

Public-Private Partnership Laws in the States, Including Surety Bond Requirements

November 1, 2015

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Because the legislative and regulatory authority for public-private partnerships for construction is in a state of flux in the United States, this document remains a work in progress. If you are aware of any programs not included in this manual or of new laws and regulations, please call them to the attention of ASA Chief Advocacy Officer E. Colette Nelson (CNelson@ASA-HQ.com), NASBP Manager, State Relations, Shannon V. Crawford (SCrawford@NASBP.org), or SFAA Government and Regulatory Affairs Analyst, Daniel Wanke (DWanke@Surety.org).



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The American Subcontractors Association, Inc. (ASA) is a national trade association representing subcontractors, specialty trade contractors and suppliers in the construction industry. ASA members work in virtually all of the construction trades and on virtually every type of horizontal and vertical construction on both public and private construction. They rely on the protection that surety bonds provide should a general contractor become financially incapable of paying its subcontractors.

The National Association of Surety Bond Producers (NASBP) is a national trade association whose membership includes firms employing licensed surety bond producers placing bid, performance and payment bonds throughout the United States and its territories.

The Surety & Fidelity Association of America (SFAA) is a trade association of more than 450 insurance companies that write the vast majority of surety and fidelity bonds in the United States, is a licensed rating or advisory organization in all states, and is designated by state insurance departments as a statistical agent for the reporting of surety and fidelity insurance.

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
Alabama	Ala. Code § 23-1-80 thru 95	The law authorizes county commissions and the state DOT to license private entities to establish or operate toll roads, toll bridges, ferries or causeways.	<p>County projects require performance bonds in an amount equal to double the amount of the contractor's bid.</p> <p>Excerpt: "Section 23-1-92. Advertisement for contract bids - Requirement. No contract where the estimated cost of the work will exceed \$250.00 shall be made except after advertisement for 30 days in some newspaper published in the county, describing the character of the work to be done and the time and place of letting, and then only to the lowest reasonable and responsible bidder for such work, who shall enter into bond in double the amount of such bid, conditioned for the proper performance of such contract according to the plans and specifications and within the time prescribed by the order of the county commission of such work, which bond shall be approved by the judge of probate of said county."</p>	Alabama Code, Title 39, Public Works, Section 39-1-1
Alabama	Ala. Code §§ 23-2-140 thru 163	The law 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. The law also allows for leases, licenses, franchises, concessions or other agreements for the development, operation, management or undertaking of	No surety bond language.	Alabama Code, Title 39, Public Works, Section 39-1-1

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Alabama	Ala. Code § 23-1-40	all or any part of a project. The law authorizes the Department of Transportation to enter into P3s for constructing public improvements and repairing its buildings, offices and other facilities.	No surety bond language.	Alabama Code, Title 39, Public Works, Section 39-1-1
Alaska	Alaska Stat. §§ 19.75.011 thru .990	The law authorizes the Knik Arm Bridge and Toll Authority to enter into P3s in any form to finance, design, construct, maintain, improve or operate the Knik Arm Bridge.	No surety bond language.	Alaska Stat. Title 36, Public Contracts, Chapter 36.25, Contractors' Bonds, §§ 36.25.010 thru 36.25.025
Arizona	Ariz. Rev. Stat. Ann. §§ 28-7701 thru 7710	The law permits P3s for the construction of transportation facilities.	The DOT requires, among other things, a private partner to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security or a combination of any of these. The penal sum or amount of the security provided may be less than 100 percent of the value of the contract based on DOT's determination on a facility-by-facility basis of what is required to adequately protect the State. Excerpt: "28-7705. Public-private partnership agreements A. In any public-private partnership or other agreement for any eligible facility under this chapter, the department may include provisions that: 14. Require a private partner to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security or a combination of these, the penal sum or amount of which may be less than one hundred percent of the	Ariz. Rev. Stat. Ann., Title 34, Public Buildings and Improvements, Article 2, Contracts, §§ 34-222 thru 34-224

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			value of the contract involved based on the department's determination, made on a facility-by-facility basis, of what is required to adequately protect this state."	
Arkansas	Ark. Stat. Ann. §§ 27-86-201 thru 211 Ark. Code Ann. § 27.76.402	The law authorizes counties to grant franchises to private entities to build toll bridges, turnpikes or causeways over or along swamps, watercourses, lakes or bays. The law requires consent from the federal government for construction of the bridge. The law also 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 surety bond language.	Ark. Code Ann. §§ 18-44-401 thru 18-44-505
Arkansas	Ark. Code Ann. § 6-20-402; Ark. Code Ann. § 6-20-414	The law authorizes public and charter schools to enter into P3s involving lease-purchase agreements for the acquisition or construction of school buildings or related facilities.	No surety bond language.	Ark. Code Ann. §§ 18-44-401 thru 18-44-505
Arkansas	Ark. Code Ann. § 14-305-102.	The law authorizes the use of P3s for the development of state unpaved roads.	No surety bond language.	Ark. Code Ann. §§ 18-44-401 thru 18-44-505
California	Cal. Streets & Highway Code §143	Caltrans and regional transportation agencies may enter into P3s for transportation projects. The law requires the California Transportation Commission to approve the agreement. The law expires on January 1, 2017.	The private partner must demonstrate that it has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance. Excerpt: "143(7) The contracting entity or lessee shall have the following qualifications: (3) Evidence that establishes that members of the contracting entity or lessee have the	Cal. Civ. Code §§ 3247–3252

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			capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance.”	
California	Cal. Civ.Code §§ 5956 thru 5956.10	The law 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, highway, bridge, tunnel or airport projects. The law prohibits using the authority granted in this provision to design, construct, finance or operate a toll road on a state highway.	The agreement between the governmental agency and the private entity shall include requirements for performance and payment bonds. Excerpt: “§ 5956.6 (b) The agreement between the governmental agency and the private entity shall include, but need not be limited to, provisions to ensure the following: (2) Performance bonds as security to ensure completion of the construction of the facility and contractual provisions that are necessary to protect the revenue streams of the project. (13) Payment bonds to secure the payment of claims of laborers, mechanics, and materials suppliers employed on the work under the contract. Payment bonds required under this subdivision shall conform to the requirements of Sections 3247 to 3252, inclusive, of the Civil Code.”	Cal. Civ. Code §§ 3247–3252
Colorado	Col. Rev. Stat. § 32-9-128.5	The law authorizes special districts to use P3s.	No surety bond language.	Colo. Rev. Stat. § 38-26-101 and §§ 38-26-105 thru 38-26-110
Colorado	Col. Rev. Stat. §§ 43-1-1201 thru 1209	The law authorizes the 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.	No surety bond language.	Colo. Rev. Stat. § 38-26-101 and §§ 38-26-105 thru 38-26-110
Colorado	Colo. Rev.	The law authorizes a board of	No surety bond language.	Colo. Rev. Stat. § 38-26-

