2009 State PPP Legislation
PPP Legislation Trends

- 2009:
  - 33 bills introduced in 18 states
  - 7 bills enacted
  - 7 bills still pending

- 2008
  - 12 states considered legislation

- 2007
  - 16 states considered legislation
Enacted Bills

- PPP bills were enacted in Alabama, Arizona, California, Colorado, Massachusetts, Missouri and North Carolina
- The bills authorized, defined or expanded PPPs under state law
Alabama

- House Bill 217:
  - Changes the makeup of the Alabama Toll Road, Bridge and Tunnel Authority
  - Gives the Toll Road Authority the ability to enter into agreements for design-build contracts, leases, licenses, franchises, concessions, or other agreements
  - Increases the bond issue date from 40 years to 75 years
Arizona

House Bill 2396:

- Allows the use of different project delivery methods and procurement methods
- ADOT *may* include certain provisions in the PPP agreement
- Agreements can be no more than 50 years, which may be extended
- Allows other governmental units to develop PPPs if allowed by ADOT
- Requires certification of foreign entities
California

- Senate Bill 4b:
  - Allows state and local transportation entities, if authorized by the CTC, to use a design-build process for contracting on transportation projects
  - Limit of 15 projects (five local; 10 state projects)
  - Provides evaluation procedures
  - Allows Caltrans to enter into lease agreements with public and private entities for projects that may charge tolls.
  - Eliminates the need for legislative approval
Colorado

- Senate Bill 108:
  - Creates a Statewide Bridge Enterprise that has the ability to enter into PPPs to repair bridges
  - Creates the High-Performance Transportation Enterprise (HPTE) within CDOT to seek out PPPs
  - Gives the HPTE the authority to evaluate potential PPPs
Massachusetts

- Senate Bill 2087:
  - The Board of Directors of the DOT to solicit proposals for PPPs
  - Creates a competitive procurement process
  - Spells out the terms that must be in the PPP agreement, e.g. not to exceed 50 years
  - Establishes a PPP infrastructure oversight commission
Missouri

- House Bill 683:
  - Amends current PPP law to expand types of projects allowed
  - Requires preliminary approval by the Joint Committee on Transportation Oversight, and final approval by a vote of the people
North Carolina

- Senate Bill 648:
  - Allows the DOT to enter into PPPs
  - Puts limitations on projects
  - Requires the Secretary to report to certain Legislative Committees on all agreements every March 1st.
  - Expires December 31, 2011
Failed Bills

- 19 failed bills from Arizona, California, Hawaii, Kentucky, Maryland, New Mexico, Nevada, Rhode Island, and South Carolina
- Most notable bills are from Florida and Texas
Florida

- House Bill 1189 (not enacted):
  - Requires the DOT to determine if the PPP's benefits are above the funding levels projected without the PPP
  - All proceeds from the sale or lease of an asset have to be used for transportation purposes
  - Requires the DOT to coordinate with affected communities
Florida

- Florida House Bill 1189 continued…
  - The DOT must consider the transportation funding benefit to the state as compared to public ownership
Florida

- House Bill 1291 (not enacted):
  - Allows certain agencies to receive or solicit proposals
  - Provides criteria for requesting or considering projects
  - Limits PPPs to 50 years, but authorizes an extension to 75 years if approved by the legislature
Florida

- Senate Bill 2320 (not enacted):
  - Amends the current PPP statute to require the DOT to find certain benefits
  - Funds from leases can only be used on state highway improvements
  - DOT has to coordinate with affected counties
Texas

- House Bill 1815 (not enacted):
  - Creates the Texas Partnerships agency
  - Allows the partnership to raise revenue by tolling and other methods
  - The partnership has to ensure it is providing optimal value for the state
Texas

- Senate Bill 1353 (not enacted):
  - Prohibits concession payments or up-front payments
  - Allows a toll project to enter into a revenue sharing agreement
Texas

- Senate Bill 17 (not enacted):
  - Repeals the market valuation process.
  - Requires TxDOT to distribute toll revenue to the district affected by the toll road
  - Requires the CDA to allow the toll authority buy back early
  - Limits the term of the CDA to 30 years
  - Gives the state the right of first refusal
Texas

- Senate Bill 3 (special session)
  - Repeals the moratorium on TxDOT's ability to enter into PPPs
  - Streamlines the market valuation process
  - Requires that the state comptroller review the CDA and certify it for approval
  - Allows the tolling authority to buy back the road at certain intervals
  - Gives local toll entities the right of first refusal
Pending Bills

- Bills are still pending in California, Illinois, Massachusetts, North Carolina and Pennsylvania
Pennsylvania

- Senate Bill 693:
  - Would allow any transportation agency to enter into a PPP for transportation-related development
  - Requires review of the agreement by the Transportation Commission
  - Sets up a competitive bidding process
  - Sets out terms that must be in the agreement
Pennsylvania

- Senate Bill 693 cont.
  - Creates the Pennsylvania Transportation Development Trust Fund
  - Only would allow leasing the Turnpike by approval of the General Assembly
Comments/Questions

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