

The status of public private partnership legislation in New York State: the effect of politics and labor unions.

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1. Introduction

Since 2010, the idea of partially privatizing certain aspects of public works projects and utilizing public private partnerships¹ for transport and non-transport related projects has been at the center of the public debate on public private partnerships in the United States (NCSL, 2017). During that same year, it has been noted that the United States' use of public private partnerships was largely behind Asia, Australia, Canada, and Europe (Gaffey, 2010) and that President George W. Bush tried to encourage their use (Gaffey, 2010). Currently, not all 50 American states have legislation that expressly allows for the utilization of public private partnerships (NCSL, 2017). In-fact, one fifth of American states do not allow public private partnerships to be utilized in many different types of public projects (NCSL, 2017). Among these states is New York State, which as of today has no public private partnership enabling legislation (NCSL, 2017), (although it does have public private partnerships located within its jurisdiction, a unique characteristic which will be addressed later).

This data is surprising given that, in 2013, the American road transportation system was valued at \$3 trillion (Winston, 2013) and given the need for infrastructure renovation in the United States as confirmed by a 2017 report of the American Society of Civil Engineers illustrating that one out of every 5 miles of the country's highway pavement are in poor conditions (American Society of Civil Engineers, 2017). It is also surprising being that there are (Barral & Haas, 2007) cost-efficiency benefits that come with the use of public private partnerships.

There are various reasons as to why American states do not have public private partnership legislation, and this absence of public private partnership frameworks in many states could also be one of the reasons as to why public works projects in the United States are less privatized than one would commonly assume to be.

This study will argue that one of these reasons, the presence of labor unions, is more important than others, especially political differences. To do so, we will firstly examine the current status of public private partnership legislation in the United States. Secondly, it will illustrate the current status of public private partnership legislation in New York State and provide an overview of the issues that the state is facing that are hindering the adoption of a public private partnership legal framework. Subsequently, it will present and analyze the presence of labor unions, as well as the political landscapes at the time of introduction or adoption of public private partnership enabling legislation, of New York State and the 3 most active public private partnership states, Colorado, Texas, and Virginia. Lastly, it will attempt to

showcase that the strong presence of labor unions in New York State is the key reason as to why it does not have public private partnership legislation. In short, this research seeks to answer the following question: could the presence of labor unions have a stronger effect on the passing of public private partnership legislation in New York State than political differences?

2. Labor Unions in the United States

The United States Census Bureau defines labor unions as including both “traditional labor unions and employee associations similar to labor unions” (United States Census Bureau, 2012). Whether their goals were to increase work-place safety, attain retirement security, improve quality of life of workers, or increase wages, labor unions and organized worker groups have existed in the United States in various forms since the birth of the country (AFLCIO, n.d.). Although, in the mid-1990s, labor unions were found to have been at their weakest in United States history (Panagopoulos & Francia, 2008), research published by the Gallup Organization in 2005 found that 58% of Americans still approve of them (Kiefer, 2005).

In 2017, throughout the nation, there were 14.8 million wage and salary workers who were union members (United States Bureau of Labor Statistics, 2018). That year the United States’ private sector has seen a decline in the number of workers who are represented by unions (Yadoo, 2018): 10.7% of “wage and salary [private sector] workers in the U.S. belonged to a union; almost half the rate in 1983” (Yadoo, 2018, para. 2). Conversely, public sector unions have retained a membership of about 35% of the workforce since the mid-1980s (Yadoo, 2018). New York State has had union membership averages above the national average since 1989 (United States Bureau of Labor Statistics, 2018). In 2017, 23.8 percent of the employed in New York State were either directly part of, or represented by, a union (United States Bureau of Labor Statistics, 2018). As highlighted above, although union membership rates have been declining in the country (Yadoo, 2018), this is only the case for private unions and not for New York State (Yadoo, 2018).

