

Chapter 830

(House Bill 816)

AN ACT concerning

**Public–Private Partnership Agreements – Compensation Provisions and
Noncompete Clauses – Alterations**

FOR the purpose of prohibiting a public–private partnership agreement from including certain provisions regarding compensation for certain entities under certain circumstances; prohibiting a public–private partnership agreement for certain projects from including a certain noncompete clause; and generally relating to altering certain requirements regarding compensation provisions and noncompete clauses in public–private partnership agreements.

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 10A–401(b) and (c)
Annotated Code of Maryland
(2015 Replacement Volume and 2017 Supplement)

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

Article – State Finance and Procurement

10A–401.

(b) (1) A public–private partnership agreement may include a provision that, except as provided in paragraph (2) of this subsection, compensation may be provided for competing infrastructure developments that directly result in a documented revenue loss for the private entity in a public–private partnership.

(2) Compensation may not be provided as a result of State infrastructure developments already in the State’s Capital Improvement Program or Consolidated Transportation Program planning documents at the time the public–private partnership agreement is executed, safety initiatives, **TRANSIT PROJECTS**, infrastructure improvements with minimal capacity increases, or infrastructure **OR TRANSIT SERVICE IMPROVEMENTS** for other transportation modes that are not the ~~PRIMARY~~ subject of the public–private partnership.

(c) A public–private partnership agreement **FOR A PROJECT INVOLVING ROAD, HIGHWAY, OR BRIDGE ASSETS** may not include a noncompete clause [for public–private partnership projects involving road, highway, or bridge assets] **THAT WOULD INHIBIT THE**

PLANNING, CONSTRUCTION, OR IMPLEMENTATION OF ~~OTHER TRANSPORTATION FACILITIES OR SERVICES, INCLUDING~~ STATE-FUNDED TRANSIT PROJECTS.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2018.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 26, 2018.