Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 372 (Delegate Korman, *et al.*)

Appropriations and Environment and Transportation

Maryland Metro Funding Act

This bill establishes the Maryland Metro Dedicated Fund Account (MMDFA) within the Transportation Trust Fund (TTF) to provide an annual grant to the Washington Suburban Transit District in support of the Washington Metropolitan Area Transit Authority's (WMATA) capital costs. MMDFA consists of at least $125 million annually, as specified. The bill also requires that the amount of the existing annual grant to WMATA through the Maryland Department of Transportation's (MDOT) capital program increase by 3% annually, as specified. **The bill takes effect June 1, 2018, subject to specified contingencies.**

Fiscal Summary

State Effect: Under one set of assumptions, TTF revenues available to MDOT decrease by $125 million annually beginning in FY 2020. Combined with a reduction in bond issuances and corresponding debt service savings, TTF revenues available to MDOT decrease by $1.2 billion over the five-year period beginning in FY 2019. The requirement that MDOT increase its existing capital grant to WMATA each year does not affect total capital spending, as discussed below. **This bill establishes a mandated appropriation beginning as early as FY 2020.**

Local Effect: Because the bill does not alter the excise tax revenues remitted to the Gasoline and Motor Vehicle Revenue Account (GMVRA), it does not directly affect local governmental operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: MMDFA consists of a portion of the motor vehicle excise tax revenue collected by the State and any other money appropriated in the State budget for the account. Specifically, motor vehicle excise tax revenues are redistributed so that (1) two-thirds of the revenue continues to be distributed to GMVRA; (2) of the remaining one-third, at least $125 million is distributed to MMDFA; and (3) the remainder is distributed directly to TTF. MDOT must provide an annual grant of at least $125 million from MMDFA to the Washington Suburban Transit District, and this grant may only be used to pay WMATA's capital costs.

In addition to the annual grant from MMDFA, the Governor must annually appropriate funding to the Washington Suburban Transit District from TTF. This funding also may only be used to pay WMATA's capital costs. In any fiscal year, the appropriation must be 3% higher than the prior fiscal year's appropriation. The Governor is not required to make the appropriation in a fiscal year unless MDOT certifies that WMATA has submitted a sufficiently detailed description of all of its capital projects to be funded in the prior fiscal year and each of the five fiscal years thereafter.

The bill is contingent on the Commonwealth of Virginia and the District of Colombia each enacting legislation that provides at least $125 million in new dedicated capital funding for WMATA. MDOT must notify the Department of Legislative Services (DLS) within five days after both jurisdictions have enacted such legislation. The bill takes effect on the day that DLS receives notice from MDOT; however, the bill's mandated appropriations are not applicable until the first fiscal year on the second July 1 after that date. Therefore, the first fiscal year in which the mandated appropriations can be applicable is fiscal 2020.

Current Law/Background: For more information on current safety and funding concerns for WMATA's Metrorail system, please see **Appendix – Metrorail Safety and Funding.**

Operating and Capital Grants for the Washington Suburban Transit District

The Washington Suburban Transit Commission (WSTC) is responsible for administering the Washington Suburban Transit District and is authorized to develop a transportation system, including mass transit facilities, for Montgomery and Prince George's counties. It coordinates mass transit programs with the two county governments, WMATA, and MDOT. MDOT provides annual operating grants to WSTC, which then provides funding to WMATA for the operation of the Metrorail, Metrobus, and MetroAccess systems.

WMATA's six-year capital program is comprised of mostly state, local, and federal funds, with funding from Maryland, Virginia, and the District of Columbia. General parameters on capital funding levels are typically established in a six-year Capital Funding Agreement developed through negotiations between WMATA and its funding partners. The Consolidated Transportation Program for fiscal 2018 includes a capital grant of $155.9 million to WMATA in each year for fiscal 2018 through 2023.

Motor Vehicle Excise Tax Revenues

The motor vehicle excise tax is collected on both new and used vehicles sold in the State. The tax is more commonly understood as a "titling tax," and it is collected for each certificate of title that is issued for motor vehicles, trailers, semitrailers, mopeds, motor scooters, and off-highway recreational vehicles for which sales and use tax is not collected at the time of purchase. All excise tax revenues are remitted to TTF; however, two-thirds of the revenues remit to GMVRA within TTF, while the other one-third remits directly to TTF for use by MDOT. In fiscal 2017, $886 million in motor vehicle excise tax revenue was collected.

