

APPENDIX B. STATE PPP ENABLING STATUTES FOR TRANSPORTATION PROJECTS AS OF OCTOBER 2010²²⁸

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
1	Alabama	Ala. Code §23-1-81	Authorizes county commissions and the state DOT to license private entities to establish or operate toll roads, toll bridges, ferries or causeways. Allows the authorization of a licensee to establish and fix the rates of toll.	No. Allows the county commission or state DOT to license private parties for toll projects (Ala. Code §23-1-81).
		Ala. Code §§23-2-140 to 163	Under legislation enacted in 2009 (House Bill 217; 2009 Ala. Acts, Act 769), authorizes the Alabama Toll Road, Bridge and Tunnel Authority to enter into agreements for design-build, design-build-operate, design-build-own-operate or design-build-own-operate-maintain contracts, or other similar arrangements or agreements; also allows for leases, licenses, franchises, concessions or other agreements for the development, operation, management or undertaking of all or any part of a project. Allows any entity that owns, leases or otherwise operates a toll facility to set and collect tolls, subject to such conditions as the authority and the state DOT may establish. Allows bids to be awarded by best value or qualifications. Sets the bond issue date at 75 years.	No. The authority must have the approval of the state DOT to construct toll, bridge or tunnel projects (Ala. Code §23-2-144(a)(5)) but is given full authority to enter into PPP contracts or agreements (Ala. Code §23-2-144(a)(12)). The statute requires approval of the governor to accept federal funds and to study any proposed toll road, bridge or tunnel project (Ala. Code §23-2-144(a)(15) and §23-2-161). It also requires the authority to submit an annual report to the Legislature (Ala. Code §23-2-158).
2	Alaska	Alaska Stat. §§19.75.111 to 990	Authorizes the Knik Arm Bridge and Toll Authority to enter into PPPs in any form to finance, design, construct, maintain, improve or operate the Knik Arm Bridge. Allows the authority to issue bonds or incur other forms of indebtedness to finance the project and to fix and collect tolls for the use of the bridge; these tolls may exceed operating costs.	No. Requires the authority to issue a report to the Legislature and the governor detailing its operations over the previous year and prospects for the next year (Alaska Stat. §19.75.111(b)(1)).
3	Arizona	Ariz. Rev. Stat. Ann. §§28-7701 to 7710	Comprehensive statute that authorizes PPPs for transportation projects. Under legislation enacted in 2009 (Senate Bill 2396; 2009 Ariz. Sess. Laws, Chap. 141), authorizes the state DOT to enter into agreements with private entities to design, build, finance, maintain, operate, manage and/or lease transportation facilities, or for any other project delivery method that the DOT determines will serve the public interest. Allows for availability payments and revenue sharing. Limits agreements to no more than 50 years, which may be extended by the DOT. Requires any foreign entity that submits a concession agreement to provide satisfactory evidence	No.

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			of compliance with certain requirements. Prohibits noncompete clauses, in that a PPP agreement must include a provision that bars a private partner from seeking relief to hinder the DOT from developing or constructing any facility that was planned at the time the agreement was executed. However, an agreement may provide for reasonable compensation to the private partner for adverse effects on revenues resulting from the development and construction of a then-unplanned facility. Allows for solicited and unsolicited proposals.	
4	Arkansas	Ark. Stat. Ann. §§27-86-201 to 211; Ark. Stat. Ann. §27.76.402	Sections 27-86-201 to 211 allow counties to grant franchises to private entities to build toll bridges, turnpikes or causeways over or along swamps, watercourses, lakes or bays whenever it is in the public interest. Require consent from the federal government for construction of the bridge. Give counties superintending authority on rates. Prohibit granting a franchise to operate a toll road on the state highway system. Section 27.76.402 prohibits a regional mobility authority from selling a toll facility project to a private entity or entering into a lease or concession agreement for a toll facility.	No.
5	California	Cal. Streets & Highways Code §143	Comprehensive statute that authorizes PPPs for transportation projects. Under legislation enacted in 2009 (Senate Bill 4b; 2009 Cal. Stats., Chap. 2), allows the state DOT (Caltrans) and regional transportation agencies, if authorized by the California Transportation Commission, to enter into “comprehensive development lease agreements” with public and/or private entities for transportation projects, including those that charge tolls or fees. Eliminates the need for legislative approval of lease agreements. Establishes the Public Infrastructure Advisory Commission as a public PPP advisory body. Prohibits noncompete clauses. Allows for solicited and unsolicited proposals. No lease agreements may be entered into under this section on or after Jan. 1, 2017.	No. The 2009 legislation eliminated former legislative approval requirements, which had been in place since 2005. However, the new law provides that lease agreements must first be submitted to the California Transportation Commission for approval, then to the Legislature and the Public Infrastructure Advisory Commission for review (Cal. Streets & Highways Code §143(c)(2) and §143(c)(5)).
		Cal. Gov. Code §§5956 to 5956.10	Authorizes local governmental agencies to enter into agreements with private entities to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair and/or operate a variety of fee-producing infrastructure facilities, including rail,	No. However, any action by a local agency to levy a new fee or service charge or to approve an increase in an existing fee or service charge pursuant to this chapter shall be taken only

