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FINAL REPORT OF THE SENATE PUBLIC-PRIVATE PARTNERSHIP STUDY COMMITTEE

COMMITTEE MEMBERS

Honorable Hunter Hill
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Chairman

Honorable Brandon Beach
District 21

Honorable Hardie Davis
District 22

Honorable Steve Gooch
District 51

Ms. Susan Ridley
Board of Regents, University System of Georgia

Mr. Phil Harrison
Perkins and Will

Mr. Al Petrangeli
Balfour Beatty Construction

Mr. John Jokerst
Carter and Associates

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INTRODUCTION

Senate Resolution 598, which passed the Senate during the 2013 Legislative Session, created the Senate Public-Private Partnership Study Committee (Committee) to examine the best and most efficient path to authorizing private entities to operate or develop projects relating to public infrastructure, which may result in the availability of these projects to the public in a more timely and less costly fashion.

The Committee was composed of eight members: Senator Hunter Hill, serving as Chairman; Senator Brandon Beach; Senator Hardie Davis; Senator Steve Gooch; Mr. Al Petrangeli, Balfour Beatty Construction; Ms. Susan Ridley, Board of Regents (BOR) of the University System of Georgia; Mr. Phil Harrison, Perkins and Will; and Mr. John Jokerst, Carter and Associates.

Additionally, the legislative staff members assigned to the Committee were: Ms. Jachque Ratliff, Legislative Assistant to Senator Hunter Hill; Ms. Shawna Mercer, Senate Press Office; Mr. Rick Ruskell, Legislative Counsel; and Ms. Angie Fiese, Senate Research Office.

The Committee held three meetings at the Capitol on: August 20th, 2013; September 24th, 2013; and October 29th, 2013. At the first meeting, the Committee heard testimony from: Ms. Susan Ridley, BOR; Mr. Michael Sullivan, American Council of Engineering Companies of Georgia; Mr. Mark Woodall, Associated General Contractors of Georgia; Mr. Christopher D. Lloyd, McGuire Woods Consulting, LLC.; Mr. Michael Paris, Council for Quality Growth; and Mr. John T. Crocker, MARTA. At the second meeting; the Committee heard testimony from Ms. Diana Pope, Georgia State Financing and Investment Commission. At the third meeting, the Committee heard testimony from: Ms. Kimberly Lipp, Virginia Department of Corrections; Mr. Bill Clark, American Institute of Architects; Mr. Steve Stancil, along with Mr. Fred Smith, State Properties Commission; Mr. Chris Williams, Gleeds USA; Mr. Ken Portnoy, Balfour Beatty; Mr. Joel Lee, a private citizen; and Mr. Bobby Potter, American Insurance Association.

BACKGROUND

A public-private partnership (P3) is a contractual agreement between a public agency and a private sector entity resulting in greater private sector participation in the delivery and/or financing of infrastructure projects. Whether repairing, upgrading, or augmenting an existing asset or building, the intent is to leverage private sector financial resources and expertise, improve project delivery, and to better share responsibilities and costs between the public and private sector. P3s differ significantly from sector to sector and from project to project. They also differ from country to country given the contracts are based on different legislative frameworks across the world. No less than 31 countries currently have a P3 unit at the national or subnational level. The United Kingdom has been a leader in modernizing the way in which public infrastructure and services are delivered and finding new ways to work in partnerships with the private sector over the last 20 years.

Approximately 29 states, including Georgia, as well as Puerto Rico, have enacted authority for a state transportation agency to consider and enter into P3s for highway projects; approximately 20 states allow transit P3s. For now, using P3s for vertical public construction remains rare; Virginia leads the way, having used P3s to construct several new schools and prisons. Georgia authorized the use of P3s for transportation in 2009 and for the development of reservoirs in 2011. Senate Bill 255, The Partnership for Public Facilities and Infrastructure Act, which is currently in the Senate Transportation Committee, provides for the use of public-private partnerships to develop public infrastructure and facilities. The Committee was formed to determine the best and most efficient path to achieving this goal.

