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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PUBLIC-PRIVATE  
PARTNERSHIP INFRASTRUCTURE PROGRAM

Introduced By: Senators Ruggerio, Gallo, Pearson, DiPalma, DiMario, Euer, and F.  
Lombardi

Date Introduced: March 23, 2023

Referred To: Senate Housing & Municipal Government

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 42 of the General Laws entitled "STATE AFFAIRS AND  
2 GOVERNMENT" is hereby amended by adding thereto the following chapter:

3 CHAPTER 13.2

4 PUBLIC-PRIVATE PARTNERSHIP INFRASTRUCTURE PROGRAM

5 **42-13.2-1. Short title.**

6 This chapter shall be known and may be cited as the "Public-Private Partnership  
7 Infrastructure Program".

8 **42-13.2-2. Definitions.**

9 As used in this chapter, the following words shall have the following meanings, unless the  
10 context clearly requires otherwise:

11 (1) "Affected jurisdiction" means any city or town, or other unit of government within the  
12 state in which all or part of a qualified facility is located or any other public entity directly affected  
13 by the qualified facility.

14 (2) "Architectural and engineering services" means:

15 (i) Professional services of an architectural or engineering nature, as defined by applicable  
16 state law, which are required to be performed or approved by a person licensed, registered or  
17 certified to provide such services as described in this definition;

18 (ii) Professional services of an architectural or engineering nature performed by contract

1 that are associated with research, planning, development, design, construction, alteration or repair  
2 of real property; and

3 (iii) Such other professional services of an architectural or engineering nature or incidental  
4 services, which members of the architectural and engineering professions and employees thereof  
5 may logically or justifiably perform, including: studies, investigations, surveying, mapping, tests,  
6 evaluations, consultations, comprehensive planning, program management, conceptual designs,  
7 plans and specifications, value engineering, construction phase services, soils engineering, drawing  
8 reviews, preparation of operating and maintenance manuals and other related services.

9 (3) "Construction" means the process of building, altering, repairing, improving or  
10 demolishing any qualified facility, including any structure, building or other improvements of any  
11 kind to real property. "Construction" shall not include the routine operation, routine repair or  
12 routine maintenance of any existing qualified facility, including structures, buildings or real  
13 property.

14 (4) "Contract" means any agreement, including a public-private agreement for the  
15 procurement, operation or disposal under this chapter of a qualified facility by the department.

16 (5) "Contract modification" means any written alteration in specifications, delivery point,  
17 rate of delivery, period of performance, price, quantity or other provisions of any contract  
18 accomplished by mutual action of the parties to the contract.

19 (6) "Contractor" means any person having a contract with the department pursuant to the  
20 provisions of this chapter.

21 (7) "Cooperative purchasing" means procurement conducted by, or on behalf of, an  
22 affected jurisdiction.

23 (8) "Department" means any department of state government in accordance with § 42-6-1.

24 (9) "Design-build-finance-operate-maintain" means a project delivery method in which the  
25 department enters into a single contract for design, construction, finance, maintenance and  
26 operation of a qualified facility over a contractually defined period. Any potential available  
27 payments to be appropriated by the state while services are being provided by the contractor during  
28 the contract period shall be identified in the request for proposals and contract. The financial  
29 amount and duration of such potential available payments and the terms and conditions upon which  
30 they may be appropriated shall be identified in the request for proposals and contract.

31 (10) "Design-build-operate-maintain" means a project delivery method in which the  
32 department enters into a single contract for design, construction, maintenance and operation of a  
33 qualified facility over a contractually defined period and all or a portion of the funds required to  
34 pay for the services provided by the contractor during the contract period shall either be

1 appropriated by the state or by the department prior to award of the contract or secured by the state  
2 or by the department through fare or user charges.

3 (11) "Design requirements" means the written description of the qualified facility or service  
4 to be procured under this chapter including:

5 (i) Required features, functions, characteristics, qualities and properties required by the  
6 department;

7 (ii) The anticipated schedule, including start, duration and completion; and

8 (iii) Estimated budgets as applicable to the specific procurement for design, construction,  
9 operation and maintenance; provided, however, that design requirements may include drawings  
10 and other documents illustrating the scale and relationship of the features, functions and  
11 characteristics of the project.

12 (12) "Force majeure" means an uncontrollable force or natural disaster not within the power  
13 of the operator or the state.

