

# SENATE BILL 907

R1

(6lr1385)

## ENROLLED BILL

— Finance/Appropriations and Environment and Transportation —

Introduced by **Senators Middleton, Astle, Conway, DeGrange, Ferguson, Gladden, Guzzone, Kagan, King, Klausmeier, Madaleno, Manno, McFadden, Miller, Muse, Nathan-Pulliam, Peters, Pugh, Ramirez, Raskin, Rosapepe, Zirkin, and Zucker** Zucker, Benson, Feldman, and Kelley

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
President.

### CHAPTER \_\_\_\_\_

1 AN ACT concerning  
2 **Transportation – Harry W. Nice Memorial Potomac River Bridge – Replacement**  
3 FOR the purpose of requiring the State and the Maryland Transportation Authority to  
4 finance a multilane replacement bridge for the Harry W. Nice Memorial Potomac  
5 River Bridge; specifying certain requirements for the replacement bridge; stating the  
6 intent of the General Assembly; establishing the Harry W. Nice Memorial Potomac  
7 River Bridge Replacement Fund; requiring the Authority to make a deposit of ~~no less~~  
8 ~~than~~ a certain amount to the Fund, in certain fiscal years and under certain  
9 circumstances, to finance the design and construction of the replacement bridge;  
10 requiring the deposit to be made from a certain balance of funds deposited in a  
11 certain account before the balance of funds may be used for a certain purpose;  
12 authorizing the Authority to deposit in the Fund an amount that is less than a

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#### EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.  
Underlining indicates amendments to bill.  
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.  
*Italics indicate opposite chamber/conference committee amendments.*



1 ~~certain required amount under certain circumstances; and requiring certain video~~  
 2 ~~lottery facility revenue distributed to the Fund to supplement, but not supplant, the~~  
 3 ~~deposit, subject to a certain exception;~~ prohibiting the Authority from depositing  
 4 certain proceeds into the fund; requiring the Authority to submit ~~an annual report~~  
 5 *certain reports* to certain committees of the General Assembly; and generally relating  
 6 to the replacement bridge for the Harry W. Nice Memorial Potomac River Bridge.

7 BY adding to

8 Article – Transportation

9 Section 4–322

10 Annotated Code of Maryland

11 (2015 Replacement Volume and 2015 Supplement)

12 Preamble

13 WHEREAS, The Maryland Transportation Authority (MdTA) received federal  
 14 approval of a National Environmental Policy Act (NEPA) study in 2012 that supported the  
 15 replacement of the Harry W. Nice Memorial Potomac River Bridge and the creation of a  
 16 new crossing that provides for two lanes of traffic in each direction in order to match the  
 17 existing highway facilities in Maryland and Virginia on each side of the Potomac River on  
 18 U.S. 301; and

19 WHEREAS, The Nice Bridge is the only MdTA facility that forces users to drive on  
 20 a highway or bridge without a barrier or median separation between opposing directions of  
 21 traffic at all times; and

22 WHEREAS, In 2014 MdTA publicly stated that the 75–year–old Harry W. Nice  
 23 Memorial Potomac River Bridge has a deck that will reach the end of its useful life by 2025  
 24 and will need replacement; and

25 WHEREAS, The Harry W. Nice Memorial Potomac River Bridge serves as a critical  
 26 evacuation route in the event of a national disaster or security alert, links the region’s  
 27 military facilities, contractors, suppliers, and businesses, and provides the only direct,  
 28 logical alternative to I–95 (the primary and increasingly burdened north–south  
 29 thoroughfare that traverses all of the states along the East Coast of the United States) for  
 30 travel between the Washington Metropolitan Area and Richmond, Virginia, in the event of  
 31 a major incident or closure on I–95; and

32 WHEREAS, A project limited to the replacement of the deck of the Harry W. Nice  
 33 Memorial Potomac River Bridge without the availability of an additional Potomac River  
 34 crossing will place an undue hardship on vital U.S. Defense Department facilities in the  
 35 area and on other users of the bridge and also could require detours for users of more than  
 36 100 miles; and

