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The Risk of Politics In U.S. P3s

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When the global infrastructure finance community refers to “political risk,” the term usually calls to mind countries such as Argentina or Venezuela, where populist governments arbitrarily nationalize law-abiding firms or refuse to allow scheduled utility rate increases. The disregard for property or contract rights by government isn’t the problem in the U.S. Rather, what we’ve seen in the past is year is a rise in the “risk of politics” in the orderly procurement of important transportation projects.

A few weeks ago, the entire state budget in Virginia was voted down by the Senate in a revolt by Democrats against a \$1.84 toll on the Midtown tunnel in Norfolk and big toll increases programmed on the Dulles Toll Road (see p. 1). Last fall in Georgia, Gov. Nathan Deal halted the P3 procurement of the West by Northwest managed lanes megaproject after the prequalified bidders had already done months of work on their proposals. More recently, in Texas the newly empowered local “1420 committees” opted to procure two new megaprojects—major sections of Houston’s Grand Parkway toll road and I-35E managed lanes—via design-build, despite world-class teams ready to do these projects as P3 concessions. And in April, a bill allowing Minnesota DOT to proceed with its third HOT lane project, on I-35E in St. Paul, was amended on the floor to eliminate tolls, making it an HOV lanes project instead.

What’s going on here? State DOTs are woefully short of funding, yet elected officials are turning their backs on P3s or tolling, or both. And many of those voting this way are conservative Republicans—precisely those you think would favor private finance and market pricing. This tendency also has those working on the federal reauthorization bills worried, given the number of freshman GOP conservatives in the House, in particular.

I believe an important factor in these setbacks is right-wing populist attacks on tolling and P3s. Sophisticated infrastructure experts like readers of this newsletter tend to dismiss these people's arguments as obvious nonsense, but in my view that's a big mistake. Since most elected officials know far less than we do about highway finance in general, let alone variable pricing and P3s, they are apt to believe some or all of the populists' outlandish claims. Instead of ignoring such claims, the P3 infrastructure community needs to debunk them, clearly and forcefully, rather than letting them go unanswered.

One of the most effective populists is a Texas activist named Terri Hall, founder of the "San Antonio Toll Party" and "Texans Uniting for Reform and Freedom." In an April 18th op-ed in the San Antonio Examiner, she sets forth seven false or misleading claims about PPP toll roads in the space of about 750 words. Even her author credit is propaganda, claiming that she "started a taxpayer revolt upon learning of plans to convert Highway 281 into a tollway" and "charge taxpayers again for what they already built and paid for." In fact, tolls are only being charged on new, limited-access capacity, with the previously "paid for" capacity serving as frontage roads.

Her op-ed, titled "Why Public-Private Toll Roads Won't Work," asserts the following:

"Loss of sovereignty and control over the surrounding free routes" via non-compete clauses;

"Double taxation," because many projects require a state investment in order to be toll-financeable;

"Guarantee[d] private profits at the public's expense";

"Taxpayers brought three-quarters of the money to the table" for the NTE project in Ft. Worth;

"Managed lanes create road scarcity through pricing";

"Government-sanctioned [toll road] monopolies" leave commuters with "only one way to get where you need to go";

"Taxpayer bailouts" when P3 tollroads go bankrupt.

I'd wager that nearly every reader of this newsletter can debunk this entire list of claims. But imagine that you are a newly elected legislator who knows little or nothing about highway finance or even transportation, but has strong low-taxes, limited-government leanings. Taken at face value, that set of claims sounds pretty terrible.

Moreover, those who have their own reasons for disliking tolling and/or P3s can be expected to disseminate this kind of material, perhaps even believing it if they have not taken the time and effort to research the facts about P3 projects. I did not just stumble upon this Terri Hall op-ed. It was sent to me by someone at a trucking organization with whom I've had friendly debates over tolling and P3s. His email to me repeated several of her points in his own words, while adding two more:

Private sector firms are supposedly more costly than government because they have to make a

profit (assumed to be an added cost);

P3s will skimp on maintenance, in order to make a profit.

And the sad thing is, I think he really believes those things.

My friends and colleagues who are working on the federal reauthorization bills in Congress are worried about defeating the anti-P3 language in the Senate bill and about getting greater tolling flexibility into the House bill. Their main problems seem to be with conservatives, especially freshman Republicans. Thanks to the Internet, misleading claims like those made by Terri Hall can take on a life of their own, leading anti-tax conservatives to equate tolls with taxes and P3s with monopolies.

Those claims are ridiculous, but leaving them unanswered is asking for trouble. n