Department of Legislative Services

Maryland General Assembly
2002 Session

FISCAL NOTE

Senate Bill 533 (Senator Currie, *et al*.)
Budget and Taxation Appropriations

Department of Transportation - Special Bonds and Borrowings

This bill provides for the issuance of special transportation project revenue bonds financed by federal funds. It authorizes the Department of Transportation (MDOT) to apply for participation in certain federal programs that provide federal loans for construction costs or allow federal funds to finance debt service on transportation facility bonds.

The bill is effective June 1, 2002.

Fiscal Summary

State Effect: Transportation Trust Fund expenditures could potentially increase to the extent that the acceleration of federal funds for eligible projects increases the interest payments on transportation bonds. Revenues would not be affected as the amount of federal aid would not change.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill authorizes MDOT to apply for any financial assistance for projects deemed appropriate by the Secretary and authorizes MDOT to: (1) pledge and use existing and anticipated federal funds for paying the debt service on bonds to finance transportation facilities; (2) borrow funds from the federal government or obtain a federally guaranteed loan from a nongovernmental lender; and (3) repay the loans with revenues from the transportation facilities being financed. It allows a 30-year maturity for these bonds.

It also specifies the requirements for issuing bonds financed through these methods (known as special transportation project revenue bonds) and authorizes MDOT to issue refunding bonds for any of these bonds. It directs the Treasurer to segregate the proceeds of any refunding bonds in a separate trust fund to pay only for the purchase or redemption prices of the bonds to be refunded.

The bill also declares that bonds, notes, and other evidences of obligation and associated revenues are considered investment securities, exempt from State and local taxation, and do not constitute a debt or pledge of the faith and credit of the State. Bonds may be secured by a trust agreement between the department and a corporate trustee that may pledge or assign all or any part of the existing and anticipated federal funds expected to be paid to the department. All expenses incurred in carrying out the agreement may be treated as part of the cost of the operation of the transportation facility for which the bonds are issued and the proceeds of the bond sale must be paid to the trustee and disbursed according to the terms of the agreement.

MDOT is required under the bill to report the proposed issuance of transportation revenue bonds to the Legislative Policy Committee for review and comment 45 days before each issuance. The bill gives priority to MDOT's pledge of revenues and funds to secure its bonds over other claims and provides that MDOT is only required to file in the records of the department any resolution, trust agreement, or other instrument that creates a lien on, security interest in, or assignment of: (1) any revenues; (2) rights to receive revenues; or (3) any moneys pledged to the bonds, notes, or other obligations of the department.

Current Law: MDOT cannot participate in certain federal programs that provide debt instruments for transportation financing without legislative authority. The State cannot use federal funds to pay debt service on State transportation bonds.

Background: MDOT advises that the bill would allow the department to participate in two programs that allow states greater flexibility in use of federal funding for transportation projects. The programs will not provide additional funds but could allow the State to begin and finish transportation projects faster. The first program, governed by the Transportation Infrastructure Finance and Innovation Act (TIFIA), provides direct loans, lines of credit, and loan guarantees from the federal government for up to one-third of the construction costs for certain large-scale projects. Criteria for approval of a TIFIA loan include environmental benefits, national or regional significance, and private involvement. To participate in the program in 2002, the department must file an expression of interest in August, which is why the effective date of the bill is June 1.

Examples of TIFIA-sponsored projects include a loan guarantee of up to $600 million for the Washington Metropolitan Transit Authority's $2.3 billion infrastructure renewal program and a loan of up to $450 million for the $3.3 billion seismic retrofitting of the Oakland Bay Bridge spans (financed by toll charges).

The other program is the Grant Anticipation Revenue Vehicle (GARVEE), which allows state highway agencies to borrow against future federal funding to pay for major transportation projects. At least ten states have already issued GARVEE bonds or obtained authority to issue them. For example, Colorado sold $537 million of GARVEE bonds to finance a $1.7 billion bond program for high-priority projects in the Denver area. New Mexico has twice issued GARVEE bonds ($100.2 million and $18.5 million each) to construct State Route 44. Moody's gave these bonds a rating of A3 and A2 respectively. The state purchased municipal bond insurance as a financial backstop.

State Fiscal Effect: MDOT advises that the borrowing availability under this bill could help advancement of future projects. MDOT has not identified which transportation projects would be used with these bonds.

Additional Information

Prior Introductions: An identical bill (as amended) was introduced as HB 978 in 2001. It passed the House and the Budget and Taxation Committee heard the bill but took no action.

Cross File: None.

Information Source(s): Department of Transportation, *Innovative Finance Quarterly*, Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2002
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