3. The legal framework for public private partnerships in the United States

In the United States federal government system, state governments have within their public policy space, *inter alia*, the provision of police protection, transportation, and education (“State & Local Government”, n.d.). Furthermore, local or municipal governments, organized around cities, towns, or villages are given power by state governments to provide the aforementioned public services (“State & Local Government”, n.d.). Across the country, there are about 90,000 local governments that employ an estimated amount of 11 million workers, collect nearly a quarter of the nation’s revenues, and allocate a large share of the country’s public goods (Tausanovitch & Warshaw, 2014, 605). In all American states, voluntary

intergovernmental cooperation is authorized and, in most cases, encouraged by state law (Reynolds, 2007).

The United States Congress has enacted certain laws promoting the use of public private partnership (Gaffey, 2010) but these have focused only on encouraging their use versus actually creating a federal, comprehensive, legal framework (Gaffey, 2010). In-fact, federal agencies, such as the Federal Highway Administration, have focused on adopting model legislation for states to adopt and pass as their own (NCSL, 2017). This lack of a federal incentive could be partially due to the public policy powers that are given to state governments in the United States (“State & Local Government”, n.d.), as well as, importantly, to the fact that each American state has its own public finance law (Office of the State Comptroller, 2013) and given the fact that municipalities and local governments across the United States can issue municipal bonds (Rugh & Trounstone, 2011). Therefore, public private partnership legislation is enacted at the state level of government in the United States (NCSL, 2017).

As of 2017, the National Conference of State Legislatures (NCSL), a bi-partisan non-governmental organization, reported that there were 39 states in the United States that had public private partnership enabling legislation (NCSL, 2017). This type of legislation, enacted by state legislatures, establishes a framework whereby state agencies (such as for example the Virginia Department of Transportation) can contract with private entities and enter into a public private partnership. Enabling legislation is necessary for state agencies to be able to consider using public private partnerships if they lack the express authorization to do so (Fishman, 2009). This essentially means that, although governmental agencies can technically use public private partnership methods without having enabling legislation at the state level if they receive express authorization from an independent board or legal authority (Office of the State Comptroller, 2013), states which want to easily and rapidly use public private partnership procurement methods will absolutely need state enabling legislation. Out of the existing 39 states that have enabling legislation, 10 have public private partnership legislation that pertains to both transportation and non-transportation related projects (*e.g.* broadband related projects) (NCSL, 2017), 22 have public private partnership legislation that pertains only to transportation related projects (NCSL, 2017), and the remaining 7 have public private partnership legislation that pertains only to non-transportation related projects (NCSL, 2017). “Since 1985, there have been over 375 public private partnership infrastructure projects in the country” (Guevara, 2015, 313).

4. New York State and its public private partnership *status quo*

4.1. Early infrastructure provision in New York State

In 1821, in New York State, over 250 private turnpike (toll road) companies involved in public works projects operated tolls and built more than 6400 km of road thanks to the express authorization from the state’s legislature (Office of the State Comptroller, 2013).

Among these projects was the building of the Brooklyn Bridge (Office of the State Comptroller, 2013). Other important infrastructure projects built at the time were related to water provision and electricity (Zimmerman, 2009). These projects were, for the majority, financed and operated by private entities via state charters (Office of the State Comptroller, 2013). In this period, state governments would also incorporate the proprietors of an infrastructure company because of the public utility brought by the company's works and create a public service corporation (which essentially worked as a for-profit corporation with limited public oversight) (Hunter, 1917). A certain amount of these projects was also financed by New York State's government which bore the risk of straining the jurisdiction's public debt. The risks associated with exacerbating the state's public debt for these projects eventually brought to political battles that resulted in the adoption of amendments to the state's constitution (Office of the State Comptroller, 2013, p 3) that mainly prohibited the incurring of public "debt for private development" (Office of the State Comptroller, 2013, p 3). This partially inspired state and local governments, at the turn of the 20th century, to become the main actors in the realization of infrastructure projects (Office of the State Comptroller, 2013) which led to the type of public procurement process used today known as "design-bid-build".

