

**Department of Legislative Services**  
 Maryland General Assembly  
 2010 Session

**FISCAL AND POLICY NOTE**

House Bill 529 (Delegate Stukes, *et al.*)  
 Environmental Matters

**Maryland Transit Administration - Audio Recording Devices on Vehicles Used for Transit Service**

This bill requires the Maryland Transit Administration (MTA) to install and activate audio recording devices on MTA vehicles used for transit service. The audio recording device must be capable of recording oral communications of the vehicle’s operator and passengers. The bill requires MTA to post a specified notice on MTA vehicles with audio recording devices. Audio recordings made and retained by MTA may be reviewed only by specified individuals and under specified circumstances. MTA, in cooperation with the Office of the Attorney General, must adopt implementing regulations.

**Fiscal Summary**

**State Effect:** Transportation Trust Fund (TTF) expenditures increase by \$20.9 million in FY 2011 to purchase, install, and maintain audio recording systems on MTA vehicles. Future year expenditures reflect elimination of one-time costs, annualization, and inflation. Revenues are not directly affected; however, to meet farebox recovery ratio requirements, MTA would be required to increase fares or reduce other expenditures to offset the bill’s operating expenditures.

(\$ in millions)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	20.9	2.7	2.8	2.8	2.9
Net Effect	(\$20.9)	(\$2.7)	(\$2.8)	(\$2.8)	(\$2.9)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** Minimal.

## Analysis

**Bill Summary:** Audio recordings from MTA vehicles may be reviewed only by:

- an investigative or law enforcement officer acting under interception of communications provisions in the Courts and Judicial Proceedings Article;
- an individual whose conversation was recorded;
- the legal representative of an individual whose conversation was recorded or who is the subject of an investigation related to the recorded conversation; and
- the MTA Administrator, or a designee, when investigating a complaint involving the conduct of an MTA employee or a passenger of a transit vehicle.

**Current Law:** Except as otherwise specified in statute, it is unlawful for a person to:

- willfully intercept, endeavor to intercept, or procure any other person to intercept a wire, oral, or electronic communication;
- willfully disclose, or endeavor to disclose, to any other person the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept; and
- willfully use, or endeavor to use, the contents of a wire, oral, or electronic communication, knowing or having reason to know that the information was obtained through an illegal intercept.

However, it is lawful for law enforcement officers and persons acting with the prior direction and under the supervision of law enforcement officials to intercept communications as part of a criminal investigation to provide evidence of the commission of specified crimes, including murder, kidnapping, rape, gambling, robbery, dealing in a controlled dangerous substance, manufacturer or possession of destructive device, and obstruction of justice.

Wiretapping is also authorized if a person has created a barricade situation and there is probable cause to believe a hostage or hostages may be involved. There are specified exceptions for lawful acts performed by such individuals as (1) a switchboard operator or wire or electronic communication service employee; (2) an investigative or law enforcement officer acting in a criminal investigation or other specified circumstances; (3) a person who is a party to the intercepted communication, where all of the parties have given prior consent; (4) an employee of a governmental emergency communications center; and (5) a person intercepting an electronic communication that is readily accessible to the general public. Law enforcement may place a device within a vehicle to intercept communication to provide evidence of vehicle theft.

“Transit service” is the transportation of persons and their packages and baggage and of newspapers, express, and mail in regular route, special, or charter service by means of transit facilities between points within the metropolitan transit district. Transit service does not include taxicab service, vanpool operation, or railroad service. A “transit vehicle” is a mobile device used in rendering transit service.

**Background:** MTA operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services such as the light rail, metro subway, commuter buses, Maryland Area Regional Commuter (MARC) trains, and mobility/paratransit vehicles.

MTA has begun to install video and audio surveillance equipment in its vehicles, in part, to serve as an after-the-fact investigative tool in the event of a criminal incident or crash. At this time, 224 of the 605 buses are equipped with new audio and video surveillance equipment with the audio function turned off. MTA’s remaining 381 buses are equipped with older video-only (VHS) surveillance equipment that records to a unit onboard the bus. MTA’s 100 metro cars and 53 light rail cars are equipped with digital units that record video to a unit in the vehicle. MTA’s 271 mobility vehicles and 50 commuter buses are not equipped with any video or audio recording systems. MARC trains do not have video or audio recording systems at this time either.

MTA’s fiscal 2010 budget includes \$1.7 million to upgrade bus surveillance equipment. The Governor’s proposed fiscal 2011 budget includes \$2.0 million to continue these upgrades. The Maryland Department of Transportation’s Fiscal 2010-2015 *Consolidated Transportation Plan* (CTP) includes a total of \$11.0 million for upgrading surveillance equipment on the bus fleet. In addition, the CTP includes \$20.4 million for upgrading an MTA police monitoring facility and wireless network and generally upgrading light rail and metro system equipment.

Several other transit agencies, including those in Cleveland, Denver, and Chicago, use audio recording technology in their vehicles.

**State Expenditures:** MTA’s TTF expenditures increase by \$20.9 million in fiscal 2011 to purchase, install, and maintain audio recording systems on MTA vehicles used for transit service. This MTA estimate assumes:

- 381 buses are equipped with recording capacity at a cost of \$20,000 per bus;
- 53 light rail cars are equipped with recording capacity at a cost of \$51,000 per car;
- 100 metro subway cars are equipped with recording capacity at a cost of \$35,000 per car;
- 50 commuter buses are equipped with recording capacity at a cost of \$20,000 per bus;

- 271 mobility cutaway vehicles are equipped with recording capacity at a cost of \$15,000 per vehicle;
- a contractor provides annual equipment maintenance, repair, and system upgrades;
- 1,079 MTA vehicles are equipped with durable signs informing passengers about the audio recording devices; and
- 25 police communications officers are required to monitor, archive, check alarms, and coordinate communication.

The estimate reflects salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	25
Salaries and Fringe Benefits	\$1,184,328
Start-up and Operating Expenses	132,787
Surveillance Equipment and Installation	18,888,000
Surveillance Equipment Maintenance	<u>735,000</u>
<b>Total FY 2011 Expenditures</b>	<b>\$20,940,115</b>

As noted above, however, the Governor's proposed fiscal 2011 budget includes \$2.0 million for upgrades consistent with the bill's requirements.

Future year expenditures reflect salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of State Police, Judiciary (Administrative Office of the Courts), Maryland Department of Transportation, Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2010  
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