

Chapter 455

(Senate Bill 24)

AN ACT concerning

**Department of Transportation – ~~Consolidated Transportation Program and Debt Limit of Grant Anticipation Revenue Vehicle Bonds~~ Financing and Commission on Transportation Revenue and Infrastructure Needs
(State and Federal Transportation Funding Act)**

FOR the purpose of ~~requiring the financial forecast that supports the Consolidated Transportation Program to include a reserve of a certain amount for changes in certain revenue sources; repealing a requirement that the Capital Debt Affordability Committee include certain debt that is secured by future federal aid within its review of State tax supported debt; altering the calculation of the maximum amount of debt secured by future federal aid that the Department of Transportation may issue; providing that the maximum amount of debt that may be issued is calculated as of a certain date; providing that the proceeds from the issuance of certain debt may be used only for certain purposes; altering the maximum term of certain bonds that are secured by a pledge of future federal aid; repealing the pledge of certain taxes to the payment of certain bonds secured by a pledge of federal aid; establishing the Maryland Commission on Transportation Revenue and Infrastructure Needs; and generally relating to the Consolidated Transportation Program's financial forecast and the amount of debt that the Department of Transportation may issue~~ debt issued by the Department of Transportation that is secured by future federal aid and transportation revenue and infrastructure needs.

~~BY repealing and reenacting, without amendments,
Article – Transportation
Section 2–103.1(b)
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)~~

~~BY repealing and reenacting, with amendments,
Article – Transportation
Section 2–103.1(m)
Annotated Code of Maryland
(2020 Replacement Volume and 2022 Supplement)~~

BY repealing and reenacting, with amendments,
Article – State Finance and Procurement
Section 8–104
Annotated Code of Maryland
(2021 Replacement Volume and 2022 Supplement)

BY repealing and reenacting, with amendments,

Article – Transportation
 Section 3–601
 Annotated Code of Maryland
 (2020 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 That the Laws of Maryland read as follows:

Article – State Finance and Procurement

8–104.

(a) In this Part II of this subtitle the following words have the meanings indicated.

(b) “Committee” means the Capital Debt Affordability Committee.

(c) (1) “Tax supported debt” means:

(i) State debt; and

(ii) other forms of debt, including State agency capital leases supported in whole or part by State tax revenues and debt of the Department of Transportation, the Maryland Stadium Authority, and other units of State government which, in the opinion of the Committee, are supported directly or indirectly by State tax revenues.

(2) [“Tax supported debt” includes debt issued by the Department of Transportation under Title 3, Subtitle 6 of the Transportation Article or by the Maryland Transportation Authority under Title 4, Subtitle 3 of the Transportation Article that is secured by a pledge of future federal aid from any source.

(3) “Tax supported debt” does not include capital leases used to finance energy performance contracts entered into under § 12–301 of this article, if, as determined by the Committee, energy savings that are guaranteed by the contractor:

(i) equal or exceed the capital lease payments on an annual basis;
 and

(ii) are monitored in accordance with reporting requirements adopted by the Committee.

Article – Transportation

~~2–103.1.~~

~~(b) The State Report on Transportation consists of the Consolidated Transportation Program and the Maryland Transportation Plan.~~

~~(m) (1) (i) Subject to § 2-1257 of the State Government Article:~~

~~1. On or before September 1 of each year, the Department shall submit copies of the proposed Consolidated Transportation Program and the supporting financial forecast to the General Assembly; and~~

~~2. On submission of the budget bill to the presiding officers of the General Assembly, the Department shall submit copies of the approved Consolidated Transportation Program, including the manner in which each major transportation project was evaluated and ranked under § 2-103.7 of this subtitle, and the supporting financial forecast to the General Assembly.~~

~~(ii) Notwithstanding § 2-1257(b)(2) of the State Government Article, the Department shall provide to each member of the General Assembly a copy of the proposed Consolidated Transportation Program and the approved Consolidated Transportation Program.~~

