SB 500

Department of Legislative Services

Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 500 (Senator Salling)
Finance

Transportation - Francis Scott Key Bridge Authority

This bill establishes a Francis Scott Key Bridge Authority to finance, construct, operate, repair, and maintain the Francis Scott Key Bridge. The authority is given general and exclusive jurisdiction over the Francis Scott Key Bridge. The Maryland Department of Transportation (MDOT) is prohibited from exercising jurisdiction or authority over the Francis Scott Key Bridge.

The bill takes effect June 1, 2016.

Fiscal Summary

State Effect: Special fund revenues and expenditures increase in FY 2017 to establish and operate the authority using toll revenue. Maryland Transportation Authority (MDTA) nonbudgeted expenditures decrease by approximately $13.6 million in FY 2017, $9.7 million in FY 2018, $10.0 million in FY 2019, $10.1 million in FY 2020, and $9.9 million in FY 2021 due to ceasing to operate the bridge. MDTA nonbudgeted expenditures increase to the extent the bill necessitates a change to the trust agreement with MDTA's bondholders and/or prompts a reduction in MDTA's bond ratings. Potential significant increase in special/federal fund and bond expenditures in FY 2018 and subsequent years to operate the authority. Potential significant increase in special/federal fund and bond revenues in FY 2018 and future years due to tolls, federal grants, levying taxes, and issuing bonds. MDTA nonbudgeted revenues decrease by approximately $45.3 million in FY 2017, $46.2 million in FY 2018, $48.4 million in FY 2019, $48.5 million in FY 2020, and $48.7 million in FY 2021 due to ceasing to operate the bridge. Although the bill takes effect June 1, 2016, it is assumed, for purposes of this analysis only, that State finances are not materially affected in FY 2016.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill specifies the membership and membership terms for the authority and clarifies that members are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget. The authority is entitled to staff, as authorized in the State budget.

Jurisdiction and Powers

The authority is authorized to (1) acquire, hold, and dispose of property; (2) sue and be sued in its own name; (3) make contracts and agreements; (4) employ and fix the compensation of attorneys, consulting engineers, accountants, construction and financial experts, managers, and any other agents or employees; (5) apply for and receive grants; (6) condemn property in a specified manner; (7) fix, revise, charge, and collect rentals, rates, fees, tolls, and other charges for the use of its facility or services; and (8) adopt regulations to implement the bill.

Financing

To finance the cost of the bridge, the authority is authorized to issue revenue bonds, notes, or other evidence of obligation, payable solely from the rentals, rates, fees, and tolls the authority is empowered to impose. Bonds issued may not (1) constitute a debt of the State or a political subdivision of the State other than the authority; (2) constitute a pledge of the full faith and credit of 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. The authority must issue bonds in a specified manner and must determine specified terms and other items concerning bonds issued. Bond proceeds must be used solely for paying the cost of the Francis Scott Key Bridge.

The authority may issue bonds to refinance all or any part of the cost of the bridge without the approval of the General Assembly, and may issue additional revenue bonds if a deficiency exists. Revenue bonds issued may be secured by a trust agreement between the authority and a corporate trustee; the trust agreement may pledge or assign all or any part of the revenues but may not mortgage any part of the bridge.

The authority may issue revenue refunding bonds for specified purposes. “Refunding” is the retirement and cancellation of bonds, including revenue bonds of prior issues, after their acquisition by or for the authority, whether before, at, or after maturity, either in exchange for other bonds or by payment, purchase, or redemption with the proceeds of the sale of other bonds.

Before the preparation of definitive bonds, the authority may issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when the definitive bonds have been executed and are available for delivery. Also, the authority may issue bond anticipation notes, payable to the bearer or registered holder of the notes out of the first proceeds of the next sale of bonds issued under the bill.

The rentals, rates, fees, and tolls designated as security for bonds issued under the bill must be fixed and adjusted in a specified manner. All revenue that is designated by any trust agreement as security for various debts are trust funds to be held and applied only as provided in the bill. Bonds issued under the bill are securities (1) in which various fiduciaries may properly and legally invest funds and (2) that may be properly and legally deposited with any State or local entity for any authorized purpose. Revenue bonds, notes, and other evidences of obligation issued under the bill, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, is exempt from taxation.

The bill clarifies the legal rights of the trustee or any holder of revenue bonds or associated coupons issued under the bill.

Current Law: Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities and for financing new revenue-producing transportation projects. MDTA is governed by nine individuals appointed by the Governor, with the advice and consent of the Senate. The Secretary of Transportation serves as MDTA's chairman. MDTA transportation facilities projects include:

- bridges, tunnels, and toll highways;
- vehicle parking facilities located in priority funding areas;
- other projects that MDTA authorizes to be acquired or constructed; and
- any authorized additions or improvements to MDTA projects.

MDTA has the authority to set tolls on transportation facilities projects under its supervision. Tolls must provide funds that, when combined with bond proceeds and other available revenues, are sufficient to pay maintenance, repair, and operating costs for transportation facilities projects that are not otherwise paid for; pay the interest and principal of any outstanding bond issues; create reasonable reserves for these purposes; and provide funds for the cost of replacements, renewals, and improvements. Toll revenues are deposited into the Transportation Authority Fund, which is wholly separate from the Transportation Trust Fund.

