
By: **Delegate G. Clagett**

Introduced and read first time: February 10, 2006

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Transportation Facilities - Public-Private Partnerships**

3 FOR the purpose of requiring the Department of Transportation to adopt certain
4 regulations establishing a public-private partnership program for
5 transportation facilities projects under the jurisdiction of the Maryland
6 Transportation Authority; requiring the regulations adopted by the Department
7 to contain certain provisions; prohibiting the regulations adopted by the
8 Department from containing certain provisions; requiring certain
9 transportation facilities to be consistent with the Consolidated Transportation
10 Program or the Maryland Transportation Plan; stating certain findings of the
11 General Assembly; defining a certain term; and generally relating to
12 public-private partnerships for transportation facilities projects.

13 BY adding to

14 Article - Transportation

15 Section 4-205.1

16 Annotated Code of Maryland

17 (2001 Replacement Volume and 2005 Supplement)

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

20 **Article - Transportation**

21 4-205.1.

22 (A) IN THIS SECTION, "TRANSPORTATION FACILITY" HAS THE MEANING
23 STATED IN § 3-101(L) OF THIS ARTICLE.

24 (B) THE GENERAL ASSEMBLY FINDS THAT:

25 (1) THERE IS A PUBLIC NEED FOR TIMELY ACQUISITION OR
26 CONSTRUCTION OF AND IMPROVEMENTS TO TRANSPORTATION FACILITIES IN THE
27 STATE THAT ARE COMPATIBLE WITH STATE AND LOCAL TRANSPORTATION PLANS;

1 (2) THE PUBLIC NEED MAY NOT BE WHOLLY SATISFIED BY EXISTING
2 METHODS IN WHICH TRANSPORTATION FACILITIES ARE ACQUIRED, CONSTRUCTED,
3 OR IMPROVED;

4 (3) AUTHORIZING PRIVATE ENTITIES TO ACQUIRE, CONSTRUCT,
5 IMPROVE, MAINTAIN, OR OPERATE ONE OR MORE TRANSPORTATION FACILITIES MAY
6 RESULT IN THE AVAILABILITY OF IMPROVED TRANSPORTATION FACILITIES TO THE
7 PUBLIC IN A MORE TIMELY OR LESS COSTLY FASHION, THEREBY SERVING THE
8 PUBLIC SAFETY AND WELFARE; AND

9 (4) THE COMMONWEALTH OF VIRGINIA HAS SUCCESSFULLY
10 EXPERIMENTED WITH SUCH A PUBLIC-PRIVATE PARTNERSHIP PROGRAM TO
11 ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, AND OPERATE TRANSPORTATION
12 FACILITIES AND THAT PROGRAM MAY SERVE AS AN APPROPRIATE MODEL FOR A
13 SIMILAR PROGRAM IN MARYLAND.

14 (C) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS ESTABLISHING A
15 PUBLIC-PRIVATE PARTNERSHIP PROGRAM FOR TRANSPORTATION FACILITIES
16 PROJECTS UNDER THE AUTHORITY'S JURISDICTION.

17 (2) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL:

18 (I) AUTHORIZE A PRIVATE ENTITY TO ENTER INTO AN AGREEMENT
19 WITH THE AUTHORITY TO:

20 1. ACQUIRE, CONSTRUCT, OR IMPROVE TRANSPORTATION
21 FACILITIES; AND

22 2. MAINTAIN AND OPERATE NEWLY CONSTRUCTED,
23 EXPANDED, OR PURCHASED TRANSPORTATION FACILITIES;

24 (II) TO THE EXTENT FEASIBLE, BE CONSISTENT WITH THE
25 POLICIES AND REQUIREMENTS ENACTED BY THE COMMONWEALTH OF VIRGINIA
26 UNDER THE PUBLIC-PRIVATE TRANSPORTATION ACT OF 1995, VA. CODE ANN. § 56-566,
27 ET SEQ., AS AMENDED;

28 (III) PROHIBIT A PRIVATE ENTITY FROM IMPOSING TOLLS OR USER
29 FEES ON AN EXISTING INTERSTATE HIGHWAY OR A FREE HIGHWAY, BRIDGE,
30 TUNNEL, OR OVERPASS, UNLESS THE HIGHWAY, BRIDGE, TUNNEL, OR OVERPASS IS
31 RECONSTRUCTED TO PROVIDE FOR INCREASED CAPACITY;

32 (IV) PROVIDE FOR PAYMENT OF THE PREVAILING WAGE RATE
33 UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND PROCUREMENT ARTICLE;

34 (V) PROHIBIT THE SUBMISSION OF AN UNSOLICITED PROPOSAL
35 CONCERNING A HIGHWAY FACILITY THAT IS NOT PART OF A PROPOSED PROJECT IN
36 THE CONSOLIDATED TRANSPORTATION PLAN;

1 (VI) ESTABLISH PROCEDURES FOR THE SUBMISSION, EVALUATION,
2 AND APPROVAL OF SOLICITED AND UNSOLICITED PROPOSALS TO ENTER INTO
3 AGREEMENTS UNDER THIS SECTION; AND

4 (VII) COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL
5 LAWS AND REGULATIONS.

6 (D) A TRANSPORTATION FACILITY THAT IS THE SUBJECT OF A PARTNERSHIP
7 AGREEMENT UNDER THIS SECTION, INCLUDING ANY INTERCONNECTION WITH
8 EXISTING TRANSPORTATION FACILITIES AND OPERATIONS OF THE PROPOSED
9 TRANSPORTATION FACILITY, SHALL BE CONSISTENT WITH, AND EVENTUALLY
10 INCORPORATED INTO, THE DEPARTMENT'S CONSOLIDATED TRANSPORTATION
11 PROGRAM OR THE MARYLAND TRANSPORTATION PLAN, AS APPLICABLE.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2006.