

**Department of Legislative Services**  
 Maryland General Assembly  
 2005 Session

**FISCAL AND POLICY NOTE**

Senate Bill 997 (Senators Pipkin and Colburn)  
 Finance and Budget and Taxation

**Maryland Route 404 - Maryland Route 404 Authority - Creation, Powers, and Duties**

This bill establishes the “Maryland Route 404 Authority” with jurisdiction over Maryland Route 404 projects; authorizes the authority to issue bonds for such projects and charge tolls on Maryland Route 404; and transfers specified functions, powers, duties, equipment, assets, and liabilities of the State Highway Administration (SHA) to the authority.

The bill takes effect July 1, 2005.

**Fiscal Summary**

**State Effect:** Authority revenues and expenditures would be almost \$2.5 million in FY 2006 due to the transfer of current SHA responsibilities and appropriations associated with Route 404. Out-year expenditures reflect completion of known capital projects and inflation. Indeterminate additional increase in authority expenditures due to start-up costs and new Route 404 projects. Potential increase in general fund or Transportation Trust Fund (TTF) expenditures to cover these costs in subsequent years, as the new authority would not have authority-generated revenues for at least a couple of years.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
NonBud Rev.	\$2,455,400	\$0	-	-	-
GF/SF/NonBud Exp.	2,455,400	2,217,700	1,212,100	448,600	453,000
Net Effect	\$0	(\$2,217,700)	(\$1,212,100)	(\$448,600)	(\$453,000)

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

**Local Effect:** None.

**Small Business Effect:** Small businesses and their customers using Route 404 would be subject to delays associated with toll road construction, as well as being eventually subject to tolls to use Route 404. This could have a potentially significant impact on small businesses, especially small businesses located at Maryland beaches.

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## Analysis

**Bill Summary:** The Secretary of Transportation would be the chair of the authority. The bill specifies the number of members of the authority, terms of service, term limits, and compensation for authority members.

The bill states that the assets of SHA relating to Route 404 would transfer to the authority on July 1, 2005, which is assumed to include funds budgeted for Route 404 repairs in fiscal 2006. The authority is modeled after the Maryland Transportation Authority (MdTA) and has similar powers and responsibilities with respect to Route 404 projects that MdTA has for its projects.

Whereas MdTA must provide notice to certain committees 30 days prior to entering into contracts concerning MdTA projects, the authority would have to provide notice 45 days prior. Unlike MdTA, the authority does not have the power to condemn land, nor does it have its own police force. If the authority were to issue Grant Anticipation Revenue Vehicle (GARVEE) bonds, which are backed by federal highway aid, the annual payments for principal and interest could not exceed 20% of the State's average annual authorization level in the current federal authorization act for federal highway aid, whereas the limit on MdTA GARVEE bonds is 13%.

The bill does not mention State appropriations to the authority, and the authority is meant to be self-supporting. All toll revenues and proceeds from bond sales are committed to the Maryland Route 404 Fund, which must be used to pay operating expenses, capital expenditures, and interest and principal repayment on bonds.

**Current Law:** SHA has jurisdiction over Route 404 and is responsible for its maintenance and operation. SHA has specified powers, including but not limited to, the power to:

- construct and maintain State highways;
- acquire and condemn land;
- employ personnel as needed to fulfill its obligations, as authorized by the State budget;

- receive federal funds for highway construction;
- disburse funds through the Gasoline and Motor Vehicle Revenue Account; and
- govern rest areas.

Established in 1971 as an independent, nonbudgeted State agency, MdTA is responsible for the operation of the State's seven existing toll facilities. MdTA has supervision over all transportation facility projects and has the power to acquire and dispose of property, enter into contracts, apply for and receive grants, condemn land, and take all other actions it considers necessary to exercise its powers and perform its duties.

