SB 788

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 788 (Senator Pipkin)
Finance

Maryland Port Administration - Transfer to Department of Business and Economic Development

This bill transfers the Maryland Port Administration (MPA) to the Department of Business and Economic Development (DBED), affirms that MPA has the powers it had as a unit of the Maryland Department of Transportation (MDOT), affirms that DBED has the same authority over MPA that MDOT had, establishes the Maryland Port Administration Fund (MPAF) as a special nonlapsing fund, and dedicates a portion of Transportation Trust Fund (TTF) revenues to funding MPA.

The bill takes effect July 1, 2006.

Fiscal Summary

State Effect: Special fund revenues of $126.2 million and special fund expenditures of $224.2 million would transfer from the TTF to MPAF. Accordingly, MPAF would end FY 2007 with a fund deficit of $98.0 million.

($ in millions)	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
SF Revenue	$0	$0	$0	$0	$0
SF Expenditure	98.0	116.9	45.4	44.5	74.8
Net Effect	($98.0)	($116.9)	($45.4)	($44.5)	($74.8)

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The Secretary of Business and Economic Development would be the chairman of the Maryland Port Commission (MPC). The chairman no longer has approval power over all actions that could affect the TTF.

MPAF must receive a transfer of funds each fiscal year on or before June 30, from the TTF equivalent to 5% of the TTF's revenues for that fiscal year. 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, and capital costs and expenses of MPA. All powers, property, appropriations, and facilities are transferred to DBED.

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.

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 of Transportation 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 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.

Background: MPA has 292 authorized positions and a budget of $191.2 million for fiscal 2006. The Governor's proposed fiscal 2007 budget includes an allowance of $212.8 million and 292 authorized positions. MPA's terminals at the port handle 85% of foreign general cargo (*e.g*., automobiles, containers, forest products) and moved a total of 8.1 million tons of general cargo in fiscal 2005. This accounts for 30% of the port's foreign cargo. Most of the port's bulk cargo (ore, coal, grain, etc.) is handled by private terminals. MPA's estimated fiscal 2006 net income is $2.5 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 fourteenth in U.S. cargo volume in 2004.

In 2005, upon request from members of the General Assembly, the presiding officers established the Joint Commission on the Maryland Port Administration to study governance of MPA. The commission formally met for the first time on August 25, 2005, and three times more in 2005. The commission has not made any recommendations and has not yet issued a final report.

The Private Sector Port Governance Committee on the Governance of the Maryland Port Administration was established by the Secretary of Transportation and appointed by the executive director of MPA. It consists of 10 members representing brokers, engineering and contractors, intermodal transportation, pilots, laborers and stevedores, and steamship lines and agents. The committee concluded that there was insufficient evidence to support changing the governance of the Port of Baltimore, but recommended increased capital investment in the port and changes to the hiring procedures and the procurement process for port projects.

State Fiscal Effect:

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Exhibit 1 details MPA revenues and expenditures from fiscal 2007 to 2011. All expenditures and revenues associated with MPA, including 5% of the TTF's revenues for that fiscal year, would become MPAF revenues and expenditures.

Exhibit 1
MPA Revenues and Expenditures Fiscal 2007 – 2011
($ in Millions)[1]

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Revenues					
5% TTF Transfer	$35.2	$36.2	$37.3	$38.2	$39.1
Revenues from Port Activities	91.0	91.9	92.8	93.8	94.7
Total MPA Revenue	**$126.2**	**$128.1**	**$130.1**	**$132.0**	**$133.8**
State Expenditures					
Capital Program[2]	$124.1	$143.1	$71.8	$70.9	$101.1
Operating Program	97.7	99.5	101.3	103.2	105.1
Associated MPA Expenditures[3]	2.4	2.4	2.4	2.4	2.4
Total State Expenditures	**$224.2**	**$245.0**	**$175.5**	**$176.5**	**$208.7**
Net Effect MPAF/DBED	**($98.0)**	**($116.9)**	**($45.4)**	**($44.5)**	**($74.8)**

[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 have been paid by MDOT.

