

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 Enrolled - Revised

House Bill 114
 Appropriations

(Delegate Lierman, *et al.*)

Budget and Taxation

Transportation - Maryland Transit Administration Funding and MARC Rail
 Extension Study (Transit Safety and Investment Act)

This bill alters and extends (by seven years) provisions of the Maryland Metro/Transit Funding Act (Chapters 351 and 352 of 2018) that require increased operating and capital spending for the Maryland Transit Administration (MTA). The bill also establishes minimum required funding levels for MTA’s operating and capital spending, as specified. The Maryland Department of Transportation (MDOT) must conduct a Western Maryland Area Regional Commuter (MARC) rail extension study, as specified. The bill also establishes a Purple Line Construction Zone Grant Program in the Department of Commerce. In each of fiscal 2023 and 2024, Commerce must provide \$1.0 million in general funds to the grant program to assist “qualified small businesses.” **The bill takes effect June 1, 2021.**

Fiscal Summary

State Effect: No effect in FY 2021. Transportation Trust Fund (TTF) expenditures increase by \$1.1 million in FY 2022 and 2023 and by \$100,000 annually thereafter. General fund expenditures increase by \$1.1 million in FY 2023 and 2024 for the grant program. Because MDOT’s capital program is fully subscribed, MDOT must redirect a total of \$322.9 million in TTF funding from other projects from FY 2023 through 2029, which includes \$110.1 million in redirected funding from FY 2023 through 2026. Revenues are not materially affected. **This bill establishes a mandated distribution for FY 2023 and 2024 and a mandated appropriation for FY 2023 through 2029.**

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	1.1	1.1	0	0
SF Expenditure	1.1	1.1	0.1	0.1	0.1
Net Effect	(\$1.1)	(\$2.2)	(\$1.2)	(\$0.1)	(\$0.1)

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: Meaningful.

Analysis

Bill Summary:

Purple Line Construction Zone Grant Program

The purpose of the Purple Line Construction Zone Grant Program, which must be implemented and administered by Commerce, is to provide funds to qualified small businesses to assist in offsetting business revenue lost as a result of the construction of the Purple Line light rail project in Montgomery and Prince George’s counties. In each of fiscal 2023 and 2024, Commerce must provide \$1.0 million in general funds to the grant program to assist qualified small businesses.

Commerce must adopt regulations to implement the grant program, including regulations to establish eligibility and grant application requirements and a process for reviewing grant applications and awarding grants to eligible qualified small businesses. In developing the regulations, Commerce and MTA must consult qualified small businesses to ensure that the eligibility and application requirements for the grant program are not overly burdensome to qualified small businesses. Commerce must make the application developed for the program available to qualified small businesses as soon as practicable.

A “qualified small business,” as defined by the bill, is a sole proprietorship, a partnership, a limited partnership, a limited liability partnership, a limited liability company, or a corporation that (1) employs 20 or fewer employees; (2) is independently owned and operated; (3) is not a subsidiary of another business; (4) is not dominant in its field of operations; and (5) is impacted by the construction of the Purple Line light rail project in Montgomery and Prince George’s counties. Subject to the eligibility requirements established by Commerce by regulation, if a qualified small business is required to be registered with the State and is registered with the State, the small business may apply for a grant regardless of ownership or location.

Commerce must also establish, by regulation, guidelines to calculate the amount of a grant awarded under the program, as specified. A grant awarded under the program may not exceed \$50,000. Commerce may award grants until all the money allotted for the program has been awarded or until December 31, 2024, whichever occurs first; however, Commerce may not award more than one grant to the same qualified small business in a 12-month

period. Any money that has not been awarded on or before December 31, 2024, must revert to the Maryland Economic Development Assistance Fund (MEDAF).

Consolidated Transportation Program

MDOT must include in the *Consolidated Transportation Program (CTP)* each year a report that provides MTA's state of good repair budget for the current fiscal year and projections for the subsequent fiscal year.

Transportation Funding

It is the intent of the General Assembly that MDOT (1) maximize its use of Consolidated Transportation Bonds to support its capital program by forecasting TTF estimates to include assumed bond issuances that would result in net income debt service coverage ratios of two-and-a-half times maximum future debt service in each year of the forecasts and (2) explore all other options to maximize ancillary revenues through the operations of its units, including the leasing of unused real estate, the sale of air rights, the sale of advertising, such as naming rights, and other marketing efforts.

The required capital appropriations must be in addition to any funds appropriated for the capital planning, engineering, right-of-way acquisition, or construction of the Purple Line in Montgomery and Prince George's counties.

The bill may not be construed to limit the authority of the MTA Administrator to use available funds appropriated to MTA to increase the State investment in locally operated transit agencies.

Capital Funding for State of Good Repair Needs

The Governor must include in the State budget an appropriation for the state of good repair needs of MTA in the following amounts from the revenues available for the State capital program in TTF:

- at least \$402,037,183 in fiscal 2023;
- at least \$502,081,501 in fiscal 2024;
- at least \$450,000,000 in fiscal 2025;
- at least \$450,000,000 in fiscal 2026;
- at least \$450,000,000 in fiscal 2027;
- at least \$450,000,000 in fiscal 2028; and
- at least \$318,558,000 in fiscal 2029.