GMVRA revenues are more commonly known as "highway user revenues." In addition to two-thirds of the excise tax revenues, GMVRA includes all or some portion of the motor vehicle fuel tax, vehicle registration fees, short-term vehicle rental tax, and State corporate income tax. GMVRA revenues must be distributed to MDOT and local jurisdictions as follows: (1) 90.4% to MDOT; (2) 7.7% to Baltimore City; (3) 1.5% to counties; and (4) 0.4% to municipalities. The bill does not change the amount of excise tax revenues that are remitted to GMVRA.

Debt Service Requirements and Practices

State law and agency debt practices limit consolidated transportation bond (CTB) issuances with three criteria: a debt outstanding limit and two coverage tests. The debt outstanding limit is set in statute at $4.5 billion. The two coverage tests are established in the department's bond resolutions and require that annual net income and pledged taxes from the prior year each equal at least 2.0 times the maximum level of future debt service payments on all CTBs outstanding and to be issued. The department has adopted a management practice that requires minimum coverages of 2.5 times maximum future debt service. The net income coverage test is the ratio of all the prior year's income (excluding federal capital, bond proceeds, and third-party reimbursements) minus prior year operating expenses, debt service payments, deductions for nontransportation agencies, and local transportation aid to maximum future annual debt service and typically is the limiting coverage ratio. The pledged taxes coverage test measures annual net revenues from vehicle excise, motor fuel, rental car sales, and corporate income taxes (excluding refunds and all statutory deductions) as a ratio of maximum future annual debt service.

If either of these coverage ratios fall below the 2.0 times level, the department is prohibited under its bond covenants from issuing additional debt until the ratios are once again at the minimum 2.0 times level.

State Fiscal Effect: For the purposes of this analysis, it is assumed that both the Commonwealth of Virginia and the District of Colombia each enact legislation that provides additional capital funding of at least $125 million to WMATA by June 1, 2018. As such, it is assumed that (1) the establishment of MMDFA and the required $125 million redistribution of excise tax revenue is applicable beginning July 1, 2019 (fiscal 2020) and (2) the annual grant to WMATA provided through MDOT's capital program must begin increasing by 3% in fiscal 2020.

Redistribution of Motor Vehicle Excise Tax Revenues

Exhibit 1 illustrates the bill's proposed redistribution of motor vehicle excise tax revenues as $125.0 million of MDOTs share is deposited into MMDFA and remitted to WMATA each year beginning in fiscal 2020. The $500.0 million reduction in available TTF revenues from fiscal 2020 through 2023 requires MDOT to reduce its bond issuances by approximately $804 million over the five-year period beginning in fiscal 2019, resulting in an initial reduction of $1.3 billion in revenues available to MDOT. When debt service savings of $127 million are taken into account, the net decrease in Maryland's capital budget is $1.2 billion.

Exhibit 1
Effect of the bill on Excise Tax Revenue Distribution
Fiscal 2019-2023 (in Millions)

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Projected Revenues	**$882.9**	**$887.1**	**$893.1**	**$921.0**	**$951.9**
Current Law Distribution					
GMVRA (2/3rd)	588.6	591.4	595.4	614.0	634.6
TTF (1/3rd)	294.3	295.7	297.7	307.0	317.3
Proposed Distribution					
GMVRA (2/3rd)	588.6	591.4	595.4	614.0	634.6
MMDFA ($125 million)	0	125.0	125.0	125.0	125.0
TTF (Remainder)	294.3	170.7	172.7	182.0	192.3

Source: Maryland Department of Legislative Services, Maryland Department of Transportation

Required Increase in Existing Annual Grant to WMATA

Exhibit 2 illustrates the additional funding to WMATA required through MDOT's capital program. This increase has no effect on MDOTs total capital spending; as this grant increases, other capital projects in the program receive less funding.

Exhibit 2
Effect of the bill on WMATA Capital Grants
Fiscal 2019-2023 in (Millions)

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Current Law Grant Amount	$155.9	$155.9	$155.9	$155.9	$155.9
Proposed Grant Amount	155.9	160.6	165.4	170.4	175.5
Total Increase	**$0**	**$4.7**	**$9.5**	**$14.5**	**$19.6**

Source: Maryland Department of Legislative Services, Maryland Department of Transportation

Additional Information

Prior Introductions: None.

