

SENATE BILL 843

R1

EMERGENCY BILL

1lr1761
CF HB 67

By: **Senator Benson**

Introduced and read first time: February 9, 2021

Assigned to: Budget and Taxation and Finance

A BILL ENTITLED

1 AN ACT concerning

2 **I-495 and I-270 Public-Private Partnership – Partnership Agreement**
3 **– Requirements**
4 **(Maryland Department of Transportation Promises Act of 2021)**

5 FOR the purpose of prohibiting the Board of Public Works from approving a public-private
6 partnership agreement for the I-495 and I-270 Public-Private Partnership Program
7 unless the agreement includes certain provisions; authorizing the public-private
8 partnership agreement to require a bidder to agree to initiate a community benefit
9 agreement; requiring the Maryland Department of Transportation to enter into
10 nondisclosure agreements with certain entities with regard to certain shared data;
11 authorizing the Department to require that certain entities maintain confidentiality
12 with regard to certain shared data; authorizing certain revenues derived from
13 certain tolls to be distributed to a certain special fund to be budgeted in a certain
14 manner; establishing a certain special fund; making this Act an emergency measure;
15 defining certain terms; and generally relating to the I-495 and I-270 Public-Private
16 Partnership Program.

17 BY adding to
18 Article – State Finance and Procurement
19 Section 10A-405
20 Annotated Code of Maryland
21 (2015 Replacement Volume and 2020 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article – Transportation
24 Section 4-313(a)(1)
25 Annotated Code of Maryland
26 (2020 Replacement Volume)

27 BY adding to
28 Article – Transportation

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 4–408
2 Annotated Code of Maryland
3 (2020 Replacement Volume)

4 Preamble

5 WHEREAS, The Reason Foundation has found that the overwhelming majority of
6 public–private partnership road expansion projects require public subsidies; and

7 WHEREAS, The Maryland Department of Transportation has said the I–495 and
8 I–270 Public–Private Partnership will not require any public subsidies; and

9 WHEREAS, It is the intent of the General Assembly to make clear that any
10 submitted budget seeking additional State taxpayer funds for the I–495 and I–270
11 Public–Private Partnership will be reduced from the budget; and

12 WHEREAS, Governor Hogan has claimed this is the largest highway P3 in the world;
13 and

14 WHEREAS, The Maryland Department of Transportation and the Comptroller
15 reached detailed agreements to amend the Pre–Solicitation Report in January of 2020; and

16 WHEREAS, The General Assembly wants to ensure that these promises are kept;
17 now, therefore,

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

20 **Article – State Finance and Procurement**

21 **10A–405.**

22 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
23 **INDICATED.**

24 **(2) “COMMUNITY BENEFIT AGREEMENT” MEANS AN AGREEMENT**
25 **APPLICABLE TO THE DEVELOPMENT OF ANY TRANSPORTATION PROJECT THAT:**

26 **(I) PROMOTES INCREASED OPPORTUNITIES FOR LOCAL**
27 **BUSINESSES AND SMALL, MINORITY, WOMEN–OWNED, AND VETERAN–OWNED**
28 **BUSINESSES IN THE TRANSPORTATION INDUSTRY;**

29 **(II) ENSURES THE TIMELY, SAFE, AND EFFICIENT COMPLETION**
30 **OF THE PROJECT BY FACILITATING A STEADY SUPPLY OF HIGHLY SKILLED CRAFT**
31 **WORKERS WHO ARE PAID NOT LESS THAN THE PREVAILING WAGE RATE**
32 **DETERMINED BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 17,**

1 **SUBTITLE 2 OF THIS ARTICLE;**

2 (III) **PROMOTES SAFE COMPLETION OF THE PROJECT BY**
3 **ENSURING THAT AT LEAST 80% OF THE CRAFT WORKERS ON THE PROJECT HAVE**
4 **COMPLETED AN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION 10-HOUR**
5 **OR 30-HOUR COURSE;**

6 (IV) **PROMOTES CAREER TRAINING OPPORTUNITIES IN THE**
7 **TRANSPORTATION INDUSTRY FOR LOCAL RESIDENTS, VETERANS, WOMEN, AND**
8 **MINORITIES;**

9 (V) **PROVIDES FOR BEST EFFORTS AND EFFECTIVE OUTREACH**
10 **TO OBTAIN, AS A GOAL, THE USE OF A WORKFORCE THAT INCLUDES MINORITIES TO**
11 **THE EXTENT PRACTICABLE; AND**