Prior to fixing or revising tolls on any part of any transportation facilities project, MDTA must provide the Senate Budget and Taxation Committee, Senate Finance Committee, House Appropriations Committee, and House Ways and Means Committee information on the proposed toll charges, including the annual revenues generated by the toll charges, the proposed use of the revenues, and the proposed commuter discount rates.

Prior to increasing a toll, current regulations require that MDTA provide 60-days public notice, take public comments for a period of at least 60 days, and accept oral comments during at least one public meeting held during the public comment period.

Background: Toll revenues are used by MDTA to meet its payment obligations to bondholders. MDTA currently has an Aa3 rating from Moody's Investor Service, AA- from Standard & Poors, and AA- from Fitch Ratings. These ratings are among the highest granted for tolling authorities. If toll revenues slip below expectations and tolls are not sufficient to meet the standards included in the trust agreement, MDTA increases tolls to avoid defaulting on the trust agreement to the bondholders and to sustain its bond ratings. Credit rating agencies cite a toll entity's independent ability to set toll rates, free of political consideration or approval from an outside source, as a key factor in achieving an optimal credit rating.

The Francis Scott Key Bridge opened in March 1977 and is named for the author of the Star Spangled Banner. The bridge is the outermost of three toll crossings of Baltimore's Harbor and it spans 366 meters across the Patapsco River. Upon completion, the bridge structure and its approaches became the final links in Interstate 695 (the Baltimore Beltway). The current toll for a two-axle vehicle on the bridge is $4.00.

State Fiscal Effect:

MDTA

The bill requires responsibility for the Francis Scott Key Bridge to be transferred from MDTA to a new authority that is wholly separate from MDOT. Although the bill takes effect June 1, 2016, it is assumed, for purposes of this analysis only, that State finances are not materially affected in fiscal 2016. Thus, this estimate assumes that MDTA nonbudgeted expenditures and revenues associated with the bridge are eliminated in fiscal 2017 and future years. MDTA nonbudgeted expenditures decrease by approximately $13.6 million in fiscal 2017, $9.7 million in fiscal 2018, $10.0 million in fiscal 2019, $10.1 million in fiscal 2020, and $9.9 million in fiscal 2021. MDTA nonbudgeted revenues decrease by approximately $45.3 million in fiscal 2017, $46.2 million in fiscal 2018,

$48.4 million in fiscal 2019, $48.5 million in fiscal 2020, and $48.7 million in fiscal 2021. These expenditure estimates do not reflect administrative indirect costs, overhead, E-ZPass costs, removal of vehicles from the bridge, or capital reserve or multi-facility capital projects. However, planned system preservation capital expenditures are reflected.

By transferring responsibility from MDTA to the authority, toll revenue from the Francis Scott Key Bridge that is currently used to finance all MDTA transportation facilities projects is retained by the authority for Francis Scott Key Bridge purposes only. MDTA advises that rating agencies frequently refer to the consolidated structure of MDTA as a strength because expenses and revenues of all facilities are shared. MDTA further advises that stand-alone authorities often receive lower ratings, thus increasing borrowing costs.

Any changes to MDTA's authority to raise the revenues necessary to meet its obligations under its trust agreement may (1) cause MDTA to default under its trust agreement and/or (2) be seen as a breach of contract and prompt costly litigation. Also, removing the Francis Scott Key Bridge as a pledged revenue facility may have a negative impact on MDTA's bond credit rating. To the extent this occurs, MDTA nonbudgeted expenditures increase potentially significantly in fiscal 2017 and future years due to increased debt service costs.

To avoid these costs, MDTA may be required to amend its trust agreement with bondholders. To the extent the bill results in an amendment to the trust agreement, MDTA nonbudgeted expenditures increase potentially significantly. MDTA advises that amending the trust agreement may require the approval of at least a majority of existing bondholders, or refunding at least $1.2 billion in current outstanding debt (which is 51% of the approximate $2.3 billion in outstanding debt as of the end of fiscal 2016), both of which are anticipated to increase overall costs.

Francis Scott Key Bridge Authority

This fiscal and policy note assumes that the authority's special fund revenues and expenditures increase in fiscal 2017 due to using toll revenue to establish the governing members and hire staff; however, such expenditures cannot be reliably estimated. Beginning in fiscal 2018, the authority will be in a position to begin issuing revenue bonds. Thus, the authority's special fund and bond revenues and expenditures increase potentially significantly in fiscal 2018 and subsequent years to operate and maintain the bridge. This estimate assumes the authority issues bonds to the extent that toll revenue is not sufficient to operate and maintain the facility. To the extent that the authority secures grants, federal fund revenues and expenditures increase in fiscal 2018 and future years; however, such an impact cannot be reliably estimated. (Although the bill takes effect June 1, 2016, it is assumed, for purposes of this analysis only, that State finances are not materially affected in fiscal 2016).

Additional Information

Prior Introductions: SB 379 of 2015 received a hearing in the Senate Finance Committee, but no further action was taken.

Cross File: None.

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

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kb/lgc

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