

SENATE BILL 907

R1

6lr1385
CF HB 672

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**

Introduced and read first time: February 5, 2016

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 18, 2016

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
13 certain required amount under certain circumstances; and requiring certain video
14 lottery facility revenue distributed to the Fund to supplement, but not supplant, the
15 deposit, subject to a certain exception; prohibiting the Authority from depositing
16 certain proceeds into the fund; requiring the Authority to submit an annual report
17 to certain committees of the General Assembly; and generally relating to the
18 replacement bridge for the Harry W. Nice Memorial Potomac River Bridge.

19 BY adding to

20 Article – Transportation

21 Section 4-322

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.



1 Annotated Code of Maryland
2 (2015 Replacement Volume and 2015 Supplement)

3 Preamble

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

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

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

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

23 WHEREAS, A project limited to the replacement of the deck of the Harry W. Nice
24 Memorial Potomac River Bridge without the availability of an additional Potomac River
25 crossing will place an undue hardship on vital U.S. Defense Department facilities in the
26 area and on other users of the bridge and also could require detours for users of more than
27 100 miles; and

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

31 WHEREAS, In order to meet a target opening date of no later than December 31,
32 2030, for the replacement bridge for the Harry W. Nice Memorial Potomac River Bridge, it
33 is imperative that MdTA include the project in its capital program in the near future so
34 that planning and design work on the project may proceed and its subsequent construction
35 commence in a timely manner; and

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

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

3 **Article – Transportation**

4 **4–322.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (2) “FUND” MEANS THE HARRY W. NICE MEMORIAL POTOMAC
8 RIVER BRIDGE REPLACEMENT FUND.

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

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

14 (1) PROMPTLY UNDERTAKE:

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

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

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

25 (3) NOT UNDERTAKE AS A LONG–TERM PREFERRED OPTION TO
26 ADDRESS TRAFFIC CONGESTION ON AND THE CONDITION OF THE EXISTING HARRY
27 W. NICE MEMORIAL POTOMAC RIVER BRIDGE A PROJECT THAT IS LIMITED TO
28 REDECKING AND MAINTAINING THE EXISTING BRIDGE.

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

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

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

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

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

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

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

14 (4) (I) IN FISCAL YEAR 2018 AND IN EACH FISCAL YEAR
15 THEREAFTER AND SUBJECT TO SUBPARAGRAPHS (IV) AND (VI) OF THIS PARAGRAPH,
16 THE AUTHORITY SHALL DEPOSIT IN THE FUND ~~\$75,000,000~~ AT LEAST \$26,000,000
17 FROM THE RENTALS, RATES, FEES, TOLLS, AND OTHER CHARGES AND REVENUES
18 THE AUTHORITY ACCUMULATES FROM TRANSPORTATION FACILITIES PROJECTS
19 UNDER THE JURISDICTION OF THE AUTHORITY.

20 (II) THE MONEY REQUIRED UNDER SUBPARAGRAPH (I) OF THIS
21 PARAGRAPH SHALL BE DEPOSITED FROM THE BALANCE OF FUNDS THAT ARE
22 DEPOSITED IN THE AUTHORITY'S GENERAL ACCOUNT AFTER THE AUTHORITY HAS,
23 AS REQUIRED UNDER ITS TRUST AGREEMENT AND ANY SUPPLEMENTAL TRUST
24 AGREEMENTS, PAID OR SET ASIDE AMOUNTS TO FUND OR MEET CURRENT
25 EXPENSES, DEBT SERVICE OBLIGATIONS ON BONDS ISSUED BY THE AUTHORITY,
26 MAINTENANCE AND OPERATION RESERVE REQUIREMENTS, AND OTHER RESERVE
27 AND JUNIOR OBLIGATIONS REQUIREMENTS.

28 (III) THE AUTHORITY SHALL DEPOSIT IN THE FUND THE MONEY
29 REQUIRED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH FROM THE BALANCE OF
30 FUNDS THAT ARE DEPOSITED IN THE AUTHORITY'S GENERAL ACCOUNT, AS
31 DESCRIBED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, BEFORE THE AUTHORITY
32 MAY USE THE BALANCE OF FUNDS FOR ANY OTHER PURPOSE.