14 (13) "Independent peer reviewer services" means additional architectural and engineering  
15 services provided to the department in design-build-operate-maintain or design-build-finance-  
16 operate-maintain procurements to confirm that the key elements of the professional engineering  
17 and architectural design provided by the contractor are in conformance with the applicable standard  
18 of care.

19 (14) "Maintenance" means and includes routine operation, routine maintenance, routine  
20 repair, rehabilitation, capital maintenance, maintenance replacement and any other categories of  
21 maintenance that may be designated by the department.

22 (15) "Material default" means failure of a contractor to perform any duties under a public -  
23 private agreement which jeopardizes delivery of adequate service to the public and remains  
24 unsatisfied after a reasonable period of time and after the operator has received written notice from  
25 the department of the failure.

26 (16) "Operate" means any action to operate, maintain, repair, rehabilitate, improve, equip  
27 or modify a qualified facility, including the design and construction of repairs, improvements or  
28 modifications to a qualified facility.

29 (17) "Operator" means a private entity that has entered into a public-private agreement to  
30 provide design-build-finance-operate-maintain or design-build-operate-maintain services under  
31 this chapter.

32 (18) "Private entity" means a natural person, corporation, general partnership, limited  
33 liability company, limited partnership, joint venture, business trust, public benefit corporation,  
34 nonprofit entity or other business entity.

1 (19) "Proposal development documents" means drawings and other design-related  
2 documents that are sufficient to fix and describe the size and character of a qualified facility as to  
3 architectural, structural, mechanical and electrical systems, materials and such other elements as  
4 may be appropriate to the applicable project delivery method.

5 (20) "Public-private agreement" means the contract between a private entity/operator and  
6 the department that relates to the development, financing, maintenance or operation of a qualified  
7 facility subject to this chapter.

8 (21) "Qualified facility" or "facility", means a new or existing ferry, airport, public  
9 transportation facility, terminal facility, vehicle parking facility, seaport facility, rail facility,  
10 intermodal facility or similar facility open to the public and used for the transportation of persons  
11 or goods, any building, structure or networks of buildings, structures, pipes, controls and  
12 equipment, including rolling stock and equipment that provide transportation services, water supply  
13 facility, water treatment intake and distribution facility, waste water treatment and collection  
14 facility, waste treatment facility, hospital, library, school, educational facility, medical or nursing  
15 care facility, recreational facility, state agency facility, public safety facility and any building,  
16 structure, parking area, appurtenances or other property needed to operate such facility that is  
17 subject to a public-private agreement.

18 (22) "Request for proposals" means all documents, whether attached to or incorporated by  
19 reference, utilized for soliciting proposals for a qualified facility under this chapter.

20 (23) "Responsible bidder" means a person who has the capability in all respects to fully  
21 perform the contract requirements, and the integrity and reliability to assure good faith  
22 performance.

23 (24) "Responsive bidder" means a person who has submitted a bid which conforms in all  
24 material respects to the invitation for bids.

25 (25) "User fees" means the rate, fee or other charges imposed by an operator or by the  
26 department for use of all or part of a qualified facility.

27 (26) "Utility" means a privately, publicly or cooperatively owned line, facility or system  
28 for producing, transmitting or distributing communications, cable television, power, electricity,  
29 light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway  
30 drainage, or any other similar commodity, including any fire or police signal system or street  
31 lighting system, which directly or indirectly serves the public.

32 **42-13.2-3. Establishment of special public-private partnership infrastructure**  
33 **oversight commission.**

34 (a) There is hereby established a special public-private partnership infrastructure oversight

1 commission to comment on and approve all requests for proposals for design-build-finance-  
2 operate-maintain or design-build-operate-maintain services.

3 (b) The commission shall have seven (7) members to be appointed by the governor for a  
4 term of two (2) years. One of whom shall be a representative from the Rhode Island Society of  
5 Professional Engineers and three (3) of whom shall reside in different geographic regions of the  
6 state. One of whom shall be an expert in the field of transportation and one of whom shall be an  
7 expert in the field of public finance. Each member of the commission shall be an expert with  
8 experience in either the fields of transportation, law, construction, labor, engineering, real estate,  
9 public policy, public finance or management consulting. One of the members shall be appointed  
10 by the governor to serve as chairperson of the commission. The members appointed by the governor  
11 may be eligible for reappointment; provided, however, that no such member shall serve for more  
12 than three (3) terms.