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			highway, bridge, tunnel or airport projects. Allows for solicited and unsolicited proposals. Prohibits using the authority in this section to design, construct, finance or operate a toll road on a state highway.	by ordinance or resolution of the legislative body of that agency (Cal. Gov. Code §5956.10(b)(5)(D)).
6	Colorado	Colo. Rev. Stat. §§43-3-202 to 202.5	Authorizes the state DOT to make or enter into contracts or agreements with one or more public or private entities to design, finance, construct, operate, maintain, reconstruct or improve a turnpike project by means of a public-private initiative. Finds that privately-developed transportation projects can result in time and cost savings, risk reduction and new tax revenues. Requires that the public or private entity secure and maintain liability insurance coverage.	No.
		Colo. Rev. Stat. §§43-1-1201 to 1209	Allows the state DOT to enter into agreements for public-private initiatives, including for the design, financing, construction, operation, maintenance and/or improvement of toll roads, turnpikes and high-occupancy toll lanes. Allows for solicited and unsolicited proposals.	No.
		Colo. Rev. Stat. §§43-4-801 to 812	Under legislation enacted in 2009 (Senate Bill 108; 2009 Colo. Sess. Laws, Chap. 5), creates and authorizes a Statewide Bridge Enterprise to enter into PPPs to design, develop, construct, reconstruct, repair, operate or maintain bridge projects. Also creates the High-Performance Transportation Enterprise (HPTE) to seek out and enter into PPPs and other innovative means of completing surface transportation infrastructure projects. Both enterprises shall operate as government-owned businesses within the state DOT.	No. However, a metropolitan planning organization or other transportation planning region has the right to approve completion of any proposed surface transportation infrastructure PPP project that will add substantial capacity or significantly alter traffic patterns in its territory (Colo. Rev. Stat. §43-4-806(8)(b)).
		Colo. Rev. Stat. §§43-3-301 to 304	Sets requirements for private toll road or toll highway companies. Prohibits such a company from entering into a noncompete agreement with a public entity if such agreement would degrade an existing roadway or delay or prevent construction or upgrading of a road or highway that is included in a regional or statewide transportation plan.	No.
		Colo. Rev. Stat. §§43-3-401 to 414	Authorizes the Transportation Commission, with the approval of the governor, to enter into a contract with a private individual, firm or corporation for construction, maintenance and operation of one or more toll tunnels. Requires all rates for tolls or fees to be charged by a private	No. However, the governor must approve these contracts (Colo. Rev. Stat. §43-3-403(2)).

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			contractor to first be approved by the commission.	
		Colo. Rev. Stat. §43-2-219	Authorizes a board of county commissioners to enter into public-private initiatives for county highways and bridges, to privatize any county highway or bridge, or to charge tolls for such facilities.	No.
7	Delaware	Del. Code Ann. tit. 2, §§2001 to 2012	Comprehensive statute that authorizes PPPs for transportation projects. Authorizes the secretary of transportation to enter into agreements with private entities to study, plan, design, construct, lease, finance, operate, maintain, repair and/or expand transportation systems. Establishes the Public-Private Initiatives Program Revolving Loan Fund, which provides funds for financing such projects. Allows for solicited and unsolicited proposals.	Yes. However, the co-chairs of the Joint Bond Bill Committee, not the entire General Assembly, have authority to approve the agreement (Del. Code Ann. tit. 2, §2003(e)(3)).
8	Florida	Fla. Stat. Ann. §334.30	Comprehensive statute that authorizes PPPs for transportation projects. Authorizes the state DOT, with legislative approval, to enter into agreements with private entities to build, operate, own or finance transportation facilities. Creates evaluation criteria for such projects. Prohibits noncompete clauses. Exempts private entities from certain taxes. Allows the DOT to lease existing toll facilities (except the Florida Turnpike System) through PPPs with legislative approval; the DOT also may develop new toll facilities or increase capacity on existing toll facilities through PPPs. Requires provisions in the PPP agreement that ensure a negotiated portion of revenues from tolled or fare generating projects are returned to the DOT over the life of the agreement. Allows a private entity to impose tolls or fares, subject to DOT regulation and certain limits. Allows for availability payments or shadow tolls, subject to annual appropriation by the Legislature. Limits PPP terms to no more than 50 years; however, the secretary of transportation may authorize a term of up to 75 years, and the Legislature may approve a term exceeding 75 years. Limits the total obligations for all projects under this section to no more than 15 percent of total federal and state funding for the State Transportation Trust Fund in any given year. Allows for solicited and unsolicited proposals.	Yes, "as evidenced by approval of the project in the department's work program" in the Legislature's appropriations process (Fla. Stat. Ann. §334.30(1)). The DOT must submit PPPs either in its five-year work plan or 10-year Strategic Intermodal System Plan. Also, the DOT is required to provide an independent project analysis to the Legislative Budget Commission for review and approval prior to awarding a contract on a lease of an existing toll facility (Fla. Stat. Ann. §334.30(2)(d)). Legislative approval also is required for any agreement with a term in excess of 75 years (Fla. Stat. Ann. §334.30(12)).
		Fla. Stat. Ann. §337.251	Authorizes the state DOT to lease to public or private entities, for a term not to exceed	No.

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			99 years, the use of DOT property, including rights-of-way. Also authorizes the DOT to lease the use of areas above or below state highways or other transportation facilities for commercial purposes. Leases under this section may not interfere with the primary state transportation needs nor be contrary to the best interests of the public. Allows for solicited and unsolicited proposals.	
		Fla. Stat. Ann. §§338.22 to 251	Creates the Florida Turnpike Enterprise, which operates like private-sector business within the state DOT, in order to plan, develop, own, purchase, lease or otherwise acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate and manage the Florida Turnpike System. Allows the enterprise to cooperate, coordinate, partner and contract with other entities, public and private, to accomplish its purposes.	Yes. Any proposed turnpike project requires legislative approval (Fla. Stat. Ann. §338.221(6), §338.222, §338.223 and §338.2275).
		Fla. Stat. Ann. §343.875	Authorizes the Northwest Florida Transportation Corridor Authority to enter into agreements with private entities to build, operate, own or finance transportation facilities within its jurisdiction. Sets criteria for proposed projects. Allows for solicited and unsolicited proposals. Allows a private entity to impose tolls or fares, but rates and use of funds must be regulated by the authority to avoid unreasonable costs to facility users.	No.
		Fla. Stat. Ann. §348.0004	Authorizes any expressway authority, transportation authority, bridge authority or toll authority to enter into agreements with private entities to build, operate, own or finance transportation facilities within the jurisdiction of the authority. Creates evaluation criteria for such projects. Prohibits noncompete clauses. Allows a private entity to impose tolls or fares, but rates and use of funds must be regulated by the authority to avoid unreasonable costs to the users of the facility. Requires all PPP facilities to be consistent with state, regional and local comprehensive plans. Allows for solicited and unsolicited proposals.	Yes. The authority must provide an independent project analysis to the Legislative Budget Commission for review and approval prior to awarding a contract on a lease of an existing toll facility (Fla. Stat. Ann. §348.0004(9)(a)).
9	Georgia	Ga. Code Ann. §32-2-41(b)(6)	Under legislation enacted in 2009 (Senate Bill 200; 2009 Ga. Laws, p. 340), allows the commissioner to establish a Public-Private Initiatives Division within the state DOT.	No.
		Ga. Code Ann.	Under legislation enacted in 2009 (Senate	No. Final approval of