STUDY COMMITTEE MEETINGS

August 20, 2013

Senator Hill opened up the meeting by stating that the complexity of P3s is daunting. The goal is to make it more feasible for local governments to undertake P3s. Senator Davis asked how we see local governments moving forward in the context of the legislation. Senator Hill stated that he would leave the answer to that question with the speakers.

Ms. Ridley provided testimony regarding capital financing methods. The primary method of academic facility financing is with general obligation bonds: these require the full faith and credit of the state; have a 10 percent constitutional limit; state debt is typically between 6 and 8 percent; Georgia is one of nine “AAA” states. Georgia’s Sinking Fund pays the debt service. There is limited general obligation bond capacity for capital needs beyond academic buildings.

Public private ventures serve as an alternative general obligation bonds. Local government authorities serve as issue or debt. Bond proceeds are loaned to a cooperative organization to construct buildings. The BOR rents the facility from the cooperative organization. BOR’s annual rental agreement secures lease obligation of the third party borrower. This is the primary method for financing revenue-producing facilities. As of June 30, 2013, there were 188 PPV projects representing $3.7 billion in outstanding balances. Ms. Ridley commented that the Georgia Higher Education Facilities Authority, which authorizes bonds to finance capital projects for the Board of Regents (BOR) of the University System of Georgia and the Technical College System of Georgia (TCSG), is authorized to have outstanding at any point in time a maximum of $500 million of bonds – there are approximately $300 million of bonds outstanding.

The Georgia Higher Education Facilities Authority (GHEFA) was created in 2006. GHEFA: has a five-member board (approval and monitoring); is authorized to issue revenue bonds for BOR and TCSG; has no TCSG projects to date; original authorization was $300 million maximum capacity, which was increased to $500 million in 2012. This represents an alternative for institutions with more limited avenues of financing and/or to gain efficiencies. Approximately $300 million has been issued for 18 projects. The University System Foundation serves as the borrower.

Mr. Michael Sullivan, with the American Council of Engineers, testified in support of the effort outlined in SB 255. P3s are a great way to deliver vertical construction; they are one tool in the toolbox. The most valuable asset is the ability of government to leverage procurement. The P3 model is government-designed from the beginning; the government designs the goals and the private sector determines the best way to achieve them. Mr. Sullivan emphasized that the legislation should not force the private sector to disclose the method used – just the goal. He referred to the Georgia Department of Transportation’s (DOT) P3 regulations. Senator Davis asked what happens in the case of insolvency. Mr. Sullivan commented that a P3 strengthens the public side because the risk is borne partially by the private partner. It requires a very clean, conformative business plan. Senator Davis also asked whether P3s are competitive. He voiced concern that the smaller companies may not be able to compete. This concern is valid when moving to a value-added process. It is a challenge that may be addressed by the criteria outlined in the bill. Mr. Beatty added that a P3 is a collaborative effort. Senator Hill also stated that Senate Bill 168 provides for inclusion of smaller companies and that larger companies often time hire local people. Mr. Sullivan agreed and stated that locals will be in the best position to make these decisions.

Mr. Mark Woodall, with the Associated General Contractors of Georgia, thanked the Committee for this deliberative effort. He praised Senate Bill 168 for allowing access to the local market.

He recommended that the Committee ensure there is a nexus between multiple projects under a single bid. He cautioned the Committee on the bill's provision which mandates guidelines for state agencies, but allows discretion for local governments. Local governments have every tool in the toolbox except a P3. Mr. Woodall ended his testimony with a suggestion to protect propriety information in the bill, and to allow adequate amount of time to submit a competing proposal.

