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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND PUBLIC
TRANSIT AUTHORITY

Introduced By: Representatives O'Brien, Kazarian, Casimiro, McEntee, Craven,
Caldwell, Dawson, Serpa, Bennett, and Diaz

Date Introduced: March 01, 2023

Referred To: House Finance

(RIPTA)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-18-1, 39-18-3 and 39-18-7 of the General Laws in Chapter 39-
2 18 entitled "Rhode Island Public Transit Authority" are hereby amended to read as follows:

3 **39-18-1. Definitions.**

4 As used in this chapter, the following words and terms shall have the following meanings
5 unless the context shall indicate another or different meaning:

6 (1) "Authority" means the Rhode Island public transit authority created by § 39-18-2, or,
7 if the authority shall be abolished, the board, body, or commission succeeding to the principal
8 functions thereof, or upon whom the powers of the authority given by this chapter shall be given
9 by law.

10 (2) "Bonds" means bonds, notes, or other evidences of indebtedness, including temporary
11 notes of the authority issued in anticipation of revenues to be received by the authority or in
12 anticipation of the receipt of federal, state, or local grants or other aid.

13 (3) "Dorrance street transit center project" means a transit property proposed by the
14 authority to be developed on Dorrance street in the city of Providence that is expected to include
15 an enclosed intermodal transit center, indoor parking, and authority administrative space, adjacent
16 and/or integrated transit-oriented development, and related infrastructure.

17 ~~(3)~~(4) "Municipality" means any town, city, or subdivision thereof.

18 ~~(4)~~(5) "Transit property" means and includes any property, whether real or personal, and

1 any apparatus and equipment used or useful in the operation of a motor bus, water, or rail passenger
2 transportation line or system, and includes any rights or franchises to operate any passenger
3 transportation line or system, but it does not include other property or assets.

4 **39-18-3. Purposes of the authority.**

5 (a) It shall be the purposes of the authority to:

6 (1) Provide public transit services that meet mobility needs of the people of the state,
7 including the elderly and disabled;

8 (2) Increase access to employment opportunities;

9 (3) Connect different modes of public transportation, including rail, air, and water services;

10 (4) Promote community design that features public transit services as defining elements of
11 a community;

12 (5) Facilitate energy conservation and efficient energy use in the transportation sector by
13 providing public transit services; ~~and~~

14 (6) Mitigate traffic congestion and enhance air quality; ~~and~~

15 (7) Facilitate transit-oriented development in support of the development of transit
16 properties.

17 (b) It shall further be the purpose of the authority to own and operate a mass motor bus,
18 water, or rail passenger transportation system and to manage, to coordinate, and to perform vehicle
19 maintenance for a state paratransit system. Whenever any operator of a mass motor bus, water, or
20 rail passenger transportation system files with the public utilities administrator a petition to
21 discontinue any service, it is the purpose and function of the authority to determine if it is in the
22 public interest to discontinue that service. If it is determined that it is not in the public interest to
23 discontinue that service, the authority is authorized and empowered to acquire all or any part of the
24 transit property, or any interest therein, of the system.

25 **39-18-7. Bonds.**

26 (a)(1) The authority is hereby authorized to provide, by resolution, for the issuance at one
27 time, or from time to time, of bonds of the authority for any of its purposes. The bonds may be
28 general obligations of the authority or special obligations payable only from particular funds. The
29 bonds of each issue shall be dated, shall bear interest at such rate or rates as may be determined by
30 the authority, and shall mature at such time or times not exceeding thirty (30) years from their date
31 or dates as may be determined by the authority, and may be made redeemable before maturity, at
32 the option of the authority, at such price or prices and under such terms and conditions as may be
33 fixed by the authority prior to the issuance of the bonds. Temporary notes of the authority may be
34 issued and refunded from time to time in anticipation of revenues to be received by the authority