37 WHEREAS, MdTA already has committed \$53 million to the planning, designing,  
 38 preliminary engineering, and right–of–way acquisition costs associated with a Harry W.  
 39 Nice Memorial Potomac River Bridge replacement project; and

1 WHEREAS, In order to meet a target opening date of no later than December 31,  
2 2030, for the replacement bridge for the Harry W. Nice Memorial Potomac River Bridge, it  
3 is imperative that MdTA include the project in its capital program in the near future so  
4 that planning and design work on the project may proceed and its subsequent construction  
5 commence in a timely manner; and

6 WHEREAS, The users of the Harry W. Nice Memorial Potomac River Bridge have  
7 waited patiently while the State has undertaken major system expansion and system  
8 preservation projects in every other region of the State served by MdTA; now, therefore,

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
10 That the Laws of Maryland read as follows:

11 **Article – Transportation**

12 **4–322.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
14 INDICATED.

15 (2) “EMERGENCY CIRCUMSTANCE” MEANS AN UNFORESEEN EVENT  
16 OR OCCURRENCE THAT REQUIRES THE AUTHORITY TO EXPEND AT LEAST  
17 \$25,000,000 IN A GIVEN FISCAL YEAR TO ADDRESS AN UNFORESEEN NEED THAT WAS  
18 NOT INCLUDED IN THE AUTHORITY’S MOST RECENT FINANCIAL FORECAST  
19 SUBMITTED UNDER § 4–210(B)(2) OF THIS ARTICLE.

20 ~~(2)~~ (3) “FUND” MEANS THE HARRY W. NICE MEMORIAL POTOMAC  
21 RIVER BRIDGE REPLACEMENT FUND.

22 ~~(3)~~ (4) “HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE”  
23 MEANS THE 1.7 MILE–LONG BRIDGE FOR SINGLE–LANE VEHICULAR TRAFFIC IN  
24 EACH DIRECTION LOCATED ON U.S. 301 THAT CROSSES THE POTOMAC RIVER  
25 BETWEEN CHARLES COUNTY, MARYLAND, AND KING GEORGE COUNTY, VIRGINIA.

26 (B) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE AUTHORITY:

27 (1) PROMPTLY UNDERTAKE:

28 (I) ALL STEPS NECESSARY TO COMPLETE PRELIMINARY  
29 DESIGN, ENGINEERING, AND RIGHT–OF–WAY ACQUISITION, AS AUTHORIZED UNDER  
30 THE 2016 CONSOLIDATED TRANSPORTATION PLAN, FOR THE HARRY W. NICE  
31 MEMORIAL POTOMAC RIVER BRIDGE REPLACEMENT PROJECT; AND

1 (II) ANY OTHER REQUIREMENTS THAT MUST BE MET BEFORE  
2 THE AUTHORITY SOLICITS BIDS AND LETS A PROCUREMENT CONTRACT FOR THE  
3 CONSTRUCTION OF THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE  
4 REPLACEMENT BRIDGE;

5 (2) CONSTRUCT A REPLACEMENT BRIDGE FOR THE HARRY W. NICE  
6 MEMORIAL POTOMAC RIVER BRIDGE IN ACCORDANCE WITH THIS SECTION; AND

7 (3) NOT UNDERTAKE AS A LONG-TERM PREFERRED OPTION TO  
8 ADDRESS TRAFFIC CONGESTION ON AND THE CONDITION OF THE EXISTING HARRY  
9 W. NICE MEMORIAL POTOMAC RIVER BRIDGE A PROJECT THAT IS LIMITED TO  
10 REDECKING AND MAINTAINING THE EXISTING BRIDGE.

