

Department of Legislative Services
2014 Session

FISCAL AND POLICY NOTE

Senate Bill 902
Finance

(Senator Hershey, *et al.*)

**Transportation - Chesapeake Bay Bridge Crossing - Environmental Impact Study
- Cost Estimate and Payment**

This bill requires the Maryland Transportation Authority (MDTA), in collaboration with specified State and federal agencies, to (1) take the steps necessary to commence and complete an environmental impact study for a new bridge spanning the Chesapeake Bay in specified areas and (2) develop a cost estimate for the study. It also requires MDTA to set aside specified funds to pay for the study. The bill exempts toll roads and bridges that cross the Chesapeake Bay from existing statutory requirements that any toll road, highway, or bridge in the nine Eastern Shore counties must have the express consent of a majority of the governments of the affected counties.

Fiscal Summary

State Effect: Nonbudgeted expenditures by MDTA increase by \$1.75 million annually beginning in FY 2016. Mandatory appropriation of MDTA revenues is a violation of its trust agreement and may require supplemental appropriations, which are not reflected in this analysis. Revenues are not affected. **This bill establishes a mandated appropriation beginning in FY 2016.**

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
NonBud Exp.	0	1,750,000	1,750,000	1,750,000	1,750,000
Net Effect	\$0	(\$1,750,000)	(\$1,750,000)	(\$1,750,000)	(\$1,750,000)

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

Local Effect: Although local governments on the Eastern Shore lose their ability under current law to approve or deny the construction of any toll road, highway, or bridge that crosses the Chesapeake Bay, local finances are not directly affected.

Small Business Effect: None.

Analysis

Bill Summary: MDTA is authorized to conduct or coordinate a study of the environmental impact of a proposed transportation facility. Beginning in fiscal 2016, and each year thereafter, MDTA must set aside and allow to accumulate in a separate fund the greater of \$1.0 million or 5% of the estimated cost of the environmental impact study until the amount is sufficient to cover the cost of the study. The bill does not preclude MDTA from taking any steps necessary to commence and complete an environmental impact study prior to the accumulation of sufficient funds specified above.

The environmental impact study must assess the impact of a third span across the Chesapeake Bay that is located either (1) adjacent to the existing bridges between Anne Arundel and Queen Anne's counties or (2) at other locations in Maryland with termini on the Western and Eastern Shores that are determined to be environmentally and economically feasible by MDTA.

Current Law: The State Roads Commission (now part of the State Highway Administration) has the authority to construct, maintain, and operate bridges, tunnels, and motorways, including a crossing across the Chesapeake Bay generally parallel to the existing Chesapeake Bay Bridge between Sandy Point and Kent Island, a northern crossing of the bay between Millers Island in Baltimore County and a point in Kent County, a southern crossing of the bay between Calvert County and Dorchester County, and an additional crossing across the Baltimore Harbor.

The State Roads Commission may perform preliminary engineering for such a crossing, acquire a right-of-way for the crossing, and issue revenue bonds to fund such a crossing.

A State agency, including MDTA, must get the approval of the majority of affected governments to construct a toll road, toll highway, or toll bridge in Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties.

MDTA has general supervision over all transportation facilities projects (including the Chesapeake Bay Bridge) and may do anything necessary and convenient to carry out its powers.

Background:

Chesapeake Bay Bridge

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; 27.1 million vehicles crossed the bridge in fiscal 2011. Traffic congestion on the bridge can be particularly severe, due in part to factors such as a lack of shoulder room to perform maintenance.

The 2004 *Bay Bridge Transportation Needs Report* estimates that, by 2025, traffic will increase on the bridge by at least 41% over 2001 levels on both weekdays (61,000 vehicles in 2001, increasing to 86,000 in 2025) and summer Saturdays (95,000 on an August Saturday in 2001, increasing to 135,000 in 2025).

The Task Force on Traffic Capacity Across the Chesapeake Bay, established in 2004, examined issues surrounding the construction of a new bay crossing, regardless of site location. The task force released its final report in 2006 but reached no definitive conclusion as to the location of a new bay crossing. At this time, MDTA continues to collect data and information about the environment and transportation system needs in the region and evaluate the legal and process issues that could affect the direction, scope, and constraints of a study of feasible solutions. This information will serve as a starting point for more detailed future engineering and environmental studies of a new bay crossing.

Environmental Impact Study Process

For major transportation projects, the National Environmental Policy Act (NEPA) requires a range of alternatives to be considered and the environmental impacts of each alternative to be analyzed. This type of study is required prior to the commitment of federal funds to any major project, or prior to any action taken by a federal agency that might cause a significant impact on the environment. Some of the basic steps in this process include a public scoping process, data collection, analysis of policy alternatives, and preparation of draft and final documents. The process involves numerous federal, state, and local partners; can take several years; and costs millions of dollars.

State Fiscal Effect: MDTA spent approximately \$25.0 million on NEPA studies for the InterCounty Connector construction project. Taking into consideration inflation and assuming a similar project scope, MDTA estimates that the total cost of a NEPA study for a Chesapeake Bay crossing is between \$30.0 million and \$35.0 million. Five percent of the higher end of that range is \$1.75 million; as that is greater than \$1.0 million, nonbudgeted expenditures by MDTA increase by that amount annually beginning in fiscal 2016 to set aside funds for the environmental impact study, as required by the bill.

MDTA notes that the Federal Highway Administration recently implemented new requirements that, following the completion of Phase II of a NEPA study, MDTA would have to secure full funding approval of either the design or right of way phase before the final NEPA process could be completed. This requirement could add substantially to the cost of the study.

MDTA's revenues are pledged as security for bondholders under its trust agreement; any mandatory appropriation of MDTA revenues is considered a violation of the trust agreement and may require supplementary appropriations.

Additional Information

Prior Introductions: Several similar bills have been introduced in recent years. SB 93 of 2013 received a hearing in the Senate Finance Committee, but no further action was taken. SB 818 of 2012 received a favorable report from the Senate Finance Committee, but failed on the Senate floor. SB 520 of 2011 received a hearing in the Senate Finance Committee, but no further action was taken. SB 648 of 2010 received an unfavorable report from the Senate Finance Committee. SB 476 of 2009 received an unfavorable report from the Senate Finance Committee; its cross file, HB 888, received an unfavorable report from the House Environmental Matters Committee.

Cross File: None.

Information Source(s): Department of Natural Resources, Maryland Department of the Environment, Maryland Department of Transportation, Department of Legislative Services

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mc/lgc

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