

HB0485-FAV-DTMG-2-9-21.pdf

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Position: FAV



Olivia Bartlett, Co-Lead, DoTheMostGood Maryland Team

Committee: Environment and Transportation

Testimony on: HB0485 – Environment – Packaging, Containers, and Paper Products – Producer Responsibility

Position: Favorable

Hearing Date: February 9, 2021

Bill Contact: Delegate Jared Solomon

DoTheMostGood (DTMG) is a progressive grass-roots organization with more than 2500 members who live in a wide range of communities in Montgomery and Frederick Counties, from Bethesda near the DC line north to Frederick and from Poolesville east to Silver Spring and Olney. DTMG supports legislation and activities that keep all the members of our communities healthy and safe in a clean environment and that promote careful use of our taxpayer money.

DTMG strongly supports HB0485 because recent experience with the Purple Line Public Private Partnership (P3) shows conclusively that, to protect Maryland taxpayers, Maryland's large P3 agreements need much more oversight than they are currently getting. Current law allows all decisions for multi-billion dollar P3 projects impacting millions of residents in multiple counties to be made by just three people on the Maryland Board of Public Works – the Governor, the Comptroller, and the State Treasurer -- with no opportunity for input or oversight of these huge, complex agreements and projects by the Legislature or anyone else.

HB0485 will establish a Public–Private Partnership Oversight Review Board to review P3 agreements valued at more than \$500,000,000, beginning at the pre-solicitation stage, to make recommendations regarding the designation of a public infrastructure asset as a P3, to review best practices regarding P3s from other states and internationally, and to monitor the implementation and operation of existing P3s.

Furthermore, in order to protect Maryland taxpayers from potential problems, costly delays, or defaults later on during the P3 project, HB0485 will require that there be a pre-solicitation report of each contract under the P3, that relevant committees of the Maryland House and Senate with appropriate expertise examine the credit worthiness of potential contractors and potential legal, financial, and technological risks to the state of the proposed P3 projects, and that a final Environmental Impact Statement (EIS) be available pre-solicitation if an EIS is required for the P3 project under the National Environmental Policy Act (NEPA).

These commonsense provisions will protect Maryland taxpayers from having to spend tens of millions of dollars to reimburse contractors if the final EIS shows that the P3 project cannot be completed in compliance with NEPA or, worse, hundreds of millions of dollars if risky partnerships fall apart mid-

project, like what happened with the Purple Line P3. It is very unfortunate that these provisions will be enacted too late to protect Maryland taxpayers from problems with MDOT's massive \$11 billion P3 for toll lanes on I-270 and the beltway in Montgomery and Prince George's Counties.

Previous objections to additional oversight of the P3 process have centered on the extra time that would be needed for action by the P3 Oversight Board. HB0485 addresses these concerns by setting time limits for receipt of reports and recommendations from the Oversight Board and laying out procedures for how the Oversight Board will function when the Maryland General Assembly is not in session.

The taxpayer money that will be used to fix the Purple Line P3 mess and that has been used to pay contractors during the initial phases of the P3 for I-270 and the beltway comes from residents living throughout Maryland, not just those in two counties. We don't know where the next big P3 project will be proposed, but we all need to be sure that the decisions to spend our tax dollars will have adequate oversight and will not be subject to the whims of just three people.

Therefore, DTMG strongly supports HB0485 and urges a **FAVORABLE** report on this bill.

Respectfully submitted,

Olivia Bartlett
Co-lead, DoTheMostGood Maryland Team
oliviabartlett@verizon.net
240-751-5599

HB 485 statement by CAFE.pdf

Uploaded by: Coufal, Barbara

Position: FAV

**Statement by Citizens Against Beltway Expansion
In Support of HB 485
Regarding Public-Private Partnerships – Process and Oversight
Before the Environment and Transportation Committee
February 9, 2021
Barbara Coufal, Co-Chair
P.O. Box 3593, Silver Spring, MD 20918**

Chair Barve, Vice Chair Stein, members of the Committee, Citizens Against Beltway Expansion thanks you for the opportunity to share our strong support for House Bill 485.

The need for this bill's reforms has become even more evident since we testified in support of this bill last year. As you know, the Purple Line P3 triggered a \$250 million unbudgeted taxpayer bailout when it fell apart. The \$11 billion I-495/I-270 expansion exposes taxpayers to substantially more risk, despite MDOT's claims.

We do not believe that the Purple Line P3 fiasco was a fluke. Independent research shows that P3s continually surprise taxpayers with expensive demands for more support.

To reduce the risk of future and unaffordable P3 surprises, we strongly support HB 485's provisions for greater fiscal and environmental transparency. We also strongly support its establishment of a Review Board to ensure long-term accountability and give the General Assembly oversight over future and existing P3 projects.

In light of MDOT's handling of the I-495/I-270 P3, we strongly endorse the bill's requirement for federal environmental reviews to be completed before the State can enter into P3 presolicitation agreements. We also strongly endorse the provision to prevent P3s from demanding compensation when planned roads and public transport could reduce congestion on a P3 toll road.

Although the bill would not stop the addition of for-profit toll lanes to I-495 and I-270, it will better ensure oversight, protect taxpayer wallets and Maryland's

credit rating, and provide greater predictability for future projects that could otherwise have significant negative impacts on our State for decades to come.

As you know, this legislation was overwhelmingly approved by the House of Delegates last year. We urge you to again report this bill favorably and quickly.

HB0485_Represent Maryland_Favorable.pdf

Uploaded by: Demnowicz, Cristi

Position: FAV



BILL: HB0485

BILL TITLE: Public-Private Partnerships - Process and Oversight

BILL SPONSOR: Delegate Solomon

COMMITTEE: Environment and Transportation

POSITION: FAVORABLE

HEARING DATE: February 9, 2021

TESTIMONY IN SUPPORT OF HB0485

Cristi Demnowicz, Chair
Represent Maryland

Chair Barve, Vice-Chair Stein, and members of the Environment and Transportation Committee-

Represent Maryland, an all-volunteer, grassroots, pro-democracy group with members and supporters across the state, believes that the Public portion of a public-private partnership is being taken advantage of for personal gain and private profit. Too often, P3s are full of self-dealing and are corrupt.

Public-Private Partnerships are meant to be mutually beneficial between a private entity and the public, and should take some of the burden of managing society off of local and state government. But often they are warped into agreements that help a few while harming many.

The legislative branch, the branch of government elected by the people, should have a lot more say into which P3s are created. This bill, which will create a commission made up of four members of the legislature and three executive appointees, will help ensure that the interests of the average people of Maryland are considered before our government enters us into more P3 agreements in the future. Please find HB0485 favorable.

Sincerely,
Cristi Demnowicz, Chair
Represent Maryland
Maryland Voter-LD07

2.09 HB485 P3-Process & Oversight.pdf

Uploaded by: Ditzler, Barbara

Position: FAV



**TESTIMONY TO THE HOUSE ENVIRONMENT and TRANSPORTATION
COMMITTEE**

HB 485 Public-Private Partnerships – Process and Oversight

POSITION: Support

BY: Lois Hybl and Richard Willson – Co-Presidents

Date: February 9, 2021

The League of Women Voters of Maryland (LWVMD) supports proposed legislation HB 485 that creates a board to help oversee Public-Private Partnerships (P3s) and offers the public assurances and protections. LWVMD believes in wise environmental, fiscal, land use, and governmental guidelines that are transparent so prudent planning decisions may be made for the Maryland population and those decisions also follow through with a set course of action.

Previously, a bill was enacted to help implement the Purple Line with its P3 agreement. This proposed legislation helps to clarify and expand concerns that have developed since all projects that may involve a P3 do not have the same terms, financial commitments, or state involvement. We don't know how P3s may evolve and what may next be proposed, but the guidelines set forth in this bill help set prudent procedures with timelines for implementation that promote good management.

The composition of the board proposed in this legislation draws from a broad spectrum of both governmental officials and appointees who have experience in transportation law, public policy, finance or management consulting. The Oversight Review Board has the potential to add much valuable knowledge to the P3 process.

The positions of LWVMD clearly say that state government should help enable the compliance with state goals. Our transportation systems should reflect local concerns, promote environmental protection, aid economic development, and encourage cooperative working relationships. Wise decisions are difficult to make.

HB 485 helps make government more effective and transparent for P3 projects, by incorporating public input, protections and assurances with clear guidelines and stipulations.

LWVMD supports HB 485.

Glaros Support for HB485.pdf

Uploaded by: Glaros, Dannielle

Position: FAV



Dannielle M. Glaros
Council Member
Council District 3
(301) 952-3060

Together Strengthening Our Community

February 4, 2021

Delegate Kumar Barve, Chair
Delegate Dana Stein, Vice-Chair
House Environment and Transportation Committee

RE: House Bill 485 – Public Private Partnership Oversight & Review Act

Dear Chair Barve, Vice Chair Stein, and Members of the Environment and Transportation Committee:

I am writing today in strong support of House Bill 485, which will help ensure oversight and predictability for the financial health of the State of Maryland in future Public-Private Partnership (P3) agreements. This legislation adds additional prudence to a process that, if used improperly, could have significant negative impacts on our communities and state finances for decades to come.

I am a strong proponent of the benefits of Public Private Partnerships for their ability to further the goals of our local communities and deliver complex projects.

However, I have also seen first-hand that strong safeguards and an oversight review board are crucial to protecting the public investment in public private partnerships. Had House Bill 485 been in effect, or had the provisions outlined in it been implemented with the Purple Line Public Private Partnership, I feel confident this light rail project, which will eventually yield incredible community and economic benefits for neighbors across Prince George's and Montgomery Counties, would have avoided the delays and challenges of the past year and be much closer to completion.

