The Role of Public-Private Partnerships (PPP) in the Future Provision of Utility Service – An Overview

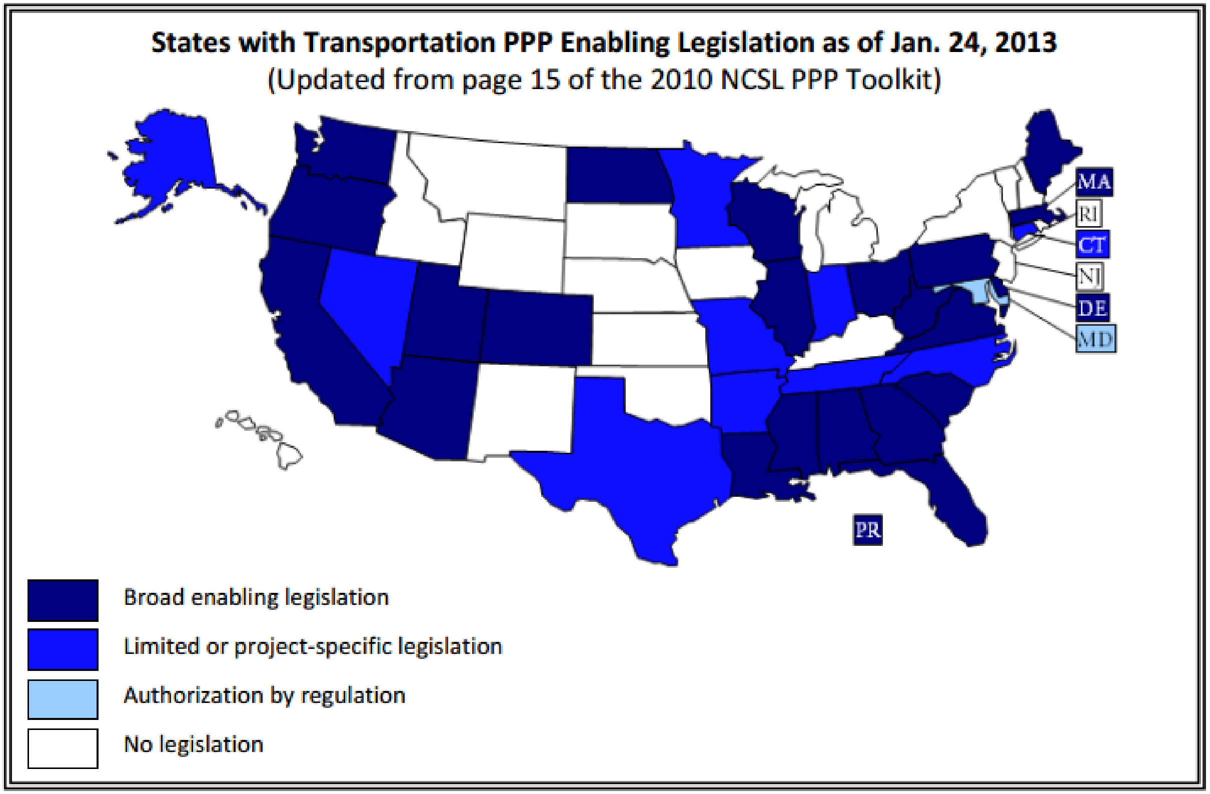
JD Solomon, PE, CMRP

North Carolina State Water Infrastructure Authority (SWIA)
February 20, 2014

P3 Options Becoming More Available

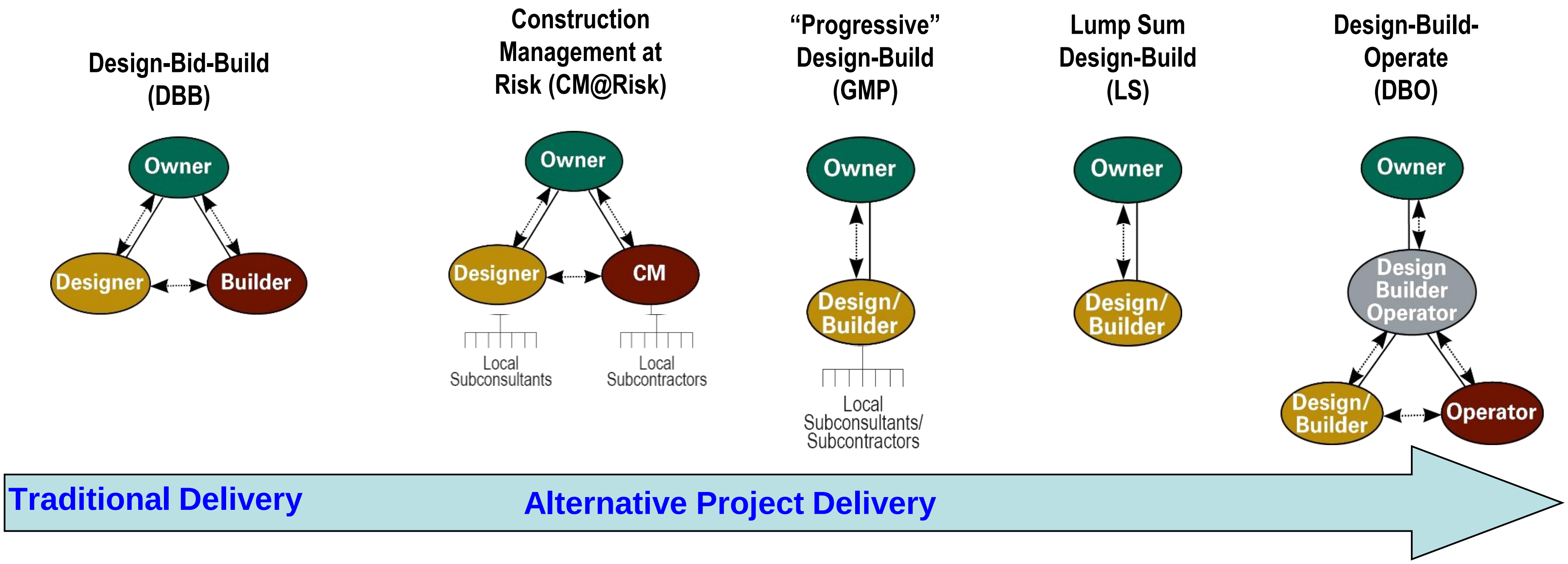
Numerous states have enacted P3 enabling legislation; historically focused on transportation, but most statutes apply for water projects as well.

Center for American Progress estimates at least $60 billion in available funding for infrastructure from public employee and labor pension funds. Infrastructure assets such as water projects offer stable, long-term investment returns AND job creation.



Source: National Conference of State Legislatures 2013

The Spectrum of Infrastructure Delivery



Source: CH2M HILL

PPP Definitions

Public Private Partnership: Public-Private Partnership (PPP) is a contractual arrangement between a public agency (federal, state or local) and a private sector entity. Through this agreement, the skills and assets of each sector (public and private) are shared in delivering a service or facility for the use of the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service and/or facility.