1 or in anticipation of the receipt of federal, state, or local grants or other aid. Temporary notes shall
2 mature no later than thirteen (13) months from their respective dates or six (6) months after the
3 expected date of receipt of the grants or aid, whichever shall be later, and may be renewed from
4 time to time in anticipation of the receipt of additional federal, state, or local grants or other aid.
5 Temporary notes shall be in an amount not exceeding the limitations imposed by the last paragraph
6 of this section. The authority shall determine the form of the bonds, including any interest coupons
7 to be attached thereto, and shall fix the denomination or denominations of the bonds and the place
8 or places of payment of the principal and interest which may be at any bank or trust company within
9 or without the state. The bonds shall be signed by the chairperson of the authority or shall bear his
10 or her facsimile signature, and the official seal of the authority, or a facsimile thereof, shall be
11 impressed or imprinted thereupon and attested by the secretary of the authority, and any coupons
12 attached to the bonds shall bear the facsimile signature of the chairperson of the authority. In case
13 any officer whose signature or facsimile of whose signature shall appear on any bonds or coupons
14 shall cease to be the officer before the delivery of the bonds, the signature or the facsimile shall,
15 nevertheless, be valid and sufficient for all purposes the same as if he or she had remained in office
16 until delivery. The bonds may be issued in coupon or in registered form, or both, as the authority
17 may determine, and provision may be made for the registration of any coupon bonds as to principal
18 alone, and also as to both principal and interest, for the reconversion into coupon bonds of any
19 bonds registered as to both principal and interest, and for the interchange of registered and coupon
20 bonds. The authority may sell such bonds in such manner either at public or private sale and for the
21 price as it may determine will best effect the purposes of this chapter.

22 (2) Bonds, temporary notes or other obligations of the authority issued for supported transit
23 projects (including any bonds issued to refinance or refund such bonds) may be authorized pursuant
24 to subsection (a)(1) of this section; provided, however, such bonds shall mature at such time or
25 times not exceeding forty (40) years from their date or dates as may be determined by the authority;
26 and provided further, temporary notes or other short term obligations of the authority issued for
27 supported transit projects in anticipation of revenues to be received by the authority or in
28 anticipation of the receipt of federal, state, or local grants, loans or other aid shall be entitled to a
29 maturity extending to the maximum period of time within which federal or state grant or loan
30 proceeds may be payable under such applicable federal or state programs, and shall not be subject
31 to the limitations imposed by subsection (d) of this section In connection with the development and
32 financing of a supported transit project, the authority's powers and duties under this chapter,
33 including, without limitation, under §§ 39-18-4 and 39-18-6, shall apply to transit-oriented
34 development in the same manner as they apply to transit properties. No bonds, temporary notes or

1 other short term obligations of the authority issued for supported transit projects shall be issued by
2 the authority unless, at the time of the adoption by the authority of the resolution authorizing the
3 issuance of the bonds, temporary notes or other short term obligations, the authority shall have
4 received from the general manager or chief financial officer of the authority a certificate which
5 shall describe with reasonable particularity the scope of the supported transit project, including the
6 elements thereof, calculations of principal and interest payments and of anticipated revenues,
7 including federal, state, or local grants or other aid and the terms thereof, and anticipated
8 expenditures relating thereto. A copy of the certificate shall be furnished to the governor prior to
9 the issuance of the bonds, temporary notes or other short term obligations described in the
10 certificate.

11 (b) The proceeds of the bonds of each issue shall be disbursed in the manner and under
12 restrictions, if any, as the authority may provide in the resolution authorizing the issuance of the
13 bonds or in the trust agreement described in § 39-18-8 securing the bonds.

14 (c) Prior to the preparation of definitive bonds, the authority may, under like restrictions,
15 issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive
16 bonds when the bonds shall have been executed and are available for delivery. The authority may
17 also provide for the replacement of any bonds that shall become mutilated or shall be destroyed or
18 lost. Except as provided in the following paragraph, bonds may be issued under the provisions of
19 this chapter without obtaining the consent of any department, division, commission, board, bureau,
20 or agency of the state, and without any other proceedings or the happening of any other conditions
21 or things than those proceedings, conditions, or things that are specifically required by this chapter.

