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**By: Delegates Flanagan, Fulton, and Jacobs**  
Introduced and read first time: February 16, 1996  
Assigned to: Commerce and Government Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Omnibus Tax Increase Prevention Act of 1996**

3 FOR the purpose of requiring the Secretary of Transportation to develop strategies for  
4 greater use of privatization of existing routes operated by the Mass Transit  
5 Administration (MTA) and to request competitive bids for services performed by  
6 the MTA under certain circumstances; providing that the Secretary shall require a  
7 bid from the MTA; excluding grievances from the definition of "labor dispute";  
8 providing for nonbinding arbitration in labor disputes involving the MTA or the  
9 Washington Metropolitan Area Transit Authority (WMATA); allowing binding  
10 arbitration in grievances involving employees of the MTA or the WMATA;  
11 providing that a certain part of this Act is contingent on concurrence by certain  
12 other jurisdictions; and generally relating to arbitration at the MTA and in the  
13 operation of the WMATA and to increased privatization and competitive bidding  
14 for transportation services performed by MTA.

15 BY repealing and reenacting, with amendments,  
16 Article - Transportation  
17 Section 2-103(h), 7-602, and 10-204 Title III Article XIV Section 66(c)  
18 Annotated Code of Maryland  
19 (1993 Replacement Volume and 1995 Supplement)

20 Preamble

21 WHEREAS, Both taxpayers and the public benefit from public transportation  
22 services that are provided at the lowest possible cost consistent with safety standards and  
23 service quality; and

24 WHEREAS, Decisions on whether a public transportation service should be  
25 operated by a public agency or a private company should be made on economic and  
26 service quality considerations rather than on institutional considerations; and

27 WHEREAS, Private transportation providers have been used under competitive  
28 contracts to provide public transportation services at lower costs and with lower annual  
29 cost increases; now, therefore,

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

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1                   **Article - Transportation**

2 2-103.

3                   (h) (1) Consistent with the State budget, Division II of the State Finance and  
4 Procurement Article, and other applicable provisions of law, the Secretary:

5                                 (I) [may] MAY contract with any person to provide services, supplies,  
6 construction, and maintenance for the Department or for any transportation related  
7 purposes ; AND

8                                 (II) SHALL DEVELOP STRATEGIES FOR GREATER PRIVATIZATION  
9 OF EXISTING ROUTES OPERATED BY THE MASS TRANSIT ADMINISTRATION.

10                                (2) (I) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,  
11 IF THE SECRETARY RECEIVES AN OFFER FROM A PERSON IN THE PRIVATE SECTOR  
12 TO PERFORM ANY SERVICE THAT THE MASS TRANSIT ADMINISTRATION PERFORMS  
13 AT A COST THAT WOULD BE LOWER THAN THE COST AT WHICH THE MASS TRANSIT  
14 ADMINISTRATION PERFORMS THE SERVICE IN A FISCAL YEAR, THE SECRETARY  
15 SHALL REQUEST COMPETITIVE BIDS FOR THE PERFORMANCE OF THAT SERVICE  
16 DURING THE NEXT FISCAL YEAR.

17                                (II) THE MASS TRANSIT ADMINISTRATION SHALL SUBMIT A BID  
18 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

19 7-602.

20                   (a) In this section, "labor dispute" is to be construed broadly and includes any  
21 controversy as to:

22                                 (1) Wages, salaries, hours, or other working conditions;

23                                 (2) Benefits, including health and welfare, sick leave, insurance, pension, or  
24 retirement provisions; OR

25                                 (3) [Grievances that arise; or

26                                 (4)] Collective bargaining agreements, including:

27   (i) The making or maintaining of any collective bargaining agreement;

28   (ii) The terms to be included in it; or

29   (iii) Its interpretation or application.

30                   (b) (1) If, in a labor dispute between the Administration and any employees  
31 described in § 7-601 of this subtitle, collective bargaining does not result in agreement, IF  
32 BOTH PARTIES AGREE, the Administration shall submit the dispute to an arbitration  
33 board.

34                                 (2) IN A GRIEVANCE PROCEEDING INVOLVING THE ADMINISTRATION  
35 AND ANY EMPLOYEES DESCRIBED IN § 7-601 OF THIS SUBTITLE, ON REQUEST OF THE  
36 GRIEVANT, THE ADMINISTRATION SHALL SUBMIT THE MATTER TO AN  
37 ARBITRATION BOARD.

