

THE SURETY & FIDELITY ASSOCIATION OF AMERICA

MEMORANDUM

TO: Government Affairs Advisory Committee

FROM: Daniel Wanke

RE: Contract Surety Legislation

DATE: March 6, 2015

There are 48 states and the District of Columbia in session. In all states except New Jersey and Virginia, the 2015 sessions are the start of a new two-year session. The following report compiles and summarizes pre-filed and introduced contract surety legislation that SFAA is tracking as of March 6, 2015. For additional information on how SFAA is addressing these bills, as necessary, with the AIA, NASBP, the local surety associations and other interested parties, please visit the Government Relations page of the SFAA website at www.surety.org.

Jurisdiction	Bill(s)	Recent History	Issue	SFAA Summary
AL	HB 50	03/03/2015 HB 50 has been introduced.	Bid Bonds	SB 50 would increase the maximum amount of the bid bond required for contracts with the Department of Transportation and for public works contracts under the Little Miller Act from \$10,000 to \$50,000. The law requires the bid bond to be not less than 5% of the bid amount, but caps it at not more than \$10,000. (03/04)
AL	HB 111	03/03/2015 HB 111 has been introduced.	Infrastructure Financing	SB 111 would establish the Alabama Transportation Infrastructure Bank for selecting and assisting in financing of transportation projects exceeding \$5 million through loans and other financial assistance, such as grants and credit enhancements, to the State and its agencies, counties, and municipalities, or other political subdivisions or public bodies. (03/04)

AR	SB 613	03/02/2015 SB 613 passed the Senate.	Public-Private Partnerships	SB 613 would establish a grant program for maintaining unpaved county roads that would include public private partnerships for funding the program. The bill provides for donations from private entities toward the project through funding or in-kind services or goods. The bill does not specify a bonding requirement for these projects. (03/02)
AR	SB 726	03/02/2015 SB 726 has been introduced.	Indemnity Provisions in Construction Contracts	SB 726 would revise the law on indemnity provisions in public and private construction contracts so that provisions requiring an entity or its surety or insurer to indemnify, insure, defend, or hold harmless an entity against liability for damage arising out of death or bodily injury to a persons or damage to property, which arises out of the negligence or fault of the indemnitee, its agents, representatives, subcontractors, or suppliers would be void and unenforceable as against public policy. This would not affect provisions in a construction contract requiring an entity or its surety or insurer to indemnify another entity against liability for damage arising out of death or bodily injury to persons, or damage to property. The bill provides that this indemnification “shall not exceed any amounts greater than that represented by the degree or percentage of negligence or fault attributable to the indemnitors, its agents, representatives, subcontractors, or suppliers.” (03/02)
AR	HB 1008	03/03/2015 HB 1008 has been reported as engrossed in the House.	Retainage	HB 1008 would set retainage in public construction projects at 5%. A public contracting entity may stop withholding retainage if the construction project is 50% completed, the contractor's work has been done in a satisfactory manner and the design professional and public contracting entity agree and approve. (03/05)
AZ	HB 2095	03/05/2015 HB 2095 is the second reading in the Senate.	Bond Waivers— Job Order Contracts	HB 2095, as amended, would permit the waiver of the current performance bond requirement for job-order construction services contracts in counties with a population of more than 800,000 if the amount of construction under the contract does not exceed \$500,000, including change orders. The bill had provided for the waiver of bonds on state job-order construction contracts for \$200,000 or less. The amended bill would sunset this provision on December 31, 2020. (02/26)

CA	SB 562	02/27/2015 SB 562 has been introduced.	Public-Private Partnerships	SB 562 would authorize the City of Long Beach to use a public-private partnership for the redevelopment of a Long Beach Civic Center. The bill does not specify a bonding requirement. (03/03)
CA	AB 1033	02/27/2015 AB 1033 has been introduced.	Infrastructure Financing	AB 1033 would authorize the California Infrastructure and Economic Development Bank to enter into public private partnerships for building infrastructure that is related to economic activities. The bill provides that eligible infrastructure projects would include goods movement, public transit, solid waste collection and disposal, water treatment and distribution, and defense conversion projects. The bill does not specify bonding requirements for these projects. The bill would establish procedures for corporations to become eligible as private partners for these projects. The bill would authorize the adoption of regulations to establish the requirements for the P3 agreement. The agreements would be limited to five years. (03/02)
CA	AB 1185	02/27/2015 AB 1185 has been introduced.	Retainage	AB 1185 would allow the Los Angeles Unified School District (LAUSD) to award the contract based on “best value” when the contract exceeds \$1 million until December 31, 2020. The bill provides that for these best value contracts, if performance and payment bonds are required for the contractor, retainage shall not exceed 5%. In the district’s construction contracts between the contractor and a subcontractor, and in a contract between a subcontractor and any sub-subcontractor, the amount of retainage withheld shall not exceed the retainage amount in the contract between the district and the contractor. The contractor could require a bond from the subcontractor if the contractor provides notice to the subcontractor. If the subcontractor fails or refuses to provide the bond, the contractor would be permitted to withhold retainage in excess of the amount specified in the contract between the district and the contractor from the payments to the subcontractor. (03/03)
CA	AB 1198	02/27/2015 AB 1198 has been introduced.	Public-Private Partnerships	AB 1198 provides that it is the intent of the legislature to enact legislation to create the Credit Enhancement Program within the California School Finance Authority to provide lower cost alternatives for school facility financing through a leveraged public-private partnership program. To date, there is no further text for the bill. (03/03)

CA	AB 1265	02/27/2015 AB 1265 has been introduced.	Public-Private Partnerships	AB 1265 would make the authorization for the Department of Transportation and regional transportation agencies to enter into comprehensive development lease agreements for public-private partnerships for transportation projects permanent. The existing law provides that the authorization would expire on January 1, 2017. The law requires the contracting entity or the lessee to provide evidence that it has the capacity to obtain all required payment and performance bonding, liability insurance, and errors and omissions insurance. (03/02)
CA	AB 1358	02/27/2015 AB 1358 has been introduced.	Design-Build Projects	AB 1358 would rewrite the existing law authorizing the use of design-build firms for school facilities, which requires the design-build firm to possess or obtain sufficient bonding to cover the contract amount for non-design services. The bill provides that the design-build firm would have to obtain payment and performance bonds in the form and amount the school district requires. The payment bond amount could not be less than the performance bond amount. School districts would have to develop a standard payment and performance bond form for its design-build projects instead of using the Department of General Services' form. The bill would revise the law to cap retainage at no more than 5% for all contracts, which under current law only applies when bonds are required. The bill would eliminate an option for the design-build firm to furnish securities in lieu of retainage. The bill would reduce the threshold for using design-build firms from \$2.5 million to \$1 million. (03/03)
CO	SB 172	02/19/2015 SB 172 has been postponed indefinitely in the Senate Transportation Committee.	Public-Private Partnerships	SB 172 would establish requirements for transparency in the public-private partnership (P3) process for High-Performance Transportation Enterprises (HPTE), which finance surface transportation infrastructure projects that will improve safety, capacity, and accessibility of the surface transportation system through P3s, operating concession agreements, user fee-based projects, and design-build contracting. Among the transparency measures, the bill would require an annual report to the Senate and House Committees with jurisdiction over transportation that includes information on any guarantees for performance of construction, maintenance, operation or other obligation of the parties in a P3, including any required surety bonds and insurance.