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		§§32-2-78 to 80	Bill 200; 2009 Ga. Laws, p. 340), authorize the DOT to solicit and accept proposals for projects that are funded or financed in part or in whole by private sources. Require all future PPP projects to be solicited by the DOT. Include public comment requirements and criteria for the DOT to use in awarding contracts. Authorize contracts to include tolls, fares, or other user fees and tax increments for use of the project. Final approval of PPP contracts shall be by action of the State Transportation Board.	contracts is by action of the State Transportation Board (Ga. Code Ann. §32-2-80(c)).
		Ga. Code Ann. §48-5-41; Ga. Code Ann. §48-5-421.1	Under legislation enacted in 2010 (House Bill 1186; 2010 Ga. Laws, p. 644), section 48-5-41 exempts property that qualifies as a public-private transportation project from ad valorem taxes, and section 48-5-421.1 provides that such projects shall not constitute special franchises.	No.
10	Illinois	Ill. Rev. Stat. ch. 20, §2705/2705-450	Authorizes the state DOT to enter into agreements with any public or private entity for the purpose of promoting and developing high-speed rail and magnetic levitation transportation within the state.	No.
		Ill. Rev. Stat. ch. 605, §5/10-802; Ill. Rev. Stat. ch. 605, §5/10-602(4)(1)	Authorizes municipalities to make contracts “of every kind and nature” to acquire, construct, reconstruct, improve, enlarge, better, operate, maintain and/or repair any bridge within five miles of the corporate limits of the municipality, and to fix and apply tolls and fees for use of such a bridge.	No.
		Ill. Rev. Stat. ch. 605 §§130/1 to 130/135; see also Ill. Rev. Stat. ch. 20 §2705/2705-220; Ill. Rev. Stat. ch. 20 §3501/825-105; Ill. Rev. Stat. ch. 30 §550/1.5; Ill. Rev. Stat. ch. 30 §570/2.5; Ill. Rev. Stat. ch. 30 §575/2.5; Ill. Rev. Stat. ch. 35 §120/1q; Ill. Rev. Stat. ch. 35 §200/15-55; Ill. Rev. Stat. ch. 820 §130/2	Under legislation enacted in 2010 (Senate Bill 3659; 2010 Ill. Laws, P.A. 96-913), authorizes the state DOT to enter into a PPP to develop, construct, manage or operate the Illiana Expressway. Limits the contract term to 99 years, including extensions. Requires legislative approval for all extensions. Chapter 820 section 130/2 makes a PPP for the Illiana Expressway subject to the state Prevailing Wage Act (this section is also applicable to a lease of facility property at Chicago Midway International Airport).	No, except for extensions of lease terms beyond 99 years (Ill. Rev. Stat. ch. 605 §§130/15(d)).

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11	Indiana	Ind. Code Ann. §§5-23-1-1 to 5-23-7-2	Authorizes governmental bodies to enter into PPP agreements with private entities for the acquisition, planning, design, development, reconstruction, repair, maintenance or financing of public facilities. Applies to the state, a political subdivision in a county containing a consolidated city, or a political subdivision in a county that adopts these provisions by resolution or ordinance. Limits original terms of PPP agreements to no more than five years with board approval; a term in excess of five years requires approval from the board, the governor and/or the fiscal body of a political subdivision. Requires a public hearing. Allows for solicited proposals only.	No. Under this chapter, PPPs must be approved by the board of the public agency having the power to award contracts. A PPP with an original term in excess of five years must also be approved by either the governor if the state is a party to the agreement or by the fiscal body of a political subdivision that is a party to the agreement (Ind. Code Ann. §5-23-6-1).
		Ind. Code Ann. §§8-15-1-1 to 8-15-3-35	Pertains to toll roads generally. Authorizes toll road bonds. Provides for certain powers and duties of private operators that have entered into a PPP for a toll road under Ind. Code Ann. art. 8-15.5 or art. 8-15.7. Exempts private operators from paying certain taxes on property or property interests acquired via a PPP.	Yes, inasmuch as the General Assembly must enact a statute to approve the location of a tollway as well as certain construction on Interstate 69 or the imposition of tolls in certain areas (Ind. Code Ann. §8-15-2-1(d) and §8-15-3-9(e)). The governor also must approve the location of any tollway (Ind. Code Ann. §8-15-3-9).
		Ind. Code Ann. §§8-15.5-1-1 to 8-15.5-13-8	With art. 8-15.7, acted to authorize the Indiana Toll Road lease transaction when first passed in 2006 (House Bill 1008; 2006 Ind. Acts, P.L. 47). Authorizes the Indiana Finance Authority to enter into PPP agreements with private entities to plan, design, acquire, construct, reconstruct, improve, extend, expand, lease, operate, repair, manage, maintain or finance toll road projects. Prohibits the state DOT or the authority from issuing a request for proposals or entering into a PPP for a toll road after Aug. 1, 2006, unless the General Assembly adopts a statute authorizing the imposition of tolls. Exempts certain projects from the legislative approval requirement, including the Illiana Expressway under legislation enacted in 2010 (Senate Bill 382; 2010 Ind. Acts, P.L. 85). Requires public hearings to be held in affected counties; also requires certain preliminary studies. Limits lease terms to no more than 75 years. Allows for solicited proposals only.	Yes, inasmuch as the General Assembly must enact a statute to approve the imposition of tolls generally as well as to approve certain construction on Interstate 69 or the imposition of tolls in certain areas. Certain projects are exempt from this requirement including the Illiana Expressway (Ind. Code Ann. §8-15.5-1-2). The governor must approve the PPP agreement and the selection of the private operator (Ind. Code Ann. §8-15.5-4-11 and §8-15.5-5-1).
		Ind. Code Ann.	With art. 8-15.5, acted to authorize the	Yes. The General Assembly

