

HOUSE BILL 1249

R1

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By: **Delegates Korman, Acevero, B. Barnes, D. Barnes, Barron, Barve, Carr, Charkoudian, Charles, Crutchfield, Cullison, Dumais, Fennell, W. Fisher, Fraser-Hidalgo, Gilchrist, Harrison, Healey, Holmes, Ivey, M. Jackson, Kaiser, Kelly, Kerr, Krimm, Lehman, J. Lewis, Lopez, Love, Luedtke, Moon, Palakovich Carr, Pena-Melnyk, Proctor, Qi, Queen, Reznik, Shetty, Solomon, Stewart, Terrasa, Turner, Valderrama, Valentino-Smith, Walker, Washington, Wilkins, Williams, and K. Young**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation and Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 12, 2020

CHAPTER _____

1 AN ACT concerning

2 **I-495 and I-270 Public-Private Partnership – Partnership**
3 **Agreement – Requirements**
4 **(Maryland State Department of Transportation Promises Act of 2020)**

5 FOR the purpose of requiring the public-private partnership agreement for the I-495 and
6 I-270 Public-Private Partnership Program to include certain provisions; authorizing
7 certain revenues derived from certain tolls to be distributed to a certain special fund
8 to be budgeted in a certain manner; establishing a certain special fund; requiring the
9 Board of Public Works, on or before a certain date, to request a certain determination
10 letter from the Maryland Transportation Authority and the State Department of
11 Transportation; making certain provisions of this Act subject to a certain
12 contingency; defining certain terms; and generally relating to the I-495 and I-270
13 Public-Private Partnership Program.

14 BY adding to
15 Article – State Finance and Procurement
16 Section 10A-404
17 Annotated Code of Maryland
18 (2015 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



BY repealing and reenacting, with amendments,
Article – Transportation
Section 4–313(a)(1)
Annotated Code of Maryland
(2015 Replacement Volume and 2019 Supplement)

BY adding to
Article – Transportation
Section 4–408
Annotated Code of Maryland
(2015 Replacement Volume and 2019 Supplement)

Preamble

WHEREAS, Governor Hogan has claimed this is the largest highway P3 in the world;
and

WHEREAS, The Maryland Department of Transportation and the Comptroller
reached detailed agreements to amend the Pre–Solicitation Report in January of 2020; and

WHEREAS, The General Assembly wants to ensure that these promises are kept;
now, therefore,

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

Article – State Finance and Procurement

10A–404.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “COMMUNITY BENEFIT AGREEMENT” MEANS AN AGREEMENT
APPLICABLE TO THE DEVELOPMENT OF ANY TRANSPORTATION PROJECT THAT:

(I) PROMOTES INCREASED OPPORTUNITIES FOR LOCAL
BUSINESSES AND SMALL, MINORITY, WOMEN–OWNED, AND VETERAN–OWNED
BUSINESSES IN THE TRANSPORTATION INDUSTRY;

(II) ENSURES THE TIMELY, SAFE, AND EFFICIENT COMPLETION
OF THE PROJECT BY FACILITATING A STEADY SUPPLY OF HIGHLY SKILLED CRAFT
WORKERS WHO ARE PAID NOT LESS THAN THE PREVAILING WAGE RATE
DETERMINED BY THE COMMISSIONER OF LABOR AND INDUSTRY UNDER TITLE 17,
SUBTITLE 2 OF THIS ARTICLE;

(III) PROMOTES SAFE COMPLETION OF THE PROJECT BY ENSURING THAT AT LEAST 80% OF THE CRAFT WORKERS ON THE PROJECT HAVE COMPLETED AN OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION 10-HOUR OR 30-HOUR COURSE;

(IV) PROMOTES CAREER TRAINING OPPORTUNITIES IN THE TRANSPORTATION INDUSTRY FOR LOCAL RESIDENTS, VETERANS, WOMEN, AND MINORITIES;

(V) PROVIDES FOR BEST EFFORTS AND EFFECTIVE OUTREACH TO OBTAIN, AS A GOAL, THE USE OF A WORKFORCE THAT INCLUDES MINORITIES TO THE EXTENT PRACTICABLE; AND

(VI) REFLECTS A 21ST-CENTURY LABOR-MANAGEMENT APPROACH BASED ON COOPERATION, HARMONY, AND PARTNERSHIP.

(3) "DEPARTMENT" MEANS THE STATE DEPARTMENT OF TRANSPORTATION AND INCLUDES THE OFFICE OF THE SECRETARY AND THE MODAL ADMINISTRATIONS.

(4) "PROGRAM" MEANS THE I-495 AND I-270 PUBLIC-PRIVATE PARTNERSHIP PROGRAM.

