

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader - Revised

House Bill 672

(Delegate Jameson, *et al.*)

Appropriations and Environment and
Transportation

Transportation - Harry W. Nice Memorial Potomac River Bridge - Replacement

This bill requires the State and the Maryland Transportation Authority (MDTA) to finance a multilane replacement bridge for the Harry W. Nice Memorial Potomac River Bridge that meets specified requirements. The replacement bridge must include at least two lanes in each direction and must be constructed and commence operations by December 31, 2030. The bill also establishes the Harry W. Nice Memorial Potomac River Bridge Replacement Fund; money in the fund may *only* be used for the design and construction of the replacement bridge. Beginning in fiscal 2018, MDTA must deposit \$75 million of its revenues into the fund each year; MDTA may not credit bond proceeds to the fund as part of the required deposit. MDTA must submit a report related to the progress of the replacement bridge project to specified legislative committees by December 1 of each year.

Fiscal Summary

State Effect: Nonbudgeted expenditures for MDTA increase by \$75.0 million annually beginning in FY 2018 as MDTA deposits its revenues into the fund, as required by the bill. MDTA must defer or cancel some of its other capital projects (to lower its expenditures) or increase tolls (to increase its revenues) to offset the bill's required contributions; however, any such impact cannot be reliably estimated at this time, as discussed below.

Local Effect: The bill does not directly affect local government finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: The bill expresses that it is the intent of the General Assembly that MDTA:

- promptly undertake (1) all the steps necessary to complete preliminary design, engineering, and right-of-way acquisition, as authorized by the *Consolidated Transportation Program (CTP) for 2016*, for the Harry W. Nice Memorial Bridge replacement bridge and (2) any other requirements that must be met before MDTA solicits bids and lets a procurement contract for the project;
- construct a replacement bridge for the Harry W. Nice Memorial Bridge; and
- not undertake as a long-term preferred option any project that is limited to redecking and maintaining the existing bridge.

The Harry W. Nice Memorial Potomac River Bridge Replacement Fund is established as an irrevocable tax-exempt trust, in accordance with applicable federal law. Any interest earned on the money deposited in the fund accrues to the fund.

The annual report, which must be submitted each year until construction on the project is complete, must include (1) an update on the progress of the project; (2) any revised estimate of the total cost of the project and a statement of the reasons for any cost savings or increases; (3) a description of any changes to any financing plan for the project; (4) planned expenditures and funding sources by year, categorized in a specified manner; and (5) any other information that MDTA considers pertinent.

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, tunnels, and toll highways;
- 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.

Prior to increasing a toll, current regulations require that MDTA provide 60-days public notice, take public comments for a period of at least 60 days, and accept oral comments during at least one public meeting held during the public comment period.

Background: Now that the Intercounty Connector and the I-95 Express Toll Lanes are complete, MDTA's capital program consists entirely of system preservation and maintenance projects, with the largest being the replacement of the Canton Viaduct. While no large projects are expected in the current forecast period, the planning and engineering study for the replacement of the Harry W. Nice Memorial Bridge is currently underway.

That project has no planned start date for construction; however, it is expected to cost approximately \$1 billion, although MDTA is working on design techniques that could lower the cost. In its proposal to MDTA's board regarding the system-wide toll reductions that took place in July 2015, MDTA noted the possibility of redecking the Harry W. Nice Memorial Bridge and delaying its replacement. The redecking and other major rehabilitation work would cost \$150 million and extend the life of the bridge by 20 or more years but would not provide the safety and traffic benefits of a bridge replacement. As shown in **Exhibit 1**, according to the CTP for fiscal 2016, MDTA plans to spend a total of \$54.4 million for engineering costs and right-of-way acquisition for the bridge replacement project between fiscal 2016 and 2021.

The Harry W. Nice Memorial Bridge carries US 301 over the Potomac River between Maryland and Virginia. It is the second oldest of MDTA's facilities. The opening of the bridge on December 15, 1940, gave MDTA customers a new route to the south. Before the bridge was built, travelers heading from Eastern and Southern Maryland to Richmond and Norfolk, and other points further south, had to travel through Washington, DC, along US 1.

Exhibit 1
Harry W. Nice Memorial Bridge Replacement Project Costs
Consolidated Transportation Program 2016-2021
(\$ in Millions)

	Spent Through <u>FY 2015</u>	Current Year <u>FY 2016</u>	Budget Year <u>FY 2017</u>	Planned for <u>FY 2018</u>
Planning	\$5.3	\$0	\$0	\$0
Engineering	1.9	0.7	8.0	3.0
Right-of-way	0	0.7	2.1	1.8
Construction	0	0	0	0
Total	\$7.2	\$11.3	\$10.1	\$4.8
	Planned for <u>FY 2019</u>	Planned for <u>FY 2020</u>	Planned for <u>FY 2021</u>	<u>Six-year Total</u>
Planning	\$0	\$0	\$0	\$0
Engineering	6.0	7.6	7.6	42.8
Right-of-way	2.8	2.0	2.2	11.7
Construction	0	0	0	0
Total	\$9.6	\$9.6	\$9.8	\$54.4

Source: Maryland Department of Transportation

State Fiscal Effect: For the purposes of this fiscal and policy note, the annual \$75 million contribution that MDTA must make into the Harry W. Nice Memorial Potomac River Bridge Replacement Fund is considered a nonbudgeted expenditure increase because the contribution reduces MDTA's available funding for its other projects. Furthermore, this analysis assumes that the project costs in the CTP for fiscal 2016 remain unchanged in future years, and therefore that MDTA meets the bill's intent that it take all the steps necessary to complete preliminary design, engineering, and right-of-way acquisition for the replacement bridge, as authorized by the CTP for 2016.

MDTA advises that contributing \$75 million to the Harry W. Nice Memorial Potomac River Bridge Replacement Fund each year has a significant impact on its current and future capital program. In order to meet the funding requirement established by the bill, MDTA must either (1) defer or cancel existing projects or (2) increase the cost of its capital program by issuing more debt or increasing tolls. MDTA is unlikely to be able to issue more debt before fiscal 2020 due to the Budget Reconciliation and Financing Act (BRFA) of 2015, which limited its capacity to issue additional debt. The BRFA of 2015, among other things, reduces the maximum amount of MDTA's outstanding debt in fiscal 2015

through 2020 to \$2.325 billion; MDTA's current outstanding debt is \$2.3 billion. Therefore, it is assumed that MDTA must either defer or cancel some of its existing projects (to reduce its nonbudgeted expenditures) or increase tolls (to increase its nonbudgeted revenues) in order to meet the bill's requirements. After fiscal 2020, when the maximum amount of MDTA's outstanding debt returns to \$3.0 billion, it could then issue more debt. At this time, it is unclear which approach MDTA takes as a result of the bill.

Nonbudgeted expenditures may increase further to the extent that limiting how MDTA's revenues can be spent through the fund necessitates an amendment to MDTA's trust agreement with bondholders.

Additional Comments: MDTA has expressed concerns that the annual \$75 million contribution to the new fund required by the bill has no end date and that the bill does not allow the fund to be used for maintenance of the replacement bridge. Thus, it is unclear how the contributions that are made to the fund after construction is complete may be spent.

Additional Information

Prior Introductions: None.

Cross File: SB 907 (Senator Middleton, *et al.*) - Finance.

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

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