An appropriation for MTA's state of good repair needs as required by the bill may be reduced if the total appropriation for state of good repair needs in a prior fiscal year exceeded the amount mandated by the bill for that fiscal year. Such a reduction may only be applied to one fiscal year and may not exceed the difference between what was mandated by the bill and what was actually appropriated in the preceding fiscal year.

By January 20, 2022, and by January 20 each year thereafter, MTA must submit to specified legislative committees an accounting of the capital funds programmed, appropriated, and expended for the prior fiscal year on each of the projects identified in the capital needs assessment required by Chapters 351 and 352.

MARC Rail Extension Study

MDOT must conduct a study and develop recommendations on the feasibility, including the cost, of extending MARC rail service to Western Maryland. MDOT must submit a report its findings and recommendations to the Governor and the General Assembly by July 1, 2023. MTA must incorporate the recommendations of the study into the Statewide Transit Plan. In conducting the study, MDOT must:

- examine existing commuter rail facilities in the State and current transportation options in Western Maryland;
- explore up to three potential routes for expanding rail service to Western Maryland;
- identify the possibilities and challenges related to establishing and operating MARC rail service in Western Maryland;
- study the public transportation needs of Allegany and Washington counties in the vicinity of interstates 70 and 81;
- confer with specified stakeholders, including specified local governments;
- identify infrastructure needs;
- perform a cost analysis of the capital and operating costs of extending MARC rail service to Western Maryland;
- identify all potential stops and estimate the potential ridership for each stop;
- study and compare the potential ridership for rush-hour-only service and all-day service;
- develop recommendations on the potential start and end points of a MARC extension; and
- explore the potential effect that extending MARC rail service to Western Maryland would have on CSX.

MDOT's recommendations must address the feasibility of planning, financing, constructing, and operating a MARC line that extends commuter rail service to

Western Maryland. MTA must incorporate the recommendations of the study into the Statewide Transit Plan. Regardless of any alteration or postponement of the Statewide Transit Plan, MDOT must conduct the study in the manner required by the bill.

Current Law:

Maryland Metro/Transit Funding Act

The Maryland Metro/Transit Funding Act (Chapters 351 and 352) mandates additional capital and operating spending for MTA and requires MTA to complete an assessment of its unconstrained capital needs. Chapters 351 and 352 are set to terminate June 30, 2022.

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 Acts also require 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.

Long-term Transportation Planning

Long-term transportation planning in the State is a collaborative process designed to consider input from the public, local jurisdictions, metropolitan planning organizations, and elected officials. Among the numerous reports, meetings, and discussions that take place, two important documents are developed to guide transportation planning in the State: the [CTP](#) and the [Maryland Transportation Plan](#) (MTP).

The CTP, which is issued annually to the General Assembly, local elected officials, and interested citizens, provides a description of projects proposed by MDOT for development and evaluation or construction over the next 6-year period. The MTP is a 20-year forecast of State transportation needs based on MDOT's anticipated financial resources during that

20-year period. It must be revised every 5 years through an inclusive public participation process. Furthermore, it must be expressed in terms of goals and objectives and include a summary of the types of projects and programs that are proposed to accomplish the goals and objectives, using a multimodal approach when feasible. The MTP was last updated in 2019.

State Expenditures:

Department of Commerce – Purple Line Construction Zone Grant Program

As noted above, the bill requires, in each of fiscal 2023 and 2024, Commerce to provide \$1.0 million in general funds to the grant program to assist qualified small businesses. Accordingly, general fund expenditures increase by \$1.0 million in each of fiscal 2023 and 2024 for the Purple Line Construction Zone Grant Program. To the extent Commerce diverts funding intended for other programs to this purpose, the increase in general fund expenditures is mitigated.

Additionally, Commerce cannot administer the grant program with its existing staff and resources and needs one full-time temporary contractual grant coordinator to do so. Including those administrative costs, general fund expenditures increase by a total of \$1.1 million in both fiscal 2023 and 2024 for the grant program.

	<u>FY 2023</u>	<u>FY 2024</u>
New Contractual Position	1.0	0
Salary and Fringe Benefits	\$59,704	\$61,733
Grant Expenditures	1,000,000	1,000,000
Operating Expenses	<u>5,745</u>	<u>655</u>
Total GF Expenditures	\$1,065,449	\$1,062,388

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Although the provisions establishing the grant program do not explicitly terminate, the bill appears to contemplate a temporary grant program; not only does the bill identify funding for the program for two fiscal years (fiscal 2023 and 2024), but it also requires that any money that has not been awarded on or before December 31, 2024, must revert to MEDAF. For purposes of this analysis, it is assumed that the grant program remains in effect only for fiscal 2023 and 2024. This analysis also assumes that all of the general funds distributed to the grant program are expended each year and that no funds revert to MEDAF.

