

# HOUSE BILL 695

P1, R2

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CF SB 788

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By: **Delegates Stewart, Bridges, Acevero, Atterbeary, Bagnall, B. Barnes, Barron, Boyce, Cain, Carr, Chang, Charkoudian, Crutchfield, Cullison, D.M. Davis, Dumais, Feldmark, W. Fisher, Guyton, Haynes, Healey, Hettleman, Hill, Ivey, Jalisi, Jones, Kelly, Kerr, Korman, Lafferty, Lehman, J. Lewis, R. Lewis, Lierman, Lisanti, Lopez, Love, Luedtke, McIntosh, Moon, Mosby, Palakovich Carr, Pena–Melnyk, Qi, Queen, Reznik, Rosenberg, Shetty, Smith, Solomon, Stein, Terrasa, C. Watson, Wilkins, and P. Young**

Introduced and read first time: February 7, 2019

Assigned to: Environment and Transportation and Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Transportation Climate Accountability Act of 2019**

3 FOR the purpose of requiring the Department of the Environment, in conjunction with a  
4 reporting agency, to conduct a comprehensive study regarding the environmental  
5 impact of certain public–private partnership projects under certain circumstances;  
6 prohibiting a reporting agency for certain proposed public–private partnerships from  
7 submitting a certain presolicitation report before the submission of the study;  
8 requiring that the study inventory and estimate certain environmental impacts at  
9 certain intervals; specifying certain items that the Department must consider in  
10 conducting the study; requiring the study to make certain recommendations under  
11 certain circumstances and be submitted in a certain manner; authorizing the  
12 Department to summarize certain other studies in lieu of certain study requirements  
13 under certain circumstances; specifying that the Department shall be reimbursed for  
14 the study by a private entity; requiring a public–private partnership agreement to  
15 include a certain provision regarding reimbursement for the study; providing that  
16 certain provisions of this Act apply to a certain public–private project whose  
17 presolicitation report was submitted before a certain date; specifying certain details  
18 regarding the submission of a certain study; and generally relating to requiring an  
19 environmental impact study of public–private partnership projects.

20 BY repealing and reenacting, with amendments,  
21 Article – State Finance and Procurement  
22 Section 10A–201(a) and 10A–401(a)(11) and (12)  
23 Annotated Code of Maryland  
24 (2015 Replacement Volume and 2018 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to  
 2 Article – State Finance and Procurement  
 3 Section 10A–201.1 and 10A–401(a)(13)  
 4 Annotated Code of Maryland  
 5 (2015 Replacement Volume and 2018 Supplement)

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

8 **Article – State Finance and Procurement**

9 10A–201.

10 (a) (1) (i) Except as provided in subparagraph (ii) of this paragraph, a  
 11 reporting agency may not issue a public notice of solicitation for a public–private  
 12 partnership until a presolicitation report concerning the proposed public–private  
 13 partnership is submitted to the Comptroller, the State Treasurer, the budget committees,  
 14 and the Department of Legislative Services, in accordance with § 2–1246 of the State  
 15 Government Article.

16 (ii) A reporting agency may not issue a public notice of solicitation  
 17 for a public–private partnership for a transportation facilities project, as defined in §  
 18 4–101(h) of the Transportation Article, until a presolicitation report concerning the  
 19 proposed public–private partnership is submitted to the budget committees and the  
 20 Department of Legislative Services, in accordance with § 2–1246 of the State Government  
 21 Article.

22 (2) **IF A PROJECT REQUIRES AN ENVIRONMENTAL IMPACT**  
 23 **STATEMENT UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT, THE**  
 24 **REPORTING AGENCY MAY NOT SUBMIT THE PRESOLICITATION REPORT REQUIRED**  
 25 **UNDER PARAGRAPH (1) OF THIS SUBSECTION UNTIL THE STUDY REQUIRED UNDER**  
 26 **§ 10A–201.1 OF THIS SUBTITLE IS SUBMITTED.**

27 (3) (i) The budget committees may not have more than 45 days to  
 28 review and comment on the presolicitation report submitted in accordance with paragraph  
 29 (1) of this subsection.