~~(2) (i) The financial forecast supporting the Consolidated Transportation Program to be submitted to the General Assembly under paragraph (1) of this subsection shall include the following components:~~

~~1. A schedule of operating expenses for each specific modal administration;~~

~~2. A schedule of revenues, including tax and fee revenues, deductions from revenues for other agencies, Department program and fees, Motor Vehicle Administration cost recovery, deductions for highway user revenues, operating revenues by modal administration, and miscellaneous revenues; and~~

~~3. A summary schedule for the Transportation Trust Fund that includes the opening and closing Fund balance, revenues, transfers, bond sales, bond premiums, any other revenues, expenditures for debt service, operating expenses, amounts available for capital expenses, bond interest rates, bond coverage ratios, total bonds outstanding, federal capital aid, and the total amount for the Transportation Capital Program.~~

~~(ii) The financial forecast shall include [, for]:~~

~~1. FOR each of the components specified in subparagraph (i) of this paragraph:~~

~~[1.] A. Actual information for the last full fiscal year; and~~

~~2.] B. Forecasts of the information for each of the six subsequent fiscal years, including the current fiscal year, the fiscal year for the proposed budget, and the next four subsequent fiscal years; AND~~

~~2. FOR THE SUMMARY OF REVENUES AND RECEIPTS COMPONENT, A LINE ITEM OF \$30,000,000 FOR A RESERVE FOR CHANGES IN REVENUE SOURCES FOR EACH FISCAL YEAR INCLUDED IN THE FINANCIAL FORECAST.~~

~~(iii) 1. For the period beyond the budget request year, the financial forecast:~~

~~A. Shall maximize the use of funds for the capital program;~~

~~B. Except as authorized by law, may not withhold or reserve funds for capital transportation grants to counties or municipal corporations; and~~

~~C. Except as provided in subsubparagraph 2 of this subparagraph, shall increase the operating expenses, net of availability payments paid to public-private partnership concessionaires, each year by at least the 5-year average annual rate of change in the operating expenses of the Department, ending with the most recently completed fiscal year.~~

~~2. The assumed rate of future operating budget growth under subsubparagraph 1C of this subparagraph may not increase or decrease by more than 0.5 percentage points from the growth rate assumed in the previous forecast.~~

~~(iv) The Department shall incorporate in the financial forecast the most recent estimates by the Board of Revenue Estimates of the revenues from:~~

~~1. The corporate income tax and the sales and use tax for each of the six subsequent years, including the current fiscal year and the fiscal year for the proposed budget; and~~

~~2. Motor fuel taxes and motor vehicle titling taxes for the current fiscal year and the fiscal year for the proposed budget.~~

3-601.

(a) In order to utilize to the greatest extent possible the benefits of available financial resources relating to transportation purposes, including federal grants, loans, transportation facility revenue sources, and other programs, the Department from time to time may issue its bonds and otherwise borrow funds, as provided in this subtitle, to finance the costs of transportation facilities.

(b) The Department may apply for any financial assistance in support of projects deemed appropriate by the Secretary.

(c) The Department may undertake the following actions and do all things necessary and appropriate consistent with such actions to utilize the available resources specified in subsection (a) of this section:

(1) Pledge and use existing and anticipated federal funds paid to or expected to be paid to the Department for transportation purposes for the payment of the principal of and interest on the Department's bonds or other debt obligations issued under this subtitle to finance the costs of transportation facilities; and

(2) (i) Borrow funds from the federal government or its agencies, and evidence such borrowing with a promissory note or other evidence of obligation;

(ii) Borrow funds from a nongovernment lender if the loan is guaranteed by the federal government or its agencies; and

(iii) 1. Use the proceeds of the loans described in items (i) and (ii) of this paragraph in connection with transportation facilities including use of the proceeds to pay the costs of financing transportation facilities and the payment of debt service on the Department's bonds issued in connection with such transportation facilities;

2. Repay the loans with revenues attributable to the transportation facilities being financed; and

3. Pledge revenues attributable to the transportation facilities being financed in order to secure the Department's obligations to the federal government or its agencies or a nongovernment lender in connection with the loans.

