HB 372

Department of Legislative Services

Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

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

Appropriations and Environment and Transportation | Budget and Taxation

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Maryland Metro/Transit Funding Act

This bill (1) mandates additional capital funding for the Washington Metropolitan Area Transit Authority (WMATA), subject to a specified contingency; (2) requires the Secretary of Transportation to withhold a portion of the State's annual operating grant to WMATA under certain circumstances; (3) mandates additional capital and operating funding for the Maryland Transit Administration (MTA) from fiscal 2020 through 2022; (4) establishes additional transit planning responsibilities for MTA; and (5) requires WMATA to study and report on various aspects of its operations. **The bill takes effect June 1, 2018, and the mandated appropriations for MTA terminate June 30, 2022.**

Fiscal Summary

State Effect: Net Transportation Trust Fund (TTF) expenditures increase by $3.8 million in FY 2019 (which reflects a decrease in debt service expenditures stemming from a decrease in TTF bond issuances of approximately $25 million through FY 2023); future year net TTF expenditures reflect the bill's mandated appropriations for MTA operations and ongoing debt service savings. In addition, from FY 2020 through 2023, $783.9 million is directed to WMATA and MTA through the capital program; however, this does not affect total capital spending and is not reflected below. **This bill establishes mandated appropriations beginning in FY 2020.**

($ in millions)	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Bond Rev.	($9.0)	($5.0)	($3.0)	($8.0)	$0
SF Expenditure	$3.8	$15.9	$32.4	$53.1	($2.0)
Net Effect	($12.8)	($20.9)	($35.4)	($61.1)	$2.0

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

Local Effect: Local governments can assist WMATA with its study using existing resources, as appropriate. Local revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary:

Capital Funding to WMATA – Maryland

The Governor must include in the State budget an appropriation of $167 million from the revenues available for the State capital program in TTF. The Maryland Department of Transportation (MDOT) must use this appropriation to provide an annual grant of at least $167 million to the Washington Suburban Transit District, and this grant may only be used to pay WMATA's capital costs.

In addition to the $167 million annual grant, 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 the first fiscal year this mandated appropriation applies, it must total at least the amount appropriated in the fiscal 2019 State budget. In any future 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 specified performance indicator information, audits, and financial information. In addition, if the Commonwealth of Virginia or the District of Columbia reduce the amount of dedicated capital funding for WMATA, the Governor may reduce this appropriation by a proportional amount.

The Governor must withhold 35% of this appropriation if WMATA has received a modified audit opinion as a result of an annual independent audit and MDOT has not certified that WMATA has submitted a satisfactory corrective plan that addresses the reasons for the audit opinion. The Governor must release this funding if a satisfactory corrective plan is subsequently submitted by WMATA, as specified.

These mandatory increases in the State's capital funding to WMATA are contingent on (1) the Commonwealth of Virginia enacting legislation that provides at least $154 million in new dedicated capital funding for WMATA and (2) the District of Columbia enacting legislation that provides at least $178 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. This requirement takes effect on the day that DLS receives notice from MDOT; however, the required 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.

Capital Funding to WMATA – Federal Government

It is the intent of the General Assembly that, after accounting for the capital funding dedicated to WMATA by the State, the Commonwealth of Virginia, and the District of Columbia, the federal government contributes a proportional amount to WMATA.

Operating Funding to WMATA – Maryland

For any fiscal year in which the total State operating grant in the approved WMATA operating budget increases by more than 3% over the total operating assistance provided in the prior fiscal year's approved WMATA budget, the Secretary of Transportation must withhold 35% of the State's operating grant to WMATA. For the purposes of calculating the budget increase, MDOT must exclude (1) the cost of any service, equipment, or facility that is required by law; (2) a capital project approved by the WMATA Board of Directors; and (3) any payments or obligations arising from or related to legal disputes or proceedings between or among WMATA and any other person.

Maryland Transit Administration – Operating and Capital Funding

For fiscal 2020, the Governor must include in the State budget an appropriation from TTF for the operating expenses of MTA that is at least 4.4% greater than the appropriation in the fiscal 2019 State budget as introduced. For fiscal 2021 and 2022, the Governor must include in the State budget an appropriation from TTF for the operating expenses of MTA that is at least 4.4% greater than the preceding fiscal year.

For fiscal 2020 through 2022, the Governor must include in the State budget an appropriation for the capital needs of MTA of at least $29.1 million from the revenues available for the State capital program in TTF. This appropriation may not supplant any other capital funding otherwise available for MTA.

Maryland Transit Administration – Capital Needs Assessment

At least every 3 years, MTA must assess its ongoing, unconstrained capital needs. In doing so, MTA must (1) compile and prioritize capital needs without regard to cost; (2) identify the backlog of repairs and replacement needed to achieve a state of good repair for its assets, including a separate analysis of those needs over the following 10 years; and (3) identify the needs to be met in order to enhance service and achieve system performance goals. MTA must submit the required assessment to specified legislative committees by July 1, 2019, and by July 1 every 3 years thereafter.

