



# P3 Framework & Work Group Summary

As last discussed at Work Group Meeting #3 on December 8, 2023

## Legislature

### Legislation: P3 legal authorization (RCW)

- Objectives (findings and legislative intent)
- Essential policy parameters that must be detailed in law
- Delegation of authority to agencies and offices implementing the law

### Budget: P3 funding (biennial)

- Funding amounts and direction
- Limitations on program activities
- Expires at end of biennium

**Green:** Legislative authorization (informed by the current phase of this JTC study, due December 2023).

**Blue:** Implementation plan (informed by next phase of this JTC study, beginning January 2024).

# High-level framework for new P3 law

## Agency

### Administrative rules: promulgated by the agency (WAC)

- Legal requirements for implementing P3 projects

### Policies: agency priorities and practices

- Agency's business practices and current priorities, within their discretion

## Agency + P3 developer

### P3 Contract: project-specific terms and conditions

- Mutually-agreed contract for delivery of P3 project
- Must comply with RCWs and WACs

# The Work Group identified the following objectives for a revised P3 law

## A new P3 law could:

- Transparently demonstrate and deliver better value for the public, including expedited project delivery and more effective management of project lifecycle costs;
- Provide an additional option for delivering complex transportation projects;
- Incorporate private sector expertise and innovation into transportation project delivery;
- Allocate project risks to the parties best able to manage those risks;
- Allow new sources for private capital;
- Increase access to federal funding and financing mechanisms;
- Better align private sector incentives with public priorities; and
- Provide consistency in the review and approval processes for the full range of project delivery tools and contracting methods.

# Summary of four key issues deliberated by the Work Group

## • Finance

- If the State's credit capacity or rating is implicated, review/approval by the State Finance Committee is required.
- Equity investments and availability payments are allowed, subject to the above limitation.

## • Governance

- Streamlined to mirror the process for other mega (or tolled) projects, administered by WSDOT.
- No expert review/approval panels are mandated – WSDOT may still convene one on case-by-case basis.
- Legislature's role: decide on continued appropriations (e.g., for availability payments); and whether to toll a facility.
- WSTC to retain role as toll authority to set/adjust rates.

## — Operations

- Maintain existing language requiring adherence to state wage laws and collective bargaining agreements.
- Clarifies that Washington State Patrol must be funded to provide patrolling and law enforcement on P3 facilities.
- Removes confusing language about funding other enforcement activities (e.g., toll enforcement).

## — Maintenance

- Specifically allows availability payments and “legislative appropriations” to cover P3 contract for maintaining a facility.
- Defers to WSDOT to set the services standard and state of good repair for the assets (same as for non-P3 projects).

# Next Steps and Planned Activities

## **Before 2024 session:**

- Revise the Objectives, Legislative Framework, and Key Provisions to reflect today's Work Group feedback
- Develop a short progress report on P3 study activities and status
- Assist legislative staff in developing draft legislation

## **January through March 2024 – Phase 2: Implementation Plan**

- Assess how two projects identified by Legislature might perform under a new P3 framework
  - Fish passage barriers
  - Development at WSDOT ferry terminals
  - (Potentially others as directed and subject to resource availability)
- Develop an Implementation Plan for a new P3 authorization and program at WSDOT

## **April through June 2024:**

- Re-convene Work Group to review draft Implementation Plan
- Prepare and deliver Final Report to Joint Transportation Committee in June 2024