

HOUSE BILL 227

R1
HB 1555/06 – W&M

71r0402

By: **Delegates Hixson, Barve, Doory, Elmore, Gilchrist, Howard, Ivey, Kaiser,
N. King, Olszewski, Rice, Stukes, and Walker**

Introduced and read first time: January 29, 2007

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Transportation Authority – Public–Private Partnerships**

3 FOR the purpose of requiring that the Maryland Transportation Authority provide
4 certain notice and information to certain committees of the General Assembly
5 and the Department of Legislative Services prior to issuing a public notice of
6 procurement related to certain public–private partnership arrangements or
7 entering into certain public–private partnership arrangements; prohibiting the
8 Authority from entering into certain public–private partnership arrangements
9 in which the total amount of certain payments exceeds a certain amount
10 without certain approval from the General Assembly; defining certain terms;
11 and generally relating to the Maryland Transportation Authority and certain
12 public–private partnership arrangements.

13 BY repealing and reenacting, with amendments,
14 Article – Transportation
15 Section 4–205(c)
16 Annotated Code of Maryland
17 (2001 Replacement Volume and 2006 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.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

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

16 **(3) (I) 1. IN THIS PARAGRAPH THE FOLLOWING WORDS**
 17 **HAVE THE MEANINGS INDICATED.**

18 **2. "PUBLIC NOTICE OF PROCUREMENT" INCLUDES A**
 19 **REQUEST FOR PROPOSALS ISSUED BY THE AUTHORITY.**

20 **3. "PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENT"**
 21 **MEANS A LEASE AGREEMENT BETWEEN THE AUTHORITY AND A PRIVATE ENTITY**
 22 **UNDER WHICH THE PRIVATE ENTITY ASSUMES CONTROL OF THE OPERATION**
 23 **AND MAINTENANCE OF AN EXISTING OR FUTURE**
 24 **REVENUE-PRODUCING HIGHWAY, BRIDGE, TUNNEL, OR TRANSIT FACILITY.**

25 **(II) NOT LESS THAN 45 DAYS BEFORE ISSUING A PUBLIC**
 26 **NOTICE OF PROCUREMENT RELATED TO A PUBLIC-PRIVATE PARTNERSHIP**
 27 **ARRANGEMENT, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE,**
 28 **THE AUTHORITY SHALL PROVIDE, TO THE SENATE BUDGET AND TAXATION**
 29 **COMMITTEE, THE HOUSE COMMITTEE ON WAYS AND MEANS, AND THE HOUSE**
 30 **APPROPRIATIONS COMMITTEE, FOR REVIEW AND COMMENT, AND TO THE**
 31 **DEPARTMENT OF LEGISLATIVE SERVICES, A DESCRIPTION OF THE PROPOSED**
 32 **LEASE AGREEMENT AND A SUMMARY OF THE PROPOSED PROCUREMENT**

1 DOCUMENT TO BE USED FOR SOLICITATION OF THE PUBLIC-PRIVATE
2 PARTNERSHIP ARRANGEMENT.

3 (III) NOT LESS THAN 45 DAYS BEFORE ENTERING INTO ANY
4 PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENT, SUBJECT TO § 2-1246 OF THE
5 STATE GOVERNMENT ARTICLE, THE AUTHORITY SHALL PROVIDE, TO THE
6 SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE COMMITTEE ON
7 WAYS AND MEANS, AND THE HOUSE APPROPRIATIONS COMMITTEE, FOR
8 REVIEW AND COMMENT, AND TO THE DEPARTMENT OF LEGISLATIVE SERVICES,
9 A DESCRIPTION OF THE PROPOSED LEASE AGREEMENT AND A FINANCING PLAN,
10 INCLUDING:

- 11 1. THE LENGTH OF THE PROPOSED LEASE;
- 12 2. THE SCOPE OF ANY TOLL-SETTING AUTHORITY TO
13 BE GRANTED TO THE PRIVATE ENTITY;
- 14 3. THE SCOPE OF PAYMENTS TO THE AUTHORITY
15 FROM THE PROPOSED PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENT;
- 16 4. A COST-BENEFIT ANALYSIS OF THE PROPOSED
17 PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENT; AND
- 18 5. REQUIREMENTS PERTAINING TO THE ONGOING
19 OPERATION AND MAINTENANCE OF THE FACILITY AND CONTRACT OVERSIGHT.

20 (IV) THE AUTHORITY MAY NOT ENTER INTO A
21 PUBLIC-PRIVATE PARTNERSHIP ARRANGEMENT IN WHICH THE TOTAL AMOUNT
22 PAID TO THE AUTHORITY BY THE PRIVATE ENTITY OVER THE LIFETIME OF THE
23 AGREEMENT EXCEEDS \$150,000,000 UNTIL THE GENERAL ASSEMBLY HAS
24 APPROVED, THROUGH LEGISLATION, THE PUBLIC-PRIVATE PARTNERSHIP
25 ARRANGEMENT.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
27 October 1, 2007.