				The report would have to provide evidence that the guarantees are adequate to cover the entire term of the P3. (02/09)
CO	HB 1197	02/26/2015 HB 1197 has been reported from the House Judiciary Committee.	Indemnity Provisions in Construction Contracts	HB 1197 would revise the existing law for indemnity provisions for negligence in construction contracts to provide that the contractor's obligation to defend, indemnify, or hold harmless a public entity would be limited to the amount of negligence attributable to the contractor and its agents, representatives, subcontractors, and suppliers. The bill would repeal a provision exempting contract clauses for the costs of defense of litigation from the existing law on indemnity provisions. The bill also would delete a provision exempting a contracting party from being required indemnify or hold harmless from any liability or damages arising from the negligent acts of the indemnified party. The extent of any liability or obligation for an indemnity obligor would have to be determined through adjudication or alternative dispute resolution. The bill would add an exemption for insurance policies that provide for the defense, indemnification, or holding harmless of public entities. (03/02)
CT	SB 830	03/06/2015 SB 8930 has been drafted by the Senate Labor and Public Employees Committee.	Minority-Owned Businesses	SB 830 would exempt emerging contractors from the requirements of the Little Miller Act if they participate in a surety bond guarantee program that the bill would authorize to be created. The bill would direct the Commissioner of Administrative Services to establish the program by October 1, 2015. Emerging contractors would be eligible for the program for a period of up to five years. The bill would define emerging contractors as minority-owned businesses who are not prequalified under the State's requirements and are unable to obtain the bonding required under the Little Miller Act to bid on state or municipal public works contracts (excluding DOT contracts) or is unable to perform work under such a contract as a substantial subcontractor. (03/07)
CT	SB 947	02/19/2015 SB 947 has been introduced.	Bonding Assistance Programs	SB 947 is a budget bill that would provide \$2 million in funding for the implementation of a minority business enterprise assistance program to assist these businesses in obtaining surety bonds, including bid, performance and payment bonds, for capital construction projects. (02/20)

CT	SB 948	02/26/2015 SB 948 was scheduled for a hearing on 03/02 in the Joint Committee on Government Administration and Elections, but it has not moved since then.	Bonding Waivers	SB 948 would permit the Commissioner of Administrative Services to waive the requirements to post performance and payment bonds for contracts for the construction, reconstruction or rehabilitation of public buildings that are less than \$500,000. To qualify for the bonding waiver, the contractor or subcontractor would have to submit satisfactory evidence that demonstrates successful completion of at least three projects of comparable scope and cost. (02/19)
CT	SB 1032	03/02/2015 SB 1032 is scheduled for a hearing in the Joint Committee on the Judiciary.	Nullum Tempus Statute of Repose	SB 1032 would revise the existing law's statute of repose for actions involving defects in construction and design contracts, as well as actions for damages to property or persons, including wrongful death, against architects, professional engineers and land surveyors to eliminate the common law doctrine of nullum tempus (no time limit runs against the king). The bill provides that for actions involving such defects or damages that accrue on or after October 1, 2015, the action could not be brought by the state or its political subdivisions more than ten years after substantial completion of the improvement. The bill does not establish a limitation period for actions by the state or political subdivisions against contractors (or their sureties or insurers). (03/03)
CT	HB 5622	02/09/2015 HB 5622 was scheduled for a hearing on 02/13 in the Joint Committee on Planning and Development, but it has not moved since then.	Bond Threshold	HB 5622 would increase the threshold at which surety bonds are required on municipal contracts. To date there is not any text for this bill. (01/17)
CT	HB 6323	02/06/2015 HB 632 was scheduled for a hearing on 02/11 in the Joint Committee on Transportation, but it has not moved since then.	Public-Private Partnerships Infrastructure Financing	HB 6323 would create the Connecticut Transportation Bank to support public-private partnerships to construct and repair the state's transportation infrastructure. To date, only a brief summary and not the text of the bill is available.

CT	HB 6705	02/20/2015 HB 6705 was scheduled for a hearing on 02/26 in the Joint Committee on Labor and Public Employees, but it has not moved since then.	Prevailing Wages Contract Termination Penalties	HB 6705 would subject businesses receiving financial assistance from the State or its agencies for a construction project on its property to the law's prevailing wage requirements. If the business finds that a contractor or subcontractor knowingly or willfully is paying less than the prevailing wage, it could either terminate the contractor's right to proceed on the work or withhold payment from the contractor or subcontractor. If the contract is terminated, the contractor and its sureties would be liable to the business for any excess costs resulting from it. For violations, the bill also provides for civil penalties and requires restitution of the wages owed. The contractor or subcontractor would be subject to a two year debarment period for repeated violations on these projects. (01/31)
CT	HB 6906	02/26/2015 HB 6906 was scheduled for a hearing on 03/02 in the Joint Committee on Government Administration and Elections, but it has not moved since then.	Bond Threshold	HB 6906 would increase the threshold at which bid security is required for competitive sealed bidding for construction contracts in a design-bid-build procurement from \$500,000 to \$1 million. The law requires the State Contracting Standards Board to adopt regulations for the bid security requirements for contracts that exceed this threshold. (02/25)
FL	HB 63/SB 824	03/03/2015 HB 63/SB 824 have been introduced.	Public-Private Partnerships	<p>HB 63/SB 824 would expand the existing law authorizing the use of public-private partnerships (P3s) for qualifying projects so that special districts, Florida College System institutions, and state universities also would be allowed to enter into P3s for these projects. Existing law permits P3s for public facilities, buildings, and water and wastewater projects. The bill would delete the law that established the Public-Private Partnership Guidelines Task Force, whose authorization expired at the end of 2014 following its report to the legislature.</p> <p>As filed, HB 63 would have authorized municipalities, political subdivisions, school districts, and school boards to award design-build contracts through P3s. The bill also would have made a technical change for the pricing of the payment and performance security required for P3s.</p>

				The filed bill would have created the Division of Public-Private Partnerships. (02/23)
FL	HB 87	03/03/2015 HB 87 has been introduced.	Construction Claims	HB 87 would revise an existing alternative dispute resolution process for claims for construction defects in private work. The bill would revise the notice procedures to require additional details about the defect, such as the location of the project and the specific violations that occurred. The bill would revise the existing notice provisions for a contractor's insurer to provide that the notice would not count as a claim for insurance purposes unless it is provided in the insurance policy. The bill also would revise the legislative findings in the bill to provide that the contractor's insurer should be included in the notice requirements for an effective alternative system. The bill also would impose penalties for frivolous claims.
FL	SB 508/ HB 253	03/04/2015 SB 508 has been reported from the Senate Governmental Oversight and Accountability and has been referred to the Senate Appropriations Subcommittee on General Government. 03/03/2015 HB 253 has been introduced.	Bond Waivers Small Businesses	SB 508/HB 253 is a bill for small business procurement that would prohibit an agency, general contractor, or prime contractor from requiring a vendor of goods and services to post a bid bond, performance bond, or other surety for a contract that does not exceed \$500,000. Construction contracts would be excluded. The bill provides that this would not apply to any requirement for posting a bond pending the protest of a solicitation, the protest of a rejected bid, proposal, or reply, or the protest of a contract award. The bill also would address contract bundling, requiring agencies to structure contracts to facilitate competition by small businesses, avoiding unnecessary contract bundling that may preclude small businesses' participation as prime contractors. The agency would have to conduct market research to determine whether contract bundling is necessary. Written justification would be required for bundled contracts. (01/24)
GA	SB 59	02/12/2015 SB 59 has been reported from committee in the Senate and is to the second reading.	Public-Private Partnerships	SB 59 would authorize the use of public-private partnerships (P3s) for the State and for local governments for any project, except for generation of electric energy for sale, communications services, cable and video services, or water reservoir projects. SFAA and AIA successfully had the bill amended to clarify that the comprehensive agreement would have

