

PUB/PRI DOCTRINE ARTIFACT SUITE

Five Integrated Litigation Artifacts for Capacity Analysis
Under the Governmental-Proprietary Distinction

Prepared April 27, 2026

Introduction

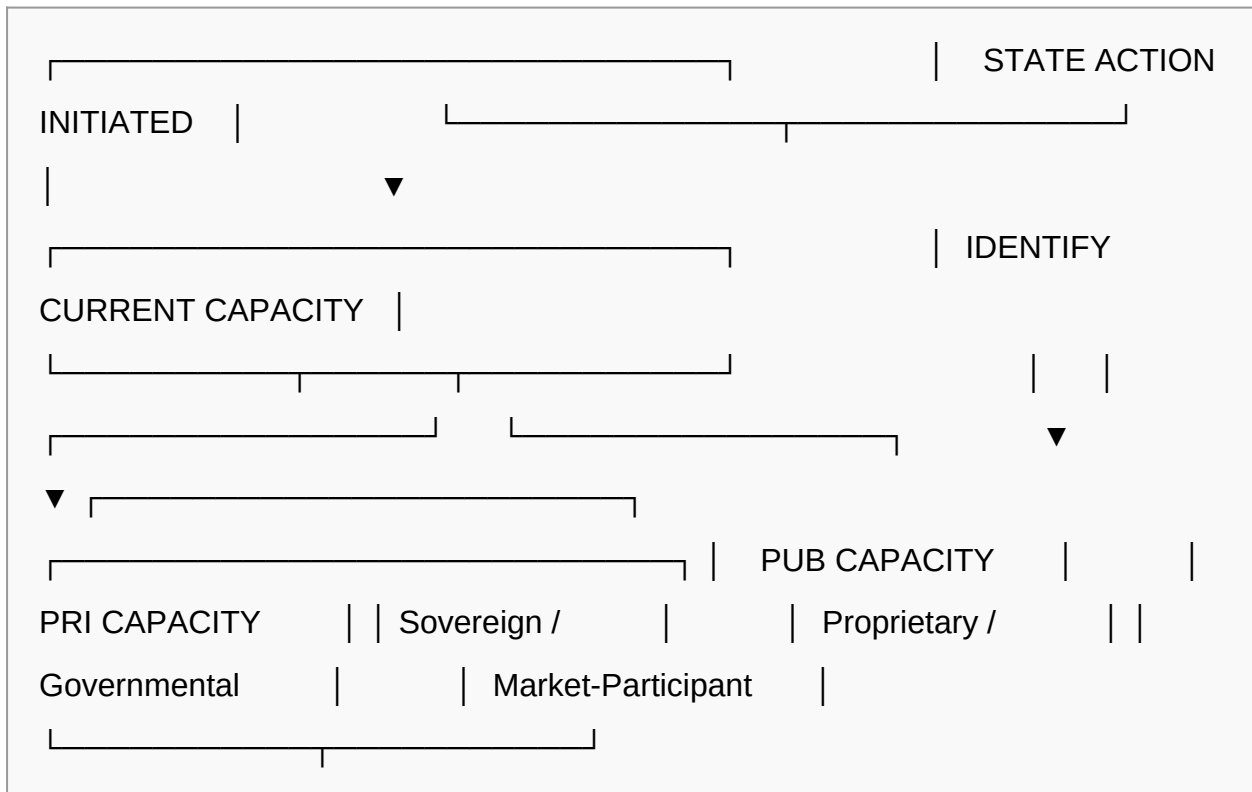
The governmental-proprietary distinction is one of the oldest and most contested boundaries in American public law. Courts have characterized it as “illusory,” *Township of Washington v. Village of Ridgewood*, as a “quagmire,” *Indian Towing Co. v. United States*, 350 U.S. 61, 65 (1955), and as “inherently unsound,” *id.* Yet the distinction persists—and persists with doctrinal force—because it answers an irreducible question: **When does the state act as sovereign, and when does it act as market participant?**