In fact, in Prince George's County we have already begun implementing the sorts of safeguards and oversight HB485 calls for. In finalizing our public-school alternative construction financing P3, we put into place an oversight board and other protections for our public dollars. This P3 will deliver six new middle schools for residents of Prince George's County.

Thank you for your dedication to the residents of the State of Maryland. I urge your strong support of HB485 to ensure the best stewardship of our public dollars for public good.

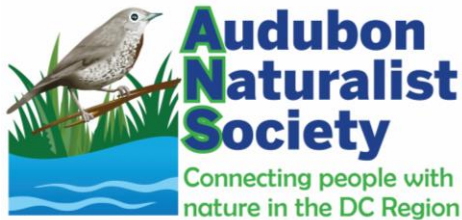
Together Strengthening Our Community,

Dannielle M. Glaros

2021-2-5- HB495- P3 Reform -ANS - FAV.pdf

Uploaded by: Guitarra, Denisse

Position: FAV



February 5, 2021

Written testimony for [HB485](#)- Public-Private Partnerships - Process and Oversight

Position: Favorable

Hearing Date: February 9, 2021

Submitted by Denisse Guitarra

Maryland Conservation Advocate, Audubon Naturalist Society (ANS)

Dear House Environment and Transportation Committee,

For 124 years, Audubon Naturalist Society (ANS) has inspired people to enjoy, learn about and protect nature. We thank the House Environment and Transportation Committee for the opportunity to provide testimony for HB485, "Public- Private- Partnerships- Process and Oversight." **ANS supports HB485.**

HB485 would ensure that the state waits until the final environmental impact statement (FEIS) is released before moving forward with a P3 project. This make certain that the state obtains all critical information it needs to truly assess the future environmental and economic viability of long term P3 projects.

As seen from the current I-495/I-270 Beltway Expansion project, lacking a clear P3 oversight puts at peril the health and wellbeing of people, wildlife, and waterways. In this case, the state is moving forward with a taxpayer-guaranteed contract even if the FEIS shows that the preferred alternative would have unacceptable environmental impacts, ensuring either a) a significant loss of taxpayer dollars or b) increased pressure to go ahead and build given the sunk costs, making the National Environmental Policy Act (NEPA) analysis a paper exercise only and not the means to truly inform decision-making that it is meant to be. We oppose *both* the I 495/ I 270 expansion *and* the practice of using P3s to bypass federally required environmental analysis.

We support HB485 because it is critical that the General Assembly limits the Board of Public Works' (BPW) power by demanding the full review and completion of environmental impact studies before approving any P3 project. ANS and our 28,000 members and supporters recommend that the House Environment and Transportation Committee supports the passage of HB485.

Sincerely,
Denisse Guitarra
Audubon Naturalist Society
Maryland Conservation Advocate

Woodend Sanctuary | 8940 Jones Mill Road, Chevy Chase, Maryland 20815 | 301-652-9188

Rust Sanctuary | 802 Childrens Center Road, Leesburg, Virginia 20175 | 703-669-0000

anshome.org

HB485_NPCA_FAV.pdf

Uploaded by: Hart, Kyle

Position: FAV

**Statement by National Parks Conservation Association in Support of HB 485
Regarding “Public-Private Partnerships - Process and Oversight”
Before the Environment and Transportation Committee
February 9, 2021
Kyle Hart, Mid-Atlantic Field Representative**

Members of the Environment and Transportation Committee,

Thank you for the opportunity to share the support of National Parks Conservation Association (NPCA) for House Bill 485. We comment today on behalf of our 28,398 members and supporters in Maryland. The National Parks Conservation Association is the only national membership organization dedicated to advocacy of behalf of our country’s national parks. NPCA’s mission is to protect and enhance America's National Park System for present and future generations, a mission we have upheld since NPCA was created by the very first National Park Service Director, Stephen Mather, in 1919. Maryland is fortunate to be home to 18 national park sites, visited yearly by almost 7 million people and contributing to over \$300 million in economic benefit to the state.

The bill before you today would provide the General Assembly a much-needed oversight role over future public-private partnership (P3) projects. As shown by the P3 concerns regarding the construction of the Purple Line, as well as the ongoing concerns surrounding the P3 negotiations for the expansion of Interstates 495 and 270, this oversight is desperately needed for these types of projects.

HB 485 would require disclosure of financial and environmental information on all P3 projects, provide enhanced oversight for P3 projects that have a value exceeding \$500 million, and allow the General Assembly to nullify the P3 designation of projects should that need arise. It would also protect local governments by prohibiting contractual provisions that would allow toll companies to demand compensation when a road or transit project funded by a local government would reduce the number of drivers on toll lanes. This is similar to an existing prohibition applying to projects funded by the State. These reforms are necessary to protect Maryland taxpayers and commuters from bad projects pushed by private corporations and special interest groups.

In the case of the I-495/I-270 project, the absence of oversight has allowed the Maryland Department of Transportation to hide critical information from policymakers, denying the public a voice in shaping decisions about the project. This bill would increase transparency to ensure that legislators, local planners and the public have information they need to understand the impact of future projects. Since P3 projects are trumpeted by private corporations, profits often take precedent over preserving natural resources. This has been exceptionally clear in the I-495 P3 proposal. Over 100 acres of National Parkland, 1,500 acres of forest canopy, and 30 miles of streams would be harmed by this disastrous project. It is time for the Maryland General Assembly to take the reins on P3 proposals and protect Maryland taxpayers and the environment from harmful transportation projects in the future.

NPCA urges the Committee to report House Bill 485 favorably. Thank you.

GARY V HODGE-COMMENTARY ON 495-270 P3-18Sept2020-

Uploaded by: Hodge, Gary

Position: FAV

CHASING ‘FREE MONEY’: THE FATALLY-FLAWED SCHEME TO OUTSOURCE MD’S INTERSTATE HIGHWAYS TO TOLL-ROAD PROFITEERS

BY GARY V. HODGE

A 495-270-295 “traffic relief” plan was announced on September 21, 2017 by Governor Larry Hogan and Pete Rahn, his former Secretary of Transportation. Their plan was to privatize and widen I-270, the Capital Beltway and MD295, the Baltimore-Washington Memorial Parkway, with two new express toll lanes in each direction. As proposed, the State would enter into a public-private partnership, or P3, with a lead project developer and outsource the responsibility for designing, building, financing, operating and maintaining the managed lanes at no cost to the State, in return for granting them the right to collect toll revenue on the highways for the next 50 years. The State has not persuaded the federal government, or Maryland’s members of Congress, to agree to transfer ownership of the B-W Parkway to the State, so it’s no longer in the plan.



For the past month the State has been taking testimony from elected officials, government agencies, regional planners, community groups, advocacy organizations and private citizens at public hearings on the 19,600-page Draft Environmental Impact Statement (DEIS) on the I-495 and I-270 Managed Lanes Study. The Draft EIS, a requirement of the National Environmental Policy Act (NEPA), is the current step in the march of the Governor’s plan toward implementation.

If the goal was to maximize public participation, the timing of the hearings couldn’t have been worse, in the middle of a pandemic, an economic crisis, massive unemployment, a superheated Presidential campaign, and unprecedented weather events. During the second and final in-person hearing on September 10 in Rockville, the day I testified, the area was paralyzed by a torrential rainstorm and flash flooding.

I had given testimony on this project before, more than a year ago at the Maryland Board of Public Works meeting in Annapolis on June 5, 2019. I said there were three questions that needed to be answered before the State decided to move forward with the project:

First, “Will it work?”

Second, “Is it worth the risk?”

And third, “Is it the best we can do?”

The Governor said these were “good questions.” Back then the answer to all three questions was “no.” Today the answer is still “no.” It won't work, It's not worth the risk. And it's not the best we can do. The nearly 20,000 pages of the Draft EIS hasn't changed that—only confirmed it.

This project will result in more traffic congestion, not less, defeating its “purpose and need.” And in spite of initial assurances, the P3 will need to be subsidized by Maryland taxpayers after all. Even if one accepts the optimistic cost estimate of \$9.6 billion, the few minutes saved in commute times are hardly worth the price of the ordeal that lies ahead: Years of delays, detours and traffic snarls; constructing new entrance and exit ramps, interchanges, and bridges; and new traffic patterns, followed by high tolls to use the express lanes.

How much longer will the thousands of Marylanders who live in the shadow of this project be dangling on tenterhooks waiting for the sword of Damocles to fall on them, their homes, their neighborhoods, their security, and their daily lives?

The one indisputable fact is that chronic traffic congestion will need to continue indefinitely in the “free” lanes or there's no incentive for motorists to pay to use the toll lanes. That's the business model. To make this scheme work, the State's private sector partner in the P3 will need to harvest vast amounts of toll revenue, make a profit, and pay big dividends to their investors. And in these uncertain times they'll expect the State to minimize their risk with a safety net made of titanium.

Before embarking on a project this massive and costly, touted as “the largest P3 traffic relief project in the world,” the right sequence of steps would be to correctly diagnose the problem; prescribe the best possible solution after considering all the alternatives; and then find the means to pay for it, minimizing risks to the State and Maryland's taxpayers. The State should have engaged in a deliberate, thoughtful, collaborative and comprehensive search for solutions. Instead, it took a “ready, fire, aim” approach. Private capital investors decided what kind of solution they were willing to invest in, and the State complied, instead of taking the measures more likely to deliver the results that are needed.