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	Stat. § 43-2-219	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.		101 and §§ 38-26-105 thru 38-26-110
Colorado	Colo. Rev. Stat. §§ 43-3-202 thru 202.5	The law 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.	<p>The law requires a sufficient bond approved by the DOT in an amount that it sets, which shall be not less than 25 percent of the total amount payable by the terms of said contract.</p> <p>Excerpt: “§ 43-2-202 In addition to the powers now possessed by it, the department of transportation has power: (j) To require that each contractor to whom is awarded any contract for the construction, erection, repair, maintenance, or improvement of any turnpike, as defined in paragraph (a) of this subsection (1), shall, before entering upon the performance of any work included in said contract, execute, deliver to, and file with the department of transportation a good and sufficient bond to be approved by the department of transportation in an amount to be fixed by the department of transportation, which amount shall be not less than twenty-five percent of the total amount payable by the terms of said contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the faithful performance of the contract according to the terms thereof, and, in addition, shall provide that, if the contractor or his subcontractors fail to duly pay for any labor, materials, motor vehicle or team hire, sustenance, provisions, provender, or other supplies used or consumed by such contractor or his subcontractor or contractors in</p>	Colo. Rev. Stat. § 38-26-101 and §§ 38-26-105 thru 38-26-110

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			performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight percent per annum.”	
Colorado	Colo. Rev. Stat. §§ 43-3-401 thru 414	The law authorizes the Transportation Commission to enter into a contract with a private individual, firm or corporation for construction, maintenance and operation of one or more toll tunnels.	No surety bond language.	Colo. Rev. Stat. § 38-26-101 and §§ 38-26-105 thru 38-26-110
Colorado	Colo. Rev. Stat. §§ 43-3-301 thru 304	The law sets forth the requirements for private toll road or toll highway companies.	No surety bond language.	Colo. Rev. Stat. § 38-26-101 and §§ 38-26-105 thru 38-26-110
Colorado	Colo. Rev. Stat. §§ 43-4-801 thru 812	The law authorizes a Statewide Bridge Enterprise to enter into P3s to design, develop, construct, reconstruct, repair, operate or maintain bridge projects. The law also provides for the High-Performance Transportation Enterprise (HPTE) to seek out and enter into P3s and other innovative means of completing surface transportation infrastructure projects.	No surety bond language.	Colo. Rev. Stat. § 38-26-101 and §§ 38-26-105 thru 38-26-110
Connecticut	Conn. Gen. Stat. §§ 4-255 thru 260	The law authorizes the use of a P3 for public works projects, including transportation projects. Until January 1, 2015, the Governor may approve up to five P3s.	The law provides that the P3 agreement must include provisions for performance and payment bonds or other security deemed suitable by the agency. Excerpt: “Any partnership agreement executed in accordance with the provisions of sections 4-	Conn. Gen. Stat. Title 49, Chapter 847 §§ 49-41 thru 49-43

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			255 to 4-263, inclusive, shall include, but not be limited to, the following terms and conditions: (8) Performance and payment bonds or other security deemed suitable by the agency;"	
Delaware	Del. Code Ann. Tit. 2, §§ 2001 thru 2012	The law authorizes P3s for transportation projects. The Secretary of Transportation is authorized to enter into agreements with private entities to study, plan, design, construct, lease, finance, operate, maintain, repair and/or expand transportation systems.	No surety bond requirement.	Del. Code Ann. Tit. 29 § 6962
District of Columbia	D.C. Code, Title 2, Chapter 2a	The law authorizes P3s for education, transportation, and cultural or recreational facilities, buildings or other facilities that are beneficial to the public interest and are developed or operated by or for a public entity, utility facilities, improvements necessary or desirable to any unimproved District-owned real estate, and any other facility that the District approves.	The law requires the Office of Public-Private Partnerships to include in the P3 agreement a requirement for performance and payment bonds or other security that the Office considers to be appropriate. Excerpt: “(b) A public-private partnership agreement approved and entered into by the Office or designated entity pursuant to this act shall include the following: (10) Performance and payment bonds or other security and risk-mitigation tools deemed suitable by the Office or designated public entity.”	D.C. Code, Title 2, Chapter 2, Sub-chapter 1, §§ 2-201-01 thru 2.201.03; 2-201.11
Florida	Fla. Stat. § 334.30	The law authorizes public-private partnerships for transportation projects.	The law requires that the DOT shall ensure that the procurement documents include provisions for the performance of the private entity, including among other things, surety bonds. The DOT shall ensure that procurement documents include provisions for performance of the private entity and payment of subcontractors, including, but not limited to,	Fla. Stat. § 255.05

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			<p>surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. The DOT must balance the structure of the security package for the public-private partnership that ensures performance and payment of subcontractors with the cost of the security to ensure the most efficient pricing.</p> <p>Excerpt: “(c) The department shall ensure that procurement documents include provisions for performance of the private entity and payment of subcontractors, including, but not limited to surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. The department shall balance the structure of the security package for the public-private partnership that ensures performance and payment of subcontractors with the cost of the security to ensure the most efficient pricing.”</p>	
Florida	Fla. Stat. § 337.251	The law authorizes the DOT to lease to public or private entities, for a term not to exceed 99 years, the use of DOT property, including rights-of-way. The law also authorizes the DOT to lease the use of areas above or below state highways or other transportation facilities for commercial purposes.	No surety bond language.	Fla. Stat. § 255.05
Florida	Fla. Stat. §§ 338.22 thru 251	The Florida Turnpike Enterprise operates like private-sector businesses within the state DOT in order to plan, develop, own, purchase, lease or otherwise	No surety bond language.	Fla. Stat. § 255.05