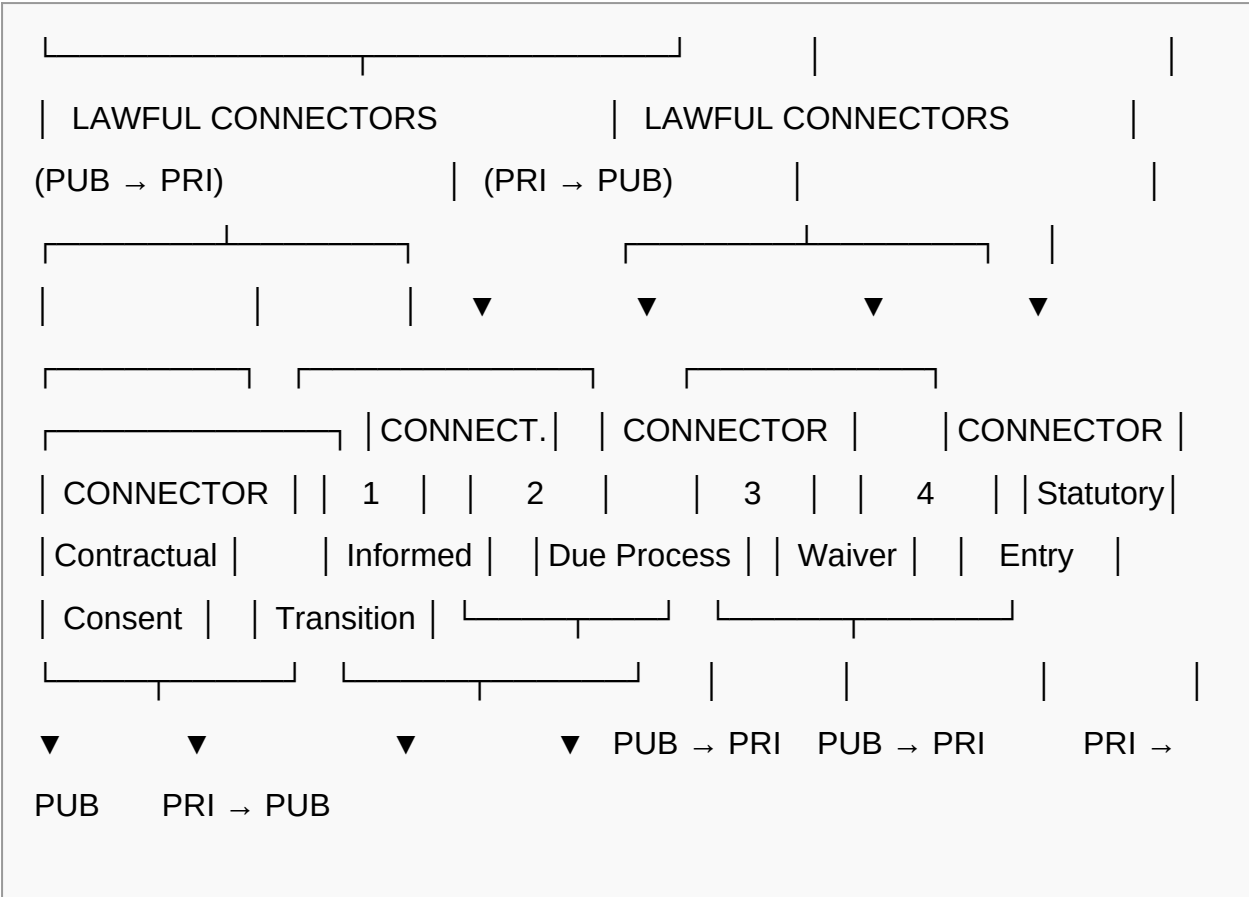
The answer to that question determines the applicable liability framework, the availability of sovereign immunity, the governing body of law (public or private), the remedial options available to injured parties, and the constitutional constraints that bind state action. A state acting in its sovereign capacity wields the police power, enjoys presumptive immunity, and is accountable through the political process. A state acting in its proprietary capacity enters the marketplace, assumes the obligations of a private party, and is accountable through the mechanisms of contract and tort. The two capacities are doctrinally distinct, and the transition between them must be lawful.

This suite identifies **four—and only four—lawful connectors** that permit a transition between PUB (sovereign/governmental) and PRI (proprietary/market-participant) capacity: (1) Statutory Waiver, (2) Contractual Entry, (3) Informed Consent, and (4) Due Process Transition. Any attempt to shift between capacities outside these four connectors is doctrinally unlawful. The five artifacts that follow map this doctrine, distinguish the two capacities, identify failure modes, operationalize the analysis, and deploy the framework in litigation.

Artifact 1: Flowchart — The Four Lawful PUB/PRI Connectors

The following structured diagram maps the four lawful pathways by which the state may transition between sovereign (PUB) and proprietary (PRI) capacity. Each connector specifies the direction of transition, the governing constitutional test, and the case anchor establishing the doctrine.