				to 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 would be required for the other phases and components of the project. For a material default on the project, the public entity could terminate the comprehensive agreement for cause and exercise the rights and remedies available under the law, including claims on the bonds or other security. (02/12)
HI	HB 368/SB 562	01/26/2015 HB 368 has been introduced. 02/09/2015 HB 562 has been reported from the Senate Committee on House Public Safety And Military Affairs and has been referred the Senate Ways and Means Committee.	Public Private Partnerships	HB 368/SB 562 would provide for the construction of re-entry facilities, which are transitional living facilities for recently released criminal offenders. The bill would authorize the use of a public-private partnership for the development of the project. (01/27)
HI	SB 1228	02/27/2015 SB 1228 passed the Senate Committee on Senate Ways and Means.	Public-Private Partnerships	SB 1228 would direct the State Procurement Office shall draft rules for public-private partnership (P3) contracts for infrastructure projects. The bill would set forth the general requirements for the rules. The State Procurement Office would be required to report the draft rules for P3s and any proposed legislation to the legislature no later than twenty days prior to the start of the regular 2016 session. The bill also would require the establishment of procedures for using a "special innovative procurement" through regulations that could be used for construction contract. (02/24)
HI	SB 1251	02/19/2015 SB 1251 passed the Senate Water and	Public-Private Partnerships	SB 1251 would create the transit oriented development coordinator in the Office of Planning to create a development strategy for projects. The

		Land/Transportation Committee and has been referred to the Senate Ways and Means Committee.		coordinator's duties would include exploring the use of public-private partnerships. (02/19)
HI	SB 1268	02/19/2015 SB 1268 has been reported from the Senate Committee on House Public Safety And Military Affairs and has been referred the Senate Ways and Means Committee.	Public-Private Partnerships	SB 1268 would authorize the Department of Public Safety may enter into a public-private partnership to plan, design, and construct a multi-story correctional facility at the Halawa correctional facility. The bill does not specify a bonding requirement. (02/20)
HI	HB 1375	02/02/2015 HB 1375 has been introduced.	Public-Private Partnerships	SB 1375 would direct the Hawaii Strategic Development Corporation to establish a public-private partnership (P3) initiative. The bill would create the Public-Private Partnership Advisory Board to initiate pilot projects that the Governor has selected. The bill does not specify a bonding requirement for the P3. Projects eligible for a P3 would include any undertaking related to the operations and properties of any public agency such as the development of plans for a public agency and the planning, improvement, construction, rehabilitation, alteration, maintenance, or repair of real property or energy generation. (01/30)
HI	HB 1483	02/02/2015 Bb 1483 has been introduced.	Public-Private Partnerships	HB 1483 would authorize the use of a public-private partnership (P3) for Hawaii's existing procurement laws for public contracts, the state procurement code, public improvements, state facility renovations, stadiums and recreational facilities, and state-owned cemeteries. Hawaii's Little Miller Act is contained in the state procurement code. P3 projects would be defined as those for real or personal property and improvements to or in support of them that are used for or in the provision of a public service. The bill provides that the P3 contract may contain terms and conditions that implement the state procurement laws, including "required financial assurances," bases and procedures for

				termination of the contract, defaults, and remedies for a default. The bill would establish a P3 advisory committee, a P3 finance director, and a P3 coordinator to oversee these projects. (01/30)
IA	HSB 74/ SSB 1066	01/26/2015 HSB 74/SSB 1066 have been filed.	Retainage	HSB 74/SSB 1066 provides that in private construction contracts, the owner, contractor or subcontractor could withhold no more than 5% of the progress payments as retainage. Owners would have to pay contractors within 30 days of receiving a payment and contractors would have to pay their subcontractors within 10 days of payment from the owner or within 10 days of the payment date in the subcontract. The bill also provides that contract provisions for private construction making a payment from a contractor or subcontractor to a subcontractor contingent or conditioned upon receipt of a payment from any other private party would not be a defense to a claim to enforce a mechanic's lien or bond to secure payment of claims. (01/27)
IA	SB 307	02/26/2015 SB 307 has been introduced.	Performance Bonds	SB 307 would establish a disaster case management fund and provides for the adoption of rules to implement a statewide system of disaster case management. The rules would have to allow the Department of Human Services to accept a surety bond or other form of financial responsibility that a local administrative entity previously provided in connection with another contract with the State to provide services or implementing a state or federal program, so long as the bond requirement in the contract is sufficient. (03/03)
IA	HB 401	02/26/2015 HB 401 has been introduced.	Bid Bonds Performance and Payment Bonds	HB 401 would revise the existing bidding procedures for levee and drainage districts. The bill would require bid security in an amount equal to 5% of the bid. Bid bonds would have to comply with the bid bond requirements in the public contracting law. The bill provides that if the maximum limit on a bid security would cause a denial of funds or services from the federal government which would otherwise be available, or is otherwise inconsistent with the requirements of federal law, the maximum limit could be suspended. The bill would require successful bidder to furnish a performance and payment bond in an amount not less than 75% of the contract price. (03/03)

ID	HB 119	03/05/2015 HB 119 is to the third reading in the House.	Construction Managers	HB 119 would revise the existing law for construction manager contracts to require that a guaranteed maximum price be established prior to the public entity entering into the contract and that performance and payment bonds in the amount the public entity requires. However, existing law already provides that the construction manager representative must provide performance and payment bonds in the amount of the construction management contract and a construction manager/general contractor must provide performance and payment bonds that comply with the State's Little Miller Act so that the bill's provisions permitting the public entity to set the bond amount appears to conflict with the current law's bond requirements. (02/23)
IL	SB 1395	02/20/2015 SB 1395 has been introduced.	Retainage	SB 1395 would prohibit withholding more than 5% retainage from payments that contractors and subcontractors earn on private construction contracts. (02/21)
IL	SB 1863	02/20/2015 SB 1863 has been introduced.	Infrastructure Financing	SB 1863 would establish the Illinois Infrastructure Investment Act. To date there is no substantive bill text. (03/02)
IL	SB 3486	02/26/2015 SB 3486 has been introduced.	Small Business Enterprises	SB 3486 would permit small business enterprises that are subcontractors on a construction contract with the Department of Transportation to enter into agreements with the DOT to receive payments directly from it. The subcontractor would have to be listed on the Chief Procurement Office's Small Business Directory and the Department of Transportation's Disadvantaged Business Enterprise Directory. The DOT would have to review the contract and determine that it meets the requirements for fairness and responsiveness to the DOT's bid specifications.
KS	HB 2294	02/10/2015 HB 2294 has been introduced.	E-Verify Contract Termination Penalties	HB 2294 would require a business receiving a contract or grant from the State or a municipality to affirm its registration and participation in the federal E-verify program to verify the work eligibility of its employees by submitting a sworn affidavit. The bill provides that for a first violation, the contract could be terminated and the business could be suspended or debarred from receiving contracts or grants for three years. For a second violation, the contract could be terminated and the business could be debarred or suspended from receiving contracts or grants