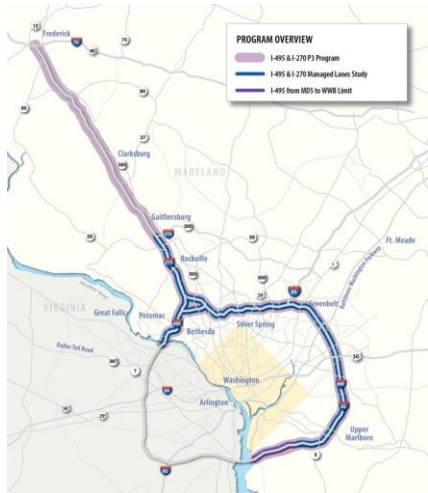
Politicians in the United States and around the world are proving to be no match for international toll highway privateers like Australia's Transurban, the leading contender

for the Maryland 495-270 P3. There's good reason to worry that in contract negotiations their team will run circles around State lawyers.

The federal government is failing in its historic responsibility to invest in the nation's infrastructure. To fill the funding gap, state leaders are chasing "free money." Maryland isn't the only state being seduced by the siren song of P3's. But Maryland is one state with a sterling reputation for sound fiscal management, with a AAA bond rating, and the ability to borrow money at the lowest interest rate in history. Unfortunately, in the aftermath of P3 deals, when the politicians who made them are gone, taxpayer bailouts have become commonplace. The truth is, there's no such thing as "free money." One way or another, sooner or later, Marylanders will pay—in tolls or in taxes—or both tolls and taxes.

It's been said that this project doesn't need legislative approval or support. Now that it's been acknowledged that State funding will be needed, it probably will. For almost three years a fire bell in the night has been ringing in the General Assembly's ears about the wisdom of this scheme. Legislation has been introduced, heard by the committees, and debated. A few bills have even been passed by the House of Delegates. But in spite of the valiant efforts of a few Delegates and Senators, the legislature as a whole has been indifferent, and has done nothing to assert its oversight authority, demand transparency and accountability, and take concrete action to slow or stop this juggernaut. Next January, legislators will have one more opportunity. Hopefully, for the sake of their constituents' wellbeing and their own election prospects in 2022, they won't leave Annapolis empty-handed a fourth year in a row.

On January 8, the three-member Board of Public Works, the State's most powerful decision-making body that most Marylanders have never heard of, decided in a 2-1 vote to greenlight the first phase of the project, with Governor Hogan and Comptroller Peter Franchot voting yes and Treasurer Nancy Kopp voting no. The BPW reduced the footprint of the first phase of the project to cover I-495 from the vicinity of the George Washington Memorial Parkway to the I-270 west spur, across and including replacement of the American Legion Bridge, and continuing on the I-270 west spur to I-370. Future phases of the project would eventually continue north on I-270 to I-70, and around the Beltway to the Woodrow Wilson Bridge.



The list of the project’s fatal flaws and risks is long and still growing. Here are some of the most serious and critical concerns that have been expressed:

- It fails to address the original “purpose and need”: To relieve traffic congestion
- It doesn’t deliver significant savings in reduced travel times, only a few minutes at most
- Congestion will continue on the “free” lanes
- Tolls to use the express lanes will be costly during peak rush hours
- The viability of the project is questionable without public funding, which contradicts original assurances
- It shifts financial risk from the private sector to the State, with taxpayer subsidies that could count against the State’s debt limit
- It would reduce the State’s fiscal capacity for investment in rail transit and other multi-modal infrastructure
- Future toll revenues are unknown
- Construction costs are incomplete and likely to exceed estimates
- Moving WSSC water and sewer infrastructure in the project’s path would cost an additional \$1-2 billion
- There will be loss of protected parklands, and impact on 1,500 properties
- “Limits of disturbance” will need to be expanded
- There will be a significant increase in stormwater runoff to rivers and streams
- There is no standalone transit option; Public transit alternatives were eliminated from consideration
- Details of the “Capital Beltway Accord” between the Governors of Maryland and Virginia are unknown; No written agreement has been made public
- There is no provision for accommodating rail transportation on the new American Legion Bridge

- Rush-hour traffic north on I-270 would be worse, not better; Travel times to Frederick for all alternatives would be worse
- Upper I-270 is included in Phase 1 of the 495-270 P3 project, but is excluded from this Draft Environmental Impact Statement
- The toll lanes will impact local road networks, where there may be no excess capacity or potential for expansion, leaving fixes up to local governments
- Increasing highway capacity on I-495, I-270, and connected arterial roads, will increase long-term traffic demand
- A State plan that maximizes driving and perpetuates automobile-dependence for the next half-century fails to respond to the climate change crisis

In the history of bad ideas, this scheme is still just a footnote that would be quickly forgotten. My advice would be, don't make it a whole chapter, with potentially dire and long-lasting consequences for decades to come. Take a cold, hard look at the critical mass of facts, including the State's own analysis, disenthral yourselves, and let go.

This new round of hearings on the Draft EIS is merely "bouncing the rubble," to borrow a phrase from Churchill. The only thing preventing this dubious scheme from collapsing is the wreckage and debris of unconvincing justifications piled up around it. Not even the 20,000 pages and million words of the DEIS can save it. After almost three years, the fatal flaws and risks of this project have already been dissected. The *post mortem* has already been written.

This isn't the best we can do. Pouring rivers of concrete to create a magic carpet for rich people is not what we ought to be doing to put Maryland in the vanguard of America's most competitive states. A massive \$9-11 billion investment in new highway construction is not the path to Maryland's future. It would only perpetuate the unfair and inequitable gap between "haves and have nots" that we should be working to close. What we need now is a multi-modal strategy that will meet the mobility needs of all our people.

We need to put the financing of Maryland's transportation program on a solid and sustainable foundation, in spite of the federal government's failure to play its historically important role. Privatizing our interstate highways and outsourcing our State transportation program to international toll highway profiteers is not the answer. We don't ever want our Secretary of Transportation flying to Australia to get his marching orders, or to find out what projects he can put in the State's new six-year capital program.

Many steps remain before the NEPA process is completed and the project moves toward implementation: Responding to comments on the DEIS, getting federal concurrence on the Final EIS (possibly during a Presidential transition), writing the

Record of Decision. Assuming the normal slippage in the schedule of a project of this size and complexity, it's not hard to imagine that the procurement process, selecting the contractor, negotiating the P3 deal to build, operate and maintain the toll lanes, setting limits on future tolls, the required legislative review and Board of Public Works approval, will leave many critical decisions looming in the run-up to Maryland's 2022 election.

The cornerstone of the first phase of the 495-270 project is the American Legion Bridge, a huge and expensive undertaking by itself. A written bi-state agreement between Maryland and Virginia covering the details of the plan to replace the Bridge is crucial. If the "Capital Beltway Accord" is more than a handshake, and a written agreement exists, its contents have not been made public.

If this project is allowed to advance, the implementation and construction phase will land squarely on the desk of the next Governor. It would be unfortunate if the unintended consequences, collateral damage and financial risks of this misguided venture were to hang like an albatross around the neck of the State's next chief executive, diverting attention and resources from more vitally important priorities.

Investments in transportation infrastructure are some of the most consequential the State makes, with far reaching impact on our future economy, growth and development. After a promising start a half-century ago with the construction of the Washington metrorail system, Maryland has become more automobile-dependent than ever. The full potential of MARC commuter rail, and the promise of the Purple Line and Southern Maryland Rapid Transit project has not yet been realized. A successful mobility strategy for the 21st century will require new investment in seamless rapid rail transit network connecting communities and jobs that's fast, safe, and accessible.

Let's clear the decks for action and build the modern transportation system our people need and deserve, not make highway-building the default setting for our capital infrastructure investments. Let's restore Maryland's tradition of collaboration and consultation between the State, the counties, and affected local governments, as mutually respected partners.

If the 495-270 P3 project moves forward, in years to come we won't find any consolation in knowing that we were right to oppose it, when we consider how much progress we could have made working together on a bold new vision for Maryland's future.



GARY V. HODGE

The writer is president of Regional Policy Advisors, Vice Chair of the Maryland Transit Opportunities Coalition and a former Charles County Commissioner, executive director and chairman of the Tri-County Council for Southern Maryland. He has been engaged in State and regional transportation projects, programs and advocacy for 50 years, as a planner, an appointed and elected public official, consultant, and citizen activist.

This is his third in a series of essays published in Maryland Matters on the proposed 495-270 P3 plan announced by Governor Hogan and former Transportation Secretary Pete Rahn on September 21, 2017.

His previous two essays were “Pete Rahn’s Return to ‘Hip Pocket’ Government,” April 23, 2018; and “‘Largest P3 Traffic Relief Project in the World’ Needs More Scrutiny, Not Less,” March 8, 2019

Gary V. Hodge Commentary--Maryland Matters--Septem

Uploaded by: Hodge, Gary

Position: FAV

<https://www.marylandmatters.org/2020/09/21/gary-hodge-the-fatally-flawed-scheme-to-outsource-md-s-highways-to-toll-road-profiteers/>

GARY V. HODGE

President

Regional Policy Advisors

P. O. Box 148

White Plains, Maryland 20695

301-873-3150

"Working with elected, civic and business leaders to build great communities"

HB0485_FAV_City of Rockville_Public-Private Partne

Uploaded by: Kasemeyer, Pam

Position: FAV



Testimony of the Rockville Mayor and Council House Bill 485 – Public Private Partnerships – Process and Oversight Support

Good afternoon Chairman Barve and members of the Committee. Thank you for the opportunity to testify with the unanimous support of the Rockville City Council for HB 485.

