

HOUSE BILL 662

R2

71r0566

By: **Delegates G. Clagett, Barkley, DeBoy, Gaines, Hecht, James, Krebs, Levy, Sossi, Stull, and Weldon**

Introduced and read first time: February 8, 2007

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 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 **4-205.1.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) IN THIS SECTION, “TRANSPORTATION FACILITY” HAS THE MEANING**
2 **STATED IN § 3-101(L) OF THIS ARTICLE.**

3 **(B) THE GENERAL ASSEMBLY FINDS THAT:**

4 **(1) THERE IS A PUBLIC NEED FOR TIMELY ACQUISITION OR**
5 **CONSTRUCTION OF AND IMPROVEMENTS TO TRANSPORTATION FACILITIES IN**
6 **THE STATE THAT ARE COMPATIBLE WITH STATE AND LOCAL TRANSPORTATION**
7 **PLANS;**

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

11 **(3) AUTHORIZING PRIVATE ENTITIES TO ACQUIRE, CONSTRUCT,**
12 **OR IMPROVE ONE OR MORE TRANSPORTATION FACILITIES MAY RESULT IN THE**
13 **AVAILABILITY OF IMPROVED TRANSPORTATION FACILITIES TO THE PUBLIC IN A**
14 **MORE TIMELY OR LESS COSTLY FASHION, THEREBY SERVING THE PUBLIC**
15 **SAFETY AND WELFARE; AND**

16 **(4) THE COMMONWEALTH OF VIRGINIA HAS SUCCESSFULLY**
17 **EXPERIMENTED WITH SUCH A PUBLIC-PRIVATE PARTNERSHIP PROGRAM TO**
18 **ACQUIRE, CONSTRUCT, IMPROVE, MAINTAIN, AND OPERATE TRANSPORTATION**
19 **FACILITIES AND THAT PROGRAM MAY SERVE AS AN APPROPRIATE MODEL FOR A**
20 **SIMILAR PROGRAM IN MARYLAND.**

21 **(C) (1) THE DEPARTMENT SHALL ADOPT REGULATIONS**
22 **ESTABLISHING A PUBLIC-PRIVATE PARTNERSHIP PROGRAM FOR**
23 **TRANSPORTATION FACILITIES PROJECTS UNDER THE AUTHORITY’S**
24 **JURISDICTION.**

25 **(2) THE REGULATIONS ADOPTED UNDER THIS SECTION SHALL:**

26 **(I) AUTHORIZE A PRIVATE ENTITY TO ENTER INTO AN**
27 **AGREEMENT WITH THE AUTHORITY TO ACQUIRE, CONSTRUCT, OR IMPROVE**
28 **TRANSPORTATION FACILITIES;**

1 **(II) PROVIDE FOR THE AUTHORITY TO MAINTAIN AND**
2 **OPERATE NEWLY CONSTRUCTED, EXPANDED, OR PURCHASED TRANSPORTATION**
3 **FACILITIES;**

4 **(III) TO THE EXTENT FEASIBLE, BE CONSISTENT WITH THE**
5 **POLICIES AND REQUIREMENTS ENACTED BY THE COMMONWEALTH OF VIRGINIA**
6 **UNDER THE PUBLIC-PRIVATE TRANSPORTATION ACT OF 1995, VA. CODE ANN.**
7 **§ 56-566, ET SEQ., AS AMENDED;**

8 **(IV) PROHIBIT A PRIVATE ENTITY FROM IMPOSING TOLLS**
9 **OR USER FEES ON AN EXISTING INTERSTATE HIGHWAY OR A FREE HIGHWAY,**
10 **BRIDGE, TUNNEL, OR OVERPASS, UNLESS THE HIGHWAY, BRIDGE, TUNNEL, OR**
11 **OVERPASS IS RECONSTRUCTED TO PROVIDE FOR INCREASED CAPACITY;**

12 **(V) PROVIDE FOR PAYMENT OF THE PREVAILING WAGE**
13 **RATE UNDER TITLE 17, SUBTITLE 2 OF THE STATE FINANCE AND**
14 **PROCUREMENT ARTICLE;**

15 **(VI) PROHIBIT THE SUBMISSION OF AN UNSOLICITED**
16 **PROPOSAL CONCERNING A HIGHWAY FACILITY THAT IS NOT PART OF A**
17 **PROPOSED PROJECT IN THE CONSOLIDATED TRANSPORTATION PROGRAM;**

18 **(VII) ESTABLISH PROCEDURES FOR THE SUBMISSION,**
19 **EVALUATION, AND APPROVAL OF SOLICITED AND UNSOLICITED PROPOSALS TO**
20 **ENTER INTO AGREEMENTS UNDER THIS SECTION; AND**

21 **(VIII) COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND**
22 **LOCAL LAWS AND REGULATIONS.**

23 **(D) A TRANSPORTATION FACILITY THAT IS THE SUBJECT OF A**
24 **PARTNERSHIP AGREEMENT UNDER THIS SECTION, INCLUDING ANY**
25 **INTERCONNECTION WITH EXISTING TRANSPORTATION FACILITIES AND**
26 **OPERATIONS OF THE PROPOSED TRANSPORTATION FACILITY, SHALL BE**
27 **CONSISTENT WITH, AND EVENTUALLY INCORPORATED INTO, THE**
28 **DEPARTMENT'S CONSOLIDATED TRANSPORTATION PROGRAM OR THE**
29 **MARYLAND TRANSPORTATION PLAN, AS APPLICABLE.**

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