Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 824 (Senator Pipkin, *et al.*)
Budget and Taxation and Finance

Transportation - Chesapeake Bay Bridge Authority

This bill establishes a Chesapeake Bay Bridge Authority to finance, construct, operate, repair, and maintain in good order the William Preston Lane, Jr. Memorial Chesapeake Bay Bridge and parallel Chesapeake Bay Bridge, together commonly known as the Chesapeake Bay Bridge. The authority is given general and exclusive jurisdiction over the Chesapeake Bay Bridge. The Maryland Department of Transportation (MDOT) is prohibited from exercising jurisdiction or authority over the Chesapeake Bay Bridge.

The bill takes effect June 1, 2012.

Fiscal Summary

State Effect: Special fund revenues and expenditures increase in FY 2013 to establish and operate the authority using toll revenue. Maryland Transportation Authority (MDTA) nonbudgeted expenditures decrease by approximately $56.8 million in FY 2013, $39.4 million in FY 2014, $11.3 million in FY 2015, $11.8 million in FY 2016, and $12.4 million in FY 2017 due to ceasing to operate the bridge. MDTA nonbudgeted expenditures increase to the extent the bill necessitates a change to the trust agreement with MDTA's bondholders and/or prompts a reduction in MDTA's bond ratings. Potential significant increase in special/federal fund and bond expenditures in FY 2014 and subsequent years to operate the authority. Potential significant increase in special/federal fund and bond revenues in FY 2014 and future years due to tolls, federal grants, levying taxes, and issuing bonds. MDTA nonbudgeted revenues decrease by approximately $52.0 million in FY 2013, $72.5 million in FY 2014, $73.3 million in FY 2015, $74.0 million in FY 2016, and $74.9 million in FY 2017 due to ceasing to operate the bridge. Although the bill takes effect June 1, 2012, it is assumed, for purposes of this analysis only, that State finances are not materially affected in FY 2012.

Local Effect: The bill is not expected to materially affect local finances.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: An "authority" is the Chesapeake Bay Bridge Authority. A "transportation facility project" is the William Preston Lane, Jr. Memorial Chesapeake Bay Bridge and the parallel Chesapeake Bay Bridge.

The bill specifies the membership and membership terms for the authority and clarifies that members are entitled to reimbursement for expenses under standard State travel regulations, as provided in the State budget. The authority is entitled to staff, as provided in the State budget.

Jurisdiction and Powers

The authority is authorized to (1) acquire, hold, and dispose of property; (2) sue and be sued in its own name; (3) make contracts and agreements; (4) employ and fix the compensation of attorneys, consulting engineers, accountants, construction and financial experts, managers, and any other agents or employees; (5) apply for and receive grants; (6) condemn property in a specified manner; (7) fix, revise, charge, and collect rentals, rates, fees, tolls, and other charges for the use of its facility or services; and (8) adopt rules and regulations to implement the bill.

Financing

To finance the facility, the authority is authorized to issue revenue bonds, notes, or other evidence of obligation, payable solely from the rentals, rates, fees, and tolls the authority is empowered to impose. Bond issues may not (1) constitute a debt of the State or a political subdivision of the State other than the authority; (2) constitute a pledge of the full faith and credit of the State or a political subdivision of the State; or (3) directly or indirectly obligate the State or a political subdivision of the State to impose any tax. The authority must issue bonds in a specified manner and must consider specified issues concerning bonds issued. Bond proceeds may be used solely for paying the cost of the Chesapeake Bay Bridge.

The authority may issue bonds to refinance all or any part of the cost of the facility without the approval of the General Assembly, and may issue additional revenue bonds if a deficiency exists. Revenue bonds issued may be secured by a trust agreement between the authority and a corporate trustee; the trust agreement may pledge or assign all or any part of the revenues but may not mortgage any part of the facility.

The authority may issue revenue refunding bonds for specified purposes. "Refunding" is the retirement and cancellation of bonds, including revenue bonds of prior issues, after their acquisition by or for the authority, whether before, at, or after maturity, either in exchange for other bonds or by payment, purchase, or redemption with the proceeds of the sale of other bonds.

Before the preparation of definitive bonds, the authority may issue interim certificates or temporary bonds, with or without coupons, exchangeable for definitive bonds when the definitive bonds have been executed and are available for delivery. Also, the authority may issue bond anticipation notes, payable to the bearer or registered holder of the notes out of the first proceeds of the next sale of bonds issued under the bill.

The rentals, rates, fees, and tolls designated as security for bonds issued under the bill must be fixed and adjusted in a specified manner. All revenue that is designated by any trust agreement as security for various debts are trust funds to be held and applied only as provided in the bill. Bonds issued under the bill are securities that (1) various fiduciaries may properly and legally invest funds; and (2) may be properly and legally deposited with any State or local entity for any authorized purpose. Revenue bonds, notes, and other evidences of obligation issued under the bill, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange, is exempt from taxation.

The bill clarifies the legal rights of the trustee or any holder of revenue bonds or associated coupons issued under the bill.

