finance;
(iii) Law; and
(iv) Land use and public planning.
(d) Gubernatorial appointment. A member appointed under subsection (b)(4) of this
section:
(1) May not hold any other position as an elected official or employee of the state;

(2) Shall be a resident of this state and have expertise or substantial experience in one or more of the following areas:

(i) Transportation;

(ii) Finance;

(iii) Law;

(iv) Land use and public planning.

(3) Shall serve at the pleasure of the governor.

(c) Four (4) members of the board shall constitute a quorum. The adoption of a resolution or other action of the board shall require a majority vote of the members of the board.

(f) The members of the board shall be entitled to no compensation for their services as members of the board but shall be entitled to reimbursement by the department for all necessary and reasonable expenses incurred in connection with the performance of their duties as members of the board.

(g) Appointing authorities shall appoint initial board members within thirty (30) days of the effective date of this section. Whenever a vacancy occurs on the board, the appointing authority shall appoint a successor member within thirty (30) days of the vacancy.

(h) No member of the board, during their term of office, shall directly or indirectly own, have any significant financial interest in, be associated with or receive any fee, commission, compensation or anything of value from any public entity or private entity seeking to engage in a public-private transportation partnership agreement. The provisions of this subsection shall not apply to the salary of a state employee.

42-13.1-4. Duties of board. -- (a) The board shall:

(1) Meet as often as necessary, but at least annually;

(2) Adopt guidelines establishing the procedure by which a public entity may submit a request for a transportation project or a private entity may submit an unsolicited plan for a transportation project to the board;

(3) Consult with persons affected by proposed transportation projects;

(4) Evaluate and, where the board finds that the requests or plans for transportation projects are in the best interests of the state and a public entity, approve the requests or plans for transportation projects;

(5) Submit an annual report to the general assembly detailing all transportation projects evaluated and resolutions adopted.

(b) Actions by the board are a determination of public policy and public interest and shall
not be considered orders under chapter 35 of title 42 (the administrative procedures act) and shall not be appealable to any court of law.

(c) The following shall apply:

(1) The general assembly may, within twenty (20) calendar days or nine (9) legislative days, whichever is longer, of the adoption of the resolution under subsection (a)(4) of this section, pass a concurrent resolution rescinding the approval of a transportation project if the transportation facility which is the subject of the transportation project is owned by the state.

(2) If the general assembly adopts the concurrent resolution within the time period under subsection (c)(1) of this section, by a majority vote in both the senate and the house of representatives, the transportation project shall be deemed disapproved.

(3) If the general assembly fails to adopt the concurrent rescinding resolution by a majority vote in both the senate and the house of representatives within the time period under subsection (c)(1) of this section, the transportation project shall be deemed approved.

42-13.1-5. Operation of board. -- (a) The department shall supply all necessary assistance to assist the board in carrying out its duties and responsibilities, including retention of legal, financial and technical consultants to assist with this role.

(b) The department shall develop a detailed analysis of a request or recommendation prior to approval by the board.

(c) If a transportation project becomes a public-private transportation project, the department shall retain oversight and monitor the public-private transportation project, including periodic reports to the board, as necessary.

42-13.1-6. Solicitations for transportation projects. -- A public entity may solicit transportation projects through a request for transportation projects. The public entity shall give public notice of a request for transportation projects consistent with §42-13.1-9(c) relating to selection of development entities. Offerors shall submit their responses to the public entity in the form and manner required by the request for transportation projects. A public entity shall evaluate each response to determine if the response is in the best interest of the public entity. Upon being satisfied, the public entity may prepare and submit a request to the board to review the transportation project in accordance with this chapter.

42-13.1-7. Transportation projects. -- (a) Except as provided under subsection (b) of this section, a public entity which seeks to undertake a transportation project which has not been previously approved by the board shall submit a request for the transportation project to the board.

(b) This chapter shall not apply to a transportation project which a public entity is
authorized under law to undertake on the effective date of this chapter.