13 (c)(1) No member shall have been a registered lobbyist, as defined in chapter 139.1 of title  
14 42, for a period of at least five (5) years prior to his or her appointment, nor shall any commission  
15 member have been a member or employee of the general assembly or an employee of the executive  
16 branch for a period of two (2) years prior to his or her appointment.

17 (2) In the event that the department director was employed by an organization that has  
18 business before the department, or any predecessor agency or authority, for a period of at least two  
19 (2) years prior to his or her appointment, the governor shall appoint an appropriate replacement  
20 from within the department to fulfill the duties of the department required by this chapter.

21 (d) Whenever the department notifies the commission of its intent to issue a request for  
22 proposal for design-build-finance-operate-maintain or design-build-operate-maintain services, the  
23 department shall submit a draft of the request for proposal to the commission for its review and  
24 approval. Pursuant to § 42-13.2-4, no request for proposal shall be issued by the department for a  
25 public-private agreement for design-build-finance-operate-maintain or design-build-operate-  
26 maintain services without the commission's written approval. The commission shall provide an  
27 initial written response to the request for proposal within fifteen (15) days, and shall request any  
28 information necessary to comply with subsection (e) of this section.

29 (e) For each request for proposal for design-build-finance-operate-maintain or design-  
30 build-operate-maintain services, the commission shall report on issues surrounding the request for  
31 proposal including, but not limited to:

32 (1) The status of current employees;

33 (2) The policy and regulatory structure for overseeing a privately-operated facility and on-  
34 going legislative oversight;

- 1           (3) Issues of taxation, profit-sharing and resolution of new revenue producing ideas;  
2           (4) Advertising and marketing;  
3           (5) Use of new technologies;  
4           (6) Lease terms and termination clauses;  
5           (7) Additional responsibilities by both the private infrastructure operator and the state  
6 during the lease period;  
7           (8) The financial valuation of the state facility;  
8           (9) Issues of public concern; and  
9           (10) The anticipated advantages of entering into the anticipated public-private agreement  
10 for design-build-finance-operate-maintain or design-build-operate-maintain services.  
11           (f) The report shall be delivered within thirty (30) days of the commission's approval of a  
12 request for proposal for design-build-finance-operate-maintain or design-build-operate-maintain  
13 services to the director of administration, the house and senate committees on finance, the speaker  
14 of the house and the senate president.  
15           (g) Any research, analysis or other staff support that the commission reasonably requires  
16 shall be provided by the department.

17           **42-13.2-4. Issuance of contracts.**

18           (a) Notwithstanding any general or special law to the contrary, the director of the  
19 department, in conjunction with the special public-private partnership infrastructure oversight  
20 commission established in § 42-13.2-3, may solicit proposals and enter into contracts for design-  
21 build-finance-operate-maintain or design-build-operate-maintain services with that responsible and  
22 responsive bidder submitting the proposal that is most advantageous to the department through the  
23 sale, lease, operation and maintenance of a facility within the state; provided, however, that the  
24 proposal shall be in full compliance with all applicable requirements of federal, state and local law,  
25 including chapters 13, 14.1 and 14.3 of title 37; provided further, that any such contract shall not  
26 be subject to the competitive bid requirements set forth in chapter 2 of title 37; and provided further,  
27 that each such contract shall be awarded pursuant to chapter 13 of title 37.

28           (b) In soliciting and selecting a private entity/operator with which to enter into a public-  
29 private agreement for design-build-finance-operate-maintain or design-build-operate-maintain  
30 services, the department shall utilize the following competitive sealed proposals procurement  
31 approach:

32           (1) Each request for proposals for design-build-operate-maintain and design-build-finance-  
33 operate-maintain services;

34           (i) Shall include design requirements, and shall provide notice that the contractor is

1 required to comply with § 37-13-6, and that all contractors and subcontractors performing or  
2 assisting in work on the project worksite shall pay their laborers, mechanics, teamsters, other craft  
3 members and employees employed under the contract no less than the locally prevailing wage and  
4 benefits for corresponding work on similar projects in the state;

5 (ii) Shall solicit proposal development documents; and

6 (iii) May, if the department determines that the cost of preparing proposals is high,  
7 considering the size, estimated price and complexity of the procurement:

8 (A) Prequalify responsible bidders by issuing a request for qualifications in advance of the  
9 request for proposals; and