As stated earlier, New York State does not have public private partnership enabling legislation (Lewis, 2018). Today, the majority of public works projects are executed via design-bid-build (Office of the State Comptroller, 2013). In 1999, the United States General Accounting Office defined a design-build approach as one that "creates a single point of responsibility for design and construction and can speed project completion by facilitating the overlap of the design and construction phases of the project" (General Accounting Office, 1999, 5). The General Accounting Office specified that within the process of design-build for public works projects, the operations are "normally handled by the public sector" (General Accounting Office, 1999, 5). In 2013, the New York State Comptroller defined design-bid-build projects as projects that "are conceived, operated and financed by public entities, such as the State itself, municipalities, or public authorities" (Office of the State Comptroller, 2013, 3). Once design-bid-build projects are conceived and approved, public agencies, like for example, the New York State Department of Transportation, can either mandate their agency engineers to design these projects or can, after a competitive process, award the design phase to a private entity (Office of the State Comptroller, 2013). Therefore, notwithstanding the fact that private entities could be involved in the design-bid-build process, state entities are still in charge of ownership, financing, and operating the project.

4.2. Towards the use of public private partnerships in New York State

Turning to the *status quo* of public private partnerships in New York State, the Office of the State Comptroller, the state's "chief fiscal officer who ensures that state and local governments use taxpayer money effectively and efficiently to promote the common good"

(Office of the State Comptroller, 2018), in 2011 released a report entitled: “Controlling Risk Without Gimmicks: New York’s Infrastructure Crisis and Public-Private Partnerships” which underlined the fact that “there was a large and growing gap between the State’s infrastructure needs and its ability to pay for those needs” (Office of the State Comptroller, 2013, 5). The Center for an Urban Future (CUF) in March of 2014 issued a report detailing some of the main problems that New York State’s biggest city, New York City is facing with regard to infrastructure (Jalabi, 2014). According to the CUF report, 11% of the city’s bridges are over a century old (Jalabi, 2014), 37% of the subway system’s 728 miles of signals are beyond their 50-year use life-span (Jalabi, 2014), and 30.4% of the city’s roads are considered to be in “fair” or even “poor” conditions (Jalabi, 2014). Given the desire to avoid exacerbating the public debt and the need for public services improvements, New York State has been debating on whether or not to adopt enabling legislation for public private partnerships and how best to do so.

In mid 2013, the New York State Comptroller released a report entitled: “Private Financing of Public Infrastructure: Risks and Options for New York State” outlining the issues that the state is facing regarding the use of public private partnerships. The report defines public private partnerships as follows:

Public-private partnerships (P3s) are based on the idea that the State can maximize the value of the public’s assets by taking advantage of the private sector’s profit motive and market discipline. The public sector is given a share of the benefits of the free market that come from increased competition, more accurate and sensitive pricing, expanded financing options, and more timely response to customer demand. In return, the private sector is given the opportunity to earn profits that might otherwise be unavailable. A well-designed P3 balances public and private sector capabilities and interests (Office of the State Comptroller, 2013, 3-4).

Thereafter, the report continues with the definition of a public private partnership that is reminiscent of New York State’s rich history with regards to the power struggle characterizing public debt and private entrepreneurship:

A public-private partnership is not the same as full privatization. In a P3, the public partner retains a major role in determining the specific purpose and nature of the project, and almost always retains a significant degree of control over the private partner’s use of the public asset (Office of the State Comptroller, 2013, p4).

Clearly, this definition illustrates New York State's reluctance to engage in public private partnership agreements when it states that the "public partner retain a major role" (Office of the State Comptroller, 2013, p4) and a "significant degree of control" (Office of the State Comptroller, 2013, p4) within a public private partnership.