30 (ii) 1. If the total value of a proposed public–private partnership  
 31 reported in the presolicitation report under paragraph (b)(1) of this subsection exceeds  
 32 \$500,000,000, the budget committees may request an additional 15 days to review and  
 33 comment on the presolicitation report.

34 2. The request for additional time under this subparagraph  
 35 shall:

1           A.     be made in writing to the Governor, the Department of  
2 Budget and Management, and the reporting agency; and

3           B.     include the reason for the request and any preliminary  
4 issues the budget committees have.

5 **10A-201.1.**

6           **(A) (1) THE DEPARTMENT OF THE ENVIRONMENT, IN CONJUNCTION**  
7 **WITH THE REPORTING AGENCY, SHALL CONDUCT A COMPREHENSIVE STUDY**  
8 **REGARDING THE ENVIRONMENTAL IMPACT OF EACH PUBLIC-PRIVATE**  
9 **PARTNERSHIP PROJECT.**

10           **(2) THE STUDY REQUIRED UNDER THIS SUBSECTION SHALL**  
11 **INVENTORY AND ESTIMATE THE PROJECT'S IMPACT ON AIR AND WATER POLLUTION**  
12 **DURING THE PROJECT'S CONSTRUCTION PHASE AND AT 3, 6, AND 9 YEARS AFTER**  
13 **THE PROJECT'S COMPLETION.**

14           **(B) IN CONDUCTING A STUDY UNDER THIS SECTION, THE DEPARTMENT OF**  
15 **THE ENVIRONMENT SHALL:**

16           **(1) ANALYZE THE PROJECT'S IMPACT ON THE STATE'S ABILITY TO**  
17 **COMPLY WITH THE GOALS, POLICIES, AND REQUIREMENTS SPECIFIED IN:**

18                   **(I) THE GREENHOUSE GAS EMISSIONS REDUCTION ACT;**

19                   **(II) THE MARYLAND HEALTHY AIR ACT; AND**

20                   **(III) THE FEDERAL CLEAN WATER ACT;**

21           **(2) CONSIDER THE POTENTIAL:**

22                   **(I) IMPACT OF ELECTRIC VEHICLES AND AUTONOMOUS**  
23 **VEHICLES ON PROJECTED AIR EMISSIONS;**

24                   **(II) COSTS AND BENEFITS OF INCLUDING ELECTRIC VEHICLE**  
25 **INFRASTRUCTURE IN THE PROJECT TO MITIGATE POLLUTION; AND**

26                   **(III) ENVIRONMENTAL IMPACT ON LOW-INCOME COMMUNITIES**  
27 **AND STATE-IDENTIFIED ENVIRONMENTAL JUSTICE COMMUNITIES WITH EXISTING**  
28 **ENVIRONMENTAL ISSUES; AND**

29           **(3) REVIEW THE POTENTIAL INCREASE IN GREENHOUSE GAS**  
30 **EMISSIONS, AIR POLLUTION, AND CHESAPEAKE BAY DEGRADATION AS A RESULT OF:**

1 (I) ROAD CONSTRUCTION AND MAINTENANCE;

2 (II) THE NET CONGESTION EFFECT OF THE PROJECT;

3 (III) THE ADDITIONAL TRAFFIC GENERATED DIRECTLY BY THE  
4 PROJECT; AND

5 (IV) THE ADDITIONAL TRAFFIC ADDED TO ARTERIAL ROADS  
6 ALONG THE PROJECT CORRIDOR.

7 (C) IF A STUDY UNDER THIS SECTION CONCLUDES THAT A PROJECT  
8 NEGATIVELY IMPACTS ANY OF THE GOALS, POLICIES, OR REQUIREMENTS  
9 IDENTIFIED UNDER SUBSECTION (B)(1) OF THIS SECTION, THE STUDY SHALL  
10 RECOMMEND:

11 (1) ALTERATIONS OR ALTERNATIVES TO THE PROJECT; OR

12 (2) FUNDING SOURCES TO OFFSET THE PROJECT'S NEGATIVE  
13 IMPACTS.

