

HOUSE BILL 1424

P2, P1

0lr3441

By: **Delegates Solomon, Barron, Carr, Dumais, Feldmark, Korman, Love, and Stein**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation and Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2020

CHAPTER _____

1 AN ACT concerning

2 **Public-Private Partnerships – Process and Oversight**

3 FOR the purpose of establishing the Public-Private Partnership Oversight Review Board;
4 providing for the composition, chair, and staffing of the Review Board; requiring the
5 Review Board to study and make recommendations regarding certain matters;
6 authorizing the Review Board to request technical assistance from certain persons,
7 when appropriate; requiring a reporting agency to submit certain presolicitation
8 reports to the Review Board; requiring a certain reporting agency to include in
9 presolicitation reports for certain public-private partnerships presolicitation reports
10 of certain contracts and a certain environmental impact statement under certain
11 circumstances; requiring the Review Board, within a certain number of days after
12 receiving a presolicitation report, to report and make certain recommendations to
13 the Board of Public Works and certain budget committees; requiring that before the
14 Board of Public Works may make a certain designation certain budget committees
15 have a certain number of days to review and comment on a certain report; ~~requiring~~
16 ~~that after the Board of Public Works makes a certain designation certain budget~~
17 ~~committees have a certain period of review and comment before a reporting agency~~
18 ~~issues a certain notice;~~ requiring certain proposed public-private partnership
19 agreements to be submitted to the Legislative Policy Committee; prohibiting the
20 Board of Public Works from approving a proposed agreement until the Legislative
21 Policy Committee has reviewed and commented on the public-private partnership if
22 a certain review and comment period is during a certain time and until ~~a certain~~
23 ~~independent rating assessment survey is~~ certain independent assessments of the
24 impact on the State's credit rating and certain risk analyses are completed under

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain circumstances; requiring a certain ~~independent rating assessment survey~~
 2 risk analysis to include certain information; requiring the proposed agreement to
 3 include certain financial information; ~~requiring that a certain~~
 4 ~~public-private partnership agreement include the minimum credit rating to be~~
 5 ~~maintained by a certain entity and funding source;~~ requiring a reporting agency to
 6 notify the Legislative Policy Committee on receiving a certain unsolicited proposal;
 7 requiring a reporting agency to consult with the Public-Private Partnership
 8 Oversight Review Board in reviewing a certain unsolicited proposal; requiring, under
 9 certain circumstances, the terms of a public-private partnership to contain certain
 10 provisions; extending a certain prohibition on noncompete clauses in certain
 11 public-private partnership agreements to all transit or road maintenance projects
 12 regardless of funding source; requiring the Public-Private Partnership Oversight
 13 Review Board to conduct a certain study and report its findings and
 14 recommendations to the General Assembly on or before a certain date; prohibiting
 15 the State or a reporting agency from transferring certain ownership, operation, or
 16 management of a certain existing transportation facilities project to a certain entity
 17 or issuing a certain notice of solicitation under certain circumstances; providing for
 18 the intent of the General Assembly with regard to the reimbursement of certain costs
 19 and expenses; altering a certain definition; defining ~~a certain term;~~ certain terms;
 20 providing for the termination of certain provisions of this Act; making conforming
 21 changes; and generally relating to public-private partnerships.

22 BY repealing and reenacting, without amendments,
 23 Article – State Finance and Procurement
 24 Section 10A-101(a)
 25 Annotated Code of Maryland
 26 (2015 Replacement Volume and 2019 Supplement)

27 BY repealing and reenacting, with amendments,
 28 Article – State Finance and Procurement
 29 Section 10A-101(b), ~~10A-201(a) and (e)~~ 10A-201(a), 10A-203(a), 10A-301, and
 30 10A-401(a) and (c)
 31 Annotated Code of Maryland
 32 (2015 Replacement Volume and 2019 Supplement)

33 BY adding to
 34 Article – State Finance and Procurement
 35 Section 10A-101(i), 10A-106, and 10A-203(c)
 36 Annotated Code of Maryland
 37 (2015 Replacement Volume and 2019 Supplement)

38 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 39 That the Laws of Maryland read as follows:

40 **Article – State Finance and Procurement**

41 10A-101.

1 (a) In this title the following words have the meanings indicated.

2 (b) "Budget committees" means the Senate Budget and Taxation Committee, the
3 House [Committee on Ways and Means] **ENVIRONMENT AND TRANSPORTATION**
4 **COMMITTEE**, and the House Appropriations Committee.

