Department of Legislative Services

Maryland General Assembly
2020 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 56 (Delegate Arentz, *et al.*)
Environment and Transportation Finance

Chesapeake Bay Bridge – Reconstruction Advisory Group and Transportation Facilities Projects

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This emergency bill establishes the Chesapeake Bay Bridge Reconstruction Advisory Group within the Maryland Department of Transportation and staffed by the Maryland Transportation Authority (MDTA). The bill also prohibits the State or any public-private partnership (P3) reporting agency from (1) transferring by sale, lease, or other agreement the full or partial ownership, operation, or management of an existing MDTA transportation facilities project to a private entity or (2) issuing a public notice of solicitation for a P3 for an existing MDTA transportation facilities project. **The bill's provisions that relate to P3s terminate March 1, 2021.**

Fiscal Summary

State Effect: Nonbudgeted expenditures increase by $8,000 in FY 2020 and by between $32,000 and $96,000 annually beginning in FY 2021. The bill's prohibitions relating to P3s are not anticipated to affect State operations or finances, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill's prohibitions relating to P3s apply to all of MDTA's existing transportation facilities projects, including the Thomas J. Hatem Bridge. They do not apply to the I-495 and I-270 P3 program.

The advisory group must (1) provide MDTA with an independent, citizen-informed perspective on MDTA's operations at the Chesapeake Bay Bridge; (2) work collaboratively with MDTA and provide pertinent input related to traffic and customer service issues; and (3) assist MDTA in assessing potential concerns about activity relating to the bridge and educating the general public about activity relating to the bridge. The advisory group must also adopt bylaws and report its activities and recommendations to MDTA quarterly. By July 1, 2021, and by each July 1 thereafter, the advisory group must report its activities and recommendations to the Governor and the General Assembly.

Advisory group members may not receive compensation, but are entitled to reimbursement for expenses under the standard State travel regulations, as provided in the State budget.

Any entity that conducts a traffic capacity study pertaining to the Chesapeake Bay Bridge and U.S. Route 50 between Interstate 97 and Maryland Route 404 must report its findings and recommendations to the advisory group.

Current Law/Background:

Existing Bay Bridge Reconstruction Advisory Group

The existing advisory group was established by MDTA in 2005 and meets quarterly to discuss and advise MDTA on issues related to the Chesapeake Bay Bridge. In 2019, its topics of discussion included the National Environmental Policy Act (NEPA) currently in progress for a third span across the bay, the westbound deck rehabilitation project, and MDTA's summer travel campaign to encourage use of the bridge during off-peak hours. A summary of the existing advisory group's recent activities can be found on its website.

Chesapeake Bay Bridge

The Chesapeake Bay Bridge is the only toll bridge in Maryland that currently crosses the Chesapeake Bay. The bridge connects Maryland's Eastern Shore recreational regions with the metropolitan areas of Annapolis, Baltimore, and the District of Columbia. The original two-lane bridge was constructed in 1952, and the second three-lane bridge was constructed in 1973. MDTA estimates that about 25.6 million vehicles crossed the bridge in fiscal 2014. Traffic congestion on the bridge can be severe.

The 2015 Bay Bridge Life Cycle Cost Analysis estimates that, by 2040, average traffic on the bridge will increase by at least 31.3% (to 92,800 vehicles per day). Furthermore, on summer Fridays (one of the heaviest traffic days for the bridge), traffic volume is estimated to increase by at least 36.6% by 2040 (to 94,300 vehicles).

The analysis also researched and developed alternatives designed to improve the Bay Bridge and its approaching roadways. The analysis includes a cost estimate of $3.25 billion to simply repair and maintain the bridge in its existing form through 2065, as well as a range of alternatives that involve building a third bridge across the bay, demolishing one or both existing bridges to rebuild with additional travel lanes, and widening the U.S. 50/301 main line by one lane. Costs for the alternatives are estimated through 2060 and range from $7.80 billion (which simply widens and rehabilitates the existing eastbound bridge to three lanes) to $25.34 billion (which demolishes both existing structures to rebuild a new, single, eight-lane bridge).

