

Department of Legislative Services
 Maryland General Assembly
 2017 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 307

(The President, *et al.*) (By Request - Administration)

Budget and Taxation

Appropriations and Environment and
 Transportation

**Maryland Open Transportation Investment Decision Act - Application and
 Evaluation**

This Administration bill requires the Maryland Department of Transportation (MDOT) to continue to develop a project-based scoring system, as required by Chapter 36 of 2016, but only as a model. MDOT must develop the model by January 1, 2018, and must use the model to rank “major transportation projects” being considered for inclusion in the *Consolidated Transportation Program (CTP)*; however, MDOT is not required to use the model to prioritize projects for inclusion in the CTP. The bill also establishes the Workgroup on the Maryland Open Transportation Investment Decision Act, staffed by the Department of Legislative Services (DLS) with technical assistance provided by MDOT. Among other things, the workgroup must evaluate the model and report its findings and recommendations to the Governor and the General Assembly by January 1, 2020.

The bill takes effect July 1, 2017. The workgroup terminates June 30, 2020.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures decrease by \$0.5 million in FY 2018, which reflects the bill’s changes to Chapter 36 of 2016 and the new workgroup. Future years reflect ongoing cost-savings. Other than developing a preliminary scoring system, MDOT has not yet implemented Chapter 36; therefore, this estimate assumes that, absent the bill, MDOT would begin incurring expenses to implement Chapter 36 on July 1, 2017. Any expense reimbursements for workgroup members and staffing costs for DLS are minimal and absorbable within existing budgeted resources. Revenues are not affected.

(in dollars)	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	(500,000)	(75,000)	(275,000)	(550,000)	(550,000)
Net Effect	\$500,000	\$75,000	\$275,000	\$550,000	\$550,000

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

Local Effect: Local government finances and operations are not affected.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). DLS concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary:

Definition of Major Transportation Projects

The bill expands the definition of “major transportation project” to include projects that reduce areas of heavy traffic congestion and improve commute times in areas of heavy traffic congestion (in addition to the current law condition that the total cost for all phases of the projects must exceed \$5 million). The bill also specifies that “major transportation project” does not include projects that are solely for system preservation.

State Transportation Goals and the Scoring Model

The bill alters the State transportation goals by replacing the goal of “quality of service” with “reducing congestion and improving commute times.” Additionally, the State transportation goal of “local priorities and planning,” is changed to be “local priorities.” The scoring model must use weighting metrics developed by MDOT and measures specified under Chapter 36 (as modified by the bill) to assign scores to projects based on each of the nine transportation goals. Each ranking, the scores of all projects evaluated for inclusion in the CTP and assigned a score under the model, and the model itself, must be made available to the public as an appendix to the CTP and on MDOT’s website.

Chapter 36, as modified by the bill, may not be construed to impede or alter the inclusion of local transportation priorities in the CTP.

Workgroup on the Maryland Open Transportation Investment Decision Act

In addition to evaluating the model established by MDOT pursuant to the bill, the workgroup must also evaluate (1) how prioritizing major transportation projects with higher scores for inclusion in the CTP over major projects with lower scores applies to the CTP in fiscal 2019, 2020, and 2021; (2) the prioritization process in other states, including Virginia and North Carolina, and the applicability of these processes in Maryland; and (3) regional prioritization processes and the applicability of these processes in Maryland.

The workgroup must also make recommendations regarding whether modifications or changes to the provisions of State law governing the scoring system should be made.

The workgroup may (1) evaluate and test alternative models for prioritizing major transportation projects and (2) evaluate how alternative models would apply to the CTP in fiscal 2019, 2020, and 2021. The workgroup must solicit input from (1) local governments; (2) transportation planning organizations; (3) the Maryland Transit Administration (MTA); (4) the Maryland Transportation Authority (MDTA); and (5) other interested parties.

A member of the workgroup may not receive compensation, but is entitled to reimbursement for expenses under the standard State travel regulations.

Current Law:

Chapter 36 of 2016

The nine transportation goals established by Chapter 36 of 2016 are:

- safety and security;
- system preservation;
- quality of service;
- environmental stewardship;
- community vitality;
- economic prosperity;
- equitable access to transportation;
- cost-effectiveness and return on investment; and
- local priorities and planning.

