Department of Legislative Services

Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 1587 (Delegate Arnick)
Environmental Matters

State Government - Maryland Port Administration

This bill establishes the Maryland Port Administration (MPA) as an independent unit of State government, affirms that MPA has the powers it had as a unit of the Maryland Department of Transportation (MDOT), establishes the Maryland Port Administration Fund (MPAF) as a special nonlapsing fund, and dedicates a portion of the revenues from the corporate income tax to funding MPA.

The bill takes effect July 1, 2005.

Fiscal Summary

State Effect: Special fund revenues would increase by $29.1 million in FY 2006 due to an equivalent decrease in corporate income tax revenue paid to local jurisdictions through the Gasoline and Motor Vehicle Revenue Account (GMVRA). That benefit would be split between the Transportation Trust Fund (TTF) and MPAF. Special fund revenues of $185.5 million and special fund expenditures of $176.6 million would transfer from the TTF to MPAF. Accordingly, MPAF would end FY 2006 with an $8.9 million fund balance. TTF revenues would increase by $20.2 million in FY 2006 due to MDOT no longer subsidizing MPA expenditures.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	$29,106,000	$29,304,000	$29,502,000	$29,700,000	$30,096,000
FF Revenue	0	0	0	0	0
SF Expenditure	0	0	0	0	0
Net Effect	$29,106,000	$29,304,000	$29,502,000	$29,700,000	$30,096,000

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

Local Effect: Local revenues would decrease by $29.1 million in FY 2006, $29.3 million in FY 2007, $29.5 million in FY 2008, $29.7 million in FY 2009, and $30.1

million in FY 2010 due to a decrease in GMVRA revenues distributed to local jurisdictions as highway user revenues.

Small Business Effect: None.

Analysis

Bill Summary: MPA would be administered by the executive director of MPA. The bill establishes procedures for the hiring and firing of the executive director by the Governor. However, the first executive director is to be the individual who held the position on January 1, 2005. The executive director can exercise the powers necessary to run MPA and perform all actions necessary to organize MPA, including hiring and firing. The executive director or designee would be the chairman of both the Port Land Use Development Advisory Council and the Maryland Port Commission (MPC). The powers of the Secretary of Transportation concerning MPA are transferred to the executive director.

MPAF must receive a transfer of funds from the TTF equivalent to two-thirds of the corporate income tax transferred to GMVRA by the State Comptroller. This money must be made available in the fiscal year it is transferred. In addition, MPAF would contain all fees, charges, rentals, and other revenues paid to MPA; income from investments; money appropriated in the State budget; and any money accepted for the fund. MPAF must pay all administrative, operating, capital costs, and expenses of MPA.

MPA no longer needs approval of MPC to operate public ports. MPC may propose regulations, but MPA is not bound to accept them. Provisions related to the chairman of MPC approving all MPA actions that impact the TTF or approving or controlling the MPA budget or MPA expenditures are repealed as unnecessary. All powers concerning private operating companies and motor vehicle operations and parking in and on port facilities are transferred to MPA.

All employees of MPA remain employees of MPA and are transferred to the State Personnel Management System, with no loss of compensation, leave, leave accrual rates, seniority, or any other rights, benefits, or privileges. MPA employees may engage in collective bargaining.

Current Law: MPA is currently a modal administration under MDOT, but MPA oversight is generally provided by MPC, including oversight over port operations, MPA-created private operating companies, MPA expenditures, and MPA administration.

The Secretary does not directly have the power to adopt or review rules and regulations for MPA or reassign MPA staff, duties, or powers. However, the Secretary is the chairman of MPC. All actions of MPC that, in the judgment of the chairman, impact on the TTF are subject to the approval of the chairman. In addition, the chairman appoints and can remove the executive director of MPA as well as approves of MPA's budget.

The executive director reports directly to MPC, and carries out MPC regulations and powers and duties invested by law in MPA. MPA may propose regulations to MPC for adoption. MPA has powers and duties as specified in statute, including, but not limited to:

- acquiring and operating public port facilities;
- disposing of waste matter other than oil collected from commercial vessels in Baltimore Harbor;
- operating and maintaining foreign trade zones within its territorial jurisdiction; and
- promoting and increasing commerce within its territorial jurisdiction.

The TTF retains 70% of GMVRA revenues and distributes 30% to local jurisdictions as highway user revenues.

Background: MPA has 307 authorized positions and a budget of $199.8 million for fiscal 2005. The Governor's proposed fiscal 2006 budget includes an allowance of $181.1 million and 296 authorized positions. MPA's terminals at the port handle 85% of foreign general cargo (*e.g.*, automobiles, containers, forest products) and received a total of 7.4 million tons of general cargo in fiscal 2004. This accounts for 20% of the port's total cargo. Most of the port's bulk cargo (ore, coal, grain, etc.) is handled by private terminals. MPA's estimated fiscal 2005 net income is $2.4 million.

Over 100 public ports operate in the United States and U.S. territories. Public port agencies include port authorities, special purpose navigation districts, bi-state authorities, and departments of state, county, and municipal government. The Port of Baltimore ranked nineteenth in United States cargo volume in 2003.

James J. White resigned his post as executive director of MPA on February 24, 2005, and stepped down from his position on March 11, 2005. He had served as executive director of MPA for six years, after seven administrators had held the job in the eight years prior to that. White was respected throughout the Maryland shipping industry and was considered instrumental in positioning the Port of Baltimore as a leader in handling automobile cargo and other roll-on/roll-off cargo.

