

THE SURETY & FIDELITY ASSOCIATION OF AMERICA

MEMORANDUM

TO: Government Affairs Advisory Committee

FROM: Daniel Wanke

RE: Contract Surety Legislation

DATE: March 8, 2016

There are 41 states and the District of Columbia in session. In all states except New Jersey and Virginia, the 2016 sessions are the second year of a two-year session. New Mexico, Oregon, and Wyoming have adjourned for 2016. Florida, Georgia, Idaho, Indiana, South Dakota, Utah, Virginia, Washington, West Virginia, and Wyoming are scheduled to adjourn in March. The following report compiles and summarizes the contract surety legislation that SFAA is tracking as of March 1, 2016. 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	SB 175/ HB 187	02/23/2016 SB 175 passed out of committee in the House. 02/24/2016 HB 187 is pending in committee in the House.	Bid Bonds	SB 175/HB 187 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. (02/15)
AL	SB 287/ HB 313	02/23/2016 SB 287/HB 313 have been	Public-Private Partnerships	SB 287/HB 313 would allow the Alabama Corrections Institution Finance Authority to use alternative project delivery methods, including design-build, construction management at-risk or public-private partnerships for constructing, reconstructing, or renovating women's

		introduced.	Design-Build Construction Managers at- risk	and regional prison facilities. The Division of Construction Management of the Department of Finance would have to develop procedures for the procurement of contracts or agreements through such methods. (03/01)
AZ	HB 2268	02/18/2016 HB 2268 passed the House.	Payment Bond Claims	HB 2268 would revise the notice requirement for payment bond claims to provide that it could be delivered by any means that provides written, third-party verification of delivery instead of requiring that it be sent via registered or certified mail, postage prepaid, in an envelope addressed to the contractor. (02/19)
CA	AB 2270	02/19/2016 AB 2270 is scheduled for an Assembly committee hearing on 03/20/2016.	Bond Guarantee Program	AB 2270 would create a state contractor bonding program through the Office of Small Business and Disabled Veteran Business Enterprise Services (Office) to assist contractors to meet bid, payment, or performance bonding requirements for state contracts. The bill would authorize the Office to act as a guarantor for the bonds. The bill would provide for technical assistance in obtaining bonds and state contracts for contractors participating in the program. (02/20)
CA	AB 2398	02/19/2016 AB 2398 is scheduled for an Assembly committee hearing on 03/20/2016.	Public-Private Partnerships	AB 2398 provides that it is the intent of the legislature to enact legislation relating to private funding for transportation projects (public-private partnerships). (02/25)
CA	AB 2742	02/19/2016 AB 2742 is scheduled for an Assembly committee hearing on 03/22/2016.	Public-Private Partnerships	AB 2742 would extend 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 from January 1, 2017, to January 1, 2030. The bill also would authorize the Santa Clara Valley Transportation Authority to enter into P3s for transportation projects. (02/22)
CA	AB 2841	02/21/2016 AB 2841 is scheduled for an Assembly committee hearing on 03/22/2016.	Infrastructure Financing	AB 2841 would authorize harbor agencies to obtain financing for infrastructure projects from the State's Infrastructure and Economic Development Bank. The bill would set forth procedures for harbor agencies to put a financing plan together for the Bank. The bill is silent on bonding requirements for the projects. (02/22)

CT	HB 5328	02/26/2016 HB 5328 has been heard in committee in the House.	Retainage Payment Bond Claims	HB 5328 would reduce the amount of retainage that the Department of Administrative Services and its prime contractors can withhold on public works contracts from 10% to 5%. The bill also provides that for payment bond claims, if the surety failed to meet its obligations in the claims process under the law, it would have to reimburse the claimant for reasonable attorneys' fees and costs subsequently incurred for recovering any amounts owed to him or her. The bill provides that failing to meet claims obligations would not be a waiver of the surety's defenses, except for any part of the claim that has been resolved already. (02/18)
CT	HB 5377	02/23/2016 HB 5377 has been introduced.	Prevailing Wages	HB 5377 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 found that a contractor or subcontractor knowingly or willfully is paid less than the prevailing wage, it could terminate the contract or withheld 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. The contractor or subcontractor would be subject to a two year debarment period for repeated violations on these projects. (02/25)
CT	HB 5487	03/04/2016 HB 5487 has been introduced.	HB 5487 has been introduced.	HB 5487 would increase the bond threshold from \$100,000 to \$200,000 for state and municipal public works and public building contracts. (02/26)
FL	SB 124	03/07/2016 SB 124 has been sent to the Governor.	Public-Private Partnerships	HB 95/SB 124 would expand the existing law authorizing the use of public-private partnerships (P3s) for or public facilities, buildings, and water and wastewater projects so that special districts also would be allowed to enter into P3s for such projects. The P3 agreement would have to address termination in the event of a material default. The bill would delete the law establishing the Public-Private Partnership Guidelines Task Force. (03/05)
FL	HB 7061/ SB 1392	02/03/2016 HB 7061 passed the House. 03/07/2016	Bond Waivers	HB 7061/SB 1392 would permit the Department of Transportation (DOT) to waive the bond requirements for its construction contracts if the prime contractor is a qualified nonprofit agency for the blind or for the "other severely handicapped" or it is using a subcontractor that is a qualified nonprofit agency for such persons. For subcontractors, the DOT could not waive the bond amount for more than the amount of the subcontract. (03/08)