22 (d) ~~No~~ Except as provided in subsection (a)(2) of this section, no bonds shall be issued by
23 the authority unless, at the time of the adoption by the authority of the resolution authorizing the
24 issuance of the bonds, the authority shall have received from the general manager or chief financial
25 officer of the authority a certificate indicating that the payments of principal (including any
26 payments made to a reserve fund other than payments made from bond proceeds) and interest on
27 the bonds, together with the payments of the principal and interest on all other then outstanding
28 bonds of the authority, will not exceed during any fiscal year of the authority eighty percent (80%)
29 of the revenues (including, without limitation, grants and other aid) of the authority during the fiscal
30 year. In determining the amount of the principal and interest payments to be made during any fiscal
31 year, there shall be deducted any payments to be made from a reserve fund previously established
32 to provide for the payments. The certificate shall be based upon the reasonable expectations (both
33 as to the amount of revenues to be received by the authority and as to the maximum amount of any
34 variable payments to be made on the bonds) of the officer of the authority executing the certificate

1 at the time the certificate is delivered. The certificate shall describe with reasonable particularity
2 the calculations of principal and interest payments and of anticipated revenues upon which the
3 certificate is based. A copy of the certificate shall be furnished to the governor prior to the issuance
4 of the bonds described in the certificate and, in the case of any bonds whose issuance, according to
5 the certificate, is expected to result in the aggregate amount of principal and interest payments
6 (calculated as above) on the bonds and all then outstanding bonds of the authority exceeding in any
7 fiscal year of the authority fifty percent (50%) of the revenues of the authority, the bonds shall not
8 be issued unless the governor shall have approved the issuance or not disapproved the issuance
9 within thirty (30) days of the receipt of the certificate. Approval or disapproval of any bond issue
10 by the governor shall be evidenced by delivery to the authority of a certificate approving or
11 disapproving the issue or any part thereof.

12 SECTION 2. Chapter 39-18 of the General Laws entitled "Rhode Island Public Transit
13 Authority" is hereby amended by adding thereto the following sections:

14 **39-18-25. Design build/P3 authorization.**

15 (a) Definitions. As used in this chapter, unless the context otherwise indicates:

16 (1) "Best value" means the highest overall value to the authority, considering quality and
17 cost.

18 (2) "Design-build contracting" means a method of project delivery where a single private
19 entity is contractually responsible to perform design, construction, and related services.

20 (3) "Major participant" means any entity that would have a major role in the design and
21 construction of a project as specified by the authority in the request for proposals.

22 (4) "Private entity" means any corporation, general partnership, limited liability company,
23 limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity or
24 other business entity.

25 (5) "Progressive design-build contracting" means a method of project delivery where a
26 private entity performs design, construction and related services for the authority in a phased
27 manner, based on a preliminary design that is developed with the authority on a collaborative basis.

28 (6) "Project" means a supported transit project or any other capital project, and related
29 services by a private entity, including, without limitation, design, financing, construction,
30 development, operation, maintenance, management and/or leasing, or any combination of the
31 foregoing, procured by the authority under this section (including without limitation the Dorrance
32 street transit center project).

33 (7) "Proposal" means a proposal by the proposer in connection with a project, in
34 accordance with the requirements of a request-for-proposals that, after review, evaluation,

1 negotiation and documentation may lead to an agreement with the authority.

2 (8) “Proposer” means any private entity that submits a proposal in accordance with the
3 requirements of a request-for-proposals.

4 (9) “Public-private partnership” or “P3” means an alternative project delivery mechanism
5 that may be used by the authority to facilitate a private entity’s participation in a project, including
6 in its design, financing, construction, development, operation, maintenance, management, and/or
7 leasing (or any combination of the foregoing).

8 (10) “P3 agreement” means a contract or other agreement between the authority and a
9 private entity to undertake a project as a public-private partnership and that sets forth rights and
10 obligations of the authority and the private entity.

11 (11) “Quality” means those features that the authority determines are most important to a
12 project. Quality criteria may include quality of design, constructability, long-term maintenance
13 costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct, and
14 other factors that the authority considers to be in the best interests of the authority.

15 **39-18-26. Authorization.**

16 (a) Notwithstanding any other provision of law, the authority may use design-build
17 contracting, including progressive design-build contracting, and/or a public-private partnership to
18 deliver a project. The authority may evaluate and select proposals on either a best-value or a low-
19 bid basis. If the scope of work requires substantial engineering judgment, the quality of which may
20 vary significantly as determined by the authority, then the basis of award shall be best-value.

21 (b) The authority shall identify those projects it believes are candidates for design-build
22 contracting, including progressive design-build contracting, or a public-private partnership,
23 including, without limitation, those involving extraordinary circumstances, such as emergency
24 work, unscheduled projects, or funding shortfalls.