Chapter 36 requires MDOT to (1) develop a project-based scoring system using the goals and measures, in accordance with federal transportation requirements; (2) develop weighting metrics for each goal and measure; (3) adopt regulations to implement the scoring system by January 1, 2017; and (4) rank major transportation projects for inclusion in the draft and final CTPs using the system it develops. The goals and measures must be the sole basis used to develop scores for each major transportation project, and MDOT must generally prioritize projects with higher scores in the CTP over projects with lower scores. MDOT is authorized to include a major project with a lower score in the CTP over a major project with a higher score, but only if it provides in writing a rational basis for the decision.

A “major transportation project” is a major capital project in the State Highway Administration or MTA whose total cost for all phases exceeds \$5.0 million and that

(1) increases highway or transit capacity; (2) improves transit stations or station areas; or (3) improves highway capacity through the use of intelligent transportation systems or congestion management systems. It does not include (1) Maryland Aviation Administration, Maryland Port Administration, or MDTA projects; (2) maintenance and storage facilities projects; (3) water quality improvement projects; (4) projects related to Maryland's priorities for Total Maximum Daily Load development; (5) safety-related projects that do not increase highway or transit capacity; or (6) roads within the Appalachian Development Highway System.

When evaluating whether and to what extent a major transportation project meets the State transportation goals, Chapter 36 requires MDOT to rank how the project meets each transportation goal using a 20-year forecast and by assigning scores that range from 1 to 100. For each transportation goal, Chapter 36 specifies the criteria that must be taken into consideration when assigning scores. To calculate each major transportation project's final score, MDOT must multiply the total combined score of each major project by a weighting factor equal to one plus the results of dividing the population in the area served by the project, as determined in regulations adopted by MDOT, by the population of Maryland.

Chapter 36 requires numerous specified reports and activities related to transportation planning throughout the State to incorporate the transportation goals and measures established. Among other things, when MDOT submits copies of the final CTP to the General Assembly, it must include the manner in which each major transportation project was evaluated and ranked pursuant to the requirements of Chapter 36.

Consolidated Transportation Program

The CTP is MDOT's six-year budget for the construction, development, and evaluation of transportation capital projects; the CTP must be revised annually to reflect updated information and changing priorities. It contains a list of current and anticipated major and minor capital projects for the fiscal year it is issued and for the next five fiscal years, including (1) an expanded description of major capital projects; (2) a detailed breakdown of the costs of a project with project expenditures to date, expected expenditures for the current fiscal year, projected annual expenditures for the next five years, and total project costs; and (3) MDOT's estimates of the source (*i.e.*, federal funds, special funds, etc.) and amount of revenues required to fund the project. Chapter 36 also requires the CTP to include the manner in which each transportation project was evaluated and ranked, if applicable.

The Secretary of Transportation is required to present the draft CTP to elected officials by September 1 of each year and discuss it with them, while the final draft of the CTP must be submitted with the Governor's budget. The CTP must also include a report that, among

other things, summarizes how each project meets the selection criteria for inclusion in the CTP, including the information required by Chapter 36.

For a major capital project to be considered for inclusion in the CTP, a request must be submitted to the Secretary by the proposing entity along with a purpose and need summary statement justifying the project and including specified information. MDOT must then evaluate the requests based on the State's goals, the availability of funding, and other criteria. If applicable, MDOT must also use the measures established by Chapter 36 to develop a score for the project. In its evaluation, MDOT must acknowledge the difference between urban and rural transportation needs.

Maryland Transportation Plan

The MTP is a 20-year forecast of State transportation needs based on MDOT's anticipated financial resources during that 20-year period. It must be revised every five years through an inclusive public participation process. Furthermore, it must be expressed in terms of goals and objectives and include a summary of the types of projects and programs that are proposed to accomplish the goals and objectives, using a multimodal approach when feasible. The MTP was last updated in 2014 and does not yet contain the transportation goals established by Chapter 36.

The transportation goals established by Chapter 36 are similar to those currently contained in the MTP; the six MTP transportation goals are (1) safety and security; (2) system preservation; (3) quality of service; (4) environmental stewardship; (5) community vitality; and (6) economic prosperity.