		SB 1392 has been placed on the Senate Special Order Calendar.		
HI	HB 1721	02/04/2016 HB 1721 has been deferred in committee in the House.	Public-Private Partnerships	HB 1721 would authorize the Department of Public Safety to enter into a public-private partnership to build the Halawa correctional facility. The bill does not specify a bonding requirement. (01/25)
HI	SB 2499	02/04/2016 SB 2499 has been deferred in committee in the Senate.	Bond Threshold	SB 2499 would delete the current threshold for requiring performance and payment bonds, which currently is \$50,000. The bill also would delete the \$25,000 threshold for requiring bid security. The bill would subject all state construction procurement to the requirements of the Federal Acquisition Regulation. The Miller Act threshold currently is \$150,000 for performance bonds and \$35,000 for payment security. The bill would delete an authorization to use the design-build procurement method. (01/29)
HI	SB 3101	02/25/2016 SB 3101 passed out of committee in the Senate with amendments.	Public-Private Partnerships	SB 3101 would direct the Department Of Business, Economic Development, and Tourism to study the use of public-private partnerships for all state agencies for any kind of project and for the provision of services. The Department would have to report to the legislature no later than twenty days prior to the convening of the regular session of 2017, on its findings and any recommended legislation. (02/01)
IL	HB 5813/ SB 3020	02/18/2016 SB 3020/HB 5813 have been introduced.	Construction Managers-General Contractors	HB 5813/SB 3020 would authorize the Department of Transportation and the Illinois State Toll Highway Authority to use design-build and construction manager-general contractor (CM-GC) project delivery methods, as well as alternative technical concepts proposed by bidders and proposers, which could include public-private partnerships. The request for proposals for design-build and CM-GC procurements could include information on the bid, payment, and performance security requirements. Performance and payment security requirements also could be specified in the contract for these methods. (02/20)
IL	SB 3277	02/19/2016 SB 3277 has been introduced.	Public-Private Partnerships	SB 3277 would authorize the State, municipalities or local governments, school districts, public colleges or universities, and public building commissions to enter into public-private partnerships (P3) to provide or improve a public asset, public building, public service, or transportation asset. The bill is silent on bond requirements for these projects. The bill would create the Office of Public-Private Partnerships to manage and act as a resource

