

# THE JEFFERSON JOURNAL

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THE THOMAS JEFFERSON INSTITUTE FOR PUBLIC POLICY

## Keep Private Money in Road Projects

By Michael Thompson

5/4/2015 – The potential loss of at least \$300 million in state transportation funds from the failed Route 460 Project (from Hampton Roads to Richmond) served as the catalyst for 2015 reforms to Virginia’s Public-Private Transportation Act (PPTA). Legislation (HB 1886) endorsed by both Governor McAuliffe and the leadership of the Virginia General Assembly was unanimously approved during earlier this year. These changes codify safeguards, recently adopted administratively by the Commonwealth Transportation Board, to make sure another “460” never happens again.

Virginia’s loss of hundreds of millions of taxpayer dollars on 460 is not because it was a true public-private partnership, but because it was not. This failed road project was funded with public funds but had no private funding commitment. Key project financial, traffic, revenue, and environmental risks (including wetlands permits) fell largely on the Commonwealth and the bondholders of the non-profit corporation VDOT created for this project’s debt. This stands in stark contrast to other recent Virginia PPTA projects where the private sector contributed substantial amounts of money and took on significant financial risk of billion-dollar “mega projects.”

The failure of the U.S. 460 project began in 2012, when, many years into a traditional public-private partnership procurement, state leaders suddenly shifted to a design-build project and it was quickly brought to financial close. The taxpayers and the bondholders were completely exposed to the financial risk of the project. Ultimately, the project never received the proper environmental permits. The reforms enacted earlier this year were designed to ensure that Virginia taxpayers could never again be exposed to such risk.

One of the next toll projects to be developed in Virginia is the Interstate 66 HOT Lanes project outside the Beltway in Northern Virginia; another complicated and expensive “mega-project.” Having learned the lessons of 460, most observers expected VDOT to move forward and procure the project as a public-private one, an arrangement through which the state would protect taxpayers by transferring major project costs and risks to the private sector.

However, Secretary of Transportation Aubrey Layne recently advised the Commonwealth Transportation Board that a review is underway to determine *whether to proceed with a public-private partnership or to advance the 66 project as another design-build project*, the same structure used for the failed U.S. 460 project. Under a design-build model, the state would forego the opportunity to attract private equity which would reduce the amount of public funding needed and allow the state to spend its limited transportation money in better ways. Properly using our limited transportation funds as a catalyst for substantial private funding would allow us to build substantially more projects and avoid the troubles of the past.

History on true public-private partnership projects similar to what should be use on the Interstate 66 HOT Lanes suggests that the risk to taxpayers would be substantially lessened. While the Interstate 95 and 495 HOT Lanes projects have helped to relieve congestion in Northern Virginia, they are not yet making a profit. The developer of the Interstate 495 HOT Lanes had to write a check for approximately \$280 million in the first year of operations to strengthen its finances when initial ridership failed to meet projections. Had the project been structured as a design-build project, the state would have had to take \$280 million from other projects in its six-year construction plan to cover that shortfall.

Even if there were no shortfall in toll revenue on a future I-66 project, Virginia taxpayers would still lose with the design-build model because the Commonwealth would take on all responsibility for the long-term project debt. This means Virginia would unnecessarily need to use its scarce debt capacity for the I-66 HOT Lanes project and lose the opportunity to use that capacity on other important projects across the Commonwealth. If a true public-private partnership is used to develop the I-66 HOT Lanes, the private sector would assume that debt, and the Commonwealth would be able to preserve its limited debt capacity.

After announcing the termination of the U.S. 460 contract and the potential loss of \$300 million in state transportation funds, it is mystifying that the state would even consider a similar, high-risk model for the I-66 HOT Lanes project. This is especially true when the I-495/I-95 Hot Lanes should be the example of how to build the I-66 project and keep the taxpayers' risk at a minimum.

Congestion relief is badly needed in the Interstate 66 corridor and it seems clear that a well-designed and executed HOT Lanes project is the way to go. But when it comes to financing that project let's hope our state government recognizes that repeating the mistakes of 460 is not in the public's best interest. A true public private partnership is.

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