42-13.1-8. Requests. -- (a) A request may be solicited or unsolicited and may provide for the development or operation of transportation facilities using a variety of project delivery methods and forms of agreement. The methods may include:

(1) Predevelopment agreements leading to other implementing agreements;
(2) A design-build agreement;
(3) A design-build-operate agreement;
(4) A design-build-maintain agreement;
(5) A design-build-finance-operate agreement;
(6) A design-build-operate-maintain agreement;
(7) A design-build-finance-operate-maintain agreement;
(8) An operate-maintain agreement;
(9) A concession providing for the development entity to design, build, operate, maintain, manage or lease a transportation facility;
(10) Any other innovative or nontraditional project delivery method or agreement or combination of methods or agreements that the public entity determines will address the transportation needs of the state and the public entity and serve the public interest.

42-13.1-9. Selection of development entities. -- (a) If a transportation project is approved under §42-13.1-4, relating to duties of board, the public entity may enter into a contract for the transportation project by competitive sealed proposals.

(b) After receiving the determination required by subsection (a) of this section, a public entity shall solicit proposals through a request for proposals.

(c) A public entity shall give public notice of a request for proposals consistent with regulations adopted by the department. The notice shall be given a reasonable time prior to the date set for the close of receipt of the proposals. The method of public notice may include any of the following:

(1) Electronic publication which is accessible to the general public;
(2) Advertisement in relevant trade publications;
(3) Issuance of request for proposals to offerors on the mailing list of the public entity;
(4) Publication in a newspaper of general circulation;
(5) Where prequalification is a requirement of submitting a proposal, notification to all private entities who have been prequalified by the public entity.

(d) Copies of a request for proposals shall be made available to any interested person upon request to the public entity. A public entity may establish procedures for the distribution of
a request for proposals, including the imposition of a fee to reimburse the public entity for the costs of photocopying and mailing.

(e) Offerors shall submit their proposals to ensure that their proposals are received prior to the time and date established for receipt of the proposals. Proposals shall be submitted in the format required by the request for proposals. Proposals shall be opened so as to avoid disclosure of their contents to competing offerors.

(f) A public entity shall evaluate each proposal to determine which proposal has the best value for and is in the best interest of the public entity. In making this determination, a public entity may consider any of the following:

(1) Cost;
(2) Price;
(3) Financial commitment;
(4) Innovative financing;
(5) Bonding;
(6) Technical, scientific, technological or socioeconomic merit;
(7) Financial strength and viability;
(8) Design, operation and feasibility of the transportation project;
(9) Public reputation, qualifications, industry experience and financial capacity of the private entity;
(10) The ability of the transportation project to improve economic growth, to improve public safety, to reduce congestion, to increase capacity or to rehabilitate, reconstruct or expand an existing transportation facility;
(11) The compatibility of the proposal with existing local and regional land use plans;
(12) The commitment of local communities to approve land use plans in preparation for the transportation project;
(13) Other factors deemed appropriate by the public entity.

g) The relative importance of each evaluation factor shall be fixed prior to opening the proposals.

(h) If the public entity is a state agency, the department is required to invite its comptroller to participate in the evaluation as a nonvoting member of any evaluation committee. No individual who has been employed by an offeror within the last two (2) years may participate in the evaluation of proposals.

(i) As provided in the request for proposals, discussions and negotiations may be conducted with responsible offerors for the purpose of clarification and of obtaining best and final
offers. Responsible offers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(j) The responsible offeror whose proposal is determined in writing to be the best value for and in the best interests of the public entity, taking into consideration all evaluation factors, shall be selected for contract negotiation.

(k) A request for proposals may be canceled at any time prior to the time a public-private transportation partnership agreement is executed by all parties when it is in the best interests of the public entity.