Members of the maritime industry have expressed disappointment at his resignation and have intimated that White's departure could result in business departing from the Port of Baltimore to other East Coast ports. Reports in the media have suggested conflicts between White, and by extension MPA, and MDOT. White and Secretary of Transportation, Robert Flanagan, issued a joint statement about his departure. The statement acknowledged that the two men had disagreed on some issues.

State Fiscal Effect: All current MPA-generated revenues and expenditures would shift to the new MPAF from the TTF. In addition, two-thirds of corporate income tax revenue currently credited to the TTF is transferred to MPA in order to provide sufficient revenue to cover MPA operating costs and capital program costs. In addition, the corporate income tax revenue would enable MPAF to begin to build a fund balance. As MDOT would no longer subsidize MPA activities, net TTF revenues would increase by $20.2 million in fiscal 2006.

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Exhibit 1 details the revenues and expenditures of an independent port administration as proposed in the bill. All expenditures and revenues associated with MPA, including two-thirds of the corporate income tax revenue credited to the TTF, would become MPAF revenues and expenditures.

This estimate reflects a 1% increase in revenues in out-years. Out-year expenditures reflect: (1) full salaries with 4.6% annual increases and 3% employee turnover; and (2) 1% annual increases in ongoing operating expenses.

This estimate does not include any start-up costs associated with transitioning from MDOT to an independent agency, such as moving to the State Financial Management Information System. Any such costs could reduce the new MPAF balance in fiscal 2006; however, the balance should still be sufficient to cover MPA's expenditures.

MPA advises that it would like to include $228 million in projects in its capital program. Although these projects are not currently in the *FY 2005-2010 Consolidated Transportation Program* nor are there plans to include them, if additional TTF revenues became available, these projects or a portion of them might be added if MPA remained a modal administration. As an independent agency, MPA would have to generate sufficient revenues to cover these projects and fund these projects on a PAYGO basis. Surplus MPA revenue that could be dedicated to this is less than $13 million in any given fiscal year.

Exhibit 1
Special Fund Revenues and Expenditures of an Independent MPA
($ in Millions)[1]

	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Revenues					
Corporate Income Taxes	$97.0	$97.7	$98.3	$99.00	$100.3
Revenues from Port Activities	88.5	89.4	90.3	91.2	92.1
Total MPA Revenue	**$185.5**	**$187.0**	**$188.6**	**$190.2**	**$192.4**
State Expenditures					
Capital Program[2]	$77.5	$74.3	$77.2	$76.1	$95.7
Operating Program	96.1	97.2	98.8	100.5	102.2
Associated MPA Expenditures[3]	3.0	3.0	3.0	3.0	3.0
Total State Expenditures	**$176.6**	**$174.5**	**$179.0**	**$179.6**	**$200.9**
Net Effect	**$8.9**	**$12.6**	**$9.6**	**$10.6**	**($8.5)**
MPAF Ending Balance	**$8.9**	**$21.5**	**$31.1**	**$41.7**	**$33.2**

[1] Numbers do not sum to total due to rounding.
[2] This is a net figure after federal funding has been used to offset capital expenditures.
[3] Expenditures not previously figured into the MPA operating or capital budget include payments to Baltimore City for fire suppression and payments in lieu of taxes (PILOTS) which were paid by MDOT.

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TTF revenues would decrease by the portion of the corporate income tax revenue transferred to MPA that would have been retained by the TTF and by all MPA-generated revenues. Accordingly, TTF revenues would decrease by $156.4 million in fiscal 2006, $157.7 million in fiscal 2007, $159.1 million in fiscal 2008, $160.5 million in fiscal 2009, and $162.3 million in fiscal 2010.

However, TTF expenditures would decrease by a greater amount: $176.6 million in fiscal 2006, $174.5 million in fiscal 2007, $179 million in fiscal 2008, $179.6 million in fiscal 2009, and $200.9 million in fiscal 2010.

Therefore, the net impact on the TTF would be positive: $20.2 million in fiscal 2006, $16.7 million in fiscal 2007, $19.9 million in fiscal 2008, $19.1 million in fiscal 2009, and $38.6 million in fiscal 2010.

MDOT advises that the increased cash flow would enable it to reduce the amount of bonds sold each fiscal year; MDOT further advises that such a reduction in bond sales would result in a debt service coverage ratio of 2.39. MDOT has an administrative policy of maintaining a debt service coverage ratio of 2.5, and MDOT believes it would need to reduce its bond sales by $16 million in fiscal 2006, $13 million in fiscal 2007, $13 million in fiscal 2008, $13 million in fiscal 2009, and $11 million in fiscal 2010. Legislative Services advises that MDOT is only legally required to maintain a debt service coverage ratio of 2.0 and would not have to reduce its bond sales.

Department of Budget and Management (DBM)

DBM advises that it would need one additional capital budget analyst to handle oversight of MPA's capital program, which is not currently overseen by DBM. In addition, one personnel classification team (a supervisor and two analysts) would have to spend one to two months to transition MPA to the State personnel system. Legislative Services advises that current capital budget assignments could be shifted to accommodate MPA capital budget oversight, and both oversight and transitioning MPA to the State personnel system could be handled with existing resources.

Local Revenues: Local revenues would decrease by $29.1 million in fiscal 2006, $29.3 million in fiscal 2007, $29.5 million in fiscal 2008, $29.7 million in fiscal 2009, and $30.1 million in fiscal 2010 due to a decrease in corporate income tax revenue transferred to the GMVRA and then transferred to local jurisdictions as highway user revenues.

Additional Information

Prior Introductions: None.

Cross File: SB 1004 (Senator Della) – Finance and Budget and Taxation.

Information Source(s): American Association of Port Administrations, Washington Post.com, WBAL.com, Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

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