12 (VI) **REFLECTS A 21ST-CENTURY LABOR-MANAGEMENT**
13 **APPROACH BASED ON COOPERATION, HARMONY, AND PARTNERSHIP.**

14 (3) **“DEPARTMENT” MEANS THE STATE DEPARTMENT OF**
15 **TRANSPORTATION AND INCLUDES THE OFFICE OF THE SECRETARY AND THE**
16 **MODAL ADMINISTRATIONS.**

17 (4) **“PROGRAM” MEANS THE I-495 AND I-270 PUBLIC-PRIVATE**
18 **PARTNERSHIP PROGRAM.**

19 (B) **THE BOARD OF PUBLIC WORKS MAY NOT APPROVE A PUBLIC-PRIVATE**
20 **PARTNERSHIP AGREEMENT FOR THE PROGRAM UNLESS THE AGREEMENT:**

21 (1) (I) **REQUIRES THAT AT LEAST 10% OF THE TOLL REVENUE**
22 **REMAINING AFTER CONSTRUCTION COSTS FROM TOLL LANES ON I-495 AND I-270**
23 **BE TRANSFERRED TO THE SPECIAL FUND ESTABLISHED UNDER § 4-408 OF THE**
24 **TRANSPORTATION ARTICLE;**

25 (II) **AUTHORIZES THE DEPARTMENT TO MAKE THE PAYMENTS**
26 **REQUIRED UNDER ITEM (I) OF THIS ITEM IN SCHEDULED FIXED PAYMENTS; AND**

27 (III) **REQUIRES THE SPECIAL FUND TO BE BUDGETED IN**
28 **ACCORDANCE WITH MEMORANDA OF UNDERSTANDING BETWEEN THE DEPARTMENT**
29 **AND THE GOVERNING BODIES OF THE COUNTIES WHERE THE TOLL FACILITIES THAT**
30 **ARE PART OF THE PROGRAM ARE LOCATED;**

31 (2) (I) **GUARANTEES THAT ANY LOCAL, STATE, OR REGIONAL**
32 **TRANSIT SYSTEM MAY USE THE TOLL LANES ON I-495 AND I-270 FOR BUSES AND**
33 **OTHER MASS TRANSIT VEHICLES WITHOUT CHARGE; AND**

1 **(II) REQUIRES THAT THE AMERICAN LEGION BRIDGE HAVE A**
2 **SEPARATE PEDESTRIAN AND BICYCLE LANE OR LANES;**

3 **(3) PROHIBITS THE DEPARTMENT FROM USING STATE FUNDS TO**
4 **ACQUIRE LAND FOR THE PROGRAM BEFORE THE BOARD OF PUBLIC WORKS**
5 **APPROVES THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT, EXCEPT FOR OPTION**
6 **PAYMENTS FOR THE RESERVATION OF THE PURCHASE OF LAND;**

7 **(4) SUBJECT TO SUBSECTION (C)(1) OF THIS SECTION, PROHIBITS**
8 **THE DEPARTMENT FROM AWARDING A CONTRACT TO A BIDDER UNLESS THE BIDDER**
9 **AGREES TO INITIATE A COMMUNITY BENEFIT AGREEMENT THAT DEMONSTRATES**
10 **POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE STATE;**

11 **(5) SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, REQUIRES THE**
12 **DEPARTMENT TO SHARE RELEVANT DATA TO THE MAXIMUM EXTENT PRACTICABLE**
13 **AND IN A TIMELY MANNER, INCLUDING ORIGIN AND DESTINATION DATA AND**
14 **TRAFFIC AND REVENUE MODEL DATA, CONSISTENT WITH ANY LICENSES OR OTHER**
15 **LEGAL AGREEMENTS RELATED TO THE DATA, WITH:**

16 **(I) COUNTY DEPARTMENTS OF TRANSPORTATION; AND**

17 **(II) THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING**
18 **COMMISSION;**

19 **(6) (I) REQUIRES THAT ALL INITIAL TRANSPORTATION TRUST**
20 **FUND EXPENDITURES AND MARYLAND TRANSPORTATION AUTHORITY LOANS BE**
21 **REPAID BY VENDORS OR TOLLS;**

22 **(II) PROHIBITS THE BOARD OF PUBLIC WORKS FROM**
23 **APPROVING ANY AGREEMENTS THAT EXPEND ADDITIONAL STATE FUNDS FOR THE**
24 **PROGRAM BEYOND WHAT IS ALLOCATED IN THE CONSOLIDATED TRANSPORTATION**
25 **PROGRAM AS OF OCTOBER 1, 2021; AND**

