OHIO LEGISLATIVE SERVICE COMMISSION

Tom Middleton

Fiscal Note & Local Impact Statement

Bill: H.B. 668 of the 132nd G.A. **Status:** As Introduced

Sponsor: Rep. Patton **Local Impact Statement Procedure Required:** No

Subject: Authorizes state and local governments to enter into public-private agreements

State & Local Fiscal Highlights

- The fiscal effect on state agencies or local governments that choose to enter into public-private agreements, or public-private partnership (P3) agreements, would depend on factors such as (1) the governmental service or product needed, (2) the type of project, (3) the size of the project, (4) the financing structure, and (5) construction, operations, and maintenance terms, when applicable, among other factors.
- Facilities involved with a P3 agreement permitted under the bill would be exempt from the property tax, which could reduce property tax revenue received by local governments, depending on the project terms. Statewide, roughly two-thirds of property tax revenue collected is distributed to school districts, and the remaining one-third goes to other units of local government.
- The bill also exempts building and construction materials bought for a P3 facility from the sales and use tax. Sales tax revenue losses would affect both the state treasury and local government funds.

Detailed Fiscal Analysis

The bill gives broad authority allowing state agencies and local governments to engage in public-private agreements, or public-private partnership ("P3") agreements, and outlines the processes that must be used to execute these types of transactions. The bill largely allows for these financing and project delivery arrangements in the same manner as the Ohio Department of Transportation (ODOT) is permitted to engage in P3 transportation contracts under R.C. 5501. Various local government units or regional entities comprised of groups of political subdivisions, such as Community Improvement Corporations or regional councils of government, may already have all or most of this authority under current law. Nonetheless, this bill would provide a broad statutory cover for all state and local entities to use P3 project delivery and financing. Because the application of this authority for all state agencies and local governments is so broad and the authority is permissive, the fiscal effect is indeterminate.

Specifically, the bill allows state agencies, state institutions of higher education, counties, townships, municipal corporations, school districts, community schools, STEM schools, and college-preparatory boarding schools, to enter into a P3 agreement with a private party for the planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a facility. The bill defines a facility as a new or existing public building, public improvement, or public infrastructure used by a public body, by the public at large, in support of a public purpose, or for the delivery of services to the public. The facility either must be owned by the public body or owned by the private party through a lease agreement under which the facility reverts to the public body upon expiration of the agreement.

Certain state entities and local governments already have the ability to enter into P3 agreements with private firms for particular services or objectives. Three examples related to public entities and the provision of public services in Ohio are summarized below.

The Ohio State University – CampusParc parking concession

In 2012 the Ohio State University (OSU) transferred control of its parking assets to a private entity, CampusParc, for an up-front payment of $483 million. OSU used this money to pay for student scholarships, add tenure-track faculty, and support the university's campus-area bus service.

Portsmouth Bypass project – financing, operations, and maintenance

ODOT entered into a P3 with the Portsmouth Gateway Group in FY 2015 to construct, operate, and maintain the Portsmouth Bypass in South Central Ohio, a 16-mile, four-lane highway near the city of Portsmouth in Scioto County. The total project cost to construct the road is approximately $635 million with a variety of public and private funding sources, including (1) $227 million in private bond funding, (2) $209 million in federal Transportation Infrastructure Finance and Innovation Act (TIFIA) loan financing, (3) $97 million in Appalachian Development Highway System funds, (4) $28 million in other federal and state highway funding, and (5) $74 million in private equity and bond premium financing. The P3 agreement also included road operation and maintenance through the year 2054. The total estimated cost of the project is expected to be around $1.2 billion to build and maintain the road over that time period. This includes the up-front costs incurred by ODOT, as well as $1.16 billion in "availability" and milestone payments to the Portsmouth Gateway Group, a consortium of contractors, engineering firms, and investor groups. These subsequent payments cover the cost to complete construction of the road, plus the expenditures needed to service and maintain the bypass for 35 years. The roadway may open by the end of 2018 or early 2019.

Freeway Safety Patrol – delivery of roadway safety services

In FY 2015, a fleet of 24 freeway safety patrol trucks operated by Autobase, Inc. began providing roadside services under the Freeway Safety Patrol (FSP) Program administered by ODOT under a P3 agreement. The goal of the FSP Program is to alleviate congestion and reduce dangers caused by disabled vehicles along busy freeways. The patrol trucks provide stranded motorists around Akron, Cincinnati, Cleveland, Columbus, Dayton, and Toledo with roadside services such as changing flat tires, jumpstarting dead batteries, replacing broken belts, and replenishing depleted engine fluids. ODOT will pay Autobase at least $3.9 million annually for these roadside assistance services, offered weekdays between 6 a.m. and 7 p.m. Costs can rise above the annual figure if ODOT requests additional FSP services for special purposes or events.

The cost to operate the FSP program is partially offset by income that ODOT receives from an existing sponsorship agreement with State Farm Insurance that began in FY 2015 and is scheduled to run through FY 2024. That agreement requires State Farm Insurance to make annual payments of $850,000 to ODOT for the sponsorship rights for the FSP Program over the first four years, and $875,000 annually thereafter. In exchange, the trucks operated by Autobase bear the State Farm logo. This sponsorship revenue is deposited into the Highway Operating Fund (Fund 7002).

Property tax and sales and use tax exemption – general implications

Any P3 project entered into under the authority permitted under the bill could reduce property tax revenue received by local governments, depending on the project terms. Statewide, roughly two-thirds of property tax revenue collected is distributed to school districts, and the remaining one-third goes to other units of local government. The bill also exempts building and construction materials bought for a P3 facility from the sales and use tax. Sales tax revenue losses would affect both the state treasury and local government funds.

P3 agreements authorized in other states

According to a 2017 report by the National Conference of State Legislatures, 23 states have enabled P3s for transportation projects only, including Ohio, Pennsylvania, and West Virginia. Twelve other states allow P3s for both transportation and additional government sectors, including neighboring Indiana and Kentucky. Michigan allows P3s, but only for certain nontransportation projects.

HB0668IN.docx/lb