We thank Delegate Solomon for his leadership in bringing this Bill forward. While HB 485 would not impact the current I-270 and I-495 P3 projects, Rockville's experience with the current P3 initiative has brought to our attention numerous and serious flaws in the P3 process. For example, this massive public-private- partnership (P3) is totally in the hands of the Board of Public Works, a 3-member body, and the General Assembly has had little or no effective input into this initiative. Furthermore, there have been issues with transparency, including the recent information that the State taxpayers are already on the hook for millions if this project is delayed or cancelled.

The City of Rockville is the municipality most impacted by the I-270 and I-495 P3 project. Yet, we were blindsided a year ago when the announcement was made. Additionally – it has only been recently that the City has been included in discussions and information. Therefore, Rockville endorses provisions of HB 485 such as:

- The establishment of a Public-Private Oversight Review Board that would review any P3 over a certain large threshold.
- The explicit involvement of legislative budget committees.
- The several provisions that provide for transparency and clarity of process that have sorely been lacking from the current P3 process.

And we request that a provision be added that would require the State to include municipalities that are directly impacted by a P3 as a partner in the process.

HB 485 makes substantial improvements to the state's inadequate P3 process for public infrastructure assets. It creates safeguards that will protect taxpayers and provides the public with the opportunity to understand the real impacts of large-scale transportation P3 infrastructure. For these reasons, we urge this Committee to provide HB 485 with a favorable report and quickly advance it to the House floor for a vote. Thank you.

AFSCME_FAV_HB485.pdf

Uploaded by: Kilpatrick, Lance

Position: FAV



190 West Ostend St., #201
Baltimore, MD 21230
Phone: 410.547.1515
Fax: 410.837.5436

Patrick Moran - President

Testimony
HB 485 – Public-Private Partnerships - Process and Oversight
Environment & Transportation
February 9, 2021
Support

AFSCME supports HB 485. This legislation would establish a Public-Private Partnership Oversight Review Board, and require mechanisms and procedures be put in place where due diligence by stakeholders involved in the consideration of a P3 project is able to take place before that project could begin to be implemented.

When triggered by a \$500M budget for a P3 transportation project, the Oversight Review Board would join with the General Assembly budget committees to review all pre-solicitation reports; they then would review the projects and consider development of recommendations; these recommendations would in turn inform reporting to the Board of Public Works and the aforementioned budget committees.

The bill also requires an independent rating assessment survey be completed by an independent auditor or a credit rating agency for each contract under the P3 agreement before it can be approved by the Board of Public Works.

In 2019 the Department of Legislative Services highlighted the lack of specificity in MDOT's I-495/I-270 proposal and the absence of an analysis to determine whether a P3 financing model would be more financially advantageous than conventional procurement. For any undertaking of this size, a basic understanding and analysis is clearly needed to move a project forward.

The siren's call of "quick and easy" should NOT override the ultimate goal of addressing the needs of Marylanders in a strategic, and sustainable fashion. This is a truth that should be applied to *any* undertaking for the state's inhabitants. AFSCME is not looking to kill roads – but we are wanting more strategic and holistic solutions. Delegate Solomon's proposal puts in place needed prescriptions to address the impulse to pave over transportation challenges.

AFSCME Council 3 urges a favorable report of HB 485. Thank you.

Every AFSCME Maryland State and University contract guarantees a right to union representation.
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800.492.1996

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HB0485 testimony.pdf

Uploaded by: loss, jennifer

Position: FAV

Committee: Environment and Transportation
Testimony on: HB0485-Public-Private Partnerships-Process and Oversight
Position: Favorable

Thank you members of the E&T committee for your time.

This bill is needed is needed to protect taxpayers and provide much needed oversight on large P3 capital projects. It is crucial for the state to have an EIS much earlier in the process to allow time for the state to ensure that large transportation projects comply with state and federal environmental laws. In today's state of the environment, it is incumbent upon our leadership to do everything in its power to avoid exacerbating climate issues. With the state considering the Climate Solutions Now Act of 2021, it seems shortsighted to allow large projects to go through without adequate oversight. Taxpayers should not be on the hook should the project not prove to be as profitable for the private investor as expected. No compensation guarantees should be included in a P3 agreement.

I would also like to add, that for the expansion of I-495 and I-270 in particular, studies have shown that expanding road capacity does not last long as a solution for traffic congestion. It's just a loosening of the belt. What we need is more smarter mass transit options.

Jennifer Loss
4Q Gardenway Rd.
Greenbelt, Md, 20770
lossjen@gmail.com
District 22

2021.02.03 CSG Testimony - HB 485 - P3 Reform - Fi

Uploaded by: Lyons, Jane

Position: FAV

February 5, 2021

Environment and Transportation Committee
House Office Building, Room 251
Annapolis, MD 21401

Appropriations Committee
House Office Building, Room 121
Annapolis, MD 21401

HB 485, Public-Private Partnerships – Process and Oversight (Support)

Testimony for February 9, 2021

Jane Lyons, Maryland Advocacy Manager

Chair Barve, Chair McIntosh, Vice Chair Chang, Vice Chair Stein, and delegates, thank you for the opportunity to provide testimony on HB 485, Public-Private Partnerships – Process and Oversight. Please accept these comments on behalf of the Coalition for Smarter Growth, the leading organization in the D.C. region advocating for walkable, bikeable, inclusive, transit-oriented communities as the most sustainable and equitable way to grow and provide opportunities for all.

We urge you to support HB 485, which would establish a Public-Private Partnership (P3) Oversight Review Board to study and make recommendations regarding P3 transportation projects with a value exceeding \$500 million and prevent the Board of Public Works from approving an agreement without overview from the Legislative Policy Committee.

Currently, the three-person Board of Public Works is able to approve massive public infrastructure projects involving complex financial arrangements and risks to the taxpayers with very little oversight from the Maryland General Assembly. The proposed Oversight Review Board would bring much-needed perspective and expertise to the approval process for P3 projects, which can currently be fast-tracked without fully considering alternatives, or the impacts on local populations, the environment, and state finances.

P3 projects are massive, long-term, and expensive, with the potential for wide-ranging and long-lasting impacts that could permanently alter the future of our region. Projects such as the potential expansion of I-270 and the Capital Beltway are too consequential and the financial risks too great to rush through without significant input from our legislators and experts. A P3 Oversight Review Board would have the expanded capacity to study the financial and environmental impacts of a P3 project to ensure it is the best fit for all Marylanders. This legislation also comes before you again at a time when the Board of Public Works is expected to select a private concessionaire prior to the

completion of the Final Environmental Impact Statement (EIS). With HB 485, the presolicitation report for major P3s would be required to include a final EIS in compliance with the National Environmental Policy Act – a common sense requirement.

For these reasons, we urge you to support HB 485 and ensure effective legislative oversight for these expensive and consequential projects. Thank you.

HB0485_public_private_partnerships_fav_TPMEC_2.9.2

Uploaded by: McGilvray, Laurie

Position: FAV



Environment Committee

Committee: Environmental and Transportation
Testimony on: HB0485 – Public-Private-Partnerships—Process and Oversight
Organization: Takoma Park Mobilization Environment Committee
Submitting: Laurie McGilvray
Position: Favorable
Hearing Date: February 9, 2021

Dear Mr. Chairman and Committee Members:

Thank you for allowing our testimony today in support of HB0485. The Takoma Park Mobilization (TPM) is a grassroots organization based in Takoma Park, Montgomery County and focused on state and local climate change issues. The TPM Environment Committee urges you to vote favorably on HB0485. The bill will bring much-needed oversight to the public-private partnership (P3) process by establishing the Public-Private Partnership Oversight Review Board; requiring P3 agreements be submitted to the Legislative Policy Committee; and prohibiting the Board of Public Works from approving a proposed P3 agreement until the Legislative Policy Committee has reviewed and commented on it.

The current public-private partnership model in Maryland, where the three-member Board of Public Works is the sole approving body, lacks the oversight necessary to ensure that large-scale infrastructure projects are in the public interest. P3 projects, such as the project to expand I-270 and I-495, have far reaching fiscal, environmental, and economic impacts that deserve the highest degree of public scrutiny. By creating the Public-Private Partnership Oversight Review Board, HB0485 will improve P3 oversight by involving a broader selection of elected officials, as well as appointees who have relevant expertise in key professional fields. Although the current P3 model does provide flexibility and speed that can be appealing, it is important to balance urgency with proper public oversight. There are multiple examples in the U.S. of poorly structured P3 deals -- including the Purple Line Project -- that drag on, cost more, and which frustrate taxpayers and government leaders. When we prioritize speed only for entering into a private partner contract, we sacrifice other important goals namely public support, cost, and/or quality of the project. HB0485 can help to ensure Maryland leaders and the public are more fully informed on the costs, risks, alternatives, and likely outcomes before entering into P3 projects.

P3 Issues for Takoma Park

Takoma Park is uniquely located in Montgomery County on the Prince Georges County border. As such, Takoma City residents have been and potentially will be affected by three major P3 projects – the Purple Line, I-495/I-270 toll lanes, and the MAGLEV- in addition to the financial and tax burdens they may share with other Maryland residents (e.g., WSSC water utility relocation and project cost overruns).

- Purple Line - The mismanagement of the P3 Purple Line Project has affected Takoma Park residents and businesses by prolonging the major disruption associated with longer, uncertain construction timeframes. Neighborhoods, roadways, traffic, and businesses were already being

significantly impacted by the Purple Line construction and now the extended construction timelines have worsened the situation due to the project's mismanagement. All Maryland taxpayers are now paying the cost of the glaring contract failures, including the failure to include an arbitration clause.