5 (I) **"TRANSPORTATION FACILITIES PROJECT" HAS THE MEANING STATED**
6 **IN § 4-101 OF THE TRANSPORTATION ARTICLE.**

7 **10A-106.**

8 (A) **THERE IS A PUBLIC-PRIVATE PARTNERSHIP OVERSIGHT REVIEW**
9 **BOARD.**

10 (B) **THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

11 (1) **TWO MEMBERS OF THE SENATE OF MARYLAND, APPOINTED BY**
12 **THE PRESIDENT OF THE SENATE;**

13 (2) **TWO MEMBERS OF THE HOUSE OF DELEGATES, APPOINTED BY**
14 **THE SPEAKER OF THE HOUSE; AND**

15 ~~(3) **THE COMPTROLLER, OR THE COMPTROLLER'S DESIGNEE;**~~

16 ~~(4) **THE STATE TREASURER, OR THE STATE TREASURER'S DESIGNEE;**~~

17 ~~**AND**~~

18 ~~(5)~~ (3) **THREE MEMBERS, APPOINTED BY THE GOVERNOR, WHO**
19 **SHALL HAVE EXPERIENCE IN THE FIELDS OF TRANSPORTATION LAW, PUBLIC**
20 **POLICY, FINANCE, OR MANAGEMENT CONSULTING.**

21 (C) **THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE**
22 **SHALL JOINTLY DESIGNATE THE CHAIR OF THE BOARD.**

23 (D) ~~THE COMPTROLLER~~ **BALTIMORE METROPOLITAN COUNCIL, THE**
24 **METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS, OR APPROPRIATE**
25 **METROPOLITAN PLANNING ORGANIZATION, AND THE DEPARTMENT OF**
26 **LEGISLATIVE SERVICES SHALL PROVIDE STAFF FOR THE BOARD.**

27 (E) **THE BOARD SHALL:**

28 (1) **REVIEW PUBLIC-PRIVATE PARTNERSHIP PRESOLICITATION**
29 **REPORTS; ~~AND~~**

1 **(2) MAKE RECOMMENDATIONS REGARDING THE DESIGNATION OF A**
 2 **PUBLIC INFRASTRUCTURE ASSET AS A PUBLIC-PRIVATE PARTNERSHIP;**

3 **(3) CONSULT WITH A REPORTING AGENCY IN REVIEWING ANY**
 4 **UNSOLICITED PROPOSALS FOR A PUBLIC-PRIVATE PARTNERSHIP;**

5 **(4) REVIEW BEST PRACTICES REGARDING PUBLIC-PRIVATE**
 6 **PARTNERSHIPS FROM OTHER STATES AND INTERNATIONALLY; AND**

7 **(5) MONITOR THE IMPLEMENTATION AND OPERATION OF EXISTING**
 8 **PUBLIC-PRIVATE PARTNERSHIPS.**

9 **(F) THE BOARD MAY REQUEST TECHNICAL ASSISTANCE FROM THE STATE**
 10 **TREASURER, COMPTROLLER, OR APPROPRIATE ADMINISTRATIVE AGENCY, WHEN**
 11 **APPROPRIATE.**

12 10A-201.

13 (a) (1) (i) Except as provided in subparagraph (ii) of this paragraph **AND**
 14 **SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION**, a reporting agency may not issue a
 15 public notice of solicitation for a public-private partnership until a presolicitation report
 16 concerning the proposed public-private partnership is submitted to the Comptroller, the
 17 State Treasurer, the budget committees, and the Department of Legislative Services, in
 18 accordance with § 2-1257 of the State Government Article.

19 (ii) 1. A reporting agency may not issue a public notice of
 20 solicitation for a public-private partnership for a transportation facilities project[, as
 21 defined in § 4-101(h) of the Transportation Article,] until a presolicitation report
 22 concerning the proposed public-private partnership is submitted to the budget committees
 23 and the Department of Legislative Services, in accordance with § 2-1257 of the State
 24 Government Article.

25 **2. FOR A TRANSPORTATION FACILITIES PROJECT WITH**
 26 **A TOTAL VALUE THAT EXCEEDS \$500,000,000, THE REPORTING AGENCY SHALL**
 27 **SUBMIT, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE,**
 28 **THE PRESOLICITATION REPORT TO THE PUBLIC-PRIVATE PARTNERSHIP**
 29 **OVERSIGHT REVIEW BOARD.**

30 (2) (i) [The] **EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
 31 **SUBSECTION, THE** budget committees may not have more than 45 days to review and
 32 comment on the presolicitation report submitted in accordance with paragraph (1) of this
 33 subsection.