Mr. Christopher D. Lloyd, with McGuire Woods Consulting, testified to Virginia's experience with P3s. Virginia has had in place a P3 statute for transportation since 2005; a vertical construction statute since 2002. It has practical oversight experience. Maryland, Texas, Florida, and North Carolina have adopted the Virginia model for their procurement process. Virginia's P3 law creates uniformity, accountability, and transparency. If there is not a law in place, private investors become nervous; a law is not subject to interpretation. A law protects confidential information; there is a specific exemption from the open records law. Accountability is found in public hearings and the public access to the resulting public contract. A law provides a legislative approval of the process. While low bid procurement processes are still done, more complex projects require a P3. The Virginia law allows for solicited and unsolicited bids, at both the state and local level. It requires the use of outside advisors – the bidder pays a fee which is used to hire the outside advisors. The law does not allow the state to create more debt than the constitution allows, and does not authorize new taxes or expanded eminent domain. The oversight committee created a working group to create model guidelines to ensure uniformity between state and local processes. It developed a best practice guidance document. No more than 50 percent of general revenue may go to satisfying debt obligations.

Senator Beach commented that the P3 concept allows for innovation. The public body may select the proposal that will save the most money, but may still offer the other company a stipend for proprietary information. Senator Hill questioned Mr. Lloyd on how to prevent an onslaught of unsolicited bids. First, require a proposal. Second, only look at projects on a capital improvement plan. Finally, create a P3 office like Virginia. Senator Hill asked what the potential pitfalls are from the general public. Mr. Lloyd suggested that Georgia provide a transparency requirement, as well as guidelines for small, minority contractors. Not everyone will be happy. Texas authorized P3s for private development. The citizens voiced opposition to the project itself.

Mr. Michael Paris, with the Council for Quality Growth, opened his remarks by stating that the TSPLOST experience taught us a lesson to think outside of the box. He emphasized that the Virginia experience is critical and then outlined four points: (1) Innovative financing – with regards to local governments. This allows them to do things they have not been able to do in the past. Local governments are not affected by the debt ceiling; (2) Fewer costs – as found in the design-build process; (3) Faster results – gets projects going; and (4) Risk – helps combat risk to the public body.

Mr. John Crocker, the Director of Development at MARTA, discussed long-term leases with MARTA. One lesson learned is that people negotiating the agreement in the beginning will not be there to manage the agreement. There needs to be a process for amending the agreement. Partners will also change. He cautioned the Committee to be realistic and to identify many issues. He suggested that the Committee require a value for money report in the legislation to determine if a P3 or the traditional method is better for development of the project. He concluded his testimony by stating that P3s are a way to share risk and provide efficiencies.

September 24, 2013

Ms. Diana Pope, with the Georgia State Finance and Investment Commission (GSFIC), began her testimony with the functions of GSFIC as provided for in the State Constitution.

The GSFIC is empowered to: perform all services related to the issuance of state debt; invest and account for all proceeds derived from the issuance of general obligation debt, or other amounts as may be appropriated to GSFIC for capital outlay purposes; manage all other state debt issuance; provide financial advisory assistance to state authorities and agencies regarding the issuance of debt; acquire and construct projects for the benefit of any state agency or to contract with any such agency to acquire or construct projects; establish multi-year contract value authority for leases and adopt policies for such transactions; and establish multi-year contract value authority for energy performance contracts, and adopt policies for such transactions. Before, agencies would enter into annual leases with renewable options. The ability to enter into multi-year contracts allows the State Properties Commission (SPC) to sign a contract for a 20-year term. She cautioned the Committee to make sure that a P3 stays within the contract, otherwise the state may face a rating downgrade.

Ms. Pope also provided an overview of the responsibilities of the SPC. As the state's real estate portfolio manager, the SPC is responsible for the acquisition and disposition of all state-owned real property and all real property interests. Additionally, SPC provides leasing assistance to state entities in the location of state-owned or commercially-owned space. Portfolio management includes a program called transaction management. Transaction management provides leasing services, which includes managing all activities required to lease real property from a landlord or leasing a portion of state-owned property to a third party. SPC has oversight over most agencies under the space management code (O.C.G.A. § 50-16-41). SPC and the BOR are the only agencies that may enter into a multi-year lease. Annual contract value authority must be approved by GSFIC. In addition, Regents must receive SPC board approval. Annual renewal options of annual deals are now limited to eight years.