10 (B) Select a short list of responsible bidders prior to discussions and evaluations, if the  
11 number of proposals that will be short-listed is stated in the request for proposals and prompt public  
12 notice is provided to all bidders as to which proposals have been short-listed; or

13 (C) Pay stipends to unsuccessful bidders; provided, however, that the amount of such  
14 stipends and the terms under which such stipends shall be paid shall be included in the request for  
15 proposals;

16 (2) Adequate public notice of the request for proposals, posted and published on the  
17 department's website at least three (3) weeks prior to the deadline for submission of proposals, with  
18 an opportunity for public comment, shall be provided;

19 (3) Proposals shall be opened so as to avoid disclosure of contents to competing bidders  
20 during the process of negotiation and a register of proposals shall be prepared by the department  
21 and shall be open for public inspection after contract award; and

22 (4)(i) The request for proposals shall state the relative importance of price and other factors  
23 and sub factors, if any.

24 (ii) Each request for proposals for design-build-operate-maintain and design-build-finance-  
25 operate-maintain:

26 (A) Shall state the relative importance of:

27 (I) Demonstrated compliance with the design requirements;

28 (II) Bidder qualifications;

29 (III) Financial capacity;

30 (IV) Project schedule;

31 (V) Elimination of existing public debt with respect to the facility;

32 (VI) Lowest user charges or price over the term of the design-build-operate-maintain and  
33 design-build-finance-operate-maintain contract; and

34 (VII) Other factors, if any;

1           (B) Shall, if the contract price is estimated to exceed ten million dollars (\$10,000,000) or  
2 if the contract period of operations and maintenance is five (5) years or longer, or if circumstances  
3 established by the department require each bidder to identify an independent peer reviewer whose  
4 competence and qualification to provide such services shall be an additional evaluation factor in  
5 the award of the contract; and

6           (C) Shall not include, as an evaluation factor in the award of the contract, the amount, if  
7 any, paid by a contractor to the department for procurement using design-build-operate-maintain  
8 and design-build-finance-operate-maintain.

9           (5) As provided in the request for proposals and under regulations issued by the department,  
10 discussions may be conducted with responsible bidders who submit proposals determined to be  
11 reasonably susceptible of being selected for award for the purpose of clarification to assure full  
12 understanding of, and responsiveness to, the solicitation requirements. Bidders shall be accorded  
13 fair and equal treatment with respect to any opportunity for discussion and revision of proposals,  
14 and such revisions may be permitted after submissions and prior to award for the purpose of  
15 obtaining best and final offers. In conducting discussions, there shall be no disclosure of any  
16 information derived from proposals submitted by competing bidders.

17           (6) Award shall be made to the responsible bidder whose proposal conforms to the  
18 solicitation and is determined in writing to be the most advantageous to the acquiring agency, taking  
19 into consideration the price and the evaluation factors set forth in the request for proposals. No  
20 other factors or criteria shall be used in the evaluation. The contract file shall contain the basis upon  
21 which the award is made. Written notice of the award of a contract to the successful bidder shall be  
22 promptly provided to all bidders.

23           (7) The department may provide debriefings that furnish the basis for the source selection  
24 decision and contract award.

25           (c)(1) A private entity/operator may request a review, prior to submission of a solicited  
26 proposal, by the department of administration that the private entity/operator has identified as  
27 confidential or proprietary to determine whether such administration is subject to disclosure  
28 pursuant to chapter 2 of title 38.

29           (2) The department shall take appropriate action to protect confidential or proprietary  
30 information that a private entity/operator provides as part of a solicited proposal and that is exempt  
31 from disclosure pursuant to chapter 2 of title 38.

32           **42-13.2-5. Request for proposals - Content of public-private agreement.**

33           (a) The request for proposals shall contain the proposed form of contract or public-private  
34 agreement to be executed between the successful bidder and the department upon award, and shall



1 have been approved as to content and form by the special public-private infrastructure oversight  
2 commission and by the department before the request for proposals is issued, pursuant to § 42-13.2-  
3 4. The director of the department of administration or his or her designee shall have thirty (30) days  
4 from the receipt of a draft of the proposed form of contract to notify the special public-private  
5 infrastructure oversight commission in writing of any material objections to the draft form of  
6 contract. Before issuing any request for proposal, the department shall prepare a written response  
7 to reports submitted to it by the special public-private infrastructure oversight commission which  
8 response shall state the basis for any substantial divergence between the actions of the department  
9 and the recommendations contained in such reports of said commission. The department and the  
10 successful bidder shall only make non-material changes in the content and form of the public-  
11 private agreement contained in the request for proposals.

