HB 1397

Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1397 (Delegates Sossi and Smigiel)
Ways and Means and Appropriations

Chesapeake Bay Crossings - Chesapeake Bay Crossing Authority - Creation, Powers, and Duties

This bill establishes a Chesapeake Bay Crossing Authority (CBCA), outlines its duties and powers, and transfers control of the William Preston Lane Jr. Memorial Chesapeake Bay Bridge and parallel Chesapeake Bay Bridge (Chesapeake Bay Bridge) from the Maryland Transportation Authority (MdTA) to CBCA. It also requires MdTA to call or refund all outstanding revenue bonds dependent on the Chesapeake Bay Bridge for revenues by January 1, 2006.

The bill takes effect July 1, 2005, but most provisions take effect July 1, 2006.

Fiscal Summary

State Effect: Nonbudgeted expenditures would increase by $153,700 in FY 2006 due to increased debt service on bonds that would have to be issued by MdTA. Future year estimates are based on increased debt service on the new bonds. Potential additional increase in nonbudgeted expenditures due to decreased economies of scale for the operation of the Chesapeake Bay Bridge and even greater debt service costs on MdTA and CBCA bonds.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues	$0	$0	$0	$0	$0
NonBud Exp.	153,700	996,900	996,800	1,000,500	1,005,500
Net Effect	($153,700)	($996,900)	($996,800)	($1,000,500)	($1,005,500)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: By January 1, 2006, MdTA must refund and refinance all of its bonds secured by revenues from toll facilities under its jurisdiction that are callable by January 1, 2006. If the bonds are not callable, MdTA must defease all remaining obligations. Refinanced debt may not be secured by revenues from the Chesapeake Bay Bridge.

Chesapeake Bay crossing projects means any bridge, tunnel, or highway that crosses the portion of the Chesapeake Bay within Maryland, together with their causeways, approaches, interchanges, entrance plazas, toll stations, and service facilities.

CBCA has nine members: the Secretary of Transportation who serves as chair, and eight appointed members. Appointed members serve two-year terms, may only serve two consecutive terms, and cannot be employees of the Executive Branch of State government. A member of CBCA is entitled to the compensation provided in the State budget and reimbursement for expenses. Staffing will be provided by the Maryland Department of Transportation (MDOT).

On July 1, 2006 all functions, duties, assets, equipment, liabilities, powers, and employees of MdTA directly related to the operation of the Chesapeake Bay Bridge must be transferred to CBCA. CBCA will have the same responsibilities, reporting obligations to the General Assembly, exemptions from taxation, and capabilities as MdTA. This includes, but is not limited to:

- establishment and operation of a CBCA police force;
- authority to enter into contracts;
- power to issue revenue bonds; and
- ability to alter tolls.

If CBCA issues Grant Anticipation Revenue Vehicle (GARVEE) bonds, which are backed by federal highway aid, the annual payments for principal and interest may not exceed 20% of the State's average annual authorization level in the current federal authorization act for federal highway aid, and the bonds must mature in 15 years.

Every resolution, rule, regulation, form, order, and directive adopted by MdTA regarding Chesapeake Bay crossing projects remains in effect until changed by CBCA (including revenue bonds). All references to MdTA regarding Chesapeake Bay crossing projects mean CBCA.

Current Law: MdTA has general supervision over all transportation facilities projects, including finance, construction, operation, repair, and maintenance. MdTA, its activities, and projects are exempt from taxation. MdTA has specified powers to carry out its mandate, including, but not limited to:

- acquisition and sale of land;
- establishment and operation of a police force;
- the ability to borrow money and issue revenue bonds;
- the power to fix, revise, charge, and collect rentals, rates, fees, tolls, and other charges and revenues on MdTA projects; and
- the ability to enter into contracts.

Revenues generated by MdTA facilities must be fixed and adjusted so as to provide sufficient resources to pay the debt service and principal on outstanding revenue bonds and provide money for MdTA's operating costs. These revenues are not subject to the supervision of any instrumentality, agency, or unit of the State or its political subdivisions. However, MdTA must provide to specified committees information on proposed toll changes, including annual revenues generated, the use of the revenues, and the proposed commuter discount rates.

Forty-five days prior to entering into any contract or agreement to acquire or construct a revenue producing project, MdTA must provide a description of the proposed contract and a summary of the contract or agreement to specified General Assembly committees and the Department of Legislative Services for review and comment.

If MdTA issues GARVEE bonds, which are backed by federal highway aid, the annual payments for principal and interest may not exceed 13% of the State's average annual authorization level in the current federal authorization act for federal highway aid, and the bonds must mature in 15 years.

Background: The Chesapeake Bay Bridge, built in 1952, connects Maryland's Eastern Shore recreational regions with the metropolitan areas of Baltimore, Annapolis, and the District of Columbia. The 4.3-mile bridge is the third highest revenue generator of all State toll projects; in fiscal 2005, it will yield approximately $33.8 million. The eastbound toll for two-axle vehicles is $2.50; each additional axle is $2.50. There is no toll for westbound vehicles.

A six-year, $87 million project to rehabilitate the bridge deck of the westbound span, constructed in 1973, is underway. The construction, which requires lane closures, has created traffic congestion during nonpeak times for the past few years – one backup in October 2001 stretched 14 miles westbound and 9 miles eastbound. The construction has been plagued with problems over the past few years, and the resurfacing on the bridge has been badly damaged.

In order for a rehabilitation to work, the new overlay of concrete or material must bond with the previous underlying surface – the substrate. This did not happen on the Chesapeake Bay Bridge. An independent review panel determined that a part of this was due to how the bridge was constructed in 1973 – the deck of the bridge is thin (6.5 to 7.0 inch concrete decks). Only now, as bridges built during that time are being rehabilitated, are contractors learning about repairing and resurfacing such bridges. Six factors were identified as leading to problems.