Connector 1: Statutory Waiver

Mechanism	Legislature expressly waives sovereign immunity for a specific activity or class of claims
Capacity Shift	PUB → PRI (state submits to private-law standards of liability)
Key Test	Is the waiver explicit, specific, and unambiguous ? A waiver of sovereign immunity will not be implied; it must be stated in unmistakable statutory language.
Examples	State tort claims acts; Federal Tort Claims Act, 28 U.S.C. §§ 1346(b), 2671-2680; 42 U.S.C. § 1983 actions (legislative creation of cause of action against state actors)

Mechanism	Legislature expressly waives sovereign immunity for a specific activity or class of claims
Case Anchor	<i>Alden v. Maine</i> , 527 U.S. 706 (1999) (sovereign immunity is a constitutional default; waiver must be unequivocal)

Connector 2: Contractual Entry

Mechanism	State voluntarily enters the marketplace as a contracting party, assuming the rights and obligations of a private market participant
Capacity Shift	PUB → PRI (state assumes obligations of a private party and forfeits sovereign shields for that activity)
Key Test	Would a private entity perform the same function for profit ? Is the state participating in the market rather than regulating it?
Examples	Municipal utilities; government-run enterprises; procurement contracts; state-owned liquor stores; public university auxiliary services
Case Anchors	<i>Reeves, Inc. v. Stake</i> , 447 U.S. 429 (1980) (market-participant exception to dormant Commerce Clause); <i>South-Central Timber Dev., Inc. v. Wunnicke</i> , 467 U.S. 82 (1984) (limits of market-participant doctrine)

Connector 3: Informed Consent

Mechanism	Individual knowingly and voluntarily submits to state authority, consenting to the exercise of sovereign jurisdiction over a private interest
Capacity Shift	PRI → PUB (citizen consents to sovereign jurisdiction; private interest is voluntarily placed under governmental authority)
Key Test	Was consent knowing, voluntary, and uncoerced ? Was there a meaningful alternative to submission?
Examples	Licensing agreements; voluntary regulatory enrollment; plea agreements; consent searches; voluntary participation in government programs
Case Anchor	<i>Schneckloth v. Bustamonte</i> , 412 U.S. 218 (1973) (voluntariness standard for consent; totality of the circumstances)

Connector 4: Due Process Transition

Mechanism	State invokes sovereign power over private interests through constitutionally adequate process—providing notice, an opportunity to be heard, and an impartial decision-maker
Capacity Shift	PRI → PUB (private interest subjected to sovereign authority through constitutional process)
Key Test	Does the process satisfy <i>Mathews v. Eldridge</i> balancing? (1) Private interest affected; (2) risk of erroneous deprivation and value of additional safeguards; (3)

Mechanism	State invokes sovereign power over private interests through constitutionally adequate process—providing notice, an opportunity to be heard, and an impartial decision-maker
	government’s interest including administrative burden.
Examples	Eminent domain proceedings; regulatory takings; civil forfeiture with judicial process; compulsory process (subpoena); administrative adjudication with hearing rights
Case Anchor	<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976) (three-part balancing test for procedural due process)

DOCTRINAL RULE

ANY TRANSITION BETWEEN PUB AND PRI CAPACITY THAT IS NOT ACCOMPLISHED THROUGH ONE OF THESE FOUR CONNECTORS CONSTITUTES A **DOCTRINALLY UNLAWFUL CAPACITY VIOLATION**. The state may not shift between sovereign and proprietary postures at will. Each connector imposes substantive requirements, and failure to satisfy those requirements renders the capacity shift void.

Artifact 2: Diagram — Sovereign vs. Proprietary Pathways

The following comparison sets forth the doctrinal attributes of each capacity in parallel. Each attribute illustrates a structural difference between the sovereign and proprietary modes of state action.