				permanently. Contractors and subcontractors would not be liable if they affirm that they did not knowingly violate the law. (02/11)
KY	HB 359	02/26/2015 HB 359 has passed the House.	Construction Managers	HB 359 would authorize the use of the construction manager-general contractor procurement method for state construction projects. The procurement process would have to include information on the applicable bond, insurance, and security requirements. (02/26)
KY	HB 443	02/25/2015 HB 443 has passed the House.	Public-Private Partnerships.	HB 443 would authorize state authority, a bi-state authority, or a project authority to use a public-private partnership (P3) as an alternative method of financing a capital project or procuring services. The bill would direct the Secretary of the Finance and Administration Cabinet to adopt regulations for the criteria for using a P3 for a project, including the requirements for the comprehensive agreement. The bill is silent on bonding requirements for the P3. (02/25)
MD	HB 119/ SB 708	02/11/2015 HB 119 was scheduled for a hearing on 03/04 in the House Health and Government Operations Committee, but it has not moved since then. 02/18/2015 SB 708 is scheduled for a hearing on 3/10 in the Senate Education, Health, and Environmental Affairs Committee.	Change Orders	HB 119/SB 708 would require state procurement contracts to contain a change order clause prohibiting the State, a prime contractor, or a private entity for a P3 to start work under a change order or to start any additional work beyond the scope of the original contract unless the State, the prime contractor, the private entity and the subcontractor agree to the price for it and there is a written commitment from the responsible fiscal authority to pay for within 30 days of receiving an invoice. For a failure to pay, the clause would have to permit the contractor or subcontractor to stop work without a penalty. The State, a prime contractor, a subcontractor, and the private entity would be prohibited from declaring a contract in default or seeking damages for delays if the parties are unable to agree on the price as required. The bill also would set forth mandatory prompt pay provisions for contractors to include in their subcontracts relating to payment for change orders. (01/28)
MD	HB 279/ SB 396	02/24/2015 HB 279/SB 396 received unfavorable reports in committee in their houses of origin	Excessive Bonding Requirements	HB 279/SB 396 would prohibit the State from including provisions in its procurement contracts that: 1) place unreasonable requirements on prospective bidders or offerors; 2) draft specifications requiring unnecessary experience; or 3) draft specifications requiring excessive bonding. The bill would have applied to state contracts and while it did

		and have been withdrawn		not change the Little Miller Act, it could have led to litigation based on the existing law's bonding provisions. SFAA and NASBP opposed the legislation and the bills were withdrawn. (02/11)
MD	SB 387/ HB 455	02/06/2015 SB 387 was scheduled for a hearing on 02/17 in the Senate Judicial Proceedings Committee, but it has not moved since then. 02/10/2015 HB 455 was scheduled for a hearing on 02/25 in the House Judiciary Committee, but it has not moved since then	Indemnity Provisions in Construction Contracts	SB 387 provides that indemnity provisions in construction contracts for buildings, structures, appurtenances, or appliances requiring the promisor or indemnitor to defend or pay the defense costs for damages for bodily injury or property damages that were caused by or resulted from the promisee or indemnitee's sole negligence, or by their agents or employees, would be against public policy and would be void and unenforceable. Such provisions would be void in architectural, engineering, inspecting, or surveying services contracts as well. Existing law provides that bonds provided by a surety company for a contract are exempt from the existing requirements concerning indemnity provisions that purport to indemnify the promisee against liability for such damages. (02/09)
MD	SB 453/ HB 936	02/06/2015 SB 453 was scheduled for a hearing in the Senate Budget and Taxation Committee, but it was cancelled. 02/13/2015 HB 936 was scheduled for a hearing on 03/03 in the House Environment and Transportation Committee, but it has not moved since then.	Public-Private Partnerships	SB 453/HB 936 is legislation that SFAA and AIA sought to correct a technical problem with the bonding language in the P3 law that Maryland enacted in 2013. The existing law requires that the amount of the payment bond must be based on the value of the construction elements of the P3 and not on the total value of the P3. The existing law also requires a performance security, but does not limit it in a similar manner as the payment bond. SFAA and AIA's technical correction would amend the law so that the payment bond and performance bond both are based on the value of the construction portion of the P3. (02/11)

MD	SB 579/ HB 844	<p>03/05/2015 SB 579 has been reported favorably from the Senate Finance Committee.</p> <p>02/12/2015 HB 844 was scheduled for hearing on 03/04 in the House Economic Affairs Committee but is has not moved since then.</p>	Bond Guarantee Program	<p>SB 579/HB 844 would revise the maximum amount of the bond that the Maryland Small Business Development Financing Authority (Authority) may guarantee for its Small Business Surety Bond Program, which currently is an amount equal to 90% or \$1.35 million of a surety's loss on a bid, payment, or performance bond for federal, state, private, utility, and local government financed contracts, whichever is less. The bill would revise this to the lesser of 90% or \$2.25 million of the surety's losses on these bonds. The bill also would increase the amount of the bond for which the Authority may execute and perform as a surety under its surety program from \$1 million to \$2.5 million for federal, state, private, utility, and local government financed contracts.</p>
MN	HB 600/SB 87 /SB 228	<p>02/05/2015 HB 600 has been introduced.</p> <p>SB 87/SB 228 have not moved since last reported.</p>	Public-Private Partnerships	<p>HB 600/SB 87/SB 228 would authorize the Commissioner of Transportation and Metropolitan Council to establish a public-private partnership (P3) pilot program for transportation projects. Under the P3 agreement with the private entity would have to provide for "financial protection for the State in the event of default," but bonds are not specified. The bill would restrict the use of P3s to new projects and would prohibit their use on existing infrastructure except for the expansion of capacity. The bill is a transportation appropriations bill. (02/09)</p>
MN	HB 1106	<p>02/19/2015 HB 1106 has been introduced.</p>	Bond Guarantees	<p>HB1106 provides that surety bonds that the U.S. Small Business Administration has guaranteed and "second party bonds" would be acceptable for state construction contracts that are awarded pursuant to a contract set-aside program for service-disabled, veteran-owned businesses that the bill would create for state contracts. The bill would define a "second party bond" as a bond that designates as principal or guarantor, or both, a person or persons in addition to the person to whom the contract is proposed for award. (02/23)</p>