- The thin deck resulted in higher than normal stresses in the region around where the overlay and the substrate connect.
- The substrate was not appropriately prepared for the overlay to be put on – the milling of the surface may have weakened the substrate.
- The matrix restorer epoxy bonding agent that was meant to fuse the overlay and the substrate together did not properly function – the bond between the layers was weak.
- The use of silica-fume concrete mixtures resulted in slow strength gain in cold weather.
- Pouring the concrete during cold weather slowed the rate at which the overlays gained strength, and the bond between the substrate and overlay may have been exposed to heavy traffic before the concrete of the overlay was strong enough to support the weight.
- The use of a sprayed curing compound slowed the rate of strength gain.

Many of these problems arose because MdTA was determined to minimize the time it took to complete the project and avoid excessive delays during the summer months when the Chesapeake Bay Bridge is extremely heavily used. For that reason, MdTA took steps to complete the project during the spring and fall months. These steps – using silica-fume concrete and pouring during cold weather – were not successful and resulted in a delayed and more expensive construction process. The Attorney General is now investigating as to whether liability lies with the contractor or with MdTA.

State Fiscal Effect:

MdTA Bond Redemption

Currently, MdTA has $274 million in bonds outstanding in three bond issues that would be affected under the bill: a 1992 series ($99 million in bonds); a 1998 series ($15 million); and a 2004 series ($160 million). MdTA cannot call any bonds before January 1, 2006. Instead, it would have to defease on the outstanding bonds and issue new ones.

In order to pay off the current bondholders, MdTA would have to issue approximately $281 million in bonds. Due to federal Internal Revenue Code provisions, MdTA would have to issue both taxable and tax-exempt bonds; all current MdTA bond issues are tax-exempt. The interest rate on taxable bonds would be higher than the rate on tax-exempt bonds.

Debt service on the new bonds would be higher than on the current bonds. The difference would total $18,113,438 over the life of the bonds. Combined with a formal transfer of more than $4 million to assist in reducing bonds, the net debt service on the new bonds would increase by $153,652 in fiscal 2006.

As **Exhibit 1** shows, the increase in debt service on the new bonds over the existing bonds would total approximately $1 million each year from fiscal 2007 through 2010.

Exhibit 1
Debt Service on Proposed Bonds Versus Current Bonds

	FY 2007	**FY 2008**	**FY 2009**	**FY 2010**
Current Bonds	$24,452,105	$24,442,105	$24,444,855	$24,444,855
Proposed Bonds	25,449,004	25,438,940	25,445,397	25,450,323
Net Difference	996,899	996,835	1,000,542	1,005,468

The new revenue bonds would be backed by revenues from MdTA's six remaining facilities. The new bonds would not be as attractive as the old bonds, which would mean that MdTA could have to offer a higher rate of return. MdTA advises that it would change the funding structure of the InterCounty Connector. The defeasing of the old bonds could have a significant downgrading impact on the rating of MdTA's bonds.

Operating and Capital Programs

Exhibit 2 details the revenues and expenditures for an independent CBCA beginning in fiscal 2007. This estimate is based on fiscal 2000 through 2004 expenditures and revenues for the Chesapeake Bay Bridge and on the allowances for the bridge in the Governor's proposed fiscal 2006 budget. The expenditures in the Capital Program are based on projects in the current *Consolidated Transportation Program 2005-2010*. Under this scenario, neither nonbudgeted revenues nor expenditures would increase or decrease; the revenues and expenditures would merely shift from MdTA to CBCA.

Exhibit 2
Independent Chesapeake Bay Crossing Authority Fiscal 2007 – 2010
($ in Thousands)

	FY 2007	FY 2008	FY 2009	FY 2010
Opening Balance	$0	$20,615	$43,319	$68,050
Gross Revenue[1]	35,822	36,789	37,782	38,802
Capital Expenditures	4,420	2,220	0	0
Operating Expenditures[2]	10,787	11,865	13,052	14,357
Total Expenses	**$15,207**	**$14,085**	**$13,052**	**$14,357**
Annual Surplus/Deficit	20,615	22,704	24,731	24,446
Closing Balance	$20,615	$43,319	$68,050	$92,495

[1]Assumes 2.7% annual growth (based on average growth from fiscal 2000 to 2004).
[2]Assumes 10% annual growth (based on average growth from fiscal 2000 to 2004).

However, it is possible that operating program expenses and debt service would be higher than estimated. CBCA would be a stand-alone authority that would only have one facility. The facility would not command the resources or the capabilities of larger authorities, and economies of scale could cease to be realized. CBCA would have to compete for employees with larger authorities, especially for experienced bridge managers. CBCA could possibly have to pay more than the current MdTA salaries for capable bridge management and other employees.

Additional Comments: If MdTA were to defease on its current bonds, the bonding ability of the State and other State facilities, divisions, and subdivisions could be affected.

Further, the State Treasurer's Office advises that it is possible that all of MdTA's debt would become the State's debt instead. It is even possible that bondholders would sue the State and MdTA for breach of contract.

Further, as a smaller facility, if CBCA were to issue revenue bonds, the revenue backing the bonds would be revenue solely from the Chesapeake Bay Bridge. The smaller revenue stream could force CBCA to offer a higher interest rate in order to attract bondholders.

Additional Information

Prior Introductions: None.

Cross File: SB 625 (Senator Pipkin, *et al.*) – Finance and Budget and Taxation.

Information Source(s): Maryland State Treasurer's Office, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2005
ncs/ljm

Analysis by: Nora C. McArdle

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