Third Crossing of the Chesapeake Bay – National Environmental Policy Act Process

MDTA is currently undertaking a Tier 1 NEPA study for a third crossing of the Chesapeake Bay. One of the issues being explored is the best location for such a bridge. A draft of the study is scheduled to be complete during the summer of 2020, while the full study is scheduled to be complete during the summer of 2021. Updates on the progress and findings of the study can be found on MDTA's website.

Public-Private Partnerships

Chapter 5 of 2013 established a new framework for the approval and oversight of P3s in the State. It defined a "public-private partnership" as a method for delivering public infrastructure assets using a long-term, performance-based agreement between specified State "reporting" agencies and a private entity where appropriate risks and benefits can be allocated in a cost-effective manner between the contract partners, in which:

- a private entity performs functions normally undertaken by the government, but the reporting agency remains ultimately accountable for the public infrastructure asset and its public function; and
- the State may retain ownership of the public infrastructure asset and the private entity may be given additional decision making rights in determining how the asset is financed, developed, constructed, operated, and maintained over its life cycle.

Only specified "reporting agencies" may establish a P3. Reporting agencies include the Department of General Services, which oversees building purchases and leases for most of State government, the Maryland Department of Transportation (MDOT), MDTA, and State higher education institutions.

Chapter 5 establishes the public policy of the State to utilize P3s, if appropriate, for (1) developing and strengthening the State's public infrastructure assets; (2) apportioning between the public sector and the private sector the risks involved in the development and strengthening of public infrastructure assets; (3) fostering the creation of new jobs; and

(4) promoting the State's socioeconomic development and competitiveness. The public policy also asserts that private entities that enter into P3s must comply with the provisions of the Labor and Employment Article and the federal Fair Labor Standards Act. Any proceeds or revenues received by a reporting agency from a P3 that are not paid to the private sector must accrue to the fund that would have normally received those funds.

The Board of Public Works (BPW) must approve all P3 agreements, subject to specified processes; however, BPW may not approve a P3 partnership that results in the State exceeding its capital debt affordability guidelines.

State Expenditures:

Chesapeake Bay Bridge Reconstruction Advisory Group

The existing advisory group is staffed using existing resources by MDTA staff; it only meets quarterly and its responsibilities are limited. The bill establishes the advisory group in statute and expands its responsibilities. Therefore, nonbudgeted expenditures increase by approximately $8,000 per meeting held by the advisory group for additional consultant staffing support and meeting materials. If the advisory group continues to meet quarterly under the bill, nonbudgeted expenditures increase by $32,000 annually. If the advisory group meets monthly, nonbudgeted expenditures increase by $96,000 annually.

Pursuant to the bill's emergency status, the bill will take effect in fiscal 2020. For purposes of this analysis, it is assumed that one advisory group meeting is held in fiscal 2020 and, therefore, nonbudgeted expenditures increase by $8,000 in fiscal 2020. Any expense reimbursements for advisory group members are assumed to be minimal and absorbable within existing resources.

Public-Private Partnership Prohibitions

The bill prohibits the State or any P3 reporting agency from (1) transferring by sale, lease, or other agreement the full or partial ownership, operation, or management of an existing MDTA transportation facilities project to a private entity or (2) issuing a public notice of solicitation for a P3 for an existing MDTA transportation facilities project. These prohibitions terminate March 1, 2021. MDOT and MDTA advise that there are no current plans to take any such action and, therefore, the bill is not anticipated to affect State operations or finances. The Department of Legislative Services advises, however, that to the extent any such action would take place in the absence of the bill, the bill's prohibitions could affect MDTA's operations and finances.

Additional Information

Prior Introductions: None.

Designated Cross File: SB 13 (Senator Hershey, *et al.*) - Finance.

Information Source(s): Maryland Department of Transportation; University System of Maryland; Department of Legislative Services

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