11 (C) THE STATE AND THE AUTHORITY SHALL FINANCE A MULTILANE  
12 REPLACEMENT BRIDGE FOR THE HARRY W. NICE MEMORIAL POTOMAC RIVER  
13 BRIDGE AS PROVIDED IN THIS SECTION.

14 (D) THE REPLACEMENT BRIDGE FOR THE HARRY W. NICE MEMORIAL  
15 POTOMAC RIVER BRIDGE SHALL:

16 (1) INCLUDE AT LEAST TWO LANES IN EACH DIRECTION; AND

17 (2) BE CONSTRUCTED AND COMMENCE OPERATION ON OR BEFORE  
18 DECEMBER 31, 2030.

19 (E) (1) THERE IS A HARRY W. NICE MEMORIAL POTOMAC RIVER  
20 BRIDGE REPLACEMENT FUND.

21 (2) THE FUND SHALL BE ESTABLISHED AS AN IRREVOCABLE  
22 TAX-EXEMPT TRUST, IN ACCORDANCE WITH § 115 OF THE INTERNAL REVENUE  
23 CODE OR OTHER APPLICABLE FEDERAL STATUTE.

24 (3) THE PURPOSE OF THE FUND IS TO ASSIST THE STATE IN  
25 FINANCING THE DESIGN AND CONSTRUCTION OF THE REPLACEMENT BRIDGE FOR  
26 THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE.

27 (4) (I) ~~IN FISCAL YEAR 2018 AND IN EACH FISCAL YEAR~~  
28 ~~THEREAFTER AND SUBJECT TO SUBPARAGRAPHS (IV) AND (VI) OF THIS PARAGRAPH,~~  
29 EXCEPT AS PROVIDED IN SUBPARAGRAPH (IV) OF THIS PARAGRAPH, IN EACH OF  
30 FISCAL YEARS 2018 THROUGH 2027, THE AUTHORITY SHALL DEPOSIT IN THE FUND  
31 \$75,000,000 AT LEAST \$26,000,000 \$75,000,000 FROM THE RENTALS, RATES, FEES,  
32 TOLLS, AND OTHER CHARGES AND REVENUES THE AUTHORITY ACCUMULATES FROM  
33 TRANSPORTATION FACILITIES PROJECTS UNDER THE JURISDICTION OF THE  
34 AUTHORITY.

1           (II) THE MONEY REQUIRED UNDER SUBPARAGRAPH (I) OF THIS  
2 PARAGRAPH SHALL BE DEPOSITED FROM THE BALANCE OF FUNDS THAT ARE  
3 DEPOSITED IN THE AUTHORITY'S GENERAL ACCOUNT AFTER THE AUTHORITY HAS,  
4 AS REQUIRED UNDER ITS TRUST AGREEMENT AND ANY SUPPLEMENTAL TRUST  
5 AGREEMENTS, PAID OR SET ASIDE AMOUNTS TO FUND OR MEET CURRENT  
6 EXPENSES, DEBT SERVICE OBLIGATIONS ON BONDS ISSUED BY THE AUTHORITY,  
7 MAINTENANCE AND OPERATION RESERVE REQUIREMENTS, AND OTHER RESERVE  
8 AND JUNIOR OBLIGATIONS REQUIREMENTS.

9           (III) THE AUTHORITY SHALL DEPOSIT IN THE FUND THE MONEY  
10 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM THE BALANCE OF  
11 FUNDS THAT ARE DEPOSITED IN THE AUTHORITY'S GENERAL ACCOUNT, AS  
12 DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, BEFORE THE AUTHORITY  
13 MAY USE THE BALANCE OF FUNDS FOR ANY OTHER PURPOSE.

14           (IV) THE AUTHORITY MAY DEPOSIT IN THE FUND AN AMOUNT  
15 THAT IS LESS THAN THE AMOUNT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS  
16 PARAGRAPH IF:

17                   1. THE AUTHORITY DETERMINES THAT AN EMERGENCY  
18 CIRCUMSTANCE EXISTS; AND

19                   2. THE LEGISLATIVE POLICY COMMITTEE APPROVES  
20 THE REDUCTION IN THE AMOUNT DEPOSITED IN THE FUND.

