



Public – Private Partnerships [P3]

A perspective presented by the Pa State Association of Boroughs

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House Bill 1838 (PN2670)

Good Morning and thank you for the opportunity to offer comments on the innovative procurement concepts embedded in **House Bill 1838** known as *Public-Private partnerships* or in short, P3's. For over a century PSAB has sought to fulfill its statutory role as the recognized advocate and champion for borough government interests. We have met this mission in several ways by advancing legislation, providing education and fostering communication with state and federal officials. Today we have been invited to present to the House State Government committee our views regarding a novel concept to local governments in our commonwealth, which has the opportunity to impact our procurement practices as never before.

The P3 or Public Private Partnership, as its sponsor indicates, seeks to harness the expertise of the private sector regarding procurement and/or services while responsibly leveraging public sector resources. This concept is indeed innovative to say the least. While it has had success in other states, it remains to be seen how Pennsylvania will implement such practices at the local level. I point to the local level as that is where **House Bill 1838**, as written will find the most challenge in manifesting its changes.

To illustrate some of those challenges the P3 concept is certain to encounter I would first posit the dynamics of governance many of us face at the municipal level. Implementing creative solutions to situations in our borough communities involves various checks and balances concerning existing state & local government codes. These are the areas that HB1838 engages, yet may be in need of more clarity for suitable project implementation. In a cursory read of the legislation, further clarity will be required by lawmakers to reach the goals of the bill. To briefly touch upon these needed steps I would cite a select list of laws/codes or regulations impacted by the bill. Among the laws or regulations impacted by the bill, probably what is the first dynamic to consider is how it will square with existing procurement law. In the bill there are two mechanisms to project submission and acquisition: *solicited* and *unsolicited*. Wherein, the question of appropriate guidelines remains. Further, under Right-to-Know regarding the solicitation process as well as the awardees of projects, clarity is needed. Following is the implementation of any agreement and the subsequent operation of project with the areas of liability, jurisdiction and defaults. While the bill lays out a process for disputes, it further engages such touchstone issues as the role of the PUC, governmental immunity, public use dedication and intellectual property. Lastly, each municipal code is cited by the bill as non-operative regarding these projects.

In all, **House Bill 1838** takes bold steps in its goal of innovative procurement and the provision of services. PSAB applauds these goals and commits to working toward the concepts contained in HB1838. We believe the commonwealth and its citizens to be best served by comprehensive engagement and implementation of P3 legislation in a timely and circumspect manner. *Thank you.*