

HB1424/930614/1

BY: Environment and Transportation Committee

AMENDMENTS TO HOUSE BILL 1424
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after the semicolon insert “authorizing the Review Board to request technical assistance from certain persons, when appropriate;”; strike beginning with “requiring” in line 14 down through the semicolon in line 16; in lines 21 and 22, strike “a certain independent rating assessment survey is” and substitute “certain independent assessments of the impact on the State’s credit rating and certain risk analyses are”; in lines 22 and 23, strike “independent rating assessment survey” and substitute “risk analysis”; and strike beginning with “requiring” in line 24 down through “source;” in line 26 and substitute “requiring a reporting agency to notify the Legislative Policy Committee on receiving a certain unsolicited proposal; requiring a reporting agency to consult with the Public–Private Partnership Oversight Review Board in reviewing a certain unsolicited proposal;”.

On page 2, in line 1, after “source;” insert “requiring the Public–Private Partnership Oversight Review Board to conduct a certain study and report its findings and recommendations to the General Assembly on or before a certain date; prohibiting the State or a reporting agency from transferring certain ownership, operation, or management of a certain existing transportation facilities project to a certain entity or issuing a certain notice of solicitation under certain circumstances; providing for the intent of the General Assembly with regard to the reimbursement of certain costs and expenses;”; in the same line, strike “a certain term;” and substitute “certain terms; providing for the termination of certain provisions of this Act;”; in line 10, strike “10A–201(a) and (c)” and substitute “10A–201(a)”; and in the same line, after “10A–203(a),” insert “10A–301.”.

AMENDMENT NO. 2

(Over)

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On page 6, strike beginning with “AND” in line 17 down through “TREASURER” in line 21 and substitute:

“2. INDEPENDENT ASSESSMENTS OF THE IMPACT ON THE STATE’S CREDIT RATING ARE COMPLETED FOR EACH CONTRACT UNDER THE PUBLIC-PRIVATE PARTNERSHIP BY ALL CREDIT RATING AGENCIES THAT RATE THE STATE’S GENERAL OBLIGATION BONDS; AND

3. IN ACCORDANCE WITH PARAGRAPH (4) OF THIS SUBSECTION, A RISK ANALYSIS IS COMPLETED FOR EACH CONTRACT UNDER THE PUBLIC-PRIVATE PARTNERSHIP BY A FINANCIAL ADVISORY FIRM CHOSEN BY THE STATE TREASURER”.

On page 7, in line 1, strike “INDEPENDENT RATING ASSESSMENT SURVEY” and substitute “RISK ANALYSIS”; and strike in their entirety lines 3 through 11 and substitute:

“(I) AN ASSESSMENT OF THE RISKS TO THE STATE POSED BY THE PROPOSED AGREEMENT, INCLUDING ECONOMIC, LEGAL, AND TECHNOLOGICAL RISKS; AND

(II) AN EVALUATION OF THE SECURITY PACKAGE PROVIDED BY THE PRIVATE ENTITY AND PRIVATE FUNDING SOURCE, INCLUDING ANY PAYMENT AND PERFORMANCE BONDS, LETTERS OF CREDIT, PARENT COMPANY GUARANTEES, AND LENDER OR EQUITY PARTNER GUARANTEES.”.

On page 8, in line 9, strike the brackets; and strike beginning with the semicolon in line 19 down through “TITLE” in line 22.

AMENDMENT NO. 3

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On page 3, in line 2, after “**HOUSE;**” insert “AND”; strike in their entirety lines 3 through 5, inclusive; in line 6, strike “**(5)**” and substitute “**(3)**”; in line 11, strike “**COMPTROLLER**” and substitute “**BALTIMORE METROPOLITAN COUNCIL, THE METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS, OR APPROPRIATE METROPOLITAN PLANNING ORGANIZATION, AND THE DEPARTMENT OF LEGISLATIVE SERVICES**”; in line 14, strike “**AND**”; and in line 16, after “**PARTNERSHIP**” insert “;”

(3) CONSULT WITH A REPORTING AGENCY IN REVIEWING ANY UNSOLICITED PROPOSALS FOR A PUBLIC-PRIVATE PARTNERSHIP;

(4) REVIEW BEST PRACTICES REGARDING PUBLIC-PRIVATE PARTNERSHIPS FROM OTHER STATES AND INTERNATIONALLY; AND

(5) MONITOR THE IMPLEMENTATION AND OPERATION OF EXISTING PUBLIC-PRIVATE PARTNERSHIPS.

