

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

Senate Bill 24

(Senator McCray, *et al.*)

Budget and Taxation

Appropriations

**Department of Transportation - Financing and Commission on Transportation
 Revenue and Infrastructure Needs (State and Federal Transportation Funding
 Act)**

This bill expands the authority of the Maryland Department of Transportation (MDOT) to issue additional bonds backed by future federal aid for specified projects and under specified conditions. MDOT may issue such bonds as long as the aggregate outstanding and unpaid principal amount of debt issued does not exceed \$1.0 billion as of June 30 of any year. The bill makes other changes related to the issuance of such bonds. The bill also establishes the Maryland Commission on Transportation Revenue and Infrastructure Needs, staffed by MDOT and the Department of Legislative Services (DLS). **The bill takes effect July 1, 2023; provisions related to the commission terminate June 30, 2025.**

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$100,000 in FY 2024 and by \$50,000 in FY 2025 for MDOT to staff the commission. DLS can staff the commission using existing budgeted resources. The expanded authorization to issue bonds backed by future federal aid does not necessarily have an immediate effect on TTF finances; however, the bill grants MDOT additional flexibility to fund its capital program in future years, as discussed below.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	100,000	50,000	0	0	0
Net Effect	(\$100,000)	(\$50,000)	\$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: Minimal.

Analysis

Bill Summary:

Bonds Backed by Future Federal Aid

The bill modifies existing provisions relating to MDOT's issuance of bonds backed by future federal aid (typically known as Grant Anticipation Revenue Vehicle (GARVEE)) bonds when backed by future federal highway aid and Grant Anticipation Notes when backed by future federal transit aid). Specifically, MDOT may issue bonds backed by future federal aid as long as the aggregate outstanding and unpaid principal amount of debt issued does not exceed \$1.0 billion *as of June 30 of any year*. However, proceeds of these bonds may only be used for:

- designing and constructing the Baltimore Red Line;
- procuring zero-emission buses (in accordance with existing provisions relating to the conversion of the State transit bus fleet to zero-emission buses) and constructing related infrastructure, including bus maintenance facilities;
- developing and constructing the Southern Maryland Rapid Transit Corridor;
- designing and constructing improvements to the Maryland Route 2 and Route 4 corridor, including the Thomas Johnson Bridge;
- designing and constructing improvements to the Maryland Route 90 corridor; or
- designing and constructing improvements to the Interstate 81 corridor.

Existing statutory requirements relating to the issuance of debt backed by future federal aid – and transportation projects in general – generally apply to debt issued and projects funded under the bill, with the following exceptions: (1) the bill repeals the requirement that MDOT pledge TTF revenues as a secondary source of funds to pay the principal of and interest on the bonds issued should future federal aid be insufficient – and, as a result, the bill also repeals the requirement that the Capital Debt Affordability Committee (CDAC) include such debt within its review of State “tax supported debt”; and (2) the bill specifies that the date of maturity on the bonds may not be later than 15 years after the date of bond issuance.

Pursuant to existing statutory requirements, capital projects funded under the bill must be included in the Consolidated Transportation Program (CTP), or certain notification requirements must be met before those projects are funded. Also, prior to the issuance of bonds, MDOT must (1) provide notification to the Legislative Policy Committee 45 days prior to the issuance; (2) receive approval for the issuance by the Board of Public Works (BPW); and (3) receive approval from the Secretary of Transportation in an approving resolution that establishes the parameters of the bond sale.

Maryland Commission on Transportation Revenue and Infrastructure Needs

The commission must review, evaluate, and make recommendations concerning:

- the current State funding sources and structure of TTF, including (1) revenue trends that demonstrate weaknesses in the stability of TTF; (2) trends in operating and capital expenditures and how existing resources have constrained programming; (3) 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 TTF; and (4) whether revenue funds for transit and roads, bridges, and tunnels should be segregated;
- 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;
- short- and long-term construction and maintenance funding needs for transit, highway, pedestrian, bicycle, heavy rail, shipping, air travel, and other transportation needs;
- options for public-private partnerships, including partnerships with local governments, to meet transportation funding needs, including funding options;
- changes in transportation technology and trends that will impact transportation infrastructure needs and costs to the State;
- existing practices for prioritizing project funding and options to better prioritize needs, including local and legislative priorities;
- the structure of regional transportation authorities and the ability of these authorities to meet transportation needs in various regions of the State;
- options for sustainable long-term revenue sources for transportation; and
- options for improving MDOT's ability and capacity to deliver major capital projects.

The commission must submit an interim report of its findings and recommendations to the Governor and the General Assembly by January 1, 2024. A final report is due by January 1, 2025.

