

HOUSE BILL 91

P1, R2

EMERGENCY BILL

9lr1488

By: **Delegates Carr and Korman**

Introduced and read first time: January 17, 2019

Assigned to: Appropriations and Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnerships – Presolicitation Reports – Environmental Impact**
3 **Statement Requirement**

4 FOR the purpose of prohibiting a reporting agency for certain proposed public-private
5 partnerships from submitting a certain presolicitation report before a certain draft
6 environmental impact statement is available; requiring the Department of
7 Transportation and the Maryland Transportation Authority to withdraw a certain
8 presolicitation report; prohibiting the Department and the Authority from
9 resubmitting the presolicitation report until a certain draft environmental impact
10 statement is adopted and an alternative is selected; requiring the resubmitted
11 presolicitation report to contain a certain comparison; making this Act an emergency
12 measure; and generally relating to public-private partnerships.

13 BY repealing and reenacting, with amendments,
14 Article – State Finance and Procurement
15 Section 10A-201(a)
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2018 Supplement)

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-201.

22 (a) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a
23 reporting agency may not issue a public notice of solicitation for a public-private
24 partnership until a presolicitation report concerning the proposed public-private
25 partnership is submitted to the Comptroller, the State Treasurer, the budget committees,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 and the Department of Legislative Services, in accordance with § 2–1246 of the State
2 Government Article.

3 (ii) A reporting agency may not issue a public notice of solicitation
4 for a public–private partnership for a transportation facilities project, as defined in §
5 4–101(h) of the Transportation Article, until a presolicitation report concerning the
6 proposed public–private partnership is submitted to the budget committees and the
7 Department of Legislative Services, in accordance with § 2–1246 of the State Government
8 Article.

9 (2) **IF A PROJECT REQUIRES AN ENVIRONMENTAL IMPACT**
10 **STATEMENT UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT, A REPORTING**
11 **AGENCY MAY NOT SUBMIT THE PRESOLICITATION REPORT REQUIRED UNDER**
12 **PARAGRAPH (1) OF THIS SUBSECTION UNTIL A DRAFT ENVIRONMENTAL IMPACT**
13 **STATEMENT THAT COMPLIES WITH THE NATIONAL ENVIRONMENTAL POLICY ACT**
14 **IS AVAILABLE.**

15 (3) (i) The budget committees may not have more than 45 days to
16 review and comment on the presolicitation report submitted in accordance with paragraph
17 (1) of this subsection.

18 (ii) 1. If the total value of a proposed public–private partnership
19 reported in the presolicitation report under paragraph (b)(1) of this subsection exceeds
20 \$500,000,000, the budget committees may request an additional 15 days to review and
21 comment on the presolicitation report.

22 2. The request for additional time under this subparagraph
23 shall:

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

26 B. include the reason for the request and any preliminary
27 issues the budget committees have.

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) The Department of Transportation and the Maryland Transportation
30 Authority:

31 (1) shall withdraw the presolicitation report for the I–495 and I–270 P3
32 Program submitted on December 11, 2018, to the budget committees, the State Treasurer,
33 the Comptroller, and the Department of Legislative Services for review and comment; and

34 (2) may not resubmit the presolicitation report for the I–495 and I–270 P3
35 Program until:

1 (i) an I-495 and I-270 Managed Lane Study draft environmental
2 impact statement is adopted; and

3 (ii) an alternative is selected during the National Environmental
4 Policy Act process that involves priced managed lanes.

5 (b) If the Department of Transportation and the Maryland Transportation
6 Authority resubmit the presolicitation report for the I-495 and I-270 P3 Program, the
7 report shall include a comparison between the proposed public-private partnership and a
8 procurement by the Maryland Transportation Authority using design-build contracts.

9 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency
10 measure, is necessary for the immediate preservation of the public health or safety, has
11 been passed by a ye and nay vote supported by three-fifths of all the members elected to
12 each of the two Houses of the General Assembly, and shall take effect from the date it is
13 enacted.