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		§§8-15.7-1-1 to 8-15.7-16-8	Indiana Toll Road lease transaction when first passed in 2006 (House Bill 1008; 2006 Ind. Acts, P.L. 47). Authorizes the state DOT to enter into PPPs to develop, finance or operate transportation projects, including tollways, roads and bridges, and some rail projects. Prohibits the DOT or the Indiana Finance Authority from issuing a request for proposals or entering into a PPP agreement unless the General Assembly adopts a statute authorizing that activity. Exempts certain projects from the legislative approval requirement, including an Interstate 69 project and the Illiana Expressway under new legislation enacted in 2010 (Senate Bill 382; 2010 Ind. Acts, P.L. 85). Allows for solicited proposals only.	must enact a statute to approve issuing a request for proposals or entering into a PPP agreement. It also must approve carrying out certain construction on Interstate 69 or the imposition of tolls in certain areas. Certain projects are approved by having been statutorily exempted from the legislative approval requirement, including an Interstate 69 project and the Illiana Expressway (Ind. Code Ann. §8-15.7-1-5(b)). PPPs for rail projects also are subject to review and appropriation by the General Assembly (Ind. Code Ann. §8-15.7-1-5(c)). The governor must approve the selection of the private operator (Ind. Code Ann. §8-15.7-4-3).
		Ind. Code Ann. §§8-23-7-22 to 25	Authorizes the state DOT to convert a state highway to a tollway, subject to approval of the governor and the General Assembly. After such order becomes effective, requires the DOT to maintain and operate the tollway as provided in Ind. Code Ann. §8-15-3 or to enter into a PPP as provided in Ind. Code Ann. art. 8-15.7 (see above). Exempts certain projects from the legislative approval requirement, including an Interstate 69 project and the Illiana Expressway under legislation enacted in 2010 (Senate Bill 382; 2010 Ind. Acts, P.L. 85).	Yes, inasmuch as the General Assembly must enact a statute to approve changing a state highway to a tollway as well as to approve certain construction on Interstate 69 or the imposition of tolls in certain areas. Certain projects are exempt from this requirement, including an Interstate 69 project and the Illiana Expressway (Ind. Code Ann. §8-23-7-22(b) and §8-23-7-23(c)). The governor also must approve changing a state highway to a tollway (Ind. Code Ann. §8-23-7-22(a) and §8-23-7-23(a)).
12	Louisiana	La. Rev. Stat. Ann. §§48:1251 to 1281	Establishes the Louisiana Expressway Authority, which was subsequently transferred to the Louisiana Department of Transportation and Development (DOTD) by La. Rev. Stat. Ann. §36:509. Section 1261 empowers the authority to fix, revise, charge and collect tolls and charges for the use of an expressway project; to contract with any person, partnership, association or corporation desiring the use of any part thereof in order to provide expressway facilities when, in the opinion of the authority, such facilities are necessary or	No

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			desirable; and to fix the terms, conditions, rates and charges for use. States that such tolls shall not be subject to supervision or regulation by any other commission, board or agency of the state.	
		La. Rev. Stat. Ann. §§48:2020 to 2037	Encourages parishes and municipalities to use PPPs to help the state finance improvements to the state highway system and meet local transportation needs. Authorizes parishes and municipalities to create transportation authorities, which may enter into agreements with public or private entities to construct, maintain, repair and/or operate transportation projects. Allows transportation authorities to authorize investment of public and private money to finance such projects, subject to compliance with state law relative to use of public funds.	No.
		La. Rev. Stat. Ann. §§48:2071 to 2074; La. Rev. Stat. Ann. §48:2077; La. Rev. Stat. Ann. §§48:2084 to 2084.15	Creates the Louisiana Transportation Authority to pursue alternative and innovative funding sources—including PPPs, tolls and unclaimed property bonds—to supplement public revenue sources and to improve Louisiana's transportation system. Allows the authority to contract with a public or private entity to construct, maintain, repair or operate authority projects, and to authorize the investment of public and private money to finance such projects, subject to compliance with state law relative to the use of public funds. Allows a private entity to impose user fees, but prohibits a private entity from imposing tolls or user fees on any existing free transportation facility unless the facility is improved or expanded. Allows for solicited and unsolicited proposals.	No. However, before approving a PPP proposal, the authority must first submit it to the House and Senate Committees on Transportation, Highways and Public Works, which then must conduct a public hearing (La. Rev. Stat. Ann. §48:2084).
13	Maine	Me. Rev. Stat. Ann. tit. 23, §4251	Under legislation enacted in 2010 (House Bill 1167; 2010 Me. Laws, Chap. 648), authorizes the state DOT—with legislative approval—to enter into PPPs for transportation projects with an estimated cost of more than \$25 million or when a project proposal includes tolling existing transportation facilities that were not previously subject to tolls. Allows for solicited and unsolicited proposals. Sets standards and requirements for PPP proposals, including completion of certain studies. Requires PPP proposals to limit the use of state capital funding to less than 50 percent of the initial capital cost of the facility and, to the extent practicable,	Yes. The state DOT must submit to the Legislature a bill that authorizes the agreement (Me. Rev. Stat. Ann. tit. 23, §4251(9)). The Legislature also must approve any terms longer than 50 years (Me. Rev. Stat. Ann. tit. 23, §4251(8)). Requires the DOT to submit, to the joint standing committee of the Legislature having jurisdiction over transportation matters, an annual report summarizing proposals that the DOT has determined meet the required