This estimate reflects a 1% increase in revenues in out-years, based on recent history and MPA projections of its future revenues. Out-year operating expenditures reflect: (1) an average of 4.9% increase in salary, wages, and fringe benefits (based on the change between the fiscal 2005 actual expenditures and the fiscal 2007 allowance); and (2) 1% annual increases in ongoing operating expenses. Out-year capital expenditures reflect what has been included in the *FY 2006-2011 Consolidated Transportation Program* (CTP).

This estimate does not include any start-up costs associated with transitioning from MDOT to DBED, such as moving to the State Financial Management Information System. Any such costs could further reduce the new MPAF balance in fiscal 2007; as is, the fund is not sufficient to cover MPA's expenditures without significantly reducing MPA's capital program.

Operating revenues are not currently sufficient to cover operating costs or the other costs that are currently covered by MDOT for fire suppression and payments in lieu of taxes.

If MDOT were to cease making those payments, total revenues would exceed noncapital expenditures by between $26.1 million and $26.4 million per year. MPA advises that it assumes that MDOT would stop making those payments.

The excess revenues cover 21% of MPA's capital program in fiscal 2007, 18% in fiscal 2008, 37% in fiscal 2009, 37% in fiscal 2010, and 26% in fiscal 2011. DBED advises that it could not cover the shortfall with existing resources. Either some projects would have to be removed from the capital program, budget amendments would need to be approved to fund the capital program, or a combination of budget amendments and program cuts would have to be implemented.

MPA's capital program for fiscal 2007 alone contains $64.7 million for dredging projects, a required activity to keep the port operational and in compliance with federal law. Other projects include improving terminal security, an additional dredging project to build a berth to accommodate deeper draft vessels, building additional cargo sheds to accommodate growth in passenger and cargo traffic, and projects to both attract and retain additional customers to the port.

Legislative Services advises that MPA is contractually obligated to undertake some of these projects; cutting such projects would be difficult for MPA, and could negatively affect the port. DBED advises that it would not seek to cut projects from the CTP, but would instead seek budget amendments. However, DBED has not specified a funding source that could be used to increase MPA's capital program by budget amendment.

In addition, MPA advises that it would like to include $262.1 million in projects in its capital program. Although these projects are not currently in the CTP 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.

DBED advises that, while it has individuals who work on port projects, these individuals do not have the required expertise to administer a capital program like MPA's. Most of DBED's capital programs are funds, which are quite dissimilar to a capital program like MPA's. Legislative Services concurs with this assessment. DBED would require at least one person (grade 22) to administer the capital program for MPA. However, as of December 31, 2005, DBED had several funded vacant positions that could be used to staff this function; therefore, additional staffing resources would not be required.

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TTF revenues would decrease by the 5% fund transfer and by all MPA-generated revenues. Accordingly, TTF revenues would decrease by $126.2 million in fiscal 2007,

$128.1 million in fiscal 2008, $130.1 million in fiscal 2009, $132.0 million in fiscal 2010, and $133.8 million in fiscal 2011.

However, TTF expenditures would decrease by a greater amount: $224.2 million in fiscal 2007, $245.0 million in fiscal 2008, $175.5 million in fiscal 2009, $176.5 million in fiscal 2010, and $208.7 million in fiscal 2011.

Therefore, the net impact on the TTF would be positive: $98.0 million in fiscal 2007, $116.9 million in fiscal 2008, $45.4 million in fiscal 2009, $44.5 million in fiscal 2010, and $74.8 million in fiscal 2011. However, MDOT advises that other modal administrations have unfunded needs, and it would use the additional funding to meet those needs.

Additional Information

Prior Introductions: Two bills that would have made MPA into an independent agency, HB 1587 and SB 1004, were introduced in 2005 and heard, but no action was taken.

Cross File: None.

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

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