MO	HB 206/ SB 512	03/05/2015 HB 206 has been heard in committee in the House. 02/26/2015 SB 512 has been introduced.	Public-Private Partnerships	HB 206/SB 512 would authorize state and local governmental entities to use public-private partnerships (P3s) for the development or operation of all non-transportation buildings, facilities and infrastructure and improvements. The comprehensive agreement between the public entity and the private partner would have to provide for the delivery of maintenance, performance and payment bonds, and letters of credit in connection with the development or operation of the qualifying project in the forms and amounts that are satisfactory to the responsible public entity. The bill would authorize the public entity to make claims under the maintenance, performance, or payment bonds, or lines of credit in the event of a material default of the private partner. SFAA believes that the bonding provisions need to be clarified. (02/25)
MO	SB 388/ HB 1042	02/24/2015 SB 388 has been read twice in the Senate and referred to the Senate Commerce, Consumer Protection, Energy and the Environment Committee. 02/25/2015 HB 1042 has been read twice in the House.	Design-Build Construction Managers at-risk Performance Bonds Payment Bonds	SB 388/HB 1042 would authorize political subdivisions to enter into design-build contracts for construction projects exceeding \$25 million. Payment bonds would be required according to the State's Little Miller Act. Design services providers would be covered under the payment bond, but performance bonds would not need to cover design services if the contractor or subcontractor providing design services has professional liability insurance. Political subdivisions could use construction managers at-risk (CM at-risk) for public facilities. The CM at-risk would have to furnish performance and payment bonds equal to the contract amount or the guaranteed maximum price (GMP), unless these have not been established in which case the bonds must be equal to the project budget. Bonds would have to be furnished within 10 business days of executing the contract unless the CM at-risk provides a bid bond or other security that secures their provision when a GMP is established.(02/04)

MO	SB 448/ HB 145	02/26/2015 SB 448 has been read twice in the Senate and referred to the Senate Small Business, Insurance And Industry Committee. HB 145 has not moved since last reported.	Indemnity Provisions in Construction Contracts	SB 448/HB 145 would revise the law concerning indemnity provisions in construction contracts to require all parties entering into a contract for private or public construction work to be responsible for any liability or damages arising from the party's own negligence, wrongdoing, or recklessness, and shall not transfer, delegate, or assign responsibility for liability or damages to another person. The law makes such provisions in construction contracts void and unenforceable as against public policy. The bill also would eliminate an exemption from the law that is given to indemnity agreements in which a party promises to indemnify, defend or hold harmless another person in connection with obtaining insurance. Existing law also exempts construction bonds and insurance contracts or agreements. The bill also would expand the definition of construction work to include additional types of work. (02/20)
MO	HB 844	02/05/2015 HB 844 has been read twice in the House.	Design-Build Construction Managers at-risk Performance Bonds Payment Bonds	HB 844 would authorize political subdivisions to enter into design-build contracts for construction projects exceeding \$1 million. Payment bonds would be required in accordance with the State's Little Miller Act. The bill provides that all persons furnishing design services would be deemed to be covered the same way that any person furnishing labor or materials is covered by the payment bond. The performance bond would not need to cover the design services if the design-builder or its subcontractors providing design services have professional liability insurance. If there is no professional liability insurance, the performance bond would be required to cover the design services. For state construction management services contracts, the bill clarifies that only bidders contracting directly with the public owner would be required to provide performance and payment bonds. All bidders are required to enter into contracts directly with the public owner under the law. (02/06)

MO	HB 935	02/26/2015 HB 935 has been read twice in the House and referred to the House Banking Committee.	Individual Sureties	HB 935 would create the Bonding Review Board, which would be charged with determining if individual sureties have sufficient financial assets and rating providers of individual sureties. Individual sureties would have to register with the Board. The Board would have to establish procedures for creating and assigning credit ratings for any individual, partnership, or corporation that markets or provides individual sureties to satisfy bonding requirements. The Board would have the authority to investigate the provider's financial solvency and ability to satisfy the sureties offered and issued. Parties to a contract that involves the use of an individual surety could petition the board to investigate the reliability of the surety. The Board would have to report to the Governor and the General Assembly on the providers and their ratings, documented complaints that the board has received against the providers, and changes to a provider rating. (02/13)
MT	SB 251	02/25/2015 SB 251 passed the Senate.	Bond Threshold	SB 251, as amended, would increase the threshold for requiring performance and payment security for public construction and building contracts with the state or a governmental entity from \$50,000 to \$80,000 and it would increase the threshold for requiring bid security on these contracts from \$25,000 to \$80,000. The bill also would increase the threshold for requiring performance and payment security for school districts from \$7,500 to \$80,000. (02/21)
NE	LB 609	01/29/2015 LB 609 is scheduled for a hearing on 03/09.	Bridge Repair Projects Performance and Payment Bonds	LB 609 would establish the Nebraska Bridge Repair Commission (Commission) for repairing the State's bridges through design-build contracts. The request for proposals for these projects would have to include any bonds and insurance that are required by law or that the Commission may additionally require. The bill also would establish the Nebraska Bridge Infrastructure Bank Fund to assist in the payment for these projects. (01/21)
NH	SB 88	01/29/2015 SB 88 is to the third reading in the Senate.	Public-Private Partnerships	SB 88 would establish a committee to study public-private partnerships for intermodal transportation. The committee would be required to report its findings and any recommendations for proposed legislation by January 1, 2016. (01/31)

NH	HB 267	02/18/2015 HB 267 is pending in the House Labor, Industrial and Rehabilitative Services Committee.	No documents to display	HB 267 would require public employers and every contractor and subcontractor that enters into a contract with a public employer to register and participate in E-Verify, or an equivalent status verification system, to verify the work eligibility status of all new employees. For a violation of this requirement, the bill provides that the contract could be cancelled and the contractor or subcontractor committing the violation would be debarred from receiving contracts for three years.
NJ	AB 2297	02/12/2015 AB 2297 has been reported from the Assembly Agriculture and Natural Resources Committee.	Public-Private Partnerships	AB 2297 would permit the Department of Environmental Protection, counties, and municipalities to enter into public-private partnerships (P3s) to lease historic buildings for their maintenance and preservation. The bill does not specify a bonding requirement for the P3. (02/17)
NJ	AB 3628	02/05/2015 AB 3628 has been enacted.	Water System Leases	AB 3628 authorizes municipalities (except a municipality of the first class with a population of 270,000 or more) to enter into a long-term lease or sell their water or wastewater systems to a public or a private entity if an emergent condition exists. The new law allows for long-term leases, which are those that exceed 30 years. The new law provides that an emergent water issue includes issues such as poor water quality, damaged infrastructure, environmental violations, or the system owner lacks the capacity to operate the system. The new law sets forth procedures for issuing a request for proposal and for entering into a contract for the sale or lease of the system. The new law does not specify a bonding requirement as a part of the lease or sale of the system. (02/09)
NM	SB 158	02/10/2015 SB 158 passed the Senate.	Payment Bond Claims	SB 158 would clarify the existing payment bond claims law by revising the amount for which a person who has furnished labor or materials may sue, which currently is for amount of the balance unpaid at the beginning of the suit for the sum or sums "justly due him." The bill provides instead that the suit could only be for the amount justly due for the "labor performed on, or materials actually delivered to and actually incorporated into, the project." The bill was amended to specify that the sums justly due would be determined by the subcontract or other

