

**JTC P3 Work Group  
Preliminary Report  
December 15, 2023**

**Background**

Washington state enacted its first Public Private Partnership (P3) law in 1993, becoming the second state in the nation to authorize the use of P3s to develop transportation projects. After modifying the original P3 agreement to allow completion of the Tacoma Narrows Bridge P3 project, in 2005, the Legislature enacted a new P3 law ([RCW 47.29](#)). Drawing on lessons learned from Washington’s first experience with P3s, the 2005 law institutionalized the use of state-issued debt for all future P3 projects and prescribed an extensive review process for all proposed P3 projects, regardless of size or type. However, this new law did not result in any subsequent P3 projects.

In 2012, the Joint Transportation Committee (JTC) completed a study of the 2005 law and WSDOT’s P3 program, making several recommendations for change. While a few of the recommendations were adopted, most were not. To date, no P3 transportation projects have been completed under the 2005 law.

In 2023, the Legislature directed the JTC to convene a Work Group to update the 2012 JTC P3 findings and recommendations with any necessary changes and to develop a legislative framework and draft legislation that balances public and private interests in P3s. This preliminary report, along with forthcoming draft legislation, are submitted to the Legislature prior to the 2024 session. A Final Report, along with an implementation plan, are due to the JTC no later than July 1, 2024.

**Work Group members:**

Representative Jake Fey	Senator Marko Liias
Representative Ed Orcutt	Senator Curtis King
Debbie Driver, Governor’s Senior Policy Advisor	Anthony Buckley, Director of Innovative Partnerships, Washington State Department of Transportation
Jason Richter, Deputy Treasurer, Office of the State Treasurer	Lisa Buglione, Executive Director, Association for the Improvement of American Infrastructure
Geoff Owen, Kiewit Construction (representing Associated General Contractors of Washington)	Jennifer Ziegler, National Construction Alliance (representing building trades)

**Primary Tasks:**

CDM Smith, Inc., along with BERK Consulting, were tasked with researching, developing briefing materials, making presentations, and facilitating the Work Group’s deliberations. The primary tasks during this phase of work included:

- Providing background materials on P3s in the U.S., including best practices and case studies from other jurisdictions.

- Reviewing the 2012 JTC P3 study findings and recommendations and identifying areas to update.
- Analyzing Washington’s current P3 law (RCW 47.29, enacted in 2005), and identifying provisions from that statute that have deterred potential P3 projects.
- Conducting consultations with Work Group members and potentially affected state agencies.
- Based on Work Group feedback, developing a legislative framework for a new P3 law in Washington and draft legislation.

**P3 Work Group Meetings, Discussions, and Materials**

Three Work Group meetings were held between September and December 2023. Themes of each meeting are summarized below, along with links to the information and materials presented:

<b>Work Group Meeting 1:</b> <i>Establishing common understanding of P3s</i>	<b>Work Group Meeting 2:</b> <i>Review of P3 challenges and opportunities</i>	<b>Work Group Meeting 3:</b> <i>P3 objectives and desired statutory provisions</i>
Sept. 21, 2023, 1-3 pm	Oct. 20, 2023, 9 am – 12 pm	Dec. 8, 2023, 9:30 am – 1:30 pm
<a href="#">Agenda</a> , <a href="#">Briefing Book</a> , <a href="#">Presentations</a> , <a href="#">Follow-up Q&amp;A</a>	<a href="#">Agenda</a> , <a href="#">Briefing Book</a> , <a href="#">Presentations</a> , <a href="#">Follow-up Q&amp;A</a> ,	<a href="#">Agenda</a> , <a href="#">Briefing Book</a> , <a href="#">Meeting Presentation</a> , <a href="#">Indiana Presentation</a> , <a href="#">Pennsylvania Presentation</a>

**Legislative Framework and Guidance**

At its December meeting, the Work Group reviewed the proposed legislative framework ([slides 15 through 35](#)) and provided direction to revise several provisions, including:

- More clearly articulating what a new P3 law could provide.
- Requiring both legislative and public notice earlier in the project development process.
- Requiring review by the Legislature and approval by the state finance committee for any P3 that would materially impact the state’s finances.
- Clarifying that public value to be gained from a P3 project should also consider accelerated project delivery, innovation, and project cost benefits over the full project lifecycle.

**Next Steps**

The next tasks of the P3 study include developing draft legislation; an evaluation of the viability of a P3 for fish passage and culvert replacement projects on state highways and commercial retail options at state ferry terminals; and development of an implementation plan that could be utilized if a new P3 law is enacted.