

## WHAT OTHER STATES ARE DOING

From FHWA: “Many states have legislation inhibiting public-private partnerships. This type of legislation ranges from requirements for low bid awards on construction contracts and prohibitions against design/build or outsourcing certain agency functions. In addition, there may also be prohibitions against tolling or co-mingling public and private funds.”

- As of August 2006:
  - 21 states and one U.S. territory have passed legislation providing the legal authority for private sector participation in transportation projects to varying degrees; and,
  - 38 states have laws allowing the use of design-build;
- “In most states, the authority to develop toll roads is limited to special public authorities. New enabling legislation may be needed to expand and transfer these powers.”
- FHWA recommends using specific legislation, even in states where PPP arrangements are not specifically prohibited, to minimize the risks of lawsuits and delays. [Federal Highway Administration, Public-Private Partnerships, <http://www.fhwa.dot.gov/ppp/>]

**Listed below are projects and transportation planning divided by state.**

## CALIFORNIA

### **Orange County, California was forced to buy back a lease at a much higher rate. State Route 91 or 91 Express Lanes**

- California Private Transportation Company, partly owned by Compagnie Financiere et Industrielle des Autoroutes of France, built and ran the toll road for \$130 million. Part of Route 91, the road opened in 1995.
- Orange County bought the road back seven years later for \$207.5 million. The County was forced to buy the road back because it could not build more roads due to a noncompete provision in the contract.
- The toll road uses variable congestion pricing. Tolls vary during the day depending on traffic volumes, directional flow and other factors.
- [California Department of Transportation, <http://www.dot.ca.gov/>; AP, Miller, 7/15/06; USC Keston Institute for Public Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07]

### **South Bay Expressway in San Diego**

- State Route 125, an eight-mile toll road near San Diego. The road was concessioned for 45 years to California Transportation Ventures in 1991.
- Construction began in 2003 after being held up by lawsuits and environmental permitting. The road officially opened in 2007.
- California Transportation Ventures, a subsidiary of Macquarie, managed the project through the permitting and environmental clearance. Macquarie financed the road. [San Diego Daily Transcript, Biberman, 11/16/07; California Department of Transportation, <http://www.dot.ca.gov/>]

## **FLORIDA**

### **First Coast Outer Beltway around Jacksonville, Florida**

- The First Coast Outer Beltway around Jacksonville, Florida was postponed in April 2008. The Florida Department of Transportation (FDOT) postponed the project pending resolution of a number of issues.
- "The First Coast Outer Beltway is proposed as a four-lane limited access toll road that would connect Interstate 10 on the west side of Jacksonville and Interstate 95 in northern St. Johns County. The 46.5 mile long roadway would include a new bridge over the St. Johns River in the vicinity of the Shands Bridge and 13 interchanges. It is proposed as a public-private partnership in which private concessionaires are solicited to build, operate and maintain, thus saving the state money and allowing it to be built sooner than if using just state funds." [Florida Department of Transportation Press Release, 4/30/08, <http://www.fdotfirstcoastouterbeltway.com>]

## **GEORGIA**

### **Georgia is conducting a study to examine the state's floundering toll road program.**

- Hired a private consultant, McKinsey & Co., for up to \$2.5 million to develop the state transportation strategy Gov. Sonny Perdue announced two weeks ago. Assignment includes identifying policies and governance structures; evaluating transportation building programs and how to pay for them; and suggesting what to do about the state's floundering toll road program. [Atlanta Journal-Constitution, Hart, 6/30/08]

## **ILLINOIS**

### **Chicago Skyway in Chicago, Illinois**

- In 2004, the City of Chicago leased the Chicago Skyway to private investors for 99 years in exchange for an upfront cash payment of \$1.83 billion.

