

S T A T E O F N E W Y O R K

4117--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. BRODSKY, JEFFRIES -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 suffi-
2 cient numbers of properly designed and maintained bridges, tunnels,
3 roads, airports, ports, container ports and railroads ("critical infras-
4 tructure") in order to retain its economic competitiveness and grow its
5 economy.
6 2. Much of the state's existing critical infrastructure is aging, is
7 experiencing capacity problems, has had maintenance problems, or in some
8 other manner has become a candidate for re-engineering, rebuilding,
9 replacement or supplementation.
10 3. The most critical and expensive infrastructure in New York state to
11 re-engineer, rebuild or replace is under the control or ownership of
12 public authorities, and such critical transportation infrastructure is
13 under consideration for sale, long-term lease or other transfer of
14 ownership or control to the private business sector ("privatization").
15 S 2. 1. All public authorities shall immediately suspend issuing
16 concessions or selling or otherwise transferring, or issuing notices of
17 inquiry ("NOIs") or requests for proposal ("RFPs") for leasing, or sell-
18 ing or otherwise transferring control of any critical transportation
19 infrastructure, until each of such public authorities has issued a study
20 reporting on the effects of privatization of critical transportation

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 infrastructure, and all public authorities shall forbear from issuing
2 concessions or selling or otherwise transferring, or issuing notices of
3 inquiry ("NOIs") or requests for proposals ("RFPs") for leasing, or
4 selling or otherwise transferring control of any critical transportation
5 infrastructure during the pendency of such studies (the "privatization
6 report").

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

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

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

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

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

28 3. (a) The privatization report shall be due on or within 14 days of
29 December 1, 2010. Within 90 days after the date each public authority
30 submits the report provided for in subdivision one of this section to
31 the committees, such committees may, severally or collectively, submit
32 further issues for study and inclusion in such report, which said public
33 authorities shall study and include within such report within 60 days
34 after receipt of any such submission, at which point said public author-
35 ities shall submit the privatization report to the governor, the tempo-
36 rary president of the senate, the speaker of the assembly, the minority
37 leaders of the senate and assembly, the chairperson and ranking minority
38 member of the senate corporations, authorities and commissions commit-
39 tee, and the chairperson and ranking minority member of the assembly
40 corporations, authorities and commissions committee.

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

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

1 S 3. This act shall take effect on the ninetieth day after it shall
2 have become a law. Any rule or regulation necessary for the timely
3 implementation of this act on its effective date may be promulgated on
4 or before such date.