Ms. Pope conveyed to the Committee that rating agencies generally view leases as "appropriation backed debt." A rating downgrade is most likely to occur if the rating agency concludes that the decision to not pay raises doubt about the government's general willingness to honor its obligations to investors or to properly weigh the long-term interest of investors against short-term political or financial considerations. Ms. Pope then outlined the procedure for the authorization, sale, and use of bond proceeds. The General Assembly authorizes bonds in the Appropriations Act and identifies specific projects in the tracking document. GSFIC solicits input from agencies regarding funding needs for the authorized projects. Projects to be funded are selected based on "readiness" criteria and agency certification to comply with federal spend-down requirements for tax-exempt bonds – past performance with respect to compliance is a consideration. GSFIC determines the tax exempt status of bonds, prepares the offering statement, obtains credit rating, and approves the sale of bonds in the market. GSFIC and the agencies then construct and implement projects or equipment. They also maintain ongoing compliance with tax-exempt bond regulations and asset tracking through the final maturity of the bonds. Ms. Pope informed the Committee that they authorize approximately two sales per year.

General obligation bonds require the full faith and credit of the state. The highest credit rating allows for the lowest possible cost in the current market. There is a 10 percent constitutional limit based on prior-year revenues; however, the GSFIC debt management plan limit is 7 percent. Except for specific "grants" to local education authorities and public library boards, the state has ownership to facility or property. GSFIC will manage, administer, or oversee all P3 transactions in which general obligation bond proceeds are utilized in order to ensure that all constitutional and statutory responsibilities charged to GSFIC are met, and to protect the tax-exempt status of the bonds. This includes situations when private funds are mixed with state bonds into one facility.

As defined by the federal tax code, private business use is the use (directly or indirectly) of a facility (all or a portion) financed with tax-exempt bonds by a business or trade carried on by a non-governmental user, even if that business serves the government employees or the clients of the government agency. Generally, there is a 10 percent allowance up to a maximum of $15 million per issue. Below 10 percent, but above $15 million, requires an allocation of private activity bonds per federal tax regulations. GSFIC reserves all private use of itself. If an agency desires a private use allowance, it first must notify GSFIC of the need and also request an allowance of private use, otherwise the agency must certify in its board resolution that there is no private use proposed within its funded project(s). If there is too much private use in a bond issue, the IRS can declare the interest to be taxable. This would violate the covenant made with the bond holder that the state would continue to maintain the tax-exempt status. Or, the IRS might only exact a monetary penalty. Some examples of private use include leases to a private party or lease/use by the federal government, parking contracts, service contracts, or food service facilities.

Ms. Pope concluded her remarks by cautioning the Committee that: lease arrangements should be managed consistently through SPC and GSFIC; rating agency implications must be considered; long-term leases would most likely be considered capital debt; and the Committee should consider how to prevent unsolicited proposals from monopolizing resources.

Senator Hill asked Ms. Pope if there is a concern that if the General Assembly creates a P3 model that the state will over-obligate itself. Ms. Pope agreed and stated that GSFIC and SPC need to be involved to set the procedures. Senator Hill also questioned whether investors get a return when there is commingling of private and public funds. Ms. Pope responded that most of the time it is cash. Sometimes there is payment of debt service with fees or annually appropriate funds. Senator Hill asked Ms. Pope a final question as to whether allowing locals to engage in a P3 transaction would affect the state. Ms. Pope stated that it should not affect the state because there is no jurisdiction on debt.

<u>October 29, 2013</u>

The final meeting of the Senate Public Private Partnership Study Committee began with testimony from Ms. Kimberly King of the Virginia Department of Corrections via telephone. Ms. King began her testimony with background information on her department's P3 projects. The first project began in 2002. It was for two new prisons and a facility expansion to be built simultaneously. It included 2,000 or more beds built in three different counties with a $160 million dollar value and a schedule of 36 months. Virginia wanted to compress the schedule requirements. In 2007, Virginia needed an additional 1,000-bed facility in a region where the legislature wanted economic growth. The state owned the land. The contract valued at $88 million.