(l) Upon reaching an agreement with a responsible offeror, a public entity shall enter into a public-private transportation partnership agreement with the responsible offeror. The public-private transportation partnership agreement shall be consistent with the requirements of this chapter. If agreement cannot be reached with the best qualified responsible offeror, then negotiations will be formally terminated with the offeror. If proposals were submitted by one or more other responsible offerors, negotiations may be conducted with the other responsible offeror or responsible offerors in the order of their respective qualification ranking. The contract may be awarded to the responsible offeror then ranked as best qualified.

(m) If a prospective offeror, offeror or development entity is aggrieved by a selection under this section and the public entity or proprietary public entity in the invitation or contract is a state agency, the prospective offeror, offeror or development entity may file a claim.

(n) If a development entity is aggrieved by a selection under this section and the proprietary public entity in the contract is an entity other than the state, a development entity may file a claim in superior court where the proprietary public entity is located.

42-13.1-10. Public-private transportation partnership agreement. -- (a) A public-private transportation partnership agreement shall include the following provisions:

(1) A description of any planning, development, design, leasing, acquisition or interest in, financing, installation, construction, reconstruction, replacement, expansion, operation, maintenance, improvement, equipping, modification, expansion, enlargement, management, running, control and operation of the public-private transportation project;

(2) The term of the public-private transportation partnership agreement;

(3) The type of property interest or other relationship the development entity will have in or with respect to the public-private transportation partnership project, including acquisition of rights-of-way and other property interests that may be required;

(4) Authorization for the proprietary public entity or its authorized representatives to
inspect all assets and properties of the public-private transportation project and all books and
counts of the development entity relating to the public-private transportation project to review
the development entity's performance under the public-private transportation partnership
agreement;

(5) Grounds for termination of the public-private transportation partnership agreement by
the parties;

(6) Procedures for amendment of the public-private transportation partnership agreement;

(7) The rights and remedies available in the event of breach, default or delay;

(8) Requirements for a private development entity to provide performance and payment
bonds, parent company guarantees, letters of credit or other acceptable forms of security in an
amount acceptable to the proprietary public entity;

(9) A requirement that ownership of a transportation facility acquired or constructed go to
or remain with the proprietary public entity;

(10) Standards for construction, maintenance and operation of the public-private
transportation project if the activities are to be performed by the development entity;

(11) Standards for capital improvement or modification of the public-private
transportation project if they are to be made by the development entity;

(12) Standards relating to how payments, if any, are to be made by the proprietary public
entity to the development entity, including availability payments, performance-based payment
and payments of money and revenue-sharing with the development entity;

(13) Standards relating to how the parties will allocate and share management of the risks
of the public-private transportation project;

(14) Standards relating to how the parties will allocate costs of development of the
public-private transportation project, including any cost overruns;

(15) Standards relating to damages to be assessed for nonperformance, specifying
remedies available to the parties and dispute resolution procedures;

(16) Standards relating to performance criteria and incentives;

(17) A requirement that upon termination of the public-private transportation partnership
agreement, a transportation facility that was the subject of the public-private transportation
partnership agreement must be in a state of proper maintenance and repair and shall be returned to
the proprietary public entity in satisfactory condition at no further cost to the proprietary public
entity;

(18) Provisions for law enforcement related to the public-private transportation project;

(19) Other terms and provisions as required under this chapter or agreed to by the
(b) The proprietary public entity may enter into a public-private transportation partnership agreement with any development entity that includes the provisions under subsection (a) of this section for a term not to exceed ninety-nine (99) years.

(c) Nothing in this chapter shall prohibit the department from entering into a public-private transportation partnership agreement with another state agency in accordance with this chapter.

(d) Nothing in this chapter shall prohibit a public entity from entering into a public-private transportation partnership agreement with one or more public entities in accordance with this chapter.

(e) Environmental costs.