- The Skyway Concession Company is a partnership between Cintra and Macquarie Infrastructure Group.
- Chicago used that money to pay off Skyway debt, relieve numerous burdens in the city budget, contribute to other non-transportation programs, and create a reserve fund. [USC Keston Institute for Public Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07]

**Illinois does not have enabling legislation that allows PPP for transportation investments.**

- The Illinois General Assembly commissioned a study to assess the monetized value of the Illinois State Toll Highway Authority (ISTHA) system (as a whole and by segment) under different types of PPP strategies (e.g., concessions, Initial Public Offerings (IPO)). [USC Keston Institute for Public Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07]

**There has been public opposition to privatizing the Illinois Toll Road.**

- “A proposal to consider privatizing the Illinois Toll Road led to widespread public opposition and open skepticism on the part of elected officials, and for the moment the proposal would appear to be unlikely to advance any further.” [National Surface Transportation Policy and Revenue Study Commission, *Commission Briefing Paper 5A-04; Evaluation of Tolls as a Transportation Revenue Source*, 1/12/07]

[http://www.transportationfortomorrow.org/final\\_report/volume\\_3\\_html/technical\\_iss\\_ues\\_papers/paper.aspx?name=5a\\_04](http://www.transportationfortomorrow.org/final_report/volume_3_html/technical_iss_ues_papers/paper.aspx?name=5a_04)

## INDIANA

**Indiana Toll Road**

- Indiana Toll Road Concession Co. operates the 157-mile toll road in northern Indiana. The company planned to donate \$15,000 to the Indiana National Guard Relief Fund, using 15 cents from every vehicle on the toll road over a four-day period. [Indianapolis Star, 7/1/08]
- Indiana leased its toll road to foreign investors for \$3.8 billion, almost twice as much as analysts expected, allowing the State to fully fund its long-range “Major Move” transportation plan.
- The 75-year lease includes a noncompete clause, which prohibits the state from building a new four-lane limited-access highway within 10 miles on either side of the toll road.
- The Indiana Toll Road lease was the result of a study conducted by INDOT.
- “The lease contract was signed by mid-April 2006, although the facility transfer was not completed until the end of June 2006. A lawsuit challenging the constitutionality of the deal was filed shortly after the legislation passed, but the Indiana Supreme court upheld the deal.” [USC Keston Institute for Public

Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07]

### **Illiana Expressway**

- “The controversy that surrounded the Indiana Toll Road deal has influenced both Indiana and Illinois’ forays into additional long-term concessions.
- In late 2006, Indiana’s Governor Daniels proposed two toll projects as PPPs, the Illiana Expressway, and the Commerce Corridor. The proposed Illiana Expressway would be a toll road between I-57 in Illinois through I-65 in Indiana to I-94 near Michigan City.
- The proposed Commerce Corridor is an outer belt along the eastern and southern outskirts of Indianapolis.
- Public hearings were conducted starting in January 2007 to present both projects, and were well attended by concerned residents.
- In March 2007, both the Commerce Corridor and the Illiana segment between I-65 and I-94 were removed from consideration due to significant public opposition, mainly due to potential land taking.
- The public expressed concerns about the use of eminent domain for a project involving the private sector, effects on rural life, and the loss of farmland.
- The Illiana project is being supported by business leaders, based on expected economic development and tourism growth.
- Legislation directing the Indiana DOT to study the feasibility of the Illiana Expressway between I-65 and I-57, including an assessment of potential funding options, was recently approved by the Indiana Legislature. According to the Times of Northwest Indiana, the Illiana study cannot consider private financing.” [USC Keston Institute for Public Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07]

## **MISSISSIPPI**

### **Jackson**

- The Mississippi Highway Department is planning a toll road from downtown Jackson to Jackson-Evers Airport.
- Construction is set to begin in February 2010.
- “Congress earmarked about \$35 million for the project. Last December, Brown reported that the Airport Parkway Commission has spent about \$13 million on engineering and design services, and about \$15 million on right-of-way acquisition in Rankin County, which amounted to about 40 percent of the acquisition necessary to continue the project.”
- Some opponents have questioned whether a private company would meet the return on its investment since there are at least five other roads from the airport to Jackson for free. [Jackson Free Press, Lynch, 5/28/08]

## MISSOURI

### New Mississippi River Bridge Project

- Joint project with Illinois Department of Transportation for a toll bridge across the Mississippi River between the two states.
- “The two states lacked sufficient funding to construct all components of the project at the same time. The estimated cost of the Ultimate Project Concept is between \$1.8 billion and \$2.2 billion. The scope of work announced on February 28, 2008, is the first phase of the project. This phase is operationally independent since it can be funded and built to function as a viable transportation facility.”  
[New Mississippi River Bridge Project, <http://www.newriverbridge.org/> ]