34 (ii) 1. If the total value of a proposed public-private partnership
 35 reported in the presolicitation report under paragraph (b)(1) of this subsection exceeds

1 \$500,000,000, the budget committees may request an additional 15 days to review and
2 comment on the presolicitation report.

3 2. The request for additional time under this subparagraph
4 shall:

5 A. be made in writing to the Governor, the Department of
6 Budget and Management, and the reporting agency; and

7 B. include the reason for the request and any preliminary
8 issues the budget committees have.

9 **(3) FOR A PUBLIC-PRIVATE PARTNERSHIP WITH A TOTAL VALUE
10 THAT EXCEEDS \$500,000,000, THE REPORTING AGENCY SHALL INCLUDE IN THE
11 PRESOLICITATION REPORT REQUIRED UNDER PARAGRAPH (1) OF THIS
12 SUBSECTION:**

13 **(I) A PRESOLICITATION REPORT OF EACH CONTRACT UNDER
14 THE PUBLIC-PRIVATE PARTNERSHIP; AND**

15 **(II) IF A PROJECT REQUIRES AN ENVIRONMENTAL IMPACT
16 STATEMENT UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT, A ~~COMPLETED~~
17 FINAL ENVIRONMENTAL IMPACT STATEMENT THAT COMPLIES WITH THE NATIONAL
18 ENVIRONMENTAL POLICY ACT.**

19 **(4) (I) WITHIN 60 DAYS AFTER RECEIVING A PRESOLICITATION
20 REPORT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE PUBLIC-PRIVATE
21 PARTNERSHIP OVERSIGHT REVIEW BOARD SHALL REPORT AND MAKE
22 RECOMMENDATIONS ON THE PRESOLICITATION REPORT TO THE BOARD OF PUBLIC
23 WORKS AND, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT
24 ARTICLE, THE BUDGET COMMITTEES.**

25 **(II) THE BUDGET COMMITTEES, IN CONSULTATION WITH THE
26 APPROPRIATE POLICY COMMITTEES, SHALL HAVE 60 DAYS TO REVIEW AND
27 COMMENT ON THE REPORT AND RECOMMENDATIONS OF THE
28 PUBLIC-PRIVATE PARTNERSHIP OVERSIGHT REVIEW BOARD BEFORE THE BOARD
29 OF PUBLIC WORKS MAY DESIGNATE THE PUBLIC INFRASTRUCTURE ASSET AS A
30 PUBLIC-PRIVATE PARTNERSHIP UNDER SUBSECTION (C) OF THIS SECTION.**

31 ~~(e) (1) [After] SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AFTER
32 the budget committees' review and comment period on the presolicitation report and before
33 issuing a public notice of solicitation, a reporting agency shall seek the official designation
34 by the Board of Public Works of the public infrastructure asset as a public-private
35 partnership and approval of the solicitation method.~~

~~(2) The request for official designation and approval shall:~~

~~(i) include a copy of the presolicitation report required under subsection (a) of this section;~~

~~(ii) describe the process for soliciting, evaluating, selecting, and awarding the public-private partnership;~~

~~(iii) include a preliminary solicitation schedule;~~

~~(iv) outline the organization and contents of the public notice of solicitation;~~

~~(v) provide a summary of the key terms of the proposed public-private partnership agreement; and~~

~~(vi) include any other information or requests determined to be relevant by the reporting agency.~~

~~(3) FOR A TRANSPORTATION FACILITIES PROJECT WITH A TOTAL VALUE THAT EXCEEDS \$500,000,000, BEFORE THE REPORTING AGENCY ISSUES A PUBLIC NOTICE OF SOLICITATION, THE BUDGET COMMITTEES SHALL HAVE 1 YEAR TO REVIEW AND COMMENT ON THE DESIGNATION BY THE BOARD OF PUBLIC WORKS UNDER PARAGRAPH (1) OF THIS SUBSECTION.~~

10A-203.