				contractual relationship directly with the contractor furnishing the payment bond. The amended bill also would authorize the court to allow the State to include interest and reasonable attorney fees as costs in an action against a non-resident contractor's bond for the taxes due from a construction contract. (02/11)
NM	SB 239/ HB 447	01/24/2015 SB 239 passed the Senate Judiciary Committee. 02/16/2015 HB 447 passed the House Transportation and Public Work Committee.	Construction Managers Design-Build	SB 239/HB 447 would authorize the use of construction managers and design-build firms for transportation projects. For a construction manager-general contractor contact, the request for qualifications would have to include requirements for a request for proposal bond that complies with the existing law's bid security requirements and performance and payment bonds that comply with the Little Miller Act, as well as a minimum bonding capacity. The bill does not specify bonding requirements for the design-build procurement method. (02/17)
NM	HB 299	02/11/2015 HB 299 passed the House Judiciary Committee.	Public-Private Partnerships	HB 299 would authorize the State, local governments and state institutions to use public-private partnerships (P3s) for virtually any public works project. The P3 agreement would have to include a requirement for the private partner to provide directly, or through the principal contractor in charge of the project, performance and payment bonds in accordance with the requirements of the State's Little Miller Act for the construction portion of the project either directly or through the principal contractor. Alternative forms of security for the non-construction components of the project could be required in an amount that less than 100% of the value of the contract involved based on the public partner's determination of what is required to adequately protect itself on a project-by-project basis. (02/12)
NM	SB 661	01/29/2015 SB 661 has been introduced.	Construction Managers at-risk	SB 661 would revise the existing law for using a construction manager at-risk for the construction of an educational facility so that this procurement method could be used for the construction of any state facility. A request for proposal bond is required for such projects under existing law. (02/24)

NV	SB 108	02/02/2015 SB 108 has been introduced.	Bond Threshold	SB 108 would increase the state bond threshold from \$100,000 to \$1 million. The bill also would increase other procurement related thresholds, such as public bidding requirements, from \$100,000 to \$1 million. (02/03)
NY	SB 1801	01/14/2015 SB 1891 has been introduced.	Alternative Procurement Methods	SB 1801 would authorize the use of alternative project delivery methodologies, which the bill defines as any “construction project delivery methodology whereby the procurement for the construction services is other than the traditional design-bid-build process.” The legislative findings in the bill note that such methodologies included design-build, construction manager at-risk, public-private partnerships, and integrated project delivery. The bill would authorize the following agencies to use such methods on projects exceeding \$25 million: the Department of Transportation, the Office of General Services, the Dormitory Authority, the New York State Thruway Authority, the New York City School Construction Authority, the Metropolitan Commuter Transportation Authority, the State University Construction Fund, and the City University Construction Fund. (01/31)
NY	SB 2924/ AB 4266	01/30/2015 SB 2924/AB 4266 have been introduced.	Retainage	SB 2924/AB 4266 provides that the retainage that a public owner or contractor withholds that is for a subcontractor's work on state and municipal construction contracts would have to be released within 60 days from the completion and the public owner's acceptance of the subcontractor's work. The bill provides that a portion of the retainage to be released could be withheld to settle claims and unfinished punch list items. (02/05)
NY	SB 2931/ AB 796	01/30/2015 AB 2931 has been introduced. AB 796 has not moved since last reported.	Retainage	SB 2931/AB 796 would prohibit withholding retainage on any payment due to a material supplier for materials that have been delivered and accepted on a private construction project. For public projects, the amounts withheld for retainage could not include any such payments due to material suppliers for materials that have been delivered and accepted. The public owner would be required to pay in full for materials that have been delivered. The contractor would be required pay in full for all materials for the project that have been delivered and accepted when the public owner has paid the contractor. (02/05)

NY	SB 3153	02/03/2015 SB 3153 has been introduced.	Performance Bonds	SB 3153 would establish a New York City Department of Housing Preservation and Development Homeowners Improvement Trust Fund for aggrieved homeowners who are victims of substandard housing built by a sponsor on a Housing Preservation and Development project. The project sponsor would have to participate in the Fund or provide a bond or otherwise meet the required warranties. The Commissioner of the New York State Community Homes & Renewal (Commissioner) could adopt regulations that require bonding, minimum capital, or other security for project sponsors to secure their compliance with the bill's provisions and have the financial resources to meet their warranty, contractual and other obligations. The Commissioner also would be authorized to require surety bonds to ensure the satisfactory completion of the project. (02/10)
NY	AB 3522	01/23/2015 AB 3522 has been introduced.	Public-Private Partnerships	AB 3522 would authorize the use of public private partnerships for transportation infrastructure projects for the Commissioner of Transportation, the New York State Thruway Authority, and the New York State Bridge Authority. The bill provides that the project agreement may provide for insurance or surety requirements for the project. The bill also would create the Innovative Infrastructure Development Board for the review of solicitations for proposed projects. (01/29)
NY	AB 3545	02/12/2015 AB 3545 has been introduced. AB 1672 has not moved since last reported.	Public-Private Partnerships	SB 3545/AB 1672 would allow the Power Authority of the State of New York and the Long Island Power Authority to enter public-private partnerships (P3s) to provide to construct, repair, replace, reinforce, modernize and expand the State's electric transmission grid. The bill does not specify a bonding requirement for these P3 projects. (02/13)
NY	AB 4418/SB 1655	01/30/2015 AB 4418 has been introduced.	Veteran-owned Businesses Bonding Programs	AB 4418/AB 3056/SB 1655 would include businesses owned by veterans in existing contracting programs for minority- and women-owned businesses, including contracting set aside programs and contract preferences, as well as existing bond guarantee and technical assistance programs. The bill would set forth the criteria for what businesses qualify as a veteran-owned business. (02/04)

		AB 3056/SB 1655 have not moved since last reported.		
NY	AB 4521	02/03/2015 AB 4521 has been introduced.	Retainage	AB 4521 would repeal a provision requiring the contractor on a state public works project to withhold not more than 5% of each payment to the subcontractor and/or materialman or 10% of such payments if the subcontractor is unable or unwilling to meet the contractor's requirement to provide performance and payment bonds. The bill also would revise the existing prompt pay law for state public works projects to require contractors to pay their subcontractors upon completion of their work or materials supplied instead of current requirement of seven calendar days of the receipt of any payment from the public owner. (02/10)
OK	HB 2231	02/19/2015 HB 2231 passed the House Economic Development, Commerce, and Real Estate Committee.	Bond Claims	HB 2231 would create the Oklahoma Construction Registry. An owner or project general contractor may register a project under the Construction Registry within ten days of signing a contract. If the owner or general contractor has elected not to register or fails to do so within the time allowed, the project would default to the current state lien and bond law. Registering would preserve the lien rights of a project provider for activity up to 60 days prior to the date of registration through the completion date of the project. All project providers would have to register if the project is registered, otherwise the provider would forfeit his or her lien and bond rights for the protected time period under the lien and bonding laws of the State on a private construction project or to proceed against a contractor's bond on a public or private construction project. Providers who have registered would be exempt from the pre-lien notice requirements in current law. (02/20)
OR	HB 3303	02/27/2015 HB 3303 has been introduced.	Public Works Bond Exemption	HB 3303 would authorize the Oregon Business Development Department to certify that service-disabled veteran-owned businesses as disadvantaged business enterprise. Service-disabled veteran-owned businesses would qualify for a four year exemption available to disadvantaged business enterprises under existing law from the requirement to provide a \$30,000 public works bond to secure the payment of claims made by laborers on the project. Service-disabled

