

Department of Legislative Services
 Maryland General Assembly
 2020 Session

FISCAL AND POLICY NOTE
 First Reader

Senate Bill 136 (Senator Feldman)
 Budget and Taxation

Transportation – Maryland Metro/Transit Funding Act – Alterations

This bill makes numerous changes to the Maryland Metro/Transit Funding Act (Chapters 351 and 352 of 2018). The changes primarily relate to the Central Maryland Regional Transit Plan that must be completed by the Maryland Transit Administration (MTA) and grants that must be provided to the Washington Metropolitan Area Transit Authority (WMATA) each year from the Maryland Department of Transportation (MDOT). **The bill takes effect July 1, 2020.**

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$1.5 million in FY 2021 to complete the Central Maryland Regional Transit Plan as modified by the bill. The effect of the bill’s provision relating to the WMATA operating grant is unclear, as discussed below. Revenues are not affected.

(in dollars)	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	1,500,000	0	0	0	0
Net Effect	(\$1,500,000)	\$0	\$0	\$0	\$0

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

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

Small Business Effect: None.

Analysis

Bill Summary: The bill makes the following changes to the Maryland Metro/Transit Funding Act. The bill:

- repeals a requirement that the Secretary of Transportation withhold a portion of the operating grant to WMATA if WMATA's operating expenditures increase by more than 3% over the prior fiscal year, as specified;
- requires MTA, when assessing its unconstrained capital needs, to create a timeline and plan for achieving a state of good repair for its capital assets and publish the report on MDOT's website;
- alters an existing reporting requirement such that WMATA must report the monthly ridership of its bus systems by bus *route*, instead of by bus *stop*, as a condition of receiving the capital grant funding from the State;
- clarifies that the Governor may not satisfy a mandated appropriation under the Act through the *direct* appropriation of general funds;
- specifies that MTA must *regularly* consult with the Central Maryland Regional Transit Plan Commission and the Baltimore Metropolitan Council regarding the preparation of the Central Maryland Regional Transit Plan;
- alters and expands the information and other components that must be included in the Central Maryland Regional Transit Plan;
- requires MTA to submit a draft plan to the Central Maryland Regional Transit Plan Commission and the Baltimore Metropolitan Council for review and comment at least 45 days before the draft plan is finalized;
- requires MTA to review, revise, and update the plan at least every six years, instead of every five years; and
- requires the plan to address a 30-year period from the year the review is undertaken, instead of a 25-year period.

Specifically, the bill requires the Central Maryland Regional Transit Plan to include the following elements (in addition to goals for outcomes to be achieved through the provision of public transportation, which are required under current law): (1) specific improvements to public transportation services and assets; (2) an analysis of opportunities to leverage non-MTA transportation options available for public transportation; and (3) corridors for establishing new public transportation services and assets. The bill also requires the plan to include specified analyses, maps, and improvements that could be made to best address the aforementioned elements.

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.

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

Maryland Metro/Transit Funding Act – Maryland Transit Administration

The Act also mandates additional capital and operating spending for MTA and requires MTA to complete an assessment of its unconstrained capital needs.

Specifically, for fiscal 2020, the Governor was required to include in the State budget an appropriation from TTF for the operating expenses of MTA that is at least 4.4% greater than the appropriation in the fiscal 2019 State budget as introduced. For fiscal 2021 and 2022, the Governor must include in the State budget an appropriation from TTF for the operating expenses of MTA that is at least 4.4% greater than the preceding fiscal year. The Act also requires the Governor to include in the State budget, for fiscal 2020 through 2022, an appropriation for the capital needs of MTA of at least \$29.1 million from the revenues available for the State capital program in TTF. This appropriation may not supplant any other capital funding otherwise available for MTA.

At least every 3 years, MTA must assess its ongoing, unconstrained capital needs. In doing so, MTA must (1) compile and prioritize capital needs without regard to cost; (2) identify the backlog of repairs and replacement needed to achieve a state of good repair for its assets, including a separate analysis of those needs over the following 10 years; and (3) identify the needs to be met in order to enhance service and achieve system performance goals. MTA must submit the required assessment to specified legislative committees by July 1, 2019, and by July 1 every 3 years thereafter.

State Expenditures:

Maryland Regional Transit Plan

The bill significantly alters and expands the process for developing and the content of the Central Maryland Regional Transit Plan required by the Maryland Metro/Transit Funding Act. The expanded scope requires MTA to spend additional time and resources to complete the plan. Under current law, the plan is projected to be completed during the current fiscal year (fiscal 2020), but the bill's requirements delay completion of the plan by one year. TTF expenditures increase by \$1.5 million in fiscal 2021 to complete the plan in the manner required by the bill.

WMATA Operating Expenditures

With respect to the WMATA operating grant, the bill's effect on TTF expenditures is unclear. Although the bill repeals the requirement that the Secretary of Transportation withhold a portion of the operating grant to WMATA if specified WMATA operating expenditures increase by more than 3% over the prior fiscal year, because the State is directly involved in the development and approval of WMATA's budget, it has the ability (under current law and under the bill) to ensure that WMATA's operating expenses do not increase by more than 3%. Specifically, at least one of the voting members on the Metro Board of Directors from each signatory jurisdiction must approve of WMATA's proposed budget, which grants the State (as well as Virginia and the District of Columbia) veto power over any proposed budget with an operating expenditure increase of more than 3%. Accordingly, by repealing the provision of law that requires the Secretary to withhold operating funding from WMATA if the increase in spending is more than 3%, the bill shifts the responsibility to ensure that the increase in spending is no more than 3% to the board members.

Depending on the actions of the board members, this provision may or may not have an effect on TTF expenditures. If WMATA proposes a budget that increases operating expenditures by more than 3% over the prior fiscal year, the State's board members could (under current law and under the bill) disapprove of the increase and require WMATA to modify the budget to reduce spending so that the increase is not more than 3%. Under this

scenario, this provision has no effect on TTF expenditures. On the other hand, if the State's board members approve of an increase in spending that is more than 3%, then this provision results in a potentially significant increase in TTF expenditures for the WMATA operating grant.

Additional Information

Prior Introductions: HB 1412 of 2019 passed the House with amendments and received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Designated Cross File: HB 86 (Delegate Korman) - Appropriations.

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

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af/lgc

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