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			minimize use of public transportation funding sources. Allows a PPP agreement to authorize a private entity to impose tolls or fares, subject to certain requirements. Limits term length to 50 years unless the Legislature, upon the recommendation of the commissioner of transportation, approves a longer term.	standards or that have been finally rejected during the previous calendar year (Me. Rev. Stat. Ann. tit. 23, §4251(11)).
14	Maryland	No PPP enabling statute, but see Md. Transportation Code Ann. §4-205; Md. Transportation Code Ann. §4-312; Md. Transportation Code Ann. §4-406	Maryland does not have a statute expressly authorizing transportation PPPs. However, Maryland established by regulation a Transportation Public-Private Partnerships Program for non-highway projects (Md. Code Regs §§11.07.06.01 to 14 and Md. PPP Guidance), under the statutory authority of sections 4-205 and 4-312. A 1996 state attorney general opinion also states that the Maryland Transportation Authority is authorized to enter into PPPs for toll highways under these and other provisions (MD 81 Op. Att’y Gen. 261, issued 2/2/96). State statute now implicitly acknowledges this interpretation by addressing oversight and reporting requirements for transportation PPPs, including tolled projects (Md. Transportation Code Ann. §4-406).	No. The state DOT has the authority to enter into PPPs, although lease agreements specifically are subject to approval by the Board of Public Works (Md. Transportation Code Ann. §4-406(f)). However, Md. Transportation Code Ann. §4-205 and §4-406—the latter under legislation enacted in 2010 (Senate Bill 979 and House Bill 1370; 2010 Md. Laws, Chap. 640 and Chap. 641)—require the authority to submit several reports for review and comment to the Senate Budget and Taxation Committee, the House Committee on Ways and Means, the House Appropriations Committee and/or the Department of Legislative Services.
15	Massachusetts	Mass. Gen. Laws Ann. ch. 6C, §§1 to 75	Under legislation enacted in 2009 (Senate Bill 2087; 2009 Mass. Acts, Chap. 25), allows the board of directors of the newly created MassDOT to solicit proposals and enter into contracts for design-build-finance-operate-maintain or design-build-operate-maintain services with the responsible and responsive offeror submitting the proposal that is most advantageous to the department through the sale, lease, operation and maintenance of a transportation facility within the commonwealth.	No. A Special Public-Private Partnership Infrastructure Oversight Commission is established, which must comment on and approve all requests for proposals. Commission members cannot have been employees of the executive branch or members or employees of the legislature for a period of at least two years prior to appointment (Mass. Gen. Laws Ann. ch. 6C, §73).
16	Minnesota	Minn. Stat. Ann. §§160.84 to 98	This statute generally authorizes state and local road authorities to solicit or accept proposals from and enter into development agreements with private entities to develop, finance, design, construct, improve, rehabilitate, own and/or operate toll facilities. It also authorizes user fees for high-occupancy vehicle lanes (also known	No. Approval is required by the state DOT commissioner or, if the project is in a municipality, by the municipality's governing board (Minn. Stat. Ann. §160.85 subd. 3).

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			<p>as HOT lanes) or dynamic shoulder lanes.</p> <p>Under legislation passed in 2008 (House File 2800; 2008 Minn. Laws, Chap. 152), however, the extent to which a private entity can operate and maintain a road is significantly limited. Section 160.845 prohibits a road authority or a private operator from converting, transferring or utilizing any portion of a highway to impose tolls or for use as a toll facility (excepting dynamic shoulder lanes or HOV/HOT lanes); and section 160.98 prohibits a road authority from selling, leasing, executing a development agreement for a build-operate-transfer or build-transfer-operate facility that transfers an existing highway lane, or otherwise relinquishing management of a highway. Thus, although Minnesota is still counted as a state with PPP enabling legislation, according to a recent Stateline article, “new legislation would be necessary to move forward virtually any significant P3 project.”²²⁹</p>	
17	Mississippi	Miss. Code Ann. §§65-43-1 to 85	Authorizes the Mississippi Transportation Commission, county boards of supervisors and/or the governing authorities of municipalities to contract with other governmental agencies or private entities for the purpose of designing, financing, constructing, operating and maintaining one or more new toll roads or toll bridges in the state. Prohibits noncompete clauses by authorizing toll roads or bridges at and along only those locations where an alternate untolled route exists. Limits contract terms to 50 years, which cannot be extended or renewed. Allows for solicited and unsolicited proposals.	No. Requires the Mississippi Transportation Commission to submit an annual report to the chairs of the Senate Highways and Transportation Committee and the House Transportation Committee evaluating the financial and operational performance by a private company with which the commission has contracted for construction, operation and maintenance of a toll project (Miss. Code Ann. §65-43-4).
18	Missouri	Mo. Rev. Stat. §§227.600 to 669	Under legislation enacted in 2009 (House Bill 683; 2009 Mo. Laws, H.B. 683), authorizes the Highways and Transportation Commission to enter into agreements with private partners to finance, develop and/or operate any pipeline, ferry, river port, airport, railroad, light rail or other mass transit facility. Any project not mentioned previously cannot be financed, developed or operated by a private partner until it is approved by a vote of the people. Allows for solicited and unsolicited projects.	Yes. Requires projects to be approved by the commission, then the Joint Committee on Transportation Oversight (Mo. Rev. Stat. §227.615(2)). Certain projects must be submitted for approval by a vote of the people (Mo. Rev. Stat. 227.600(2)(10)). Also requires the commission to submit an annual status report to the governor and General Assembly assessing the advantages and disadvantages