25 (c) The authority retains the authority to terminate the procurement process at any time, to
26 reject any proposal, to waive technicalities, or to advertise for new proposals if the authority
27 determines that it is in the best interests of the state.

28 **39-18-27. Prequalification.**

29 (a) The authority may require that entities be prequalified to submit proposals with respect
30 to a project. If the authority requires prequalification, it shall;

31 (1) Give public notice requesting qualifications from interested private entities
32 electronically through the authority’s publicly accessible website or through advertisements in
33 newspapers; and

34 (2) Make available a request-for-qualifications package to all private entities requesting

1 one in accordance with the notice. The authority may alternatively make any such request-for-
2 qualifications package available to all interested private entities electronically through the
3 authority's publicly accessible website.

4 (b) Interested private entities shall supply for themselves, and for all major participants, all
5 information required by the authority under any such request-for-qualifications. The authority may
6 investigate and verify all information received. All financial information, trade secrets, or other
7 information customarily regarded as confidential business information submitted to the authority
8 shall be confidential.

9 (c) The authority shall evaluate and rate all private entities submitting a conforming
10 statement of qualifications in response to a request-for-qualifications and select the most qualified
11 private entities to receive a request-for-proposals. The authority may select any number of private
12 entities, except that if the authority fails to prequalify at least two (2) private entities, the authority
13 shall readvertise, or cancel, the project procurement.

14 **39-18-28. Request for proposals.**

15 The authority may issue a request-for-proposals with respect to a project, which shall set
16 forth the scope of work, design parameters, construction requirements, time constraints, and all
17 other requirements that have a substantial impact on the cost or quality of a project and the project
18 development process, as determined by the authority. The authority need not issue a request-for-
19 qualifications prior to issuing a request-for-proposals. The request-for-proposals shall include the
20 criteria for conforming proposals. For projects to be awarded on a best-value basis, the scoring
21 process and quality criteria must also be contained in the request-for-proposals. In the authority's
22 discretion, the request-for-proposals may provide for a process, including the establishment of a
23 committee to review proposals, for the authority to review conceptual technical elements of each
24 proposal before full proposal submittal for the purposes of identifying defects that would cause
25 rejection of the proposal as nonresponsive. All such conceptual submittals and responses shall be
26 confidential until execution of the relevant contract, or the cancellation of the procurement. The
27 request-for-proposals may also provide for a stipend upon specified terms to unsuccessful
28 proposers that submit proposals conforming to all request-for-proposal requirements.

29 **39-18-29. Low-bid award.**

30 If the basis of the award of responsive proposals is low-bid, then each proposal, including
31 the price or prices, shall be sealed by the proposer and submitted to the authority as one complete
32 package. The authority shall award the design-build contract to the proposer that submits a
33 responsive proposal with the lowest cost, if the proposal meets all request-for-proposals
34 requirements.

1 **39-18-30. Best-value award.**

2 (a) If the basis of the award of responsive proposals is best-value, then each proposal shall
3 be submitted by the proposer to the authority in two (2) separate components: a sealed technical
4 proposal and a sealed price proposal. These two (2) components shall be submitted simultaneously.
5 The authority shall first open, evaluate, and score each responsive technical proposal, based on the
6 quality criteria contained in the request-for-proposals. The request-for-proposals may provide that
7 the range between the highest and lowest quality scores of responsive technical proposals must be
8 limited to an amount certain. During this evaluation process, the price proposals shall remain
9 sealed, and all technical proposals shall be confidential.

10 (b) After completion of the evaluation of the technical proposals, the authority shall open
11 and review each price proposal. The authority shall develop a system for assessing the cost and
12 quality criteria. The authority shall award the contract to the proposer with the proposal
13 representing the best value to the authority.

14 SECTION 3. This act shall take effect upon passage, and shall apply with respect to any
15 contract entered into by the authority after such effective date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC UTILITIES AND CARRIERS -- RHODE ISLAND PUBLIC
TRANSIT AUTHORITY

1 This act would authorize the Rhode Island public transit authority to enter into certain
2 projects and procure related services including the Dorrance street transit center, using design build
3 contracting and progressive design build contracting.

4 This act would take effect upon passage, and would apply with respect to any contract
5 entered into by the authority after such effective date.

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