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Committee: Environment & Transportation

Testimony on: HB 956, Public-Private Partnership (P3) Oversight and Accountability Act

Position: Support

Hearing Date: March 1, 2024

The Maryland Chapter of the Sierra Club strongly supports HB 956. The bill would establish the Public- Private Partnership Oversight Review Board to study proposed public-private partnerships (P3s) and review presolicitation reports for transportation facilities projects whose total value would exceed \$500 million. The Board also would make recommendations to the Budget Committees of the General Assembly and the Board of Public Works regarding each presolicitation report it receives, review best practices regarding P3s from other states and internationally, and monitor the implementation and operation of existing P3s.

The bill also specifies a number of other requirements. If a transportation facilities project whose total value exceeds \$500 million would be developed in separate phases, a separate presolicitation report on each phase and each contract in the project must be submitted to the P3 Oversight Review Board. A risk analysis and an independent assessment of the impact of each P3 contract on the State's credit rating must be completed by a financial advisor chosen by the State Treasurer. The risk analysis should assess the economic, legal and technological risks to the State posed by the proposed agreement, as well as evaluate any parent company, lender, or equity partner guarantees. A vote of the General Assembly must approve a P3 agreement with a total value that exceeds \$1 billion before the Board of Public Works may act on the agreement.

In addition, the bill would require that a P3 agreement for a project involving road, highway, or bridge assets may not include a noncompete clause that would prohibit the planning, construction, or implementation of transit or road maintenance projects.

HB 956 represents lessons-learned from both the P3 contract for developing and managing the Purple Line and the proposed P3 to build and operate four toll lanes on portions of the Capital Beltway and lower I-270. The bill is aimed at preventing problems with future P3s and would not prevent the latter project from proceeding.

The bill's provisions would provide a number of reasonable and prudent safeguards to the process for reviewing large P3 transportation projects. Current P3 law allowed the former Governor to dramatically scale back plans and spending on the Purple Line before it could proceed (which contributed to its problems) and state agencies moved his proposed toll lane project forward without adequate economic, legal, and technological risk analyses or full financial evaluations being completed. Also, current law does not give the General Assembly a substantive role in reviewing proposed P3s.

In summary, HB 956 would ensure meaningful analyses are completed on proposed P3s before they could be approved, as well as greater involvement by the General Assembly in the review process to better protect the interests of the state and its taxpayers. We urge a favorable report on this bill.

Founded in 1892, the Sierra Club is America's oldest and largest grassroots environmental organization. The Maryland Chapter has over 70,000 members and supporters, and the Sierra Club nationwide has over 800,000 members and nearly four million supporters.

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