P3 Bill in Kentucky

A review of the implications of HB 309 and SB 132

Public-Private Partnerships are a method of procurement when traditional financing options are too limited to provide all expansion desired. The bills create a skeleton by which P3s can be implemented, but fail to address the details by which P3s have been historically unsuccessful. Leaving key decisions to regulations or worse, no details at all, invites problems on all fronts. Furthermore, the whole premise of using P3s is to remove obligation from the state due to limits both legally and practically on our debt. Removing checks on amount of total debt both on a statewide level and additionally in local governments is unwise given our current financial standing. **Regardless of the project, the end result of any method of procurement is repayment from the state, through the people as taxpayers.**

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General Problems with P3s

P3s are set up on the assumption that private companies have the ingenuity to save more money than the government could save on its own, even factoring higher interest rates in the private sector. Thus, the success of a P3 project is largely dependent on the outcome being accurately assessed. The extreme push for P3s rides the shirttails of the economic crisis and lack of funds statewide. The point everyone has forgotten is that **no matter what kind of financing we do, the payments will still have to be made and it all comes from the same pot – the taxpayers.**

Concerns with HB 309, SB 132

These bills leave the majority of details to administrative regulations yet to be written. In the event the regulations do not get timely written, the process can proceed without regulations. Similarly, a board is created to act as an advisor to local governments, but absent a recommendation of the board, the local government can proceed. The scope and size of these projects are such that action needs to be taken very carefully, thoughtfully, and these bills do not provide the safeguards necessary nor the caution expected of extreme debt, particularly in the midst of budget shortfalls.

How to Improve (many suggestions by California)

- Place safeguards in statute vs. unknown regulations
- Require independent cost-benefit analysis
- Prohibit non-compete clauses
- Prohibit use of tolls for administrative overhead
- Minimize/eliminate concession of public infrastructure
- Cap the size of allowable projects
- Remove local governments entirely

Facts about P3 Nobody Is Talking About

- California started using P3s in 1992. A state study on the first two completed P3s determined both were a bad deal. One had to be bought back.
- Most companies doing large road projects are foreign-owned and have lease/no-compete authority for 30-99 years on roads.
- The State is the co-signer on the Louisville bridge project. If costs are not covered, the state must make up the difference as the first priority of the Road Fund.