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Virginia Discovers P3 Projects Might Not Always Save Money.

Since Virginia passed a law 20 years ago authorizing public-private partnerships in the state, it's been a model for other states interested in tapping private businesses to help deliver state services. Virginia officials frequently testify on Capitol Hill or at international conferences about their efforts.

Both Democratic and Republican governors have used the partnerships in Virginia. The most well-known examples are toll roads and tolled lanes on highways in the Washington, D.C., suburbs.

So it was significant when Aubrey Layne, Virginia's transportation secretary, suggested recently that Virginia may be able to save taxpayer money by financing a $2.1 billion interstate widening project itself, rather than relying on a public-private partnership (P3) to finance, design and build the project.

"Heretofore, what the commonwealth did, is say 'We want to do a P3,'" Layne explained. Agencies would then produce reports showing how much risk the state avoided by having a private company, rather than the state, build the project, he said. "That's always going to lead to a P3 being a better solution. I wasn't convinced that was the case."

The closer scrutiny for the highway project came after legislators passed a law this spring to add safeguards for the state and provide more disclosures to the public before Virginia enters into public-private partnerships. Gov. Terry McAuliffe, a Democrat, pushed for the law with the support of Republican legislators in the wake of bad publicity for the deals.

The most significant controversy involved a proposed 55-mile toll road linking the Norfolk area to Interstate 95, a major commercial corridor along the East Coast. The project started as a P3 but morphed into a more conventional contract, albeit one shrouded in the type of secrecy that had been afforded to those public-private deals.

The state hired a private contractor to design and build the new road but, crucially, assumed the risk in case the necessary permits did not come through. A federal environmental review found that the highway would disturb far more wetlands than originally anticipated, significantly raising the cost of the project and delaying it.

McAuliffe halted the project last year, but the state had already paid the contractor nearly $290 million before construction ever started. The state cancelled its contract with the original vendor and is currently considering a scaled-back version of the project.

Commuters in the Norfolk area are also upset that they had to start paying tolls to use a tunnel that has been free for decades, in order to help a private consortium help pay for the construction of a new, parallel tunnel that is not yet open. (It's no coincidence the chief sponsor of the new law governing public-private partnerships is from the area.)

Another reason for the heightened scrutiny, though, is simply a change in administrations. New

Virginia governors, like McAuliffe, who took office early last year, have often reviewed the state's partnerships and offered their own changes, said Jonathan Gifford, the director of a George Mason University program that studies P3s in transportation.

"The state is obviously taking a hard look at this P3 model," he said. "That's what states are supposed to do. This is not designed to be a giveaway to private concessionaires. The only time you want to go forward with these is when they are going to add value to what the state would be able to do on its own."

Layne, the transportation secretary, stressed that Virginia may still end up using a public-private partnership for the Interstate 66 expansion, as well as for other projects. But he claimed the state could save as much as $1 billion over the next 40 years by financing the deal itself, rather than relying on a private operator. The savings would come from cheaper borrowing costs and by collecting tolls that would otherwise go to a private company.

"Virginia is AAA-rated, so no private party, particularly those looking for return on their equity, can finance a project any cheaper than the commonwealth of Virginia," he said.

The cost of financing is key in Layne's analysis. The state could still reap many of the benefits of a P3 by simply hiring companies to design, build or operate the new facilities, he said.

The transportation secretary also stressed that, compared to other types of projects, there are relatively few risks involved in widening a highway. The public-private partnership in Hampton Roads, which is building a new highway tunnel, is more complicated because of engineering and environmental factors.

"But in this particular case, we're adding a lane or two on an existing interstate. We do that all across the commonwealth," he said.

Even the uncertainty of how drivers will react to tolling is not as great a factor as it might have been a few years ago, because the state can see how recently opened toll lanes in the region have fared, Layne said.

Robert Chase, the executive director of the Northern Virginia Transportation Alliance, supported the administration's cost-conscious approach, but he said the state should release its full analysis on the projected costs, rather than just the conclusions of that analysis.

The public and potential vendors do not know, for example, whether the cost of maintenance is included in the projected costs for both scenarios, or what happens if the state finances the road and toll revenues fall short. The anticipated breakdown of anticipated federal, state and regional funding sources also wasn't provided, even though that could affect the state's debt limit or the amount of money available for other projects in the region, Chase said.

Chase said that the state needs to be more transparent. The McAuliffe administration wants vendors to disclose more about their deals, but the vendors should also know how the state is planning on structuring its own finance deal, so they can offer a suitable alternative.

Chase agreed, though, that the state should provide more funding than it has in other area toll projects, if it does a public-private partnership, because that could keep tolls lower.

"If you're spending billions of dollars to add new capacity but the pricing structure discourages people from using it," he said, "you're not getting your money's worth out of the project."

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