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		acquire, demolish, construct, improve, relocate, equip, repair, maintain, operate and manage the Florida Turnpike System. The law permits the enterprise to cooperate, coordinate, partner and contract with other entities, public and private, to accomplish its purposes.		
Florida	Fla. Stat. § 343.875	The law 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.	No surety bond language.	Fla. Stat. § 255.05
Florida	Fla. Stat. § 348.0004	The law 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. The law requires all P3 facilities to be consistent with state, regional and local comprehensive plans.	No surety bond language.	Fla. Stat. § 255.05
Florida	Fla. Stat. § 287.05712	The law authorizes counties, municipalities, school boards, or other local governmental entities to enter into P3s for qualifying projects. For purposes of the law, a “qualifying project” that can be	The law requires that a comprehensive agreement establishing a P3 must provide for the delivery of performance and payment bonds, letters of credit, parent company guarantees, or other security acceptable to the public contracting entity in the form and amount satisfactory to the public contracting	Fla. Stat. § 255.05

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		<p>let as a P3 is a facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity.</p> <p>A qualifying project also includes an improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector; a water, wastewater, or surface water management facility or other related infrastructure; or projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or</p>	<p>entity. The law further provides that the components of the qualifying project involving construction, the form and amount of the bonds must comply with the Little Miller Act. Another provision in the law requires the public contracting entity to ensure that the performance and payment bonds required for the construction component of the P3 are subject to recordation, notice, suit limitation and other requirements of the State's Little Miller Act. Another provision in the law requires the public entity to ensure the most efficient pricing of the security package that provides for the performance and payment of subcontractors.</p> <p>Excerpt: “(b) The responsible public entity must: 1. Ensure that provision is made for the private entity's performance and payment of subcontractors, including, but not limited to, surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. For the components of the qualifying project which involve construction performance and payment, bonds are required and are subject to the recordation, notice, suit limitation, and other requirements of s. 255.05.”</p>	

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		operated by a municipal electric utility that the governing board designates as qualifying projects.		
Georgia	Ga. Code Ann. §§ 32-2-78 thru 81	The law authorizes the DOT to solicit and accept proposals for projects that are funded or financed in part or in whole by private sources in a P3.	No surety bond language.	Ga. Code Ann. § 13-10-1.2, § 13-10-40 thru 65, § 36-91-1, § 36-91-2, § 36-91-50, §§ 36-91-70 thru 93
Georgia	Ga. Code Ann. §§ 36-91-110 thru 119; §§ 50-5C-1 thru 10	The law authorizes the use of P3s for the state and local governments for any project, except for generation of electric energy for sale, communications services, cable and video services, or water reservoir contracts.	The comprehensive agreement must provide for performance and payment bonds in the amounts required under the Little Miller Act for the construction portion of the P3. Surety bonds or other security acceptable to the public entity are required for the other phases and components of the project. Excerpt: 36-91-115 “(a) The comprehensive agreement entered into between the local government and the private entity selected in accordance with this article shall include: (7) Delivery of performance and payment bonds in the amounts required in code Sections 36-91-70 and 36-91-90 and in a form acceptable to the local government for those components of the qualifying project that involve construction, and surety bonds, letters of credit, or other forms of security acceptable to the local government and reasonably sufficient to ensure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.”	Ga. Code Ann. § 13-10-1.2, § 13-10-40 thru 65, § 36-91-1, § 36-91-2, § 36-91-50, §§ 36-91-70 thru 93
Hawaii	No P3 program identified.			Haw.Rev. Stat. §§ 103D-323 - 103D-325
Idaho	No P3			Idaho Code §§ 54.1925 -

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	program identified.			54.1930
Illinois	20 ILCS §§ 2705/2705-450	Authorizes IDOT to use P3s for high-speed rail projects.	No surety bond language.	30 ILCS 550/1
Illinois	605 ILCS § 5/10-802 605 ILCS § 5/10-602	The law 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 surety bond language.	
Illinois	605 ILCS §§ 130/1 - 130/999	The law authorizes the Illinois Department of Transportation (DOT) to enter into a public-private partnership (P3) agreement for the construction of the Illiana Expressway between Interstate Highway 55 in Illinois and Interstate Highway 65 in Indiana. The project is a collaborative effort between the two states.	The state’s little Miller Act applies to Illiana Expressway. Excerpt: 30 ILCS 550/1.5 “Sec. 1.5. Public private agreements. This Act applies to any public private agreement entered into under the Public Private Agreements for the Illiana Expressway Act or the Public-Private Agreements for the South Suburban Airport Act.”	30 ILCS 550/1
Illinois	620 ILCS 75/2-35	This law provides for a public-private partnership (PPP) for the development of the South Suburban Airport.	The law provides that the public-private partnership agreement may provide for the delivery of performance and payment bonds or other performance security in a form and amount that is satisfactory to the Department of Transportation. Excerpt: “Sec. 2-35. (b) The public-private partnership may include any or all of the following: (4) delivery of performance and payment	30 ILCS 550/1

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			<p>bonds or other performance security in a form and amount that is satisfactory to the Department;”</p> <p>Note: The law also provides that the existing law under the Public Construction Bond Act—the State’s little Miller Act—applies to the public-private agreements for the South Suburban Airport Act. See row above.</p>	
Illinois	630 ILCS §§ 5/1 - 5/90	The law authorizes the Department of Transportation and the Illinois State Toll Highway Authority to enter into P3s.	<p>The law provides that the bonding requirements of the State’s little Miller Act apply to any P3 entered into under this law. The little Miller Act in Illinois also permits the public contracting entity to set the amount of the payment and performance bonds. The law provides in the requirements for all other P3 procurements, that the P3 agreement must provide for the delivery of performance and payment bonds or other security deemed suitable by the transportation agency, including letters of credit, United States bonds and notes, parent guaranties and cash collateral in connection with the development, financing and operation of the transportation project, in the forms and amounts set forth in the P3 agreement that are satisfactory to the transportation agency to protect the agency and payment bond beneficiaries who have a direct contractual relationship with the contractor or a subcontractor of the contractor. A payment or performance bond, or alternative to it, is not required for the portion of a PPP that includes only design, planning or financing services.</p> <p>Excerpt: “Sec. 35 (b) The public-private agreement may, as determined by the transportation agency for</p>	30 ILCS 550/1