21           (V) AN EMERGENCY CIRCUMSTANCE EXISTS UNDER  
22 SUBPARAGRAPH (IV) OF THIS PARAGRAPH IF AN UNFORESEEN CIRCUMSTANCE  
23 REQUIRES A REDUCTION IN THE AMOUNT THAT MUST BE DEPOSITED IN THE FUND  
24 UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN ORDER FOR THE AUTHORITY TO:

25                   1. REMAIN IN COMPLIANCE WITH REQUIREMENTS OF  
26 THE TRUST AGREEMENT AND ANY SUPPLEMENTAL TRUST AGREEMENTS; OR

27                   2. ENSURE THAT THE UNFORESEEN CIRCUMSTANCE  
28 DOES NOT ADVERSELY AFFECT THE CONTINUITY OF OPERATIONS AT ONE OR MORE  
29 TRANSPORTATION FACILITIES PROJECTS.

30           (VI) 1. EXCEPT AS PROVIDED UNDER SUBSUBPARAGRAPH 2  
31 OF THIS SUBPARAGRAPH, ANY REVENUE DISTRIBUTED TO THE FUND FROM A VIDEO  
32 LOTTERY FACILITY LOCATED IN CHARLES COUNTY SHALL SUPPLEMENT, AND MAY  
33 NOT SUPPLANT, THE MONEY REQUIRED UNDER SUBPARAGRAPH (I) OF THIS  
34 PARAGRAPH.

~~2. THE AUTHORITY MAY DEPOSIT IN THE FUND AN AMOUNT THAT IS LESS THAN THE AMOUNT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IF THE LEGISLATIVE POLICY COMMITTEE:~~

~~A. DETERMINES THAT THERE ARE REVENUES DISTRIBUTED TO THE FUND FROM A VIDEO LOTTERY FACILITY LOCATED IN CHARLES COUNTY THAT MAY SUPPLANT ALL OR PART OF THE MONEY REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH; AND~~

~~B. APPROVES A REDUCTION IN THE AMOUNT REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.~~

1. THE AUTHORITY DETERMINES THAT AN EMERGENCY CIRCUMSTANCE EXISTS;

2. THE EMERGENCY CIRCUMSTANCE REQUIRES A REDUCTION IN THE AMOUNT THAT MUST BE DEPOSITED IN THE FUND UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN ORDER FOR THE AUTHORITY TO:

A. REMAIN IN COMPLIANCE WITH REQUIREMENTS OF THE TRUST AGREEMENT AND ANY SUPPLEMENTAL TRUST AGREEMENTS; OR

B. ENSURE THAT THE UNFORESEEN CIRCUMSTANCE DOES NOT ADVERSELY AFFECT THE CONTINUITY OF OPERATIONS AT ONE OR MORE TRANSPORTATION FACILITIES PROJECTS; AND

3. THE AUTHORITY APPROVES AT A PUBLIC MEETING THE REDUCTION IN THE AMOUNT THAT MUST BE DEPOSITED INTO THE FUND UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

~~(II) (VII) (V)~~ THE AUTHORITY MAY NOT CREDIT BOND PROCEEDS TO THE FUND AS PART OF THE ANNUAL DEPOSIT REQUIRED FROM THE AUTHORITY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

~~(III) (VIII) (VI)~~ ANY INTEREST EARNED ON THE MONEY DEPOSITED IN THE FUND SHALL ACCRUE TO THE FUND.

~~(IV) (IX) (VII)~~ THE MONEY IN THE FUND MAY NOT BE USED BY THE AUTHORITY OR APPROPRIATED BY THE STATE FOR ANY PURPOSE OTHER THAN FOR THE DESIGN AND CONSTRUCTION OF THE REPLACEMENT BRIDGE FOR THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE.

