

HB1424/413228/1

BY: Delegate Kipke

AMENDMENTS TO HOUSE BILL 1424, AS AMENDED
(First Reading File Bill)

AMENDMENT NO. 1

Strike the Environment and Transportation Committee Amendments (HB1424/930614/1) in their entirety.

AMENDMENT NO. 2

On page 1 of the bill, in line 2, strike “Process and Oversight” and substitute “Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships”.

On pages 1 and 2 of the bill, strike beginning with “establishing” in line 3 on page 1 down through “partnerships” in line 2 on page 2 and substitute “establishing the Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships; providing for the composition, chair, and staffing of the Commission; prohibiting a member of the Commission from receiving certain compensation, but authorizing the reimbursement of certain expenses; requiring the Commission to study and make recommendations regarding certain matters; requiring the Commission to report its findings and recommendations to the Governor and the General Assembly on or before a certain date; providing for the termination of this Act; and generally relating to the Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships”.

On page 2 of the bill, strike in their entirety lines 3 through 17, inclusive; and in line 19, strike “the Laws of Maryland read as follows”.

AMENDMENT NO. 3

On pages 2 through 9 of the bill, strike in their entirety the lines beginning with line 20 on page 2 through line 4 on page 9, inclusive, and substitute:

(Over)

“(a) There is a Joint Legislative and Executive Commission on Oversight of Public–Private Partnerships.

(b) The Commission consists of the following members:

(1) two members of the Senate of Maryland, appointed by the President of the Senate;

(2) two members of the House of Delegates, appointed by the Speaker of the House;

(3) the Secretary of Budget and Management, or the Secretary's designee;

(4) the Secretary of General Services, or the Secretary's designee;

(5) the Secretary of Transportation, or the Secretary's designee;

(6) the Chancellor of the University System of Maryland, or the Chancellor's designee;

(7) the State Treasurer, or the State Treasurer's designee;

(8) the Executive Director of the Maryland Stadium Authority, or the Executive Director's designee;

(9) the Executive Director of the Maryland Economic Development Corporation, or the Executive Director's designee;

(10) the President of Baltimore City Community College, or the President's designee;

(11) the President of Morgan State University, or the President's designee;

(12) the President of St. Mary's College of Maryland, or the President's designee; and

(13) a representative of the private sector who has experience and expertise in developing public-private partnerships, appointed by the Governor in consultation with the President of the Senate and the Speaker of the House.

(c) The Governor shall designate the chair of the Commission.

(d) The Department of Budget and Management, Department of Transportation, Department of General Services, and Department of Legislative Services shall provide staff for the Commission.

(e) A member of the Commission:

(1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Commission shall:

(1) assess the oversight, best practices, and approval processes for public-private partnerships in other states, including the Army Enhanced Use Lease Program;

(2) evaluate the statutory definitions of "public notice of solicitation" and "public-private partnership" under § 10A-101 of the State Finance and

Procurement Article, and recommend any amendments to the definitions to enhance their utility and refine their scope;

(3) make recommendations concerning the appropriate manner of conducting ongoing legislative monitoring and oversight of public-private partnerships, including:

(i) the appropriate time for submission for legislative review of a proposed conceptual plan, a letter of intent, an interim development agreement, a master development agreement, and an operating lease for a public-private partnership;

(ii) the need for a State agency to state its justifications for seeking a public-private partnership before issuing a request for proposals or any other solicitation;

(iii) the appropriate way to assess the effects of a public-private partnership on the State budget, including the aggregate effect on spending by fund source and revenues;

(iv) the need for disclosure of all public-private partnership revenue and expenditure data and assumptions;

(v) the need for disclosure of all public-private partnership financing assumptions, including projected return on investment and a cost-benefit analysis; and

(vi) the appropriate periods for legislative review and comment;
and

(4) make recommendations concerning broad policy parameters within which public-private partnerships should be negotiated, which may include:

(i) the processes for reviewing and approving a letter of intent, an interim development agreement, a master development agreement, an operating lease, and a request for qualifications;

(ii) the length of a public-private partnership agreement, including ground rent, operating leases, and renewal terms;

(iii) noncompete clauses and adverse action clauses;

(iv) revenue-sharing;

(v) limits on the timing and size of rent, toll, or other revenue source increases;

(vi) the use of proceeds from concession agreements;

(vii) guidelines on minority business enterprise involvement and goals;

(viii) performance measures that are linked to State payments;

(ix) the number and timing of appraisals of land and structures;

(x) green building requirements;

(xi) structuring public-private partnerships in a manner that preserves and promotes important State policy objectives;

(xii) contract oversight and remedies for default;

(xiii) police jurisdiction;

(Over)

(xiv) eminent domain;

(xv) maintenance requirements;

(xvi) solicitation of public comment regarding proposed public-private partnerships and proposed toll rates or user rates;

(xvii) methods for developing competitive solicitations for public-private partnerships, including the advisability of establishing a special fund to reimburse a private entity for predevelopment expenses;

(xviii) the role of the Maryland Economic Development Corporation or other State entities in the issuance of tax increment financing bonds, tax-exempt financing, or other conduit financing;

(xix) the effect on the State workforce of requiring a private entity to give a hiring preference to State employees;

(xx) a policy on foreign ownership of State assets and requirements to meet conditions of the Committee on Foreign Investment in the United States;

(xxi) the transition and process for the return of assets to State control at the conclusion of a public-private partnership agreement;

(xxii) the time period for assignment of a lease or sale of facilities without requiring State consent or providing the State the right of first refusal; and

(xxiii) the advisability of considering unsolicited public-private partnership proposals.

(g) On or before December 1, 2020, the Commission shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly for consideration during the 2021 regular session of the General Assembly.”.

On page 9, in line 6, after “2020.” insert “It shall remain effective for a period of 1 year and 1 month and, at the end of June 30, 2021, this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”.