## NEW HAMPSHIRE

### Transportation Planning

- The governor signed a 10-year transportation plan into law July 2, 2008. [Foster's Daily Democrat, 7/1/08]

## OREGON

**Oregon has provisions for public private partnerships.** Oregon Innovative Partnerships Program signed an agreement with the Oregon Transportation Group to develop public-private partnership transportation projects. [Oregon Department of Transportation, Office of Innovative Partnerships and Alternative Funding, <http://www.oregon.gov/ODOT/HWY/OIPP/> ]

### **Oregon conducted a study to use a fee for miles traveled instead of gas taxes.**

- In 2001, the Oregon Legislature established the Road User Fee Task Force, which recommended that the Oregon Department of Transportation (ODOT) conduct a pilot program to study The Oregon Mileage Fee Concept.
- 12-month pilot program was conducted in April of 2006.
- The purpose of the program was to examine the feasibility of replacing the gas tax with a mileage based fee collected at fueling stations and the possibility of using the system to collect congestion charges.
- Results from the final report of the pilot program showed:
  - **“The concept is viable.** By using existing technology in new ways, a mileage fee could be implemented to replace the gas tax as the principal revenue source for road funding.
  - **Paying at the pump works.** The pilot program showed that the mileage fee could be paid at the pump, with minimal difference in process or administration for the motorist compared to how they pay for gas.
  - **The mileage fee can be phased in.** The study showed that the mileage fee could be phased in gradually alongside the gas tax, allowing non-

equipped vehicles to continue paying the gas tax, while equipped vehicles could pay the mileage fee. Retrofitting vehicles would likely be too expensive and difficult.

- **Integration with current systems can be achieved.** The study demonstrated the ability to integrate with two main existing systems: the service station point-of-sale (POS) system and the current system of gas tax collection by the state.
- **Congestion and other pricing options are viable.** The study showed that different pricing zones could be established electronically and the assigned fees could be charged for driving in each zone, even at particular times of day. This proves the mileage fee concept could support not only congestion pricing but also assessment and collection of local revenues and other “zone-oriented” features. Furthermore, the area pricing strategy applied in the pilot program produced a 22 percent decline in driving during peak periods.
- **Privacy is protected.** Many levels of privacy protection can theoretically be implemented in a system similar to that used in the pilot program. There is a trade-off between privacy and information stored for enforcement, and dispute resolution. ODOT developed the system used in the pilot program with specific engineering requirements to maintain as much privacy as practicable while still allowing a feasible way to audit and challenge billings. Key privacy related requirements for the pilot program were:
  - No point location data could be stored or transmitted
  - All on-vehicle device communication must be short range
  - The only centrally stored data needed to assess mileage fees was vehicle identification, zone mileage totals for each vehicle and the amount of fuel purchased
- **Minimal burden on business.** While distributors and gas stations bear some new accounting burdens, administration is essentially automated and can be integrated easily into existing transaction processes.
- **Minimal evasion potential.** Tampering with the on-vehicle device would result in default payment of the gas tax. The difference between gas taxes and mileage fees would likely to be very small, providing very little incentive to try to evade the basic mileage fee. The eventual fee level, onvehicle engineering, fee structure, fuel tax rates, and penalties for tampering will determine the degree to which equipment tampering will occur.
- **Low cost to implement and administer.** Costs are associated in three areas: service stations, on-vehicle and DOT administration. Service station capital costs include the equipment while operating costs include communications with a central database and modifications to point-of-sale systems. Onvehicle capital costs will be determined by auto manufacturers and included in the price of new vehicles. ODOT will incur operating costs for auditing and providing technical assistance to service stations and

motorists. Auditing should cost \$1.0 million annually, a small fraction of expected annual mileage fee revenue.

