

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
First Reader - Revised

Senate Bill 1003 (Senators Pinsky and Peters)
Finance and Budget and Taxation

Magnetic Levitation Transportation System - Limitations

This bill prohibits the State (or any unit or instrumentality of the State) from using any appropriation for a magnetic levitation (Maglev) transportation system located or to be located in the State. The bill also (1) prohibits a proposal for a Maglev system from including the Amtrak right-of-way; (2) requires local government approval prior to a proposal for or the construction of a Maglev system; (3) prohibits a public or private entity that receives money from the State from authorizing a permit or giving any other form of approval for a Maglev system; (4) requires a person that proposes a Maglev system to hold public hearings, as specified; (5) clarifies that the definition of “railroad” includes a Maglev system; and (6) prohibits a railroad company from passing through Anne Arundel or Prince George’s counties without approval, as specified. **The bill takes effect June 1, 2018.**

Fiscal Summary

State Effect: No immediate effect. There are no current plans to appropriate funding for a Maglev system; however, the bill could have an effect on any future Maglev project. For example, the bill’s requirements likely make the proposed Baltimore-Washington Superconducting Magnetic Levitation (SCMAGLEV) Project difficult or impossible to implement, as discussed below.

Local Effect: No immediate effect, as discussed below.

Small Business Effect: None.

Analysis

Bill Summary:

Financing and Procurement

Neither the State, nor any unit or instrumentality of the State, may use any appropriation for a Maglev system located or to be located in the State. Furthermore, the bill explicitly prohibits the Maryland Department of Transportation (MDOT), (including the Office of the Secretary and the modal administrations), from using an appropriation for a Maglev system located or to be located in the State.

No public or private entity that receives money from the State may authorize a permit or give any other form of approval for a Maglev transportation system located or to be located in the State.

Use of Amtrak Right-of-way

Notwithstanding any other law, a proposal for a Maglev system may not include the use of the right-of-way or track owned or operated by the National Railroad Passenger Corporation, commonly known as Amtrak.

Local Authorization

Notwithstanding any other law, unless the legislative body and local executive of the jurisdiction have reviewed and approved the proposal for the Maglev system (1) a person may not construct a Maglev system or any related facility or structure in the local jurisdiction and (2) a State, regional, or local government unit may not approve a proposal for the construction, or approve condemnation of property for the construction, of a Maglev transportation system or any related facility or structure.

A person that proposes the construction of a Maglev system in or adjacent to a local jurisdiction must (1) identify each household and property that may be impacted by the proposal in the local jurisdiction and (2) provide public notice of and conduct a public hearing each month in the local jurisdiction in conjunction with the local jurisdiction.

Magnetic Levitation and Railroads

The definition of “railroad” is expanded to clarify that “railroad” includes a Maglev system. Furthermore, the bill specifies that a railroad company may not pass through Anne Arundel or Prince George’s counties without the consent of the respective county executive and county council.

Current Law/Background:

Magnetic Levitation Transportation Systems

For information on the status of magnetic levitation train systems in the State, please see **Appendix – Background on Magnetic Levitation Systems in Maryland.**

Federal and State Regulation of Railroads

In general, state regulatory authority over railroads is preempted by federal regulatory authority, because most remaining railroads in the United States are inherently a form of interstate transportation. Federal law requires that laws, regulations, and orders related to railroad safety or security must be nationally uniform to the extent practicable. However, a state may adopt or continue in force a law, regulation, or order related to railroad safety or security until the U.S. Secretary of Transportation (with respect to railroad safety matters) or the U.S. Secretary of Homeland Security (with respect to railroad security matters) prescribes a regulation or issues an order covering the subject matter of the state requirement.

A state may adopt or continue in force an additional or more stringent law, regulation, or order related to railroad safety or security when the law, regulation, or order (1) is necessary to eliminate or reduce an essentially local safety or security hazard; (2) is not incompatible with a law, regulation, or order of the federal government; and (3) does not unreasonably burden interstate commerce. For example, State law prohibits a railroad company from passing through the densely populated Baltimore City unless the company receives consent from the mayor and city council.