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				of the PPP method of financing, developing, and/or operating each project (Mo. Rev. Stat. §227.669).
		Mo. Rev. Stat. §§238.300 to 367	Authorizes creation of special purpose, nonprofit “transportation corporations” by private parties, which may enter into agreements with the Highways and Transportation Commission in order to fund, promote, plan, design, construct, maintain and operate one or more transportation projects. Authorizes such corporations to issue bonds and to establish and charge user fees for projects. No part of the earnings or assets of a transportation corporation shall inure to the benefit of any private interests, person or entity.	No. Projects must be approved by the governing body of each such county, city, town or village and the commission (Mo. Rev. Stat. §238.310(3)).
19	Nevada	Nev. Rev. Stat. §§338.161 to 168	Allows private entities to submit a request to a public body to develop, construct, improve, maintain or operate, or any combination thereof, a transportation facility. Excludes toll roads and toll bridges.	No. However, approval is subject to the provisions in Nev. Rev. Stat. §338.166.
20	North Carolina	N.C. Gen. Stat. §136-28.6A	Under legislation enacted in 2009 (Senate Bill 648; 2009 N.C. Sess. Laws, Chap. 235), allows the state DOT to enter into a contract with a private developer to accomplish the engineering, design or construction of improvements to the state highway system. Sets restrictions on such projects, including that DOT participation is limited to the lesser of 10 percent of the engineering contract and any construction contract or \$250,000, and that, in any case, DOT costs must not exceed normal practices. Requires projects to be constructed in accordance with DOT-approved plans and specifications. Expires Dec. 31, 2011.	No. Requires the secretary of transportation to report annually to the Joint Legislative Commission on Governmental Operations and the Joint Legislative Transportation Oversight Committee about agreements entered into under this section (N.C. Gen. Stat. §136-28.6A(d)).

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
		N.C. Gen. Stat. §§136-89.180 to 198	Authorizes the North Carolina Turnpike Authority to enter into agreements with the state DOT, political subdivisions and private entities, and to expend such funds as it deems necessary pursuant to such agreements, to finance the acquisition, construction, equipping, operation or maintenance of any turnpike project. Authorizes the authority to fix and collect tolls and fees for the use of a turnpike project. Prohibits noncompete clauses by requiring the DOT to maintain an existing, alternate, comparable nontoll route corresponding to each turnpike project constructed pursuant to this article. Allows the authority to study, plan and conduct preliminary design work on up to nine projects and then to design, establish, purchase, construct, operate and maintain five identified projects only. Any additional projects require legislative approval.	Yes, but only for projects in addition to the five listed in the statute (N.C. Gen. Stat. §136-89.183(a)(2)(e)). Also requires the authority to submit a description of any proposed toll or fee to the Board of Transportation, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations for review (N.C. Gen. Stat. §136-89.183(a)(5)). Concurrence of the Board of Transportation also is required if the state DOT is a party to the agreement (N.C. Gen. Stat. §136-89.183(a)(17)). Sets other reporting requirements to the governor, the General Assembly, the DOT, the Joint Legislative Transportation Oversight Committee and the Joint Legislative Commission on Governmental Operations (N.C. Gen. Stat. §136-89.183A(e) and §136-89.193).
21	Oregon	Or. Rev. Stat. §§367.800 to 826	Establishes the Oregon Innovative Partnerships Program within the state DOT, which is authorized to enter into agreements with private entities to plan, acquire, finance, develop, design, construct, reconstruct, replace, improve, maintain, manage, repair, lease and/or operate transportation projects. Lists specific goals for the program, including to speed project delivery, maximize innovation and develop partnerships with private entities. Lists specific requirements for PPP agreements, including financing, risk management, penalties for nonperformance and incentives for performance. Allows for solicited and unsolicited proposals.	No. The DOT may not enter into an agreement until it is reviewed and approved by the Oregon Transportation Commission (Or. Rev. Stat. §367.806(6)(a)).
		Or. Rev. Stat. §§383.001 to 075	Finds that, because public funding sources are not providing sufficient funds to meet the state's growing transportation needs, private funding should be encouraged as an additional source of funding for transportation projects and facilities. Authorizes the state DOT to enter into agreements with private entities and/or	No. Decisions are made by the DOT, except that the Transportation Commission must approve establishment of any tolls (Or. Rev. Stat. §383.004(1)).

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
			units of government to acquire, design, construct, reconstruct, operate or maintain and repair tollway projects. Includes lease agreements. Allows the DOT or a private entity that operates a tollway project pursuant to an agreement with the DOT to impose and collect tolls. Allows for solicited and unsolicited proposals.	
22	South Carolina	S.C. Code Ann. §57-3-200	Authorizes the state DOT to expend such funds as it deems necessary to enter into partnership agreements with private entities to finance, by tolls and other methods, the cost of acquiring, constructing, equipping, maintaining and operating highways, roads, streets and bridges in the state.	No.
		S.C. Code Ann. §§57-5-1310 to 1495	Allows the state DOT to construct and operate turnpike facilities. Section 57-5-1330(1)(4) appears to allow the use of PPPs for these facilities by allowing the DOT to exercise such authorizations as are granted by the provisions in other statute law to designate, establish, plan, abandon, improve, construct, maintain and regulate turnpike facilities.	No. However, the DOT is required to complete a feasibility study of any bridge project that qualifies as a turnpike facility and to forward copies of such study to the chairs of the Senate Transportation and Finance committees and the House Education and Public Works and Ways and Means committees (S.C. Code Ann. §57-5-1335).
23	Tennessee	Tenn. Code Ann. §§54-3-101 to 113	Authorizes tolling as an additional and alternative method for funding or financing transportation facilities. Authorizes the state DOT to enter into agreements with private parties to develop or operate a tollway, toll facility or any part thereof. Limits authorization for tolling initially to a pilot program of two projects. Provides that existing highways cannot be converted into toll roads, but additional lane capacity constructed on or along an existing highway or bridge may be developed and operated like a tollway. Requires legislative approval.	Yes. Requires the DOT to submit any proposed toll facility or road in their annual funding recommendation to the General Assembly. The toll facility or road cannot be developed further until those recommendations have been approved by the General Assembly (Tenn. Code Ann. §54-3-102(b)). Legislative approval is required both for the two pilot projects and before proceeding with additional tollway and toll facility projects beyond the pilot program (Tenn. Code Ann. §54-3-113).
24	Texas	Tex. Transportation Code Ann. §§222.001 to 107	Relates generally to funding and federal aid, with provisions pertaining to PPPs. Prohibits the state DOT from using state highway funds to guarantee loans or insure bonds for costs associated with a toll facility of a public or private entity. Authorizes the DOT to otherwise participate in the cost of acquiring, constructing, maintaining or	No.