- I-495/I-270 Toll Lanes – The proposed expansion of I-495 toll lanes will not pass directly through the City of Takoma Park; however, the natural resource, water quality, and stormwater impacts to Sligo Creek will directly affect Takoma Park. Additionally, Takoma Park will be affected by the traffic congestion on feeder roads resulting from both construction and operation of the proposed toll lanes. Finally, many Takoma Park residents enjoy the natural resource and recreational opportunities in nearby Rock Creek and other County parks that will be lost and negatively impacted by the project.
- MAGLEV – Residents of Takoma Park enjoy the unique natural resources of the Patuxent Research Refuge and nearby National Park Service properties that will be lost to the proposed MAGLEV railyard. Additionally, disruption caused by construction of the proposed project would be yet another assault on the traffic congestion caused by the other two projects – extending the misery for residents into the foreseeable future.

How HB0485 Addresses These Concerns

Many of the P3 problems arise from the lack of transparency in the origin, negotiation, and execution of P3 projects. There is a critical lack of oversight and too much power resides with the Governor's Office and the Board of Public Works to make P3 decisions that put Maryland taxpayers and the State's natural resources at the mercy of private partners/investors and poorly designed P3 projects. This bill will bring greater oversight and transparency to the process.

For these reasons we urge a favorable vote for HB0485.

HB 485_FAV.pdf

Uploaded by: Norton, Eric

Position: FAV



Board of Directors:
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C. William "Bill" Struever
Managing Director, Cross Street Partners

Michele Whelley
President and CEO, Economic Alliance of Greater
Baltimore

Scot Wilkinson
Founder and CEO, AlphaVu

Caryn York
Executive Director, Job Opportunities Task Force

February 9, 2021

Testimony on HB 485 – *Public-Private Partnerships – Process and Oversight* Environment & Transportation

Position: Favorable

The Central Maryland Transportation Alliance supports HB 485.

The current public-private partnership (P3) model in the State, where the three-member Board of Public Works is the sole approving body, lacks the oversight necessary to ensure that large-scale infrastructure projects are in the public interest. P3 projects, such as the one Maryland is pursuing to expand I-270 and I-495, can have far-reaching fiscal, environmental, and development impacts that deserve the highest degree of public scrutiny.

By creating the Public-Private Partnership Oversight Review Board, HB 1424 will improve P3 oversight by involving a broader selection of elected officials, as well as appointees who have relevant expertise in key professional fields.

Although the current P3 model does provide flexibility and speed that can be appealing when it seems that projects drag through too many years of planning, it is important to balance that sense of urgency with proper public oversight. There are multiple examples in the U.S. of poorly structured P3 deals that taxpayers and government leaders come to regret. If we prioritize the speed with which we enter a contract with a private partner, we may sacrifice on the cost and/or quality of the project. HB 485 can help to ensure the State is more fully informed on the costs, risks, alternatives, and outcomes before entering into P3 agreements.

We encourage a favorable report.

HB485_IndivisibleHocoFebruary9_Carol O'Keeffe.pdf

Uploaded by: O'Keeffe, Carol

Position: FAV



February 9, 2021

**Testimony on HB 485
Public Private Partnerships-Process and Oversight
Environment and Transportation**

Position: Favorable

Indivisible Howard County-an organization with over 700 members- supports HB 485 which will create a much needed review and oversight process for Public Private Partnerships (PPP's) in Maryland. Additional oversight and review is crucial to protect the public interests implicated in large PPP's which are fast becoming the contract vehicle of choice for large public contracts. The PPP approach carries with it significant risks that the provisions of HB 485 are intended to mitigate.

The PPP approach to contracting frequently goes hand in hand with the design-build contract methodology. This is true for the I-270 phase of Governor Hogan's toll lane project and will likely be true for the remainder of this mega, 50-year PPP if it goes forward. Both PPP and Design-build contract methodology have the advantage of placing certain additional burdens and risk on the contractor, but they also create additional risk for the public body. First, although the debt that is issued for a PPP is not, typically, public debt, that fact may also create a higher cost to the debt issuance. Also there are likely to be significantly higher transaction costs, with both factors leading to a higher overall cost to the project. The fact that the cost is intended to be borne by the user of the facility does not eliminate the government's obligation to mitigate costs. Second, although the Design-Build contracting approach is intended to create a single point of responsibility for the design and construction of the project, thus eliminating the possibility that the designer and contractor will point at each other when

problems arise, the methodology also makes oversight much more difficult for the public body and increases the need for strong monitoring. Finally, design-build contracts for PPP's frequently reduce price competition because the design is not known before contracting, there are more uncertainties and there are a limited number of companies that can handle mega projects.

HB 485 builds into the PPP process additional safeguards to address the considerable risks which a \$500, 000 million plus project entails. An Oversight Board (Board) is created with members of the House of Delegates and Senate, as well as gubernatorial appointees. The Board members are required to have expertise and may also employ expertise. The Board will look to PPP best practices and will monitor both the contracting and the implementation of the PPP.

Critically, the pre-solicitation report will go to the Board for review and must contain: 1) an analysis of each contract and ; 2) the final Environmental Impact Statement if one is required by National environmental Policy Act; 3) an independent assessment of the effect of the PPP on the State's credit rating; and 4) an analysis of the economic, legal and technological risks involved in the PPP.

We encourage a favorable report

Carol O'Keeffe
IndivisibleHoCoMD

Testimony HB 485 P3 Process & Oversight.pdf

Uploaded by: Pérez, Rodolfo

Position: FAV

Rodolfo E. Pérez, PE
Consulting Engineer
6 Manor Spring Court
Silver Spring, MD 20906

February 5, 2021

**Testimony on HB 485 Public Private Partnerships - Process and Oversight
Committee: Environment & Transportation
Position: Favorable**

I offer this testimony in the context of my forty years of engineering experience in the private and federal sectors, including over two decades as advisor to the Inspector General, US Department of Transportation, and my pro bono service on the Montgomery County Transportation Policy Task Force from 2000 to 2002.

This bill will provide to the General Assembly a much-needed oversight role over future public private partnership (P3) projects. With this oversight, taxpayers will gain more transparency on financial and environmental consequences for all P3 projects with a value exceeding \$500 million.

The HB 485 includes indispensable taxpayer protections. For example, HB 485 will prohibit contractual provisions that allow toll concessionaires to demand compensation when local governments fund transportation projects that would reduce the number of drivers on toll lanes (similar to an existing prohibition applying to State-funded projects). The bill will also require independent auditors (or rating agencies) to conduct rating assessments for every contract under a large P3 agreement before the Board of Public Works can vote on it.

In the case of the I-495/I-270 P3 Project, the absence of this oversight has allowed the Maryland Department of Transportation to proceed without a review of credible non-tollway alternatives, without a full disclosure of financial and environmental consequences, thereby denying the public a voice in shaping decisions about this project.

I urge the Committee to report favorably on HB 485 to ensure that legislators, local planners and the public have the transparent oversight that they deserve for P3 projects.

Rodolfo E. Pérez, PE

HB0485_P3_Oversight_MLC_FAV.pdf

Uploaded by: Plante, Cecilia

Position: FAV



**TESTIMONY FOR HB0485
PUBLIC-PRIVATE PARTNERSHIPS – PROCESS AND OVERSIGHT**

Bill Sponsor: Delegate Solomon

Committee: Environment and Transportation

Organization Submitting: Maryland Legislative Coalition

Person Submitting: Cecilia Plante, co-chair

Position: FAVORABLE

I am submitting this testimony in favor of HB0485 on behalf of the Maryland Legislative Coalition. The Maryland Legislative Coalition is an association of individuals and grassroots groups with members in every district in the state. We have over 30,000 members across the state.

Our members are very concerned about the status of transportation projects in Maryland. It seems as though there is no real master transportation plan that connects the state and is also environmentally responsible. Projects are approved willy-nilly and there is no real oversight.

In the past several years, the idea of using public-private partnerships to manage large projects has become popular. We have no structure for handling these kinds of partnerships. Our ability to manage projects without involving P3s is very much in question and from what we have seen with the Purple Line, we don't seem to be able to manage projects WITH P3s.

We are in need of oversight – badly. This bill will authorize a review board, which would lend some much-needed structure to this process. It would also require pre-solicitation reports, so some real analysis can be done before solicitations can be provided to bidders.

The process we have now seems to result in poorly thought-out projects with huge cost overruns that are not environmentally sound. This is a good idea. The Maryland Legislative Coalition supports this bill and we recommend a **FAVORABLE** report in Committee.

P3 Reform Bill_FAV.pdf

Uploaded by: Sauter, Heather

Position: FAV

Committee: Environment & Transportation

Testimony on: HB 485 – Public-Private Partnerships – Process and Oversight

Position: Favorable

Hearing Date: March 5, 2020

I write in support of the P3 Reform Bill (HB485/SB361). P3 tollways are designed to profit from congestion instead of relieving it so the premise of widening the Beltway is fundamentally flawed. Studies show that commuters will save five minutes on their commutes which is a meager ROI for the millions it will cost to build.

It is the General Assembly's responsibility to protect taxpayers who are on the hook for any contracts MDOT enters into then reneges on before the results of the environmental impact study are complete. Montgomery and Prince George's County residents are still stinging from the MDOT's mismanagement of the dispute with Purple Line Transit Partners. MDOT needs to be more transparent in their decision making and honor the commitment it made to Maryland resident not to select a Phase Developer prior to the completion of the environmental impact study. Until trust is restored, the only recourse is P3 oversight & reform.