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			<p>the particular transportation project, provide for some or all of the following:</p> <p>(2) Delivery of performance and payment bonds or other performance security determined suitable by the transportation agency, including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the transportation project, in the forms and amounts set forth in the public-private agreement or otherwise determined as satisfactory by the transportation agency to protect the transportation agency and payment bond beneficiaries who have a direct contractual relationship with the contractor or a subcontractor of the contractor to supply labor or material. “</p>	
Indiana	Ind. Code Ann. §§ 5-23-1-1 - 5-23-7-2	The law authorizes governmental bodies to enter into P3 agreements with private entities for the acquisition, planning, design, development, reconstruction, repair, maintenance or financing of public facilities.	<p>The P3 agreement may require a performance bond and provide for the payment of contractors and subcontractors under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is applicable.</p> <p>Excerpt: “IC 5-16-5-2 Payment provisions in contracts; payment bonds; statements of amounts due; suits on bond; application of statute to bonds and claims on state highway projects Sec. 2. (a) A contract awarded for a public work must provide for the payment of subcontractors, labor, suppliers of materials, and those performing service in connection with the public work... The contractor shall execute a bond to the state, approved by the public body in an amount equal to the total contract price.”</p>	IC 5-16-5.5

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Indiana	Ind. Code Ann. §§ 8-15.5-1-1 - 8-15.5-13-8	The law allows public-private agreements to develop transportation facilities for toll road projects.	<p>The law makes application of the state Little Miller Act discretionary.</p> <p>Excerpt: “IC 8-15.5-6-2 Compliance with certain laws Sec. 2.(a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC-4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and suppliers, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.”</p>	IC 5-16-5.5
Indiana	Ind. Code Ann. §§ 8-15.7-1-1 - 8-15.7-16-8	The law authorizes toll road bonds and provides for certain powers and duties of private operators that have entered into a P3 for a toll road under Ind. Code Ann. art. 8-15.5 or art. 8-15.7.	<p>The law requires a bond with good and sufficient surety from all contractors in an amount equal to at least 50 percent of the contract price, conditioned upon the faithful performance of the contract. The authority shall require a bid, performance, and payment bond from a contractor for a project if the estimated cost of the project is more than \$200,000. The authority may require a bid, performance, or payment bond from a contractor for a project if the estimated cost of the project is not more than \$200,000.</p> <p>Excerpt: “(b) The public-private agreement may, as determined appropriate by the department for the particular qualifying project, provide for all or part of the following: (1) Delivery of performance and payment bonds or other performance security determined suitable by the department,</p>	IC 5-16-5.5

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			including letters of credit, United States bonds and notes, parent guaranties, and cash collateral, in connection with the development, financing, or operation of the qualifying project, in the forms and amounts set forth in the public-private agreement, or otherwise determined as satisfactory by the department to protect the department and payment bond beneficiaries who have a direct contractual relationship with the operator or a subcontractor of the operator to supply labor or material. A payment or performance bond or alternative form of performance security required under a public-private agreement shall not be required for the part of a public-private agreement that includes only design, planning, or financing services, the performance or preliminary studies, or the acquisition of real property.”	
Iowa	No P3 program identified.			Iowa Code §§ 573.1 – 573.227
Kansas	No P3 program identified.			Kan. Stat. Ann. § 60-1111
Kentucky	No P3 program identified.			Ky. Rev. Stat. Ann. § 45A.190
Louisiana	La. Rev. Stat. Ann. §§ 48:2084.1 - 48:2084.15	The law authorizes the state transportation authority to use P3s for transportation projects.	The law requires delivery of performance and payment bonds or other forms of completion guarantee in connection with the construction of or improvements to the qualifying transportation facility, in the forms and in amounts satisfactory to the authority. Excerpt: “The comprehensive agreement shall provide for:	La. Rev.Stat. Ann. §§ 38.2181 - 2247, §§ 48:250 - 256.12

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			Delivery of performance and payment bonds or other forms of completion guarantee in connection with the construction of or improvements to the qualifying transportation facility, in the forms and in amounts satisfactory to the authority.”	
Louisiana	La. Rev. Stat. Ann. §§ 48:1251 to 1281	The Louisiana Expressway Authority is empowered 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 desirable.	The law requires a bond with good and sufficient surety as shall be approved by the authority, from all contractors in an amount equal to 100 percent of the contract price, conditioned upon the faithful performance of the contract.	La. Rev.Stat. Ann. §§ 38.2181 - 2247, §§ 48:250 - 256.12
Louisiana	La. Rev. Stat. Ann. §§ 48:2020 to 2037	The law encourages parishes and municipalities to use P3s to help the state finance improvements to the state highway system and meet local transportation needs. Parishes and municipalities are authorized to create transportation authorities, which may enter into agreements with public or private entities to construct, maintain, repair and/or operate transportation projects.	No surety bond language.	La. Rev.Stat. Ann. §§ 38.2181 - 2247, §§ 48:250 - 256
Maine	Me. Rev. Stat. Ann. Title 23, § 4251	The law authorizes the Maine Department of Transportation (DOT) to enter into an agreement with a private entity for the building, operation, ownership, leasing or financing of a transportation facility.	The law requires that a proposal must include a provision that any contractor performing construction work required by the agreement must furnish performance and payment bonds or irrevocable letters of credit in an amount equal to the cost of the construction work. Any action on such a payment bond or irrevocable letter of credit is subject to the requirements of	14 Me. Rev. Stat. § 871

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
			<p>Title 14, section 871, subsection 4.</p> <p>Excerpt: "H. The proposal must include a provision that any contractor performing construction work required by the agreement must furnish performance and payment bonds or irrevocable letters of credit in an amount equal to the cost of the construction work. Any action on such a payment bond or irrevocable letter of credit is subject to the requirements of Title 14, section 871, subsection 4 (2009, c. 648, Pt. A. §1 (NEW)."</p>	
Maryland	Md. Code Ann., State Fin. & Proc. § 10A-101 to 401	The law authorizes state agencies to enter into a P3 for public infrastructure projects.	<p>The law provides that the comprehensive agreement must contain requirements for the private entity to provide performance and payment security in a form and in an amount determined by the responsible public entity. The requirements for the payment security and the performance security for construction contracts shall be in accordance with title 17, subtitle 1 of the State Finance and Procurement Code, including the requirement that payment security and performance security shall be established on the value of the construction elements of the public-private partnership agreement and not on the total value of the P3 agreement.</p> <p>Excerpt: "§ 10A-401 (a) Whenever applicable, a public-private partnership agreement shall include the following provisions: (12) requirements for the private entity to provide performance and payment security in a form and in an amount determined by the responsible public entity, except that: (i) requirements for the payment security for</p>	Md. Code Ann., State Fin. & Proc. § 17-103

