

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1204 (Delegate Ruth)
 Environment and Transportation and
 Appropriations

Equity in Transportation Sector – Guidelines and Analyses (Transportation
 Equity Analyses and Assurances Act of 2021)

This bill establishes the Commission on Transportation Equity within the Maryland Department of Transportation (MDOT). The bill also expands the goals of the Maryland Transportation Plan (MTP), the factors that must be included in the annual State Report on Transportation, and the membership of the advisory committee that advises MDOT on State transportation goals, benchmarks, and indicators to include a greater focus on transportation equity and racial disparities. Additionally, before announcing or proposing any service change that would exceed any thresholds set by the commission, MDOT, in collaboration with the Maryland Transit Administration (MTA), must conduct a transit equity analysis, perform a cost-benefit analysis, and consult with members and leaders of affected communities, as specified.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$4.3 million in FY 2022; future years reflect annualization and ongoing costs. Revenues are not directly affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	4.3	1.6	1.6	1.6	1.6
Net Effect	(\$4.3)	(\$1.6)	(\$1.6)	(\$1.6)	(\$1.6)

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

Local Effect: Local government operations and finances are not directly affected; however, local governments may be affected depending on how the State’s transportation system and processes are altered under the bill.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Commission on Transportation Equity

The Commission on Transportation Equity must be staffed by MDOT. The bill establishes provisions governing the membership, administration, and responsibilities of the commission. A member of the commission may not receive compensation, but it is entitled to (1) a per diem rate as provided in the State budget for attending scheduled meetings and (2) reimbursement for expenses, as specified. The commission must:

- work with MDOT to develop policies and performance measures to ensure that the State transportation system is equitable;
- advise MDOT on how the State transportation system can address racial disparities in employment, education, housing, and health;
- advise MTA on the three-year Title VI Implementation Program and develop a major service change policy and disparate impact policy in accordance with federal law, as specified;
- develop (1) transit equity analysis policies and guidelines, including thresholds for when a change to service, funding, or a capital project requires analysis and (2) policies and guidelines that include methods for intermodal analysis to ensure that a change does not disproportionately impact modes with majority-minority ridership;
- advise and assist MDOT and MTA with community outreach to minority communities, low-income communities, disabled riders, and riders with limited English proficiency; and
- hold one or more town hall meetings annually to solicit input from the public on issues of transportation equity, as specified.

The commission must produce an annual report that includes the activities of the commission, MDOT's progress on ensuring equitable transportation systems, recommendations for MDOT to improve equity, and an analysis of the testimony received from the public during any town hall meetings held during the previous calendar year. The report must be posted on MDOT's website and made available to the public on request. By October 1, 2022, and each October 1 thereafter, the report must be submitted to the members of the Board of Public Works (BPW), the Attorney General, the Secretary of Transportation, specified committees of the General Assembly, and the Presiding Officers.

Service Changes Exceeding Commission Thresholds

Before announcing or proposing any service change that would exceed the thresholds set by the Commission on Transportation Equity in the transit equity analysis policies, MDOT, in collaboration with MTA, must:

- conduct a transit equity analysis in accordance with the applicable guidelines created by the commission;
- perform a cost-benefit analysis, including an analysis of impacts on economic development, employment, education, and health; and
- consult with members and leaders of affected communities, including through community outreach to racial minority communities, low-income communities, disabled riders, limited English proficiency riders, and transit-reliant riders.

If a transit equity analysis reveals disparate impacts, MTA must develop alternatives that would meet the goals of the proposed service change and conduct a transit equity analysis on the alternatives. If a disparate impact can be avoided through use of one of the alternatives analyzed, MTA must proceed with that alternative as the primary proposed service change. If there is no alternative that would avoid a disparate impact, MTA (1) may not implement the proposed service change unless a substantial justification exists that necessitates the change and (2) must, subject to commission approval, implement the alternative that causes the least disparate impact. Reducing costs is not a substantial justification for a service change that causes a disparate impact.