Heather Sauter
9619 Lawndale Dr
Silver Spring MD 20901
Sauter9619@yahoo.com

HB485 - Public-Private Partnerships-Process & Over

Uploaded by: Tulkin, Josh

Position: FAV



7338 Baltimore Ave
Suite 102
College Park, MD 20740

Committee: Environment and Transportation
Testimony on: HB485 - “Public-Private Partnerships – Process and Oversight”
Position: Support
Hearing Date: February 9, 2021

The Maryland Chapter of the Sierra Club strongly supports HB485 that would put in place a more detailed, deliberative, and transparent process for evaluating the potential environmental and financial impacts of proposed public-private partnerships (P3) for large transportation projects.

It is clear that a number of safeguards need to be added to the existing P3 evaluation process because current law has allowed Governor Hogan to fast track an ill-conceived proposal to add four toll lanes to I-495 and I-270 without meaningful environmental and financial evaluations being completed beforehand.

Requiring a Timely Review of the Environmental Impact of Large P3 Transportation Projects

For every proposed P3 with a total value that exceeds \$500 million, the bill would require the Department of Transportation (DOT) to include a completed environmental impact statement (EIS) that complies with the National Environmental Policy Act in the pre-solicitation report it submits to the Board of Public Works (BPW). Currently, DOT is interpreting the state’s P3 law as allowing it to publish the final EIS after the preferred alternative for the project and a developer partner have been selected by DOT, and after the BPW has approved a P3 agreement with the partner to complete extensive pre-development work on the project. The proposed agreement for the I-495 and I-270 project calls for paying the partner \$50 million if a decision is later made not to proceed with the project.

An EIS needs to be completed much earlier in the review process than at present because its findings, including whether a project will comply with state and federal environmental laws, should be a critical factor in helping the BPW to determine whether to approve creation of a P3 and in helping DOT to determine what the preferred alternative should be. No major P3 transportation project should even be considered by the BPW until the impact of each alternative considered is evaluated for its impact on greenhouse gas emissions and human health, as well as the impact on parks, stormwater runoff, and affected bodies of water. The transportation sector is already the largest source of climate-damaging greenhouse gas emissions in Maryland, as well as a major source of toxic emissions that are hazardous to human health.

Numerous studies show that expanding highways to solve congestion does not work for long because more lanes encourage more people to drive, which leads to congestion again, more sprawl, and more climate and health-damaging air pollution being emitted from the tailpipes of the increasing number of cars on the road. The state already has acknowledged difficulty in meeting the goal it set for itself in the Greenhouse Gas Reduction Act to reduce state greenhouse gas emissions 40% by 2030 (compared to the 2006 level).

In part to ensure that the EIS analysis of the proposed P3 is properly considered, the bill would establish a Public-Private Partnership Oversight Review Board – composed of House and Senate members as well as gubernatorial appointees – to review P3 pre-solicitation reports, which would include the EIS. The Board also would review and make recommendations regarding the designation of a P3 to the BPW, review best practices from P3s in other states and countries, and monitor the implementation and operation of existing P3s.

Founded in 1892, the Sierra Club is America’s oldest and largest grassroots environmental organization. The Maryland Chapter has over 75,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

Improving Financial Oversight

The bill also would significantly tighten the financial controls over P3 transportation projects valued at over \$500 million.

- DOT would be required to prepare a separate pre-solicitation report for each contract under a proposed P3. Currently, DOT only prepares one pre-solicitation report to explain and justify why a project should be procured as a P3. After a review and comment period, the BPW then decides whether to approve the P3. Requiring a separate pre-solicitation report to explain and justify each contract would allow much greater insight into how a project is being planned and would work.
- An independent assessment of the impact on the state's credit rating must be completed for each contract under the P3 by all credit rating agencies that rate the State's general obligation bonds. An independent analysis also must be completed that considers the economic, legal and technological risks to the state posed by a proposed P3 agreement.
- A proposed P3 agreement also would need to include financial information regarding each contractor and subcontractor that would provide products or services under the P3 agreement.

In summary, this bill would add reasonable and prudent provisions to the process for reviewing large proposed P3 transportation projects to better protect the interests of the state and its taxpayers. Major transportation investments such as those involving P3s need to be consistent with our goals to better serve the needs of all our residents while reducing climate, air and water pollution. We urge a favorable report on this bill.

Brian E. Ditzler
Transportation Chair
Brian.Ditzler@MDSierra.org

Josh Tulkin
Chapter Director
Josh.Tulkin@MDSierra.org

Barve_HB485_020821

Uploaded by: Wojahn, Patrick

Position: FAV



CITY OF COLLEGE PARK

OFFICE OF THE MAYOR & CITY COUNCIL

8400 BALTIMORE AVENUE SUITE 375 COLLEGE PARK MD 20740 | COLLEGEPAKMD.GOV

February 8, 2021

MAYOR

Patrick L. Wojahn
pwojahn@collegetparkmd.gov
240.988.7763

DISTRICT 1

Fazlul Kabir
fkabir@collegetparkmd.gov
301.659.6295

Kate Kennedy
kkennedy@collegetparkmd.gov
202.400.1501

DISTRICT 2

Monroe S. Dennis
mdennis@collegetparkmd.gov
301.474.6270

Llatetra Brown Esters
lbesters@collegetparkmd.gov
240.636.3584

DISTRICT 3

Robert W. Day
rday@collegetparkmd.gov
301.741.1962

John B. Rigg
jrigg@collegetparkmd.gov
443.646.3503

DISTRICT 4

Maria E. Mackie
mmackie@collegetparkmd.gov
240.472.0681

Denise Mitchell
dmitchell@collegetparkmd.gov
301.852.8126

Delegate Kumar P. Barve, Chair
Environment and Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

Re: HB 485 - Public-Private Partnerships – Process and Oversight

Dear Delegate Barve:

Public-Private Partnerships have the potential to leverage and extend public resources in a way that provides valuable resources to Maryland residents. In College Park, we will benefit greatly from Maryland's largest public-private partnership – the Purple Line—but that experience has been challenging and expensive for all parties. If a P3 solicitation is not structured in a way that ensures accountability for the private partner and minimizes risk for the public entity, the resulting agreement could lead to a massive financial loss for taxpayers. This risk is especially great when the project has a total value over \$500,000,000.

HB 485 would help minimize the risk for the public side of massive transportation related P3 projects by setting up an oversight review board and allowing sufficient time for public review of a solicitation before it goes out for bids. It would also require that the private partner establish solid creditworthiness and ensure that the public partner obtains the revenue of a project if the private partner is no longer able to maintain or operate the facility. The City of College Park supports these provisions to protect the investments of our public entities and our taxpayers.

Thank you for your consideration of the City's position.

Sincerely,

Patrick L. Wojahn
Mayor

cc: 21st District Delegation

BMC-COG Letter - HB485 - P3 Process and Oversight

Uploaded by: B. Kelly, Michael

Position: UNF



February 8, 2021

The Honorable Kumar Barve, Chair
Environment & Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

RE: UNFAVORABLE - HB485 - Public-Private Partnerships – Process and Oversight

Dear Chairman Barve and Honorable Members of the Committee:

We write to express concern with the language of HB485 – Public-Private Partnerships – Process and Oversight, specifically and exclusively with regard to the role the bill creates for the Baltimore Metropolitan Council (“BMC”), Metropolitan Washington Council of Governments (“COG”) and metropolitan planning organizations (“MPOs”) as staff to the Public-Private Partnership Oversight Review Board (“Review Board”). This function is inappropriate for our organizations and presents a conflict of interest with our planning operations.

This letter does not reflect a position as to the efficacy of HB485 generally. **We simply request the Committee remove all references to BMC, COG and MPOs from the bill’s language.** See Page 3, Lines 12-14 and Page 10, Lines 22-25. If the Committee cannot amend the bill as requested, we must respectfully oppose passage and request an **unfavorable** report.

As the Committee is likely aware, BMC and COG are the regional councils of government serving greater Baltimore and greater Washington, respectively. BMC and COG host and provide staff support to the MPOs that coordinate federally mandated regional transportation planning for each geographic area. These MPOs are the Baltimore Regional Transportation Board (“BRTB”) and National Capital Region Transportation Planning Board (“TPB”), respectively.

Under federal law, MPOs exist to coordinate the long and short-range transportation planning processes between local departments of transportation and state department(s) of transportation, ensuring that federal transportation investment reflects a regional approach to transportation system development and maintenance. These boards are independent bodies charged with the responsibility to implement the federal continuous, cooperative and comprehensive metropolitan planning process. Neither BRTB nor TPB undertake individual project development activities on behalf of any their members, especially should such projects come before the full board for inclusion in the MPO plan and program. It is important for the objectivity and independence of the board that MPO staff do not also serve as staff to one or more of its member agencies.

As outlined in the bill, the role of the Review Board is rooted in the General Assembly’s function in legislative oversight of executive action. The employment of public-private partnerships in infrastructure projects is currently within the domain of the Governor and executive agencies. For BMC, COG or its MPOs to serve any one set of stakeholders over another would hinder their independence.

Additionally, the work activities undertaken by the staff of BMC, COG or their MPOs is reviewed and approved by their respective boards of directors. As such, these entities would be unable to accept any mandated work activity outside of the board process.

Furthermore, the bill is not clear about whether an organization and/or its MPO would review a public-private partnership within its respective federally-prescribed Metropolitan Planning Area (MPA) or possibly even opine on a project outside that planning area. MPAs are the geographic area determined by agreement between the MPO and the Governor, in which the metropolitan planning process is carried out. In either respect, the language of the bill presents multiple issues for the undersigned parties and MPOs.

First, if asked to review a project *within* our MPA, we would be presented with a conflict of interest, because each project has already been reviewed and approved in some capacity by the MPO (including voting members from state and local DOTs) in the planning process. Not only would this be redundant and unnecessarily duplicative, we simply could not serve as neutral third parties in the review of projects our MPOs have already approved.