(B) ~~THE ALL~~ ALL PUBLIC-PRIVATE PARTNERSHIP AGREEMENT AGREEMENTS FOR THE PROGRAM SHALL:

(1) (I) REQUIRE THAT AT LEAST 10% OF THE TOLL REVENUE REMAINING AFTER CONSTRUCTION COSTS FROM TOLL LANES ON I-495 AND I-270 BE TRANSFERRED TO THE SPECIAL FUND ESTABLISHED UNDER § 4-408 OF THE TRANSPORTATION ARTICLE; ~~AND~~

(II) AUTHORIZE THE DEPARTMENT TO MAKE THE PAYMENTS REQUIRED UNDER ITEM (I) OF THIS ITEM IN SCHEDULED FIXED PAYMENTS; AND

(III) REQUIRE THE SPECIAL FUND TO BE BUDGETED IN ACCORDANCE WITH MEMORANDUMS OF UNDERSTANDING BETWEEN THE DEPARTMENT AND THE GOVERNING BODIES OF THE COUNTIES WHERE THE TOLL FACILITIES THAT ARE PART OF THE PROGRAM ARE LOCATED;

(2) PROHIBIT THE DEPARTMENT FROM ISSUING A FINAL REQUEST FOR PROPOSAL FOR THE PROJECT UNLESS THE REQUEST FOR PROPOSAL:

(I) GUARANTEES THAT ANY LOCAL, STATE, OR REGIONAL TRANSIT SYSTEM MAY USE THE TOLL LANES ON I-495 AND I-270 FOR BUSES AND OTHER MASS TRANSIT VEHICLES WITHOUT CHARGE; ~~AND~~

(II) REQUIRES THAT THE AMERICAN LEGION BRIDGE HAVE A SEPARATE PEDESTRIAN AND BICYCLE LANE OR LANES;

(3) PROHIBIT THE DEPARTMENT FROM USING STATE FUNDS TO ACQUIRE LAND FOR THE PROGRAM BEFORE THE BOARD OF PUBLIC WORKS APPROVES THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT, EXCEPT FOR OPTION PAYMENTS FOR THE RESERVATION OF THE PURCHASE OF LAND;

(4) SUBJECT TO SUBSECTION (C)(1) OF THIS SECTION, PROHIBIT THE DEPARTMENT FROM AWARDING A CONTRACT TO A BIDDER UNLESS THE BIDDER AGREES TO INITIATE A COMMUNITY BENEFIT AGREEMENT THAT DEMONSTRATES POSITIVE NET ECONOMIC, ENVIRONMENTAL, AND HEALTH BENEFITS TO THE STATE;

(5) SUBJECT TO SUBSECTION (C)(2) OF THIS SECTION, REQUIRE THE DEPARTMENT TO SHARE RELEVANT DATA TO THE MAXIMUM EXTENT PRACTICABLE AND IN A TIMELY MANNER, INCLUDING ORIGIN AND DESTINATION DATA AND TRAFFIC AND REVENUE MODEL DATA, CONSISTENT WITH ANY LICENSES OR OTHER LEGAL AGREEMENTS RELATED TO THE DATA, WITH:

(I) COUNTY DEPARTMENTS OF TRANSPORTATION; AND

(II) THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION;

(6) (I) REQUIRE THAT ALL INITIAL TRANSPORTATION TRUST FUND EXPENDITURES AND MARYLAND TRANSPORTATION AUTHORITY LOANS BE REPAYED BY VENDORS OR TOLLS; AND

(II) ~~PROHIBIT THE EXPENDITURE OF~~ ENCOURAGE THAT NO ADDITIONAL STATE FUNDS FOR THE PROGRAM BE EXPENDED BEYOND WHAT IS ALLOCATED IN THE CONSOLIDATED TRANSPORTATION PROGRAM AS OF OCTOBER 1, 2020;

(7) PROHIBIT THE DEPARTMENT FROM SUBMITTING A CONTRACT TO THE BOARD OF PUBLIC WORKS FOR REVIEW UNTIL A FINAL ENVIRONMENTAL IMPACT STATEMENT THAT COMPLIES WITH THE NATIONAL ENVIRONMENTAL POLICY ACT IS AVAILABLE;

(8) REQUIRE ANY TOLL ADJUSTMENTS TO BE SUBJECT TO PUBLIC HEARINGS IN THE COUNTY WHERE THE TOLL FACILITY IS LOCATED;

(9) REQUIRE THE STATE TO UNDERTAKE EFFORTS TO ENGAGE WITH VIRGINIA TO CONDUCT A TRANSIT STUDY OF THE AMERICAN LEGION BRIDGE CORRIDOR; AND

(10) REQUIRE THAT THE MARYLAND TRANSPORTATION AUTHORITY AND THE DEPARTMENT COMPLETE A MONORAIL FEASIBILITY STUDY.

