

Department of Legislative Services  
Maryland General Assembly  
2020 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

House Bill 86  
Appropriations

(Delegate Korman)

Budget and Taxation

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Transportation - Maryland Metro/Transit Funding Act - Alterations

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This bill alters a provision of the Maryland Metro/Transit Funding Act (Chapters 351 and 352 of 2018) that excludes certain costs for the purposes of calculating the increase in the Washington Metropolitan Area Transit Authority's operating budget (WMATA) that is used to determine whether or not the Secretary of Transportation must withhold a portion of the State's operating grant to WMATA. Under current law, if WMATA's operating budget increases by more than 3% over the prior fiscal year, the Secretary must withhold a portion of the State's operating grant. Under the bill, the calculation of the increase may not include (1) any payments or obligations arising from or related to arbitration proceedings and (2) any service increases approved by WMATA's board of directors. The bill also makes clarifying changes related to information WMATA must submit to the State each year in order to receive a capital funding grant. **The bill takes effect July 1, 2020.**

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Fiscal Summary

**State Effect:** The extent to which the bill has any effect on Transportation Trust Fund (TTF) expenditures is unclear, as discussed below. Revenues are not affected.

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

**Small Business Effect:** None.

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Analysis

**Bill Summary:** The bill makes the following clarifying changes to the information submitted by WMATA each year in order to receive a capital funding grant from the State: (1) instead of submitting monthly ridership information by bus stop, WMATA must submit

the information by bus route; and (2) instead of submitting individual audit reports, WMATA must submit single audit reports issued in accordance with specified federal regulations.

### **Current Law/Background:**

#### *Washington Metropolitan Area Transit Authority*

WMATA was established in 1967 through an interstate compact among Maryland, Virginia, and the District of Columbia. The original purpose was construction and operation of a rapid rail transit system for the Washington metropolitan area. In 1973, WMATA purchased the assets of four major private bus companies operating in the area. Maryland's overall participation in the Washington metropolitan transit system consists of the provision of annual funding to WMATA for capital and operating costs of the Metrorail, Metrobus, and MetroAccess systems.

WMATA's operations are funded through operating revenues and subsidies provided by the compact signatories: Maryland; Virginia; and the District of Columbia. Since fiscal 2012, WMATA has seen a decline in ridership, resulting in decreased operating revenues. Service quality and reliability issues, combined with the disruptions caused by WMATA's SafeTrack maintenance initiative, are cited as leading factors in the decline in ridership. WMATA instituted fare increases and a reduction of service for fiscal 2018 in order to address the decrease in operating revenues.

WMATA's Metro Board of Directors is responsible for determining WMATA policy and providing oversight of the funding, operation, and expansion of WMATA transit facilities. The board is comprised of eight voting members and eight alternate members. Maryland, Virginia, the District of Columbia, and the federal government each appoint two voting and two alternate members. Chapters 353 and 354 of 2018 require one of the State's voting members to be the Secretary of Transportation or the Secretary's designee. The other voting member must be appointed by the Governor and meet other specified qualifications.

#### *Maryland Metro/Transit Funding Act – Washington Metropolitan Area Transit Authority*

In April 2017, WMATA released a report, *Keeping Metro Safe, Reliable, and Affordable*, which proposed a number of changes to WMATA funding and operations. The report called for the compact signatories to establish a "stable revenue source to generate \$500 million per year" for capital projects. The report further stated that WMATA had \$25 billion in unfunded capital needs and will need \$15.5 billion over the next 10 years for its most critical capital projects. Additionally, the report noted that, without a change to WMATA's business model, operating subsidies from compact signatories will continue to increase. WMATA's six-year capital program is composed of mostly state, local, and

federal funds. General parameters on capital funding levels are typically established in a six-year Capital Funding Agreement developed through negotiations between WMATA and its local funding partners.

In response to WMATA's request, the Maryland Metro/Transit Funding Act (enacted by Chapters 351 and 352 of 2018), mandates additional capital funding for WMATA in two ways. First, the Act requires the Governor to include in the State budget an appropriation of \$167 million from the funds available in the State capital program in TTF. Second, the Act requires the State's existing capital subsidy to WMATA to increase annually over the previous fiscal year once specified reporting requirements are met. The earliest that this mandated capital funding could take effect was fiscal 2020.

The Act also requires the Governor or Secretary of Transportation to withhold of a portion of:

- the State's capital funding to WMATA if WMATA receives a modified audit opinion as a result of an annual independent audit and MDOT has not certified that WMATA has submitted a satisfactory corrective plan that addresses the reasons for the audit opinion;
- the State's capital funding to WMATA if WMATA does not provide specified performance and condition assessments and reports to MDOT regarding, among other things, (1) the safety and reliability of rapid heavy rail and bus systems and (2) the monthly ridership of rail and bus systems broken down by Metrorail station, Metrorail line, bus stop, and bus line; and
- the State's operating funding to WMATA if WMATA's operating expenditures, as defined by the Act, increases by more than 3% compared to the previous fiscal year, excluding (1) the cost of any service, equipment, or facility that is required by law; (2) a capital project approved by WMATA's board of directors; and (3) any payments or obligations arising from or related to legal disputes or proceedings between or among WMATA and any other person.

The Act may not be construed to limit the authority of the Governor to appropriate general funds for transfer to TTF.

**State Expenditures:** The bill excludes certain costs in the calculation of the budget increase that is used to determine if the Secretary of Transportation must withhold a portion of the State's operating grant to WMATA. Specifically, the calculation may not include (1) any payments or obligations arising from or related to arbitration proceedings and (2) any service increases approved by WMATA's board of directors. While this might make it less likely for the provision of current law requiring the Secretary to withhold a portion of the State's operating grant to WMATA to be triggered, the extent to which the bill's changes have any practical effect is unclear. According to counsel to the General

Assembly from the Office of the Attorney General, costs related to “arbitration proceedings” are already excluded from the budget increase calculation as they are considered “payments or obligations arising from or related to legal disputes or proceedings between or among WMATA and any other person.” With respect to costs related to board-approved service increases, the Secretary sits on the board, and the State is directly involved in the development and approval of WMATA’s budget. However, to the extent the bill results in the budget increase being less than it otherwise would have been, the bill makes it less likely that the State would withhold a portion of its operating grant to WMATA, thereby potentially increasing TTF expenditures.

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### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** SB 136 (Senator Feldman) - Budget and Taxation.

**Information Source(s):** Maryland Department of Transportation; Department of Budget and Management; Department of Legislative Services

**Fiscal Note History:** First Reader - January 21, 2020  
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