

Department of Legislative Services
 Maryland General Assembly
 2012 Session

FISCAL AND POLICY NOTE

House Bill 685 (Delegate McDonough)
 Ways and Means

Maryland Transportation Authority - Tolls - Legislative Approval Required

This bill prohibits the Maryland Transportation Authority (MDTA) from fixing, revising, charging, or collecting a toll on any part of any transportation facilities project greater than the amount in effect on October 1, 2011, unless the General Assembly approves the toll through legislation. The bill authorizes MDTA to continue to charge and collect a toll of the same amount in effect on October 1, 2011.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: MDTA nonbudgeted revenues decrease by \$94.0 million in FY 2013 and \$226.0 million or more in subsequent years due to reducing toll rates back to the October 1, 2011 level. MDTA nonbudgeted expenditures may increase significantly 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.

(\$ in millions)	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
NonBud Rev.	(\$94.0)	(\$226.0)	(\$227.0)	(\$228.0)	(\$230.0)
NonBud Exp.	-	-	-	-	-
Net Effect	(\$94.0)	(\$226.0)	(\$227.0)	(\$228.0)	(\$230.0)

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

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Current Law: 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, Jr. Memorial Chesapeake Bay Bridge and parallel 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.

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.

Background: MDTA's trust agreement with its bondholders is the driving force in MDTA finances. MDTA manages all revenue adjustments and operating and capital expenditures to maintain its bond coverage ratios. Toll revenues are MDTA's primary revenue source and are used to meet payment obligations to bondholders.

MDTA currently has an Aa3 rating from Moody's Investors Service, AA- from Standard & Poors, and AA- from Fitch Ratings. These ratings are among the highest granted for tolling authorities. If toll revenues slip below expectations and tolls are not sufficient to

meet the standards included in the trust agreement, MDTA increases tolls to avoid defaulting on the trust agreement to the bondholders and to sustain its bond ratings. Credit rating agencies cite a toll entity's independent ability to set toll rates, free of political consideration or approval from an outside source, as a key factor in achieving an optimal credit rating. However, the effect of requiring legislative approval of toll rate changes may be mitigated if the approval authority has demonstrated a willingness to increase tolls when necessary.

New MDTA Toll Rates and Structure

In September 2011, the MDTA Board approved a comprehensive set of changes to toll rates at all facilities and modifications to the tolling structure 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. When fully implemented, the plan is expected to generate approximately \$226.0 million in additional revenue in fiscal 2014. Among other things, the new tolling plan:

- increases toll rates at all facilities in phases. **Exhibit 1** details toll rates by facility and by implementation date for the standard cash rate. The first increase for two-axle vehicles occurred on November 1, 2011, and was followed by increases for vehicles with three or more axles on January 1, 2012. On July 1, 2013, another increase will take place for all vehicle classes;
- creates a tiered system of tolling with the cash rate as the standard base rate. Off of this base cash rate, a discount of 10% is given to drivers utilizing a valid Maryland-issued EZ Pass and a premium of 50% of the base cash rate applies for video tolling;
- standardizes the commuter discount at all facilities to a percentage discount off of the base cash rate. The discount is 75% effective November 1, 2011, and 65% effective July 1, 2013; and
- waives the \$1.50 monthly fee for EZ Pass account holders that pay three or more tolls in the previous month at MDTA facilities.

State Fiscal Effect: Nonbudgeted revenues decrease by \$94.0 million in fiscal 2013, \$226.0 million in fiscal 2014, \$227.0 million in fiscal 2015, \$228.0 million in fiscal 2016, and \$230.0 million in fiscal 2017 due to reducing tolls to the level charged on October 1, 2011. Out-year estimates reflect growth. In addition, the bill may prompt MDTA to seek earlier and more frequent approvals of potentially larger toll increases, to control for uncertainty about legislative approval. Uncertainty about approval may also affect project implementation deadlines and costs.

Exhibit 1
MDTA Tolls – Standard Cash Rates by Facility, Vehicle Class,
And Rate Increase Implementation Date

	<u>October 1, 2011</u>	<u>November 1, 2011</u>	<u>January 1, 2012</u>	<u>July 1, 2013</u>
Chesapeake Bay Bridge				
2 axle	\$2.50	\$4.00		\$6.00
3 axle	9.00		\$8.00	12.00
4 axle	12.00		12.00	18.00
5 axle	15.00		24.00	36.00
6+ axle	18.00		30.00	45.00
Baltimore Crossings				
2 axle	2.00	3.00		4.00
3 axle	6.00		6.00	8.00
4 axle	9.00		9.00	12.00
5 axle	12.00		18.00	24.00
6+ axle	15.00		23.00	30.00
I-95 and Hatem Bridge				
2 axle	5.00	6.00		8.00
3 axle	15.00		12.00	16.00
4 axle	23.00		18.00	24.00
5 axle	30.00		36.00	48.00
6+ axle	38.00		45.00	60.00
Nice Bridge				
2 axle	3.00	4.00		6.00
3 axle	9.00		8.00	12.00
4 axle	12.00		12.00	18.00
5 axle	15.00		24.00	36.00
6+ axle	18.00		30.00	45.00

Source: Maryland Transportation Authority

Any limits on 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, limits on MDTA's toll setting authority 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 bond holders, or refunding of at least \$1.2 billion in existing bonds costs (representing 51% of MDTA's current outstanding debt), both of which are anticipated to increase overall costs.

Small Business Effect: Small businesses benefit to the extent they are charged less to utilize MDTA facilities.

Additional Information

Prior Introductions: Similar legislation was considered in the 2009 and 2008 legislative sessions. SB 477/HB 780 of 2009 received hearings in the Senate Budget and Taxation Committee and the House Ways and Means Committee, respectively, but no additional action was taken on either bill. SB 538 of 2008 received an unfavorable report from the Senate Budget and Taxation Committee.

Cross File: None.

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

Fiscal Note History: First Reader - February 20, 2012
mc/lgc

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