(a) (1) Except as provided in paragraph (2) of this subsection, the Board of Public Works may not approve a public-private partnership agreement until:

(i) a copy of the proposed agreement is submitted simultaneously to:

1. the Comptroller, the State Treasurer, the budget committees, and the Department of Legislative Services, in accordance with § 2-1257 of the State Government Article; AND

2. FOR A PUBLIC-PRIVATE PARTNERSHIP WITH A TOTAL VALUE THAT EXCEEDS \$500,000,000, THE LEGISLATIVE POLICY COMMITTEE, IN ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE;

(ii) the State Treasurer, in coordination with the Comptroller, analyzes the impact on the State's capital debt affordability limits of the proposed public-private partnership agreement;

1 (iii) the State Treasurer submits the analysis to the budget
2 committees and the Department of Legislative Services, in accordance with § 2–1257 of the
3 State Government Article; [and]

4 (iv) the budget committees have reviewed and commented on the
5 agreement in accordance with paragraph (3) of this subsection; AND

6 (v) FOR A PUBLIC–PRIVATE PARTNERSHIP WITH A TOTAL
7 VALUE THAT EXCEEDS \$500,000,000:

8 1. IF THE REVIEW AND COMMENT PERIOD FOR THE
9 BUDGET COMMITTEES IS DURING A PERIOD WHEN THE GENERAL ASSEMBLY IS NOT
10 IN SESSION, THE LEGISLATIVE POLICY COMMITTEE HAS REVIEWED AND
11 COMMENTED ON THE PUBLIC–PRIVATE PARTNERSHIP; AND

12 ~~2. AN INDEPENDENT RATING ASSESSMENT SURVEY IS~~
13 ~~COMPLETED FOR EACH CONTRACT UNDER THE PUBLIC–PRIVATE PARTNERSHIP, IN~~
14 ~~ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION, BY AN INDEPENDENT~~
15 ~~AUDITOR OR A CREDIT RATING AGENCY SELECTED BY THE STATE TREASURER~~

16 2. INDEPENDENT ASSESSMENTS OF THE IMPACT ON THE
17 STATE’S CREDIT RATING ARE COMPLETED FOR EACH CONTRACT UNDER THE
18 PUBLIC–PRIVATE PARTNERSHIP BY ALL CREDIT RATING AGENCIES THAT RATE THE
19 STATE’S GENERAL OBLIGATION BONDS; AND

20 3. IN ACCORDANCE WITH PARAGRAPH (4) OF THIS
21 SUBSECTION, A RISK ANALYSIS IS COMPLETED FOR EACH CONTRACT UNDER THE
22 PUBLIC–PRIVATE PARTNERSHIP BY A FINANCIAL ADVISORY FIRM CHOSEN BY THE
23 STATE TREASURER.

24 (2) The Board of Public Works may not approve a public–private
25 partnership agreement for a transportation facilities project[, as defined in § 4–101(h) of
26 the Transportation Article,] until the proposed agreement is submitted to the budget
27 committees and the Department of Legislative Services, in accordance with § 2–1257 of the
28 State Government Article.

29 (3) (i) The period for review, analysis, and comment under paragraphs
30 (1) and (2) of this subsection may not exceed a total of 30 days from the date the proposed
31 public–private partnership agreement is submitted simultaneously to the State Treasurer,
32 the Comptroller, the budget committees, and the Department of Legislative Services.

33 (ii) The budget committees may facilitate a faster review and
34 comment period by sending a letter to the Board of Public Works supporting a proposed
35 public–private partnership agreement in advance of the expiration of the 30–day review
36 period.

1 (4) ~~THE INDEPENDENT RATING ASSESSMENT SURVEY RISK ANALYSIS~~
2 ~~REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:~~

3 ~~(I) THE CREDIT STRENGTH OF THE PRIVATE ENTITY AND~~
4 ~~PRIVATE FUNDING SOURCE;~~

5 ~~(II) THE IMPACT OF THE PROPOSED AGREEMENT ON THE~~
6 ~~STATE'S CREDIT RATING;~~

7 ~~(III) THE IMPACT OF THE PROPOSED AGREEMENT ON ANY LOCAL~~
8 ~~GOVERNMENT'S CREDIT RATING; AND~~

9 ~~(IV) A RECOMMENDATION, TO BE INCLUDED IN THE~~
10 ~~PUBLIC-PRIVATE PARTNERSHIP AGREEMENT, OF THE MINIMUM CREDIT RATING TO~~
11 ~~BE MAINTAINED BY THE PRIVATE ENTITY AND PRIVATE FUNDING SOURCE.~~

12 (I) AN ASSESSMENT OF THE RISKS TO THE STATE POSED BY THE
13 PROPOSED AGREEMENT, INCLUDING ECONOMIC, LEGAL, AND TECHNOLOGICAL
14 RISKS; AND

15 (II) AN EVALUATION OF THE SECURITY PACKAGE PROVIDED BY
16 THE PRIVATE ENTITY AND PRIVATE FUNDING SOURCE, INCLUDING ANY PAYMENT
17 AND PERFORMANCE BONDS, LETTERS OF CREDIT, PARENT COMPANY GUARANTEES,
18 AND LENDER OR EQUITY PARTNER GUARANTEES.