The U.S. Secretary of Transportation may prescribe investigative and surveillance activities necessary to enforce the safety regulations prescribed and orders issued by the Secretary that apply to railroad equipment, facilities, rolling stock, and operations in a state. The state may participate in those activities when the safety practices for railroad equipment, facilities, rolling stock, and operations in the state are regulated by a state authority and the authority submits an annual certification to the Secretary.

State/Local Fiscal Effect: While the bill does not directly prohibit the construction of a Maglev system, it does establish a number of requirements and restrictions that make the proposed SCMAGLEV Project difficult or impossible to implement. For example, under the bill, public funding from a State or local source is expressly prohibited for a Maglev system. In addition, local governments that receive money from the State are prohibited from issuing permits or other forms of approval for a Maglev project. It is unclear how any Maglev project could proceed under these and the other limitations established by the

bill. Thus, State and local finances are affected in future years to the extent that the project would have been constructed in the absence of the bill.

This analysis assumes that MDOT can continue to use federal funds to conduct the environmental impact study that is currently underway, as noted in the Appendix.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation; U.S. Department of Energy; U.S. Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 12, 2018
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Appendix – Background on Magnetic Levitation Systems in Maryland

Magnetic Levitation Trains – Generally

Unlike traditional steel wheel trains that travel along rails, magnetic levitation (Maglev) trains use superconducting magnets to levitate train cars. Magnets attached to the train interact with magnets along rails within a concrete guideway to propel the train. The [U.S. Department of Energy](#) (DOE) reports that a Maglev train can travel at speeds of up to 375 miles per hour with very little turbulence compared to steel wheel trains. DOE also notes that Maglev trains are safer than traditional trains; for example, traditional train derailments that result from cornering too quickly are nearly impossible. Several countries have implemented Maglev train systems, including Germany, Japan, and South Korea, and many others have explored the prospects of doing so.

History of Maglev in Maryland

The federal Transportation Equity Act for the 21st Century (TEA-21), which was signed into law in 1998, authorized federal funding to implement a Maglev system in the United States. Funding through TEA-21 lapsed in 2003, and although the Act did not result in the implementation of a Maglev system, several states explored the costs and benefits of doing so. Maryland was particularly interested because a Maglev system could significantly reduce the travel time between Baltimore City and the District of Columbia.

The Maryland Department of Transportation (MDOT) began to devote funding to the development and evaluation of a Maglev system in fiscal 2001. At that time, the Federal Railroad Administration (FRA) and MDOT commenced the Environmental Impact Study (EIS) for the project, which is required by the National Environmental Policy Act (NEPA).

The final EIS was never published, however, because State legislation enacted in 2003 and 2004 prohibited the funding of a Maglev project following the final report of the Task Force to Evaluate the Development and Construction of a Magnetic Levitation Transportation System. In its final report, which was issued in 2003, the task force noted that, among other challenges, a significant amount of funding would be required to implement a Maglev system in Maryland. As a result, during the 2003 session, the General Assembly prohibited spending any State funds to study, develop, or construct a Maglev system and required the enactment of legislation prior to any agreement to construct or operate such a system. During the 2004 session, these provisions were modified to prohibit any State or federal funding for any phase of a Maglev project after

July 1, 2005. The Budget Reconciliation and Financing Act of 2011, however, repealed these prohibitions.

Current Status of Maglev in Maryland

The Baltimore-Washington Superconducting Magnetic Levitation (SCMAGLEV) Project, which has been proposed by a private company, is a proposed Maglev train system between Baltimore City and the District of Columbia, with an intermediate stop at the Baltimore Washington International Thurgood Marshall Airport. In 2016, MDOT was awarded \$27.8 million by FRA to conduct the required EIS, and that analysis is currently underway. Additional information about the project can be found on the [Baltimore-Washington SCMAGLEV Project website](#).