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
			construction contracts shall be in accordance with Title 17, Subtitle 1 of this article; and (ii) requirements for the amount of the payment security and for any performance security in the form of a performance bond for a construction contract shall be based on the value of the respective construction elements of the public-private partnership agreement and not on the total value of the public-private partnership agreement.”	
Massachu- setts	Mass. Gen. Laws ch. 6C, §§ 1 thru 75	The law allows the board of directors of 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. The law provides for a P3 oversight commission to approve proposals for such projects.	The law requires the P3 agreement to include a plan for the operator to obtain a payment bond as described in the state Little Miller Act. Excerpt: Section 64. “(c) A public-private agreement under sections 62 to 73, inclusive, shall provide for the following: (26) the operator’s plans to obtain a labor and material payment bond, in accordance with section 29 of chapter 149, covering all construction, reconstruction or maintenance, including capital maintenance, work of the project, and require the payment of prevailing wages for labor performed on the project in accordance with sections 26 to 27H, inclusive, of said chapter 149;”	Mass. Gen. Laws Title XXI, Chapter 149 § 29
Michigan	Mich. Comp. Laws § 124.401 thru 406.	The law authorizes metropolitan transportation authorities to use P3s. Note: This law pre-dates other state P3 authorizing statutes; however, the language appears to authorize the use of P3s.	No surety bond language.	Mich. Comp. Laws Ann. §§ 129.201 – 129-212
Minnesota	Minn. Stat. §§	The law generally authorizes	No surety bond language.	Minn. Stat. §§ 574.26 thru

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
	160.84 thru 98	<p>state and local road authorities to enter into agreements with private entities to develop, finance, design, construct, improve, rehabilitate, own or operate toll facilities, as well as high occupancy toll lanes (HOT lanes).</p> <p>The law provides that the extent to which a private entity can operate and maintain a road is significantly limited. The law 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 and it 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.</p>		32
Mississippi	Miss. Code Ann. §§ 65-43-1 thru 85	The law 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	<p>Every contract entered into by a governmental entity under this section shall require a company to enter into a bond and provide such security as the governmental entity determines may be necessary or advisable to ensure timely completion and proper execution and performance of the contract.</p> <p>Excerpt: “Every contract entered into by a governmental entity under this section shall require a</p>	Miss. Code Ann. §§ 31-5-51 thru 57

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
		or more new toll roads or toll bridges in the state.	company to enter into a bond and provide such security as the governmental entity determines may be necessary or advisable to ensure timely completion and proper execution and performance of the contract.”	
Missouri	Mo. Rev. Stat. §§ 227.600 - 669	The law authorizes the use of a P3 for the financing, development, and/or operation of any pipeline, ferry, river port, airport, railroad, light rail or other mass transit facility.	<p>Bid bonds would not be required on the project, but the Missouri Highways and Transportation Commission may require a private partner to provide performance and payment bonds for its protection, in any amount that it determines. The law provides that the Commission may require a payment bond for the total amount of the agreement unless it is documented that the amount is not practical. In that case, the Commission may set the amount of the payment bond, but it may not be less than the amount of the performance bond.</p> <p>Excerpt: “Private partner to provide financial information—bond may be required. 2. Notwithstanding the provisions of section 107.170 and section 227.100 to the contrary, a bid bond shall not be required for the project; except that, the commission may require the private partner to provide such other bonds in such amounts determined by the commission to be adequate for the protection of the commission and provided by a surety or sureties satisfactory to the commission, including but not limited to: (1) A performance bond; (2) A payment bond for the protection of all persons supplying labor and material in carrying out the work provided for in the comprehensive agreement for the project. The amount of the payment bond shall equal the total amount payable under the terms of the</p>	Mo. Rev. Stat. § 107.170

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
			comprehensive agreement unless the commission determines in writing supported by specific findings that a payment bond in such amount is impractical, in which case the commission shall establish the amount of the payment bond; except that, the amount of the payment bond shall not be less than the amount of the performance bond.”	
Missouri	Mo. Rev. Stat. §§ 238.300 thru 367	The law authorizes creation of special purpose, nonprofit “transportation corporations” by private parties, which may enter into agreements with the Highways and Transportation Commission to fund, promote, plan, design, construct, maintain and operate one or more transportation projects.	No surety bond language.	Mo. Rev. Stat. § 107.170
Montana	No P3 program identified.			Mont. Code Ann. §§ 18-2-201 thru 18-2-208
Nebraska	No P3 program identified.			Neb. Rev. Stat. § 52-118
Nevada	Nev. Rev. Stat. §§ 338.161 thru 168	The law allows private entities to submit a request to a public body to develop, construct, improve, maintain or operate, or any combination of these, a transportation facility. The law excludes toll roads and toll bridges.	No surety bond language.	Nev. Rev. Stat. §§ 339.015 thru 309.065
Nevada	Nev. Rev. Stat. § 338.161	The law authorizes the Regional Transportation Commission of Southern Nevada to enter into a P3 for a toll road demonstration project for the Boulder City Bypass	The law provides that the private partner must provide a performance bond and a payment bond, letter of credit, parent company guarantee, any other acceptable security, or a combination of these as the Commission may require. The bond must be in an amount	Nev. Rev. Stat. §§ 339.015 thru 309.065

