Department of Legislative Services

Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 772 (Senators DeGrange and Miller)
Budget and Taxation

Transit Benefit Districts

This bill authorizes the Maryland Transit Administration (MTA) to establish two transit benefit districts to finance, construct, operate, repair, and maintain in good order transit facilities and transit services. MTA may establish one district in the Baltimore metropolitan region and the other in the Washington metropolitan region. The districts may comprise part or all of a county within each region, and the bill specifies the powers and authorities of the districts, including the authority to impose a property tax and issue bonds. Each district is given general and exclusive jurisdiction over its respective transit facility and service. The Maryland Department of Transportation (MDOT) is prohibited from exercising jurisdiction or authority over the transit facilities and the transit services they provide.

The bill takes effect June 1, 2014.

Fiscal Summary

State Effect: State Effect: If MTA uses the bill's authority, Transportation Trust Fund (TTF) expenditures/revenues decrease significantly as discussed below, and any federal fund revenues that MTA may have received for specified projects are foregone. This assumes that all responsibility for and associated costs to construct and operate transit projects in a transit benefit district are shifted from MDOT to the transit benefit districts.

Local Effect: Local finances may be impacted significantly as discussed below.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Transit Benefit Districts – Establishment

Transit benefit districts must finance, construct, operate, repair, and maintain in good order a transit facility and services. Each district is given general and exclusive jurisdiction over its transit facility and service. MDOT is prohibited from exercising jurisdiction or authority over the transit facility and the transit services they provide.

MTA must define the regional boundaries of a district and may include only a portion of a county in a district. MTA must establish the membership of a district's governing body; however, the membership must (1) include members of the governing body of a local government within the district and (2) local representation must be in proportion to the size of the local government within the district.

At least 30 days prior to establishing a transit benefit district, MTA must publish a report containing specified information. A public hearing must be held on the report, after providing notice at least 15 days before the hearing in a specified manner. MTA must also consult with any local governing body within a proposed district prior to establishing a district.

Jurisdiction and Powers

Transit benefit districts are authorized to (1) acquire, hold, and dispose of property; (2) sue and be sued in their own names; (3) make contracts and agreements; (4) employ and fix the compensation of employees and other agents; (5) apply for and receive grants; (6) condemn property in a specified manner; (7) fix, revise, charge, and collect rentals, rates, fees, fares, and other charges for the use of their facilities or services; and (8) adopt regulations.

Financing – Property Tax

Transit benefit districts are authorized, within the limits of their respective districts, to impose a property tax on the assessment of property that is subject to State property tax. The property tax must (1) be levied in the same manner, on the same assessments, for the same period, and as of the same date of finality as the State prescribes; (2) be collected and secured in the same manner as county property taxes and subject to the same penalties and the same procedure, sale, and lien priority as provided for county property taxes; and (3) identify the transit facility or transit service that the tax benefits.

Financing – Issuance of Bonds

A transit benefit district may issue bonds, notes, or other evidence of obligation, payable solely from the rentals, rates, fees, fares, and taxes each transit benefit district is empowered to impose. Bond proceeds may be used solely for paying the cost of transit facilities. A transit district may issue bonds without the consent of any instrumentality, agency, or unit of the State.

A transit benefit district may issue bonds to refinance all or any part of the cost of a transit facility without the approval of the General Assembly, including the issuance of additional bonds to cover construction costs not covered in the initial bond issuance.

A transit benefit district may also issue (1) refunding bonds for specified purposes, including for construction improvements and transit enhancements and (2) bond anticipation notes.

Bonds issued by a transit benefit district may not (1) constitute a debt of the State or a political subdivision of the State other than a transit benefit district; (2) constitute a pledge of the full faith and credit of a transit benefit district, the State, or a political subdivision of the State; or (3) directly or indirectly obligate the State or a political subdivision of the State to impose any tax. A transit benefit district must issue bonds in a specified manner and must consider specified issues concerning bonds issued.

The bonds, notes, and other evidences of obligation issued under the bill are exempt from State and local taxation.

Current Law/Background:

MTA Operations

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 is currently the lead agency for coordinating the financing, construction, and future operation of both the Red Line and Purple Line transit projects.

The Red and Purple Lines

The Red Line is a proposed 14-mile, east-west light rail line that would run from Baltimore County's Woodlawn employment and commercial centers through downtown Baltimore City to the Johns Hopkins Bayview Medical Center Campus. It would link to the north-south light rail, metro, and MARC trains.

The Purple Line is a proposed 16-mile light rail line extending from Bethesda in Montgomery County to New Carrollton in Prince George's County. It would provide a direct connection to the Metrorail, MARC, Amtrak, and regional and local bus services.