(F) (1) ON OR BEFORE DECEMBER 1 EACH YEAR UNTIL COMPLETION OF CONSTRUCTION OF THE REPLACEMENT BRIDGE FOR THE HARRY W. NICE

1 MEMORIAL POTOMAC RIVER BRIDGE, IN ACCORDANCE WITH § 2-1246 OF THE  
2 STATE GOVERNMENT ARTICLE, THE AUTHORITY SHALL SUBMIT A REPORT ON THE  
3 STATUS OF THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE AND THE  
4 FUND TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE  
5 APPROPRIATIONS COMMITTEE, AND THE HOUSE COMMITTEE ON WAYS AND  
6 MEANS.

7 (2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL  
8 INCLUDE:

9 (I) AN UPDATE ON THE PROGRESS OF THE PROJECT;

10 (II) ANY REVISED ESTIMATE OF THE TOTAL COST OF THE  
11 PROJECT AND A STATEMENT OF THE REASONS FOR ANY COST SAVINGS OR COST  
12 INCREASES;

13 (III) A DESCRIPTION OF ANY CHANGES TO ANY FINANCING PLAN  
14 FOR THE PROJECT;

15 (IV) PLANNED EXPENDITURES BY YEAR, CATEGORIZED BY  
16 PLANNING AND ENGINEERING, RIGHT-OF-WAY ACQUISITION, UTILITY RELOCATION,  
17 PERMITS, DESIGN, CONSTRUCTION, AND OTHER CATEGORIES AS DETERMINED BY  
18 THE AUTHORITY;

19 (V) FUNDING SOURCES BY YEAR, CATEGORIZED BY:

20 1. FEDERAL FUNDS;

21 2. AUTHORITY CASH RESERVES;

22 3. AUTHORITY REVENUE BOND ISSUANCES;

23 4. BOND ANTICIPATION NOTES; AND

24 5. ANY OTHER REVENUE SOURCE; AND

25 (VI) ANY OTHER INFORMATION CONCERNING THE HARRY W.  
26 NICE MEMORIAL POTOMAC RIVER BRIDGE AND THE REPLACEMENT BRIDGE FOR  
27 THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE THAT THE AUTHORITY  
28 CONSIDERS PERTINENT.

29 (G) (1) IF A REDUCTION IS APPROVED BY THE AUTHORITY UNDER  
30 SUBSECTION (E)(4)(IV) OF THIS SECTION, THE AUTHORITY SHALL SUBMIT, WITHIN  
31 5 BUSINESS DAYS AFTER THE APPROVAL AND IN ACCORDANCE WITH § 2-1246 OF THE

STATE GOVERNMENT ARTICLE, A REPORT TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE SENATE FINANCE COMMITTEE, THE HOUSE APPROPRIATIONS COMMITTEE, AND THE HOUSE ENVIRONMENT AND TRANSPORTATION COMMITTEE ON THE APPROVAL OF THE EMERGENCY CIRCUMSTANCE.

**(2) THE REPORT REQUIRED UNDER THIS SUBSECTION SHALL INCLUDE:**

**(I) A DESCRIPTION OF THE EMERGENCY CIRCUMSTANCE;**

**(II) THE RATIONALE FOR THE APPROVAL OF THE EMERGENCY CIRCUMSTANCE;**

**(III) AN ACCOUNTING OF THE DECREASED AMOUNT TO BE DEPOSITED IN THE FUND; AND**

**(IV) IF APPLICABLE, A DESCRIPTION OF HOW THE APPROVAL OF THE EMERGENCY CIRCUMSTANCE MAY IMPEDE THE PROGRESS OF THE PROJECT.**

**(3) THE BUDGET COMMITTEES SHALL HAVE 45 DAYS TO REVIEW AND COMMENT ON THE REPORT.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
President of the Senate.

\_\_\_\_\_  
Speaker of the House of Delegates.