Attribute	SOVEREIGN (PUB) PATHWAY	PROPRIETARY (PRI) PATHWAY
Source of Authority	Constitutional mandate; police power; sovereign prerogative; legislative enactment	Market participation; contractual capacity; voluntary entry into commerce
Accountability Standard	Political accountability (elections, legislative oversight, political process)	Market accountability (competition, contract enforcement, tort liability)
Immunity Default	Sovereign immunity presumed; state is immune unless immunity is waived	No sovereign immunity; state is treated as a private party
Liability Trigger	Statutory waiver of immunity or constitutional violation (e.g., § 1983)	Negligence, breach of contract, tort standards, strict liability where applicable
Governing Law	Public law: constitutional law, administrative law, criminal law	Private law: contract, tort, commercial code (UCC), property
Remedial Framework	Injunctive relief, declaratory judgment, mandamus, § 1983 damages	Compensatory damages, specific performance, restitution, rescission
Decision Logic	Cost-benefit discretion permitted; discretionary function doctrine shields policy judgments	Reasonable person standard; industry standard of care; no discretionary shield
Consent Requirement	Consent of the governed (general, political, majoritarian —not individual)	Individual, informed, voluntary consent (specific, transactional)
Key Cases	<i>Alden v. Maine</i> , 527 U.S. 706 (1999); <i>Ex parte Young</i> , 209 U.S. 123 (1908); <i>Seminole Tribe of Fla. v. Florida</i> , 517 U.S. 44 (1996)	<i>Reeves, Inc. v. Stake</i> , 447 U.S. 429 (1980); <i>Owen v. City of Independence</i> , 445 U.S. 622 (1980); <i>Indian Towing Co. v.</i>

Attribute	SOVEREIGN (PUB) PATHWAY	PROPRIETARY (PRI) PATHWAY
		<i>United States</i> , 350 U.S. 61 (1955)

Critical Intersection: The PUB/PRI Contradiction

The doctrinal crisis occurs when the state occupies **both capacities simultaneously**—exercising sovereign coercion while claiming proprietary flexibility, or claiming sovereign immunity while operating as a market participant. This is the **PUB/PRI contradiction**.

The contradiction arises in two mirror-image forms:

- 1. Sovereign Shield in a Proprietary Context.** The state enters the marketplace—earning revenue, competing with private actors, performing functions indistinguishable from commercial enterprise—but invokes sovereign immunity when its market conduct causes injury. The state claims the *benefits* of proprietary capacity (market revenue, contractual flexibility) while retaining the *protections* of sovereign capacity (immunity, discretionary function defense). This is doctrinally impermissible because the state cannot extract the advantages of private-law participation while refusing its obligations.
- 2. Sovereign Coercion in a Proprietary Form.** The state exercises coercive sovereign authority—compelling submission, extracting compliance, depriving interests—but structures the interaction as a “voluntary” contract, license agreement, or market transaction. The state claims the *form* of proprietary capacity (contract, consent) while exercising the *substance* of sovereign capacity (compulsion, monopoly power). This is doctrinally impermissible because consent obtained

under sovereign compulsion is not voluntary, and a “contract” formed under regulatory monopoly is not a market transaction.

Both forms of the contradiction violate the foundational premise that PUB and PRI are **mutually exclusive capacities**, each carrying distinct obligations. The four lawful connectors exist precisely to prevent this conflation: they require the state to make a clean transition, accepting the full obligations of whichever capacity it enters.

Artifact 3: PUB/PRI Contradiction Matrix

The following matrix identifies six recurring contradictions that arise when the state conflates or misapplies PUB and PRI capacities. Each row specifies the state’s claimed capacity, the operational reality, the doctrinal violation, and the litigation hook for challenging the contradiction.

#	Contradiction	PUB Claim	PRI Reality	Doctrinal Violation	Litigation Hook
1	Immunity Shield + Market Profit	State claims sovereign immunity to bar tort or contract claims	State earns revenue from proprietary activity indistinguishable from private enterprise	Violates market-participation doctrine. <i>Reeves, Inc. v. Stake</i> , 447 U.S. 429 (1980); <i>Owen v. City of Independence</i> , 445 U.S. 622 (1980)	“The state cannot simultaneously profit as a private market actor and hide behind sovereign immunity. Entry into the market is a waiver of the sovereign shield for

#	Contradiction	PUB Claim	PRI Reality	Doctrinal Violation	Litigation Hook
					that activity.”
2	Coercive Power + Contract Form	State uses sovereign coercion: licensing monopoly, regulatory mandate, or legal compulsion	State structures the coercive interaction as a “voluntary contract,” license agreement, or terms-of-service acceptance	Violates informed consent doctrine. <i>Schnecko v. Bustamonte</i> , 412 U.S. 218 (1973); unconstitutional conditions doctrine, <i>Koontz v. St. Johns River Water Mgmt. Dist.</i> , 570 U.S. 595 (2013)	“A contract formed under state monopoly power is not a voluntary market transaction. Where the state is the sole issuer of a required license, ‘consent’ to its terms is coerced, not voluntary.”
3	Discretionary Shield + Ministerial Failure	State claims discretionary function immunity, asserting that the challenged action involved a policy judgment	The failure is operational and ministerial—a negligent act in the delivery of a proprietary service (e.g., utility maintenance, facility operation)	Violates the governmental-proprietary distinction as applied in the discretionary function context. <i>Indian Towing Co. v. United States</i> ,	“Discretionary immunity applies to policy judgments, not to operational negligence in proprietary functions. Once the state undertakes a