- **Next Steps:**
  - Conduct additional development and testing to prepare for full implementation.
  - ODOT must work with world class technology firms and the automobile manufacturers to refine the on-vehicle technology and work with the fuel distribution industry to insure the ease of mileage fee transactions at the fuel pump.
  - ODOT must expand the concept to include home fueling collections and multi-state integration.
  - ODOT must also develop cost estimates for full implementation, which could occur within the next 10 years.” [Oregon Department of Transportation, “Oregon’s Mileage Fee Concept and Road User Fee Pilot Program Final Report,” 11/07]

## SOUTH CAROLINA

**Greenville, South Carolina is considering changing toll road operated by non-profit to a concession lease agreement.**

- Tolls have faltered, and the state is considering using a concessionaire.
- “The Connector 2000 Association (C2000A) has a 50 year license to operate the toll road from the SCDOT. The not-for-profit like most such outfits was formed by a group of development companies who got paid for their work in planning, designing and building the road and who handed it over to the not-for-profit on opening to operate as a business. The developer was Interwest Carolina Transportation Group LLC, consisting of Interwest Management, Kutok Rock, Wilbur Smith Associates, Thrift Brothers, Florence & Hutchinson, Mesirow Financial, and Lehman Brothers.”
- In May 2008, the Connector 2000 Association announced a delay in requesting proposals for a private sector takeover through a toll concession in order to conduct a traffic and revenue study. [Southern Connector Toll Road, <http://www.southernconnector.com/>; Toll Roads News, <http://www.tollroadsnews.com/node/3533>]

## TENNESSEE

### **Transportation Planning**

- The Tennessee Legislature passed a law to allow public private partnerships in the state and approved two pilot toll projects for roads and bridges.
- “The Tennessee Tollway Act of 2007 gives the state government authority to enter into contracts with a private party for the purposes of developing or operating a tollway or toll facility. No express provision regarding the solicitation

or acceptance of unsolicited proposals. The initial number of tollway projects is limited to two. While existing or partially constructed highways cannot be converted into toll roads, additional lane capacity constructed on or along an existing highway or bridge may be developed and operated like a tollway. Prior legislative approval is required when an individual PPP proposal is received.” [Federal Highway Administration, Public-Private Partnerships, <http://www.fhwa.dot.gov/ppp/>; Knoxville News-Sentinel, Ferrar, 8/5/08]

**Knoxville Parkway was cancelled due to public opposition to the toll road.**

- The proposed Route 475 would connect I-40/I-75 southwest of Knoxville to I-75 north of Knoxville. The route would allow vehicles to travel without having to use the two crowded routes that lead into downtown Knoxville.
- TDOT cited citizen opposition as the reason for not continuing plans to make the proposed Knoxville Parkway a toll road. TDOT said that other work toward construction of the road would continue. [Tennessee Department of Transportation, <http://www.tdot.state.tn.us/sr475/default.htm>; Knoxville News-Sentinel, Ferrar, 8/5/08]

## TEXAS

**Transportation planning in Texas involves federal, state, and regional groups.**

**The Texas Legislature passed a moratorium on privately financed toll roads in 2007.**

- The law included a two-year moratorium and created a special joint legislative study commission
- The moratorium lasts until September 1, 2009, but has several limitations and exclusions.
- It essentially prohibits PPP toll road concessions with private parties, unless the project is exempted in the bill.
- “Legislators revisited a 2003 law that many felt had hidden consequences, such as allowing private firms to take over large swaths of the state highway system, stripping property owners of their land and discouraging public entities from competing for toll projects.”
- [The Dallas Morning News, Hoppe and Batsell, 6/11/07; Baker Botts LLP, “Texas Legislature Enacts Moratorium on Privately-Managed Toll Roads,” June 13, 2007]

**The Texas Transportation Commission issued Toll Building Principles in May 2008.**

- The Texas Transportation Commission oversees the Texas Department of Transportation. The board consists of five members appointed by the governor.
- Key Issues:
  - Texas must completely own all state highway facilities at all times.
  - Contracts must have a “buy-back” provision to allow the state to purchase the interest of a private developer if doing so is in the best interest of the state.