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
			operating a toll facility of a public or private entity. Allows the DOT to enter into an agreement with a public or private entity to pay pass-through tolls (also known as shadow tolls) to that entity as reimbursement for the design, development, financing, construction, maintenance or operation of a toll or nontoll facility on the state highway system.	
		Tex. Transportation Code Ann. §§223.201 to 210 (many provisions expired on Aug. 31, 2009); Tex. Transportation Code Ann. Ch. 228	Chapter 223 authorized the state DOT to enter into comprehensive development agreements with private entities to design, develop, finance, construct, maintain, repair, operate, extend or expand toll projects, facilities on the Trans-Texas Corridor and certain state highway improvement projects. This authority expired on Aug. 31, 2009, except in relation to certain non-tolled managed lanes projects, which expires on Aug. 31, 2011. Chapter 228 relates to state highway toll projects, including county and voter approval requirements for conversion of a state highway to a toll road.	No. However, the Transportation Commission can convert a state highway or segment thereof to a toll road only if the conversion is approved by the commissioner's court of the county where the highway is located as well as by the voters of the relevant local jurisdiction (Tex. Transportation Code §228.207).
		Tex. Transportation Code Ann. §91.054; Tex. Transportation Code Ann. §§227.021 to 034 (subject to Ch. 223, above)	Authorized and further defined the requirements for the state DOT to enter into comprehensive development agreements for facilities on the Trans-Texas Corridor; these were subject to the authority granted by Chapter 223 (above), which expired on Aug. 31, 2009.	No.
		Tex. Transportation Code Ann. §§366.401 to 409	Authorizes regional tollway authorities to use comprehensive development agreements with private entities to design, develop, finance, construct, maintain, repair, operate, extend or expand turnpike projects.	No.
		Tex. Transportation Code Ann. §§370.305 to 317 (many provisions expired on Aug. 31, 2009)	Authorized regional mobility authorities to use comprehensive development agreements with private entities to construct, maintain, repair, operate, extend or expand transportation projects. This authority expired on Aug. 31, 2009, except provisions pertaining to certain non-tolled and managed lanes projects, which expire on Aug. 31, 2011.	No.
		Tex. Transportation Code Ann. §§371.001 to 153	Sets requirements for comprehensive development agreements for highway toll projects, including those developed by the state DOT under Chapter 277, by a regional tollway authority under Chapter 366, or by a regional mobility authority	No. Requires a toll entity to notify the Legislative Budget Board with the names of shortlisted proposers and team members no later than the 10 th day after selection, and with

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
			under Chapter 370 (above). Requires a review of a proposed agreement by the attorney general and notifications to the Legislative Budget Board and state auditor. Makes certain financial data public information on or after the date the agreement is entered into. Prohibits noncompete clauses, but allows compensation of the private participant for revenue losses attributable to the construction by the toll entity of a limited access highway project located within up to four miles of the PPP project, subject to limits and exceptions. Addresses termination, disclosure of financial information, and public hearing requirements.	several other materials at least 30 days before entering into a comprehensive development agreement (Tex. Transportation Code Ann. §371.052(a),(b)). Also requires a toll entity to provide the state auditor with a traffic and revenue report at least 30 days before entering into such an agreement (Tex. Transportation Code Ann. §371.052(c)). Further prohibits any toll project entity from entering into such an agreement unless the attorney general reviews it and determines it is legally sufficient (Tex. Transportation Code Ann. §371.051).
25	Utah	Utah Code Ann. §63G-6-503; Utah Code Ann. §§72-6-201 to 206	Authorize the state DOT to accept proposals for, and enter into, tollway development agreements with public or private entities to study, predevelop, design, finance, acquire, construct, reconstruct, maintain, repair, operate, extend or expand tollway facilities. Define the terms that must be included in such agreements. Tollway development agreements must be approved by the Utah Transportation Commission. Allow for solicited and unsolicited proposals.	No. Tollway development agreements are approved by the Transportation Commission, as are any amendments or modifications thereto. However, the DOT must report to the Executive Appropriations Committee, Transportation Interim Committee, or other designated committee on the status and progress of a tollway subject to a tollway development agreement (Utah Code Ann. §72-6-206).
		Utah Code Ann. §72-6-118; Utah Code Ann. §72-2-120	Authorizes the state DOT to establish, expand and operate tollways and related facilities. Authorizes the DOT to enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements for tollway projects. Prohibits the DOT or other entity from establishing or operating a tollway on an existing state highway unless approved by the Transportation Commission and the Legislature, except for high occupancy toll lanes or additional capacity lanes. Requires revenue generated from tollway development agreement projects to be deposited into the Tollway Special Revenue Fund created in section 72-2-120 and used for transportation facilities within the corridor served by the tollway, unless the revenue is to the private entity or identified	Yes, inasmuch as legislative approval is required for the state DOT or other entity to establish or operate a tollway on an existing state highway (Utah Code Ann. §72-6-118(3)(a)).