Having established that New York State is falling behind other states in the United States with regard to their public private partnership legislation and that it fears entering into public private partnership contracts, we will provide an overview of some of the main reasons that ground this aforementioned fear. The reasons are as follows: one is related to fiscal reasons and the desire to avoid "backdoor borrowing" (Office of the State Comptroller, 2013). Another reason is connected to the looming possibility of poorly drafted contracts (Office of the State Comptroller, 2013). Another reason is related to the arduousness that accompanies the efficient valuation of public assets (Office of the State Comptroller, 2013). The final reason, and arguably the most important issue discussed here, is regarding labor-related issues and conflicts that could arise from labor unions (Office of the State Comptroller, 2013).

4.2.1. Backdoor borrowing

One of the most important issues according to the Comptroller's aforesaid report that New York State is facing regarding public private partnerships is related to private financing (Office of the State Comptroller, 2013). The New York State Comptroller explicitly stated that "the bottom-line determination in any proposed public-private partnership procurement must be whether or not there is a compelling economic justification for the public to enter into the agreement" (American Council of Engineering Companies of New York). According to the Comptroller, no matter where the financing comes from, whether it is public or private, policy makers should keep in mind that "the entire cost of public infrastructure will always be borne by the public" (Office of the State Comptroller, 2013, 2). In other words, the Comptroller believes that public private partnerships can constitute as a source of backdoor borrowing.

Backdoor borrowing is defined as the process in which public authorities are engaging in the accumulation of debt without express approval by the New York State legislature or the general public via voting (Office of the State Comptroller, 2017). In the context of the United States federal government budgetary process, "backdoor" has been referred to as meaning "the processes other than the ones required for the regular appropriations in which the Appropriations Committees of the House and Senate are the controlling units" (Kim, 1968, 606). In the context of public private partnerships, it essentially means that the financing that is coming from the private entities or investors in a public private partnership contract, for a highway for example, will eventually be borne by the public when the ownership of the highway shifts from the private actor back to the public one. This instance of changing of ownership is characterized by two consequential elements: the first is that the costs of maintaining the highway are back in the hands of the public; and second that these costs will

most likely show up nowhere in the state's public budget or deficit. In-fact, the Comptroller refers to the high possibility that public private partnerships will sprout a "new source of borrowing that might never appear in any budget, on any financial plan, or in financial statements" (Office of the State Comptroller, 2013, 13). This issue is still very prevalent today and has been considered a priority by the Comptroller in a budget reform package outlined in a 2017 report which also illustrates that New York State's debt was among the highest in the nation with a per capita debt of "3 times the median for all states" (Office of the State Comptroller, 2017, para. 2).

Although the present study does recognize the importance of states avoiding backdoor borrowing, it is evident that this reason cannot be referred to as the most important one for New York State. Although New York State, has a large public debt (Office of the State Comptroller, 2017), the phenomena of accumulating public debt for private development can be present in any of the 39 American states that have public private partnership enabling legislation. If a state has a public budget and engages in the utilization of public private partnerships, the possibility of debt accumulation cannot be struck down. Furthermore, if 39 states have overcome the issue of backdoor borrowing but New York State has not, the issue might not be as consequential as one would think in barring the passing of public private partnership legislation. Therefore, the possibility that labor unions can have a stronger effect than one would expect cannot be struck down either. Especially when taking into account the fact that New York State currently has close to a quarter of its workforce represented by labor unions (United States Bureau of Labor Statistics, 2018).

4.2.2. Labor union struggles and public private partnerships

According to the Comptroller, the issue of labor unions deserves consideration being that there has been evidence in the United States of certain public private partnership agreements that have brought a loss of employment for workers of the public sector (Office of the State Comptroller, 2013). In the case of New York State, this study will attempt to illustrate that there is indeed a causal relationship between the presence of labor unions and a public private partnership legal framework by comparing the situations of the most active public private partnership states with that of New York State, and subsequently that this causal relationship is stronger than the relationship between partisanship and public private partnership legal frameworks.