#	Contradiction	PUB Claim	PRI Reality	Doctrinal Violation	Litigation Hook
				350 U.S. 61 (1955); <i>Berkovitz v. United States</i> , 486 U.S. 531 (1988)	proprietary function, it must perform it with the care of a private operator.”
4	General Welfare Claim + Selective Benefit	State invokes police power or general welfare rationale to justify the action as sovereign	The action primarily benefits a private party or narrow class, functioning as a proprietary wealth transfer rather than a public-purpose exercise of sovereign power	Violates public purpose doctrine. <i>Kelo v. City of New London</i> , 545 U.S. 469 (2005) (Kennedy, J., concurring); state constitutional public-purpose requirements	“An action that benefits a private party under the banner of sovereign authority is a capacity fraud. The sovereign label does not immunize what is functionally a proprietary transfer.”
5	Due Process Bypass + Administrative Efficiency	State characterizes a deprivation of liberty or property as a routine administrative or proprietary matter not	The action is substantively a sovereign deprivation—termination of benefits, seizure of property, revocation of a	Violates <i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976); <i>Goldberg v. Kelly</i> , 397 U.S. 254 (1970); <i>Cleveland Bd. of</i>	“Relabeling a sovereign deprivation as an administrative convenience does not eliminate the due process obligation.

#	Contradiction	PUB Claim	PRI Reality	Doctrinal Violation	Litigation Hook
		requiring formal process	license—requiring constitutional process	<i>Educ. v. Loudermil</i> , 470 U.S. 532 (1985)	The nature of the interest—not the label the state assigns—determines the process that is due.”
6	Regulatory Authority + Proprietary Interest	State exercises regulatory authority over an industry or market—setting rules, issuing licenses, enforcing compliance	State simultaneously participates in the same market as a proprietor—competing with the entities it regulates	Violates structural conflict-of-interest principles; due process (impartial decision-maker requirement); <i>Tumey v. Ohio</i> , 273 U.S. 510 (1927); <i>Caperton v. A.T. Massey Coal Co.</i> , 556 U.S. 868 (2009)	“The state cannot be both referee and player in the same market. Regulatory authority over competitors while simultaneously competing for market share is a structural due process violation.”

Artifact 4: Capacity-Shift Decision Tree

The following decision tree provides a step-by-step analytical framework for determining whether a given state action involves a lawful or unlawful capacity shift. The tree is designed for use by litigators evaluating potential PUB/PRI violations.

STEP 1: DOES THE STATE ACTION INVOLVE A SHIFT BETWEEN PUB AND PRI CAPACITY?

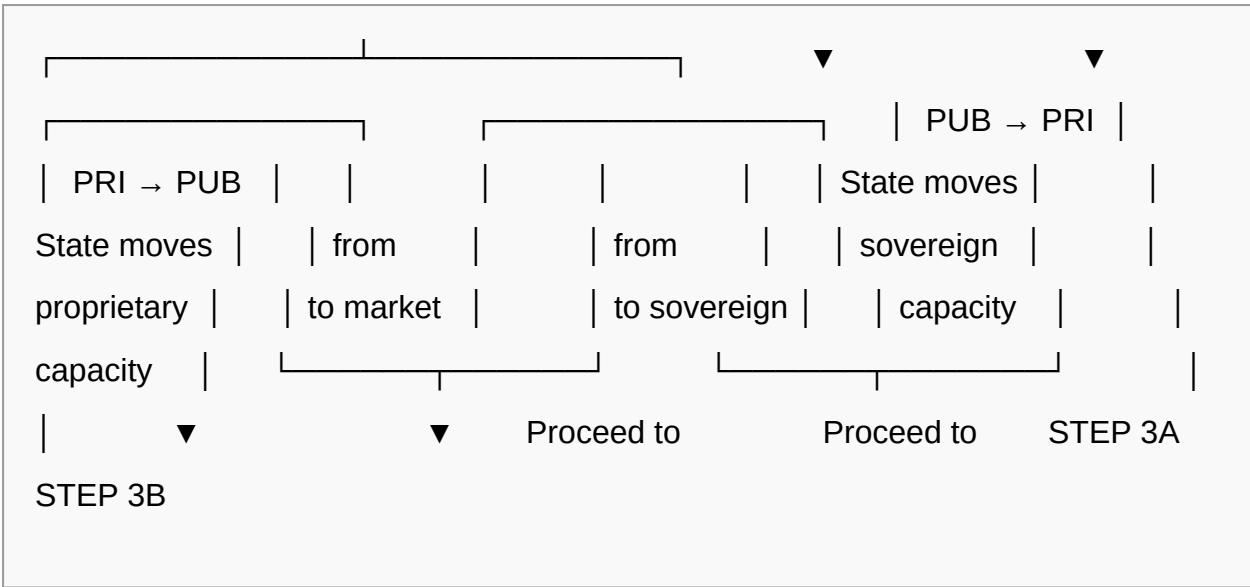
Ask: Is the state claiming attributes of one capacity while exercising functions of the other? Examples of capacity shift:

- State claims immunity (PUB) for a commercial activity (PRI)
- State imposes sovereign authority (PUB) via a "contract" (PRI)
- State enters the market (PRI) but retains regulatory power (PUB)

		NO		YES		
				▼		▼ Analyze under
Proceed to STEP 2 single-capacity framework (pure PUB or pure PRI). No connector analysis needed.						

STEP 2: IDENTIFY THE DIRECTION OF THE SHIFT

		What is



STEP 3A: PUB → PRI TRANSITION — CONNECTOR ANALYSIS

Is the shift accomplished through: (a) STATUTORY WAIVER? (b) CONTRACTUAL ENTRY? _____
 _____ Legislature expressly State voluntarily enters waived sovereign immunity the marketplace as a for the specific activity. contracting party.

_____ YES to (a) or (b) _____ NO to both _____

▼ _____
 _____ | LAWFUL CONNECTOR |
 | *** UNLAWFUL CAPACITY | | PRESENT. | | SHIFT IDENTIFIED *** | | Proceed to verify | | The state is exercising | | connector | | proprietary functions | | requirements. | | while retaining |

(See Step 4A)	sovereign shields, or
_____	vice versa.
_____	→ FILE CAPACITY-
VIOLATION CHALLENGE	

STEP 3B: PRI → PUB TRANSITION — CONNECTOR ANALYSIS

Is the shift accomplished through: (c) INFORMED CONSENT? (d)
 DUE PROCESS TRANSITION? _____
 _____ Individual knowingly and State
 invokes sovereign voluntarily submitted to power through constitu-
 state authority. tionally adequate process.

 _____ | YES to (c) or (d) | _____ | NO to
 both | _____ |
 _____ | _____ |

▼ ▼ _____
 _____ | LAWFUL CONNECTOR |
 | *** UNLAWFUL CAPACITY | | PRESENT. | | SHIFT
 IDENTIFIED *** | | | | Proceed to
 verify | | The state is imposing | | connector | |
 sovereign authority | | requirements. | | over private interests | |
(See Step 4B)		without constitutional	
_____		process.	
_____		→ FILE DUE PROCESS /	

| CAPACITY-VIOLATION | CHALLENGE
| _____ |

STEP 4A: VERIFY PUB → PRI CONNECTOR REQUIREMENTS

FOR STATUTORY WAIVER:

FOR CONTRACTUAL ENTRY:

- Is the waiver EXPLICIT? (State chose to enter language, not implied)
plain statutory (State chose to enter language, not implied)
the market; not compelled) Was the entry VOLUNTARY? (Stated in
one a (Identifies the particular PRIVATE ENTITY could activity or
claim type) perform for profit? Is the waiver SPECIFIC? Is the function
 Did the state ASSUME (No reasonable alternative PRIVATE-LAW
OBLIGATIONS? reading that preserves (Contract terms, tort
immunity) duties, commercial code) Was the waiver
LEGISLATIVELY Did the state FORGO ENACTED?
SOVEREIGN SHIELDS for (By the sovereign's own the proprietary
activity? lawmaking body, not by executive action alone) If ANY element is
not satisfied → Connector is DEFECTIVE. Treat as unlawful capacity shift.

STEP 4B: VERIFY PRI → PUB CONNECTOR REQUIREMENTS

FOR INFORMED CONSENT:

FOR DUE PROCESS TRANSITION:

Artifact 5: Model Brief Section — PUB/PRI Connector Table as Exhibit A

The following is a model brief section suitable for insertion into a motion, memorandum of law, or appellate brief. Bracketed placeholders indicate case-specific facts to be supplied by counsel.

