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Georgia's New P3 Law Expands Opportunities for Investors, Developers.

The new Partnership for Public Facilities and Infrastructure Act allows state and local agencies to expand their pursuit of public-private partnerships beyond the highway and water reservoir P3s already being conducted in Georgia. The law authorizes agencies to pursue P3s to build and maintain public buildings and for other types of transportation and water-related projects. This breakthrough will increase state and local agencies' ability to undertake projects they might otherwise lack the financing or construction expertise to pursue.

To help state and local officials and developers understand and use the law to procure such projects, NCPPP and the American Council of Engineering Companies of Georgia will co-host a one-day event, The Future of P3s in Georgia, on Sept. 24 in Atlanta. During the event, experts will discuss how P3s are conducted, what types can be pursued under the new law and how successful projects in Georgia and other states have been carried out.

To set the stage for this meeting, P3 Digest asked several experts who will speak at the conference to describe the new law and the ways it will influence how agencies and private developers negotiate P3s in Georgia.

The new law, signed May 5 by Gov. Nathan Deal, allows "qualifying projects," to be pursued as P3s, a term that is defined broadly as those that meet a public purpose or need, explained Brad Nowak, a partner at Morris, Manning & Martin, LLP. Previously, only transportation projects — chiefly highways — and university campus housing could be built through such partnerships. The new law expands the types of P3s that can be negotiated to include various types of public buildings, many different transportation, water, wastewater and stormwater projects, and solid waste facilities, he added.

Georgia already has some experience in public building P3s. Corvias Campus Living negotiated a partnership with the University System of Georgia in 2014 to build, manage and maintain student housing at multiple locations. "The partnership is reportedly the first time that a state system has privatized student housing across a portfolio of campuses," Nowak noted.

However, the new law will greatly streamline the negotiating process for conducting such projects and other types of P3 projects, noted Michael Sullivan, president and CEO of ACEC Georgia. Before the new law took effect, Georgia did not permit state or local agencies to negotiate non-highway P3s directly with private firms. The University of Georgia System project required involving a private real estate foundation in the project to generate financing and a separate county development authority to provide bond financing. "It's a very convoluted process. The new law provides a clear, transparent process for agencies in Georgia to use P3s for almost any kind of public infrastructure," said Sullivan.

The law establishes a statutory framework for P3s and a committee that will craft optional procurement guidelines for localities. This adds transparency and consistency to the procurement

process, commented Robert Fortson, a partner at McGuireWoods LLP, which worked hard to win passage of the legislation. “The lack of these support mechanisms created barriers to entry for both public and private sector participants,” he said.

The 10-member Partnership for Public Facilities and Infrastructure Act Guidelines Committee will prepare model guidelines local governments can use to receive and consider unsolicited project proposals, although these governments can choose to develop their own. However, locally developed guidelines must cover certain details, such as time frames for receiving and processing the proposals, how proposal financial review and analysis will be conducted, and procedures for reviewing and considering competing proposals, Nowak explained. The model guidelines committee recently was appointed and expects to issue the guidelines by July 1, 2016, he added.

The new opportunity to develop many types of infrastructure P3s makes this an excellent time for state and local agencies to learn more about this procurement option, these experts say.

Discussing these types of projects with officials who already have conducted them in Georgia is a good way to get up to speed, Nowak advised.

Valuable lessons also could be learned through a study of the types of partnerships that have been conducted in Virginia, Florida and Texas, all of which have P3 laws similar to Georgia’s.

“The success of Virginia’s P3 law offers a great model for the types of projects that are possible — everything from wastewater treatment facilities to aquatic centers to parking decks. The model guidelines committee should also serve as a great resource to educate local cities, counties and school districts about best practices in P3 procurement,” said Fortson.

“Many outside consultants, such as engineers, attorneys and other advisors who often represent the public sector on P3 projects can also help explain the ins and outs of the new law, its application to developing projects and ways to properly procure, structure and document them,” said Nowak.

Sullivan believes that the insights that will be shared about the new law and successful case studies discussed during the event will help attendees quickly get up to speed on P3s.

“I am very excited about this year’s P3 Summit and hope that many state and local government officials — as well as private firms — will attend and find out how to use Georgia’s new P3 law as another tool in the toolbox for providing all kinds of public infrastructure in a new way,” he said.

The Future of P3s in Georgia will be held at the Georgia International Convention Center, adjacent to Hartsfield-Jackson Atlanta International Airport. For more details, including registration information, [visit the event website](#).

NCPPP

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