
By: **Delegates Howard, Hixson, Bozman, C. Davis, Gordon, Healey, Howard, Marriott, and Patterson**

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Committee Report: Favorable with amendments

House action: Adopted

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CHAPTER _____

1 AN ACT concerning

2 **Maryland Transportation Authority --~~Transportation Facilities Projects--~~**
 3 **Acquisition and Department of Transportation - Financing and Public**
 4 **Private Partnerships**

5 FOR the purpose of ~~prohibiting the Maryland Transportation Authority from entering~~
 6 ~~into an agreement authorizing a private entity to acquire and operate a~~
 7 ~~transportation facilities project without certain approval from the General~~
 8 ~~Assembly; defining a certain term; and generally relating to the acquisition and~~
 9 ~~operation of transportation facilities projects~~ requiring that the Maryland
 10 Transportation Authority provide certain notice to certain committees of the
 11 General Assembly and a certain Department prior to issuing a public notice of
 12 procurement related to certain public-private partnership arrangements;
 13 requiring the notice to include certain information; providing that a certain
 14 repayment plan for certain funds transferred from the Transportation Trust
 15 Fund to the General Fund shall be satisfied by the transfer of certain funds; and
 16 generally relating to financing of the Department of Transportation and the
 17 Maryland Transportation Authority and notice relating to certain public-private
 18 partnership arrangements.

19 BY repealing and reenacting, without amendments,
 20 Article - Transportation
 21 Section ~~4-101(a) and (i)~~ 4-205(b)
 22 Annotated Code of Maryland
 23 (2001 Replacement Volume and 2005 Supplement)

24 BY repealing and reenacting, with amendments,

1 Article - Transportation
 2 Section ~~4-306~~ 4-205(c)
 3 Annotated Code of Maryland
 4 (2001 Replacement Volume and 2005 Supplement)

5 Preamble

6 WHEREAS, There is a public need for timely acquisition or construction of and
 7 improvements to transportation facilities in the State that are compatible with State
 8 and local transportation plans; and

9 WHEREAS, The public need may not be wholly satisfied by existing methods in
 10 which transportation facilities are acquired, constructed, or improved; and

11 WHEREAS, Authorizing private entities to acquire and operate one or more
 12 transportation facilities may result in the availability of improved transportation
 13 facilities to the public in a more timely or less costly fashion, thereby serving the
 14 public safety and welfare; and

15 WHEREAS, It is necessary and proper for the General Assembly to review ~~and~~
 16 ~~approve~~ the privatization of major transportation facilities projects under the
 17 jurisdiction of the Maryland Transportation Authority; now, therefore,

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 ~~4-101.~~

22 (a) ~~In this title the following words have the meanings indicated.~~

23 (i) ~~"Transportation facilities project" includes:~~

24 (1) ~~The Susquehanna River Bridge, the Harry W. Nice Memorial~~
 25 ~~Potomac River Bridge, the William Preston Lane, Jr. Memorial Chesapeake Bay~~
 26 ~~Bridge and parallel Chesapeake Bay Bridge, the Baltimore Harbor Tunnel, the Fort~~
 27 ~~McHenry Tunnel, the Francis Scott Key Bridge, and the John F. Kennedy Memorial~~
 28 ~~Highway, together with their appurtenant causeways, approaches, interchanges,~~
 29 ~~entrance plazas, toll stations, and service facilities;~~

30 (2) ~~A vehicle parking facility located in a priority funding area as defined~~
 31 ~~in § 5-7B-02 of the State Finance and Procurement Article;~~

32 (3) ~~Any other project for transportation facilities that the Authority~~
 33 ~~authorizes to be acquired or constructed; and~~

34 (4) ~~Any additions, improvements, or enlargements to any of these~~
 35 ~~projects, whenever authorized.~~

1 4-306.

2 (a) Except as provided in subsection (b) of this section, revenue bonds may be
3 issued by the Authority:

4 (1) Without obtaining the consent of any instrumentality, agency, or unit
5 of this State; and

6 (2) Without any proceedings or the happening of any conditions or things
7 other than those specifically required by this subtitle.

8 (b) (1) Revenue bonds secured by toll revenue may be issued in any amount
9 as long as the aggregate outstanding and unpaid principal balance of the revenue
10 bonds secured by toll revenue and revenue bonds of prior issues does not exceed
11 \$1,900,000,000 on June 30 of any year.

12 (2) Except as otherwise provided in this section and § 4-205 of this title,
13 without the approval of the General Assembly, the Authority may issue bonds to
14 refinance all or any part of the cost of a transportation facility project for which the
15 Authority previously issued bonds authorized under this subtitle.