14 (E) IF ANY OF A STUDY'S REQUIREMENTS UNDER THIS SECTION DUPLICATE  
15 A REQUIREMENT OF A STUDY CONDUCTED IN ACCORDANCE WITH THE NATIONAL  
16 ENVIRONMENTAL POLICY ACT OR ANY OTHER PROVISION OF LAW, THE  
17 DEPARTMENT OF THE ENVIRONMENT MAY SUMMARIZE, IN LIEU OF THE  
18 DUPLICATIVE REQUIREMENT, THE FINDINGS OF THOSE STUDIES IN ITS STUDY.

19 (F) THE PRIVATE ENTITY SHALL REIMBURSE THE STATE FOR THE COST OF  
20 A STUDY IN ACCORDANCE WITH THE PROVISION IN THE PUBLIC-PRIVATE  
21 PARTNERSHIP AGREEMENT REQUIRED UNDER § 10A-401(A)(13) OF THIS TITLE.

22 (G) THE STUDY SHALL BE:

23 (1) SUBMITTED TO THE COMPTROLLER, THE STATE TREASURER, THE  
24 MARYLAND CLIMATE COMMISSION, THE DEPARTMENT OF LEGISLATIVE SERVICES,  
25 AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE  
26 HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE AND THE SENATE  
27 EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS COMMITTEE; AND

28 (2) POSTED TO A PUBLICLY ACCESSIBLE WEBPAGE ON THE  
29 DEPARTMENT OF THE ENVIRONMENT'S WEBSITE AND THE REPORTING AGENCY'S  
30 WEBSITE.

1 10A-401.

2 (a) Whenever applicable, a public-private partnership agreement shall include  
3 the following provisions:

4 (11) the terms and conditions under which the public infrastructure assets  
5 shall be returned to the State at the expiration or termination of the agreement; [and]

6 (12) requirements for the private entity to provide performance security and  
7 payment security in a form and in an amount determined by the responsible public entity,  
8 except that:

9 (i) requirements for the payment security for construction contracts  
10 shall be in accordance with Title 17, Subtitle 1 of this article; and

11 (ii) requirements for the amount of the payment security and any  
12 performance security in the form of a performance bond for a construction contract shall be  
13 based on the value of the respective construction elements of the public-private partnership  
14 agreement and not on the total value of the public-private partnership agreement; AND

15 **(13) A REQUIREMENT THAT THE PRIVATE ENTITY REIMBURSE THE**  
16 **STATE FOR THE COSTS ASSOCIATED WITH THE STUDY REQUIRED UNDER §**  
17 **10A-201.1 OF THIS TITLE.**

18 SECTION 2. AND BE IT FURTHER ENACTED, That:

19 (a) Notwithstanding § 10A-201(a)(2) of the State Finance and Procurement  
20 Article, as enacted by Section 1 of this Act, and subject to subsections (b) and (c) of this  
21 section, the Department of the Environment, in conjunction with the reporting agency,  
22 shall conduct the study required under § 10A-201.1 of the State Finance and Procurement  
23 Article, as enacted by Section 1 of this Act, for a public-private partnership whose:

24 (1) presolicitation report was submitted before the effective date of this Act;  
25 and

26 (2) project plan includes the addition of toll lanes to I-495 or I-270.

27 (b) Within 6 months after the draft environmental impact statement is adopted  
28 in accordance with the National Environmental Policy Act the study shall be submitted.

29 (c) (1) A private entity shall reimburse the Department of the Environment  
30 for the study required under subsection (a) of this section in accordance with § 10A-201.1(f)  
31 of the State Finance and Procurement Article, as enacted by Section 1 of this Act.

32 (2) A public-private partnership agreement for a project described under  
33 subsection (a) of this section shall comply with § 10A-401 of the State Finance and

1 Procurement Article, as enacted by Section 1 of this Act.

2 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
3 1, 2019.