

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 820
Finance

(Senator Pipkin, *et al.*)

Ways and Means

Transportation - Toll, Fee, or Other Charge Increases - Required Procedures

This bill requires the Maryland Transportation Authority (MDTA) to implement additional public notification, review, and comment procedures before adopting an increase in tolls, fees, or other charges on any part of a fixed toll transportation facilities project or in mileage rate ranges, pricing periods, toll zones, fees, or other charges on a variably priced project.

Fiscal Summary

State Effect: Nonbudgeted expenditures increase, potentially significantly, to the extent a charge increase proposal occurs and additional public hearings are required. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Prior to increasing charges, MDTA must hold at least one public meeting in each county in which the increase is proposed to be implemented. At least 10 working days prior to the first meeting, MDTA must post specified information about the charge increase on the MDTA website. For a period of at least 10 working days after the last scheduled public meeting, MDTA must accept written comments from the public on the charges proposal. Within 10 days after the close of the written public comment period, a summary and analysis of the public comments received must be posted on the MDTA website and provided to MDTA members.

Except in specified circumstances, prior to voting on a proposal to increase charges, MDTA must provide (1) MDTA's recommendation concerning the proposal to all MDTA members and, on request, to the public; (2) an opportunity for public review and written comment on the MDTA recommendation for at least 10 working days after MDTA makes a recommendation; (3) notification to the public on MDTA's website of any MDTA recommendation and the time, place, and date of the meeting at which MDTA will vote on the proposal; and (4) a summary and analysis of any public comments received to MDTA members and to the public on MDTA's website.

The public must be given a reasonable amount of time to comment on a proposal to increase charges at the meeting during which MDTA votes on the proposal.

If MDTA determines that an increase in charges is required, and there is not sufficient time to implement specified public notification and review procedures, MDTA must determine that an emergency status for increasing charges exists. If it is determined that an emergency status exists, MDTA may temporarily establish adjusted charges and must (1) provide public notice on the MDTA website; and (2) commence the public notice and comments procedures described above. An emergency status determination may not exceed 180 days and may be subject to conditions imposed by MDTA.

Current Law: Established in 1971 as an independent, nonbudgeted State agency, MDTA manages, operates, and maintains the State's eight toll facilities (four bridges, two tunnels, and two highways) and provides law enforcement for these facilities, as well as Baltimore/Washington International Thurgood Marshall Airport and the Port of Baltimore. Toll revenues and bonds are used to finance these projects.

The Secretary of Transportation serves as the Chairman of MDTA. In addition to the chairman, MDTA consists of eight members appointed by the Governor with Senate advice and consent.

MDTA has the authority to set tolls on transportation facilities projects under its supervision. Tolls must provide funds that, when combined with bond proceeds and other available revenues, are sufficient to pay maintenance, repair, and operating costs for transportation facilities projects that are not otherwise paid for; pay the interest and principal of any outstanding bond issues; create reasonable reserves for these purposes; and provide funds for the cost of replacements, renewals, and improvements.

Prior to fixing or revising tolls on any part of any transportation facilities project, MDTA must provide the Senate Budget and Taxation Committee, Senate Finance Committee, House Appropriations Committee, and House Ways and Means Committee information on the proposed toll charges, including the annual revenues generated by the toll charges; the proposed use of the revenues; and the proposed commuter discount rates.

Furthermore, prior to increasing a toll, current regulations require that MDTA provide 60-day public notice, take public comments for a period of at least 60 days, and accept oral comments during at least one public meeting held within 30 miles of each affected toll location during the public comment period. MDTA must take action on the proposed changes at a public meeting after the public comment period has ended. The Executive Secretary of MDTA must submit a report to the chairman and board members on the nature of the public comments received.

Current regulations authorize MDTA to temporarily increase tolls or fees, prior to conducting public notice procedures, in order to remain in compliance with the provisions of any trust agreement, escrow deposit agreement, or resolution that provides for the payment of bonds issued by MDTA, or to ensure that unforeseen circumstances do not adversely affect the continuity of highway operations. However, this “emergency” toll or fee increase is subject to a 180-day time limit.

Background: Toll revenues are deposited into the Transportation Authority Fund, which is wholly separate from the Transportation Trust Fund. In September 2011, the MDTA Board approved a revised tolling plan that is projected to generate approximately \$90 million in its first full year to pay debt for rehabilitating MDTA’s aging bridges, tunnels, and highways and for constructing additional highway capacity in the Baltimore and Washington regions. The approved plan phases in toll increases at MDTA facilities on November 1, 2011; January 1, 2012; and July 1, 2013.

Prior to the September 2011 approval of new toll rates, MDTA conducted public notification efforts, including:

- holding 10 public hearings throughout the State during June and July 2011;
- coordinating a 60-day public comment period during the June 2 through August 1 period, during which approximately 4,000 comments were received; and
- compiling and distributing a public comment summary final report.

While it has never used its authority to establish an emergency increase in charges, MDTA advises that, if a facility is severely damaged by a natural disaster, accident, or act of terrorism and must be closed for an extended period, toll increases at other facilities may be necessary to fund facility repairs and/or supplant lost toll revenue from the closed facility.

State Expenditures: While MDTA’s current financial forecast through 2017 does not assume another charge increase proposal, to the extent a charge increase is proposed, nonbudgeted expenditures increase by \$20,000 for contractual services to conduct each additional public hearing that is required. This estimate is based on the costs MDTA incurred for public hearings on toll increases approved in 2011. The contractual services

include posting public notice, recording and transcript services, printing and material costs, and review and summarization of comments submitted. This estimate does not include MDTA staff time spent on oversight and coordination.

This analysis assumes that the bill does not impact a previously approved toll increase that takes effect July 1, 2013.

Additional Information

Prior Introductions: SB 25 and HB 10 of the 2011 special session, similar bills, were referred to the Senate Rules Committee and the House Rules and Executive Nominations Committee, respectively, but no further action was taken on either bill.

Cross File: Although HB 40 (Delegate Smigiel, *et al.* - Ways and Means) is designated as a cross file, it is different.

Information Source(s): Maryland Department of Transportation, Maryland Transportation Authority, Department of Legislative Services

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