STATE OF NEW YORK

10041

IN ASSEMBLY

March 8, 2018

Introduced by M. of A. PAULIN, SEAWRIGHT, D'URSO, ORTIZ, SIMON, CROUCH -- Multi-Sponsored by -- M. of A. ABBATE -- 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:

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.

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.

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").

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

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

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

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

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

(ii) whether the critical infrastructure involved any existing privatization initiatives in the United States are comparable in scope, scale and value to the critical infrastructure controlled by the public authority ("comparable projects");

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

3. (a) The privatization report shall be due on or within 14 days of December 1, 2018. Within 90 days after the date each public authority submits the report provided for in subdivision one of this section to the committees, such committees may, severally or collectively, submit further issues for study and inclusion in such report, which said public authorities shall study and include within such report within 60 days after receipt of any such submission, at which point said public authorities shall submit the privatization report to the governor, the temporary president of the senate, the speaker of the assembly, the minority leaders of the senate and assembly, the chairperson and ranking minority member of the senate corporations, authorities and commissions committee, and the chairperson and ranking minority member of the assembly corporations, authorities and commissions committee.

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

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

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