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1 (c) (1) The arbitration board shall consist of three members appointed as follows:

2 (i) One by the Administration;

3 (ii) One by the authorized representative of the employees; and

4 (iii) One jointly by the Administration and the authorized  
5 representative.

6 (2) If, within 10 days after the appointment of the second arbitrator, a third  
7 arbitrator has not been appointed, either arbitrator may request the Federal Mediation  
8 and Conciliation Service or any other entity specified by contract between the  
9 Administration and the authorized representative to furnish a list of five persons, from  
10 which the third arbitrator shall be selected. Promptly after receiving the list, the two  
11 appointed arbitrators shall determine the order of elimination by lot and, in the  
12 determined order, each shall eliminate one name alternately until only one name  
13 remains. The remaining person is the third arbitrator.

14 (3) The third arbitrator is the chairman of the board.

15 (d) (1) [A] IN A MATTER INVOLVING A LABOR DISPUTE, A majority  
16 determination of the board is [final and binding on all disputed matters] ADVISORY  
17 AND IS NOT BINDING ON THE PARTIES.

18 (2) IN A MATTER INVOLVING A GRIEVANCE, A MAJORITY  
19 DETERMINATION OF THE BOARD IS FINAL AND IS BINDING ON THE PARTIES.

20 (e) Each party shall pay 50 percent of the arbitration expenses.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
22 read as follows:

23 **Article - Transportation**

24 10-204.

25 Title III

26 Article XIV

27 66.

28 (c) In case of any labor dispute involving the Authority and such employees where  
29 collective bargaining does not result in agreement, ON AGREEMENT OF THEPARTIES,  
30 the Authority shall submit such dispute to AN arbitration BOARD. ON REQUEST OF A  
31 GRIEVANT IN A GRIEVANCE PROCEDURE INVOLVING THE AUTHORITY AND SUCH  
32 EMPLOYEES, THE AUTHORITY SHALL SUBMIT THE UNRESOLVED MATTER TO AN  
33 ARBITRATION BOARD. THE ARBITRATION [by a] board SHALL BE composed of three  
34 persons, one appointed by the Authority, one appointed by the labor organization  
35 representing the employees, and a third member to be agreed upon by thelabor  
36 organization and the Authority. The member agreed upon by the labor organization and  
37 the Authority shall act as chairman of the board. The determination of the majority of the  
38 board of arbitration, thus established: (1) shall be [final and binding] ADVISORY on all  
39 matters in A LABOR dispute AND SHALL NOT BE BINDING ON THE PARTIES; AND(2)

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1 SHALL BE FINAL IN A GRIEVANCE AND BINDING ON THE PARTIES. If after a period of  
2 ten days from the date of the appointment of the two arbitrators representing the  
3 Authority and the labor organization, the third arbitrator has not been selected, then  
4 either arbitrator may request the Federal Mediation and Conciliation Service to furnish a  
5 list of five persons from which the third arbitrator shall be selected. The arbitrators  
6 appointed by the Authority and the labor organization, promptly after the receipt of such  
7 list shall determine by lot the order of elimination, and thereafter each shall in that order  
8 alternately eliminate one name until only one name remains. The remaining person on  
9 the list shall be the third arbitrator. The term "labor dispute" shall be broadly construed  
10 and shall include any controversy concerning wages, salaries, hours, working conditions,  
11 or benefits including health and welfare, sick leave, insurance or pension or retirement  
12 provisions but not limited thereto, and including any controversy concerning any  
13 differences or questions that may arise between the parties including but not limited to  
14 the making or maintaining of collective bargaining agreements, the terms to be included  
15 in such agreements, and the interpretation or application of such collective bargaining  
16 agreements [and any grievance that may arise] and questions concerning representation.  
17 Each party shall pay one half of the expenses of such arbitration.

18 SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act may  
19 not take effect until a similar Act is passed by the Commonwealth of Virginia and by the  
20 District of Columbia; that the General Assembly of the Commonwealth of Virginia and  
21 the Commissioners of the District of Columbia are requested to concur in this Act of the  
22 General Assembly of Maryland by the passage of a similar Act; that the Department of  
23 Legislative Reference shall notify the appropriate officials of the Commonwealth of  
24 Virginia and of the District of Columbia of the passage of this Act; and that upon the  
25 concurrence in this Act by the Commonwealth of Virginia and the District of Columbia,  
26 the Governor of the State of Maryland shall issue a proclamation declaring this Act valid  
27 and effective and shall forward a copy of the proclamation to the Director of the  
28 Department of Legislative Reference.

29 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of  
30 this Act, this Act shall take effect October 1, 1996.