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
		Project.	<p>adequate to protect the interests of this State and its political subdivisions and to ensure completion of the project without this State or its political subdivisions being liable for any of its direct costs.</p> <p>Excerpt: “Sec. 37. 1. To be eligible as a private partner in connection with a public-private partnership, a private partner must: (a) Obtain a performance bond, payment bond, letter of credit, parent guarantee or other security acceptable to the Commission, or any combination thereof, which the Commission determines is adequate to: (1) Protect the interests of this State and its political subdivisions; and (2) Ensure completion of the demonstration project without this State or its political subdivisions being liable for any of the direct costs of the demonstration project;”</p>	
New Hampshire	No P3 program identified.			N.H. Rev. Stat. § 447:16
New Jersey	N.J. Stat. Ann. § 18A:64-85	The law establishes a P3 agreement option for the construction of state and county college facilities. Authorizes state and county colleges to use P3s for facilities.	<p>The law requires the public owner’s chief financial officer to require the private entity to provide bonds.</p> <p>Excerpt: “(2) Where no public fund has been established for the financing of a public improvement, the chief financial officer of the public owner shall require the private entity for whom the public improvement is being made to post, or cause to be posted, a bond guaranteeing prompt payment of moneys due to the contractor, his or her subcontractors and to all persons furnishing labor or materials to</p>	N.J. Stat. Ann. §§ 28:44-143 thru 148

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
			the contractor or his or her subcontractors in the prosecution of the work on the public improvement.”	
New Jersey	N.J. Stat. Ann. § 27:1A-5	The law authorizes the Commissioner of the Department of Transportation to enter into P3s for the development of demonstration projects.	No surety bond language.	N.J. Stat. Ann. §§ 28:44-143 thru 148
New Mexico	No P3 program identified.			N.M. Stat. § 13-4-18
New York	No P3 program identified.			N.Y. State Finance Law § 137
North Carolina	N.C. Gen. Stat. § 115D-20(13)	The law authorizes community colleges to use P3s for new facilities.	No surety bond language.	N.C. Gen. Stat. §§ 44A-25 thru 44A-35
North Carolina	N.C. Gen. Stat. §§ 136-89.180 to 198	The law authorizes the Turnpike Authority to enter into agreements with the DOT, political subdivisions and private entities, and to expend its funds as it deems necessary pursuant to agreements, to finance the acquisition, construction, equipping, operation or maintenance of any turnpike project. The law permits 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.	No surety bond language.	N.C. Gen. Stat. §§ 44A-25 thru 44A-35
North	Session Law	The law authorizes Onslow	The law requires a payment bond from a surety	N.C. Gen. Stat. §§ 44A-25

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
Carolina	2013-37	County to enter into P3s for a capital project for buildings or other improvements, including, but not limited to, paving, grading, utilities, infrastructure, reconstruction, or repair, which would include both public and private facilities.	<p>company authorized to do business in the State. The bond must be in the amount of 125 percent of the total anticipated amount of the construction contracts to be entered into under the development contract. The payment bond is conditioned on the prompt payment for all labor or materials for which the private developer or its contractors or their subcontractors are liable, and the bond is for the sole protection of persons furnishing such labor or materials. The law outlines the procedures for filing payment bond claims.</p> <p>Excerpt: “The County shall require a private-developer to provide a payment bond for construction work in accordance with the provisions of Section 1(f) of this act.”</p>	thru 44A-35
North Carolina	Session Law 2013-401	The law authorizes the state to enter into P3 agreements for non-transportation public work.	<p>The law requires that development contracts under the law include a payment bond provision in an amount of 100 percent of the construction portion of the contract.</p> <p>Excerpt: “The following bonding provisions apply to any development contract entered into under this section: (1) A payment bond shall be required for any development contract as follows: A payment bond in the amount of one hundred percent (100%) of the total anticipated amount of the construction contracts to be entered into between the private developer and the contractors to design or construct the improvements required by the development contract.”</p>	N.C. Gen. Stat. §§ 44A-25 thru 44A-35
North Dakota	N.D. Cent. Code §§ 48-	The law authorizes public authorities to enter into	No surety bond language.	N.D. Cen. Code § 48-01.2-10

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
	02.1-01 et seq.	agreements with private entities for public use.		
Ohio	Ohio Rev. Code Ann. § 5501.71	The law authorizes the Ohio DOT to enter into agreements with private entities, including the use of P3s.	<p>The P3 agreement must include provisions requiring a performance and a payment bond in an amount that the Director of Transportation will determine for the construction portions of the P3 agreement.</p> <p>Excerpt: “(B)(1) A public-private agreement under this section shall provide for all of the following: ... (j) If the agreement contains a construction services component, a contract performance bond executed by a surety authorized by the department of insurance to write surety bonds in an amount specified by the director of transportation, conditioned upon the private entity or contractor performing the construction services portion of the work in accordance with the agreed upon terms, within the time prescribed; (k) If the agreement contains a construction services component, a payment bond executed by a surety authorized by the department of insurance to write surety bonds in an amount specified by the director, conditioned upon the payment for all labor, work performed, and materials furnished in connection with the construction services portion of the work.”</p>	Ohio Rev. Code Ann § 153.54
Oklahoma		In 2012, the Oklahoma legislature amended the state Little Miller Act to cover P3s.	<p>(Little Miller Act) “Prior to an award of a contract exceeding Fifty Thousand Dollars (\$50,000.00) for construction or repair of a public or private building, structure or improvement on public real property or private real property using public funds, the person that receives the award shall:</p>	Okla. Stat. tit. 61 §§ 1 thru 4

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
Oregon	Or. Rev. Stat. §§ 367.800 thru 826	The Oregon Innovative Partnerships Program within the state DOT 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.	<p><provide bonds as required by little Miller Act>.”</p> <p>The DOT may not enter into, and the commission may not approve, an agreement under this section for the construction of a public improvement as part of a transportation project unless the agreement provides for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project.</p> <p>Excerpt: “367.806 Agreements. (b) The department may not enter into, and the commission may not approve, an agreement under this section for the construction of a public improvement as part of a transportation project unless the agreement provides for bonding, financial guarantees, deposits or the posting of other security to secure the payment of laborers, subcontractors and suppliers who perform work or provide materials as part of the project.”</p>	Or. Rev. Stat. § 279C.380
Oregon	Or. Rev. Stat. §§ 383.001 thru 075	The law provides that private funding should be encouraged as an additional source of funding for transportation projects and facilities. The law authorizes the state DOT to enter into agreements with private entities and/or units of government to acquire, design, construct, reconstruct, operate or maintain and repair tollway projects.	No surety bond language.	Or. Rev. Stat. § 279C.380
Pennsylv-	Pa. Cons.	The law permits P3s for	The P3 agreement must include requirements	Pa. Con. Stat. Title 8 Cha.

