

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]
ASSEMBLY, No. 2560

with Senate committee amendments

STATE OF NEW JERSEY

DATED: MAY 8, 1997

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2560 (2R) of 1996 with committee amendments.

Assembly Bill No. 2560 (2R), as amended, authorizes the Commissioner of Transportation to select seven transportation projects over the next five fiscal years to be developed as demonstration projects using public-private partnership agreements. The seven projects would be selected from the list of transportation projects for which monies had been appropriated in the annual appropriations act for the fiscal year. If a project is not contained in an annual appropriations act, the bill requires the submission of the project to the Legislature before it is developed as a demonstration project. If the project is not disapproved by the Legislature within the time period specified in the bill, the project is deemed approved. The bill requires all seven projects, however, to be submitted to the Joint Budget Oversight Committee for approval. The bill authorizes a public partner, either the Department of Transportation (DOT) or the New Jersey Transit Corporation (NJTC), to solicit proposals from private or public entities, or consortia of these entities, to plan, design, construct, equip, operate, finance, improve or maintain demonstration projects.

Agreements may provide for full reimbursement to the State for services rendered by the public partner or other State entities or agencies or for the provision of revenues generated to the State. The public partner may enter into financing, funding, and credit agreements on such terms as the commissioner deems favorable to the State to promote the purposes of this bill. Credit agreements would be subject to concurrence by the State Treasurer and financial participation, in the form of loans or other credit arrangements, would be subject to legislative appropriation and the availability of funds.

Agreements may authorize the developer to set and impose rents, fares or user fees for use of a facility constructed by the developer and may provide that the revenues received by the developer be applied to

the repayment of the developer's capital outlay costs, interest expense, costs associated with operations, fare or user fee collection, facility management, reimbursement of State project review and oversight costs, repayment of loans, technical and law enforcement services, and a reasonable return on investment to the developer.

An agreement entered into would require that a developer include public involvement in the development of a demonstration project and periodically provide a forum for users and residents of the affected project area throughout the development and implementation of a demonstration project. Upon entering an agreement, the public partner would publish a notice in a newspaper circulating in the county in which the demonstration project will be located describing the project and the project responsibilities of the developer and the public partner, or in a paper circulating in the region if a demonstration project will be located in more than one county or will have a regional impact.

Demonstration projects constructed by and leased by a developer would be subject to traffic and other laws applicable to the State transportation system. Demonstration projects would be subject to all applicable environmental requirements and all other applicable State and federal laws and regulations necessary for the protection of the public health, safety and welfare.

The bill provides that all absolute and qualified immunities and defenses provided to the State and State employees will apply to all interests held and activities performed by the DOT, the NJTC and other State agencies in connection with demonstration projects. The bill also authorizes the public partner to enter into indemnification agreements in connection with the demonstration project.

As amended and reported, this bill is identical to Senate Bill No. 1746 (1R) of 1997 (Ciesla/ Cardinale) as amended and reported by this committee on May 8, 1997.

COMMITTEE AMENDMENTS

The committee amended the bill to correct the title of the bill; define "project agreement" and "demonstration project agreement"; require the approval of the Joint Budget Oversight Committee for each project; limit oversight of fares and users fees by the public partner only when public monies are provided to a developer for 10% or more of operating expenses; and require adherence to contract advertising, pre-qualification, bidding and awarding regulations in certain cases.

FISCAL IMPACT

The fiscal impact of the bill cannot be determined at this time. The impact will depend on the projects selected, their total direct costs and revenues and their incidental revenue impacts on long term State economic development.