				veteran-owned businesses also would be eligible for existing programs that provide assistance in obtaining bonding and training programs on bonding. (03/02)
OR	HB 3306	02/27/2015 HB 3306 has been introduced.	Retainage	HB 3306 would require contractors to hire apprentices to perform at least 10% of the work hours on a public improvement contract that exceeds \$500,000 and is part of a contract that exceeds \$5 million with the State Board of Higher Education, the Oregon University System, and community colleges, as well as specified public universities and their not-for-profit organizations. Retainage would be capped at not more than 3% of the contract amount for these contracts. A penalty on the retainage could be imposed in an amount equal to \$20 for each hour the contractor or a subcontractor did not employ an apprentice as required. The contract would have to specify that the contractor or subcontractor is subject to the requirements, or their surety would have to provide the statements required by law certifying the payment of prevailing wages. The DOT would have to have substantially similar requirements in its public improvement contracts. (03/02)
PA	HB 287	02/02/2015 HB 287 has been introduced. HB 85/HB 41/SB 156 have not moved since last reported.	Bond Guarantee Programs	HB 287 would establish the Surety Bond Guarantee Fund Program for disadvantaged business enterprises (DBEs) to provide bond guarantees of up to \$1 million. The bill would establish a technical assistance program for DBEs to respond to bid requests, strengthen its financial condition and address "other concerns raised or likely to be raised by a bonding company." The bill would create a monitoring system to track of participating DBEs. The bill also would establish requirements for bonds to qualify for a guarantee. (02/03) HB 85/HB 41/SB 156 also would establish a bond guarantee program that is similar to HB 287.
PA	SB 340	02/20/2015 SB 340 has been introduced.	Performance Bonds Payment Bonds	SB 340 would revise the existing municipal finance laws in Pennsylvania. The bill provides that in order for a local government unit to obtain preliminary approval for the issuance of debt, the unit would have to provide a description of the type and amount of payment or

				performance bond, letter or credit or other financial security proposed to insure the completion of the project. (02/25)
PA	SB 344	02/20/2015 SB 344 has been introduced.	Bond Threshold	SB 344 would revise the existing bond threshold for public works contracts to repeal the discretion granted to the contracting body to approve any form of security and would specify that a performance bond and a payment bond may be furnished to meet the law's requirements. The current law permits the contractor to provide an irrevocable letter of credit or restrictive or escrow accounts equal to 100% of the contract amount as performance and payment security. (02/21)
PA	HB 382	02/09/2015 HB 382 has been introduced.	Public-Private Partnerships	HB 382 would authorize local governments (counties, cities, boroughs, incorporated towns, townships, county institutions, and the contracting authorities of these governments) to use public-private partnerships (P3) for public water supply or treatment, storm water treatment and disposal or wastewater treatment and disposal projects. The P3 agreement would have to provide for the delivery of maintenance, performance and payment bonds or letters of credit for the acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance or operation of the project. The bonds or other security would have to be in the forms and amounts that are satisfactory to the local government. In the event of a material default, the local government could terminate the P3 agreement and could make appropriate claims under the bonds or lines of credit required in the P3 agreement. (02/09)
SD	HB 1139	03/04/2015 HB 1139 has been sent to the Governor.	Bid Bonds	HB 1139, as amended, provides that the law providing that bid bonds are not required to be left for more than 30 days would not apply if the bid award specifies that the requirement to award the contract within 30 days has been waived for contracts for federally-funded airport improvements. The bill would permit a bidder to withdraw a bid on these contracts without jeopardizing the bid bond if the bid award time exceeds 30 days. (02/16)

TN	SB 877/ HB 1183	03/04/2015 SB 877 has been placed on the Senate Judiciary Committee Calendar for 3/10. 03/04/2015 HB 1183 has been placed on the calendar for the House Business and Utilities Committee for 3/11.	Payment Bond Claims	SB 877/HB 1183 would revise the mechanic's lien law. For prime contractors on private work who have furnished a payment bond, the bill would repeal a requirement that the bond provide for payment for extras, as defined in the law, not exceeding 15% of the prime contractor's contract price, if and to the extent the lien claimant is claiming extras. The bill also provides that claims on bonds provided for the project would have to be filed in the county where any portion of the real property is located. (02/13)
TX	SB 219/ HB 550	03/04/2015 SB 219 has been heard in the Senate Health and Human Services Committee in the Senate. 03/02/2015 HB 550 has been reported from the House Human Service Committee.	Performance Bonds	SB 219/HB 550 would revise the current law for the Texas Department of Health's (Department) building improvement program for state facilities to eliminate a requirement for the contractor to furnish a performance bond in an amount equal to the bid. SFAA worked with its members to address this change and discovered that the Department currently operates under the existing government procurement law for all state agencies, which includes bonding, so that the bill would eliminate an obsolete law. (03/05)
TX	SB 598/HB 1991	02/23/2015 SB 598/HB 1991 been introduced.	Public-Private Partnerships	SB 598/HB 1991 would expand the definition of a qualifying project under the existing law authorizing public-private partnerships for public facilities and infrastructure so that it would include improvements to real property that is owned by another person that is made available for public use. (02/20)
TX	HB 1966	02/26/2015 HB 1966 has been introduced.	Payment Bonds	HB 1966 would establish a construction trust fund account for depositing retainage for improvements to real property. The property owner could obtain a surety bond in lieu of the trust fund. The owner would have two options. He or she could obtain a bond that the contractor furnishes in

				compliance with the payment bond requirements under the State's lien law. The owner also could obtain a bond that is at least equal to 10% of the value of the total of the contract amount and the "normal and usual extras not exceeding [15%] of the original contract amount." The bond would be conditioned on prompt payment of retainage owed. The bonds would not be subject to any notice or perfection obligation other than as may be required by the State's lien law. There would be a one year limitation on claims for the bond starting from either the date of completion of the contract or the date on which retainage is due to the contractor, whichever is later. (02/27)
VA	SB 847	02/27/2015 SB 847 has been sent to the Governor.	Public-Private Partnerships	SB 847, as substituted, would adopt the Interstate 73 Transportation Compact (Compact), which would allow Virginia to enter into an agreement with one or more signatory states for developing and conducting the Interstate 73. As part of the Compact, the bill would permit states participating in the Compact to coordinate for establishing a common legal framework in all those states to authorize and facilitate the design, construction, financing, and operation of the Interstate 73 corridor project or through public-private partnerships similar to those authorized under Virginia's P3 law for transportation projects. The bill would establish the Interstate Transportation Compact Commission in each participating state for the Interstate 73 corridor project. (03/02)
VA	SB 891	02/25/2015 SB 891 passed the House.	Payment Bond Claims	SB 891, as substituted, would revise the current mechanics' lien law to prohibit a general contractor, subcontractor, lower-tier subcontractor, or material supplier from waiving or diminishing his or her lien rights, right to assert payment bond claims, or right to assert claims for demonstrated additional costs in a contract in advance of furnishing any labor, services, or material. The substituted bill provides that provisions waiving or diminishing these rights for such costs prior to providing any labor, services, or materials would be null and void. (02/21)
VA	SB 1099/ HB 2267	02/23/2015 SB 1099 has been sent to the Governor.	Public-Private Partnerships	SB 1099/HB 2267 would establish the Virginia Solar Energy Development Authority. The bill would authorize this new agency to use public-private partnerships (P3) under the existing law for P3s for public