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
Virginia	Stat. 74 §§ 9101 thru 9124	transportation projects in the Commonwealth.	for a private development entity to provide performance and payment bonds, parent company guarantees, letters of credit, or other acceptable forms of security in an amount acceptable to the public entity. Excerpt: “A public private partnership agreement shall include the following provisions: (8) Requirements for a private development entity to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security in an amount acceptable to the proprietary public entity.”	13 § 193
Rhode Island	No P3 program identified.			R.I. Gen. Laws § 37-12
South Carolina	S.C. Code Ann. § 57-3-200	The law authorizes the DOT to construct and operate turnpike facilities. The law appears to allow the use of P3s for these facilities by allowing the DOT to exercise authorizations as are granted by the provisions in other statute law to designate, establish, plan, abandon, improve, construct, maintain and regulate turnpike facilities.	No surety bond language.	S.C. Code § 11-35-3030
South Carolina	S.C. Code Ann. §§ 57-5-1310 thru 1495	The law 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	No surety bond language.	S.C. Code Ann. § 11-35-3030

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
		operating highways, roads, streets and bridges in the state.		
South Dakota	No P3 program identified.			S.D. Codified Laws §§ 5-21-1 thru 5.21-8
Tennessee	Tenn. Code Ann. §§ 54-3-101 thru 113	The law authorizes tolling as an additional and alternative method for funding or financing transportation facilities, and it authorizes the 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.	No surety bond language.	Tenn. Code Ann. § 12-4-201 thru 12-4-208
Texas	Tex. Transp. Code Ann. §§ 222.001 thru 107	The law authorizes the DOT to participate in the cost of acquiring, constructing, maintaining or operating a toll facility of a public or private entity, but specifies certain restrictions with regard to the use of public funds. The law allows the DOT to enter into an agreement with a public or private entity to pay pass-through 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.	No surety bond language.	Tex. Gov't. Code § 2253.021
Texas	Tex. Transp. Code Ann. §§	The law authorizes DOT to enter into comprehensive development agreements with	The private entity entering into a comprehensive development agreement under this subchapter must provide a performance	Tex. Gov't. Code § 2253.021

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
	<p>223.001 thru 223.210</p> <p>Tex. Transp.Code Ann. Ch. 228</p> <p>Tex. Transp.Code Ann. §§ 370.305 thru 370.317</p>	<p>private entities to design, develop, finance, construct, maintain, repair, operate, extend or expand toll projects. Certain portions of the law expired on Aug. 31, 2009, except in relation to certain non-tolled managed lanes projects, which expired 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.</p> <p>The law also 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 expired on Aug. 31, 2011.</p>	<p>and payment bond or an alternative form of security in an amount sufficient to ensure the proper performance of the agreement and protect the DOT and payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.</p> <p>The performance and payment bond or alternative form of security must be in an amount equal to the cost of constructing or maintaining the project. If the DOT determines that it is impracticable for a private entity to provide security in this amount, it shall set the amount of the bonds or the alternative security. The amount of the payment security must not be less than the amount of the performance security.</p> <p>A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property. The amount of the payment security must not be less than the amount of the performance security.</p> <p>Excerpt: “Sec. 223.205. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, the department shall require a private entity entering into a comprehensive developing agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount</p>	

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
			sufficient to: (1) ensure the proper performance of the agreement; and (2) protection: (A) the department; and (B) payment bond beneficiaries who have a direct contractual relationship with the private entity to supply labor or material.”	
Texas	Tex. Transp. Code Ann. §§ 366.401 thru 409	The law permits P3s for toll way projects for turnpikes.	<p>The law requires the private entity to provide payment and performance bonds or alternate security for the cost of constructing and maintaining the project. If the toll way authority finds it impracticable for the private entity to provide bonds or security in the amounts required, the authority will set the amount of the bonds or alternative security. The law provides that the authority may require alternative security in lieu of or in addition to performance and payment bonds. The design and planning services, among other non-construction items, do not have to be bonded.</p> <p>Excerpt: “Sec. 366.404. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding the requirements of Subchapter B, Chapter 2253, Government Code, an authority shall require a private entity entering into a comprehensive development agreement under this subchapter to provide a performance and payment bond or an alternative form of security in an amount sufficient to:</p> <ul style="list-style-type: none"> (1) Ensure the proper performance of the agreement; and (2) Protect: <ul style="list-style-type: none"> (A) the authority; and (B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private 	Tex. Gov't. Code § 2253.021

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
Texas	Tex. Gov't Code Ann. §§ 2267 thru 2268	The law authorizes the use of P3s for the development of any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, or other similar public facility and its related infrastructure, or for any improvements necessary or desirable to unimproved real estate owned by a governmental entity.	<p>entity to supply labor or material.”</p> <p>The law requires performance and payment bonds that comply with the State's Little Miller Act for all construction activities in the P3. Letters of credit could be required for the development and operation portions of the project.</p> <p>Excerpt: “Sect. 2267.058. (a) Before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity. The comprehensive agreement shall provide for: (1) Delivery of letters of credit or other security in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible governmental entity, and delivery of performance and payment bonds in compliance with Chapter 2253 for all construction activities. Sec. 2267.0605. (a) The construction, remodel, or repair of a qualifying project may be performed only after performance and payment bonds for the construction, remodel, or repair have been executed in compliance with Chapter 2253 regardless of whether the qualifying project is on public or private property or is public or privately owned.”</p>	Tex. Gov't. Code § 2253.021
Texas	Tex. Transp. Code Ann. §§ 371.001 thru 153	The law sets forth the requirements for comprehensive development agreements for highway toll projects, including those developed by the state DOT, by a regional tollway authority,	No surety bond language.	Tex. Gov't. Code § 2253.021

