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THE SENATE OF MARYLAND  
ANNAPOLIS, MARYLAND 21401

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Senate Education, Health & Environmental Affairs Committee

**Senate Bill 960 – Highways - Public-Private Partnerships - Cultural  
Preservation**

Public Private Partnerships (P3s) are a very complicated subject, but this legislation is as simple as they come. SB960 provides a democratic process when there is a proposed taking of property through eminent domain for a public purpose, with a private incentive. The synopsis explains the whole bill in one sentence, as prohibiting the Maryland Department of Transportation from acquiring a right-of-way or exercising eminent domain, and prohibiting a person from acquiring a right-of-way, for a highway project that encroaches on or adversely affects certain cultural and historic sites and properties unless the General Assembly approves the development of the project by a majority vote in each of the two Houses. This legislation is needed, because unforeseen funding gimmicks have been used to bypass the democratic process that exist when state or federal transportation infrastructure funds are provided through the legislative or traditional administrative processes. Why else would Maryland not seek federal funds for an interstate bridge connecting two states around the nation's capital? We have been deceived.

During the debate on the P3 enabling legislation in 2013, Lt. Governor Brown [said that](#) "This should be viewed as a complement, a supplement, to whatever revenue enhancements the General Assembly decides on." He also provided that, "the state estimates that 6 to 10 percent of infrastructure needs could be financed through P3s." At the house bill hearing, he specifically noted that he thought the enabling legislation would support many of the projects in the pipeline that included the FBI building and the 495 Interstate where there was a clear expectation of federal funds to support the projects, at that time. Not once in the course of the hearings or debate was the prospect of a fully private funded P3 model broached. "Any" state funding model, might technically include "no" state funds, but that is a cynical interpretation.

Donna Edwards from the AFL-CIO noted during the House hearing that they supported the P3 enabling legislation, because of the transparency and legislators have a review process and comment process, because the legislators are elected by the people and are closest to the ground. The Board of Public Works consists of two statewide elected officials, but they are statewide and not on the ground with constituents. Legislative involvement is curtailed by design with P3s, but it was not the intent to prevent any tweaks to policy decisions, which each successive General Assembly is responsible for on behalf of their constituents.

[The NCSL P3 Infrastructure Delivery Principles for State Legislators](#) ends with this sentence, “Legislative involvement at the onset can alleviate surprise and misinformation that may arise if early steps are taken without their considerations.” The document contains more information that is enlightening as well, especially where it notes a “critical” factor to consider is that the P3s are NOT sole funding sources. “Critical to the discussion on P3s is the clarification that **P3s do not act as a funding source**; rather, they **can provide additional financing opportunities** and create efficiencies leading to cost savings.” This statement highlights how far Maryland has strayed from the intent of these P3s.

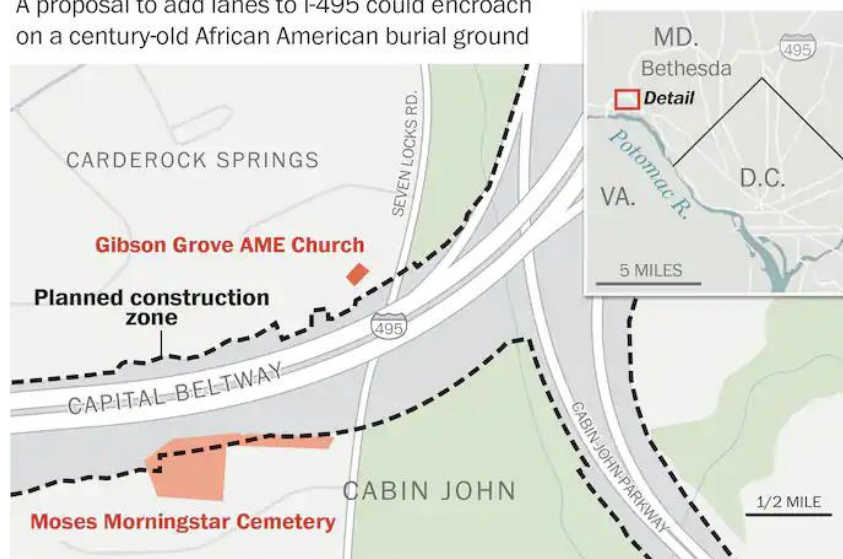
The model P3 held up at the time was the Port of Baltimore Seagirt terminal that included deep-water berths, mammoth cranes for Post Panamax container ships and the through highway access that makes that site so lucrative. The funding for those projects was essential for the public good of the project itself and the positive benefits it created, including agreements with local communities. Ironically, this project generated revenue, while the current P3 is slated to cost taxpayers and WSSC ratepayers billions.

Texas has long been held out as a model for our P3 projects, yet updated news from the Lone Star state demonstrates the toll projects are more unpopular there and [recent legislation proposed there failed](#) to expand their P3s to toll roads, because people didn’t want to give private companies the power of eminent domain. Just like Texas, Marylanders want to protect against eminent domain for private gains. Toll road users are most upset with the varying rates that are hard to predict. Texas went as far as to put a [moratorium on toll road projects](#). It seems legislators in Texas wanted to keep their legislature independent from projects that both tax and toll residents. We should learn from the failures of others.

SB960 is important to protect cultural heritage around the state, but there is one location that is in the cross-hairs of the impending P3 effort, that is steamrolling towards eminent domain of an important cultural heritage site in my district. The African American Morningstar Tabernacle No. 88 Cemetery and Hall in Cabin John, Maryland is directly in the path of the 4-lane widening of the Capital Beltway proposed by the I-495 & I-270 Managed Lanes P3 project.

### Beltway plan threatens historic Maryland cemetery

A proposal to add lanes to I-495 could encroach on a century-old African American burial ground



Source: Maryland State Highway Administration

THE WASHINGTON POST

This bill aligns perfectly with the agenda of Senate President Ferguson and Speaker Jones this session, to begin to redress past racial injustices in Maryland and advance the cause of environmental justice in the

planning of major State infrastructure projects. The power to fund, plan and develop infrastructure projects is a core state government function with long term goals and interests to balance. The cultural heritage of our constituents is irreplaceable, priceless and vulnerable to short-term gains. As a government, we alone have the organization and authority to protect these pieces of our heritage. Our African American heritage has already largely been destroyed through lack of prioritization, it is time now in the 21<sup>st</sup> century to prioritize the heritage that makes us Marylanders, that make us human.

I have already proved that it was never contemplated that a massive \$11 billion P3 project on this scale—called “the largest P3 in the world”—would be implemented without the approval of the Maryland General Assembly. Abandoning our cultural heritage sites to the State’s eminent domain powers by highway P3 projects that have not been approved by the legislature for private enrichment is a degradation to our collective cultural wealth and our democratic process. The sacred spaces in our state should be represented in this process too, moneyed international interests shouldn’t be the sole voice to speak up when our values are at stake. We are only unable to act if we don’t act now.

You can learn about the cemetery in this 3 minute [video](#), read more about it in a recent [article](#) written by Dr. Alexandra Jones, and listen to this [interview](#) with descendant Diane Baxter, whose great-grandparents are buried in the cemetery. Social justice shouldn’t end at death. Our history and the history of those who suffered under the banner of our freedom deserve to be preserved. We must preserve them.

For these reasons, I respectfully request a favorable report on SB960.