26 **(III) ENCOURAGES THAT NO ADDITIONAL STATE FUNDS FOR THE**
27 **PROGRAM BE EXPENDED BEYOND WHAT IS ALLOCATED IN THE CONSOLIDATED**
28 **TRANSPORTATION PROGRAM AS OF OCTOBER 1, 2021;**

29 **(7) PROHIBITS THE DEPARTMENT FROM SUBMITTING A CONTRACT**
30 **TO THE BOARD OF PUBLIC WORKS FOR REVIEW UNTIL A FINAL ENVIRONMENTAL**
31 **IMPACT STATEMENT THAT COMPLIES WITH THE NATIONAL ENVIRONMENTAL**
32 **POLICY ACT IS AVAILABLE;**

33 **(8) REQUIRES ANY TOLL ADJUSTMENTS TO BE SUBJECT TO PUBLIC**

1 HEARINGS IN THE COUNTY WHERE THE TOLL FACILITY IS LOCATED;

2 (9) REQUIRES THE STATE TO UNDERTAKE EFFORTS TO ENGAGE WITH
3 VIRGINIA TO CONDUCT A TRANSIT STUDY OF THE AMERICAN LEGION BRIDGE
4 CORRIDOR; AND

5 (10) REQUIRES THAT THE MARYLAND TRANSPORTATION AUTHORITY
6 AND THE DEPARTMENT COMPLETE A MONORAIL FEASIBILITY STUDY.

7 (C) (1) THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT MAY REQUIRE
8 A BIDDER TO AGREE TO INITIATE A COMMUNITY BENEFIT AGREEMENT THAT
9 DEMONSTRATES BENEFITS IN ADDITION TO THE BENEFITS REQUIRED UNDER
10 SUBSECTION (B)(4) OF THIS SECTION.

11 (2) (I) THE DEPARTMENT SHALL ENTER INTO NONDISCLOSURE
12 AGREEMENTS WITH COUNTY DEPARTMENTS OF TRANSPORTATION AND THE
13 MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION WITH
14 REGARDS TO THE REQUIREMENT TO SHARE DATA UNDER SUBSECTION (B)(5) OF
15 THIS SECTION.

16 (II) THE DEPARTMENT MAY REQUIRE THAT COUNTY
17 DEPARTMENTS OF TRANSPORTATION AND THE MARYLAND-NATIONAL CAPITAL
18 PARK AND PLANNING COMMISSION, THROUGH NONDISCLOSURE AGREEMENTS,
19 MAINTAIN CONFIDENTIALITY WITH REGARD TO DATA SHARED, INCLUDING ORIGIN
20 AND DESTINATION DATA AND TRAFFIC AND REVENUE MODEL DATA SHARED.

21 **Article – Transportation**

22 4-313.

23 (a) (1) All rentals, rates, fees, tolls, and other charges and revenues derived
24 from any transportation facilities project shall be set aside in a fund known as the
25 “Transportation Authority Fund”, except to the extent that they are [pledged]:

26 (I) REQUIRED UNDER A I-495 AND I-270 PUBLIC-PRIVATE
27 PARTNERSHIP AGREEMENT TO BE DISTRIBUTED TO THE SPECIAL FUND
28 ESTABLISHED UNDER § 4-408 OF THIS TITLE; OR

29 (II) PLEDGED under an applicable trust agreement to secure either:

30 [(i)] 1. Revenue bonds issued under this subtitle if the trust
31 agreement or bond authorizing resolution expressly provides that this section does not
32 apply to those bonds; or

33 [(ii)] 2. Revenue bonds of prior issues.

1 4-408.

2 AT LEAST 10% OF THE TOLL REVENUE REMAINING AFTER CONSTRUCTION
3 COSTS FROM THE I-495 AND I-270 PUBLIC-PRIVATE PARTNERSHIP PROGRAM
4 SHALL BE DISTRIBUTED TO A SPECIAL FUND, TO BE USED ONLY FOR TRANSIT
5 PROJECTS IN ACCORDANCE WITH MEMORANDA OF UNDERSTANDING BETWEEN THE
6 DEPARTMENT AND THE GOVERNING BODIES OF THE COUNTIES WHERE THE TOLL
7 FACILITIES THAT ARE PART OF THE PROGRAM ARE LOCATED.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
9 measure, is necessary for the immediate preservation of the public health or safety, has
10 been passed by a ye and nay vote supported by three-fifths of all the members elected to
11 each of the two Houses of the General Assembly, and shall take effect from the date it is
12 enacted.