- The Texas Transportation Commission shall approve initial toll rates in a public meeting. It must also approve the method for increasing tolls.
- Only new lanes added to an existing highway will be tolled. Reduction in the number of non-tolled lanes that exists today is prohibited.
- Agreements will not include non-compete clauses that ban improvements to existing highways.
- “TxDOT will always consider the use of existing right of way that satisfies the purpose and need of the project as a possible project location when conducting environmental studies.”
- “To the extent practical, TxDOT shall plan and design facilities so that a landowner's property is not severed into two or more separate tracts and the original shape of the property is preserved.” [Texas Department of Transportation, News Release: “Transportation Commission Affirms Toll Road Building Principles,” 5/29/08; <http://www.txdot.gov/>]

### **Texas Department of Transportation**

**Texas Turnpike Authority**, a division within TxDOT.

Toll road systems include:

- **Loop 49** (operated by North East Texas Regional Mobility Authority)
- **Camino Colombia Toll Road**
- **North Texas Tollway Authority (NTTA)** includes the following toll roads:
  - Dallas North Tollway (DNT)
  - President George Bush Turnpike (PGBT)
  - Addison Airport Toll Tunnel (AATT)
  - Mountain Creek Lake Bridge (MCLB)
  - State Highway 121 in Collin, Dallas and Denton counties
    - Toll operations of SH 121 transferred from the Texas Department of Transportation (Texas Tollways) to NTTA in April of 2008 [North Texas Tollway Authority, <http://www.ntta.org/>]
- **Central Texas Turnpike System (CTTS)** includes the following toll roads:
  - SH 130
    - Part of 2002 Project; begins north of Georgetown, Texas and runs to US 183 in southeast Travis County (will extend to I-10 when funding is available)
  - SH 45
    - Part of 2002 Project;
  - Loop 1 Extension
    - Part of 2002 Project;
  - 183 A
    - Also under Central Texas Regional Mobility Authority. [Central Texas Turnpike System, <http://www.centraltexasturnpike.org/>; Central Texas Regional Mobility Authority, <http://www.mobilityauthority.com/> ]
- **Harris County Toll Road Authority** includes the following toll roads:
  - Sam Houston Parkway, State Highway Beltway 8

- Beltway 8, a state highway, runs mostly along the frontage roads, only using the main lanes where they are free (mostly on the north side of Houston). The main lanes elsewhere are the Sam Houston Tollway, a toll road. East of Houston, the Tollway crosses the Houston Ship Channel on the Jesse H. Jones Memorial Bridge, a toll bridge; this forms a gap in Beltway 8 between Interstate Highway 10 (Baytown-East Freeway) and State Highway 225 (La Porte Freeway).
  - Westpark Tollway
    - Opened in 2004, the Westpark Tollway spans a total of 19 miles through Harris and Fort Bend Counties.
    - Was the nation's first all-electronic roadway providing a barrier-free drive between Houston's Galleria district and Katy, TX.
    - In 2005, Fort Bend County completed its extension of the toll road.
  - Hardy Toll Road
    - Runs from Interstate 45, north of Houston, to Interstate 610, near central Houston.
    - Construction on the toll road started in September 1984 and the entire road was complete by June 1988. [Harris County Toll Road Authority, <https://www.hctra.org/> ]
- **Regional Mobility Authorities (RMA) are local independent government agencies, formed by one or more counties to finance, acquire, design, construct, operate, maintain, expand or extend transportation projects. These projects may be tolled or non-tolled. List of RMAs:**
  - Alamo Regional Mobility Authority  
San Antonio and surrounding areas (Bexar County)
  - Cameron County Regional Mobility Authority  
Brownsville, South Padre and surrounding areas (Cameron County)
  - Amino Real RMA, El Paso, Texas 79901 Chair: Raymond L. Telles
  - Central Texas Regional Mobility Authority  
Austin, Round Rock and surrounding areas (Travis and Williamson counties)
  - Grayson County Regional Mobility Authority  
Sherman and surrounding areas (Grayson County)
  - Hidalgo County Regional Mobility Authority  
McAllen, Pharr, and surrounding areas (Hidalgo County)
  - North East Texas Regional Mobility Authority
    - Tyler, Longview and surrounding areas (Smith, Gregg, Cherokee, Rusk, Harrison and Upshur counties)
    - Loop 49
    - In February 2008, NET RMA passed a resolution to conduct a feasibility study for a Vehicle Miles Traveled fee, a mileage-based system.

