

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 907

(Senator Middleton, *et al.*)

Finance

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. From fiscal 2018 through 2027, MDTA must deposit \$75 million of its revenues into the fund each year in a specified manner and after its other obligations are met. MDTA may deposit less than that amount if it determines an “emergency circumstance” exists and other conditions are met. If a reduction in the amount that must be deposited is approved, MDTA must provide a report about the emergency circumstance to specified legislative committees within five business days. MDTA must also 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 as much as \$75 million annually beginning in FY 2018 as MDTA deposits a portion of its fund balance into the fund, as required by the bill, except under specified circumstances. Expenditures likely need to be higher in future years, however, in order to complete construction by the bill’s deadline. MDTA may be required to 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.

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.

MDTA's annual deposit into the fund must come from its fund balance after it has paid or set aside the amount of money needed, as required under its trust agreement and any supplemental trust agreements, to fund or meet its expenses and other specified financial obligations. MDTA must make the deposit before it may use its fund balance for any other purpose, and it may not credit bond proceeds to the fund as part of the deposit.

An "emergency circumstance" means an unforeseen event or occurrence that requires MDTA to expend at least \$25 million in a given fiscal year to address an unforeseen need that was not included in its most recent financial forecast. MDTA may only deposit less than \$75 million into the fund in a fiscal year if an emergency circumstance requires a reduction in the amount deposited into the fund in order to (1) remain in compliance with its trust agreements or (2) ensure that the unforeseen circumstance does not adversely affect the continuity of operations at one or more transportation facilities projects. MDTA must also approve of the reduction at a public meeting.

If a reduction is approved by MDTA, MDTA must submit a report to specified legislative committees; the report must include (1) a description of the emergency circumstance; (2) the rationale for the approval of the emergency circumstance; (3) an accounting of the decreased amount to be deposited in the fund; and (4) a description of how the approval of the emergency circumstance may impede the progress of the project. The budget committees have 45 days to review and comment on the report.

The annual progress 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	10.6	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	\$8.8	\$9.6	\$9.8	\$54.4

Source: Maryland Department of Transportation

Note: The six-year total does not include spending through FY 2015.

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 is required to come from MDTA’s fund balance after specified obligations are met. 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. Nonbudgeted expenditures may be less than \$75 million in any given year to the extent that an emergency circumstance occurs; however, any such impact cannot be reliably estimated at this time.

As discussed above, the total estimated cost to complete construction of the replacement bridge is approximately \$1 billion; thus, if MDTA contributes \$75 million to the fund annually from fiscal 2018 through 2027, only \$750 million is accumulated to fund the replacement bridge (barring any emergency circumstances that allow MDTA to contribute

less than \$75 million in any given year). Therefore, at some point, MDTA expenditures must increase (either through increased annual deposits or additional spending after fiscal 2027) in order to complete the project by the end of calendar 2030, as required by the bill.

In order to finish construction of the replacement bridge by the deadline, at some point MDTA must either (1) defer or cancel 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 2021 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. After fiscal 2020, when the maximum amount of MDTA's outstanding debt returns to \$3.0 billion, it could then issue more debt. As MDTA will have the ability to issue additional debt as early as fiscal 2021, MDTA could finance the project by issuing additional debt rather than deferring or canceling projects or increasing tolls.

Additional Information

Prior Introductions: None.

Cross File: HB 672 (Delegate Jameson, *et al.*) - Appropriations and Environment and Transportation.

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

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