Before holding a public hearing on a proposed service change, MDOT must compile a report on the impacts of the proposed service change. The report must include the transit equity analysis, the cost-benefit analysis, a community outreach report, any alternatives analyzed, and, if applicable, the final alternative selected. If a disparate impact exists in the final alternative selected, the report must include a substantial justification statement and a statement from the commission approving the final alternative.

The report must be (1) made available to the public on MDOT's website, with a visible link from the primary information page relating to the proposed service change and (2) distributed to the members of BPW and other specified entities, including specified elected officials, community leaders, and legislative committees.

Expansion of Existing Plans, Reports, and Committees

The bill expands the content of the MTP by requiring it to include achieving equity in the transportation sector as one of the State transportation goals. The membership of the advisory committee that advises MDOT on the State transportation goals, benchmarks, and indicators is expanded to include a representative of the Maryland State conference of the

National Association for the Advancement of Colored People. The responsibilities of the committee are expanded to include the consideration of the impact of transportation investment on racial equity and persons with disabilities, including service accessibility.

In the annual *State Report on Transportation*, MDOT must include measurable transportation indicators, including the number of jobs supported by the Consolidated Transportation Program (CTP), length of commute, transit on-time percentage, access to jobs within a reasonable commute time, condition of department capital investments, overall satisfaction with MDOT, transportation-related emissions, access to transit and bicycle access to transit, vehicles available to serve a route, and vehicle repair status. MDOT must evaluate all of those indicators, as well as the indicators required under current law, to identify any racial disparities and any impact on persons with disabilities. MDOT, as the Secretary of Transportation deems appropriate, must disaggregate the indicators by race.

Current Law:

Transit Services

MTA is a modal unit within MDOT, and it operates a comprehensive transit system throughout the Baltimore-Washington metropolitan area, including more than 50 local bus lines in Baltimore and other services, such as the light rail, Baltimore Metro subway, commuter buses, Maryland Area Regional Commuter trains, and mobility/paratransit vehicles. With the exception of the District of Columbia Metrorail system, MDOT and MTA are generally the agencies responsible for the construction and operation of transit lines in the State.

Long-term Transportation Planning – Generally

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 [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.

Transportation Planning Report and Advisory Committee

Before, the General Assembly considers the proposed MTP and CTP, MDOT must submit an annual report on the attainment of the State transportation goals and benchmarks for the approved and proposed MTP and the approved and proposed CTP. The report must include specified information, including the degree to which the projects and programs contained in the CTP and the MTP attain the goals and benchmarks as measured by performance indicators or benchmarks.

An advisory committee must advise MDOT on the State transportation goals, benchmarks, and indicators discussed in the report. The committee includes representatives from State and local organizations, private sector organizations, transportation experts, and the community (including a representative of the disabled citizens community). In developing and reviewing the transportation goals and benchmarks, MDOT and the committee must consider specified information, including population trends, the full range of unmet transportation needs in priority funding areas, and the impact of transportation investment on the environment, environmental justice, communities, and economic development.

Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 states: “No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Pursuant to Title VI’s requirements, MTA has established the [Title VI Implementation Program](#) for 2020 through 2023. Among other things, the program has implemented complaint and investigation procedures, a public participation plan, a language assistance plan, and a disparate impact evaluation process for fare changes.

State Expenditures: The bill establishes substantial new responsibilities for MDOT and MTA related to the Commission on Transportation Equity; new research, analysis, outreach, and coordination requirements for MTA; and modifications to existing transportation planning activities and documents to include a greater focus on transportation equity and racial disparities in transit service. MDOT and MTA are not able to absorb these new duties with existing staff and resources. Furthermore, MDOT and MTA do not currently collect the equity data and information at the level needed to inform the new responsibilities.

Therefore, TTF expenditures for MDOT and MTA increase by \$4.3 million in fiscal 2022, which accounts for the bill’s October 1, 2021 effective date. This estimate reflects costs for survey data collection, consultants, new staff, analyses, public outreach, and meetings. It includes one-time start-up costs and ongoing operating expenses, including per diems for commission members. A more extensive discussion of the anticipated costs is provided below.