(1) A proprietary public entity may provide in a public-private transportation partnership agreement that it will pay or reimburse, on terms that it deems appropriate, the development entity for actual costs associated with necessary remediation for existing environmental contaminants located on, under, or emanating from the real property associated with a public-private transportation project as of the date the development entity assumes responsibility for the public-private transportation project. If the public-private transportation partnership agreement provides for environmental remediation, the public-private transportation partnership agreement shall require that the proprietary public entity be given:

(i) Prompt notice of any claim against the proprietary public entity or a third party pertaining to the contaminants;

(ii) The right to elect to undertake the necessary remediation;

(iii) The right to participate in the defense of or response to any claim; and

(iv) The right of prior approval before the development entity may settle any claim.

(2) No payment by a proprietary public entity under this section may be for anything other than actual costs incurred by a development entity to remediate the environmental contamination on, under, or emanating from the real property associated with the public-private transportation project as of the date the development entity assumes responsibility for the public-private transportation project.

42-13.1-11. Records of requests. -- (a) Upon the selection of a development entity to be a party to a public-private transportation partnership agreement, the identity of the development entity selected, the contents of the response of the development entity to the request for proposals, the final proposal submitted by the development entity and the form of the public-private transportation partnership agreement shall be made public. Any financial information of a
development entity that was requested in the request for proposals or during discussions and
negotiations to demonstrate the economic capability of a development entity to fully perform the
requirements of the public-private transportation partnership agreement shall not be subject to
public inspection.

(b) A proprietary public and a private development entity may agree, in their discretion,
to make public any information described under subsection (d)(1) of this section that would not
otherwise be subject to public inspection.

(c) If a proprietary public entity terminates a public-private transportation partnership
agreement for default, rejects a private entity on the grounds that the private entity is not
responsible or suspends or debars a development entity, the private entity or development entity,
as appropriate, shall, upon written request, be provided with a copy of the information contained
in the file of the private entity or development entity maintained by the proprietary public entity
under a contractor responsibility program.

(d) The following information shall not be public:

(1) Information relating to proprietary information, trade secrets, patents or exclusive
licenses, architectural and engineering plans and information relating to competitive marketing
materials and strategies;

(2) Security information, including risk prevention plans, detection and countermeasures,
emergency management plans, security and surveillance plans, equipment and usage protocols
and countermeasures;

(3) Records considered nonpublic matters or information by the Securities and Exchange
Commission under 17 CFR 200.80 (relating to commission records and information);

(4) Any financial information deemed confidential by the proprietary public entity upon a
showing of good cause by the offeror or development entity; and

(5) Records prepared or utilized to evaluate a proposal.

**42-13.1-12. Use of intellectual property.** -- Unless otherwise agreed to and except to the
extent not transferable by law, the department or a proprietary public entity shall have the right to
use all or a portion of a submitted proposal, including the technologies, techniques, methods,
processes and information contained in the proposal. Notice of nontransferability by law shall be
given to the department and the proprietary public entity in response to the request for proposals.

**42-13.1-13. Police powers and violations of law.** -- (a) To the extent the public-private
transportation project is a highway, bridge, tunnel overpass or similar transportation facility for
motor vehicles, all state and local traffic laws shall apply.

(b) Arrest powers. All officers authorized by law to make arrests for violations of law in
this state shall have the same powers, duties and jurisdiction within the limits of a public-private transportation project as they have in their respective areas of jurisdiction. The grant of authority under this section shall not extend to the private offices, buildings, garages and other improvements of a development entity to any greater degree than the police power extends to any other private offices, buildings, garages and other improvements.

42-13.1-14. Environmental and other authorizations. -- (a) A public-private transportation partnership agreement may require that prior to commencing any construction in connection with the development, operation or financing of any public-private transportation project if the agreement requires environmental authorizations to be obtained, the development entity shall do any of the following:

(1) Secure all necessary environmental permits and authorizations;
(2) Complete environmental remediation of the site on which the public-private transportation project is to be located, including acts required under any agreement entered into with the state department of environmental management for remediation of the site.

42-13.1-15. Taxation of development entity. -- (a) To the extent that revenues or user fees received by a development entity pursuant to a public-private transportation partnership agreement are subject to a tax imposed by a political subdivision prior to the effective date of this section, the revenues or user fees shall continue to be subject to the tax and to future increases in the rate of the tax.