Ms. King advised the Committee to require an established legitimate need. Does the project fit with the agency's priorities? Does the legislature support it? How does it compare to other agencies' needs? Could the traditional procurement process develop the project just as well? The state must document the project complexity, value added, risk factors, as well as other issues. Some state entities are uncomfortable with the new method because they are not in the driver's seat. She informed the Committee that there needs to be an experienced owner's representative on-site. Georgia should defer to the Department of Treasury on whether to select financing or not. Virginia can decouple to allow state financing without private sector financing. To address the concerns of any opposition, the state should add a number of restraints into the law.

Ms. King described the advantages of a P3 law. It allows for speed, value, and innovation. The provision that allows unsolicited proposals jumpstarted their process because it allowed the private sector to take on as much risk as it wants to take on. By allowing negotiations, the state is able to determine a very good value.

Finally, the state can supplement in-house resources and find innovations in the contract by working together with the private sector.

Senator Hill asked Ms. King who developed the P3 rules after the legislation was passed. Ms. King responded that a standard set of guidelines were developed by the department and other stakeholders. When the department received an unsolicited bid, did it seek out other bids? Yes. After it received an unsolicited bid, it would then advertise it by sharing most of the proposal. Did the department complete a RFP after receiving an unsolicited bid? This was completed in-house. Senator Hill concluded with a question as to any downsides. Ms. King informed the Committee that the department has not started a P3 that has failed. It has offered only one that did not receive any interest. There will always be push-back, so pick projects carefully.

Mr. Bill Clark, with the American Institute of Architects, advised the Committee of six points related to P3s: (1) Consider requirements of long-term maintenance and scope; (2) A suitability test should be performed to validate that the project meets the basic threshold requirements; (3) A consultant /adviser (in-house or private) is needed to access the long-term project needs of the project and to advise the governmental entity of those needs; (4) There must be clear, comprehensive, statutory guidelines; (5) A mechanism must be in place to encourage design professionals and the end-user; and (6) Include provisions to allow small business to compete. Senator Hill asked Mr. Clark if he had any suggestions on how to make the rules transparent and fair. Mr. Clark responded that the deliverables must be very clear – no vagueness. He has found that the federal P3 rules are vague. He suggested a scope document that is clear and concise. Senator Davis asked Mr. Clark if we eliminate competitiveness (as suggested in point six), do we not make the pool smaller and make it too competitive? Mr. Clark emphasized the teaming concept that is a part of P3 models – many smaller firms team with larger firms. Mr. Petrangeli commented that the collaboration element discussed by Ms. King applies in this case as well. What is important is that the governmental entity can craft the P3 to its goals. For example, weight can be given to a diversity plan.

Mr. Steve Stancil and Mr. Fred Smith, with the SPC, provided testimony regarding the SPC's space management code. Under O.C.G.A. § 50-16-41, the SPC is given the authority and charged with the duty of managing the utilization of administrative space by all state entities, except the BOR. The SPC locates space, determines program space, and negotiates lease agreements. The SPC resources are placed into action based on an agency request and verified need. SPC staff use approved space standards to ensure consistency across the portfolio. An attempt is made to satisfy the need in owned space or existing lease space. If no existing space is available, SPC staff begins the search for leased space. Real estate should support the mission of the agency and meet specific needs (location, services, specialization, and budget). Mr. Stancil informed the Committee that SPC has reduced space standards by 43 percent by revising square footage and emphasizing function over hierarchy. Benefits include shared spaces for teleworking and field employees and improved work environments for collaboration, team rooms, and huddle areas.

