

# STATE OF NEW YORK

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4870

2017-2018 Regular Sessions

## IN ASSEMBLY

February 3, 2017

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Introduced by M. of A. DINOWITZ -- 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  
2 numbers of properly designed and maintained bridges, tunnels,  
3 roads, airports, ports, container ports and railroads ("critical infrastructure")  
4 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 § 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 selling  
18 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  
21 infrastructure, and all public authorities shall forbear from issuing  
22 concessions or selling or otherwise transferring, or issuing notices of  
23 inquiry ("NOIs") or requests for proposals ("RFPs") for leasing, or  
24 selling or otherwise transferring control of any critical transportation

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

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1 infrastructure during the pendency of such studies (the "privatization  
2 report").

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

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

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

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

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

24 3. (a) The privatization report shall be due on or within 14 days of  
25 December 1, 2017. Within 90 days after the date each public authority  
26 submits the report provided for in subdivision one of this section to  
27 the committees, such committees may, severally or collectively, submit  
28 further issues for study and inclusion in such report, which said public  
29 authorities shall study and include within such report within 60 days  
30 after receipt of any such submission, at which point said public author-  
31 ities shall submit the privatization report to the governor, the tempo-  
32 rary president of the senate, the speaker of the assembly, the minority  
33 leaders of the senate and assembly, the chairperson and ranking minority  
34 member of the senate corporations, authorities and commissions commit-  
35 tee, and the chairperson and ranking minority member of the assembly  
36 corporations, authorities and commissions committee.

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

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

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