

HCS HB 1380 -- PUBLIC-PRIVATE PARTNERSHIP (St. Onge)

COMMITTEE OF ORIGIN: Transportation

This substitute establishes the Missouri Public-Private Partnerships Transportation Act and authorizes the Highways and Transportation Commission to form a public-private partnership to use private sector innovation and investments to build a new Mississippi River bridge in St. Louis.

Potential private partners may submit to the commission an unsolicited request for approval of a project to finance, develop, and/or operate the bridge.

The commission must establish a process to accept and review requests and may approve the project if it determines the bridge will improve the state highway system and is a needed addition. The commission is not required to select a proposal for the lowest price but may consider price, design, financing plan, and other factors like the qualifications, industry experience, and financial capacity of the potential private partner to determine the best value for the state.

Prior to granting approval to finance, develop, and/or operate the bridge, the commission must establish a policy that prohibits a private partner from being eligible to enter into an interim or comprehensive agreement with the commission to develop and operate the project if the private partner, its subsidiaries, or affiliated entities are known to sponsor terrorism or aid the government of countries that are known to sponsor terrorism. The commission may execute an interim agreement with a tentatively approved private partner to begin specific compensable activities to further the development of the project. The commission, as a condition for final approval, must execute a comprehensive agreement with the private partner. The agreement requirements are specified in the substitute.

The commission may terminate negotiations with a potential private partner during the interim or comprehensive agreement phase as well as reject any and all requests for approval.

Any information submitted to the commission by potential private partners in requests for approval or responses to a request is a closed record under the state's Sunshine Law. After a comprehensive agreement is executed by a private partner and the commission, the agreement and other materials submitted to the commission by the private partner will be open records.

Private partners will have the power:

- (1) To contract with any public or private entity;
- (2) To lease or operate the project for any term as provided in the comprehensive agreement; and
- (3) To collect and enforce user fees.

A private partner will be required to provide:

- (1) Securities and warranties satisfactory to the commission;
- (2) Audited financial statements in a form acceptable to the commission;
- (3) Evidence of sufficient commercial general liability insurance and workers' compensation insurance; and
- (4) Performance and payment bonds acceptable to the commission.

The commission may:

- (1) Delegate necessary powers of the commission to carry out the provisions of the substitute;
- (2) Promulgate rules;
- (3) Make all final decisions concerning the performance and the acceptance of the work;
- (4) Impose a user fee;
- (5) Take any action to obtain federal, state, or local government or private sector assistance for a project and enter into contracts required for the assistance;
- (6) Lease the project and any interest it has in real property to the private partner; and
- (7) Exercise the powers of condemnation to acquire any real property required for the project.

The substitute also contains language dealing with methods for collecting and enforcing user fees and tolls, tort liability caps, disadvantaged business enterprise participation plan requirements for a private partner, material defaults, and the commission's submission of the status report of any comprehensive agreement to the Joint Committee on Transportation Oversight, Governor, and General Assembly.

FISCAL NOTE: No impact on state funds in FY 2007, FY 2008, and

FY 2009.