

5588

2013-2014 Regular Sessions

I N A S S E M B L Y

March 4, 2013

Introduced by M. of A. BRENNAN -- Multi-Sponsored by -- M. of A. JACOBS
-- read once and referred 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 S 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, 2013. 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 S 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.