

HOUSE BILL 51

B1, R2

(PRE-FILED)

3lr0348
CF SB 24

By: **Delegate Korman**

Requested: August 30, 2022

Introduced and read first time: January 11, 2023

Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 5, 2023

CHAPTER _____

1 AN ACT concerning

2 **Department of Transportation – ~~Consolidated Transportation Program and~~**
3 **~~Debt Limit of Grant Anticipation Revenue Vehicle Bonds and Grant~~**
4 **Anticipation Notes**
5 **(State and Federal Transportation Funding Act)**

6 FOR the purpose of ~~requiring the financial forecast that supports the Consolidated~~
7 ~~Transportation Program to include a reserve of a certain amount for changes in~~
8 ~~certain revenue sources; repealing a requirement that the Capital Debt Affordability~~
9 ~~Committee include certain debt that is secured by future federal aid within its review~~
10 ~~of State tax supported debt; altering the calculation of the maximum amount of debt~~
11 ~~secured by future federal aid that the Department of Transportation may issue;~~
12 ~~providing that the maximum amount of debt that may be issued is calculated as of a~~
13 ~~certain date; providing that the proceeds from the issuance of certain debt may be~~
14 ~~used only for certain purposes; altering the maximum term of certain bonds that are~~
15 ~~secured by a pledge of future federal aid; repealing the pledge of certain taxes to the~~
16 ~~payment of certain bonds secured by a pledge of federal aid; and generally relating~~
17 ~~to the Consolidated Transportation Program's financial forecast and the amount of~~
18 ~~debt that the Department of Transportation may issue~~ debt issued by the
19 Department of Transportation that is secured by future federal aid.

20 ~~BY repealing and reenacting, without amendments,~~
21 ~~Article — Transportation~~
22 ~~Section 2 — 103.1(b)~~
23 ~~Annotated Code of Maryland~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



~~(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.

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

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

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

8 Article – Transportation

9 ~~2–103.1.~~

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

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

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

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

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

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

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

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

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

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

6 3-601.

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

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

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

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

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

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

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

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

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

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

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

5 (I) **DESIGNING AND CONSTRUCTING THE BALTIMORE RED**
 6 **LINE;**

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

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

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

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

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

22 (V) **DESIGNING AND CONSTRUCTING IMPROVEMENTS TO THE**
 23 **MARYLAND ROUTE 90 CORRIDOR; OR**

24 (VI) **DESIGNING AND CONSTRUCTING IMPROVEMENTS TO THE**
 25 **INTERSTATE 81 CORRIDOR;**

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

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

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

4 ~~(5)~~ **(3)** No part of the tax levied under § 3-215 of this title may be
 5 repealed, diminished, or applied to any other purpose until:

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

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

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

11 (i) Borrow funds to finance the costs of transportation facilities;

12 (ii) Evidence the borrowing by the issuance and sale of
 13 revenue-backed bonds; and

14 (iii) Pledge and use a dedicated revenue source, which may include
 15 revenues attributable to the transportation facilities being financed, for the payment of the
 16 principal of and interest on the Department's revenue-backed bonds described in this
 17 subsection.

18 (2) Payment of the principal of or interest on revenue-backed bonds issued
 19 under this subtitle may not be supported directly or indirectly by State tax revenues
 20 pledged to meet debt service on Consolidated Transportation Bonds as prescribed under §
 21 3-215 of this title.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
 23 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.