Background: MDOT submitted proposed regulations that included a scoring system to the Joint Committee on Administrative, Executive, and Legislative Review (AELR) on September 20, 2016. The proposed regulations were published in the October 28, 2016 edition of the *Maryland Register*. On December 6, 2016, AELR placed a hold on the regulations, which is still in effect.

Other states have recently enacted laws that alter the transportation project proposal and prioritization process for the purposes of improving transparency and making the evaluation and selection of projects more performance based. For example, recent Virginia legislation requires its Commonwealth Transportation Board (CTB) to develop and implement a transparent prioritization process for making funding decisions for projects within Virginia's six-year transportation plan. The factors that must be taken into consideration by CTB when making project decisions are (1) congestion mitigation; (2) safety; (3) accessibility; (4) economic development; (5) environmental quality; and (6) land use. CTB is not required to fund the highest scoring projects but is expected to be

able to provide a rational basis for funding a project with a lower score over a project with a higher score. Virginia's legislation took effect in July 2015.

North Carolina has a similar scoring system that uses quantitative measures combined with local project rankings, where bonus points are given for multimodal connections. For projects of regional significance, the quantitative measures weigh more for the final tally, while for small-scale projects, local rankings weigh more for the final tally. North Carolina's system took effect in 2009 through executive order and was adopted by its Strategic Transportation Investments Law of 2013.

State Expenditures: Chapter 36 requires MDOT to develop a project-based scoring system that assigns quantitative scores (from 1 to 100) for each of the nine transportation goals to each major transportation project in a specified manner. Under Chapter 36, MDOT must then prioritize projects based on the scores. The bill gives MDOT more flexibility in developing the system by repealing the requirement that MDOT assign scores from 1 to 100 for each scoring metric. Furthermore, under the bill, MDOT is no longer required to prioritize projects based on the score; instead, the scores of each project must be made publicly available in a specified manner.

The added flexibility granted to MDOT by the bill is likely to result in as much as \$2.0 million in savings from fiscal 2018 through 2022, compared to what was estimated under Chapter 36. MDOT still requires additional staff to develop and implement the scoring process but experiences savings related to (1) modeling and data collection costs (because MDOT can now likely use some existing data for certain measures under the bill instead of developing new data) and (2) consultant costs (because MDOT likely requires consultant services for a shorter period of time). The estimate also includes additional costs for MDOT to procure minimal consultant services to assist with the workgroup. The breakdown of savings and new costs for fiscal 2018 through 2022 is shown in **Exhibit 1**.

MDOT can publish the model, rankings, and scores in the manner required by the bill using existing resources. DLS can provide staff for the workgroup with existing resources.

Exhibit 1
Cost Savings Resulting from Chapter 30 of 2017
Fiscal 2018-2022
(\$ in Millions)

	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Costs under Chapter 36 of 2016					
Staff	\$0.50	\$0.48	\$0.51	\$0.53	\$0.55
Modeling	0.65	0.15	0.15	0.15	0.15
Consultants	1.00	0.50	0.50	0.50	0.50
Total	\$2.15	\$1.13	\$1.16	\$1.18	\$1.20
Costs under Chapter 30 of 2017					
Staff	\$0.50	\$0.48	\$0.51	\$0.53	\$0.55
Modeling	0.65	0.10	0.10	0.10	0.10
Consultants	0.35	0.40	0.20	0.00	0.00
Workgroup (new)	0.15	0.08	0.08	0.00	0.00
Total	\$1.65	\$1.06	\$0.88	\$0.63	\$0.65
Cost Savings (Difference)	\$0.50	\$0.08	\$0.28	\$0.55	\$0.55

Note: Totals and cost savings may not sum due to rounding.

Source: Maryland Department of Transportation; Department of Legislative Services

Additional Information

Prior Introductions: None.

Cross File: HB 402 (The Speaker, *et al.*) (By Request - Administration) - Appropriations and Environment and Transportation.

Information Source(s): Baltimore, Charles, and Frederick counties; cities of Frederick and Havre de Grace; Maryland Association of Counties; Maryland Municipal League; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History:
kb/mcr

First Reader - February 20, 2017
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Revised - Amendment(s) - March 22, 2017
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ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Repeal of the Maryland Open Transportation Investment Decision Act of 2016 (Road Kill Bill Repeal)

BILL NUMBER: SB307/HB402

PREPARED BY: Chris Carroll

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS