

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1251

Bill Subtitle: TO CREATE THE PARTNERSHIP FOR PUBLIC FACILITIES AND INFRASTRUCTURE ACT; AND TO REGULATE PUBLIC-PRIVATE PARTNERSHIPS FOR PUBLIC FACILITIES AND INFRASTRUCTURE.

Basic Change :

Rep. Sabin,

The bill establishes a mechanism for private entities to propose, finance, build, and operate public infrastructure projects such as government buildings, schools and highways, and to collect payments and fees from users or the government in return. The bill authorizes public entities, such as state agencies and subdivisions, boards, and commissions, to request proposals or invite bids from private entities for such projects. While the public entity may assume the operation of a qualifying project, the public entity is not obligated to pay any obligation of the private entity from sources other than revenues derived from the qualifying project. The bill requires that projects undertaken pursuant to the act comply with applicable state and local laws and rules.

The bill does not authorize the expenditure of any state or local funds or the diversion of current funds from one purpose to another. The bill provides that no public money can be spent in any manner not already authorized by state law.

Revenue Impact :

None

Taxpayer Impact :

None

Resources Required :

None

Time Required :

None

Procedural Changes :

None

Other Comments :

Similar legislation has been enacted in Texas and Virginia. The Federal Highway Administration, the National Conference of State Legislatures (NCSL) and several consulting firms are promoting this legislation as a way to leverage state funds. According to the NCSL, 29 states have similar programs.

Legal Analysis :

The bill states that participation in a qualifying project by a public entity does not constitute a waiver of sovereign immunity by the public entity. Further, the bill does not convey the power of eminent domain upon private entities. The bill does not convey rulemaking authority upon any state agency to administer its provisions. However, the bill creates the "Legislative Task Force on the Partnership for Public Facilities and Infrastructure," which is authorized to review, monitor, and develop goals and model guidelines to assist public entities in participating in qualifying projects. The Task Force does not have the authority under the bill to order that any particular action be taken by members of the executive branch of government.