19 (C) THE PROPOSED PUBLIC-PRIVATE PARTNERSHIP AGREEMENT SHALL
20 INCLUDE FINANCIAL INFORMATION REGARDING EACH CONTRACTOR AND ANY
21 SUBCONTRACTOR THAT WILL PROVIDE PRODUCTS OR SERVICES UNDER THE
22 PUBLIC-PRIVATE PARTNERSHIP AGREEMENT.

23 10A-301.

24 (a) A reporting agency may accept, reject, or evaluate an unsolicited proposal for
25 a public-private partnership that will assist the reporting agency in implementing its
26 functions in a manner consistent with State policy.

27 (b) A REPORTING AGENCY SHALL NOTIFY THE LEGISLATIVE POLICY
28 COMMITTEE ON RECEIVING AN UNSOLICITED PROPOSAL.

29 (C) (1) A reporting agency shall establish the process for determining whether
30 an unsolicited proposal meets a need of the reporting agency or is otherwise advantageous
31 to the reporting agency.

1 **(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A**
2 **REPORTING AGENCY SHALL CONSULT WITH THE PUBLIC-PRIVATE PARTNERSHIP**
3 **OVERSIGHT REVIEW BOARD IN REVIEWING AN UNSOLICITED PROPOSAL.**

4 **[(c)] (D)** (1) A reporting agency may establish by regulation an application
5 fee for submitting an unsolicited proposal.

6 (2) For an unsolicited proposal that does not address a project already in
7 the State's Capital Improvement Program or Consolidated Transportation Program
8 planning documents, a reporting agency may require a higher application fee.

9 **[(d)] (E)** If a reporting agency determines that an unsolicited proposal meets a
10 need of the reporting agency or is otherwise advantageous to the reporting agency, the
11 reporting agency shall:

12 (1) conduct a competitive solicitation process as described under Subtitle 2
13 of this title;

14 (2) protect proprietary information included in the unsolicited proposal to
15 the same extent proprietary information is protected under § 10A-203(b) of this title; and

16 (3) comply with all of the other procedural requirements set forth in this
17 title.

18 **[(e)] (F)** An individual or firm that has submitted an unsolicited proposal under
19 this title may participate in any subsequent competitive solicitation process.

20 10A-401.

21 (a) **(1)** Whenever applicable, a public-private partnership agreement shall
22 include the following provisions:

23 **[(1)] (I)** the method and terms for approval of any assignment,
24 reassignment, or other transfer of interest related to the public-private partnership
25 agreement;

26 **[(2)] (II)** the methods and terms for setting and adjusting tolls, fares, fees,
27 and other charges related to the public infrastructure asset;

28 **[(3)] (III)** the method and terms for revenue-sharing or other sharing in
29 fees or charges, in which the public participates in the financial upside of asset performance
30 of the public infrastructure asset;

31 **[(4)] (IV)** minimum quality standards, performance criteria, incentives,
32 and disincentives;

1 [(5)] (V) operations and maintenance standards;

2 [(6)] (VI) the rights for inspection by the State;

3 [(7)] (VII) the terms and conditions under which the reporting agency may
4 provide services for a fee sufficient to cover both direct and indirect costs;

5 [(8)] (VIII) provisions for oversight and remedies and penalties for default;

6 [(9)] (IX) the terms and conditions under which the reporting agency
7 originating the public-private partnership shall be responsible for ongoing oversight;

8 [(10)] (X) the terms and conditions for audits by the State, including the
9 Office of Legislative Audits, related to the agreement's financial records and performance;

10 [(11)] (XI) the terms and conditions under which the public infrastructure
11 assets shall be returned to the State at the expiration or termination of the agreement;
12 ~~{and}~~

13 [(12)] (XII) requirements for the private entity to provide performance
14 security and payment security in a form and in an amount determined by the responsible
15 public entity, except that:

16 [(i)] 1. requirements for the payment security for construction
17 contracts shall be in accordance with Title 17, Subtitle 1 of this article; and

18 [(ii)] 2. requirements for the amount of the payment security and
19 any performance security in the form of a performance bond for a construction contract
20 shall be based on the value of the respective construction elements of the public-private
21 partnership agreement and not on the total value of the public-private partnership
22 agreement; ~~AND~~

23 ~~(XIII) THE MINIMUM CREDIT RATING TO BE MAINTAINED BY THE~~
24 ~~PRIVATE ENTITY AND PRIVATE FUNDING SOURCE RECOMMENDED UNDER §~~
25 ~~10A-203(A) OF THIS TITLE.~~

26 (2) IF THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT REQUIRES
27 THE STATE OR A SUCCESSOR ENTITY TO TAKE OVER OPERATIONS AND
28 MAINTENANCE OF A PROJECT, THE TERMS FOR APPROVAL OF ANY ASSIGNMENT,
29 REASSIGNMENT, OR OTHER TRANSFER OF INTERESTS IN THE PROJECT SHALL
30 INCLUDE A REQUIREMENT THAT ALL TOLL REVENUE OR OTHER CHARGES RELATED
31 TO THE PROJECT BE ASSIGNED TO THE STATE OR A SUCCESSOR ENTITY TO APPLY
32 TO THE OPERATIONS AND MAINTENANCE OF THE PROJECT.

1 **(3) THE TERMS OF THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT**
2 **PROVIDING FOR REVENUE-SHARING OR OTHER SHARING IN FEES OR CHARGES IN**
3 **WHICH THE PUBLIC PARTICIPATES IN THE FINANCIAL UPSIDE OF ASSET**
4 **PERFORMANCE OF THE PUBLIC INFRASTRUCTURE ASSET SHALL REQUIRE THE**
5 **REIMBURSEMENT OF THE STATE FOR ADVANCED PROJECT EXPENSES.**

6 (c) A public-private partnership agreement for a project involving road, highway,
7 or bridge assets may not include a noncompete clause that would inhibit the planning,
8 construction, or implementation of [State-funded] transit **OR ROAD MAINTENANCE**
9 projects.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Public-Private
11 Partnership Oversight Review Board, as established in Section 1 of this Act, shall:

12 (1) study issues related to the transfer by sale, lease, or other agreement
13 of the full or partial ownership, operation, or management of an existing transportation
14 facilities project to a private entity and using the proceeds to pay for building or
15 maintaining other infrastructure, including:

16 (i) advantages;

17 (ii) costs; and

18 (iii) other transition issues; and

19 (2) on or before January 15, 2021, report its findings and recommendations
20 to the General Assembly, in accordance with § 2-1257 of the State Government Article.

21 SECTION 3. AND BE IT FURTHER ENACTED, That:

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Other agreement” includes a public-private partnership as defined in
24 § 10A-101 of the State Finance and Procurement Article.

25 (3) “Private entity” has the meaning stated in § 10A-101 of the State
26 Finance and Procurement Article.

27 (4) “Public-private partnership” has the meaning stated in § 10A-101 of
28 the State Finance and Procurement Article.

29 (5) “Reporting agency” has the meaning stated in § 10A-101 of the State
30 Finance and Procurement Article.

31 (6) (i) “Transportation facilities project” has the meaning indicated in §
32 4-101 of the Transportation Article.

1 (ii) “Transportation facilities project” includes the Thomas J. Hatem
 2 Bridge.

3 (iii) “Transportation facilities project” does not include the I- 495 and
 4 I-270 P3 Program.

5 (b) Notwithstanding any other provision of law, the State or a reporting
 6 agency may not:

7 (1) transfer by sale, lease, or other agreement the full or partial
 8 ownership, operation, or management of an existing transportation facilities project to a
 9 private entity; or

10 (2) issue a public notice of solicitation for a public-private
 11 partnership for an existing transportation facilities project.

12 SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General
 13 Assembly that a metropolitan planning organization that provides staff for the
 14 Public-Private Partnership Oversight Review Board shall be reimbursed for the costs and
 15 expenses incurred for services rendered under this Act.

16 SECTION ~~2~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
 17 June 1, 2020. Section 3 of this Act shall remain effective for a period of 9 months and, at
 18 the end of March 1, 2021, Section 3 of this Act, with no further action required by the
 19 General Assembly, shall be abrogated and of no further force and effect.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.