(d) If the Department intends to pledge any future federal aid from any source to support repayment of bonds issued under this subtitle:

(1) The aggregate **OUTSTANDING AND UNPAID** principal amount of debt issued under this subtitle or Title 4, Subtitle 3 of this article that is secured by a pledge of future federal aid may not exceed ~~\$750,000,000~~ **\$1,000,000,000 AS OF JUNE 30 OF ANY FISCAL YEAR, PROVIDED THAT THE PROCEEDS MAY BE USED ONLY FOR:**

(I) DESIGNING AND CONSTRUCTING THE BALTIMORE RED LINE;

(II) PROCURING ~~ELECTRIC BUSES AND CONSTRUCTING RELATED INFRASTRUCTURE~~ ZERO-EMISSION BUSES CONSISTENT WITH § 7-406 OF THE TRANSPORTATION ARTICLE AND CONSTRUCTING RELATED INFRASTRUCTURE, INCLUDING BUS MAINTENANCE FACILITIES;

~~(III) REHABILITATING OR REPLACING THE SUSQUEHANNA RIVER RAIL BRIDGE;~~

~~(IV) REPLACING THE BALTIMORE AND POTOMAC TUNNEL WITH THE FREDERICK DOUGLASS TUNNEL;~~

~~(V) DEVELOPING AND CONSTRUCTING THE SOUTHERN MARYLAND RAPID TRANSIT CORRIDOR; OR~~

~~(VI) (IV) IMPROVING CAPACITY OR RUN THROUGH SERVICE ON THE BRUNSWICK, CAMDEN, OR PENN LINES OF THE MARYLAND AREA REGIONAL COMMUTER (MARC) RAIL SYSTEM; DESIGNING AND CONSTRUCTING IMPROVEMENTS TO THE MARYLAND ROUTE 2 AND ROUTE 4 CORRIDOR, INCLUDING THE THOMAS JOHNSON BRIDGE;~~

~~(V) DESIGNING AND CONSTRUCTING IMPROVEMENTS TO THE MARYLAND ROUTE 90 CORRIDOR; OR~~

~~(VI) DESIGNING AND CONSTRUCTING IMPROVEMENTS TO THE INTERSTATE 81 CORRIDOR;~~

(2) The date of maturity may not be later than ~~12~~ 15 years after the date of issue; AND

~~(3) Notwithstanding § 3-215(d) of this title, if future federal aid is insufficient to pay the principal of and interest on the bonds issued under this subtitle when due, the tax levied under § 3-215 of this title, to the extent the proceeds of such tax are not necessary to provide the sinking fund required under § 3-215(e) of this title, is irrevocably pledged to the payment of the principal of and interest on the bonds issued under this subtitle as they become due and payable;~~

~~(4) The lien of the pledge under item (3) of this subsection shall at all times be subordinate to the lien of the pledge of such tax under § 3-215(d) of this title to the payment of principal of and interest on consolidated transportation bonds; and~~

~~(5)~~ **(3)** No part of the tax levied under § 3-215 of this title may be repealed, diminished, or applied to any other purpose until:

(i) The bonds issued under this subtitle and interest on them have become due and fully paid; or

(ii) Adequate and complete provision for payment of the principal and interest has been made.

(e) (1) By resolution of the Secretary, the Department may:

- (i) Borrow funds to finance the costs of transportation facilities;
- (ii) Evidence the borrowing by the issuance and sale of revenue-backed bonds; and
- (iii) Pledge and use a dedicated revenue source, which may include revenues attributable to the transportation facilities being financed, for the payment of the principal of and interest on the Department’s revenue-backed bonds described in this subsection.

(2) Payment of the principal of or interest on revenue-backed bonds issued under this subtitle may not be supported directly or indirectly by State tax revenues pledged to meet debt service on Consolidated Transportation Bonds as prescribed under § 3-215 of this title.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.~~

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) There is a Maryland Commission on Transportation Revenue and Infrastructure Needs.

