

2011 PPP Legislative Update



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas



Nicholas Farber
National Conference of State Legislatures

August 9, 2011
NCSL Legislative Summit, San Antonio



PPP Legislation in 2011

- Total Number of States with PPP Enabling Legislation: 31*
 - 16 states considered PPP-related legislation this year
 - 23 introduced bills - 7 enacted
 - 2010: 52 introduced bills - 11 enacted
 - Ohio enacted legislation authorizing PPPs
 - Bills still pending in California, Michigan, New York and Pennsylvania



Ohio HB 114

- Comprehensive enabling legislation
 - Authorizes state DOT to enter into transportation PPPs
 - Establishes procedures for selecting a proposal
 - No legislative approval requirements
 - Limits the agreement to a two-year period
 - Any agreement can be renewed on a two-year basis if legislature provides sufficient appropriations to the DOT



Arkansas HB 1842

- Allows regional mobility authorities to enter into PPPs for:
 - Rail
 - Waterways
 - Trails



Arizona SB 1270

- Current PPP enabling legislation allows state DOT to enter into PPPs for any "eligible facility"
- Broadens definition of "eligible facility"
- Allows concession agreements to contain clauses for:
 - Rent
 - Advertising
 - Sponsorship fees or service fees
- Allows state DOT to continue collecting tolls once agreement ends



Indiana SB 473

- Removes certain provisions requiring legislative approval
- Transfers the approval process to the governor
- Requires the Budget Committee to review within 90 days if PPP is a toll road
- Retains legislative approval for I-69 and a toll road on a part of an interstate highway south of Indianapolis



Texas SB 1048

- Allows concession agreements for PPPs:
 - Ferries
 - Mass transit facilities
 - Parking structures
 - Port facilities (among others)
- Excludes financing, design, construction, maintenance or operation of a highway in the state highway system



Texas SB 19

- Establishes a streamlined process for toll project development
- Creates a first right of refusal guarantee for local toll entities to build future toll projects
- Allows tolling entities to complete environmental and other pre-project development work more quickly with the goal of expediting the process



Washington HB 1175

- Budget bill
- Appropriates \$425,000 to evaluate the potential for financing state transportation projects using PPPs
- Study must compare costs, advantages and disadvantages of various forms of PPPs to conventional financing
- Study must evaluate whether PPPs serve the defined public interest and, to the extent possible, identify the lowest-cost and best-value model for each project that best protects the public interest
- Final report is due to the House and Senate Transportation Committees on December 16, 2011



Pending Bills

- California SB 475
- **Illinois HB 1091**
- Michigan HB 4131 and SB 410
- New York SB 5445
- Pennsylvania HB 3 and SB 344



Contact Information and Additional Resources

- Nicholas Farber
National Conference of State Legislatures
Denver, Colorado
nicholas.farber@ncsl.org
(303) 856-1433
- NCSL Transportation Funding Legislation Database:
<http://www.ncsl.org/?tabid=13597>
- NCSL PPP Toolkit publication (Dec. 2010):
<http://www.ncsl.org/?tabid=20321>
- NCSL PPP Partners Project:
<http://www.ncsl.org/?tabid=17528>