
By: **Delegate Exum**

Introduced and read first time: March 5, 1998

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Public Transportation - Fiscal Responsibility - Certification by State**
3 **Comptroller**

4 FOR the purpose of prohibiting certain governmental entities from undertaking
5 certain arrangements regarding public transportation unless a certain
6 certification is received from the Comptroller; requiring the State Comptroller
7 to consider certain factors in making a determination on a certification;
8 providing an opportunity for current transportation employees and employee
9 organizations representing employees to negotiate with certain governmental
10 entities at least a certain number of days prior to a certification; defining certain
11 terms; requiring certain governmental entities to submit certain information to
12 the Comptroller in the certification process; requiring the Comptroller to
13 provide certain notice and opportunity for comment after receiving a proposal
14 for certification; requiring the Comptroller to adopt certain regulations; and
15 generally relating to a certification process for certain arrangements relating to
16 public transportation.

17 BY adding to
18 Article - Transportation
19 Section 2-104
20 Annotated Code of Maryland
21 (1993 Replacement Volume and 1997 Supplement)

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

24 **Article - Transportation**

25 2-104.

26 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

28 (2) "ARRANGEMENT" MEANS A CONTRACT, AGREEMENT,
29 AUTHORIZATION, DESIGNATION, OR OTHER APPROVAL BY A PUBLIC BODY TO

1 ESTABLISH OR OPERATE PUBLIC TRANSPORTATION THROUGH THE USE OF BUSES,
2 STREETCARS, TRAINS, OR OTHER VEHICLES.

3 (3) "PUBLIC BODY" INCLUDES:

4 (I) A UNIT OF THE STATE GOVERNMENT; AND

5 (II) A COUNTY, MUNICIPAL CORPORATION, PUBLIC CORPORATION,
6 SPECIAL AUTHORITY, OR OTHER POLITICAL SUBDIVISION OF THE STATE.

7 (B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PUBLIC BODY MAY
8 NOT UNDERTAKE AN ARRANGEMENT TO DIRECT, AUTHORIZE, OR ALLOW ANY
9 CARRIER, WHETHER PUBLIC OR PRIVATE, TO PROVIDE PUBLIC TRANSPORTATION
10 THAT IS SUPPORTED IN WHOLE OR IN PART BY STATE FUNDS UNLESS:

11 (1) THE ARRANGEMENT IS IN EXISTENCE ON OR BEFORE OCTOBER 1,
12 1998; OR

13 (2) THE COMPTROLLER HAS CERTIFIED IN WRITING PRIOR TO THE
14 FINAL APPROVAL OF THE ARRANGEMENT BY THE PUBLIC BODY THAT:

15 (I) 1. THERE ARE NO PUBLIC CARRIERS CURRENTLY
16 PROVIDING THE PROPOSED PUBLIC TRANSPORTATION SERVICE;

17 2. IF A CARRIER IS CURRENTLY PROVIDING THE PROPOSED
18 PUBLIC TRANSPORTATION SERVICE, THE CURRENT SERVICE WILL BE UNAFFECTED
19 BY THE ARRANGEMENT; OR

20 3. IF A PUBLIC CARRIER CURRENTLY PROVIDING ALL OR
21 PART OF THE PROPOSED PUBLIC TRANSPORTATION SERVICE WILL BE AFFECTED BY
22 THE ARRANGEMENT, THE CURRENT SERVICE HAS BEEN GIVEN A REASONABLE
23 OPPORTUNITY TO NEGOTIATE TO ESTABLISH EFFICIENCY MEASURES WHICH
24 WOULD ENABLE THE CURRENT SERVICE TO REMAIN AS IT IS AT A LOWER COST; AND

25 (II) THE ARRANGEMENT PROPOSED OR PROVISIONALLY ADOPTED
26 BY THE PUBLIC BODY IS THE LEAST EXPENSIVE MEANS OF PROVIDING THE SERVICE,
27 WITHOUT SIGNIFICANT DIMINUTION IN QUALITY OF SERVICE IN THE FORESEEABLE
28 FUTURE AND WITHOUT UNDUE DISRUPTION TO PATRONS AND EXISTING MASS
29 TRANSIT EMPLOYEES.

30 (C) (1) FOR PURPOSES OF SUBSECTION (B)(2)(I)3 OF THIS SECTION, A
31 REASONABLE OPPORTUNITY TO NEGOTIATE SHALL INCLUDE NOTICE AT LEAST 60
32 DAYS PRIOR TO THE SUBMISSION OF THE PROPOSED ARRANGEMENT TO THE
33 COMPTROLLER, TO ANY CURRENT EMPLOYEES, AND TO ANY EMPLOYEE
34 ORGANIZATION REPRESENTING CURRENT EMPLOYEES, WHO WOULD BE AFFECTED
35 BY THE PROPOSED ARRANGEMENT.

36 (2) THE NOTICE UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL
37 INCLUDE THE NATURE AND DURATION OF THE PROPOSED ARRANGEMENT, THE
38 NUMBER AND CLASSES OF EMPLOYEES TO BE AFFECTED, AND THE OFFICIAL OF THE

1 PUBLIC BODY TO CONTACT IN ORDER TO PROPOSE OPERATIONAL CHANGES IN LIEU
2 OF THE ARRANGEMENT.

3 (3) UPON REQUEST, THE PUBLIC BODY SHALL PROVIDE ITS
4 CALCULATION OF THE COST OF ANY EXISTING ARRANGEMENT TO PROVIDE THE
5 SERVICE AND AN ITEMIZATION OF THE SAVINGS, IF ANY, THE PUBLIC BODY EXPECTS
6 FROM THE PROPOSED ARRANGEMENT WITHIN 10 DAYS.

