

ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022
COMMITTEE STATEMENT
LB1016

Hearing Date: Monday January 31, 2022
Committee On: Transportation and Telecommunications
Introducer: Walz
One Liner: Provide for public-private partnerships under the Transportation Innovation Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Albrecht, Bostelman, Cavanaugh, M., DeBoer, Friesen, Geist, Hughes, Moser

Nay:

Absent:

Present Not Voting:

Oral Testimony:

Proponents:

Senator Lynne Walz
John Selmer
Lynn Rex
Eric Gerrard

Representing:

Introducer
Director, NDOT
League of NE Municipalities
City of Norfolk

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

The bill amends the Transportation Innovation Act, and provides that the Department of Transportation may utilize a public-private contracting method for purposes of project delivery.

The term "Private Partner" is defined as any entity that is a partner in a public-private partnership other than the State of Nebraska, any state agency, the federal government or any federal agency, any other state government or any agency of any government, no matter the level.

The term "Public-Private Partnership" is defined as a project delivery method for the construction of capital projects or the procurement of services under a public private partnership agreement between at least one private partner and the State of Nebraska or any agency of the state.

Enacts a new provision of law (section 3) that provides:

1) A public-private delivery method may be used for projects as prescribed by this section. All projects shall be awarded by competitive negotiation;

- 2) A contracting agency shall be responsible for project oversight;
 - 3) The Director-State Engineer shall, by rule and regulation, establish criteria for determining when a public-private partnership may be used;
 - 4) A request for proposal utilizing a public-private partnership shall at a minimum detail parameters of the project, responsibilities of the private partner, methods of oversight, duties of the contracting agency, factors to be used to score awards, plans for the financing of the project, the financial and technical qualifications of the private partner, the ability of the private partner to respond to the needs set forth in the request for proposal, and any other information deemed necessary to evaluate and score the proposal;
 - 5) The private entity must demonstrate it is capable of performing the project;
 - 6) Requests for proposal when issued - a copy shall be provided to the State Highway Commission, and clearly be identified as a public-private partnership project proposal;
 - 7) Any request for proposal may be canceled and all responses received may be cancelled if determined to be in the state's best interest;
 - 8) Any project with an aggregate value of \$100,000,000 or more shall be authorized by the Legislature;
 - 9) Once executed, the public-private partnership agreement shall be submitted to the State Highway Commission for review;
 - 10) The Department of Transportation shall follow all rules and regulations in administering a public-private partnership, and report to the Appropriations and Transportation and Telecommunications Committees all projects considered or approved.
-

Explanation of amendments:

The Committee considered and adopted an amendment which does the following:

The amendment substitutes for and replaces the bill. The introduced copy of LB 1016 is retained with the following changes:

The term "Progressive Design-Build" is added and is defined as a project delivery process in which both the design and construction of a project are procured from a single entity that is selected through a qualifications based selection process at the earliest feasible stage of a project.

Provides that for purposes of the Transportation Innovation Act the Department of Transportation may utilize the progressive design-build contracting process in addition to the design-build or construction manager-general contractor methods for contracting public projects pursuant to the Transportation Innovation Act.

The following provisions of LB 1016, as introduced, are stricken from the bill:

- 1) Removes the requirement that when a request for proposal for a public-private partnership is issued for a capital project a copy shall be transmitted to the State Highway Commission. (Page 6, Lines 8-12 of the introduced copy);
- 2) Removes, in the case of a public-private partnership for a capital project having a value over \$100,000,000, the project shall be authorized by the Legislature. (Page 6, Lines 17-24 of the introduced copy);
- 3) Removes the requirement that the State Highway Commission shall review and approve a public-private partnership agreement entered into by the Department of Transportation. (Page 6, Lines 26 through Page 7, Line 2 of the introduced copy); and
- 4) Removes the requirement that a completed public- private partnership agreement be submitted to the Legislature for authorization. (Page 7, Lines 11-12 of the introduced copy).

Curt Friesen, Chairperson