12 (b)(1) After selecting a solicited or unsolicited proposal for a public-private initiative, the  
13 department shall enter into the public-private agreement for the subject facility with the selected  
14 private entity/operator.

15 (2) An affected jurisdiction may be a party to a public-private agreement entered into by  
16 the department and a selected private entity/operator or combination of private entities.

17 (c) A public-private agreement under this chapter shall provide for the following:

18 (1) The planning, acquisition, engineering, financing, development, design, construction,  
19 reconstruction, replacement, improvement, maintenance, management, repair, leasing or operation  
20 of a facility including provisions for the replacement and relocation of utility facilities;

21 (2) The term of the public-private agreement, which shall not exceed fifty (50) years  
22 without written approval of the governor;

23 (3) The type of property interest, if any, the private entity/operator shall have in the facility;

24 (4) A description of the actions the department may take to ensure proper maintenance of  
25 the facility;

26 (5) Whether user fees will be collected on the facility and the basis by which such user fees  
27 shall be determined and modified;

28 (6) Compliance with applicable federal, state and local laws;

29 (7) Grounds for termination of the public-private agreement by the department or private  
30 entity/operator;

31 (8) Procedures for amendment of the agreement by mutual agreement and for changes in  
32 the agreement by written order from the department;

33 (9) Review and approval by the department of the private entity/operator's plans for the  
34 development and operation of the facility;

- 1           (10) Inspection by the department and the independent peer reviewer of the design and  
2 construction of, or improvements to, the facility;
- 3           (11) Maintenance by the private entity/operator of a policy of liability insurance or self-  
4 insurance reasonably acceptable to the department;
- 5           (12) Filing by the private entity/operator, on a periodic basis, of appropriate financial  
6 statements in a form acceptable to the department;
- 7           (13) Filing by the private entity/operator, on a periodic basis, of traffic reports, service  
8 quality standards, ridership reports, on time performance reports, or other reports identified by the  
9 department, in a form acceptable to the department;
- 10           (14) Financing obligations of the private entity/operator and the department;
- 11           (15) Apportionment of expenses between the private entity/operator and the department;
- 12           (16) The rights and duties of the private entity/operator, the department, and other state and  
13 local governmental entities with respect to use of the facility;
- 14           (17) The rights and remedies available in the event of default or delay;
- 15           (18) The terms and conditions of indemnification of the private entity/operator by the  
16 department, as required by applicable law;
- 17           (19) Assignment, subcontracting or other delegation of responsibilities of the private entity/  
18 operator or the department under the agreement to third parties, including other private entities and  
19 other state agencies;
- 20           (20) Sale or lease to the private entity/operator of private property related to the facility;
- 21           (21) If, and how, the parties shall share costs of development of the project;
- 22           (22) If, and how, the parties shall allocate financial responsibility for cost overruns;
- 23           (23) Liability for nonperformance;
- 24           (24) Any incentives for performance;
- 25           (25) Any accounting and auditing standards to be used to evaluate progress on the project;
- 26           (26) The private entity/operator's plans to obtain a labor and material payment bond, in  
27 accordance with chapter 2 of title 37, covering all construction, reconstruction or maintenance,  
28 including capital maintenance, work of the project and require the payment of prevailing wages for  
29 labor performed on the project in accordance with chapters 13, 14.1 and 14.3 of title 37;
- 30           (27) The private entity/operator's plans for labor harmony for the entire term of the  
31 agreement, including construction, reconstruction and capital and routine maintenance and  
32 adequate remedies to address the private entity/operator's failure to maintain labor harmony which  
33 shall include, but not be limited to, assessment of liquidated damages and contract termination;
- 34           (28) Traffic enforcement and other policing issues, subject to § 42-13.2-11, including any

1 reimbursement by the private entity/operator for such services; and

2 (29) Other terms and conditions.

3 **42-13.2-6. End of term or termination of public-private agreement.**

4 Upon the end of the term of the public-private agreement or in the event of termination of  
5 the public-private agreement, the department and duties of the private entity/operator shall cease,  
6 except for any duties and obligations that extend beyond the termination as provided in the public -  
7 private agreement, and all the rights, title and interest in such qualified facility shall revert to the  
8 department and shall be dedicated to the department for public use.

