

HOUSE BILL 1220

P1, R1

0lr1851

By: **Delegates Barve, Korman, and Stein**

Introduced and read first time: February 7, 2020

Assigned to: Environment and Transportation and Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Public-Private Partnerships – Highway and Bridge Toll Facilities – Rates**
3 **(No Lexus Lane Act)**

4 FOR the purpose of requiring a public-private partnership agreement for a project
5 involving road, highway, or bridge assets to prohibit toll rates that exceed a certain
6 amount under certain circumstances; establishing that a public-private partnership
7 agreement for a project involving road, highway, or bridge assets may authorize toll
8 rates that exceed a certain amount with the approval of the Board of Public Works;
9 and generally relating to toll rates under a public-private partnership for projects
10 involving road, highway, or bridge assets.

11 BY repealing and reenacting, with amendments,
12 Article – State Finance and Procurement
13 Section 10A-401
14 Annotated Code of Maryland
15 (2015 Replacement Volume and 2019 Supplement)

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

18 **Article – State Finance and Procurement**

19 10A-401.

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

22 (1) the method and terms for approval of any assignment, reassignment,
23 or other transfer of interest related to the public-private partnership agreement;

24 (2) the methods and terms for setting and adjusting tolls, fares, fees, and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 other charges related to the public infrastructure asset;

2 (3) the method and terms for revenue-sharing or other sharing in fees or
3 charges, in which the public participates in the financial upside of asset performance of the
4 public infrastructure asset;

5 (4) minimum quality standards, performance criteria, incentives, and
6 disincentives;

7 (5) operations and maintenance standards;

8 (6) the rights for inspection by the State;

9 (7) the terms and conditions under which the reporting agency may provide
10 services for a fee sufficient to cover both direct and indirect costs;

11 (8) provisions for oversight and remedies and penalties for default;

12 (9) the terms and conditions under which the reporting agency originating
13 the public-private partnership shall be responsible for ongoing oversight;

14 (10) the terms and conditions for audits by the State, including the Office of
15 Legislative Audits, related to the agreement's financial records and performance;

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

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

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

23 (ii) requirements for the amount of the payment security and any
24 performance security in the form of a performance bond for a construction contract shall be
25 based on the value of the respective construction elements of the public-private partnership
26 agreement and not on the total value of the public-private partnership agreement.

27 (b) (1) A public-private partnership agreement may include a provision that,
28 except as provided in paragraph (2) of this subsection, compensation may be provided for
29 competing infrastructure developments that directly result in a documented revenue loss
30 for the private entity in a public-private partnership.

31 (2) Compensation may not be provided as a result of State infrastructure
32 developments already in the State's Capital Improvement Program or Consolidated
33 Transportation Program planning documents at the time the public-private partnership

1 agreement is executed, safety initiatives, transit projects, infrastructure improvements
2 with minimal capacity increases, or infrastructure or transit service improvements for
3 other transportation modes that are not the subject of the public-private partnership.

4 (c) (1) A public-private partnership agreement for a project involving road,
5 highway, or bridge assets may not include a noncompete clause that would inhibit the
6 planning, construction, or implementation of State-funded transit projects.

7 (2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, A
8 PUBLIC-PRIVATE PARTNERSHIP AGREEMENT FOR A PROJECT INVOLVING ROAD,
9 HIGHWAY, OR BRIDGE ASSETS SHALL PROHIBIT TOLL RATES THAT EXCEED 10 CENTS
10 PER MILE.

11 (II) A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT FOR A
12 PROJECT INVOLVING ROAD, HIGHWAY, OR BRIDGE ASSETS MAY AUTHORIZE TOLL
13 RATES THAT EXCEED 10 CENTS PER MILE WITH THE APPROVAL OF THE BOARD OF
14 PUBLIC WORKS.

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
16 1, 2020.