Central Maryland Regional Transit Plan and Commission

MTA is required to develop the Central Maryland Regional Transit Plan to meet the needs of its "core service area" by October 1, 2020. MTA's "core service area" is defined as an area in Baltimore City and Anne Arundel, Baltimore, Harford, and Howard counties that is served by light rail, metro, or fixed bus route service and any other area in which the population commutes to one of those areas, as determined by MDOT.

The development of this plan is in addition to the other transit plans required by State law. Among other things, the plan must (1) include specified goals and outcomes; (2) identify specified options for improvements; (3) be reviewed, revised, and updated at least every 5 years; and (4) address a 25-year timeframe. To develop the plan, MTA must consult with (1) the Baltimore Metropolitan Council and (2) the Central Maryland Regional Transit Plan Commission, which is established by the bill. The commission must participate in the development of the goals for outcomes of the plan and a strategy for meaningful public involvement in the plan.

Study Requirements – WMATA

WMATA must study (1) the costs and benefits of using capital funds to fund infrastructure improvements to enhance pedestrian and bicycle access to Metrorail stations, as specified; (2) the projected ridership of a new Metrorail station at National Harbor; (3) the budget, powers, and limitations of its inspector general, as specified; (4) specified opportunities at Metrorail stations in Maryland, such as how to reduce parking lot and bus bay footprints; and (5) in consultation with MTA and other locally operated transit and bus systems, opportunities to attract ridership in partnership with public school systems and institutions of higher education. By June 30, 2019, WMATA must report its findings of each of the required studies to its board of directors and each of the compact signatories.

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.

Maryland Transit Administration Transit Planning

MTA is required to prepare transit plans to meet the transit needs of the State and, from time to time, review and revise those plans. Among other things, the plans must specify (1) the transit facilities to be constructed or acquired; (2) anticipated capital costs; and (3) estimated operating expenses and revenues. A plan may provide for demonstration or testing facilities and for the use of the facilities for research and development. To the extent practicable, the plans must implement the general development plan of the Baltimore Metropolitan Council and be prepared in consultation with the council. MTA must cooperate with the Maryland Department of Planning and any other State or federal agency concerned with transit plans.

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 Revenues: The increase in TTF operating expenditures resulting from the bill in fiscal 2019 and the increase in operating appropriations mandated for MTA from fiscal 2020 through 2022 (discussed in more detail below) require MDOT to reduce its bond issuances by $25 million from fiscal 2019 through 2022. This reduction in bond issuances also results in debt service savings, which is discussed in the following section.

State Expenditures: Net TTF expenditures increase by $3.8 million in fiscal 2019, which reflects debt service savings for MDOT resulting from the reduced bond issuances discussed above ($500,000), costs incurred by MDOT to pay for the required WMATA study ($1 million), and costs incurred by MTA to (1) perform the initial capital needs assessment ($750,000) and (2) staff the Central Maryland Regional Transit Plan Commission and begin developing the Central Maryland Regional Transit Plan ($2.5 million). From fiscal 2020 through 2022, TTF expenditures by MTA increase by $103.8 million due to the bill's mandated appropriations for MTA operations. It is assumed that MTA uses this additional operating funding to (1) finalize its needs assessment in fiscal 2020; (2) complete the next needs assessment in fiscal 2022; and (3) complete the Central Maryland Regional Transit Plan. From fiscal 2020 through 2023, TTF expenditures for MDOT also decrease by an additional $4.5 million due to ongoing debt service savings.

In addition to the impacts on MDOT's operating costs, from fiscal 2020 through 2023, $783.9 million is directed to WMATA and MTA through MDOT's capital program. A more in-depth discussion of each of these fiscal effects is provided below.

The bill requires the Secretary of Transportation to withhold 35% of the State's operating grant to WMATA if WMATA's operating expenses increase by more than 3%, as specified. This analysis assumes that WMATA's affected expenses do not increase by more than that amount. Therefore, it is assumed that this provision does not affect MDOT's operations or finances. However, to the extent that WMATA's affected operating expenses do increase by more than 3%, TTF expenditures decrease significantly. *For informational purposes only*, the operating grant to WMATA for fiscal 2019 is $366.0 million; 35% of that amount is $128.1 million.