Cross File: SB 277 (Senator Feldman, *et al.*) - Budget and Taxation.

Information Source(s): Maryland Department of Transportation; Department of Budget and Management; Maryland Association of Counties; Department of Legislative Services

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Appendix – Metrorail Safety and Funding

Metrorail Safety

After a fatal Metrorail crash on the Red Line between Takoma and Fort Totten, the July 2012 enactment of the Moving Ahead for Progress in the 21st Century Act (MAP-21) included provisions granting the Federal Transit Administration (FTA) new regulatory and enforcement responsibilities governing the federal State Safety Oversight (SSO) Program. MAP-21 requires that a rail transit agency's SSO agency (1) be legally and financially independent of the rail transit agency it oversees and (2) have investigative and enforcement authority to ensure that its safety findings are addressed. Subsequently, FTA found that the Washington Metropolitan Area Transit Authority's (WMATA) SSO agency failed to comply with MAP-21's requirements and, in October 2015, assumed direct safety oversight for the WMATA Metrorail system. By February 2017, FTA began withholding federal transit funding until the compact signatories – Maryland, Virginia, and the District of Columbia – establish a compliant SSO agency.

Washington Metrorail Safety Commission Compact

In response to FTA's actions, Chapter 3 of 2017 established the Washington Metrorail Safety Commission (MSC) compact and designated MSC to act as the SSO agency for the WMATA Metrorail system. Identical legislation was also approved by the other compact signatories and given federal approval in August 2017. MSC is funded independently of WMATA by the compact signatories and, when available, by federal funds. The compact signatories must unanimously agree on adequate funding levels for MSC and make equal funding contributions to cover the portion of operating costs not funded by federal funds.

The enactment of MSC legislation is only the first step in fully establishing MSC and restoring withheld federal transit funding, however. FTA indicates that in order for it to certify MSC as WMATA's SSO agency, the compact signatories must also:

- submit a certification and documentation to FTA showing that MSC (1) is independent from WMATA; (2) has enforcement and investigation authority; (3) has adequate staffing and training; (4) has FTA grant recipient status; and (5) has met general program requirements;
- participate in a transitional hand-off period whereby FTA officials work side-by-side with new MSC officials to ensure that they are capable of conducting all oversight responsibilities required by federal law; and

- verify with FTA that MSC's enforcement and oversight capabilities, as well as its inspection, investigation, and audit activities, are adequate and meet all statutory requirements.

The compact signatories are currently working toward certification.

WMATA Funding

WMATA's operations are funded through operating revenues and subsidies provided by the compact signatories. Since fiscal 2012, WMATA has seen a decline in ridership, resulting in decreased operating revenues. Service quality and reliability issues, combined with the disruptions caused by WMATA's maintenance initiative, are cited as leading factors in the decline in ridership. WMATA instituted fare increases and a reduction of service for fiscal 2018 in order to address the decrease in operating revenues.

WMATA's six-year capital program is comprised of mostly state, local, and federal funds. General parameters on capital funding levels are typically established in a six-year Capital Funding Agreement developed through negotiations between WMATA and its local funding partners.

WMATA Report

In April 2017, WMATA released a report, *Keeping Metro Safe, Reliable, and Affordable*, which proposed a number of changes to WMATA funding and operations. The report called for compact signatories to establish a "stable revenue source to generate $500 million per year" for capital projects. The report further stated that WMATA has $25 billion in unfunded capital needs and will need $15.5 billion over the next 10 years for its most critical capital projects. Additionally, the report notes that, without a change to WMATA's business model, operating subsidies from compact signatories will continue to increase.

Compact signatories have yet to agree on a stable revenue source for WMATA, although some organizations and government officials have suggested a regional sales tax as a potential source. In a letter dated September 11, 2017, Maryland Governor Laurence J. Hogan, Jr. committed an additional $500 million over four years ($125 million per year) for WMATA from the Transportation Trust Fund. The funds are contingent upon Virginia, the District of Columbia, and the federal government doing the same. In the letter, Governor Hogan stated that the increased funding "would give the region and the jurisdictions who are party to the compact four years to formulate a long-term, more permanent solution to WMATA's fiscal challenges."