4.2.2.1. Labor unions in the most active public private partnership states

As stated earlier, the most active public private partnership states in the United States as of 2017 are Colorado, Texas, and Virginia (NCSL, 2017). Colorado had public private partnership enabling legislation as early as 1991 (NCSL, 2017). At the time, its legislature was Republican controlled ("Colorado Legislators Past and Present", n.d.). This falls in line with

the general notion that Republicans favor private investment (Geddes & Wagner, 2013). In 1989, Colorado's union membership (in manufacturing) was 9.5%. (United States Census Bureau, 1993).

Texas adopted public private partnership legislation in 2003 (NCSL, 2017) with a Republican controlled legislature ("Texas State Legislature", n.d.) and a Republican governor ("Texas State Legislature", n.d.). In 2002, Texas union membership was 5.2% (United States Census Bureau, 2004). Additionally, while Colorado as of 2017 still only had authorized public private partnerships in the transportation sector (NCSL, 2017), Texas had authorized the use of public private partnerships in both transportation and non-transportation sectors (NCSL, 2017). This could be due to the fact that today Colorado is controlled by a Democratic legislature ("Colorado General Assembly", n.d.) while Texas is not ("Texas State Legislature", n.d.).

Next, we have Virginia which adopted its first piece of public private partnership legislation in 1995 entitled the *Public Private Transportation Act* (NCSL, 2017). Today it is known as the American state with the most "well-established" and comprehensive public private partnership framework (Office of the State Comptroller, 2013) allowing public private partnerships in both the transportation and non-transportation sectors (NCSL, 2017). Specifically, its public private partnership enabling legislation details, *inter alia*, "implementation requirements, stipulates the private partner's powers and duties, and provides explicit definitions of financing mechanisms" (Office of the State Comptroller, 2013, 9). In contrast with Colorado and Texas which passed public private partnership enabling legislation with Republican controlled legislatures, Virginia's state legislature was Democrat controlled before and during the passing of *Public Private Transportation Act* ("Virginia General Assembly", n.d.). This could have played a major role in ensuring that the act be not too broad and instead make it be prescriptive. In Virginia, at the time of the adoption of its legislation in 1995, union membership was at 6.7% (United States Census Bureau, 1996).

4.2.2.2. New York State and labor unions

At the other end of the spectrum lies New York State. New York State has the highest union membership in the country with 23.8% of the workforce represented by unions as of 2017 (United States Bureau of Labor Statistics, 2018). In 2013, when New York State introduced public private partnership legislation (Lewis, 2018), it had a Democrat governor ("New York State Assembly", n.d.) and a mixed legislature ("New York State Assembly", n.d.), Republicans controlled the Senate and Democrats controlled the House ("New York State Assembly", n.d.). At the time, New York State had an even higher percentage of workers who were represented by labor unions (24.4%) (United States Bureau of Labor Statistics, 2014); a presence that could undoubtedly not be ignored.

New York State Senator Greg Ball (Lewis, 2018), the Republican legislator who introduced the 2013 public private partnership legislation, included protections for union workers to not only gain their approval but also to gain the approval of the then governor who wanted to avoid conflicts with union workers (Lewis, 2018). Unfortunately for Senator Ball, however, the legislation did not follow through and it lost its momentum, especially when he announced that he would not be seeking re-election (Lewis, 2018). Given this information, it is clear that the presence of labor unions has a strong effect on the drafting and passing of legislation, especially in light of the fact that the New York State's legislature at the time was mixed, an element that could potentially help pass legislation being that it was not totally controlled by Democrats.

5. Discussion

As seen above, the most Republican of the very active public private partnership states was Texas ("Texas State Legislature", n.d.) and has allowed public private partnership legislation to cover both the transportation sector and non-transportation sectors. Moreover, Texas had the lowest union membership of these states (United States Census Bureau, 2004). Virginia, similarly to Texas, also allows public private partnerships for more than just the transportation sector but it also has one of the most prescriptive and comprehensive pieces of legislation (NCSL, 2017) which could be due to its then Democrat controlled legislature. Colorado, with the most union membership out of these three states (at 9.5% only for manufacturer's unions in 1988) (United States Census Bureau, 1993), passed only transportation related public private partnership legislation via a Republican legislature ("Colorado General Assembly", n.d.).