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

1 **1. THE AUTHORITY DETERMINES THAT AN EMERGENCY**
2 **CIRCUMSTANCE EXISTS; AND**

3 **2. THE LEGISLATIVE POLICY COMMITTEE APPROVES**
4 **THE REDUCTION IN THE AMOUNT DEPOSITED IN THE FUND.**

5 **(V) AN EMERGENCY CIRCUMSTANCE EXISTS UNDER**
6 **SUBPARAGRAPH (IV) OF THIS PARAGRAPH IF AN UNFORESEEN CIRCUMSTANCE**
7 **REQUIRES A REDUCTION IN THE AMOUNT THAT MUST BE DEPOSITED IN THE FUND**
8 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH IN ORDER FOR THE AUTHORITY TO:**

9 **1. REMAIN IN COMPLIANCE WITH REQUIREMENTS OF**
10 **THE TRUST AGREEMENT AND ANY SUPPLEMENTAL TRUST AGREEMENTS; OR**

11 **2. ENSURE THAT THE UNFORESEEN CIRCUMSTANCE**
12 **DOES NOT ADVERSELY AFFECT THE CONTINUITY OF OPERATIONS AT ONE OR MORE**
13 **TRANSPORTATION FACILITIES PROJECTS.**

14 **(VI) 1. EXCEPT AS PROVIDED UNDER SUBSUBPARAGRAPH 2**
15 **OF THIS SUBPARAGRAPH, ANY REVENUE DISTRIBUTED TO THE FUND FROM A VIDEO**
16 **LOTTERY FACILITY LOCATED IN CHARLES COUNTY SHALL SUPPLEMENT, AND MAY**
17 **NOT SUPPLANT, THE MONEY REQUIRED UNDER SUBPARAGRAPH (I) OF THIS**
18 **PARAGRAPH.**

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

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

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

28 ~~(H)~~ **(VII) THE AUTHORITY MAY NOT CREDIT BOND PROCEEDS**
29 **TO THE FUND AS PART OF THE ANNUAL DEPOSIT REQUIRED FROM THE AUTHORITY**
30 **UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.**

31 ~~(H)~~ **(VIII) ANY INTEREST EARNED ON THE MONEY DEPOSITED IN**
32 **THE FUND SHALL ACCRUE TO THE FUND.**

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

5 **(F) (1) ON OR BEFORE DECEMBER 1 EACH YEAR UNTIL COMPLETION OF**
6 **CONSTRUCTION OF THE REPLACEMENT BRIDGE FOR THE HARRY W. NICE**
7 **MEMORIAL POTOMAC RIVER BRIDGE, IN ACCORDANCE WITH § 2-1246 OF THE**
8 **STATE GOVERNMENT ARTICLE, THE AUTHORITY SHALL SUBMIT A REPORT ON THE**
9 **STATUS OF THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE AND THE**
10 **FUND TO THE SENATE BUDGET AND TAXATION COMMITTEE, THE HOUSE**
11 **APPROPRIATIONS COMMITTEE, AND THE HOUSE COMMITTEE ON WAYS AND**
12 **MEANS.**

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

15 **(I) AN UPDATE ON THE PROGRESS OF THE PROJECT;**

16 **(II) ANY REVISED ESTIMATE OF THE TOTAL COST OF THE**
17 **PROJECT AND A STATEMENT OF THE REASONS FOR ANY COST SAVINGS OR COST**
18 **INCREASES;**

19 **(III) A DESCRIPTION OF ANY CHANGES TO ANY FINANCING PLAN**
20 **FOR THE PROJECT;**

21 **(IV) PLANNED EXPENDITURES BY YEAR, CATEGORIZED BY**
22 **PLANNING AND ENGINEERING, RIGHT-OF-WAY ACQUISITION, UTILITY RELOCATION,**
23 **PERMITS, DESIGN, CONSTRUCTION, AND OTHER CATEGORIES AS DETERMINED BY**
24 **THE AUTHORITY;**

25 **(V) FUNDING SOURCES BY YEAR, CATEGORIZED BY:**

26 1. **FEDERAL FUNDS;**

27 2. **AUTHORITY CASH RESERVES;**

28 3. **AUTHORITY REVENUE BOND ISSUANCES;**

29 4. **BOND ANTICIPATION NOTES; AND**

30 5. **ANY OTHER REVENUE SOURCE; AND**

1 **(VI) ANY OTHER INFORMATION CONCERNING THE HARRY W.**
2 **NICE MEMORIAL POTOMAC RIVER BRIDGE AND THE REPLACEMENT BRIDGE FOR**
3 **THE HARRY W. NICE MEMORIAL POTOMAC RIVER BRIDGE THAT THE AUTHORITY**
4 **CONSIDERS PERTINENT.**

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

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.