(F) THE BOARD MAY REQUEST TECHNICAL ASSISTANCE FROM THE STATE TREASURER, COMPTROLLER, OR APPROPRIATE ADMINISTRATIVE AGENCY, WHEN APPROPRIATE”.

On page 4, in line 25, strike “**COMPLETED**” and substitute “FINAL”; and in line 34, after “**COMMITTEES**” insert “, IN CONSULTATION WITH THE APPROPRIATE POLICY COMMITTEES,”.

On page 5, strike in their entirety lines 4 through 25, inclusive.

On page 7, after line 15, insert:

“10A-301.

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(a) A reporting agency may accept, reject, or evaluate an unsolicited proposal for a public-private partnership that will assist the reporting agency in implementing its functions in a manner consistent with State policy.

(b) A REPORTING AGENCY SHALL NOTIFY THE LEGISLATIVE POLICY COMMITTEE ON RECEIVING AN UNSOLICITED PROPOSAL.

(C) (1) A reporting agency shall establish the process for determining whether an unsolicited proposal meets a need of the reporting agency or is otherwise advantageous to the reporting agency.

(2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A REPORTING AGENCY SHALL CONSULT WITH THE PUBLIC-PRIVATE PARTNERSHIP OVERSIGHT REVIEW BOARD IN REVIEWING AN UNSOLICITED PROPOSAL.

[(c)] (D) (1) A reporting agency may establish by regulation an application fee for submitting an unsolicited proposal.

(2) For an unsolicited proposal that does not address a project already in the State's Capital Improvement Program or Consolidated Transportation Program planning documents, a reporting agency may require a higher application fee.

[(d)] (E) If a reporting agency determines that an unsolicited proposal meets a need of the reporting agency or is otherwise advantageous to the reporting agency, the reporting agency shall:

(1) conduct a competitive solicitation process as described under Subtitle 2 of this title;

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(2) protect proprietary information included in the unsolicited proposal to the same extent proprietary information is protected under § 10A–203(b) of this title; and

(3) comply with all of the other procedural requirements set forth in this title.

[(e)] (F) An individual or firm that has submitted an unsolicited proposal under this title may participate in any subsequent competitive solicitation process.”.

On page 9, after line 4, insert:

“SECTION 2. AND BE IT FURTHER ENACTED, That the Public–Private Partnership Oversight Review Board, as established in Section 1 of this Act, shall:

(1) study issues related to the transfer by sale, lease, or other agreement of the full or partial ownership, operation, or management of an existing transportation facilities project to a private entity and using the proceeds to pay for building or maintaining other infrastructure, including:

(i) advantages;

(ii) costs; and

(iii) other transition issues; and

(2) on or before January 15, 2021, report its findings and recommendations to the General Assembly, in accordance with § 2–1257 of the State Government Article.

SECTION 3. AND BE IT FURTHER ENACTED, That:

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(a) (1) In this section the following words have the meanings indicated.

(2) “Other agreement” includes a public–private partnership as defined in § 10A–101 of the State Finance and Procurement Article.

(3) “Private entity” has the meaning stated in § 10A–101 of the State Finance and Procurement Article.

(4) “Public–private partnership” has the meaning stated in § 10A–101 of the State Finance and Procurement Article.

(5) “Reporting agency” has the meaning stated in § 10A–101 of the State Finance and Procurement Article.

(6) (i) “Transportation facilities project” has the meaning indicated in § 4–101 of the Transportation Article.

(ii) “Transportation facilities project” includes the Thomas J. Hatem Bridge.

(iii) “Transportation facilities project” does not include the I–495 and I–270 P3 Program.

(b) Notwithstanding any other provision of law, the State or a reporting agency may not:

(1) transfer by sale, lease, or other agreement the full or partial ownership, operation, or management of an existing transportation facilities project to a private entity; or

(2) issue a public notice of solicitation for a public–private partnership for an existing transportation facilities project.

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SECTION 4. AND BE IT FURTHER ENACTED, That it is the intent of the General Assembly that a metropolitan planning organization that provides staff for the Public-Private Partnership Oversight Review Board shall be reimbursed for the costs and expenses incurred for services rendered under this Act.”;

in line 5, strike “2.” and substitute “5.”; and in line 6, after “2020.” insert “Section 3 of this Act shall remain effective for a period of 9 months and, at the end of March 1, 2021, Section 3 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”.