(b) The Commission consists of:

(1) (i) subject to item (iii) of this item, three members of the Senate of Maryland, appointed by the President of the Senate;

~~(2)~~ (ii) subject to item (iii) of this item, three members of the House of Delegates, appointed by the Speaker of the House; and

(iii) of the six members appointed under items (i) and (ii) of this item:

1. one member shall represent the core service area of the Maryland Transit Administration, as defined in § 7-301.1 of the Transportation Article; and

2. one member shall represent the Washington Metropolitan Area Transit Authority service area; and

~~(3)~~ (2) the following members appointed by the Governor:

(i) the Secretary of Transportation;

(ii) the Secretary of Budget and Management;

- (iii) the Secretary of Commerce;
- (iv) the Secretary of Planning;
- (v) a representative of the Washington Metropolitan Transit Authority;
- (vi) two modal administrators from the Department of Transportation, selected by the Secretary of Transportation;
- (vii) three representatives from the business community, including two representatives of statewide or regional organizations;
- (viii) two representatives of the transit community;
- (ix) two representatives of the environmental community;
- (x) a representative of the American Automobile Association;
- (xi) a representative of the freight rail industry;
- (xii) a representative of the motor carrier industry;
- (xiii) a representative of the Maryland Association of Counties;
- (xiv) a representative of the transportation construction industry;
- (xv) a representative of the Maryland Municipal League;
- (xvi) a representative of the cycling advocacy community;
- (xvii) two representatives of labor unions; and
- (xviii) two individuals representing rural areas in the State.

(c) The Governor shall designate the chair of the Commission after consultation with the President of the Senate and the Speaker of the House.

(d) To the extent practicable, the President of the Senate, the Speaker of the House, and the Governor shall attempt to ensure regional, economic, ethnic, and gender diversity on the Commission.

(e) A member of the Commission:

- (1) may not receive compensation as a member of the Commission; but

(2) is entitled to reimbursement of expenses under the Standard State Travel Regulations, as provided in the State budget.

(f) The Department of Transportation and the Department of Legislative Services shall provide staff support to the Commission.

(g) The Commission shall review, evaluate, and make recommendations concerning:

(1) the current State funding sources and structure of the Maryland Transportation Trust Fund, including:

(i) revenue trends that demonstrate weaknesses in the stability of the Trust Fund; ~~and~~

(ii) trends in operating and capital expenditures, and how existing resources have constrained programming;

(iii) trends in the General Fund and general obligation support for State transportation expenditures and an analysis of whether this approach to support should continue or transportation expenditures should solely be supported by the Transportation Trust Fund; and

(iv) whether revenue funds for transit and roads, bridges, and tunnels should be segregated;

(2) the methods that other states are employing to fund state transportation operating and capital programs including toll revenue, vehicle-miles-traveled fees, fees on zero-emission vehicles, and non-transportation-related revenue options;

(3) short- and long-term construction and maintenance funding needs for transit, highway, pedestrian, bicycle, heavy rail, shipping, air travel, and other transportation needs;

(4) options for public-private partnerships, including partnerships with local governments, to meet transportation funding needs including funding options;

(5) changes in transportation technology and trends that will impact transportation infrastructure needs and costs to the State;

(6) existing practices for prioritizing project funding and options to better prioritize needs, including local and legislative priorities;

(7) the structure of regional transportation authorities and the ability of these authorities to meet transportation needs in various regions of the State; ~~and~~

(8) options for sustainable, long-term revenue sources for transportation;
and

(9) options for improving the Maryland Department of Transportation's ability and capacity to deliver major capital projects.

(h) On or before January 1, 2024, the Commission shall submit an interim report of its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

(i) On or before January 1, 2025, the Commission shall submit a final report of its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023. Section 2 of this Act shall remain effective for a period of 2 years and, at the end of June 30, 2025, Section 2 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.

Approved by the Governor, May 8, 2023.