MARC Rail Extension Study

MDOT has 25 months to conduct the required study pursuant to the timeframe established by the bill. In addition, the study is likely to be extensive and involve significant research, data collection, stakeholder outreach and collaboration, surveys, and analysis. Accordingly, MDOT must rely considerably on consultant assistance. As a result, TTF expenditures increase by \$1.0 million in both fiscal 2022 and 2023. The estimate assumes that MDOT does not incur any study-related costs in fiscal 2021, despite the bill's June 1, 2022 effective date.

Incorporating the recommendations of the study into the Statewide Transit Plan may have an effect on transportation spending for transit projects in future years; however, any such impact depends on the outcome of the study and cannot be predicted.

Capital Needs Assessment – Project Accounting

TTF expenditures increase by \$100,000 annually beginning in fiscal 2022 for MDOT to engage consultants to assist with the capital needs assessment accounting report due January 20, 2022, and every January 20 thereafter. MDOT advises that it employs several third-party consultants to assist with various aspects of the annual CTP development process. The estimate reflects the cost of adding the accounting report to their ongoing duties.

Maryland Transit Administration – Operating Expenditures

The bill's requirement that the appropriation for MTA's operating expenses for fiscal 2023 through 2029 may not be less than the fiscal 2022 appropriation is unlikely to affect State operations or finances. MDOT advises that the projected operating expenditures for MTA for fiscal 2023 through 2026 (which is as far out as it projects) exceeds MTA's projected operating expenditures for fiscal 2022, and MTA's operating expenditures in fiscal 2027 through 2029 are likely to exceed the fiscal 2022 operating expenditures as well.

Maryland Transit Administration – Capital Expenditures

The bill establishes mandated appropriations from TTF for MTA's state of good repair capital needs from fiscal 2023 through 2029. The bill's mandated funding is designed to fill the funding gap identified by MTA in its [10-Year Capital Needs Inventory and Prioritization report](#). In total, MDOT must redirect \$322.9 million in capital spending from other projects from fiscal 2023 through 2029, which includes a redirection of \$110.1 million from fiscal 2023 through 2026.

For fiscal 2023 through 2029, **Exhibit 1** summarizes the planned capital spending for MTA, the spending mandated under the bill, any applicable overage in funding from the

preceding year that allows a reduction in the mandated spending, and the amount that must be redirected in MDOT’s capital program to meet the bill’s requirements. The estimate for MTA’s planned capital spending excludes planned spending for the Purple Line (as required by the bill) and spending identified by MDOT to be for purposes other than MTA’s state of good repair needs (which averages about \$35.3 million each year).

Exhibit 1
Increase in MTA Capital Spending Under the Bill
(\$ in Millions)
FY 2023-2029

	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
Planned SGR Spending	\$402.0	\$502.1	\$446.3	\$343.6
Required Spending	402.0	502.1	450.0	450.0
Difference	\$0	\$0	-\$3.7	-\$106.4
Preceding Year Overage	0	0	0	0
Redirected Spending	\$0	\$0	\$3.7	\$106.4
	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>	
Planned SGR Spending	\$343.6	\$343.6	\$343.6	
Required Spending	450.0	450.0	318.6	
Difference	-\$106.4	-\$106.4	\$25.0	
Preceding Year Overage	0	0	0	
Redirected Spending	\$106.4	\$106.4	\$0	

MTA: Maryland Transit Administration
 SGR: state of good repair

Notes: Totals may not sum due to rounding. As funding decisions for FY 2027 through 2029 have not yet been made, it is assumed the level of funding in FY 2026 continues in those years. Planned MTA SGR Capital Spending does not include (1) Purple Line funding or (2) MTA capital expenses not considered by the Maryland Department of Transportation to be SGR needs expenses.

Source: Maryland Department of Transportation; Department of Legislative Services

Small Business Effect: The stated purpose of the grant program established by the bill is to provide funds to qualified small businesses to assist in offsetting business revenue lost as a result of the construction of the Purple Line light rail project in Montgomery and Prince George’s counties. Accordingly, qualified small businesses are likely to benefit

significantly from the \$1.0 million in grants provided in fiscal 2023 and 2024 under the grant program.

Additionally, given the scope, scale, and timeframe of the required MARC extension study, MDOT anticipates needing considerable contractual assistance. As a result, some small businesses may experience increased business to assist MDOT with the study.

To the extent that the bill creates new projects, or causes projects to be canceled or altered, the small business contractors who work on those projects may be positively or negatively affected.

Additional Information

Prior Introductions: HB 368 of 2020, a similar bill, passed the House as amended and was referred to the Senate Budget and Taxation Committee, but no further action was taken. Its cross file, SB 424, received a hearing in the Senate Budget and Taxation Committee, but no further action was taken.

Designated Cross File: SB 199 (Senators McCray and Zucker) - Budget and Taxation.

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

Fiscal Note History: rh/lgc
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