

SCS HCS HB 1380 -- MISSOURI PUBLIC-PRIVATE PARTNERSHIPS
TRANSPORTATION ACT

This bill establishes the Missouri Public-Private Partnerships Transportation Act and authorizes the Highways and Transportation Commission to form a public-private partnership to use private sector innovation and investments to build a new Mississippi River bridge in St. Louis.

Potential private partners may submit to the commission an unsolicited request for approval of a project to finance, develop, and/or operate the bridge.

The commission must establish a process to accept and review requests and may approve the project if it determines the bridge will improve the state highway system and is a needed addition. To promote and support the objectives of the United States foreign policy regarding terrorism, the commission must establish, prior to the receipt and review of any request for the approval or response to a request for proposal, a policy that prohibits a private partner from entering into an interim or comprehensive agreement with the commission to finance, develop, and/or operate the project if the private partner, its subsidiaries, or affiliated entities are known to sponsor terrorism or aid the government of countries that are known to sponsor terrorism. The commission is not required to select the proposal which has the lowest price but may consider price, design, financing plan, and other factors like the qualifications, industry experience, and financial capacity of the potential private partner to determine the best value for the state.

The commission may execute an interim agreement with a tentatively approved private partner to begin specific compensable activities to further the development of the project. The commission, as a condition for final approval, must execute a comprehensive agreement with the private partner. The agreement requirements are specified in the bill. The commission may terminate negotiations with a potential private partner during the interim or comprehensive agreement phase as well as reject any and all requests for approval.

Any information submitted to the commission by potential private partners in requests for approval or responses to a request is a closed record under the state's Sunshine Law. After a comprehensive agreement is executed by a private partner and the commission, the agreement and other materials submitted to the commission by the private partner will be open records.

Private partners will have the power:

- (1) To contract with any public or private entity;
- (2) To lease or operate the project for any term as provided in the comprehensive agreement;
- (3) To collect and enforce user fees; and
- (4) To issue corporate bonds, private activity bonds, refunding bonds, notes, and other obligations.

A private partner will be required to provide:

- (1) Securities and warranties satisfactory to the commission;
- (2) Audited financial statements in a form acceptable to the commission;
- (3) Evidence of sufficient commercial general liability insurance and workers' compensation insurance;
- (4) Performance and payment bonds acceptable to the commission; and
- (5) A detailed disadvantaged business enterprise participation plan that conforms to commission reporting requirements for the federal Disadvantaged Business Enterprise Program pursuant to federal law and regulations on federal-aid highway projects.

The commission may:

- (1) Delegate necessary powers of the commission to carry out the provisions of the bill;
- (2) Promulgate rules;
- (3) Make all final decisions concerning the performance and the acceptance of the work;
- (4) Impose a user fee;
- (5) Take any action to obtain federal, state, or local government or private sector assistance for a project and enter into contracts required for the assistance;
- (6) Lease the project and any interest it has in real property to the private partner; and
- (7) Exercise the powers of condemnation to acquire any real property required for the project.

The bill also establishes tort liability caps for the private partner and its employees and agents in amounts identical to those established in the sovereign immunity statutes and requires the commission to make an annual report to the Joint Committee on Transportation Oversight regarding the public-private partnership's method of financing, developing, and/or operating the project.