9 **42-13.2-7. Rights of department upon material default by a private entity/operator.**

10 (a) Upon the occurrence and during the continuation of a material default by a private  
11 entity/operator, not caused by an event of force majeure, and upon the failure by the private  
12 entity/operator acting in the capacity as a contractor or its financing institution on the contractor's  
13 behalf, to cure such material default within thirty (30) days of written notice of such default by the  
14 department, the department of administration may:

15 (1) Elect to take over the facility, including the succession of all right, title and interest in  
16 the facility; and

17 (2) Terminate the public-private agreement and exercise any other rights and remedies  
18 available.

19 (b) In the event that the department elects to take over a facility under subsection (a) of this  
20 section, the department:

21 (1) Shall make interim payments, on behalf of the contractor and for the contractor's  
22 account, of any amounts subject to a mechanics lien law of the state;

23 (2) May develop and operate the facility, impose user fees for the use of the facility and  
24 comply with any service contracts; and

25 (3) May solicit proposals for the maintenance and operation of the facility under § 42-13.2-  
26 4.

27 **42-13.2-8. Issue and sale of bonds or notes of the department.**

28 (a)(1) The department may request authorization from the state to issue and sell bonds or  
29 notes of the department for the purpose of providing funds to carry out the provisions of this  
30 chapter, with respect to the development, financing or operation of a facility or the refunding of  
31 any bonds or notes, together with any costs associated with the transaction.

32 (2) Any bond or note issued under this section:

33 (i) Constitutes the corporate obligation of the department;

34 (ii) Shall not constitute a debt of the state within the meaning or application of the

1 constitution of the state; and

2 (iii) Shall be payable solely as to both principal and interest from:

3 (A) The revenues from a lease to the department, if any;

4 (B) Proceeds of bonds or notes, if any;

5 (C) Investment earnings on the proceeds of bonds or notes; or

6 (D) Other funds available to the department for such purpose.

7 (b)(1) For the purpose of financing a facility, the department and operator may apply for,  
8 obtain, issue and use private activity bonds available under any federal law or program.

9 (2) Any bonds, debt, other securities or other financing issued for the purposes of this  
10 chapter, shall not be considered a debt of the state or any political subdivision thereof or a pledge  
11 of the full faith and credit of the state or any political subdivision of the state.

12 (c) Nothing in this section shall be construed as a prohibition on a local government or any  
13 authority of the state to issue authorized bonds for infrastructure projects.

14 **42-13.2-9. Acceptance of funds from the federal government and other sources.**

15 (a)(i) The department may accept from the federal government or any of its agencies funds  
16 that are available to the state for carrying out the provisions of this chapter, whether the funds are  
17 made available by grant, or other financial assistance.

18 (2) The department may enter into agreements or other arrangements with the federal  
19 government or any of its agencies as may be necessary for carrying out the purposes of this chapter.

20 (b) The department may accept from any source any grant, donation, gift or other form of  
21 conveyance of land, money, other real or personal property or other item of value made to the state  
22 or the department for carrying out the purpose of this chapter.

23 (c) Any facility may be financed in whole or in part by contribution of any funds or property  
24 made by any private entity/operator or affected jurisdiction that is party to a public-private  
25 agreement under this chapter.

26 (d) The department may combine federal, state, local and private funds to finance a facility  
27 under this chapter.

28 **42-13.2-10. Exercise of power of eminent domain.**

29 The state of Rhode Island may exercise the power of eminent domain to acquire property,  
30 rights of way or other rights in property for projects that are part of a public-private agreement for  
31 design-build-finance-operate-maintain or design-build-operate-maintain services.

32 **42-13.2-11. Sovereign immunity.**

33 Nothing in this chapter shall limit any waiver of the sovereign immunity of the state or any  
34 officer or employee of the state or any officer or employee of the state with respect to the

1 [participation in or approval of all or any part of the facility or its operation.](#)

2 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PUBLIC-PRIVATE  
PARTNERSHIP INFRASTRUCTURE PROGRAM

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1           This act would establish a seven (7) member public-private partnership infrastructure  
2 oversight commission to approve all requests for proposals submitted for public-private partnership  
3 construction of qualified facilities. This act would establish a new chapter outlining the request for  
4 proposal process for the construction of public-private qualified facilities. Further, this act would  
5 provide for the state to exercise the power of eminent domain relating to the construction of such  
6 qualified facilities.

7           This act would take effect upon passage.

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