

# PUBLIC-PRIVATE TRANSPORTATION ACT

## Statement of the Issue

Virginia's Public-Private Transportation Act of 1995 (PPTA) has become increasingly central to the Commonwealth's transportation program. The PPTA allows private entities to enter into agreements with VDOT to construct, improve, maintain, and operate transportation facilities. Yet experience with PPTA projects and proposals indicates that the statute is seriously flawed and raises significant doubts about how effectively it serves the public interest.

## Background

The PPTA is designed to facilitate private investment in public infrastructure and transportation facilities. It allows both solicited and unsolicited proposals, and is viewed by its supporters as a way to make needed improvements and additions to the state transportation system sooner, more cheaply, and more efficiently than with public funds alone. Projects undertaken so far under the PPTA or its predecessor include the Dulles Greenway, Route 28 interchanges, 495 HOT lanes in Northern Virginia, the Pocahontas Parkway (Route 895) and Route 288 in Richmond.

There are numerous additional PPTA proposals currently underway or under consideration by VDOT. The McDonnell Administration has created a PPTA Office, directed some multimodal funds to this office, and made it clear that it views the PPTA as a key element of its strategy for delivering new transportation projects. The governor's proposed multi-billion dollar transportation package the General Assembly largely adopted in 2011 and the most recent Six Year Improvement Program adopted by the Commonwealth Transportation Board contained about \$1.5 billion for PPTA projects.

The track record of PPTA projects thus far calls into question the claims made on behalf of the statute. Among other things, potential costs and

liabilities to taxpayers have often been underestimated or not provided to the public. Hundreds of millions of tax dollars are being poured into the Capital Beltway HOT project, for example, which was originally projected to cost taxpayers little or nothing. Similarly, Star Solutions' public pronouncements significantly understated the true cost of its proposal to double the size of I-81. In addition, in the past, bonds for the Pocahontas Parkway were downgraded and placed on a watch list by credit agencies since traffic and toll revenues have been lower than expected.

Although the PPTA could be an innovative tool for getting transportation projects funded and built, there are many problems with the Act and its implementation, including concerns that:

- It undermines sound transportation planning by advancing projects that are not high priorities for the public, moving proposed projects to the head of the list of projects under consideration and making a claim on state revenues at the expense of other projects.



- Opportunities for public input into the PPTA process are limited.
- Environmental review of proposals is circumvented or undermined, among other things due to the prioritization and advancement of a proposal before alternatives have been evaluated.
- Requirements for competitive bidding are inadequate, and have allowed a project

# PPTA REFORM RECOMMENDATIONS

Support PPTA reform. Legislation to improve the PPTA is needed and should be supported. Potential measures include:

- Limiting proposals under the PPTA to projects contained in state transportation plans and to projects with complete, independent environmental studies.
- Requiring greater public and local government input into each proposal (such as traditional public hearings at an early stage of review and a hearing before an agreement is signed).
- Requiring approval of PPTA proposals by the Commonwealth Transportation Board.
- Redefining the process to ensure that bidding is competitive, including requirements for national advertising and a longer response period.
- Giving priority to proposals that include significant private sector equity contributions and to proposals that retain public control of any public asset involved.
- Requiring evaluation of the impacts of proposed projects on land development patterns.
- Requiring projects to incorporate context sensitive design, pedestrian and bicycle facilities, low impact development, and other measures to avoid and minimize adverse environmental impacts in the construction and operation of a project.

**Oppose additional taxpayer funding until the PPTA is reformed.** The General Assembly should not provide any additional funds for specific projects or for the Transportation Partnership Opportunity Fund it created to support PPTA projects until the PPTA is reformed. Moreover, project developers should not be allowed to receive anticipated future general fund revenues under any circumstance.

proponent or bidder in the first phase of a proposal to establish a sole-source arrangement for later phases.

- Applicants have failed to disclose all necessary information about costs and design, and in the agreement for the Dulles Rail PPTA project, applicants secured the right to destroy information after the project is completed.
- There has been a lack of information about potential costs to taxpayers and potential risk to the state's bond rating, despite recent amendments to the statute aimed at addressing this.
- It creates incentives for sprawl, driving, and environmental damage. The primary concern of PPTA developers is maximizing profit, not the public interest. For example, the previous owner of the Pocahontas Parkway supported a massive new development and an additional interchange

that would increase the amount of traffic (and revenue) on the highway. Most PPTA projects built or proposed thus far have been highway construction that will subsidize sprawl and increase motor vehicle dependence, destroying open space and increasing air and water pollution.

## PPTA CONTACT

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