

# STATE OF NEW YORK

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5318

2019-2020 Regular Sessions

## IN SENATE

April 25, 2019

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Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT requiring all public authorities owning, leasing, and controlling critical infrastructure to study the potential consequences of privatization

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Legislative findings. 1. New York state must have sufficient numbers of properly designed and maintained bridges, tunnels, roads, airports, ports, container ports and railroads ("critical infrastructure") in order to retain its economic competitiveness and grow its economy.
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- 6 2. Much of the state's existing critical infrastructure is aging, is experiencing capacity problems, has had maintenance problems, or in some other manner has become a candidate for re-engineering, rebuilding, replacement or supplementation.
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- 10 3. The most critical and expensive infrastructure in New York state to re-engineer, rebuild or replace is under the control or ownership of public authorities, and such critical transportation infrastructure is under consideration for sale, long-term lease or other transfer of ownership or control to the private business sector ("privatization").
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- 15 § 2. 1. All public authorities shall immediately suspend issuing concessions or selling or otherwise transferring, or issuing notices of inquiry ("NOIs") or requests for proposal ("RFPs") for leasing, or selling or otherwise transferring control of any critical transportation infrastructure, until each of such public authorities has issued a study reporting on the effects of privatization of critical transportation infrastructure, and all public authorities shall forbear from issuing concessions or selling or otherwise transferring, or issuing notices of inquiry ("NOIs") or requests for proposals ("RFPs") for leasing, or
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 selling or otherwise transferring control of any critical transportation  
2 infrastructure during the pendency of such studies (the "privatization  
3 report").

4 2. (a) Each public authority shall issue its individual report to the  
5 assembly committees on corporations, authorities and commissions,  
6 economic development, transportation, and ways and means, and to the  
7 senate committees on commerce, economic development and small business,  
8 corporations, authorities and commissions, and transportation (the  
9 "Committees").

10 (b) Each public authority's report shall evaluate in detail the  
11 following:

12 (i) the impact that sale or transfer of control of its critical  
13 infrastructure would have upon the authority's ability to pay any and  
14 all debt it has issued, or succeeded to, that is guaranteed or secured  
15 by any revenues arising from the authority's critical infrastructure, or  
16 by the ownership of such critical infrastructure;

17 (ii) whether the critical infrastructure involved any existing priva-  
18 tization initiatives in the United States are comparable in scope, scale  
19 and value to the critical infrastructure controlled by the public  
20 authority ("comparable projects");

21 (iii) the progress to date of any comparable projects and whether any  
22 such projects have experienced cost overruns or delays, or otherwise  
23 have failed, or succeeded, in meeting the deadlines and costs put forth  
24 by the private entity.

25 3. (a) The privatization report shall be due on or within 14 days of  
26 December 1, 2019. Within 90 days after the date each public authority  
27 submits the report provided for in subdivision one of this section to  
28 the committees, such committees may, severally or collectively, submit  
29 further issues for study and inclusion in such report, which said public  
30 authorities shall study and include within such report within 60 days  
31 after receipt of any such submission, at which point said public author-  
32 ities shall submit the privatization report to the governor, the tempo-  
33 rary president of the senate, the speaker of the assembly, the minority  
34 leaders of the senate and assembly, the chairperson and ranking minority  
35 member of the senate corporations, authorities and commissions commit-  
36 tee, and the chairperson and ranking minority member of the assembly  
37 corporations, authorities and commissions committee.

38 (b) The governor, the temporary president of the senate, the speaker  
39 of the assembly, the minority leaders of the senate and assembly, the  
40 chairperson and ranking minority member of the senate corporations,  
41 authorities and commissions committee, and the chairperson and ranking  
42 minority member of the assembly corporations, authorities and commis-  
43 sions committee shall have a period of 90 days within which to submit  
44 further issues for study and inclusion in such report, which said public  
45 authorities shall study and include within such report within 60 days  
46 after receipt of any such submission.

47 (c) No public authority shall take any action to privatize any crit-  
48 ical infrastructure owned by it, leased by it, or otherwise controlled  
49 by it, including but not limited to the actions enumerated in this  
50 section, until the privatization report, including responses to its  
51 submission by the committees, legislators and the executives mentioned  
52 above shall, have been completed and submitted to said persons.

53 § 3. This act shall take effect on the ninetieth day after it shall  
54 have become a law. Any rule or regulation necessary for the timely  
55 implementation of this act on its effective date may be promulgated on  
56 or before such date.