HB 961

Department of Legislative Services

Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 961 (Delegates Gordon and Mitchell)
Appropriations

Department of Transportation and Maryland Transportation Authority - Debt Limits

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This bill increases the amount of consolidated transportation bonds and other debt instruments that the Maryland Department of Transportation (MDOT) may issue from $1.5 billion to $2.3 billion. Debt instruments other than special transportation project revenue bonds will now be subject to the statutory debt cap. It also places limits on issuance of special transportation project revenue bonds.

The bill takes effect July 1, 2004.

Fiscal Summary

State Effect: Potentially significant decrease in foregone nonbudgeted and Transportation Trust Fund (TTF) bond revenues and expenditures for special transportation bonds. In addition, potentially significant decrease in TTF bond expenditures to the extent that other nontraditional debt issuance is now subject to the MDOT debt cap.

Local Effect: Lowering the State's authority to issue special transportation revenue bonds could potentially affect the construction of the Intercounty Connector (ICC) in Montgomery and Prince George's County.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill requires the General Assembly to establish an annual limit on special transportation project revenue bonds. The annual payments for interest and principal on the bonds may not exceed 10% of the annual apportionments to MDOT and the Maryland Transportation Authority (MdTA) for federal highway aid. MdTA may not pledge or use existing or anticipated federal funds for payment of its bonds or other debt obligations if: (1) the term of the bonds or debt instruments exceed 15 years; or (2) the annual payments exceed 10% of federal annual apportionments.

Current Law: Chapter 470 of 2002 authorizes MDOT to issue bonds backed by future federal aid highway and transit apportionments through a federally sponsored program called Grant Anticipation Revenue Vehicle (GARVEE). GARVEEs are referred to in statute as special transportation project revenue bonds. The law authorizes MDOT to issue refunding bonds for any of these bonds and allows a 30-year maturity. MDOT is required to report the proposed issuance of GARVEEs to the Legislative Policy Committee for review and comment 45 days before each issuance. Each issue of special transportation project revenue bonds by MDOT must be approved before sale by the Board of Public Works (BPW).

MDOT may issue consolidated transportation bonds in any amount as long as the aggregate outstanding principal balance of these bonds and bonds of prior issues does not exceed $1.5 billion at one time. The maximum unpaid balance on consolidated transportation bonds and bonds of prior issues as of June 30 for the next fiscal year must be set by the General Assembly in the State budget and may not exceed the $1.5 billion limit. The bonds are tax exempt and are not backed by the full faith and credit of the State. Other debt instruments represent all other forms of debt that are not consolidated bonds, and include certificate of participation, debt backed by customer facility charges, and debt issued by the Maryland Economic Development Corporation.

MdTA manages, operates, and maintains the State's seven toll facilities (four bridges, two tunnels, and one highway). The agency has the authority to issue bonds and does not receive any State appropriations. The Attorney General has declared that MdTA has the authority to issue GARVEEs. MdTA's toll revenue bonds are authorized by a trust agreement and are not debts of the State or MDOT. MdTA may issue GARVEEs without the approval of BPW and with a longer maturity period than MDOT (40 years rather than 30).

Background: At least 13 states and one U.S. territory have used GARVEE bonds but they have not yet been used in Maryland. Only three states have issued GARVEE bonds that equaled or exceeded $1 billion. According to the Department of Legislative

Services' (DLS) budget analysis of MdTA's fiscal 2005 budget, the level of proposed GARVEE bonds for the ICC would span up to five six-year federal reauthorization cycles, which would be a precedent in the U.S.

Congress is currently debating legislation authorizing federal highway aid to the states for federal fiscal 2004 to 2009. The six-year authorization under the Transportation Equity Act for the 21st Century (TEA-21) expired in September 2003. Maryland received an average of $568 million annually under TEA-21 for both highway and transit.

State Fiscal Effect: The increased debt limit of $800 million for consolidated transportation bonds and other debt instruments will effectively keep MDOT's transportation bond issuance at or near current levels. The six-year estimated bond capacity, including both consolidated bonds and other debt instruments, is estimated to be $2.3 billion for fiscal 2004 through 2009. Outstanding debt is currently $1.7 billion, which includes consolidated transportation bond debt ($961 million) and outstanding nontraditional debt is ($751 million). MDOT advises that at the end of fiscal 2004, outstanding debt on consolidated bonds will increase to approximately $1.2 billion.

The limits on special transportation revenue bonds would decrease revenues and expenditures that would be incurred by MDOT or MdTA if those bonds are issued. Based on MDOT's estimated federal highway aid ($530 million) over the next six years, debt service payments could not exceed $53 million annually over that period. Total debt outstanding due to the shortened maturity period and debt service limits will not be able to exceed $500 million.

Maryland's highway aid was approximately $479 million in federal fiscal year 2001, which increased to $496 million in 2002, then lowered to $448 million in fiscal 2003. These fluctuations may further lower the amount of GARVEEs issued to prevent debt service payments from exceeding the 10% limit required by the bill in any one year.

Neither MDOT nor MdTA have issued any GARVEEs or any other special transportation revenue bonds at this time. However, MDOT proposes to issue $900 million to $1 billion of transportation revenue bonds using GARVEEs to build the ICC, which is estimated to cost at least $1.7 billion to design and construct. The proposed limit may require MDOT to find alternative funding sources or cancel or postpone the project.

Additional Comments: DLS recommended in its budget analysis for MdTA that current law be amended to impose debt ceiling limits and a coverage test on GARVEE bond issuances made by either MDOT or MdTA so that: (1) the total amount of outstanding GARVEE debt does not exceed $500 million; (2) anticipated debt service payments do not exceed 10% of federal highway aid; and (3) the maturity on GARVEE debt issuances is no longer than 15 years.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Ann Marie Maloney

Direct Inquiries to:
(410) 946-5510
(301) 970-5510