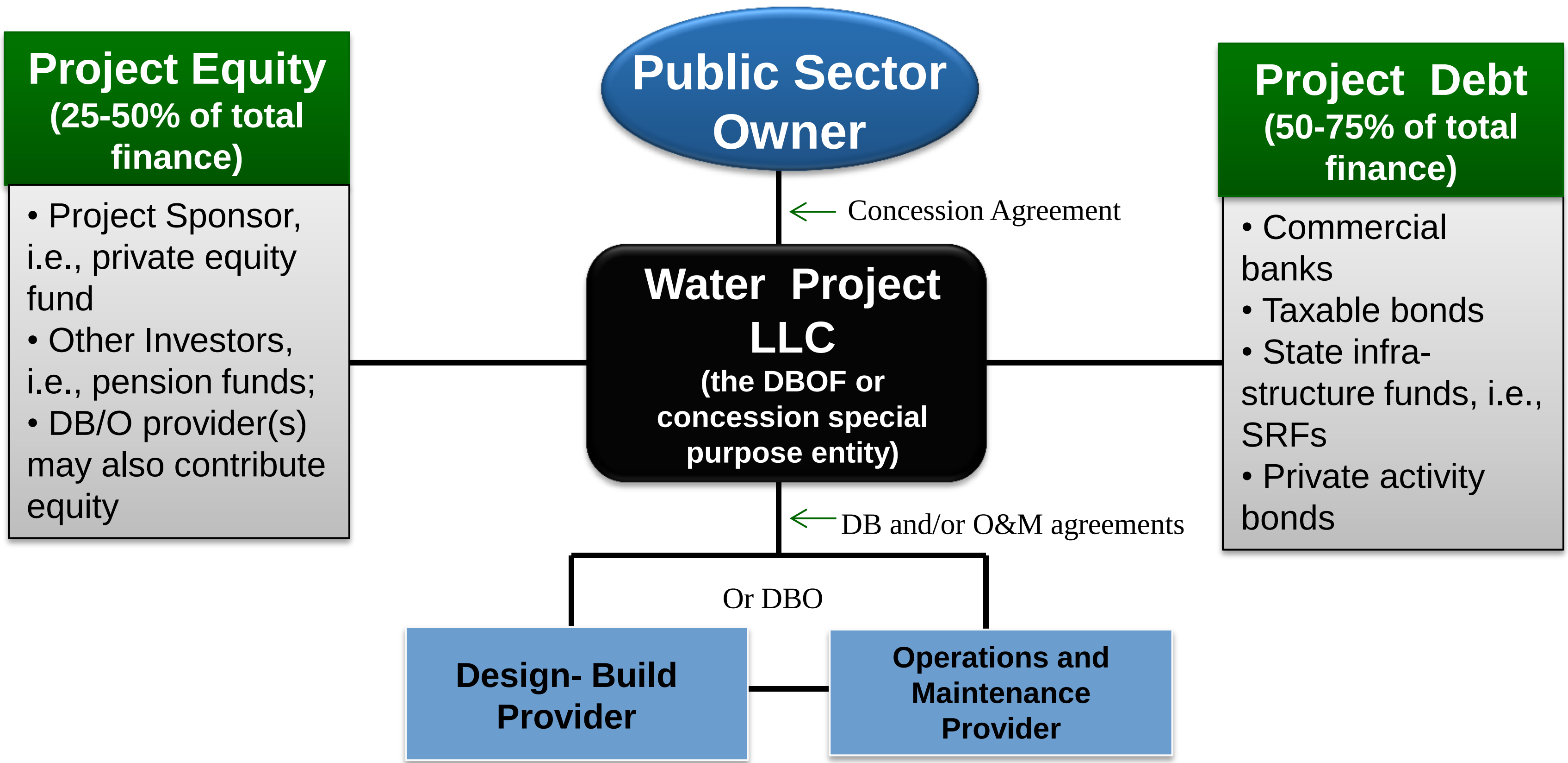
National Council for Public-Private Partnerships

The "finance" is the key component from a practical perspective.

Examples of recent PPP projects or request for interest over past 18 months

How does it work?

Typical DBOF or Concession Structure



Only one core contract for Owner to manage – with the DBOF or concession manager

Source: Brent Deimer/CH2M HILL

Why Alternative Finance?

- Why should we get involved with project finance?
  - Traditional finance options under pressure and alternative finance is increasingly available and cost-effective
  - Our clients are looking for innovative solutions
  - Helping clients solve financing challenges expands our opportunities for program management and large capital project work

