HB 962

Department of Legislative Services

Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 962 (Delegate Gordon, *et al.*)
Appropriations

Department of Transportation - Special Bonds and Borrowings - Repeal of Authority

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This bill repeals the authority of the Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MdTA) to issue special transportation project revenue bonds.

The bill takes effect July 1, 2004 and applies only to bonds issued on debts incurred after that date.

Fiscal Summary

State Effect: Potentially significant decrease in foregone bond revenues and expenditures for both nonbudgeted and Transportation Trust Fund (TTF) special transportation project revenue bonds that may otherwise be issued with potential corresponding impact on projects that would have been funded by those revenues. Potential decrease in foregone federal loans or loan guarantees through a federal innovative financing program.

Local Effect: The repeal of the State's authority to issue Grant Anticipation Revenue Vehicle (GARVEE) bonds could affect construction of the Intercounty Connector (ICC) in Prince George's and Montgomery counties.

Small Business Effect: Potential meaningful.

Analysis

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). GARVEE bonds are referred to in statute as special transportation project revenue bonds. The Attorney General has declared that MdTA also has this authority. 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 transportation revenue bonds to the Legislative Policy Committee for review and comment 45 days before each issuance. Each issue of special transportation project revenue bonds must be approved before sale by the Board of Public Works.

MDOT may issue consolidated transportation bonds to finance the cost of any one or more projects 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.

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. Bond and toll revenues, as well as cash reserves, finance the agency's operational and capital costs. MdTA's toll revenue bonds are authorized by a trust agreement and are not debts of the State or MDOT.

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.

State Fiscal Effect: Neither MDOT nor MdTA have issued any GARVEE bonds or any other special transportation revenue bonds at this time. However, repealing the authority of both agencies to issue this type of bond will limit their future funding alternatives to consolidated transportation bonds, toll-financed bonds, and nontraditional debt instruments such as certificates of participation. The limitation will effectively prohibit both agencies from participating in a program under the Transportation Infrastructure and

Innovation Act or TIFIA, which provides federal lines of credit, loan guarantees, or low-interest loans for up to one-third of the constructions cost for certain large-scale projects.

MDOT proposes to issue $900 to $1 billion of transportation revenue bonds using GARVEEs to build the ICC, which is estimated to cost at least $1.5 billion to design and construct. If MDOT lacks the authority to issue GARVEE bonds, it will be required to use other sources of funds for the ICC or cancel or postpone the project. MDOT lacks sufficient bonding capacity to make up the difference with traditional bond revenue, due to the statutory $1.5 billion debt limit and other restraints. The total consolidated outstanding bond issuance as of June 30, 2004 is $881.4 million.

Small Business Impact: To the extent that the bill limits future State-funded transportation projects, transportation project contractors may be affected. While the primary contractors are generally large enterprises, subcontractors, which are primarily self-employed or small businesses, could be adversely affected.

Additional Comments: DLS recommended in its budget analysis for MdTA that the General Assembly amend the current law 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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mh/mdr

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