(b) After the effective date of this section, no new tax shall be imposed by a political subdivision or the state on the revenues or user fees received by a development entity pursuant to a public-private transportation partnership agreement.

(c) No public-private transportation partnership agreement, lease, concession, franchise or other contract involving real property of a public-private transportation project shall be subject to a state or local realty transfer tax.

(d) Property used in connection with a public-private transportation project shall be considered public property and shall be exempt from ad valorem property taxes and special assessments levied against property by the state or any political subdivision.

42-13.1-16. Power of eminent domain. -- The exercise of the power of eminent domain by any condemnor to acquire property for a public-private transportation project purposes under a public-private transportation partnership agreement shall be considered a taking for a public purpose and not for a private purpose or for private enterprise.

42-13.1-17. Sovereign immunity. -- It is declared to be the intent of the general assembly that the state, and its officials and employees, and a municipal authority, and its
officials and employees, acting within the scope of their duties pursuant to this chapter, shall enjoy sovereign immunity and official immunity afforded by chapter 31 of title 9 entitled governmental tort liability and remain immune from suit except as provided in §42-13.1-18 relating to specific performance. A claim against the state and its officials and employees or municipal authority and its officials and employees shall be brought only in such manner and in such courts and in such cases as directed by the provisions of §42-13.1-10(e) relating to public-private transportation partnership agreement or any procurement or contractual law applicable to a municipal authority.

42-13.1-18. Specific performance. -- A proprietary public entity is authorized to agree that specific performance shall be available to a development entity as a remedy for a breach by the proprietary public entity of its representations, covenants, warranties or other obligations under the public-private transportation partnership agreement to the extent set forth in the public-private transportation partnership agreement.

42-13.1-19. Applicability of other laws. -- All provisions of laws related to the development, construction, operation or financing of a transportation project in effect on the date the public-private transportation partnership agreement is fully executed shall apply to a public-private transportation partnership agreement entered into between a proprietary public entity and a development entity.

42-13.1-20. Adverse interests. -- (a)(1) Except as provided under subsection (a)(2) of this section, a private entity which submits a response to a request for proposals under §42-13.1-9 relating to selection of development entities, a request for transportation projects under §42-13.1-6 relating to solicitations for transportation projects or an unsolicited proposal, and which is also a state advisor or a state consultant for the department or the Rhode Island turnpike and bridge authority, shall not be deemed to be in violation of the state code of ethics in chapter 14 of title 36, while engaging in any of the following activities:

(i) Preparing or submitting a response to a request for proposals or transportation projects;

(ii) Participating in any activity with the department related to a request for proposals or transportation projects;

(iii) Negotiating and entering into any contract lease or public-private transportation partnership agreement which results from a request for proposals or transportation projects;

(iv) Engaging in any other action taken in furtherance of the purposes of this chapter.

(2) A private entity which submits a response to a request for proposals or transportation projects or acts as a consultant or an advisor to a private entity which submits a response to a
request for proposals or transportation projects to the department shall be prohibited from consulting or providing advice to the department on the review or approval of the response to the request for proposals or transportation projects as submitted.

(3) A private entity which submits a response to a request for proposals or transportation projects or acts as a consultant or an advisor to a private entity which submits a response to a request for proposals or transportation projects to the board shall be prohibited from consulting or providing advice to the department on the review or approval of the response to the request for proposals or transportation projects so submitted.

42-13.1-21. Federal, state, local, and private assistance. -- (a) The department or a proprietary public entity may accept from the United States or any of its agencies, funds that are available to the state for carrying out this chapter, whether the funds are made available by grant, loan, loan guarantee or otherwise.

(b) The department or a proprietary public entity is authorized to assent to any federal requirements, conditions or terms of any federal funding accepted by the department or a proprietary public entity under this section.