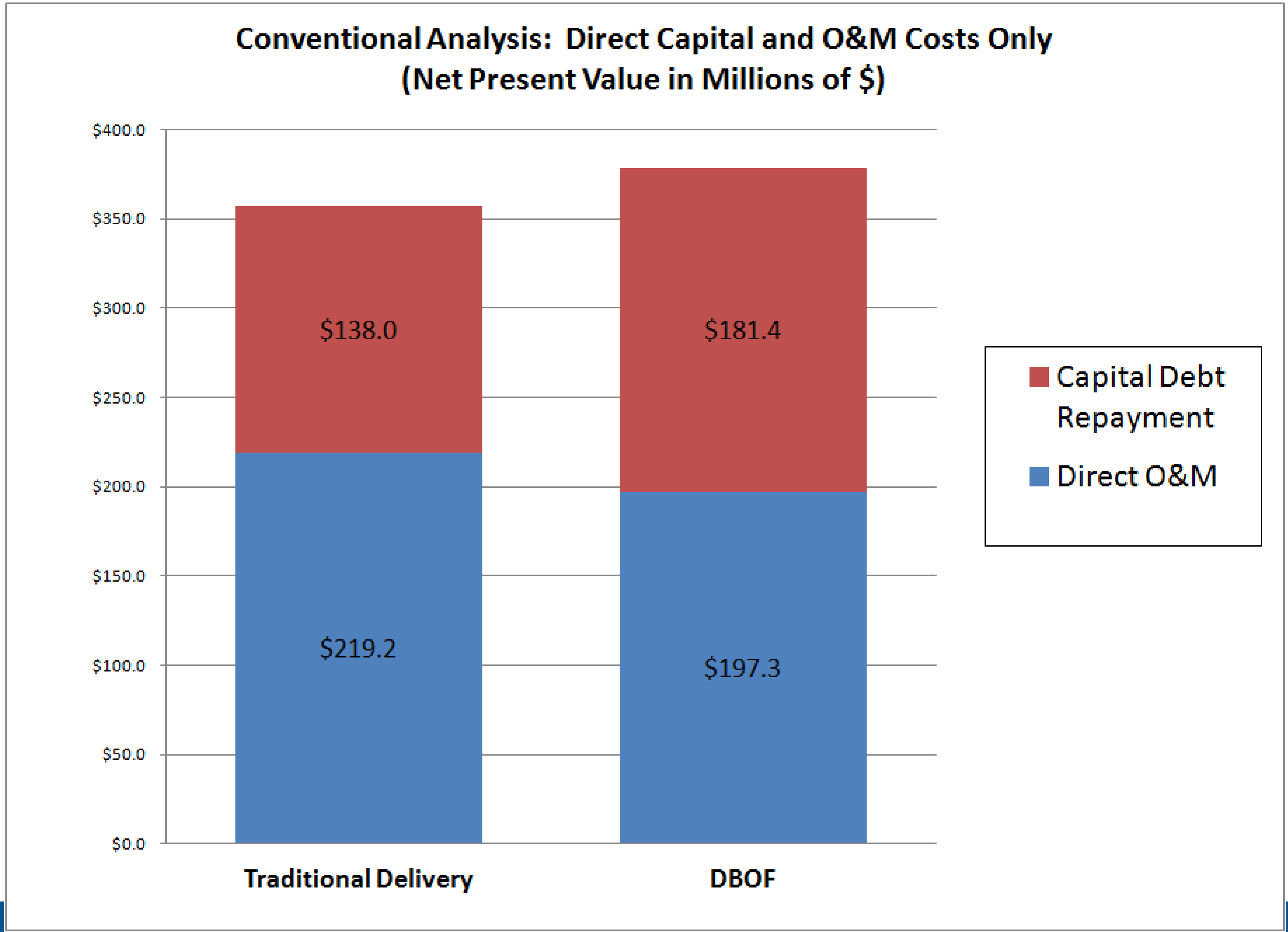
- What are the benefits to owners?
  - Value for money goes beyond finance costs
  - Additional benefits include risk allocation, performance guarantees, access to technical and operational expertise, and rate structure stability

- What projects are candidates?
  - Project evaluation is key to success

Why municipal clients are looking for alternative solutions

- Traditional funding sources– bonds, SRF loans, grants – may be limited
- Credit quality deterioration or bonding capacity limitations
- Competing budget pressures, i.e. pension, health care, and social services costs
- Deferred investment creates more urgent need for water infrastructure expansions or upgrades
- Prospect of rate shock from new investments
- Aging work force increases operational challenges

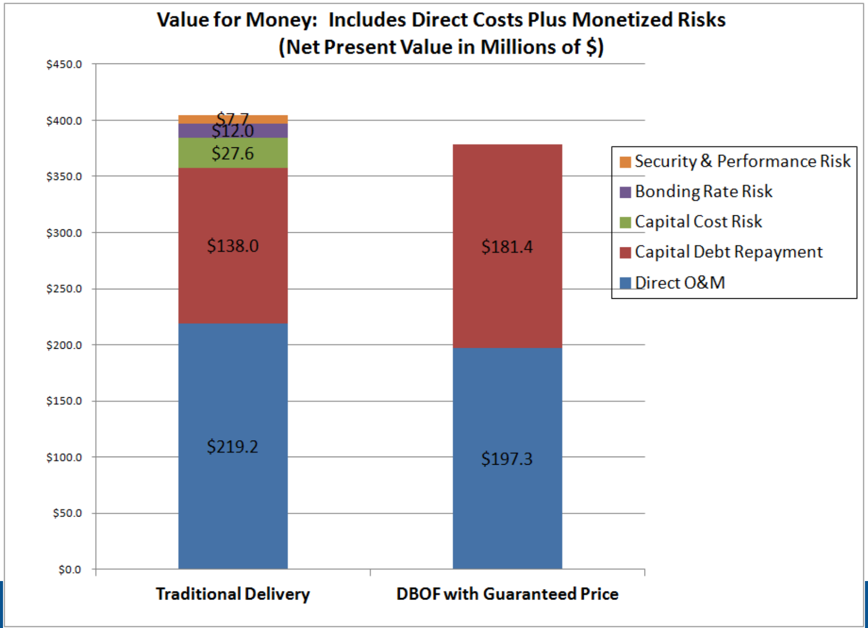
Conventional Financial Analysis



The Full Value of Risk

It might at first glance seem like a no-brainer that higher financing costs rule out the DBOF option. However, the historical evaluation process doesn't factor in cost risks or other risks that can add <u>substantially</u> to the cost of traditional delivery.