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
			for a different purpose under the agreement.	
26	Virginia	Va. Code §§56-556 to 575	The Public-Private Transportation Act of 1995 (subsequently modified) is a comprehensive PPP statute intended to encourage private investment in transportation facilities. Authorizes a private entity to develop and/or operate a qualifying transportation facility, subject to approval from and a comprehensive agreement with the responsible public entity. Contains detailed implementation guidelines, including specific requirements for comprehensive agreements. Stipulates the powers and duties of a private entity in a PPP and provides financing mechanisms. Allows for solicited and unsolicited proposals.	No. However, approval is subject to the provisions in Va. Code §56-560.
27	Washington	Wash. Rev. Code Ann. §§47.29.010 to 290	Notes that the Public-Private Transportation Initiatives Act created under Chapter 47.46 (below) has not met the needs and expectations of the public or private sector for the development of transportation projects, and phases out that act after July 24, 2005. Authorizes the state DOT to enter into PPPs for transportation projects, whether capital or operating, where the state's primary purpose for the project is to facilitate safe transportation of people or goods via any mode of travel. Defines terms that must be included in agreements. Requires review by and approval of the Transportation Commission for PPP contracts or agreements. Requires an advisory committee for any project that costs \$300 million or more. Authorizes the DOT to solicit or accept unsolicited proposals after Jan. 1, 2007, for eligible transportation projects.	Yes, but only for projects financed by tolls or other equivalent funding sources (Wash. Rev. Code Ann. §47.29.060(1)(e)). Also requires legislative authorization to use the proceeds of grant anticipation revenue bonds (Wash. Rev. Code Ann. §47.29.060(1)(a)). Further requires the state finance committee (the state treasurer, lieutenant governor and governor, ex officio) or governing board of a public benefit corporation to approve the financing of any public project developed in conjunction with a transportation project. (Wash. Rev. Code Ann. §47.29.060(4)).
		Wash. Rev. Code Ann. §§47.46.010 to 180 (phased out by §§47.29.060 et seq., above)	Authorized public-private transportation initiatives. This statute was phased out in 2005 by Chapter 47.29 (above).	No.
		Wash. Rev. Code Ann. §47.10.834	Requires bonds to be issued to fund the public-private initiatives authorized by Chapter 47.46 (above).	No.
28	West Virginia	W. Va. Code §§17-27-1 to 18	The Public-Private Transportation Facilities Act, passed in 2008 (House Bill 4476; 2008 W. Va. Acts, Chap. 184), is a comprehensive statute that authorizes the	Yes. Requires approval first by concurrent resolution of the Legislature and then by the governor (W. Va. Code §17-

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
			Division of Highways to enter into comprehensive agreements with private entities to acquire, construct or improve transportation facilities. Sets guidelines for soliciting proposals. Specifies what comprehensive agreements shall contain. Allows a private developer to charge user fees if they are consistent with the rate of return specified in the agreement; requires the schedule and amount of initial user fees and any fee increase to be approved by the Commissioner of the Division of Highways. Once a developer's rights and duties cease under an agreement, provides that the facility will be dedicated to the Division of Highways for public use. Stipulates that the division has no duty to accept, consider or review an unsolicited proposal. Prohibits the Division of Highways from entering into any comprehensive agreement after June 30, 2013.	27-9(10)(i).
29	Wisconsin	Wis. Stat. Ann. §84.01(30)	Authorizes the state DOT to enter into build-operate-lease or transfer agreements with private entities for construction of transportation projects and for maintenance or operation of projects that are not purchased by the state upon their completion. Lists specific provisions that must be included in every agreement. An agreement may not be entered into unless the DOT determines that it advances the public interest and the private entity meets certain criteria.	No.
30	Puerto Rico	9 L.R.P.A. §§2001 to 2021	Creates the Puerto Rico Highway and Transportation Authority. Empowers the authority or the Department of Transportation and Public Works to contract with private parties to design, construct, operate and maintain new highways, bridges, avenues, expressways and ancillary transit facilities, and informative electronic signboards or billboards. Limits contract terms for the operation, administration and maintenance phases to 50 years. Requires the secretary of transportation and public works or an official designated by him to be the representative of the public interest and to ensure the private entity fulfills its contractual obligations, among other duties. Creates a negotiated competitive bidding process. In case an existing road is converted into a toll road, requires an	Yes, inasmuch as legislative approval is required for projects that convert an existing facility to a toll road that is operated and maintained by a private entity (9 L.R.P.A. §2004e). Also requires the secretary of transportation and public works to report annually to the governor and the legislature in relation to the development of a project (9 L.R.P.A. §2004d(e)). Sets other reporting requirements to the legislature (9 L.R.P.A. §2014).

	State/ Jurisdiction	Statute	Provisions	Legislative Approval Required
		P.R. 2009 Act No. 29	<p>alternate road that is not tolled.</p> <p>Comprehensive statute that authorizes PPPs, passed in 2009 (Senate Bill 469). States the commonwealth’s motives and goals for authorizing PPPs. Establishes the Public-Private Partnership Authority as an entity of the Government Development Bank. Empowers the authority to establish PPPs for infrastructure projects, and makes the authority the sole government entity responsible for implementing public policy on PPPs as set forth in this act. Limits term lengths to 50 years, with extensions subject to legislative approval. Creates guidelines for evaluating, approving, contracting for and overseeing PPP projects. The authority will form a separate committee for each proposed project; authority members and the project committee will assess the credentials of each project, and the committee will be able to issue RFQs and negotiate contracts. Final approval of PPP contracts rests with the governor.</p>	<p>No. Final decisions rest with the governor (P.R. 2009 Act No. 29 Section 9(g)). The act, however, requires the authority to provide annual reports to the legislature and the governor on the development of projects and contractors’ compliance with partnership contracts in effect (2009 Act No. 9 Section 10(d)). Extensions of term lengths beyond 50 years also require approval by legislation (2009 Act No. 9 Section 10(e)).</p>