		02/26/2015 The House approved the Senate passed version of HB 2267.		facilities and infrastructure to install solar energy generation systems at public and private facilities in the Commonwealth. (02/19)
WA	HB 1221/ HB 1300/ SB 5242/ SB 5358/ SB 5987	03/03/2015 SB 5987 has been introduced. 02/25/2015 HB 1221 passed the House Finance Committee. 01/28/2015 SB 5242 was scheduled for a hearing in the Senate Transportation Committee and has not moved since then. HB 1300 and SB 5358 not moved since last reported.	Public-Private Partnerships	HB 1221/HB 1300/SB 5242/SB 5358/SB 5987 would establish passenger-only ferry service districts. The bill would authorize the districts to use public-private partnerships, and design-build, general contractor-construction management, or other alternative procurement processes that comply with the existing law on alternative procurement methods. (02/26)
WA	HB 1218	02/09/2015 HB 1218 passed the House Transportation Committee.	Public-Private Partnerships	HB 1218 would revise the State bond threshold to exempt public-private partnerships from the bonding requirements. The current law for public-private partnerships (P3s) provides that the partnership agreement must include 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. Under the bill, the state threshold would not apply to this provision concerning a P3. The bill also would allow the use of design-build procurements for public

				works projects below the current \$10 million threshold for using them if the project can meet the existing criteria set forth for using this procurement method. The bill also would revise the P3 law to address financing and project approval for non-toll P3 transportation projects. (01/16)
WA	HB 1219	02/04/2015 HB 1219 has passed the House Transportation Committee.	Bridge Repairs	HB 1219 would provide additional procedures for replacing bridges that have been deemed structurally deficient for the DOT. The bill would revise the existing law on emergency procurements to include projects in which the Department of Transportation is preparing to conduct the repair or replacement of a State bridge deemed structurally deficient. Existing law provides that bid and performance bonds may be required. (02/04)
WA	HB 1575	03/05/2015 HB 1575 passed the House.	Retainage	HB 1575 would permit a public owner to require a surety to have a minimum financial rating when issuing a bond posted in lieu of withholding retainage for contracts for public improvements. The rating requirement could not be higher than an "A-" for financial strength from A.M. Best. As introduced, the bill would have required a minimum "A-" rating. Current law provides that the public owner sets the standards of acceptability for sureties issuing these bonds. The bill would require the public owner to comply with the existing law concerning the acceptance of sureties. (02/18)
WA	HB 1851	02/27/2015 HB 1851 is to the second reading in the House following passage from the House Environment Committee.	Performance Bonds	HB 1851 would permit any a city, town, or county may use the contracting process that the DOT uses under existing law for the repair or replacement of structurally deficient bridges. The law provides that bid and performance bonds may be required for such projects. (02/24)
WA	HB 2052	02/09/2015 HB 2052 has been introduced.	Public-Private Partnerships	HB 2052 would create a task force to study whether to enter into a public-private partnership to lease land to a private entity to collect tolls for the Tacoma Narrows Bridge. The task force would have to report to the legislature by November 15, 2015. (02/11)

WA	SB 5862	02/16/2015 SB 5862 was scheduled for a hearing in the Senate Committee On Transportation, but it has not moved since then.	Public-Private Partnerships	SB 5862 would revise the current law authorizing the Department of Transportation to enter into public-private partnerships (P3s) for transportation projects by repealing the current law that requires partnership agreements to include provisions on bonding, financial guarantees, deposits, or other security to secure the payment of laborers, subcontractors, and suppliers who perform work or provide materials for the project. (02/09)
WA	SB 5912/ HB 2129	02/10/2015 SB 5912/HB 2129 have been introduced.	Bond Threshold	SB 5912/HB 2129 would increase the bond threshold from \$35,000 to \$150,000. Under existing law, on contracts under the bond threshold, the contractor may opt for retainage in lieu of a bond. The bill would reduce the amount that can be retained in lieu of a bond from 50% to 25% of the contract amount. For contracts under the bond threshold, existing law still permits public entities to accept a full payment and performance bond from an individual surety or sureties. (02/24)
WI	AB 21/SB	03/04/2015 And agency briefing for AB 21/SB 21 was held by the Joint Committee On Finance.	Construction Manager-General Contractors	AB 21/SB 21 would authorize the Wisconsin DOT to use the construction manager-general contractor procurement method for no more than three highway improvement projects. The bill does not specify a bonding requirement for this procurement method. (02/05)
WV	SB 404	02/26/2015 SB 404 is to the second reading in the Senate Finance Committee.	Performance Bonds Retainage	SB 404, as amended, provides that for state contracts for major information technology projects that exceed \$1 million, the contracting agency would have to require benchmarks and acceptance criteria for periodic payment for the services rendered. The bill provides that if applicable, there “should be a sufficient amount of retainage or a performance bond to assure the benchmarks and deliverables provided for in the contract are fulfilled by the vendor.” Ongoing maintenance and support projects could use other methods in lieu of retainage or performance bonds. The law defines a major project as any information technology project that estimated to cost more than \$100,000 or require more than three hundred hours to complete. (03/02)
WV	SB 414	02/04/2015 SB 414 has been introduced.	Public-Private Partnerships	SB 414 would require Department of Environmental Protection and the Department of Transportation to create a plan for completion of the I-

				73/74 NHS Corridor Project utilizing public-private partnerships. (02/09)
WV	SB 459	02/18/2015 SB 459 passed the Senate Transportation and Infrastructure Committee and has been referred to the Senate Finance Committee.	Performance Bonds Payment Bonds	SB 459 provides for the Water Development Authority for the construction of broadband middle mile infrastructure projects. Bidders would have to provide sufficient performance and payment bonds for the construction portion of these projects. The bill would exclude these projects from the existing law's definition of a public improvement for project financing purposes. (02/19)
WV	HB 2973	02/24/2015 HB 2973 has been introduced.	Bond Threshold	HB 2973 would establish a \$100,000 threshold for requiring bid bonds or "other surety" for construction contracts for Marshall University and West Virginia University. There currently is no bond threshold under the Little Miller Act. (02/25)
WY	HB 177	02/05/2015 HB 177 passed the House.	Performance and Payment Bonds	HB 177 would impose a fee for collection costs when the state or governmental entity employs a collection agency to recover its debts. The bill would revise the bond conditions for the performance and payment bond that must be posted for public works projects under the Little Miller Act to provide that it must secure the payment of any collection fees in addition to the bond's existing conditions. The bill also would require the tax bonds that may be required for a supplier, refiner, distributor, terminal operator, importer or exporter of gasoline or diesel to secure the costs of these collection fees. (02/04)