III. THE STATE’S ACTION CONSTITUTES AN UNLAWFUL PUB/PRI CAPACITY VIOLATION

A. The PUB/PRI Framework

The governmental-proprietary distinction is a foundational doctrine of American public law. As the Supreme Court recognized in *Indian Towing Co. v. United States*, 350 U.S. 61 (1955), the line between sovereign and proprietary functions determines whether the state is held to the standard of a government exercising discretion or a private party exercising ordinary care. The distinction is not merely academic. It determines the availability of sovereign immunity, the applicable standard of liability, the governing body of law, and the remedial framework available to injured parties. *See Owen v. City of Independence*, 445 U.S. 622, 638 (1980) (municipality acting in proprietary capacity “is to be treated as a private individual”); Wells & Hellerstein, *The Governmental-Proprietary Distinction in Constitutional Law*, 66 Va. L. Rev. 1073 (1980).

When the state acts in its sovereign capacity, it wields the police power, enjoys presumptive sovereign immunity, and is accountable through the political process. When the state acts in its proprietary capacity, it enters the marketplace, assumes the obligations of a private party, and is accountable through the law of contract and tort. These capacities are

doctrinally distinct, and the transition between them must be accomplished through lawful means.

B. The Four Lawful Connectors

As set forth in the PUB/PRI Connector Table, attached hereto as **Exhibit A**, there are precisely four lawful mechanisms by which the State may transition between sovereign and proprietary capacity:

3. **Statutory Waiver** (PUB → PRI): The legislature expressly and unambiguously waives sovereign immunity for a specific activity, thereby subjecting the state to private-law standards. *Alden v. Maine*, 527 U.S. 706 (1999).
4. **Contractual Entry** (PUB → PRI): The state voluntarily enters the marketplace as a contracting party, assuming the obligations of a private market participant. *Reeves, Inc. v. Stake*, 447 U.S. 429 (1980).
5. **Informed Consent** (PRI → PUB): An individual knowingly and voluntarily submits to state authority, consenting to the exercise of sovereign jurisdiction. *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973).
6. **Due Process Transition** (PRI → PUB): The state invokes sovereign power over private interests through constitutionally adequate process satisfying *Mathews v. Eldridge*, 424 U.S. 319 (1976).

Any action that shifts capacity outside these four connectors constitutes a doctrinal violation—an unlawful assertion of sovereign privilege in a proprietary context, or an unlawful imposition of sovereign authority without constitutional process. There is no fifth pathway. The state must choose its capacity and bear its consequences.

C. Application to the Present Case

[Defendant agency] engaged in [*describe proprietary activity, e.g., "operating a revenue-generating utility service indistinguishable from a*

private commercial enterprise”] while simultaneously [describe sovereign shield being invoked, e.g., “claiming sovereign immunity to bar Plaintiff’s negligence claims arising from operational failures in that service”].

Applying the PUB/PRI decision tree, the analysis proceeds as follows:

Step 1: Capacity Shift Identified. [Defendant] claims the protections of sovereign capacity (immunity) while performing functions characteristic of proprietary capacity (commercial activity for revenue). This is a PUB/PRI capacity shift.

Step 2: Direction of Shift. [Defendant] entered the market as a proprietor (PRI) but now seeks to invoke sovereign immunity (PUB). The shift direction is PRI → PUB, or alternatively, [Defendant] seeks to retain PUB shields while operating in PRI mode.

Step 3: Connector Analysis. [Defendant] cannot identify any of the four lawful connectors authorizing this hybrid position:

- No *Statutory Waiver* applies because [Defendant] is not waiving immunity—it is asserting immunity. This connector operates in the opposite direction.
- No *Contractual Entry* was properly completed because [Defendant], while entering the market, has not accepted the corresponding private-law obligations—it seeks to retain its sovereign shield.
- No *Informed Consent* was obtained because [*describe absence of voluntary consent, e.g., “Plaintiff had no meaningful alternative to [Defendant]’s monopoly service and could not freely decline the terms imposed”*].
- No *Due Process Transition* occurred because [*describe absence of process, e.g., “[Defendant] provided no notice, hearing, or opportunity to contest the deprivation before it occurred”*].