Second, if asked to review a project *outside* our planning area (MPA), we would risk running afoul of federal law. MPOs are prohibited from planning outside of their MPA. At the very least, this legislation could violate the spirit of federal law, and would force one MPO to question the professional judgment of colleagues in a neighboring region.

Third, if a project were to traverse two planning regions (imagine a large-scale project along the I-95 corridor between Washington, DC and Baltimore), neither organization could serve as a neutral third party in the oversight function.

We find ourselves in the unenviable position of opposing legislation that passed the House of Delegates in 2020. However, the bill, as originally introduced last session, did not include BMC, COG or MPOs. The language at issue was added by amendment. **We simply ask the Committee to remove all references to BMC, COG and MPOs from the bill and that the obligation for staff support to the Review Board rest elsewhere.**

If the Committee does not see fit to remove this language, we respectfully oppose passage of this legislation and request an **unfavorable** report.

Thank you for your consideration of the concerns expressed herein. Please contact us anytime.

Sincerely,



Michael B. Kelly
Executive Director
Baltimore Metropolitan Council
mkelly@baltometro.org



Chuck Bean
Executive Director
Metropolitan Washington Council of Governments
cbean@mwkog.org

cc: Delegate Maggie McIntosh, Chair, House Appropriations Committee
Delegate Jared Solomon, Sponsor
Delegate Tony Bridges, Member, Baltimore Metropolitan Council Board of Directors
Delegate Marc Korman, Member, National Capital Region Transportation Planning Board

BMC-COG Letter - HB485 - P3 Process and Oversight

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Position: UNF



February 8, 2021

The Honorable Kumar Barve, Chair
Environment & Transportation Committee
Room 251
House Office Building
Annapolis, Maryland 21401

RE: UNFAVORABLE - HB485 - Public-Private Partnerships – Process and Oversight

Dear Chairman Barve and Honorable Members of the Committee:

We write to express concern with the language of HB485 – Public-Private Partnerships – Process and Oversight, specifically and exclusively with regard to the role the bill creates for the Baltimore Metropolitan Council (“BMC”), Metropolitan Washington Council of Governments (“COG”) and metropolitan planning organizations (“MPOs”) as staff to the Public-Private Partnership Oversight Review Board (“Review Board”). This function is inappropriate for our organizations and presents a conflict of interest with our planning operations.

This letter does not reflect a position as to the efficacy of HB485 generally. **We simply request the Committee remove all references to BMC, COG and MPOs from the bill’s language.** See Page 3, Lines 12-14 and Page 10, Lines 22-25. If the Committee cannot amend the bill as requested, we must respectfully oppose passage and request an **unfavorable** report.

As the Committee is likely aware, BMC and COG are the regional councils of government serving greater Baltimore and greater Washington, respectively. BMC and COG host and provide staff support to the MPOs that coordinate federally mandated regional transportation planning for each geographic area. These MPOs are the Baltimore Regional Transportation Board (“BRTB”) and National Capital Region Transportation Planning Board (“TPB”), respectively.

Under federal law, MPOs exist to coordinate the long and short-range transportation planning processes between local departments of transportation and state department(s) of transportation, ensuring that federal transportation investment reflects a regional approach to transportation system development and maintenance. These boards are independent bodies charged with the responsibility to implement the federal continuous, cooperative and comprehensive metropolitan planning process. Neither BRTB nor TPB undertake individual project development activities on behalf of any their members, especially should such projects come before the full board for inclusion in the MPO plan and program. It is important for the objectivity and independence of the board that MPO staff do not also serve as staff to one or more of its member agencies.

As outlined in the bill, the role of the Review Board is rooted in the General Assembly’s function in legislative oversight of executive action. The employment of public-private partnerships in infrastructure projects is currently within the domain of the Governor and executive agencies. For BMC, COG or its MPOs to serve any one set of stakeholders over another would hinder their independence.

Additionally, the work activities undertaken by the staff of BMC, COG or their MPOs is reviewed and approved by their respective boards of directors. As such, these entities would be unable to accept any mandated work activity outside of the board process.

Furthermore, the bill is not clear about whether an organization and/or its MPO would review a public-private partnership within its respective federally-prescribed Metropolitan Planning Area (MPA) or possibly even opine on a project outside that planning area. MPAs are the geographic area determined by agreement between the MPO and the Governor, in which the metropolitan planning process is carried out. In either respect, the language of the bill presents multiple issues for the undersigned parties and MPOs.

First, if asked to review a project *within* our MPA, we would be presented with a conflict of interest, because each project has already been reviewed and approved in some capacity by the MPO (including voting members from state and local DOTs) in the planning process. Not only would this be redundant and unnecessarily duplicative, we simply could not serve as neutral third parties in the review of projects our MPOs have already approved.

Second, if asked to review a project *outside* our planning area (MPA), we would risk running afoul of federal law. MPOs are prohibited from planning outside of their MPA. At the very least, this legislation could violate the spirit of federal law, and would force one MPO to question the professional judgment of colleagues in a neighboring region.

Third, if a project were to traverse two planning regions (imagine a large-scale project along the I-95 corridor between Washington, DC and Baltimore), neither organization could serve as a neutral third party in the oversight function.

We find ourselves in the unenviable position of opposing legislation that passed the House of Delegates in 2020. However, the bill, as originally introduced last session, did not include BMC, COG or MPOs. The language at issue was added by amendment. **We simply ask the Committee to remove all references to BMC, COG and MPOs from the bill and that the obligation for staff support to the Review Board rest elsewhere.**

If the Committee does not see fit to remove this language, we respectfully oppose passage of this legislation and request an **unfavorable** report.

Thank you for your consideration of the concerns expressed herein. Please contact us anytime.

Sincerely,



Michael B. Kelly
Executive Director
Baltimore Metropolitan Council
mkelly@baltometro.org



Chuck Bean
Executive Director
Metropolitan Washington Council of Governments
cbean@mwkog.org

cc: Delegate Maggie McIntosh, Chair, House Appropriations Committee
Delegate Jared Solomon, Sponsor
Delegate Tony Bridges, Member, Baltimore Metropolitan Council Board of Directors
Delegate Marc Korman, Member, National Capital Region Transportation Planning Board

MTBMA MAA_HB 485_UNF.pdf

Uploaded by: Clark, Rachel

Position: UNF



Delegate Maggie McIntosh, Chair
Appropriations Committee
121 House Office Building
Annapolis, MD 21401

MARYLAND ASPHALT ASSOCIATION



Delegate Kumar P. Barve, Chair
Environment & Transportation Committee
251 House Office Building
Annapolis, MD 21401

February 5th, 2021

RE: HB 485 – UNFAVORABLE – Public-Private Partnerships – Process and Oversight

Dear Members of the Appropriations and Environment and Transportation Committees:

The Maryland Transportation Builders and Materials Association (“MTBMA”) and the Maryland Asphalt Association (“MAA”) collectively represent tens of thousands of Marylanders who operate in the areas of transportation construction, production and engineering. Together, for nearly 100 years these organizations have served as the voice of the transportation construction industry. The mission of both MTBMA and MAA is to encourage, develop, and protect the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry, and also advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

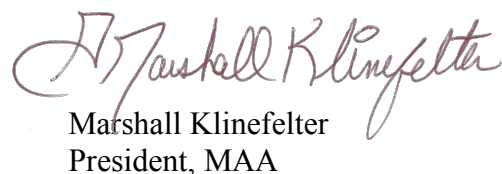
HB 485 would establish the Public-Private Partnership Oversight Review Board that would review P3 pre-solicitation reports and make recommendations regarding the designation of a public infrastructure asset as a P3. This bill is entirely redundant and unnecessary. The State already has an oversight review board that reviews P3 projects called the Board of Public Works (“BPW”). In fact, the three members who make up the Board of Public Works, the Governor, the Treasurer, and the Comptroller – would be required members of this P3 Oversight Review Board. We cannot understand why such a board is needed when the BPW already reviews all of the tasks listed in this bill. Enacting such legislation would only further delay necessary transportation projects in our State and undermine the process already in place.

We thank you for your time and consideration and ask for an UNFAVORABLE report on HB 485.

Sincerely,



Michael Sakata
President & CEO, MTBMA



Marshall Klinefelter
President, MAA

HB0485 - MDOT - Process and Oversight - OPP_FINAL.

Uploaded by: Helm, Pilar

Position: UNF

February 9, 2021

The Honorable Kumar Barve
Chairman, House Environment and Transportation Committee
251 House Office Building
Annapolis MD 21401

Re: *Letter of Opposition – House Bill 485 – Public-Private Partnerships – Process and Oversight*

Dear Chairman Barve and Committee Members:

The Maryland Department of Transportation (MDOT) respectfully opposes House Bill 485, as this legislation represents a significant departure from the State’s carefully considered public- private partnership (P3) law, which could serve to irreparably damage the P3 market in the State of Maryland.

House Bill 485 would fundamentally alter the framework under which P3 agreements are undertaken. Maryland has a model statutory framework for P3 agreements, which was developed in 2013 in accordance with the recommendations of a multi-year Joint Legislative and Executive Oversight Commission on Public-Private Partnerships. The P3 law in place was passed with overwhelming majorities in both the House and Senate just eight years ago.

House Bill 485 will cause a negative ripple effect to the P3 market in Maryland by creating project delays and uncertainty, limiting innovation and competition, and creating financial challenges for Maryland P3 projects seeking financing through multiple means.

