

Bill 25

The Public-Private Partnerships Transparency and Accountability Act

April 2025



The Manitoba Federation of Labour (MFL) is Manitoba's central labour body, with more than 30 different affiliated unions representing more than 130,000 unionized workers from every sector and every region of the province in the public and private sectors, as well as the building trades.

This bill is an important step towards providing greater transparency and accountability for taxpayers and we commend the government for bringing it forward. At the same time, however, we believe there are some important amendments needed to make sure this legislation fully protects taxpayers from getting ripped off when governments consider public-private partnership funding models for projects.

Manitoba's unions have long made it clear that if government explores public-private partnerships (P3s), it should provide clear, transparent information about the upfront and long-term costs of P3s, including apples-to-apples comparisons between the costs of proceeding with a P3 versus a traditional public procurement process. Manitoba used to have legislation (The Public-Private Partnership Transparency and Accountability Act) that required governments to do this very thing, but it was repealed under Brian Pallister and the PCs in 2017. It never ceases to amaze me how P3 proponents profess that P3s are a better option but hide from showing their numbers and their analysis to prove it.

P3s are a term used for building what are traditionally public assets, like community infrastructure and services, through private means. With P3s, governments enter into costly contracts with a private company that are essentially rental, lease, or operating schemes, instead of just building and maintaining community infrastructure directly for the public benefit. This means that you end up with privately-owned assets, that are built with public money, and then rented back to the public, often for much higher amounts over their lifetime than it would have cost to build and own publicly in the first place.

Simply put, P3s are just another form of privatization of public assets. Evidence shows that they increase taxpayer costs and lead to lower quality and reductions in service levels — one only needs to read damning Auditor General reports from Ontario, Saskatchewan, New Brunswick and B.C. on the subject to know that P3s are a bad deal for taxpayers.

Ontario's Auditor General found in 2014 that P3s had cost Ontario taxpayers nearly \$8-billion more on 74 infrastructure projects over the previous nine years than if the government had built the projects itself.¹ A 2014 report by the Auditor General of British Columbia raised serious concerns about the high costs and high debt of 16 P3 projects examined in that province, reporting that interest rates ranged considerably from 4.42 per cent to 14.79 per cent. An average interest rate of 7.5 per cent was found, meaning

¹ Office of the Auditor General of Ontario. 2014 Annual Report, p. 7.

that the debt loads of P3 projects were almost double what they would have been had the Province just financed the projects itself.²

In fact, even the previous PC government of Brian Pallister acknowledged the high costs of P3s when it reversed course on pursuing building four schools through a P3 model because it realized it could actually save enough money through public financing to build a fifth school too! Unfortunately, this lesson wasn't learned by Heather Stefanson, who foolishly pursued a P3 model for new schools during the dying days of her government. Thankfully, this NDP government put an end to Stefanson's hare-brained scheme.

Evidence shows that privatization increases costs and leads to lower quality and a reduction in service levels. Citizens also lose control and accountability with privatization, because making a profit becomes the sole priority of building an asset like a school or a bridge, instead of serving the needs of our communities.

Manitoba was a leader in the country in introducing legislation to protect the public interest when it came to weighing P3 funding models in 2012. The original Manitoba legislation outlined rules for public sector organizations that take part in P3 agreements for major capital projects having a projected total cost of \$20 million or more.

The original legislation outlined rules for governments that were considering P3 agreements. The legislation improved the transparency and accountability of the decision-making process for P3s, which is something that benefits all Manitobans. By forcing governments to demonstrate to taxpayers what a project would cost under a P3 model, the legislation forced governments to be open and transparent when they are considering this type of model for building an expensive asset like a school, and ensured the public could review their due diligence

Bill 25 follows the basic principles of the original P3 transparency law, with some differences that I will get to shortly. Transparency and accountability around P3s are important protections for taxpayers, because P3 funding models have been found to cost far more in the long-term than traditional public sector delivery models basically anywhere they have been used.

While we are glad that the provincial government has introduced legislation to provide greater transparency and accountability to taxpayers in situations where the province is considering a public-private partnership model, we do have some suggested amendments to close loopholes and ensure that P3 projects and their private sector backers can't hide from public scrutiny and accountability when they're asking for public sector support.

Exemption for Municipal Projects: The original bill and the new bill both establish \$20 million as the threshold for major public sector capital projects to be covered by the bill's

² Office of the Auditor General of British Columbia. Summary of Financial Statements and the Auditor General's Findings, October 2014, p. 18.

accountability/transparency rules. However, Bill 25 provides a problematic special exemption for municipal projects. Municipal projects are only covered by the bill where:

- (1) there is provincial government or provincial reporting entity funding involved;
AND
- (2) that funding is \$100 million or more.

We see no justification for exempting a large swatch of municipal projects from transparency and accountability standards. P3 transparency and accountability requirements should be applied to all P3 projects valued at \$20 million or more, irrespective of whether there is provincial funding involved. Municipal projects shouldn't be shielded from the requirements applied to provincial projects; and municipal taxpayers deserve the same protection as provincial taxpayers.

The provincial government recently launched a public inquiry – at an expected cost of \$2 million – into the City of Winnipeg's construction of the Police Headquarters, citing concerns about the City's procurement and approval processes. This reinforces the desperate need for transparency and accountability when it comes to major capital projects. Exempting municipalities, including the City of Winnipeg, from taxpayer transparency and accountability requirements would be a move in the wrong direction, given the very serious concerns that taxpayers have had with some of the City's recent construction methods.

We urge the government to amend Bill 25 by removing the special exemption for municipal projects and applying a consistent \$20 million threshold across the board.

Power to Exempt Any Project by Regulation: The original and new bill define a 'private sector entity' as any person or organization other than a public sector entity, Canada, an Indigenous governing body, or a combination. However, the new bill, unlike the previous law, also gives the government the power to add "any entity" to this definition, and to exempt "any entity" or "types of entities" from the bill's requirements by regulation. We think this is a very dangerous loophole which could allow a less principled future government to exempt a private company from the bill's requirements. We can't think of any scenario where taxpayers would be better served by government passing a regulation excluding a private entity from the requirements of this bill. When P3 proponents don't want to "show their work", this should be viewed as a major red flag that taxpayers are going to be ripped off.

We urge the government to delete this loophole and have the bill's protections apply consistently, without the ability for a future government to exempt a P3 project from fundamental transparency and accountability protections with a stroke of a pen.

Most other sections of the bill are identical or substantively similar to the 2012 version of the bill, including the definitions of major capital projects and P3s, how the bill treats related projects, required public sector entity analysis and public consultation, the

content of apples-to-apples comparisons, the appointments of and role of the Fairness Monitor, the role of the Auditor General, and the reports to the Legislative Assembly.

There is also one important way that this bill is stronger than the old bill: it prohibits private sector entities from an ownership interest in the public work throughout the term of a P3. We view this as a substantive improvement.

We are glad to see this government take action to improve transparency and accountability when it comes to the consideration of P3s. By amending the bill to close the loopholes I have mentioned, we think that this bill will be even stronger than Manitoba's previous P3 legislation and once again make Manitoba a leader in protecting the interest of taxpayers when it comes to P3s.

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