				center for these projects. (02/20)
IL	HB 4670	02/03/2016 HB 4670 has been introduced.	Retainage	HB 4670 would limit retainage on private construction contracts to not more than 5% of the progress payments or final payment. (02/04)
IL	HB 5660	02/10/2016 HB 5660 has been introduced.	Payment Bond Claims	HB 5660 provides that the verified notice required to file a claim on a contractor's bond for a public works project would be deemed filed on the date personal service occurs or the date where the verified notice is mailed in the form required under current law. (02/16)
IN	HB 1136	03/07/2016 HB 1136 has been sent to conference committee.	Public-Private Partnerships	HB 1136 directs the legislative council to assign an interim study committee to look into whether a public-private partnership agreement should contain a requirement for performance bonds for design and construction and payment bonds for labor and materials furnished for use in construction of the P3 project. The bill also provides that the Commissioner of Insurance would have discretion to require the filing public official surety bonds. (03/02)
KS	SB 475	02/18/2016 SB 475 has been introduced.	Public-Private Partnerships	SB 475 would require contractors to provide performance and payment bonds for a public-private partnership for public construction projects exceeding \$25,000. The bill provides that if the performance bond is not otherwise required under state law, a performance bond equal to the full contract amount conditioned upon the faithful performance of the contract that is solely for the protection of the owner awarding the contract would be required. The payment bond would have to be equal to the full contract amount and would be solely for the protection of claimants supplying labor or materials to the contractor or subcontractors. (02/19)
KY	HB 309/ SB 132	01/27/2016 SB 132 has been introduced. 02/11/2016 HB 309 passed the House.	Public-Private Partnerships	HB 309/SB 132 would authorize local governments to enter into public-private partnerships (P3) for capital projects or for the procurement of services. The P3 agreement would have to provide for the private partner's delivery of maintenance bonds, performance and payment bonds, warranties, guarantees, and optional letters of credit in connection with its activities under the agreement, in the form and amounts that the local government determines to be satisfactory and that provide it adequate protection.(02/19)
MD	SB 234/ HB 871	02/23/2016 SB 234 passed the Senate. 02/09/2016	Indemnity Agreements in Construction Contracts	SB 234/HB 871 would revise the existing law for indemnity agreements to provide that agreements to defend or pay the costs of defending promisees or indemnitees against liability in a contract or an agreement relating to architectural, engineering, inspecting, or surveying services, or the construction, alteration, repair, or maintenance of a building, a structure, an appurtenance, or an appliance for bodily injury or property damage would be

		HB 871 has been heard in committee in the House.		against public policy and would be void and unenforceable. Insurance contracts and surety bonds required for construction or other contracts are exempt from the existing law's restrictions on indemnity agreements. (03/02)
MD	HB 403/ SB 826	02/04/2016 HB 403 has been heard in committee in the House. 02/10/2016 SB 826 is scheduled for a Senate committee hearing on 03/082016.	Change Orders	HB 403/SB 826 would prohibit procurement units from requiring a prime contractor and prime contractors requiring subcontractors to begin work on a change order unless the procurement officer issues a written change order that specifies if the work will proceed on an agreed-to price, force account, construction change directive or time and materials basis in compliance with the contract. Procurement units would have to adopt regulations for an expedited change order process for those exceeding \$50,000. For change orders less than \$50,000, the procurement officer would have to make payments for work under an accepted change order within 30 days of receiving an invoice. Procurement units would be required to develop guidelines for their change order process. The bill would not apply to state contracts for public school construction or capital improvements. The bill would provide for establishing a working group of stakeholders to address state construction contracting and procurement. (02/15)
MN	HB 2451	01/29/2016 HB 2451 has been introduced.	Retainage	HB 2451 provides that prime contractor, or other persons making payments under a building and construction contract or a subcontract of any tier could not withhold more than 5% retainage for a private construction contract. Current law permits retainage to be set in the contract. The bill also would require the owner to release retainage to the prime within 60 days of substantial completion and the prime and all subcontractors would have to release retainage within 10 days following payment. (02/29)
MO	SB 789- SB 595 HB 1894	03/07/2016 SB 789-SB 595 has been placed on the calendar in the Senate. 02/24/2016 HB 2376 passed out of committee with a substitution.	Design-Build Construction Managers at-risk	SB 789-SB 595 would authorize political subdivisions to use design-build contracts and construction managers at risk (CM at-risk). Payment bonds for design-build contracts would be required according to the Little Miller Act. Design services providers would be covered under the payment bond, but performance bonds would not cover design services if the provider has professional liability insurance. The bill was amended to provide that in no event would the bond cover any damages of the type covered by liability insurance. The CM at-risk would have to furnish performance and payment bonds for the contract amount or the guaranteed maximum price. CM at-risk only could be used on civil works projects exceeding \$2 million and non-civil works projects exceeding \$3 million. The bill sets a \$7 million cost threshold for using design-build for non-civil works and there is no cost threshold for using the method for civil works projects. SB 789 and SB 595 recently were