Given the status of public private partnership legislation in Texas and Virginia, we can conclude that political differences between Democrats and Republicans did not play a seminal role in the establishment of their public private partnership frameworks because both states adopted public private partnership frameworks for the transportation and non-transportation related sectors with two differently controlled legislatures. If anything, comparing their situations underlines the fact that political differences played an effect only on how prescriptive the legislation should be. New York State, unlike the other states which either had very low rates of union representation or Republican controlled legislatures, had a mixed legislature ("New York State Assembly", n.d.). Being that Republicans are known to favor private investment (Geddes & Wagner, 2013), a mixed legislature could have logically helped push public private partnership legislation into the pipeline. Nonetheless, it did not, and this must have been affected by the fact that New York State had, and still has, the strongest labor union representation in the entire country (United States Bureau of Labor Statistics, 2018).

6. Other issues

Another issue that New York State has with public private partnerships is the fact that a poorly drafted contract can be very costly to the state (Office of the State Comptroller, 2013). In-fact, many public private partnership contracts in the United States had to undergo renegotiation or refinancing due to private bankruptcy or a decline in user demand (Office of the State Comptroller, 2013). A Brookings Institution report released in 2011 illustrated that 6 out of 20 transportation-related public private partnership projects in the United States between 1991 and 2010 have had to undergo renegotiation favoring the concessionaire (Engel, Fischer, & Galetovic, 2011). These negative instances can cause all of the benefits originating from using a public private partnership to be cancelled out due to the inherent costs and risks associated with them, as well as exacerbate the problems associated with backdoor borrowing due to renegotiation often leading to new public spending that often circumvents normal budgetary processes (Engel, Fischer, & Galetovic, 2011). Essentially, these risks can push public authorities to not engage in public private partnership contracts being that the transferring of risks is one of the central reasons to enter into a public private partnership in the first place (Office of the State Comptroller, 2013).

The final issue presented that New York State faces regarding public private partnerships relates to the efficiency of valuating public assets (Office of the State Comptroller, 2013). As a Brookings Institution report underlines with regard to public private partnerships, they “can be an effective way to provide infrastructure. However, they are not a free lunch, and have costs very similar to public investments” (Engel, Fischer, & Galetovic, 2011, 6). When entering into a public private partnership, the public must be aware of what it has to offer and how much to value its assets in order to enter into a fair agreement and avoid being subjected to the opportunism of private entities and entrepreneurs. To do so, the agency in charge of entering into the public private partnership can conduct a “value for money” analysis “which consists of a comparison of the estimated cost of a project using traditional procurement methods and the cost using a P3 agreement” (Office of the State Comptroller, 2013, 15). According to the Comptroller, there are various problems with the value for money analysis which can make it inaccurate (Office of the State Comptroller, 2013). Specifically, in California, value for money issues were present relating to biases that can favor public private partnerships including, for example, the “use of questionable discount and tax rates, dubious estimates of savings from potential cost overruns, and failure to account for savings that were likely to occur using traditional public procurement” (Office of the State Comptroller, 2013, 16). According to the Legislative Analyst’s Office of the State of California, if different assumptions were made, traditional public procurement would have turned out to be cheaper than the use of a public private partnership (Legislative Analyst’s Office, 2012). Thus, these issues can lead to not only an undervaluation of public assets but also to a discrimination on the use of traditional procurement methods. Moreover, the use of the private sector in public works provision could entail an increase in regulation on the federal level (Sparer, 1999) which can further skew the

reliability of the value for money analysis being that the costs will most likely not show up in the short-term.