**Background:** Route 404 is located in Caroline, Queen Anne's, and Talbot counties. Route 404 contains 66.98 lane miles. The two-lane highway is the second busiest road between the Baltimore-Washington corridor and the Atlantic beaches in Delaware and Maryland. The *FY 2005-2010 Consolidated Transportation Program (CTP)* states that the average daily traffic on certain sections of Route 404 is 17,300 vehicles, increasing to 22,400 vehicles in summer. SHA has upgraded 0.83 miles of Route 404 to a four-lane divided highway and is in the process of upgrading another mile. SHA has budgeted \$1.5 million for this project in fiscal 2006, \$1.5 million in fiscal 2007, and \$768,000 in fiscal 2008.

SHA is in the process of preliminarily engineering the upgrading of an additional 11.83 miles (\$506,000 has been budgeted for this in fiscal 2006 and \$308,000 in fiscal 2007); however, no funds have been included in the CTP for construction and land acquisition. The Maryland Department of Transportation (MDOT) advises that completion of the construction of this project would cost approximately \$226 million to \$249 million.

In addition, the State Highway Needs Inventory includes an additional stretch of Route 404, from Sennett Road to the Delaware state line. SHA estimates that this project would cost approximately \$79.2 million to \$95 million to complete.

The Dulles Toll Road, a 14-mile road in Virginia managed by the Virginia Department of Transportation, is illustrative of the types of costs and issues associated with a toll road. The Dulles Toll Road utilizes 70 full-time employees (including 35 toll collectors) and 120 contractual employees (all toll collectors). The Dulles Toll Road has one fully staffed toll plaza operating 24 hours a day; other toll booths are staffed 18 hours daily. The operating budget for the Dulles Toll Road is approximately \$17 million annually, including \$10 million in debt service on bonds issued to widen the road.

North Carolina created its North Carolina Turnpike Authority (NCTA) in 2002. While NCTA is under the additional burden of having to identify roads to create as a turnpike, the NCTA experience further illustrates the costs involved in creating a new tolling

authority. NCTA estimates its toll roads could open, at the earliest, 16 months after construction begins. That construction will begin three years after project identification. NCTA's current operating costs (without projects to maintain and operate) are approximately \$1.8 million for fiscal 2006, including over \$1 million in consulting fees.

**State Fiscal Effect:**

*State Highway Administration*

Fiscal 2006 expenditures would not be impacted as it is assumed that SHA would transfer any money in the fiscal 2006 budget earmarked for maintenance and improvement of Route 404 to the authority.

SHA advises that costs associated with maintaining a highway (including payroll, fringe benefits, winter maintenance, and road repair) approximate \$6,500 per mile per year. As Route 404 consists of 66.98 lane miles, expenditures associated with its maintenance are approximately \$435,370 annually.

SHA has budgeted an additional \$1.8 million in fiscal 2007 and \$768,000 in fiscal 2008 for the capital program associated with Route 404. However, while SHA would not be responsible for Route 404, it is assumed that the funding would be applied to alternate uses, and therefore SHA expenditures would not be affected in any year.

*Route 404 Authority*

Authority expenditures would be at least \$2.5 million in fiscal 2006, \$2.2 million in fiscal 2007, \$1.2 million in fiscal 2008, and \$435,370 annually thereafter to maintain Route 404 and complete the projects in the current CTP. This does not take into account increases in operating costs due to inflation.

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**Exhibit 1**  
**Minimum Operating Costs of New Route 404 Authority,**  
**Including Current CTP Projects**

	<b><u>FY 2006</u></b> <sup>1</sup>	<b><u>FY 2007</u></b>	<b><u>FY 2008</u></b>	<b><u>FY 2009</u></b>	<b><u>FY 2010</u></b>
Operating Program	\$435,370	\$435,370	\$435,370	\$435,370	\$435,370
Capital Program <sup>2</sup>	2,020,000	1,778,000	768,000	0	0
<b>Total</b>	<b>\$2,455,370</b>	<b>\$2,213,370</b>	<b>\$1,203,370</b>	<b>\$435,370</b>	<b>\$435,370</b>

<sup>1</sup>Fiscal 2006 expenditures would be covered by money currently in the SHA budget.

