



7338 Baltimore Ave  
Suite 102  
College Park, MD 20740

**Committee:** Environment and Transportation  
**Testimony on:** HB1424 - "Public-Private Partnerships – Process and Oversight"  
**Position:** Support  
**Hearing Date:** March 5, 2020

The Maryland Sierra Club strongly supports HB1424, one of our top priority bills this session. The bill would put in place a more detailed, deliberative, and transparent process for evaluating the potential environmental and financial impacts of proposed public-private partnerships (P3) for large transportation projects.

It is quite appropriate that a number of safeguards be added to the existing P3 evaluation process because current law has allowed Governor Hogan to fast track an ill-conceived proposal to add four toll lanes to I-495 and I-270 without meaningful environmental and financial evaluations being completed beforehand.

### **Requiring a Timely Review of the Environmental Impact of Large P3 Transportation Projects**

For every proposed P3 with a total value that exceeds \$500 million, the bill would require the Department of Transportation (DOT) to include a completed environmental impact statement (EIS) that complies with the National Environmental Policy Act in the pre-solicitation report it submits to the Board of Public Works (BPW). Currently, DOT is interpreting the state's P3 law as allowing it to publish the completed EIS at the end of the review process – after both the preferred project alternative and the private construction partner already have been selected by DOT, and when the Board of Public Works (BPW) is being asked by DOT to approve the awarding of the final contract.

An EIS needs to be completed much earlier in the review process than at present because its findings, including whether a project will comply state and federal environmental laws, should be a critical factor in helping the BPW to determine whether to approve creation of a P3 and helping DOT to determine what the preferred alternative should be. No major P3 transportation project should even be considered by the BPW until the impact of each alternative considered is evaluated for its impact on greenhouse gas emissions and human health, as well as the impact on parks, stormwater runoff, and affected bodies of water. The transportation sector is already the largest source of climate-damaging greenhouse gas emissions in Maryland, as well as a major source of toxic emissions that are hazardous to human health.

Numerous studies show that expanding highways to solve congestion does not work because more lanes encourage more people to drive, which leads to more congestion, more sprawl, and more climate and health-damaging air pollution being emitted from the tailpipes of the increasing number of cars on the road. The state already has acknowledged difficulty in meeting the goal it set for itself in the Greenhouse Gas Reduction Act to reduce state greenhouse gas emissions 40% by 2030 (compared to the 2006 level).

The importance of seeing the EIS before a decision is made by BPW to proceed with a P3 project was publicly stated last year in a report from the Department of Legislative Services and in the final amended budget passed by the General Assembly.

In part to ensure that the EIS analysis of the proposed P3 is properly considered, the bill would establish a Public-Private Partnership Oversight Review Board – composed of House and Senate members, the

Founded in 1892, the Sierra Club is America's oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has approximately 800,000 members.

Comptroller, the State Treasurer, and gubernatorial appointees – to review P3 pre-solicitation reports, which will include the EIS, and then make recommendations regarding the designation of a P3 to the BPW and the General Assembly’s budget committees.

### **Improving Financial Oversight**

The bill also would significantly tighten the financial controls over large P3 transportation projects, i.e., those valued at over \$500 million:

- DOT would be required to prepare a separate pre-solicitation report for each contract under a proposed P3. Currently, DOT only prepares one pre-solicitation report to explain and justify why a project should be procured as a P3. After a review and comment period, the BPW then decides whether to approve the P3. Requiring a separate pre-solicitation report to explain and justify each contract would allow much greater insight into how a project is being planned and would work.
- An independent auditor or credit rating agency would examine the credit strength of each potential P3 partner and its private funding source(s), and the impact on state and local government credit ratings, and would recommend a minimum credit rating to be maintained by the partners and their private funding source(s).
- The proposed P3 agreement would need to include financial information regarding each contractor and subcontractor that would provide products or services under the P3 agreement.
- The Public-Private Partnership Oversight Review Board’s review of P3 pre-solicitation reports, and its recommendations regarding the designation of a P3 to the BPW and the General Assembly’s budget committees, would include a review of all the relevant financial information.

---

In summary, this bill would add reasonable and prudent provisions to the process for reviewing large proposed P3 transportation projects to better protect the interests of the state and its taxpayers. Major transportation investments such as those involving P3s need to be consistent with our goals to better serve the needs of all our residents while reducing climate, air and water pollution. We urge a favorable report on HB1424.

Brian E. Ditzler  
Transportation Chair  
Brian.Ditzler@MDSierra.org

Josh Tulkin  
Chapter Director  
Josh.Tulkin@MDSierra.org