- Cost Risk
  - Capital Cost: bid climate uncertainty and change orders
  - Cost of Municipal Borrowing uncertainties
  - Operating Cost: opportunities for savings with private delivery models
- Operating Risk
- Maintenance Risk
- Variable Demand Risk
- Performance Risk
- Security Risk
- Technology Risk
- Credit reduction risk



Design-Build and PPP Legislation in North Carolina

S.L. 2013-401 (House Bill 857)

AN ACT AUTHORIZING PUBLIC CONTRACTS TO UTILIZE THE DESIGN-BUILD METHOD OR PUBLIC-PRIVATE PARTNERSHIP CONSTRUCTION CONTRACTS

Adds three new contracting options:

1) Design Build

2) Design-Build Bridging

3) Public Private Partnerships – Primarily a financing Mechanism rather than a method of construction delivery

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-401
HOUSE BILL 857

AN ACT AUTHORIZING PUBLIC CONTRACTS TO UTILIZE THE DESIGN-BUILD METHOD OR PUBLIC-PRIVATE PARTNERSHIP CONSTRUCTION CONTRACTS.

Whereas, the legislature recognizes that there is a public need for the design, construction, improvement, renovation, and expansion of high-performing public buildings within the State of North Carolina; and

Whereas, the public need may not be, in limited situations, wholly satisfied by existing procurement methods in which public buildings are designed, constructed, improved, renovated, or expanded; and

Whereas, many local governmental entities request special legislative authorization to enter into public-private partnerships and use design-build contracting every legislative session; and

Whereas, in some instances, more efficient delivery of quality design and construction can be realized when a governmental entity is authorized to utilize an integrated approach for the design and construction of a project under one contract with a single point of responsibility; and

Whereas, the design-build integrated approach to project delivery, based upon qualifications and experience, in some instances, can yield improved collaboration among design professionals, builders, and owners throughout the entire process and deliver a quality and cost-efficient building; and

Whereas, certain governmental entities within the State lack the financial resources required to undertake capital building construction projects that are necessary to satisfy critical public needs; and

Whereas, partnerships with private developers may offer an effective financial mechanism for governmental entities to secure public buildings to satisfy critical public needs that cannot otherwise be met; and

Whereas, the legislature recognizes that the general public must have confidence in governmental entities' processes for construction contracting; and

Whereas, the legislature realizes that open competition delivers the best value for taxpayers and public owners; and

Whereas, the legislature seeks to create transparent, fair, and equitable contracting procedures for the use of public funds in government construction contracting; and

Whereas, the legislation proposed in this act is not intended to affect the existing statutes, regulations, or practices relevant to projects administered by the North Carolina Department of Transportation nor licensing requirements of designers or contractors; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-64.31 reads as rewritten:

"**§ 143-64.31. Declaration of public policy.**

(a) It is the public policy of this State and all public subdivisions and Local Governmental Units thereof, except in cases of special emergency involving the health and safety of the people or their property, to announce all requirements for architectural, engineering, ~~surveying and~~surveying, construction management at risk ~~services,~~services, design-build services, and public-private partnership construction services to select firms qualified to provide such services on the basis of demonstrated competence and qualification for the type of professional services required without regard to fee other than unit price

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S.L. 2013-401 (House Bill 857)

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Public Private Partnership Contracts (143.128.1C)

- Private developer. – Any person who has entered into a development contract with a governmental entity under this section.
- Public-private project. – A capital improvement project undertaken for the benefit of a governmental entity and a private developer pursuant to a development contract that includes construction of a public facility or other improvements, including paving, grading, utilities, infrastructure, reconstruction, or repair, and may include both public and private facilities.
- State entity. – The State and every agency, authority, institution, board, commission, bureau, council, department, division, officer, or employee of the State. The term does not include a unit of local government as defined in G.S. 159-7.

S.L. 2013-401 (House Bill 857)

Public Private Partnership Contracts (143.128.1C)

- Calls for public entity to declare in open meeting intention to enter into a Public Private Partnership
- Requires approval of any P3 debt by Local Government Commission or State Treasurer
- Outlines Bond/Lien provisions
- Allows for developers to decide, based on economic and local conditions, what construction delivery model is best used for the proposed project.
- Requires the contract terms with the private developer to be reviewed at a public meeting and be open for public inspection.

Source: PENC

Discussion

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