Current Law/Background: Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities and for financing new revenue-producing transportation projects. MDTA is governed by nine individuals appointed by the Governor, with the advice and consent of the Senate. The Secretary of Transportation serves as MDTA's chairman. MDTA transportation facilities projects include:

- bridges (*e.g.*, Susquehanna River Bridge; Harry W. Nice Memorial Potomac River Bridge; William Preston Lane, Chesapeake Bay Bridge; Baltimore Harbor Tunnel; Fort McHenry Tunnel; Francis Scott Key Bridge; and John F. Kennedy Memorial Highway);
- the InterCounty Connector roadway;
- vehicle parking facilities located in priority funding areas;

- other projects that MDTA authorizes to be acquired or constructed; and
- any authorized additions or improvements to MDTA projects.

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. Toll revenues are deposited into the Transportation Authority Fund, which is wholly separate from the Transportation Trust Fund.

The Chesapeake Bay Bridge connects Maryland's Eastern Shore recreational regions with the metropolitan areas of Baltimore, Annapolis, and the District of Columbia. The original two-lane bridge was constructed in 1952, and the second three-lane bridge was constructed in 1973. The existing bridge is the only roadway crossing of the Chesapeake Bay in Maryland; approximately 25.5 million vehicles crossed the bridge in fiscal 2009.

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. The Chesapeake Bay Bridge toll for a two-axle vehicle increased from $2.50 to $4.00 on November 1, 2011, and it increases to $6.00 on July 1, 2013.

State Fiscal Effect:

MDTA

The bill requires responsibility for the Chesapeake Bay Bridge to be transferred from MDTA to a new authority that is wholly separate from MDOT. Although the bill takes effect June 1, 2012, it is assumed, for purposes of this analysis only, that State finances are not materially affected in fiscal 2012. Thus, this estimate assumes that MDTA nonbudgeted expenditures and revenues associated with the bridge are eliminated in fiscal 2013 and future years. MDTA nonbudgeted expenditures decrease by approximately $56.8 million in fiscal 2013, $39.4 million in fiscal 2014, $11.3 million in fiscal 2015, $11.8 million in fiscal 2016, and $12.4 million in fiscal 2017. MDTA nonbudgeted revenues decrease by approximately $52.0 million in fiscal 2013, $72.5 million in fiscal 2014, $73.3 million in fiscal 2015, $74.0 million in fiscal 2016, and $74.9 million in fiscal 2017. This expenditure estimate does not reflect administrative indirect costs, overhead, EZ Pass costs, removal of vehicles from the bridge, or capital reserve or multi-facility capital projects. However, planned system preservation capital expenditures in fiscal 2013 and 2014 are reflected.

By transferring responsibility from MDTA to the authority, toll revenue from the Chesapeake Bay Bridge that is currently used to finance all MDTA transportation facilities projects is retained by the authority for Chesapeake Bay Bridge purposes only. MDTA advises that rating agencies frequently refer to the consolidated structure of MDTA as a strength because expenses and revenues of all facilities are shared. MDTA further advises that stand-alone authorities often receive lower ratings, thus increasing borrowing costs.

Any changes to MDTA's authority to raise the revenues necessary to meet its obligations under its trust agreement may (1) cause MDTA to default under its trust agreement; and/or (2) be seen as a breach of contract and prompt costly litigation. Also, removing the Chesapeake Bay Bridge as a pledged revenue facility will likely have a negative impact on MDTA's bond credit rating. To the extent this occurs, MDTA nonbudgeted expenditures increase potentially significantly in fiscal 2013 and future years due to increased debt service costs.

To avoid these costs, MDTA may be required to amend its trust agreement with bondholders. To the extent the bill results in an amendment to the trust agreement, MDTA nonbudgeted expenditures increase potentially significantly. MDTA advises that amending the trust agreement may require the approval of at least a majority of existing bondholders, or refunding some or all of its $2.32 billion in current outstanding debt, both of which are anticipated to increase overall costs.

Chesapeake Bay Bridge Authority

This fiscal and policy note assumes that the authority's special fund revenues and expenditures increase in fiscal 2013 due to using toll revenue to establish the governing members and hire staff; however, such expenditures cannot be reliably estimated. Beginning in fiscal 2014, the authority will be in a position to begin issuing revenue bonds. Thus, the authority's special fund and bond revenues and expenditures increase potentially significantly in fiscal 2014 and subsequent years to operate and maintain the bridge. This estimate assumes the authority issues bonds, to the extent toll revenue is not sufficient to operate and maintain the facility. To the extent the authority secures grants, federal revenues increase in fiscal 2014 and future years; however, such revenues cannot be reliably estimated. (Although the bill takes effect June 1, 2012, it is assumed, for purposes of this analysis only, that State finances are not materially affected in fiscal 2012).

Small Business Effect: Small businesses are impacted to the extent they use the Chesapeake Bay Bridge and the toll rate increases or decreases.

Additional Information

Prior Introductions: SB 15 and HB 16 of the 2011 special session 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 1251 (Delegate Hershey, *et al.* - Ways and Means) is designated as a cross file, it is different.

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

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Analysis by: Amanda Mock

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