Step 4: Conclusion. Because [Defendant]’s action does not satisfy any of the four lawful connectors, it constitutes an **unlawful PUB/PRI capacity**

violation. [Defendant] has claimed the benefits of proprietary capacity (market revenue, contractual flexibility) while retaining the protections of sovereign capacity (immunity from suit). This hybrid position is doctrinally impermissible. The Court should [*state requested relief, e.g., “deny Defendant’s motion to dismiss on sovereign immunity grounds” or “find that Defendant is estopped from asserting sovereign immunity for its proprietary functions”*].

EXHIBIT A

PUB/PRI CONNECTOR TABLE

Connector	Direction	Mechanism	Constitutional Test	Key Cases	Litigation Challenge if Absent
1. Statutory Waiver	PUB → PRI	Legislature expressly waives sovereign immunity for a specific activity or claim type	Waiver must be explicit, specific, unambiguous, and legislatively enacted	<i>Alden v. Maine</i> , 527 U.S. 706 (1999); <i>Atascadero State Hosp. v. Scanlon</i> , 473 U.S. 234 (1985)	State is asserting proprietary function without legislative authorization to be treated as a private party. Challenge immunity claim as inconsistent with proprietary activity.
2. Contractual Entry	PUB → PRI	State voluntarily enters marketplace as a contractor	Function must be one a private entity could	<i>Reeves, Inc. v. Stake</i> , 447 U.S. 429 (1980); <i>South-</i>	State entered market for profit but retains sovereign

Connector	Direction	Mechanism	Constitutional Test	Key Cases	Litigation Challenge if Absent
		g party, assuming private-law obligations	perform for profit; state must accept private-law duties and forgo sovereign shields	<i>Central Timber Dev. v. Wunnicke</i> , 467 U.S. 82 (1984)	immunity. Challenge: market entry is an implied waiver of immunity for that activity.
3. Informed Consent	PRI → PUB	Individual knowingly and voluntarily submits to state authority and sovereign jurisdiction	Consent must be knowing, voluntary, and free from coercion or monopoly duress; totality of circumstances	<i>Schnecko v. Bustamonte</i> , 412 U.S. 218 (1973); <i>Koontz v. St. Johns River Water Mgmt. Dist.</i> , 570 U.S. 595 (2013)	State imposed sovereign authority without valid consent. Challenge: “consent” was coerced, uninformed, or obtained under monopoly conditions.
4. Due Process Transition	PRI → PUB	State invokes sovereign power over private interests through constitutionally adequate procedural safeguard	<i>Mathews v. Eldridge</i> three-part balancing: (1) private interest; (2) risk of error and value of safeguards; (3) government interest	<i>Mathews v. Eldridge</i> , 424 U.S. 319 (1976); <i>Goldberg v. Kelly</i> , 397 U.S. 254 (1970); <i>Loudermill</i> , 470 U.S. 532	State deprived private interest without adequate process. Challenge: no notice, no hearing, no impartial decision-

Connector	Direction	Mechanism	Constitutional Test	Key Cases	Litigation Challenge if Absent
		s		(1985)	maker. The “administrative” label does not eliminate due process obligations.

Methodological Note: How the Five Artifacts Interrelate

The five artifacts in this suite are designed to function both independently and as an integrated analytical system. Each artifact serves a distinct purpose, but together they form a complete toolkit for PUB/PRI capacity analysis in litigation:

Artifact	Function	Role in the System
1. Flowchart	Maps the doctrine	Establishes the four lawful connectors and their directional operation, providing the structural foundation for all subsequent analysis.
2. Pathways Diagram	Distinguishes the two capacities	Defines the attributes of PUB and PRI capacity in parallel, making clear that each capacity carries

Artifact	Function	Role in the System
		distinct obligations, standards, and legal consequences.
3. Contradiction Matrix	Identifies failure modes	Catalogs the recurring patterns of PUB/PRI conflation, providing litigators with a diagnostic tool for identifying capacity violations in specific fact patterns.
4. Decision Tree	Operationalizes the analysis	Provides a step-by-step analytical walkthrough for determining whether a given state action involves a lawful or unlawful capacity shift, suitable for use in case evaluation and brief drafting.
5. Model Brief	Deploys the framework in litigation	Translates the doctrinal analysis into court-ready legal prose, with bracketed placeholders for case-specific facts, demonstrating how the framework is applied in an actual motion or brief.

The analytical thread running through all five artifacts is a single proposition: **PUB and PRI are mutually exclusive capacities, and the transition between them must be accomplished through one of four lawful connectors.** When the state fails to use a lawful connector—or uses one but then abandons its obligations—the resulting hybrid position is doctrinally unlawful and subject to challenge. This suite provides the vocabulary, structure, and litigation tools to make that challenge.