		HB 1894 has not moved since it was introduced.		merged in committee and SB 789 is the bill that will be considered going forward. (03/04) HB 2376 is similar to SB 789-SB 595 , but the CM at-risk would have to furnish performance and payment bonds for the contract amount or the guaranteed maximum price (GMP), or the bonds would have to be equal to the project budget if the contract price or GMP has not been established. The CM at-risk would have 10 days to furnish the bonds unless a bid bond or other security is furnished to secure their delivery. HB 2376 only sets a \$7 million cost threshold for using the design-build method for non-civil works projects. HB 1894 is similar to HB 2376, but it would authorize political subdivisions to use design-build contracts and construction managers at risk (CM at-risk) for civil works projects exceeding \$2 million and non-civil works projects exceeding \$7 million. (03/04)
MO	HB 2628	02/25/2016 HB 2628 has been introduced.	Bond Guarantee Program	HB 2628 would create the Missouri Minority Business Loan Program, which would include a bond guarantee component. The Department of Economic Development would have to develop a program that assists minority business enterprises through guarantees for bid, payment, and performance bonds for federal, state, and local contracts. The Department could secure letters of credit to guarantee the bonds. The bill would provide \$5 million for the program. (02/26)
MS	HB 1	02/08/2016 HB 1 has been enacted.	Disadvantaged Business Enterprises	HB 1 revises an assistance project assistance program for disadvantaged business enterprises (DBEs) through the Mississippi Major Economic Impact Authority for construction contracts to increase the number of DBEs in the program. As part of the revised program, the Mississippi Development Authority is required to offer participants in the program assistance through its existing Minority Surety Bond Guaranty Program. (03/03)
NH	SB 549	03/03/2016 SB 549 has been reported from committee in the Senate with amendments.	Public-Private Partnerships	SB 549 would authorize the Department of Transportation to enter into public-private partnerships for intermodal infrastructure and transportation projects. The bill is silent on bonding requirements. The bill would create the Public-Private Partnership Infrastructure Oversight Commission to administer these projects, including determining contract terms and qualifications for bidders. (03/04)
NJ	AB 278/ SB 1439	01/27/2016 AB 278/SB 1439 have been introduced.	Public-Private Partnerships	AB 278/SB 1439 would authorize the Commissioner of Transportation to select transportation projects authorized in appropriations bills to be demonstration projects that would be done using public-private partnership (P3) agreements. The bill is silent on bonding requirements for the P3. (02/04)

NJ	AB 1251	01/27/2016 AB 1251 has been introduced.	Public-Private Partnerships	AB 1251 would authorize a governmental entity to enter into a public-private partnership agreement for energy-related projects. The bill provides that if no public fund has been established for the financing of the project, the governmental entity may require the private entity to cause to be posted, a payment bond. The private entity also would have to demonstrate its bonding capacity for the development and operation of the project on its application. (02/04)
NJ	SB 1559	02/16/2016 SB 1559 has been introduced.	Bid Bonds Performance and Payment Bonds	SB 1559 would apply the existing contracting laws for state colleges to Rutgers University. Existing law provides that a bid guaranty for 10% of the contract price is required for construction contracts. Performance and payment bonds may be required at the discretion of the college. Further, for contracts exceeding \$850,000, surety companies are subjected to additional qualification requirements, including a listing on the U.S. Treasury Department's Circular 570 and rating agency requirements. (02/23)
NJ	AB1730	02/08/2016 AB 1730 passed out of committee in the Assembly with amendments.	Design-Build Projects	AB 1730 would establish procedures for awarding design-build contracts. Performance and payment bond requirements would have to be specified in the solicitation for the project. (02/10)
NJ	AB 1737	01/27/2016 AB 1737 has been introduced.	Bid Bonds	AB 1737 would increase the amount of the bid bond that local governments, school boards, and colleges may require a bidder to provide from 10% to 50% of the bid amount. The bill also would increase the cap on the bid bond amount from \$20,000 to \$100,000. For local governments, this specifically would apply to construction contracts. (02/06)
NJ	AB 1895	01/27/2016 AB 1895 has been introduced.	Design-Build	AB 1895 would authorize the use of design-build projects for public works projects. The bill is silent on bonding requirements. (03/02)
NJ	AB 1902	01/27/2016 AB 1902 has been introduced.	Payment Bonds	AB 1902 would establish procedures for accommodating and relocating public utility and cable television company facilities during a State, county, or municipal infrastructure project. The utility or cable television company would have to post a payment bond payable to the contracting entity for the estimated cost of the work to accommodate or relocate the facilities as determined by the public owner for the project. (03/02)
NJ	AB 1960	01/27/2016 AB 1960 has been introduced.	Public-Private Partnerships	AB 1960 would authorize municipalities to enter into a public-private partnership (P3) for water supply infrastructure projects or the management or operation of a water supply facility. For public improvement projects conducted as a P3, the chief financial officer of the municipality would have to require the private entity to post or cause to be posted a