Commission members may not receive compensation but are entitled to reimbursement of expenses under the standard State travel regulations, as provided in the State budget.

Current Law:

Transportation Trust Fund Forecast

On submission of the annual budget bill to the General Assembly, MDOT must also submit

copies of the approved CTP, the supporting financial forecast, and, as required by Chapters 27 and 563 of 2022, specified estimated project costs for any project for which planning funds were added to the budget by the General Assembly during the previous three legislative sessions.

The financial forecast supporting the CTP must include specified components, including (1) a schedule of operating expenses for each specific modal administration; (2) a schedule of revenues; and (3) a summary schedule for TTF 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.

For each of the required components, the financial forecast must include actual information for the last full fiscal year and forecasts for the current fiscal year, the fiscal year for the proposed budget, and the next four subsequent fiscal years. In total, the forecast includes information for six fiscal years.

Bonds Backed by Future Federal Aid

Chapters 471 and 472 of 2005 authorized MDOT and the Maryland Transportation Authority (MDTA) to issue a maximum of \$750 million in bonds backed by future federal aid. Under this authority, \$750 million in GARVEE bonds were issued in 2007 and 2008 as part of the financing plan for the Intercounty Connector; these bonds have since been fully paid off. Due to the \$750 million limit, MDOT has not been able to finance any other transportation projects using bonds backed by future federal aid.

Capital Debt Affordability Committee and Tax-Supported Debt

CDAC is charged with reviewing on a continuing basis the size and condition of the State tax supported debt as well as other debt of State units, as specified. By October 20 each year, the committee must submit a report to the Governor and the General Assembly of its estimate of the total amount of new State debt that prudently may be authorized for the next fiscal year. In making its estimate, CDAC is required to consider various factors, including (1) the amount of State bonds that, during the next fiscal year will be outstanding and will be authorized but unissued and (2) the criteria that recognized bond rating agencies use to judge the quality of issues of State bonds. CDAC's estimate is advisory and does not bind the General Assembly, BPW, or the Governor.

“Tax supported debt” means (1) State debt and (2) other forms of debt, including State agency capital leases supported in whole or part by State tax revenues and debt of MDOT, the Maryland Stadium Authority, and other units of State government which, in CDAC's

opinion, are supported directly or indirectly by State tax revenues. “Tax supported debt” includes debt issued by MDOT under Title 3, Subtitle 6 of the Transportation Article or by MDTA under Title 4, Subtitle 3 of the Transportation Article that is secured by a pledge of future federal aid from any source.

State Fiscal Effect:

Maryland Commission on Transportation Revenue and Infrastructure Needs

In the execution of its duties, MDOT often engages expert consultants to handle research, evaluations, studies, and staffing duties, and MDOT anticipates engaging a consultant to assist with staffing the commission established by the bill. Therefore, TTF expenditures increase by \$100,000 in fiscal 2024 and by \$50,000 in fiscal 2025 to hire a consultant. DLS can handle the bill’s staffing duties using existing budgeted resources. Any expense reimbursements for commission members are assumed to be minimal and absorbable within existing budgeted resources.

Bonds Backed by Future Federal Aid

As noted above, there is not necessarily an immediate effect on TTF revenues and expenditures from the expanded authorization to issue bonds backed by future federal aid; however, the option to issue these bonds grants MDOT additional flexibility to fund its capital program (for certain projects) in future years. To the extent additional bonds backed by future federal aid are issued, additional funding is available for the authorized projects at the time the bonds are issued; these bonds are then repaid from future federal aid.

The bill repeals the requirement that TTF provide a secondary pledge to pay the principal and interest on the bonds if future federal aid is insufficient (although the option to do so is still available). As a result, the bill likewise alters the definition of “tax supported debt” under provisions governing CDAC to exclude debt issued by MDOT backed by future federal aid. DLS advises that the secondary pledge of TTF revenues was originally added to statute when the concept of bonds backed by federal aid was new and the bond markets were wary; however, in the ensuing years, bond markets have become comfortable with the concept. Consequently, MDOT is unlikely to need to issue the bonds with a secondary pledge of TTF revenues to ensure better credit ratings and interest rates. Nevertheless, if any future bonds provide a secondary pledge of TTF revenues, the bonds would be considered tax-supported debt by CDAC, and the issuance of the bonds would impact the State’s overall debt capacity.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 51 (Delegate Korman) - Appropriations.

Information Source(s): Maryland Department of Transportation; Maryland State Treasurer's Office; Federal Highway Administration; Department of Legislative Services

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