Positions	4.0
Salaries and Fringe Benefits	\$245,455
Commission Staffing Consultants	2,200,000
Survey Data Collection	1,500,000
Cost Benefit and Equity Analyses (one of each)	225,000
Outreach and Meetings	73,125
Per Diems for Commission Members	29,700
Other Operating Expenses	<u>22,325</u>
Total FY 2022 State Expenditures	\$4,295,605

Expense reimbursements for commission members are assumed to be minimal and absorbable within existing resources.

Future year expenditures (totaling approximately \$1.6 million annually) reflect full salaries with annual increases and employee turnover, ongoing operating expenditures, and significantly reduced survey and consultant costs.

Commission on Transportation Equity Staffing

The bill establishes extensive responsibilities for the Commission on Transportation Equity and requires MDOT to staff the commission. Pursuant to the bill, MDOT anticipates that the commission, among other things, meets at least 12 times annually, holds multiple town hall meetings annually, researches, develops, and assesses performance measures, assesses and evaluates MDOT’s three-year Title VI implementation program, researches and develops policies to assist MTA in evaluating disparate impact policies and conducting transit equity analyses, performs community outreach activities, and develops an annual report.

MDOT does not have the level of staffing and expertise necessary to undertake the staffing responsibilities and plans to engage consultants to staff the commission and to assist in modifying the MTP and the CTP to meet the bill’s requirements. The estimated cost of these services is \$2.2 million in fiscal 2022 and \$875,000 annually thereafter. After fiscal 2022, once the commission has been fully implemented and its initial activities completed, and after the MTP and the CTP have been initially modified, MDOT plans to

rely more on existing staff and less on consultants, thereby reducing ongoing costs for consultants.

Survey and Data Collection

MTA must conduct a new ridership survey to obtain baseline and ongoing data for the new variables and indicators needed to inform the activities of the commission, the expansion of the State's transportation goals and benchmarks, and the various reports and analyses required by bill. Survey costs are estimated to be \$1.5 million in fiscal 2022. This estimate reflects an extensive survey designed to ensure statistical validity in order to meet related Federal Transit Administration requirements for origin/destination surveys of transit riders.

Cost-benefit and Equity Analyses

Before announcing or proposing any service change that would exceed the thresholds set by the commission, MDOT and MTA must conduct a transit equity analysis and a cost-benefit analysis related to the proposal. These type of analyses are generally conducted by contractual specialists for MDOT and MTA at an estimated cost of \$150,000 per cost-benefit analysis and \$75,000 per equity analysis. For purposes of this fiscal and policy note, it is assumed that one of each type of analysis takes place each year (including in fiscal 2022); however, costs may be significantly higher if multiple equity analyses and cost-benefit analyses are required in any given year.

Maryland Transit Administration Staff

MTA requires three additional full-time administrative staff in its Office of Service Development and one additional compliance officer in its Office of Equal Compliance to handle the increase in scheduling, planning, coordination, and communication duties for MDOT and MTA under the bill.

Public Outreach and Meetings

As noted above, MDOT anticipates extensive outreach to the general public with multiple town hall meetings hosted every year. In addition, MTA must consult with members and leaders of affected communities when conducting equity analyses and may require additional public input for its contributions to the MTP and the CTP. Therefore, TTF expenditures increase by approximately \$97,500 annually (\$73,125 in fiscal 2022 due to the bill's October 1, 2022 effective date) to conduct outreach and hold meetings. The estimate assumes that MTA and MDOT generally host meetings together as a cost-saving measure.

Small Business Effect: Given the bill's extensive and ongoing requirements for data analysis, cost-benefit analyses, and community outreach, the small businesses that contract and consult with MDOT and MTA to provide those services are likely to experience increased business.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Maryland Department of Transportation; Department of Commerce; Maryland State Department of Education; Maryland Department of the Environment; Maryland Department of Health; Maryland Department of Labor; Maryland Department of Planning; Board of Public Works; Baltimore, Charles, Frederick, and Montgomery counties; City of Havre de Grace; Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2021
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