Notwithstanding the importance of these additional two issues present in New York State, it is reasonable to assume that they are not exclusively applicable and could have negatively affected all 39 American states that currently have public private partnership enabling legislation. If a state agency enters into an agreement with a private entity for a public works project, whether they are located in Florida or in New York State, the risk of poorly drafting a contract will be present. The same goes for the risk of conducting a poor value for money analysis. Consequently, the notion that labor unions in the context of New York State having a stronger effect on the passing of public private partnership enabling legislation than the other issues mentioned must be considered.

7. Moving forward without enabling legislation

Although there are certain jurisdictions within the United States which do not have public private partnership enabling legislation, this does not necessarily mean that they completely forbid their agencies to enter into public private partnership agreements (Office of the State Comptroller, 2013). These states, including New York State, can nonetheless have a presence of public private partnership contracts subject to the approval by an independent board or legal authority (Office of the State Comptroller, 2013). In addition, there are certain interstate agencies or semi-governmental entities which are not subject to the same rules and restrictions as state agencies, such as the Port Authority of New York and New Jersey (Lewis, 2018), which entered into public private partnership agreements for the renovation of a New York City airport for example (Lewis, 2018). In-fact, one of the lawyers specializing in public private partnerships who helped with the drafting of the legislation introduced by New York State senator Ball in 2013, Matthew Neuringer, stated in a *City and State New York* article entitled: “New York's plodding pace on P3s” that the New York State governor might not be inspired to fight for the adoption of enabling legislation because the state can use public private partnerships in other ways (Lewis, 2018). Nonetheless, no matter how New York State can use public private partnerships, it is evident that enabling legislation is needed given New York State’s gap between the need for infrastructure and services improvement and the ability for the state to finance those needs (Office of the State Comptroller, 2013).

8. Conclusion

This study attempted to answer the following research question: could the presence of labor unions have a stronger effect on the passing of public private partnership legislation in New York State than political differences? According to the data provided, we cannot reject the notion that labor unions could have a stronger effect on the passing of public private partnership legislation in New York State than political differences. There is indeed a

relationship between the two given the fact that New York State has the highest percentage of a state's workforce represented by labor unions in the country (United States Bureau of Labor Statistics, 2018), among the highest per capita public debt in the nation (Office of the State Comptroller, 2017), and still no public private partnership enabling legislation (NCSL, 2017). This is especially the case when analyzing the political landscapes of the most active public private partnership states and finding that some of them have adopted public private partnership frameworks with legislatures controlled by both Democrats and Republicans, two parties that tend to have contrasting views related to the use of private investment for public projects (Geddes & Wagner, 2013). Additionally, given that all states can face the other issues previously discussed, namely: backdoor borrowing, poorly drafted contracts, and inaccurate value for money analyses, including the most public private partnership active ones, highlights that the presence of labor unions having a strong effect on the legal framework for public private partnerships must not be ignored.

The research conducted illustrates that the existence of a negative relationship between the presence of labor unions in New York State and the state's ability to adopt public private partnership enabling legislation cannot be ruled out, although there is still room for new research on the matter in the future. For future research, it is imperative that the conceptual framework formulated here on the findings and relationships identified be empirically tested. It would also be useful to research the levels at which labor unions participate in politics and to what extent they participate in the adoption of public private partnership enabling legislation in other states of the United States.

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ⁱ In the United States, the notion of public private partnership can have many different forms which can vary based on its different types. There is still debate on what exactly constitutes a public private partnership (Wall, 2013) and this could be partially due, for example, to the difference in culture and language in which the notion is being defined or to the type of institution that is defining it. Yet, the following is a widely accepted definition of a public private partnership: “A public-private partnership is a contractual agreement formed between public and private sector partners, which allows more private sector participation than is traditional. The agreements usually involve a government agency contracting with a private company to renovate, construct, operate, maintain, and/or manage a facility or system. While the public sector usually retains ownership in the facility or system, the private party will be given additional decision rights in determining how the project or task will be completed” (NCSL, 2017, para. 15).