The Corridor Cities Transitway

The Corridor Cities Transitway (CCT) is a proposed high-quality Bus Rapid Transit (BRT) line operating along a nine-mile corridor from Shady Grove Metrorail station to the Metropolitan Grove MARC station in Montgomery County. The project is currently proceeding with engineering and environmental analysis. The BRT line is planned to be a premium bus service operating on an exclusive transitway (separate from vehicular traffic), featuring 30 to 35 vehicles. Phase II of the project, currently in planning stages, would be an extension from the Metropolitan Grove MARC station to the COMSAT facility near Clarksburg.

Transportation Funding

The Transportation Infrastructure Investment Act of 2013 (Chapter 429) was enacted to substantially increase the amount of transportation revenues by increasing motor fuel taxes and requiring MTA to increase base fare prices beginning in fiscal 2015.

Chapter 429 alters motor fuel taxes specifically by:

- indexing motor fuel tax rates, except for aviation and turbine fuel, to inflation beginning in fiscal 2014;
- imposing a 1% sales and use tax equivalent rate on all motor fuel, except for aviation and turbine fuel, beginning in fiscal 2014, increasing to 2% beginning on January 1, 2015, and to 3% beginning in fiscal 2016;
- unless federal remote sales tax legislation is enacted by December 1, 2015, the sales and use tax equivalent rate increases from 3% to 4% beginning January 1, 2016, and then increases to 5% beginning in fiscal 2017; and
- if federal remote sales tax legislation is enacted and takes effect by December 1, 2015, the sales and use tax equivalent rate remains at 3% and the Comptroller is then required to distribute 4% of total State sales and use tax revenues to TTF.

Chapter 429 also increases the vehicle registration fee surcharge, requires the Governor to include in the operating or capital budget specified appropriations to the State Highway Administration, and places procedural restrictions on transfers from the TTF and use of TTF monies, among other things.

Exhibit 1 shows the estimated increases in transportation revenues as enacted by Chapter 429.

Exhibit 1
Transportation Revenues Resulting from Chapter 429 of 2013
($ in Millions)

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Rate Increase*					
Gasoline	3.5¢	6.8¢	10.6¢	11.6¢	12.5¢
Special Fuel	3.5¢	6.8¢	10.6¢	11.7¢	12.6¢
Revenues					
Sales and Use Tax Equivalent Rate	$97	$146	$303	$323	$336
Remote Sales Tax Legislation*	0	0	52	191	199
CPI Indexing	13	22	39	56	76
Farebox Recovery	0	10	22	23	32
Total Increase – MDOT	**$110**	**$178**	**$416**	**$593**	**$643**
WIP – G.O. Bonds	**$0**	**$45**	**$65**	**$85**	**$100**
Total Transportation Funding	**$110**	**$223**	**$481**	**$678**	**$743**

***** Assumes federal remote sales tax legislation is enacted as specified by the bill. Unless this legislation is enacted by December 1, 2015, the sales and use tax equivalent rate increases from 3% to 4% beginning January 1, 2016, and increases to 5% beginning in fiscal 2017.

Source: Maryland Department of Transportation

State Fiscal Effect: If MTA uses the bill's authority, TTF expenditures and revenues decrease significantly as discussed below, and any federal fund revenues that MTA may have received for specified projects are foregone. This assumes that all responsibility for and associated costs to construct and operate transit projects in a transit benefit district are shifted from MDOT to the transit benefit districts. The impact on the State depends on the boundaries established for each transit benefit district and the extent to which either transit benefit district takes over existing MTA projects, such as the Red line, Purple line, or CCT.

Transportation Trust Fund Expenditures

Estimated federal and TTF capital funding for the Red Line, Purple Line, and CCT in MDOT's fiscal 2015-2019 CTP is illustrated in **Exhibit 2**. *For illustrative purposes,* if the transit benefit districts are established to complete the Red and Purple line projects, TTF expenditures decrease by $202.6 million in fiscal 2015. By transferring responsibility of the Red and Purple lines to the transit benefit districts, up to $1.5 billion in TTF revenue currently earmarked for the two projects through fiscal 2019 is potentially available for other priorities. If a transit benefit district is established to complete the CCT project, TTF expenditures decrease by $10.0 million in fiscal 2015; by transferring responsibility to a transit benefit district, up to $90.0 million earmarked for the project through fiscal 2019 is potentially available for other priorities.

Under the same illustrative example, TTF expenditures decrease further, as costs to operate the transit lines in future years are shifted from MDOT to the transit benefit districts.