16 (C) (1) ~~IN THIS SUBSECTION, "ACQUIRE" MEANS THE PURCHASE, LEASE,~~
17 ~~GRANT, OR OTHER TRANSFER OF A PROPERTY INTEREST.~~

18 (2) ~~THE AUTHORITY MAY NOT ENTER INTO AN AGREEMENT THAT~~
19 ~~AUTHORIZES A PRIVATE ENTITY TO ACQUIRE AND OPERATE A TRANSPORTATION~~
20 ~~FACILITIES PROJECT UNTIL THE GENERAL ASSEMBLY HAS APPROVED, THROUGH~~
21 ~~LEGISLATION, THE PRIVATE ACQUISITION AND OPERATION OF THE~~
22 ~~TRANSPORTATION FACILITIES PROJECT.~~

23 4-205.

24 (b) The Authority may acquire, hold, and dispose of property in the exercise of
25 its powers and performance of its duties.

26 (c) (1) Subject to the limitations described in [paragraph (2)] PARAGRAPHS
27 (2) AND (3) of this subsection, the Authority may make any contracts and agreements
28 necessary or incidental to the exercise of its powers and performance of its duties.

29 (2) Not less than 45 days before entering into any contract or agreement
30 to acquire or construct a revenue-producing transportation facilities project, subject
31 to § 2-1246 of the State Government Article, the Authority shall provide, to the
32 Senate Budget and Taxation Committee, the House Committee on Ways and Means,
33 and the House Appropriations Committee, for review and comment, and to the
34 Department of Legislative Services, a description of the proposed project, a summary
35 of the contract or agreement, and a financing plan that details:

36 (i) The estimated annual revenue from the issuance of bonds to
37 finance the project; and

1 (ii) The estimated impact of the issuance of bonds to finance the
 2 project on the bonding capacity of the Authority.

3 (3) (I) IN THIS PARAGRAPH, "PUBLIC NOTICE OF PROCUREMENT"
 4 INCLUDES A REQUEST FOR QUALIFICATIONS OR REQUEST FOR PROPOSALS ISSUED
 5 BY THE AUTHORITY.

6 (II) NOT LESS THAN 45 DAYS BEFORE ISSUING A PUBLIC NOTICE OF
 7 PROCUREMENT RELATED TO A PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENT TO
 8 LEASE AN EXISTING OR FUTURE REVENUE-PRODUCING HIGHWAY, BRIDGE, OR
 9 TUNNEL, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE
 10 AUTHORITY SHALL PROVIDE, TO THE SENATE BUDGET AND TAXATION COMMITTEE,
 11 THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE HOUSE APPROPRIATIONS
 12 COMMITTEE, FOR REVIEW AND COMMENT, AND TO THE DEPARTMENT OF
 13 LEGISLATIVE SERVICES, A DESCRIPTION OF THE PROPOSED LEASE AND A SUMMARY
 14 OF THE PROPOSED PARTNERSHIP ARRANGEMENT, INCLUDING:

15 1. THE ESTIMATED LENGTH OF THE PROPOSED LEASE;

16 2. THE SCOPE OF ANY TOLL SETTING AUTHORITY TO BE
 17 GRANTED TO THE PRIVATE ENTITY;

18 3. THE ESTIMATED SCOPE OF PAYMENTS TO THE
 19 AUTHORITY FROM THE PARTNERSHIP ARRANGEMENT; AND

20 4. A COST-BENEFIT ANALYSIS OF THE PROPOSED
 21 PARTNERSHIP ARRANGEMENT.

22 SECTION 2. AND BE IT FURTHER ENACTED, That the requirements, under
 23 Section 17 of Chapter 203 of the Acts of 2003, that the Governor shall have a plan for
 24 repayment of the \$314,913,000 in funds transferred from the Transportation Trust
 25 Fund to the General Fund, are satisfied through the combination of: (1) Section 4-321
 26 of the Transportation Article, which requires transfers of \$264,913,000 from the
 27 General Fund to the Maryland Transportation Authority between fiscal years 2007
 28 and 2010 for the Intercounty Connector; and (2) \$50,000,000 in General Funds
 29 appropriated in Chapter 443 of the Acts of 2005 (the Fiscal Year 2006 Budget Bill) to
 30 program Y01A02.01 State Reserve Fund Dedicated Purpose Account, to be
 31 transferred to the Transportation Trust Fund.

32 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take
 33 effect October 1, 2006.