<sup>2</sup>This figure is net of expenses after federal funds are used to offset expenditures.

However, the authority would not have the economies of scale that SHA has. Expenditures for both operating costs to maintain Route 404 and capital projects currently in the CTP would likely be higher, though the amount by which expenditures would increase cannot be reliably determined at this time. Also, transitioning projects from SHA to the new authority could result in delays on projects already underway, further adding to costs. Further, this estimate does not include start-up and administrative costs associated with the new authority and implementing a toll road project, which would begin immediately.

These costs are not in the Governor's proposed fiscal 2006 budget; funds in the proposed SHA budget that would be transferred to the authority are unlikely to be sufficient to cover these potentially significant costs.

The bill establishes the authority as similar to MdTA, a nonbudgeted agency. On that basis, operating and capital expenditures are expected to be paid for by authority-generated revenues – tolls. Tolls would have to be set at a level to recover operating costs beyond fiscal 2006, the costs of constructing toll plazas, any capital costs associated with the expansion of Route 404, and debt service for any revenue bonds.

However, the authority would not be able to begin collecting tolls for several years. Accordingly, funding would have to be provided either through the general fund or TTF. The authority could cover its operating costs through issuance of revenue bonds; however, until the size, extent, and revenue stream of a Route 404 tolling road are determined, it would be difficult to attract customers to bond sales.

Start-up costs (personnel, acquisition of equipment, project headquarters, etc.) would be dependent on how much of Route 404 became a toll road, where tolling plazas would be located, the type of tolling facilities put in place, and any capital projects associated with Route 404. As these decisions have yet to be studied or made, Legislative Services cannot reliably estimate authority expenditures beyond operating expenses and projects currently in the CTP.

Nevertheless, as the authority would have no experience in converting a road to a toll road, it would need to hire experienced consultants (*i.e.*, consultants on toll road operations, engineering and construction, financing, etc.) to study Route 404 and recommend the best way to turn Route 404 into a toll road. NCTA is currently paying over \$1 million per year for similar consulting services; however, the amount charged for consulting services would be dependent on the timeline for implementing a tolling project.

Although the capital program associated with the authority has not yet been determined, if the authority decided to complete all projects currently in the Highway Needs Inventory and the CTP, the authority would have to issue revenue bonds totaling more than \$354 million to cover construction costs of expanding the highway alone, not including administrative costs for bond issuance, construction costs for toll plazas, and any additional construction costs associated with a smaller authority. Debt service on such bonds would be in the tens of millions of dollars initially.

**Small Business Effect:** Small businesses that use Route 404 routinely to transport materials would be subject to delays due to construction associated with conversion to a toll road, and would be subject to tolls. Further, the delays associated with construction and the tolls involved could deter individuals from traveling to Maryland beaches or other destinations along Route 404.

Small businesses dependent upon these customers could see a decrease in customers, especially small businesses located near Maryland beaches. Depending on the amount of the tolls and the time involved in construction, the decrease in customers and increased expenditures could be significant.

**Additional Comments:** MdTA advises that revenue bonds issued by single facility tolling agencies are less attractive than other tolling facilities. In order to attract buyers for any bonds, the authority would have to offer a better rate of return, which would likely increase its debt service.

Legislative Services advises that a single facility tolling authority would likely have to offer higher wages in order to attract experienced tolling managers and personnel. This would not be possible if executive management wages are fixed at the same level as comparable positions at MDOT. Further, it is unlikely that there is equipment specifically for engaging in routine maintenance functions on Route 404 as opposed to other roads; therefore, it is unclear whether or not MDOT would be able to transfer this equipment to the new authority.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Virginia Department of Transportation, North Carolina Turnpike Authority, Maryland Department of Transportation, Department of Legislative Services

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Analysis by: Nora C. McArdle

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