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
		or by a regional mobility authority.		
Utah	Utah Code Ann. §§ 72-6-201 - 206	The law authorizes public-private partnerships for the construction of tollways.	The law provides that a tollway development agreement may include requirements for performance security, including payment and performance bonds, letters of credit, security deposits, guarantees, and similar protections.	Utah Code §§ 63G-6-504 thru 63G-6-505
Utah	Utah Code Ann. § 72-6-118; Utah Code Ann. § 72-2-120	The law authorizes the DOT to establish, expand and operate tollways and related facilities. The DOT is authorized to enter into contracts, agreements, licenses, franchises, tollway development agreements, or other arrangements for tollway projects. The law 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.	No surety bond language.	Utah Code §§ 63G-6-504 thru 63G-6-505
Vermont	No P3 program identified.			Vt. Stat. Ann. Title 19 § Chapter 1
Virginia	Va. Code Ann. § 56-556	The law 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.	The comprehensive agreement shall, as appropriate, provide for the delivery of performance and payment bonds in connection with the development and/or operation of the qualifying transportation facility, in the forms and amounts satisfactory to the responsible public entity. Excerpt:	Va. Code Ann. § 2.2-4337

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
			<p>“§ 56-566. Comprehensive Agreement. A. Prior to developing and/or operating the qualifying transportation facility, the private entity shall enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement shall, as appropriate, provide for: Delivery of performance and payment bonds in connection with the development and/or operation of the qualifying transportation facility, in the forms and amounts satisfactory to the responsible public entity;”</p>	
Virginia	Va. Code Ann. §§ 56-575.1 thru 575.18	The law authorizes government agencies to use P3s for education facilities, technology infrastructure, and other public facilities.	<p>The comprehensive agreement must include a requirement for bonds in compliance with the Commonwealth’s Little Miller Act.</p> <p>Excerpt: “§ 56-575.9. Comprehensive agreement. A. Prior to developing or operating the qualifying project, the private entity shall enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement shall provide for: 1. Delivery of maintenance, performance and payment bonds, letters of credit in connection with the development or operation of the qualifying project, in the forms and amounts satisfactory to the responsible public entity and in compliance with § 2.2-4337 for those components of the qualifying project that involve construction;”</p>	Va. Code Ann. § 2.2-4337
Virginia	Va. Code Ann. §67-1503	The law establishes the Virginia Solar Energy Development Authority and authorizes it to use P3s for public facilities and infrastructure to provide for solar energy generation	The surety bond provisions in § 56.-575.1 et seq. apply to these projects. See above.	Va. Code Ann. § 2.2-4337

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
Virginia	Va. Code Ann. § 33.2-1832	<p>systems at or adjacent to public and private facilities.</p> <p>The law provides for the creation of the Interstate 73 Transportation Compact, which allows the state to enter into an agreement with one or more signatory states to develop Interstate 73, including developing a legal framework to finance the project or to use P3s.</p>	No surety bond language.	Va. Code Ann. § 2.2-4337
Washington	Wash. Rev. Code §§ 47.29.010 thru 900	The law authorizes the state DOT to enter into P3s 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 by any mode of travel.	<p>Provisions for bonding, financial guarantees, deposits, or the posting of other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials as part of the project must be included in any agreement to which the State is a party.</p> <p>Excerpt: “(1) The following provisions must be included in any agreement to which the state is a party: (d) Provisions for bonding, financial guarantees, deposits, or the posting of other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials as part of the project;...”</p>	Wash. Rev. Code § 39.08.010
West Virginia	W. Va. Code §§ 17-28-1 thru 12	The law provides for P3s for transportation facilities, which are a public highway, road, bridge, tunnel, overpass, building, structure, airport, vehicle parking facility, riverport facility, rail facility, or intermodal facility used for the	The law provides that the comprehensive agreement must provide for performance and payment bonds on the construction portion of the project for a transportation facility. The new law allows the Division to determine the form and amount for the bonds that would be satisfactory.	W. Va. Code § 38-2-39

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
		<p>transportation of persons or goods. The comprehensive agreement for the project will be between the governmental entity sponsoring the project and the West Virginia Division of Highways.</p>	<p>Excerpt: “Comprehensive agreement. (a) Prior to acquiring, constructing or improving a transportation facility, the project sponsors shall enter into a comprehensive agreement with the division. The comprehensive agreement shall provide for: (1) Delivery of performance or payment bonds in connection with the construction of or improvements to the transportation facility, in the forms and amounts satisfactory to the division;”</p>	
<p>West Virginia</p>	<p>W. Va. Code §§ 17-27-1 thru 18</p>	<p>The law authorizes the DOT to use P3s for the construction of any transportation facility, which is any public inland waterway port facility, road, bridge, tunnel, overpass or existing airport used for the transportation of persons or goods, and the structures, equipment, facilities or improvements to such facilities.</p>	<p>The law provides that the comprehensive agreement must provide for performance and payment bonds on the construction portion of the project for qualifying transportation facility. The law permits the Division of Highways to determine the form and amount for the bonds that would be satisfactory.</p> <p>Excerpt: “The comprehensive agreement shall provide for: Delivery of performance or payment bonds in connection with the construction of or improvements to the qualifying transportation facility, in the forms and amounts satisfactory to the division;”</p>	
<p>Wisconsin</p>	<p>Wis. Stat. Ann. § 84.01 (30)</p>	<p>The law 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 not purchased by the state upon their completion. An agreement may not be</p>	<p>No surety bond language.</p>	<p>Wis. Stat. Ann. § 779.14 and 779.15</p>

State	Citation	Summary of Law	Surety Bonding Requirements	State Little Miller Act
		entered into unless the DOT determines it advances the public interest and the private entity meets certain criteria.		
Wyoming	No P3 program identified.			Wyo. Stat. Ann. § 16-6-112 thru § 16-6-121
Puerto Rico	P.R. Laws Ann. Tit. 9 § 2001 thru 2021	The Puerto Rico Highway and Transportation Authority or the Department of Transportation and Public Works is empowered 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.	No surety bond language.	P.R. Laws Ann., Title 22, Public Works, Chapter 3, Public Works Contracts, §§ 47 thru 58
Puerto Rico	P.R. Laws Ann. Tit. 27 §§ 2601 thru 2623	The law establishes the Public-Private Partnership Authority as an entity of the Government Development Bank. It empowers the authority to establish P3s for infrastructure projects, and makes the authority the sole government entity responsible for implementing public policy on P3s as set forth in this act. The law provides guidelines for evaluating, approving, contracting for and overseeing P3 projects. Final approval of P3 contracts is required from the governor.	A partnership contract shall contain, insofar as applicable, provisions concerning the kind of bond or security to ensure compliance with the partnership contract.	P.R. Laws Ann., Title 22, Public Works, Chapter 3, Public Works Contracts, §§ 47 - 58