- Sulphur River RMA (SURRMA) in Paris, TX. [Texas Department of Transportation, <http://www.txdot.gov/> ; North East Texas Regional Mobility Authority, <http://www.netrma.org/>]

### **Camino Colombia Toll Road near Laredo Texas**

- Local landowners formed Camino Columbia Inc. in the mid-nineties to build Camino Columbia Toll Road. The road opened in 2000, but was foreclosed and auctioned after a few years.
- TxDOT bought the road at a deep discount, and it re-opened in September 2004. [USC Keston Institute for Public Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07; Texas Department of Transportation, <http://www.txdot.gov/>]

### **Trans-Texas Corridor**

- Cintra-Zachry consortium proposed investing \$7.2 billion to develop the approximately 600-mile, Oklahoma to Mexico portion of the Trans-Texas Corridor. [U.S. DOT Press Release, 3/11/05]
- “Plans call for the TTC to be completed in phases over the next 50 years with routes prioritized according to Texas’ transportation needs. TxDOT will oversee planning, construction and ongoing maintenance, although private vendors will be responsible for much of the daily operations.” [Texas Department of Transportation, <http://www.txdot.gov/>]
- “An estimated \$6 billion of that total would fund construction of the all-new four-lane toll road; the other \$1.2 billion would be a franchise fee, paid out in installments during the construction period, in exchange for the right to toll the project for 50 years.” [Reason Foundation, Annual Privatization Report 2005, [http://www.reason.org/apr2005/surface\\_transportation.shtml#feature2](http://www.reason.org/apr2005/surface_transportation.shtml#feature2)]

Texas Department of Transportation websites:

<http://www.txdot.gov/>

<http://www.keeptexasmoving.com/>

<http://www.texasollways.com/>

## **VIRGINIA**

### **The Dulles Greenway outside Washington D.C.**

#### **Pocahontas Parkway outside Richmond State Route 895**

- Concessions to the Pocahontas Parkway Association, a not-for-profit corporation, the road opened in 2002.
- Traffic and revenue were lower than expectations, and the state sold a concession to Transurban, an Australian-based company, for 99 years and \$611 million. Transurban agreed to pay all of the Parkway’s existing debt. [Bloomberg, 5/3/06]

## Silver Line (Washington Metro) outside Washington D.C.

[Virginia Department of Transportation, <http://www.virginiadot.org/projects/>]

# RESOURCES

## Organizations and Studies

- US Department of Transportation, Federal Highway Administration, Public-Private Partnerships, <http://www.fhwa.dot.gov/ppp/>
- National Surface Transportation Policy and Revenue Study Commission, <http://www.transportationfortomorrow.org/>
  - Commission created by Congress in 2005
  - Final report released in January 2008
- National Council for Public-Private Partnerships, <http://www.ncppp.org/>
  - Formerly known as Privatization Council
- American Association of State Highway & Transportation Officials, <http://www.innovativefinance.org/>
  - Site supported by the Federal Highway Administration and the National Cooperative Highway Research Program.
- Reason Foundation, <http://www.reason.org/>
  - Annual Privatization Report 2005, [http://www.reason.org/apr2005/surface\\_transportation.shtml#feature2](http://www.reason.org/apr2005/surface_transportation.shtml#feature2)
- Toll Roads News, compiled by Peter Samuel in Maryland, <http://www.tollroadsnews.com/>
- USC Keston Institute for Public Finance and Infrastructure Policy, *Protecting the Public Interest: The Role of Long-Term Concession Agreements for Providing Transportation Infrastructure*, 06/07  
<http://www.usc.edu/schools/sppd/keston/pdf/20070618-trans-concession-agreements.pdf>
- *Current Practices in Public-Private Partnerships for Highways*, Presented by KCI Technologies for Maryland, June 22, 2005  
<http://www.mdt.state.md.us/mdta/servlet/dispatchServlet?url=/About/currentpractice.pdf>