A multi-year lease (MYL) is considered for stable agencies with a sizable need that serves a core function of the agency or state. All multi-year leases require approval of SPC and GSFIC. In most cases, a MYL will be considered a capital lease and therefore must be managed by the SPC, Attorney General, and GSFIC as capital debt. Capital leases are not included in the Constitutional debt limit; however, GSFIC fiscal policy states: MYL and Energy Performance Contracts when added to general obligation debt must not impact the ratio of debt service to prior year's receipts by more than 0.50 percent. GSFIC fiscal policy also sets the planning target limit at 7 percent. Controls in place effective since January 1, 2013: SPC and GSFIC have board-approved policies to ensure proper management of MYL debt; by policy, the procurement of new multi-year leases goes through a public, competitive RFP process; by policy, guidelines have been set for what space requirements warrant a multi-year term; by law, GSFIC annually sets the contract value limit for MYL (FY 2014 = $125M); by law, all multi-year leases must have SPC approval; by law, all new leases are signed by the PSC and the space assigned to the using agency.

Mr. Stancil concluded his testimony by discussing a build-to-suit (BTS). A BTS is a newly-constructed facility built by non-state dollars for long-term use by a state entity or entities. In most cases, the non-state entity secures financing for the project by using the state's lease/rental agreement and payments as collateral. Prior practices for BTS allowed each agency to sign an annual rental agreement with, in some cases, up to 29 one-year renewal options. In most cases, these agreements still created a capital lease obligation, which subjected the state to additional risks without financially benefitting from the long-term obligation. A public, competitive process was not required or guided by policy. No centralized oversight or controls were in place. Currently, a BTS is procured under the same process, and at the same time, as existing space through the public, competitive RFP process. Only SPC and the BOR have the ability to execute a multi-year lease under the guidance of GSFIC and SPC policies. All new leases are executed by SPC as tenant and space is assigned to the user agency. GSFIC guides SPC with fiscal policies and sets annual caps on capital leases as part of the state's debt management plan. The Attorney General's office assisted SPC in creating a new template lease agreement with additional protections for the state.

Mr. Petrangeli questioned Mr. Stancil on how SPC handles maintenance. Mr. Stancil replied that maintenance is not place in the contract. The landlord does his/her own property management. With regards to state-owned properties, maintenance issues are decided on an agency level. Senator Beach commented on the amount of resources spent at DOT to review unsolicited bids. He asked Mr. Stancil if he thought the state should allow unsolicited and solicited bids. Mr. Stancil replied that it is a possibility; however, the SPC does have concerns because the agency has already lost employees to other employment opportunities. It is, however, a workable solution. Senator Hill commented that rating agencies view our leaseholds as debt.

Agencies have different lease terms – would it be better to collaborate and eliminate the different lease terms and have one 20-year term? Mr. Stancil replied that the MYL is used to secure debt, and if the state moves out, the bonds go in default. Smaller spaces are the target with 3-5-year lease terms. Senator Gooch asked what the typical CAP rate is that investors are looking for – eight. Senator Davis remarked that state-owned facilities with current debt present a challenge because the tax-exempt bonds will not allow the buildings to be repurposed. Ms. Ridley commented that the state can sell them through an outright sale; however, usually the debt exceeds the value.

Mr. Chris Williams, with Gleeds USA, provided the Committee with testimony regarding the United Kingdom's experience with P3s. The Private Financing Initiative (PFI), now PF2, was introduced in 1992 in order to engage the private sector in the design, build, finance and operation of public infrastructure, with the aim of delivering good quality and well-maintained assets that provided value for money for the taxpayer. It has been used across a broad range of sectors. Over 700 projects have been completed to date. Total capital costs are equivalent to $88.4 billion, including: 100 hospital schemes; over 100 education projects covering more than 800 schools; 43 transport projects; and over 300 other operational projects in sectors including defense, judicial, leisure, housing, and waste. In the U.K., a private sector provider, through a special purpose company, holds a design-build-finance-operation contract for facilities according to specifications provided by public sector departments. The public sector does not pay for the project's capital costs over the construction period. Over a period of 25-30 years, the private sector is paid an agreed monthly fee by the public body for use of the asset(s). Asset ownership returns to the public body at the end of the concession.

