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 Maryland General Assembly
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FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 836

(Delegate Edelson, *et al.*)

Appropriations and Environment and
 Transportation

Finance and Budget and Taxation

**Major Highway Capacity Expansion Projects - Impact Assessments and
 Workgroup (Transportation and Climate Alignment Act of 2024)**

This bill requires the Maryland Department of Transportation (MDOT), in consultation with the Maryland Department of the Environment (MDE), to establish a process for performing “major highway capacity expansion project” impact assessments for specified projects. MDOT must (1) perform an impact assessment, when applicable, at a specified time; (2) use the information collected in each assessment to make specified determinations regarding the project; and (3) publish on its website specified information for each assessment it conducts. MDOT may adopt regulations to implement those provisions. The bill also establishes a Workgroup to Study Major Highway Capacity Expansion Projects, staffed by MDOT; a related reporting requirement is established. **The bill takes effect July 1, 2024. The provisions that relate to the workgroup terminate June 30, 2025.**

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$600,000 in FY 2025 and by \$100,000 annually thereafter. Nonbudgeted expenditures increase by an estimated \$50,000 annually beginning in FY 2026. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	600,000	100,000	100,000	100,000	100,000
NonBud Exp.	0	50,000	50,000	50,000	50,000
Net Effect	(\$600,000)	(\$150,000)	(\$150,000)	(\$150,000)	(\$150,000)

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

Local Effect: The bill is not anticipated to directly affect local government operations or finances.

Small Business Effect: Minimal.

Analysis

Bill Summary:

Impact Assessments – Applicability

“Major highway capacity expansion project” means a major capital project (1) whose total cost for all phases exceeds \$50.0 million and (2) that increases highway capacity (including grade separation that increases highway capacity) or improves highway capacity through the use of intelligent transportation systems or congestion management systems. It includes any major capital project that is part of a group of major capital projects that meet the aforementioned requirements, are contiguous with one another, and with a combined total cost that exceeds \$50.0 million. It does not include:

- a project in the Maryland Aviation Administration or the Maryland Port Administration;
- maintenance and storage facilities projects;
- water quality improvement projects;
- projects related to Maryland’s priorities for total maximum daily load development;
- a project that is solely for system preservation; or
- the construction or reconstruction of (1) a highway exit ramp that does not increase highway capacity; (2) a bike lane; (3) a dedicated bus lane; or (4) a sidewalk.

The bill’s requirements do not apply to a major highway capacity expansion project (1) that was, before July 1, 2024, submitted for approval for inclusion in, or funded for construction under, the *Consolidated Transportation Program (CTP)* or the *Statewide Transportation Improvement Program (STIP)*; (2) for which an assessment comparable to the impact assessment required by the bill was performed; (3) that, before July 1, 2024, was approved by the Federal Highway Administration in accordance with the National Environmental Policy Act (NEPA); or (4) that was included in the final fiscal 2024 through 2029 CTP.

Impact Assessments – Process, Timing, and Requirements

MDOT, in consultation with MDE, must establish a process for performing major highway capacity expansion project impact assessments required by the bill.

MDOT must perform an impact assessment for a major highway capacity expansion project before the completion of the federal review process for the project conducted in accordance with NEPA and early enough in the project planning stage to allow for project alteration.

An impact assessment must include an analysis and estimates of a major highway capacity expansion project's (1) quantitative net change in greenhouse gas (GHG) emissions for the project area and vehicle miles traveled (VMT) in the project area and (2) impact on GHG emissions and VMT caused by any induced demand created by the project. The analyses and estimates must be determined using the best available data and modeling tools, as specified.

MDOT must use the information collected in an impact assessment to determine whether a major highway capacity expansion project meets the following requirements:

- the project will not increase GHG emissions;
- the project will not increase VMT;
- the project conforms with the State's GHG emissions reduction targets under specified provisions of the Environment Article; and
- the project conforms with the VMT reduction targets specified in the 2024 Annual Attainment Report on Transportation System Performance.