First, the legislation requires a Final Environmental Impact Statement that complies with the National Environmental Policy Act to be submitted with the Pre-Solicitation Report to the P3 Oversight Review Board. Today, the environmental review and the solicitation processes can happen concurrently. This change would greatly limit MDOT’s ability to identify the best solutions in partnership with the concessionaire, which could result in costly redesign and reevaluation in response to design changes. This would also delay the project schedule, resulting in increased project costs and reduction of value to the State.

Second, this bill creates a seven-member Public-Private Partnership Oversight Review Board to review the Presolicitation Report and make recommendations regarding the P3 designation. For P3 projects of \$500 million or more, the newly established Oversight Review Board would have sixty days to review the Presolicitation Report and provide their recommendation to the legislature. Thereafter, the legislature would have another 60 days to review the P3 Review Board’s recommendations. The P3 Review Board, composed of two members of the House of Delegates, two members of the Senate, and three appointees of the Governor, increases project cost and uncertainty and reduces value to Maryland citizens.

As noted in the report from the 2013 P3 Commission, “the private sector is less likely to make substantial upfront investments if they believe that a political debate will derail a P3 project.” The proposed Review Board creates uncertainty for private developers - developers equate uncertainty to risk and risk costs money. P3 developers cite political risk as one of the most critical, and potentially most costly, project risks in the P3 market that they are unable to price.

Also, the inclusion of either the Baltimore and Washington Council of Governments (COG) or their associated Metropolitan Planning Organizations (MPO) as staff of the proposed Review Board could prove to be problematic in the future. As the planning bodies responsible for developing and carrying out a continuing, cooperative, and comprehensive transportation planning process, they consist of elected and local officials as well as transportation and transit agencies. MPOs approve plans for an entire region, and there is a potential risk for conflicts of interest, depending on who the COG or MPO staff would be. Staffing the Oversight Review Board and project-level approvals is ultimately not the MPO or COG role.

Third, the legislation requires all revenues to be assigned to the State or a successor entity to apply to the operations and maintenance of the project if the P3 partner goes bankrupt. This provision will make P3 projects in Maryland unbankable, meaning that projects will not be able to obtain financing with this provision. To issue debt to fund projects, an issuer must provide protections for the bondholders to get repaid. While bond holders accept the risk that project revenues may be insufficient for them to be repaid, they will not accept a provision in law that reassigns the revenues that are supposed to provide for debt repayment to another party. Reassigning all of these revenues to another party would also result in a financial windfall for that entity, because they would be receiving all project revenues while not having paid anything for project construction. Additionally, this provision would prohibit the State from receiving any financial benefit from the reassignment.

Fourth, House Bill 485 would prohibit the Board of Public Works from approving a P3 agreement until a risk analysis is completed by a financial advisory firm selected by the State Treasurer and an independent assessment is completed by all credit rating agencies the rate the State’s debt. It will be difficult for either of these actions to occur within the 30 days allotted for legislative review of a P3 agreement. Additionally, these efforts would be duplicative of other efforts. A complete project risk analysis is routinely completed by the project team. The State Treasurer is already required to provide an analysis of the P3’s impact on State debt. Credit rating agencies will be unwilling to provide the type of analysis required in this bill because it then could create a liability for them if something goes wrong with the private partner or funding source. A credit rating does not guarantee against a company going bankrupt or facing other financial challenges; it merely quantifies the risk of that happening. Every credit rating report includes lengthy disclaimers that the rating report should not be relied upon to make investment decisions.

The Honorable Kumar Barve
Page Three

The language below is an excerpt from the disclaimers used in every Moody's credit rating report. Similar language exists in the credit rating reports for Fitch and S&P as well.

“Credit ratings and Moody’s publications do no constitute or provide investment or financial advice, and credit ratings and Moody’s publications are not and do not provide recommendations to purchase, sell, or hold particular securities...Moody’s credit ratings and Moody’s publications are not intended for use by retail investors and it would be reckless and inappropriate for retail investors to use Moody’s credit ratings or Moody’s publications when making an investment decision...Credit ratings and Moody’s publications are not intended for use by any person as a benchmark as that term is defined for regulatory purposes and must not be used in any way that could result in them being considered a benchmark.”

Finally, House Bill 485 requires that if an agency receives an unsolicited proposal, it must notify and consult with the P3 Review Board about the unsolicited proposal. This provision will likely deter the private sector from submitting any unsolicited proposals. Unsolicited proposals may contain key business information – an idea that an entity has about how it can do something better, faster, or cheaper than the State. To require that these unsolicited proposals be reviewed by the Board, which would have to be a public body and subject to PIA and open meetings, would likely discourage any potential unsolicited proposals.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating House Bill 485 and issue an unfavorable report.

Respectfully submitted,

Pilar Helm
Director of Government Affairs
Maryland Department of Transportation
410-865-1090

HP485-UNFAVORABLE -The Greater Bethesda Chamber of

Uploaded by: Italiano, Ginanne

Position: UNF

February 5, 2021

Delegate Kumar P. Barve
Chair, Environment and Transportation Committee
Maryland House of Delegates
Room 251, House Office Building
Annapolis, MD 21401

RE: HB485 - Public-Private Partnerships - Process and Oversight

Position: **OPPOSE**

Dear Chairman Barve, Vice Chair Stein and Members of the Committee:

On behalf of our 500-member businesses and more than 45,000 employees in Montgomery County, this statement is in **Opposition to HB485 "Public Private Partnerships-Process and Oversight"**. This is a repeat performance of an obstructionist bill submitted for consideration last year (HB1424) that proceeded nowhere. This bill and its predecessor are one in a series of efforts to waylay the ambitious P3 highway program that seeks to offer congestion relief and economic freedom for Montgomery County and the surrounding region. By adding redundant bureaucratic oversight, and unnecessary reporting requirements, passage of this bill would guarantee delay for a project that is well on its way to beginning construction in 2022.

The P3 program is a win for businesses and residents throughout our County. It is a key part of the region's adopted long-range plan and the fact that the American Legion Bridge is now part and parcel of this project is a dream come true. The bridge is one of the nation's worst bottlenecks and is presently congested 10 hours day on average. A new bridge is desperately needed with managed lanes that can carry commuter buses and carpoolers for free. We must continue to seek a balanced approach with Roads and Transit to keep Maryland competitive and create jobs, particularly in the upcoming post-pandemic era where economic recovery should be a priority.

We urge you to recognize that traffic is already rebounding to near pre-COVID-19 levels. The time to act on the P3 is **now** when interest rates are low, and the project is feasible. Proceeding forth with this onerous piece of legislation is a recipe for delay and congestion. It seeks to void the P3 process which has been studied and implemented with care. This is a project that is needed for Maryland, Montgomery County and the region as a whole as we emerge from the darkness of 2020, the pandemic and its companion economic crisis.

We urge you to give an UNFAVORABLE report on this bill. Thank you for your consideration of our remarks.

Sincerely,



Allie Williams
President & CEO

HB 485 SMTA Final.pdf

Uploaded by: Russel, Jennifer

Position: UNF



The Suburban Maryland Transportation Alliance (SMTA) wishes to go on record in opposition to **HB485** “Public Private Partnerships Process and Oversight.” This proposed piece of legislation, which is a reincarnation of last year’s equally obstructionist bill has no place to go forward. Once again, we are faced with a piece of legislation that seeks to erroneously delay the much-needed P3 program which seeks to relieve the Washington region, and most particularly Montgomery County from the iron grasp of congestion that plagues the American Legion Bridge an average of 10 hours per day. The reconstruction of the ALB and the widening of I-270 to release upper Montgomery County from the grips of snarled and endless traffic is a much-needed project. SMTA has long promoted infrastructure improvement for BOTH transit and road because transit carries less than 10% of all trips and 90% of the trips are carried on our roads. Northern sections of I-270 have not been widened since the highway was built in the 1960’s. What are legislators thinking as they ignore the needs and human outcry of UpCounty residents who spend hours in their cars?

A great deal of time was spent at the State level to develop the P3 process to create a P3 Statue which is meant to attract needed private investment by streamlining the process and making in attractive in a time of extremely low interest rates. The addition of mayhem and extra bureaucratic oversight creates havoc and uncertainty in a process that is already underway. Phase I of the project could begin construction in 2022 if left to proceed as is. Additional EIS requirements could add as much as 2 years to the process and add additional, unneeded cost This would be an irresponsible approach and clearly not mindful of the fact that a majority of citizens polled on this project expect and want it to go forward,

Of particular concern is that the effort to delay congestion improvement would have a deleterious impact on our economy. A \$9-11B investment of this sort is likely to create roughly 13,000 jobs a year for the next decade or more, just from construction and related jobs. Multiplier effects from this level of stimulus are far greater than the \$2.3B the entire state of MD received in the COVID relief plan. As we emerge from the pandemic, our focus should be on righting the economic ship which has been adrift for a while. It is clear that congestion which has long plagued Montgomery County has been an obstacle in encouraging major employers to locate in the County. COVID has shifted travel patterns in the short term, but also drastically directed people away from mass transit. When the economy rebounds, traffic congestion will only get worse, and we will need more than telework and transit to accommodate shipping and freight, interstate travel and all the other uses of our highway system.

It is clear that the P-3 is the only way to responsibly fund large infrastructure projects such as the 270 widening and the American Legion Bridge improvement. The State does not have the funds to implement this much-needed improvement. This is a funding process that is proving incredibly useful across the country. We must join the ranks of forward moving and thinking jurisdictions that have recognized this tool as invaluable. Vote to oppose this bill which refuses to recognize the value of the P3 and ignores the voters and their needs.

Emmett Tydings, Chair

Jennifer Russel, Vice-Chair