				payment bond when no public fund has been established for the financing of a public improvement. (02/04)
NJ	AB 2026	01/27/2016 AB 2026 has been introduced.	Retainage	AB 2026 would permit the partial release of retainage on public works projects for a subcontractor's proportionate share of the amount withheld, upon acceptance by the project's architect or construction manager of the subcontractor's completed work. The current law provides that the contractor the entire project must be completed before retainage can be released for the completed work of one its subcontractors. (02/06)
NJ	AB 2039	01/27/2016 AB 2039 has been introduced.	Performance Bonds	AB 2039 specifies that the existing security that the contractor provides for a low-income, multi-family housing project that is funded by a loan from the New Jersey Housing and Mortgage Finance Agency would have to be a performance bond, letter of credit, or other acceptable security. (02/06)
NY	SB 6408/ AB 9008	02/16/2016 SB 6408 was amended and recommitted to committee in the Senate. 02/16/2016 AB 9008 was amended and recommitted to committee in the Assembly	Public-Private Partnerships Design-Build Owner-Controlled Insurance Programs	SB 6408/AB 9008, as amended, would authorize the use of design-build procurement for the following projects: the Jacob V. Javits Convention Center, the Empire State Station Complex, the James A. Farley Building Replacement, and the Pennsylvania Station New York Redevelopment. The bill is silent on bonding requirements for these projects. The bill also would expand the use of wrap-up insurance programs to permit them for bridge, tunnel or omnibus facility projects for New York City, public authorities, and public corporations. Surety bonds can be included in such programs under current law. The bill would authorize the New York City Transit Authority to enter into joint arrangements, which can include a public-private partnership. The arrangement can be used for the planning, acquisition, design, construction, reconstruction, rehabilitation, establishment, improvement, renovation, extension, repair, operation, maintenance, development or financing of transportation facilities. The bill does not include a bonding requirement. (02/17)
OK	SB 1316/ HB 3123/ HB 2476	02/22/2016 SB 1316 has passed out of committee in the Senate. 02/17/2016	Public-Private Partnerships	SB 1316/HB 3123/HB 2476 would authorize governmental entities in Oklahoma to enter into P3s for transportation and public facility projects. The comprehensive agreement for the P3 would have to include requirements for performance and payment bonds for all construction activities for the project. The agreement also would have to include letters of credit or other security for the development or operation of the project in the forms and amounts satisfactory to the public owner. (02/23)

		<p>HB 2476 has passed out of committee in the House.</p> <p>02/01/2016 HB 3123 has been introduced.</p>		
OK	HB 2598	<p>02/22/2016 HB 2598 has passed the House.</p>	Retainage	<p>HB 2598 would permit a subcontractor on a public works project to submit a request for the release of retainage for his or her work under the subcontract 60 days after completion to the prime contractor and the public owner. The public owner would have 30 days to respond with payment or a written explanation for refusal. (02/25)</p>
RI	SB 2189	<p>01/27/2016 SB 2189/SB 2550 has been introduced.</p>	Retainage	<p>SB 2189/SB 2550 would revise the retainage requirements for sewers and water mains, or any public works projects for municipalities and political subdivisions of the State to provide that retainage could not exceed 5%. When the project reaches substantial completion or when a permanent certificate of occupancy is issued (whichever occurs first), the amount of retainage would have to be equal 200% of the value of any punch list as determined by the owner for each project. The bill also provides that the State would be subject to the proposed retainage requirements. General contractors and construction managers could not hold more than 5% retainage from their subcontractors. Under current law, retainage for municipalities and political subdivisions cannot exceed 5% of the contract price. For such contracts less than \$500,000, the law permits the contracting parties to otherwise agree on the amount of retainage. (02/11)</p>
RI	SB 2196/ HB 7549	<p>01/27/2016 SB 2196/HB 7549 have been introduced.</p>	Retainage	<p>SB 2196/HB 7549 would establish prompt pay requirements for public owners, contractors, and subcontractors for public works projects. The bill also would cap retainage at not more than 5% of a progress payment. The bill would permit subcontractors to make a demand for a direct payment from the public owner if the contractor failed to pay him or her within the bill's required timeframe. The bill also addresses subcontractor claims and subrogation rights. (02/11)</p>
RI	SB 2229	<p>02/03/2016 SB 2229 has been held in committee in the Senate for</p>	Performance and Payment Bond Claims	<p>SB 2229 provides that the performance and payment bond required under the Little Miller Act would be conditioned on the payment of any penalties, assessments, and fines due under law for nonpayment or late payment of wages due in addition to the bond's existing conditions. The bill would authorize the State to sue for these amounts. (02/11)</p>

