Virginia Recovers $149 Million from Failed P3.

DALLAS — Virginia will recoup more than half the money it has spent on a cancelled toll road from the design-build group contracted to construct the failed public-private partnership project in southeastern Virginia.

Gov. Terry McAuliffe announced the settlement with Route 460 Mobility Partners late last week at a ceremonial signing of the Virginia's new P3 legislation passed in April by the General Assembly. The enacted House Bill 1886 amends Virginia's Public-Private Transportation Act of 1995 to provide more public overview of P3 proposals from beginning to end.

McAuliffe said at the July 2 bill signing that U.S. 460 Mobility Partners has agreed to return $46 million of expended funds back to the state and cancel an additional $103 million claim the company had filed under the contract.

McAuliffe terminated the contracts for the proposed $1.4 billion toll road in April after Virginia spent almost $300 million on the project that never received its required environmental clearance.

The total $149 million concession is the result of months of negotiations between the administration and the company, McAuliffe said.

"This settlement will bring millions in taxpayer dollars that were wasted on the U.S. Route 460 project back to taxpayers and prevent the Commonwealth from having to pay millions more," he said.

The new procedures in the state's P3 law should prevent similar fiascoes in the future, McAuliffe said.

"The fact remains that Virginians have already spent hundreds of millions of dollars on a project that will never be built because state officials negotiated a contract that left the Commonwealth holding the bag when the environmental risks were too great to move forward," McAuliffe said. "I regret that that contract did not allow for greater steps to mitigate the impact of this failed project."

The state paid a total of $240 million to US 460 Mobility Partners in monthly payments that were cut off in 2014 and Virginia Department of Transportation spent approximately $43 million on the project before the project was suspended, said Virginia Transportation Secretary Audrey Layne.

The state had hoped to build the 55-mile Commonwealth Connector toll road as a public-private partnership and fund it mostly with toll revenue bonds, but instead created the Route 460 Funding Corp. as a non-profit to collect the tolls, issue bonds, and operate the highway. The new P3 rules require that proposed transportation projects be certified early in the process by a steering committee as being in the public interest before the state could sign a P3 procurement agreement.

The new law establishes a steering committee that will determine if a proposed project could be financed as a P3 or by the state. The committee will include the staff directors of the House Committee on Appropriations and the Senate Finance Committee, two members of the

Commonwealth Transportation Board, a deputy sectary from Virginia Department of Transportation, the chief financial officer from either Virginia DOT or the Department of Rail and Public Transportation, and a non-agency financial expert selected by the transportation secretary.

The transportation secretary will have to certify that sufficient risk had been transferred to the private investors before a final P3 agreement could be signed.

The new procedures will protect taxpayers from undue risk while allowing the use of the P3 process to deliver projects efficiently, Layne said.

“There will be no way to duck responsibility for transportation decisions,” he said.

The Route 460 Funding Corp. of Virginia said after the project’s termination in April that it would use extraordinary redemption provisions to call $293.3 million of revenue bonds it had issued for the project.

The Bond Buyer

by Jim Watts

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