

# Public Buildings Renewal Act of 2017

## (H.R. 960/S. 326)

### Introduction

#### ***A Solution for Infrastructure Funding for Public Buildings***

Our nation's public buildings (e.g. schools, public hospitals, justice facilities, universities, police and fire stations) are in a historic state of disrepair. The nation's public schools are literally crumbling with well over \$500 billion in infrastructure needs nationally. States and city governments have significant shortfalls in infrastructure funding, which have resulted in facilities that often are not maintained, do not comply with current codes, disability requirements, and do not have adequate security. (See article: [Politico: How to Fix Our Crumbling Schools](#))

One practical solution is to expand the use of public-private partnerships (P3) to public buildings. However, in the U.S., P3s have been predominantly used for transportation projects. Currently, public buildings are not eligible to use federal tax exempt facility bonds. **The Public Buildings Renewal Act (H.R. 960/S. 326)** would change that, opening the U.S. buildings market to P3 by creating a tax exempt bond that state and local governments can pair with private financing to fund public building projects, such as schools and hospitals.

### Legislation

#### ***The Public Buildings Renewal Act of 2017***

On February 7, the Public Building Renewal Act of 2017 (PBRA) was reintroduced by **Congressmen Mike Kelly (R-PA) & Earl Blumenauer (D-OR) and Senators Dean Heller (R-NV) & Bill Nelson (D-FL) as H.R. 960/S. 326.**

The PRBA would create a new class of projects eligible for financing through private activity bonds (PABs) including public buildings such as schools, post offices, libraries, and courthouses. In short, the bill would create \$5 billion allocation for public buildings for states to access through the Treasury Department.

- **Score:** The legislation is estimated by JCT to cost \$18M over 5 years or \$48M over 10 years.
- **Current Senate Cosponsors:** Sen. Nelson (D-FL), Sen. Cassidy (R-LA), Sen. Bennet (D-CO), Sen. Gardner (R-CO), Sen. Young (R-IN), Sen. Perdue (R-GA), Sen. Cotton (R-AR), Sen. Cardin (D-MD), Lindsey Graham (R-SC)
- **Current House Cosponsors:** Rep. Blumenauer (D-OR), Rep. Zeldin (R-NY), Rep. Curbelo (R-FL), Rep. Hurd (R-TX), Rep. Jenkins (R-KS), Rep. Perry (R-PA), Rep. Renacci (R-OH), Rep. Barletta (R-PA), Rep. Kind (D-WI), Rep. Thompson (D-CA), Rep. Marchant (R-TX), Rep. Perlmutter (D-CO), Rep. Rosen (D-NV), Rep. Suozzi (D-NY), Rep. Blunt Rochester (D-DE), Rep. Richard Hudson (R-NC), Rep. Paulsen (R-MN), Rep. Smucker (R-PA), Rep. Tonko (D-NY), Rep. Meehan (R-PA), Rep. Walz (D-MN), Rep. Pascrell (D-NJ), Rep. Larson (D-CT), Rep. Tiberi (R-OH), Rep. Sarbanes (D-MD), Rep. Raskin (D-MD), Rep. Brooks (R-IN), Rep. Smith (R-NJ), Rep. Rooney (R-FL), Rep. Smith (R-NJ)

### How Does P3 Work?

#### ***Not a Toll Road: How Does P3 Work in Public Buildings?***

In buildings, a typical P3 is structured as a long-term agreement in which the public sector assigns to a private sector company the right to design, build, finance and/or operate the public building for a defined period of time and per a financial arrangement. The ownership of the building remains with the government entity.