MTA – Central Maryland Regional Transit Plan and Commission

TTF expenditures increase by as much as $5.0 million over the 2-year period beginning in fiscal 2019 in order to fully develop the Central Maryland Regional Transit Plan and staff the related commission. This estimate assumes (1) a 30-day start-up from the bill's June 1, 2018 effective date; (2) that approximately $2.5 million is spent in fiscal 2019 and the remainder is spent in fiscal 2020; and (3) the following 2-year timeline for completion of the plan:

- 0-6 months: MTA develops and refines plan scope, compiles baseline data, develops public involvement strategy, and establishes plan goals incorporating transit commission and public comments;
- 6-12 months: MTA establishes 30-year forecasts, completes analyses of MTA assets and services, and identifies and studies improvement options;
- 12-18 months: MTA completes analyses, provides for public review of options for meeting goals, and evaluates consistency with local land use plans and the Maryland Transportation Plan; and
- 18-24 months: MTA incorporates public comments, identifies priorities, and finalizes the plan.

The estimate also assumes that the commission and the public are involved in each of the above listed project stages, resulting in a significant amount of electronic and print mailings, development and implementation of survey tools, and the holding of numerous meetings in various locations throughout the region. Costs incurred by MTA in fiscal 2020 can be absorbed using the additional operating funding mandated by the bill, which are discussed below.

MTA – Capital Needs Assessment

TTF expenditures increase by as much as $750,000 in fiscal 2019 for MDOT to begin its facility condition assessments, establish a prioritization process, identify and develop system performance goals, and develop a capital needs inventory report. Costs are also incurred in fiscal 2020 for MTA to continue its facility condition assessments and develop an ongoing program to support future capital needs inventories; however, these activities can be handled using the additional operating funding mandated by the bill, as discussed below. Similarly, the needs assessment that must be conducted in fiscal 2022 can also be handled using the additional operating funding mandated by the bill.

MTA – Mandated Appropriations

Exhibit 1 illustrates the additional funding required by the bill for MTA's operating and capital expenses. As previously discussed, MTA can use the additional operating appropriations to complete and maintain the capital needs assessment and the Central Maryland Regional Transit Plan in fiscal 2020 and beyond.

The increase in capital appropriations for MTA has no net effect on MDOT's total capital spending; as this grant increases, other capital projects in the program receive less funding. (As previously mentioned, however, the increase in TTF operating expenditures requires MDOT to reduce its bond issuances through fiscal 2022.)

Exhibit 1
Effect of the Bill on MTA Capital and Operating Appropriations
Fiscal 2019-2023
($ in Millions)

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Total Capital Increase	**$0**	**$29.1**	**$29.1**	**$29.1**	**$0**
Operating Appropriations					
Current Law Amount	849.0	870.0	892.0	912.0	921.0
Proposed Amount	849.0	886.4	925.4	966.1	921.0
Total Operating Increase	**$0**	**$16.4**	**$33.4**	**$54.1**	**$0**
Total Increase	**$0**	**$45.5**	**$62.5**	**$83.2**	**$0**

MTA: Maryland Department of Transportation

Note: FY 2022 and 2023 estimates do not include Purple Line availability payments.

Source: Department of Legislative Services; Maryland Department of Transportation

WMATA – Mandated Appropriations

For the purposes of this analysis, it is assumed that both the Commonwealth of Virginia and the District of Columbia each enact legislation that provides additional capital funding to WMATA, as specified, by June 1, 2018. As such, it is assumed that (1) the required $167 million in additional capital funding 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 2021.

Exhibit 2 illustrates the additional funding to WMATA provided through MDOT's capital program, totaling $696.6 million over the four-year period from fiscal 2020 through 2023.

Exhibit 2
Effect of the Bill on WMATA Capital Funding
Fiscal 2019-2023
($ in Millions)

	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Additional Capital Funds	**$0**	**$167.0**	**$167.0**	**$167.0**	**$167.0**
Current Law Grant Amount	155.9	155.9	155.9	155.9	155.9
Proposed Grant Amount	155.9	155.9	160.6	165.4	170.4
Grant Increase	**$0**	**$0**	**$4.7**	**$9.5**	**$14.5**
Total Capital Increase	**$0**	**$167.0**	**$171.7**	**$176.5**	**$181.5**

WMATA: Washington Metropolitan Area Transit Authority

Source: Department of Legislative Services; Maryland Department of Transportation

The increase in capital appropriations for WMATA has no net effect on MDOT's total capital spending; as this grant increases, other capital projects in the program receive less funding.

WMATA – Study Requirements

MDOT advises that if one of the compact jurisdictions requests that WMATA perform a study, and that study is intended to improve service for that jurisdiction, then the jurisdiction that made the request must pay for the study. Therefore, MDOT must provide funding to WMATA to complete the study required by the bill. MDOT estimates that the study is likely to cost as much as $1 million. Accordingly, TTF expenditures by MDOT increase by $1 million in fiscal 2019 to pay for the required study. MDOT advises that it provides WMATA with $1 million in project development funds annually; however, WMATA has already committed the funds for another purpose in fiscal 2019.

Additional Information

Prior Introductions: None.

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

Information Source(s): Maryland Department of Transportation; Washington Metropolitan Area Transit Authority; Federal Transit Administration; 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.”