Private sector delivery of public sector assets offers significant benefits to owners: payment is based on delivery performance; capital costs are not paid upfront; the risk is transferred to the most appropriate party; long-term management provides focus on whole life value rather than traditional project delivery; early price certainty; high levels of accountability and transparency; encourages the development of innovative solutions; and an efficient process, with a single point of responsibility. The primary challenges are extended procurement timescales and high bidding costs, particularly for contractors. To overcome these, it is important to: be very clear on what you want to achieve at the outset; ensure bid documentation is clear and concise; develop a comprehensive set of instructions for bidding parties to limit misunderstandings or ambiguity in responses; set up a disciplined approach for engaging with the contractor and their supply chain during the procurement process; and ensure decisions focus on commercial properties for the project. A reworking of PFI was done in 2012 due to concerns over value for money in the public sector and lack of transparency of the financial performance of projects. The main improvements with PF2 are: better value for money for the public sector client; shorter and more efficient procurement process; greater flexibility during the operational period; and introduction of measures to improve transparency and public confidence in projects.

Mr. Ken.., V.P. for P3 projects for Balfour Beatty, provided answers to the following questions: (1) What happens in instances of default of P3s? (2) When does credit impact the state? First, a P3 protects against default because it is a partnership. The levels of risk are negotiated in the agreements. There are provisions in the development agreement and the P3 agreement for what happens in case of default. These requirements will be stipulated in the bond documents. The government agency will work with the financial advisor who will offer suggestions. Ensure that the party the state has chosen has a good track record and can correct default. Second, general obligation debt is based on the full faith and credit of the government agency. He suggested basing bondholder recourse to a dedicated revenue stream (lease, operating income). Liability should be limited to the lease payments that it will be paying. If the entity does not make a payment, the markets would see this as affecting the credit rating. Instance of default is very low.

Mr. Joel Lee provided the Committee with testimony on Georgia's existing social infrastructure. Currently, there is more than 100 million square feet of buildings. Approximately 80 percent are 20 years or older. Facility maintenance is under-invested and/or under-programmed. The Committee should consider that replacing old buildings with new buildings is no longer affordable. Without a change in funding or alternative financing for existing social infrastructure, the backlog of life cycle renewal and deferred maintenance doubles every five years. Using traditional financing (general obligation bonds and revenue bonds) will not stop the cycle of heavier than necessary funding demands on maintaining our aging social infrastructure. Government living longer at the same address is now the norm because of economic limitations.

Public Private Venture (PPV) alternative solutions typically include: the purchase or transfer of ownership of the asset from the government to the PPV; rehabilitation and renewal or, in some cases, re-purposing of the asset; and leasing the refurbished asset to the government for a 20-30 year term with "hand back" provisions at the end of the term to return the asset to the government with an extended life. Benefits include: a large incentive to be maintainable and energy efficient; the capital investment is lower and performance guaranteed; maintenance and life cycle replacement/renewal is guaranteed; and a lower total cost of ownership means savings for the state. Ms. Ridley commented that the state must retire debt on old buildings before a private operator may operate the building. Further, there are constitutional problems with gratuities when transferring buildings.

Mr. Bobby Potter, with the American Insurance Association, encouraged the Committee to ensure that cross references include payment bonds.

COMMITTEE RECOMMENDATIONS

The Committee finds that while Public - Private Partnerships are already legal and utilized by certain state agencies and local governments; there is not currently a standardized framework for all state agencies and local governments to engage in this beneficial method to deliver facilities of a public need. The Committee unanimously agreed that there is a need to streamline the process and create a standard procedure by which state agencies and local governments can engage in this process. As well, there are inadequate resources to develop public infrastructure and government facilities for the benefit of citizens of this state, and there is demonstrated evidence that public-private partnerships can meet these needs by leveraging and supplementing limited public funds available for public projects and providing other benefits to the public. Based on its finding, the Senate Public Private Partnerships Study Committee recommends that Senate Bill 255 pass and be signed into law during the 2014 Legislative Session. This bill authorizes a public entity to receive solicited or unsolicited proposals from private entities for development of projects that meet a public purpose and has been defined as a public need.

(Signatures on file in the Senate Research Office)