7 (4) THE PUBLIC BODY SHALL ASSIST AFFECTED EMPLOYEES OR THE
8 EMPLOYEE ORGANIZATION THAT REPRESENTS THE EMPLOYEES BY PROVIDING
9 INFORMATION AND DATA REQUIRED TO NEGOTIATE PROMPTLY.

10 (D) (1) IN CASES WHERE NO CURRENT PUBLIC EMPLOYEES WILL BE
11 AFFECTED BY THE PROPOSED ARRANGEMENT, THE PUBLIC BODY SHALL SUBMIT TO
12 THE COMPTROLLER A SUMMARY OF THE ARRANGEMENT, ANY AVAILABLE
13 ALTERNATIVE METHODS OF PROVIDING THE TRANSPORTATION SERVICES THAT ARE
14 INCLUDED WITHIN THE PROPOSED ARRANGEMENT, AND A DETAILED STATEMENT
15 EXPLAINING WHY THE PROPOSED ARRANGEMENT IS THE MOST COST-EFFICIENT
16 METHOD OF PROVIDING THE TRANSPORTATION SERVICE WHILE MAINTAINING THE
17 QUALITY AND CONTINUITY OF SERVICE, AND AVOIDING UNNECESSARY
18 DUPLICATION.

19 (2) IN CASES WHERE CURRENT PUBLIC EMPLOYEES WILL BE AFFECTED
20 BY THE ARRANGEMENT, AFTER NEGOTIATIONS WITH THE EMPLOYEES IN
21 ACCORDANCE WITH SUBSECTION (B)(2)(I)3 OF THIS SECTION, THE PUBLIC BODY
22 SHALL SUBMIT TO THE COMPTROLLER ANY INFORMATION THAT THE COMPTROLLER
23 REQUIRES, INCLUDING THE COST OF THE NEW ARRANGEMENT, THE PROPOSALS
24 MADE BY THE AFFECTED EMPLOYEES OR THEIR REPRESENTATIVES, AND THE
25 AMOUNT OF SAVINGS, IF ANY, THAT WOULD HAVE RESULTED FROM THE PROPOSALS
26 BY AFFECTED EMPLOYEES.

27 (3) EVALUATION OF THE COST OF AN ARRANGEMENT SHALL INCLUDE:

28 (I) ANY ACTUAL PAYMENTS TO SERVICE PROVIDERS;

29 (II) ANY PAYMENTS FOR THE PROCUREMENT OF ASSETS THROUGH
30 PURCHASE, LEASE, OR OTHER METHOD;

31 (III) ANY COSTS OF OVERSIGHT OR ADMINISTRATION BY THE
32 PUBLIC BODY;

33 (IV) ANY COSTS OF TRANSITION, INCLUDING DISPOSITION OF
34 EXISTING ASSETS, UNEMPLOYMENT INSURANCE, AND OTHER COSTS OF EMPLOYEE
35 DISPLACEMENT; AND

36 (V) ANY COST IMPACT ON OTHER PUBLIC BODIES WHICH ARE
37 RELATED TO THE ARRANGEMENT.

38 (4) EVALUATIONS OF THE COST OF AN ARRANGEMENT SHALL BE
39 PROVIDED ON A 1-YEAR, 3-YEAR, AND 5-YEAR BASIS.

1 (E) (1) WHEN A PUBLIC BODY APPLIES FOR CERTIFICATION FROM THE
2 COMPTROLLER UNDER THIS SECTION, THE PUBLIC BODY SHALL NOTIFY ANY
3 PERSON THAT HAS NOTIFIED THE PUBLIC BODY OR THE COMPTROLLER OF THE
4 PERSON'S INTEREST IN THE APPLICATION.

5 (2) THE NOTICE TO A PERSON UNDER PARAGRAPH (I) OF THIS
6 SUBSECTION SHALL BE SENT TO THE PERSON BY MAIL TO AN ADDRESS PROVIDED BY
7 THE PERSON.

8 (3) UPON REQUEST, THE PUBLIC BODY SHALL MAKE THE CONTENTS OF
9 THE APPLICATION FOR CERTIFICATION AVAILABLE FOR INSPECTION BY ANY
10 INTERESTED PARTY.

11 (F) (1) THE COMPTROLLER SHALL ALLOW AN OPPORTUNITY FOR
12 INTERESTED PERSONS TO COMMENT ON THE PROPOSED ARRANGEMENT.

13 (2) THE COMPTROLLER SHALL DECIDE ON WHETHER TO CERTIFY THE
14 PROPOSED ARRANGEMENT WITHIN 60 DAYS OF THE REQUEST.

15 (3) A DENIAL OF A REQUEST FOR CERTIFICATION SHALL BE
16 ACCOMPANIED BY A STATEMENT OF REASONS FOR THE DENIAL.

17 (G) THE COMPTROLLER SHALL ADOPT REGULATIONS AS REQUIRED TO
18 IMPLEMENT THE CERTIFICATION PROCESS UNDER THIS SECTION.

19 (H) THE COMPTROLLER SHALL INCLUDE A SUMMARY OF EACH
20 CERTIFICATION IN THE COMPTROLLER'S ANNUAL REPORT.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 1998.