MDOT must publish on its website, for each impact assessment performed, (1) a summary of the major highway capacity expansion project and an overview of the impact assessment, including specified data and information, and (2) the traffic model and methodology used to assess a project's impact on GHG emissions and VMT.

Workgroup to Study Major Highway Capacity Expansion Projects

The workgroup must study and make recommendations related to impact assessments and mitigation plans for major highway capacity expansion projects, including:

- the existing approach for assessing GHGs and VMT for highway projects reviewed in accordance with NEPA;
- a definition for "induced demand" and methods for evaluating induced demand in assessments that measure GHGs and VMT;
- the role of Metropolitan Planning Organizations (MPOs) and transportation management associations in supporting assessments that measure GHGs and VMT for transportation projects;
- appropriate mitigation strategies and approaches that should be implemented to reduce GHGs and VMT for major highway capacity expansion projects when an impact assessment shows that the project does not meet the emissions requirements under the bill; and
- how process and regional considerations should factor into the review process of a project, including the role of nonurban projects and the alignment of project requirements with future project prioritization efforts.

By December 1, 2024, the workgroup must report its findings and recommendations to the General Assembly.

MDOT must provide staff for the workgroup. Workgroup members may not receive compensation but are entitled to reimbursement for expenses as provided in the State budget.

Current Law:

Consolidated Transportation Program and Maryland Transportation Plan

Long-term transportation planning in the State is a collaborative process designed to consider input from the public, local jurisdictions, MPOs, and elected officials. Among the numerous reports, meetings, and discussions that take place, two important documents are developed to guide transportation planning in the State: the [CTP](#) and the [Maryland Transportation Plan \(MTP\)](#).

The CTP, which is issued annually to the General Assembly, local elected officials, and interested citizens, provides a description of projects proposed by MDOT for development and evaluation or construction over the next six-year period. 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.

Metropolitan Planning Organizations

Federal regulations require that each urbanized area, as a condition of the receipt of federal capital or operating assistance, have a continuing, cooperative, and comprehensive transportation planning process carried out by an MPO in cooperation with the state that results in plans and programs consistent with the development of the urbanized area. Although the [federal regulations](#) have yet to be updated, the U.S. Census Bureau [no longer distinguishes](#) between urbanized areas of 50,000 or more people and urban clusters of less than 50,000 people. Instead, the bureau defines an [urban area](#) as a geographic location with at least 2,000 housing units or a population of at least 5,000.

Nevertheless, the federal regulations further specify that each MPO must consist of (1) local elected officials; (2) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and (3) appropriate state officials. An MPO designation remains in effect until otherwise redesignated. An MPO may be

redesignated by an agreement between the Governor and units of local government that together represent 75% of the existing planning area population.

The federal regulations also require each state to develop a STIP for all areas of the state that covers a period of at least four years. The STIP must be updated at least every four years, be developed in cooperation with the state's MPOs, and include TIPs from each of the urbanized areas represented by those MPOs. The STIP must include capital and noncapital surface transportation projects (or phases of projects) within boundaries of the state proposed for federal funding and may include other specified projects, such as safety projects and emergency relief projects. Specified information about each project, such as the estimated total project cost and amount of federal funds proposed to be obligated for the project, must also be included.

The State's current [STIP](#) covers fiscal 2022 through 2025 and includes TIPs from each of the State's seven MPOs, which are listed below:

- Baltimore Regional Transportation Board;
- Calvert – St. Mary's Metropolitan Planning Organization;
- Cumberland Metropolitan Planning Organization;
- Hagerstown-Eastern Panhandle Metropolitan Planning Organization;
- National Capital Region Transportation Planning Board;
- Salisbury/Wicomico Area Metropolitan Planning Organization; and
- Wilmington Metropolitan Planning and Coordinating Council.

A visualization of the urbanized areas covered by these MPOs can be found [here](#).

