

HOUSE BILL 1287

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3lr3119

By: **Delegate Niemann**

Introduced and read first time: February 8, 2013

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnerships – Appeals Jurisdiction and Time Requirements**

3 FOR the purpose of establishing that the Court of Special Appeals has jurisdiction
4 over certain immediate appeals related to certain public-private partnerships;
5 establishing certain time limits related to certain appeals; providing for the
6 application of this Act; and generally relating to appeals related to
7 public-private partnerships.

8 BY adding to

9 Article – Courts and Judicial Proceedings
10 Section 12-310
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2012 Supplement)

13 BY repealing and reenacting, without amendments,

14 Article – State Finance and Procurement
15 Section 10A-101(a)(5)
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2012 Supplement)

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

20 **Article – Courts and Judicial Proceedings**

21 **12-310.**

22 **(A) THE COURT OF SPECIAL APPEALS HAS JURISDICTION TO HEAR AN**
23 **IMMEDIATE APPEAL OF A MOTION TO DISMISS, MOTION FOR SUMMARY**
24 **JUDGMENT THAT DISPOSES OF THE ENTIRE ACTION, OR FINAL ORDER OF A**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **CIRCUIT COURT THAT AFFECTS THE VALIDITY OF A PUBLIC-PRIVATE**
2 **PARTNERSHIP, AS DEFINED UNDER § 10A-101 OF THE STATE FINANCE AND**
3 **PROCUREMENT ARTICLE.**

4 **(B) BRIEFING FOR AN APPEAL UNDER SUBSECTION (A) OF THIS**
5 **SECTION SHALL BE COMPLETED WITHIN 60 DAYS AFTER THE FILING OF THE**
6 **APPEAL.**

7 **(C) THE COURT OF SPECIAL APPEALS SHALL ISSUE A DECISION ON AN**
8 **APPEAL UNDER SUBSECTION (A) OF THIS SECTION WITHIN 90 DAYS AFTER THE**
9 **FILING OF THE APPEAL.**

10 **(D) IF ANY PARTY SEEKS REVIEW OF A DECISION ISSUED BY THE COURT**
11 **OF SPECIAL APPEALS UNDER SUBSECTION (C) OF THIS SECTION BY THE COURT**
12 **OF APPEALS, THE COURT OF APPEALS SHALL:**

13 **(1) ACT EXPEDITIOUSLY TO CONSIDER THE PETITION FOR A WRIT**
14 **OF CERTIORARI; AND**

15 **(2) IF THE WRIT IS GRANTED:**

16 **(I) ESTABLISH AN EXPEDITIOUS BRIEFING SCHEDULE; AND**

17 **(II) ISSUE A DECISION AS EXPEDITIOUSLY AS POSSIBLE.**

18 **Article - State Finance and Procurement**

19 10A-101.

20 **(a) (5) (i) "Public-private partnership" means a sale or lease**
21 **agreement between a unit of State government and a private entity under which:**

22 **1. the private entity assumes control of the operation**
23 **and maintenance of an existing State facility; or**

24 **2. the private entity constructs, reconstructs, finances,**
25 **or operates a State facility or a facility for State use and will collect fees, charges,**
26 **rents, or tolls for the use of the facility.**

27 **(ii) "Public-private partnership" does not include:**

28 **1. a short-term operating space lease entered into in the**
29 **ordinary course of business by a unit of State government and a private entity and**
30 **approved under § 4-321 of this article;**

1 2. a procurement governed by Division II of this article;
2 or

3 3. public-private partnership agreements entered into
4 by the University System of Maryland, where no State funds are used to fund or
5 finance any portion of a capital project.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
7 construed to apply only prospectively and may not be applied or interpreted to have
8 any effect on or application to any motion made or order issued before the effective
9 date of this Act.

10 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 July 1, 2013.