- **Payment:** Unlike a toll road, P3 projects in buildings are not financed through user-fees. Instead, the government pays the project operator an availability payment - a payment for *performance achieved* (irrespective of demand) by the availability of the facility. P3 projects are financed based solely on the expectation of repayment through successful earning of the future availability payments over the contractual term. This creates an incentive for the operator to deliver the expected performance results. Should any aspect of the building not perform (i.e. the elevator is out for a week), the operator owes the government a payment to compensate for the lack of availability and performance of that building element.
- **Risk Transfer:** This innovative project delivery method transfers risk to those parties that best understand and manage risk: financiers, developers, construction contractors, operators, suppliers, service providers.
- **On Time, On Budget:** P3 projects, by the way they are structured, ensure completion of projects on time, on budget, and with increased sustainability and elimination of deferred maintenance. This avoids cost overruns, and costs from projects delays.

## Benefits of P3 to State and Local Governments

Private investment is needed to do for public buildings what it has done for transportation – deliver projects faster, cheaper, and with greater performance over the long-term.

- **Access to private capital.** With these bonds, states and cities will be able to combine private finance with tax exempt financing to deliver government owned buildings. These projects are financed with at least 10-40% of private financing (reducing the total amount of tax exempt financing issued) and new federal revenue is generated from P3 projects from taxes paid by the private sector participants.
- **Savings to Taxpayers.** Incentivizing the use of P3s for public buildings will generate billions in savings for taxpayers while empowering states to tackle major infrastructure projects. Over \$18 billion in transportation P3 projects undertaken since 2008 with a cost savings of nearly \$5 billion. Every U.S. transportation P3 project that has moved forward has utilized federal financing, 75% of which have accessed Private Activity Bonds.
- **Access to specialized expertise.** The public sector's ability to tap into private sector technology, innovation, and operational efficiency can lead to better public services or facilities for public consumption.
- **Accelerated project development.** The private sector can be incentivized to deliver projects on time and within budget.
- **Sharing of the risks and rewards.** The public institution can transfer fiscal risks associated with providing services or facilities to the private sector. In exchange, a revenue stream from the project flows to the private sector throughout the contracted period.
- **Deferral and spreading of payments.** The public sector defers payments until the construction is complete and then spreads them out over the length of the contractual term.

## State & Municipal Level Support

Several Governors have signed onto a letter supporting this legislation including: John Hickenlooper (D-CO), Sam Brownback (R-KS), Paul LePage (R-ME), Rick Snyder (R-MI), Brian Sandoval (R-NV), Kate Brown (D-OR), Gina Raimondo (D-RI), Gary Herbert (R-UT), and Doug Burgum (R-ND). In addition, Denver Mayor Michael Hancock is leading a support letter with Los Angeles Mayor Eric Garcetti, Miami Beach Mayor Philip Levine, DC Mayor Muriel Bowser, and New Orleans Mayor Mitch Daniels.

## Amendment to FAST Act of 2015

This provision, which would create \$5 billion in PAB for public buildings was first introduced by Rep. Lee Zeldin (R-NY) as an amendment to the Fixing America's Surface Transportation Act (FAST Act) or "Highway Bill" in the House Rules Committee at the end of 2015. The amendment was introduced with five other co-sponsors [Curbelo (R-FL), Perry (R-PA), Blumenauer (D-OR), Israel (D-NY), and Hastings (D-FL)]. Ultimately, no revenue amendments were included in the Highway Bill so the proposed legislation did not get passed in 2015 – but did garner a low JCT score.

## Introduction as H.R.5361/S.3177

In 2016, H.R. 5361 was introduced with 16 co-sponsors– (8 Members of the Ways and Means Committee) S. 3177, a companion introduced with Senators David Perdue (R-GA), Bill Cassidy (R-LA), and Michael Bennet (D-CO). Four of the bill's sponsors members of the Senate Committee on Finance.

**About the Performance Based Building Coalition:** Founded in 2012, the Performance Based Building Coalition is the nation's only non-profit industry coalition exclusively dedicated to developing the market for social infrastructure public-private partnership (PPP) projects in the United States. The PBBC's mission is to pass federal tax legislation that will create a new category of exempt facility bonds for government owned buildings, while simultaneously educating the public sector on all aspects of executing a P3 project. [PBBC Leadership & roster of over 90 members.](#) [www.p3buildings.org](http://www.p3buildings.org)