		further study.		
RI	HB 7340/ SB 2298	02/09/2016 SB 2298 has been introduced. 02/04/2016 HB 7340 has been held in committee in the House for further study.	Public-Private Partnerships	HB 7340/SB 2298 would authorize state and municipal entities to enter into public-private partnerships (P3s) for transportation projects. The P3 agreement would have to include requirements for a private partner to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security in an amount that the public entity determines to be acceptable. (02/15)
RI	HB 7563	02/11/2016 HB 7563 has been introduced.	Public-Private Partnerships	HB 7563 would authorize the State, cities, and towns to enter into P3s for public facility and infrastructure projects, not including highways and heavy construction projects. The P3 agreement would have to provide for performance and payment bonds, letters of credit, or other security acceptable to the public entity for the development or operation of the project in the form and amount the public entity determines. For the construction portion of the project, the bonds would have to be "consistent." (02/15)
SD	HB 1102	02/29/2016 HB 1102 has been enacted.	Bid Bonds	HB 1102 increases the maximum time period in which bid bonds are required to be posted from 30 days to 45 days if a bid is not accepted for a contract for public improvements, supplies, or services. (03/01)
TN	SB 2093/ HB 2407	03/01/2016 SB 2093 has been scheduled for a hearing in committee in the Senate on 03/7/2016. 03/02/2016 HB 2047 has been scheduled to be heard in subcommittee in the House on	Public-Private Partnerships	SB 2093/HB 2407 would authorize the State, counties, and municipalities to enter into public-private partnerships (P3s) for transportation projects. The comprehensive agreement for the P3 would have to provide for the delivery of performance and payment bonds or other forms of security for the development, redevelopment, or operation of the qualifying transportation facility in the forms and amounts satisfactory to the public entity. (01/30)

		03/09/2016.		
UT	HB 91	02/24/2016 HB 91 passed the House.	Payment Bond Claims	HB 91 would revise the interest rate applicable to claims on payment bonds to provide that it would be based on the federal post-judgment interest rate as calculated under the federal law, plus 5%, for a contract or other “chose of action” prior to judgment, unless otherwise provided by law. The interest rate could not be lower than 5% or higher than 10%. Current law provides for an annual rate of 10%. (02/22)
UT	SB 257	03/07/2016 SB 257 passed out of committee in the Senate.	Public-Private Partnerships	SB 257 would authorize political subdivisions to enter into public-private partnerships for public facilities. The bill is silent on bonding requirements. (03/07)
UT	HB 323	03/01/2016 HB 323 passed the House.	Performance and Payment Bonds	HB 323 would regulate continuing care facilities. The bill would allow an escrow agent to release entrance fees paid by facility residents to the continuing care provider when the facility project is not substantially completed if the provider has obtained performance and payment bonds for the project, among other requirements. The bill would authorize a court to refuse to make or vacate an order to rehabilitate a provider's facility if the provider posts a bond that is in an amount that the court. (03/01)
WA	HB 2933	02/24/2016 HB 2933 has been heard in committee in the Senate. SB 6393/HB 2722 failed to meet crossover deadlines.	Small Businesses Bond Waivers	HB 2933/SB 6393/HB 2722 would have permitted performance and payment bonds and retainage to be waived for mini-businesses and microbusinesses on state and local contracts less than \$150,000. Current law permits such waivers for contracts under \$35,000. The bill was substituted prior to passage in the House so that the abbreviated procurement process for these small contractors can be used for contracts under \$150,000, but that bonds and retainage can be waived only for contracts under \$35,000, which is the state bond threshold. The existing law provides that if bonds and retainage are waived, the public owner assumes liability for the contractor’s nonpayment of laborers, mechanics, subcontractors, materialpersons, suppliers, and taxes for the project. The amended bill also increases the size of the public works contract that can be let to small contractors through a small works roster from \$300,000 to \$400,000. The original bill would have increased this amount to \$500,000. The bill would have allowed the waiver of retainage for small works roster contracts, but this waiver provision also was removed in the House-passed bill. (02/25)
WV	SB 485	02/23/2016 SB 485 passed the Senate.	Performance Bonds	SB 485 would authorize the creation of regional recreation authorities. The bill provides that the authorities would have to require vendors for goods and services contracts exceeding \$25,000 to post a performance bond equal to at least 50% of the contract. (02/25)