



Michigan Likely to Pass on P3 Legislation This Year

Michigan HB 4925 would authorize the Michigan DOT to enter into P3s for public transportation facilities. The PPP agreement shall specify the amount of the payment and performance bonds or other security. The concessionaire for the facility could provide a payment or performance bond or a letter of credit. If bonds and letters of credit are not available in reasonably sufficient amounts, the DOT could accept another commercially reasonable form of security, including parent corporation guarantees, to supplement available payment bonds, performance bonds, or letters of credit. The DOT would have to require sufficient security to fulfill the purposes of a payment and performance bond. In lieu of the concessionaire posting the security, or to supplement the security posted, the DOT could accept bonds, letters of credit, and other security from entities other than the concessionaire so long as the purposes of a payment and performance bond are fulfilled.

SFAA has received reports that the bill is not going to move this year in Michigan. The P3 issue has raised difficult partisan political issues in the past when it was considered, even though there is support for the use of P3s in Michigan. The governor's office thinks that there is enough authority in existing law to carry out the projects currently under consideration as P3s and will go that route. The sureties will have to monitor potential P3s in Michigan to assure that the construction portions are bonded.