



Turnpike Privatization – Unanswered Questions

Governor Kasich recently hit the road to promote his idea, authorization for which was included in the state budget, to lease the Ohio Turnpike to a private investor who would pay the state an upfront sum and agree to operate and maintain the road in exchange for toll revenues for a number of years.

The Governor says the proceeds from such a deal would be deposited into a fund to pay for construction and infrastructure projects around the state, but has not ruled out the possibility of using it for general budgetary needs unrelated to transportation. He claims the private operator's ability to raise tolls would be limited in any deal.

As the administration considers a contract with consultants to advise them on policies related to the Ohio Turnpike, they should keep in mind the impact of the decision on the state of Ohio. Innovation Ohio would encourage the chosen consultant to consider the following questions:

How much will tolls increase?

The essential element of a long-term lease deal to a private operator of the road is the long-term, predictable revenue stream that comes in the form of vehicle tolls. Recent deals in other states have given operators the ability to raise tolls over time in order to recapture their upfront investment.

In Indiana, tolls have nearly doubled in the first five years of a 75-year lease. Despite this, the operating company continues to teeter on the brink of bankruptcy, raising the specter of even more toll hikes. The Indiana experience is well-known in the industry and will suggest to any potential bidder that the ability to raise tolls is essential.

Since the Chicago Skyway was leased in 2006 tolls have increased by \$1.50 and are expected to continue to increase at this rate. Additionally the terms of the lease allow for tolls increases to be tied the highest of three factors: 2.00% per annum, Increase in the Consumer Price Index, Increase in nominal Gross Domestic Product per capita.

Tolls should be increased based on public needs and not for the protection of the investor's assets. What controls will be included in the lease to prevent Ohioans from having to pay inflated tolls? Will the public and voters have input on these matters?

Will the road be maintained?

In order to maximize profits, a private operator must either increase revenue (tolls) or decrease costs (staff and maintenance). The turnpike is one of the best maintained roads in the state. A private operator, with a focus on profits, will have little interest in making sure that the road is well maintained and updates with the latest infrastructure technology. Director Wray has indicated that the lease terms will include high performance standards; it is our hope that Director Wray and Governor Kasich ensure that such a provision is included in the lease.

Will private operators continue to contract with the highway patrol for safety services?

Currently the Ohio Turnpike Commission contracts with the Ohio State Highway Patrol to provide law enforcement and assistance to motorists. The highway patrol is the only entity with jurisdiction over the turnpike. Will private operators continue to contract with the highway patrol? Will they continue to reimburse the state for these expenses? Will the contract make clear that the price they pay for safety services fairly compensates the state of Ohio for providing it? Or looking for cost savings will they turn to other means of security?

Will adjacent routes see increased traffic and safety concerns?

In 1999, when tolls were significantly increased on the turnpike, traffic – especially trucks – migrated to adjacent routes, causing increased congestions, accidents and damage to roads. Research shows that doubling toll rates results in 50% of the turnpike traffic shifting to non-tolled roads. With an expected increase in tolls, how will the administration ensure that adjacent routes are not overwhelmed by traffic seeking to avoid higher tolls? Additionally paying for the increased wear and tare on the roads would fall to the taxpayers, not the private investor.

Additionally privatization contracts often include non-compete clauses, which restrict states from building on improving nearby roads that may be an alternative to paying high tolls. In Colorado a non-compete clause resulted in local communities being forced to lower their speed limits and to install traffic lights on roads that were considered to be competing. In California, the state was forced to buy a private road after making improvements to competing roads. If such a clause is included it could result in the deterioration of nearby roads.

Other safety concerns include access for emergency vehicles. In Indiana, tollroad operators put barriers in all of the highway's emergency turnarounds, preventing rescue vehicles from getting to crashes. This could cost emergency responders life saving minutes when responding to a crash. Yet with a foreign operator, this is something the state has minima control over.

How will privatization of the turnpike impact economic development?

Governor Kaisch has repeatedly said that he is striving to make Ohio more business friendly. The Ohio Turnpike provides a vital economic tool for Northern Ohio, allowing business to ship goods across Ohio in an efficient and safe manner. What will effect of dramatically higher tolls, and the concomitant higher transportation costs, be on the attractiveness of Ohio as a place to do business?

Will the legislature permit money to be spent in other parts of the state?

[Ohio Revised Code](#) prohibits the expenditure of turnpike toll revenue on projects more than one mile from the turnpike itself. The intent of this law is to prevent the diversion of funds derived from the turnpike to other parts of the state.

When the bipartisan stimulus legislation was introduced in 2008 with just a small (\$20 million per year) diversion of Turnpike revenue to pay for infrastructure projects, legislators from Northern Ohio quickly amended it out of the bill.

Does the Governor have assurances from legislative leaders that representatives from districts along the Turnpike will set aside concerns that residents of their districts are subsidizing projects in other regions of the state through the payment of tolls?

Is the proposal Constitutional?

According to the Ohio Constitution, Article 12, funds generated from fees related to the use of public highways must be used for purposes related to transportation. While in his initial budget proposal Governor Kasich pledged to use funds generated by the lease of the turnpike on new infrastructure projects and required maintenance, he has since changed his tune. Recently he was reported saying that he “never said where all this money was going to go...the bulk will go to infrastructure. But with the federal government, God only knows what those people are capable of doing. If they blow a big hole in our state, we have to look at it. But it’s not my intention.” In a separate interview he said: “I don’t anticipate having to use turnpike lease money for a budget deficit. But I’m also not going to say, ‘no way, no how.’ You always have to have a few option.”

But as the Governor considers using this revenue for non-transportation purposes, he might want to see if it is constitutional.

Will a foreign company have control of the roads?

The operator of the Indiana toll road is a joint venture between Spanish and Australian companies. These same companies are operators of the Chicago Skyway. Do we really want a foreign company controlling public assets? What interest will these companies have in maintaining the turnpike and surrounding roads?

Will Ohio get enough?

Governor Kasich has indicated he would accept as little as \$2.5 billion for a long-term Turnpike lease of the 241-mile toll road. Indiana leased its 157-mile Turnpike for \$3.85 million. Putting a dollar amount on the table has the potential to undercut the state’s own negotiating position as bidders now know our bottom line. In addition to this, adding provisions to the sale, such as a limit on the increase of tolls or a maintenance guarantee, as the Governor has proposed, will simply decrease the amount that the Turnpike can be leased for.

Experts also suggest that the time is not right:

“Right now is probably the worst time they could be talking about doing it,” said Kevin O'Brien, director of the Center for Public Management at Cleveland State University and a former municipal finance analyst for Moody's Investor Services. “Maybe two years from now; (the governor) should wait until values are at a reasonably high value.”

“Doing a toll road deal in Ohio, the economics would be challenging,” said Tim Offtermatt, a public finance specialist with Stifel Nicolaus Financial Advisors in Pepper Pike. “With the (bond market) where it is, it would be a real challenge to get a deal so compelling you'd have to make a deal.”

[Crains Cleveland, July 18, 2011](#)