(C) (1) THE PUBLIC-PRIVATE PARTNERSHIP AGREEMENT MAY REQUIRE A BIDDER TO AGREE TO INITIATE A COMMUNITY BENEFIT AGREEMENT THAT DEMONSTRATES BENEFITS IN ADDITION TO THE BENEFITS REQUIRED UNDER SUBSECTION (B)(4) OF THIS SECTION.

(2) (I) THE DEPARTMENT SHALL ENTER INTO NONDISCLOSURE AGREEMENTS WITH COUNTY DEPARTMENTS OF TRANSPORTATION AND THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION WITH REGARDS TO THE REQUIREMENT TO SHARE DATA UNDER SUBSECTION (B)(5) OF THIS SECTION.

(II) ~~THE DEPARTMENT MAY ASSERT CONFIDENTIALITY AS NECESSARY IN ACCORDANCE WITH § 4-335 OF THE GENERAL PROVISIONS ARTICLE~~ REQUIRE THAT COUNTY DEPARTMENTS OF TRANSPORTATION AND THE MARYLAND NATIONAL-CAPITAL PARK AND PLANNING COMMISSION, THROUGH NONDISCLOSURE AGREEMENTS, MAINTAIN CONFIDENTIALITY WITH REGARD TO THE REQUIREMENT TO SHARE DATA SHARED, INCLUDING ORIGIN AND DESTINATION DATA AND TRAFFIC AND REVENUE MODEL DATA UNDER SUBSECTION (B)(5) OF THIS SECTION SHARED.

Article – Transportation

4-313.

(a) (1) All rentals, rates, fees, tolls, and other charges and revenues derived from any transportation facilities project shall be set aside in a fund known as the “Transportation Authority Fund”, except to the extent that they are [pledged]:

(I) REQUIRED UNDER THE I-495 AND I-270 PUBLIC-PRIVATE PARTNERSHIP AGREEMENT TO BE DISTRIBUTED TO THE SPECIAL FUND ESTABLISHED UNDER § 4-408 OF THIS TITLE; OR

(II) PLEDGED under an applicable trust agreement to secure either:

[i] 1. Revenue bonds issued under this subtitle if the trust agreement or bond authorizing resolution expressly provides that this section does not apply to those bonds; or

1 [(ii)] 2. Revenue bonds of prior issues.

2 4-408.

3 AT LEAST 10% OF THE TOLL ~~REVENUES~~ REVENUE REMAINING AFTER
4 CONSTRUCTION COSTS FROM THE I-495 AND I-270
5 PUBLIC-PRIVATE PARTNERSHIP PROGRAM SHALL BE DISTRIBUTED TO A SPECIAL
6 FUND, TO BE USED ONLY FOR TRANSIT PROJECTS IN ACCORDANCE WITH
7 MEMORANDUMS OF UNDERSTANDING BETWEEN THE DEPARTMENT AND THE
8 GOVERNING BODIES OF THE COUNTIES WHERE THE TOLL FACILITIES THAT ARE
9 PART OF THE PROGRAM ARE LOCATED.

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

11 (a) On or before October 1, 2021, the Board of Public Works shall request a
12 determination letter from the Maryland Transportation Authority and the State
13 Department of Transportation confirming that the reporting agencies plan to issue a final
14 request for proposals.

15 (b) Within 5 days after receiving the determination letter requested under
16 subsection (a) of this section from the reporting agencies, the Board of Public Works shall
17 forward a copy of the letter to the Department of Legislative Services, 90 State Circle,
18 Annapolis, Maryland, 21401.

19 SECTION 3. AND BE IT FURTHER ENACTED, That:

20 (a) Section 1 of this Act shall take effect contingent on the receipt by the Board of
21 Public Works of a determination letter confirming that the reporting agencies plan to issue
22 a final request for proposals.

23 (b) If a determination letter requested under Section 2 of this Act is received on
24 or before October 1, 2021, Section 1 of this Act shall take effect on the date notice of the
25 letter is received by the Department of Legislative Services in accordance with Section 2 of
26 this Act.

27 (c) If the Board of Public Works does not receive a determination letter requested
28 under Section 2 of this Act on or before October 1, 2021, Section 1 of this Act, with no further
29 action required by the General Assembly, shall be null and void.

30 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of this
31 Act, this Act shall take effect October 1, 2020.