Greenhouse Gas Emissions Reduction Targets

Chapter 38 of 2022 (the Climate Solutions Now Act) made broad changes to the State's approach to reducing statewide GHG emissions and addressing climate change. Among other things, the Act accelerated previous statewide GHG emissions reductions targets originally established under the Greenhouse Gas Emissions Reduction Act by requiring the State to develop plans, adopt regulations, and implement programs to (1) reduce GHG emissions by 60% from 2006 levels by 2031 and (2) achieve net-zero statewide GHG emissions by 2045.

In December 2023, MDE published [Maryland's Climate Pollution Reduction Plan](#), which was developed to implement Chapter 38. [MDOT's Climate Action Status Report](#), also released in December 2023, includes MDOT's mission, goals, strategies, and activities to reduce GHG emissions and VMT in the State.

National Environmental Policy Act

For major transportation projects, NEPA requires a range of alternatives to be considered and the environmental impacts of each alternative to be analyzed. This environmental impact statement is required prior to the commitment of federal funds to any major project or prior to any action taken by a federal agency that might cause a significant impact on the environment. Some of the basic steps in this process include a public scoping process, data collection, analysis of policy alternatives, and preparation of draft and final documents. The process involves numerous federal, state, and local partners.

State Expenditures: Although it is unclear, this analysis assumes that the bill requires impact assessments for projects undertaken by both MDOT and the Maryland Transportation Authority (MDTA), when applicable, due to the broad definition of major highway capacity expansion project.

As discussed in more detail below, TTF expenditures increase by a total of \$600,000 in fiscal 2025 for MDOT to develop the assessment tool and hire a consultant to staff the workgroup; TTF expenditures increase by an estimated \$100,000 annually thereafter to conduct impact assessments. Nonbudgeted expenditures for MDTA increase by \$50,000 annually beginning in fiscal 2026 to conduct assessments. MDOT and MDTA can publish the required information from the assessments on their websites using existing resources.

Assessment Tool Development

TTF expenditures increase by \$500,000 in fiscal 2025 for MDOT to engage its expert consultants to develop an impact assessment tool that meets the bill's requirements and can accurately predict and measure GHG emissions and VMT; MDE can consult with MDOT on the development of the tool using existing budgeted resources. MDOT advises that, once complete, it plans to use the tool to evaluate its own major highway capacity expansion projects and to allow MDTA to use the tool to evaluate its major highway capacity expansion projects.

Impact Assessments

The number of assessments required under the bill depends on the type and scope of future projects that require impact assessments under the bill, which are unknown at this time. However, a preliminary analysis by MDOT estimates that, on average, it will be required to conduct two impact assessments for new major highway capacity expansion projects each year and that MDTA will be required to perform one impact assessment each year.

MDOT plans to continue to engage the consultant that develops the impact assessment tool to complete any future assessments, and each assessment is estimated to cost \$50,000.

Accordingly, beginning in fiscal 2026, TTF expenditures are assumed to increase by \$100,000 annually to perform impact assessments for affected MDOT projects, and nonbudgeted expenditures are assumed to increase by \$50,000 annually to perform impact assessments for affected MDTA projects. Actual costs will vary depending on the number of impact assessments ultimately performed.

Workgroup to Study Major Highway Capacity Expansion Projects

MDOT anticipates the need to engage a consultant to staff the workgroup and complete the required report. Therefore, TTF expenditures increase by \$100,000 only in fiscal 2025 for MDOT to hire a consultant to support the workgroup.

Expense reimbursements for workgroup members are assumed to be minimal and absorbable within existing budgeted resources.

Additional Comments: The bill requires an impact assessment to be conducted early enough in the project planning stage to allow for project alteration, but it does not explicitly require that projects be altered based on the findings of the impact assessment. Nevertheless, any project alterations that are made to address the findings of an impact assessment could significantly increase project costs. Any such costs have not been included in this analysis.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 681 (Senators Lam and Gile) - Finance and Budget and Taxation.

Information Source(s): Maryland Department of Transportation; Maryland Department of the Environment; Maryland Association of Counties; Maryland Municipal League; Harford and Montgomery counties; City of Frostburg; Federal Highway Administration; U.S. Census Bureau; Department of Legislative Services

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