(c) The department or a proprietary public entity may enter into agreements or other arrangements with the United States or any of its agencies as may be necessary for carrying out the purposes of this chapter.

(d) The department or a proprietary public entity may accept from any source any grant, donation, gift or other form of conveyance of land, money or other real, personal or mixed property or other item of value for carrying out the purposes of this chapter.

(e) Subject to acceptance and agreement between the development entity and a proprietary public entity, any public-private transportation project may be financed, in whole or in part, by contribution of any funds or property made by a proprietary public entity, a development entity or an affected jurisdiction.

(f) The department or proprietary public entity may combine federal, state, local and private funds to finance a public-private transportation project under this chapter.

(g) A public-private transportation project funded, in whole or in part, through the issuance of debt where the credit of the state is pledged shall be itemized in a capital budget itemization act.

42-13.1-22. Public-private transportation account. -- (a)(1) There is established a separate account to be known as the public-private transportation account.

(2) Money in the account shall be used only for the purposes enumerated under subsection (c) of this section.
(b) The following shall apply:

(1) The department shall deposit in the account the following:

(i) All money received by the department pursuant to the terms of a public-private transportation partnership agreement under which the department is the proprietary public entity;

(ii) Repayment of any loans from the account made under this chapter;

(iii) Subject to the provisions of any public-private transportation partnership agreement under which the department is the proprietary public entity, monetary damages and other amounts for failure by a development entity to comply with the terms of the public-private transportation partnership agreement;

(iv) Subject to the provisions of any public-private transportation partnership agreement under which the department is the proprietary public entity, payments made from any insurance proceeds or reserve funds or performance or payment bonds in connection with a public-private transportation project;

(v) Earnings from the investment of the money in the account.

(2) The state budget officer shall establish any restricted accounts within the account as they deem necessary for the proper administration of the account.

(3) All money related to any public-private transportation partnership agreement in which the department is not the proprietary public entity shall not be held in the account, but shall be held by the proprietary public entity or its agent.

(c) The funds in the account are continuously appropriated to the department for the following purposes:

(1) Paying the amounts as the department may be required to repay the federal funding agencies;

(2) Paying all amounts designated by the department as required for repayment or defeasance of outstanding bonds;

(3) Paying costs of maintenance, operating and financing of transportation facilities in this state which are available for use by the public, including the costs of insurance or reserves against risks of contingencies;

(4) Paying expenses incurred under or in connection with any public-private transportation partnership agreement by the department, including professional fees and expenses;

(5) Paying the costs of the department relating to performing and administering duties under this chapter;

(6) Paying all expenses approved by the board for its costs incurred to perform its duties,
including paying professional fees and expenses;

(7) Paying costs of any purpose authorized under this chapter.

(d) The net proceeds received under a public-private transportation partnership agreement
shall be available exclusively to provide funding for transportation needs in this state. The use of
the proceeds or other revenues from the public-private transportation project shall be in accord
with federal or state law restricting or limiting the use of revenue from the public-private
transportation project based on its public funding.

42-13.1-23. Regulations. -- (a) In order to facilitate the implementation of this chapter,
the department is authorized to promulgate regulations that include the following:

(1) The process for review of a request for proposals or transportation projects or
responses to requests for proposals or transportation projects issued by a public entity;

(2) The process for receipt and review of and response to competing responses to requests
for proposals or transportation projects;

(3) The type and amount of information that is necessary for adequate review of and
response to each stage of review of a proposal or transportation project;

(4) Any other provisions which are required under this chapter or which the department
determines are appropriate for implementation of this chapter.

SECTION 2. This act shall take effect upon passage.

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LC004016
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
AN ACT
RELATING TO STATE AFFAIRS AND GOVERNMENT - PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP ACT

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1 This act would authorize the creation of a public-private transportation partnership board
to promote transportation improvement programs for the users of our roads. The board would
evaluate proposed plans for transportation projects.

2 This act would take effect upon passage.

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LC004016
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