Exhibit 2
Estimated Funding in the CTP: Red and Purple Lines and CCT
Fiscal 2015-2019
($ in Millions)

	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Red Line					
TTF	$58.7	$28.3	$120.6	$350.8	$167.4
Federal Funds	32.2	44.8	100.0	192.0	393.7
Subtotal	**$90.9**	**$73.1**	**$220.6**	**$542.8**	**$561.1**
Purple Line					
TTF	$143.9	$190.2	$138.0	$138.0	$139.7
Federal Funds	15.0	100.0	100.0	100.0	100.0
Subtotal	**$158.9**	**$290.2**	**$238.0**	**$238.0**	**$239.7**
CCT (TTF)	**$10.0**	**$20.0**	**$35.0**	**$21.0**	**$4.0**
Total	**$259.8**	**$383.4**	**$493.6**	**$801.8**	**$804.8**

CTP: 2015-2019 *Consolidated Transportation Program*
TTF: Transportation Trust Fund
CCT: Corridor Cities Transitway
Source: 2015-2019 *Consolidated Transportation Program*

Transportation Trust Fund Revenues

The farebox recovery ratio is the ratio of public transit operating revenues compared to operating expenditures. Generally in the State, to the extent expenditures are not covered by fares, the operating deficit for public transit is paid from TTF. Because the bill gives general and exclusive jurisdiction of transit facilities within a transit benefit district to the district, any potential farebox revenue for TTF is instead collected by and attributed to the districts.

Federal Fund Revenues and Expenditures

The federal funds in the CTP, which are shown in **Exhibit 2**, reflect federal funds that *may* be obtained by MDOT, but MDOT must still apply to receive the funding through a competitive grant process. As such, there is no guarantee of federal funds for these projects, and the bill does not directly affect federal fund revenues and expenditures. *For illustrative purposes,* if the federal funds are obtained by MDOT in the absence of the bill, and if the transit benefit districts are established to complete the Red and Purple lines, federal fund revenues and expenditures decrease by $47.2 million in fiscal 2015, and federal fund revenues in future years is foregone. However, a transit benefit district may be able to apply for and obtain the funding in place of MDOT.

In addition, MDOT advises that federal fund revenues may also decrease to the extent that the transit benefit districts established by MTA compete with MDOT for federal grants and funding. Federal grants are generally competitive, and MDOT may lose future grant revenues to one or both of the transit benefit districts under the bill.

State Debt Service

Although the bill states that bonds issued by a transit benefit district do not constitute State debt, the Department of Legislative Services advises that rating agencies and other financial institutions are likely to consider the districts' debt when evaluating the State's overall debt and financial condition.

Local Fiscal Effect: The bill gives both transit benefit districts various types of financing authority, limited to within their respective districts. Thus, unless other support is provided, the burden for financing transit projects within the districts, such as the Red Line, the Purple Line, and CCT, is effectively shifted from the entire State to the respective jurisdictions in which the projects are located. It is unclear what impact, if any, this shift may have on local finances in the affected jurisdictions.

Beginning in fiscal 2015, the transit benefit districts may levy property taxes and issue revenue bonds. Thus, the districts' special fund and bond revenues and expenditures increase potentially significantly beginning in fiscal 2015 to hire staff and develop the transit lines. This estimate assumes that each district levies new taxes and issues bonds that generate revenues that are commensurate with their expenditures and that any tax revenue is deposited into dedicated special funds. These revenues and expenditures will not be reflected in the State budget.

Creating two districts with the same level of staff expertise and administrative infrastructure as currently exists at MTA would take a number of years, which could significantly delay development of affected transit projects.

Local jurisdictions benefit to the extent TTF revenues currently earmarked for the Red Line, the Purple Line, and CCT are redirected to local jurisdictions for other transportation projects. MTA is currently the designated recipient for federal funds for the Red Line and Purple Line; the proposed districts must submit new project grant applications to the Federal Transit Administration. It is unclear clear whether federal grant funding would be provided to the districts. To the extent the districts secure grants, federal revenues increase beginning in fiscal 2016; however, such revenues cannot be reliably estimated.

Small Business Effect: To the extent the transit benefit districts levy property taxes, the bill may have a significant impact on small business expenditures in the affected jurisdictions. Small businesses are also potentially impacted to the extent the authorities (1) acquire, hold, dispose, and condemn property and (2) issue project implementation contracts.

Additional Information

Prior Introductions: SB 830 of 2013, a bill with similar provisions, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Maryland Association of Counties, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2014
ncs/lgc

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