STATE OF NEW YORK

5528

2021-2022 Regular Sessions

IN SENATE

March 10, 2021

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:

Section 1. Legislative findings. 1. New York state must have sufficient numbers of properly designed and maintained pieces of critical transportation infrastructure such as bridges, tunnels, roads, airports, ports, container ports, railroads and rapid transit services 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 transportation 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, from time to time, is under consideration for sale, long-term lease or other transfer of ownership or control to the private business sector.

§ 2. For the purposes of this act, the following terms shall have the following meanings:

1. "critical transportation infrastructure" shall refer to bridges, tunnels, roads, airports, ports, container ports, railroads and rapid transit services owned by a state or local public authority;

2. "privatization" shall refer to the sale, long-term lease or other transfer of ownership or control of pieces of critical transportation infrastructure to the private business sector;

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

LBD10103-01-1

3. "comparable projects" shall refer to existing privatization initiatives in the United States comparable in scope, scale and value to the critical transportation infrastructure controlled by state or local public authorities; and

4. "privatization report" shall refer to the report created pursuant to this act.

§ 3. 1. All public authorities who are currently in the process of 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, or who have done so in the past ten years, shall issue a study reporting on the effects of privatization of critical transportation infrastructure.

2. (a) Each public authority shall issue its individual privatization 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.

(b) Each public authority's privatization 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;

(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, 2022. 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.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.