

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 9

(Delegate Ruth, et al.)

Environment and Transportation

Finance

Equity in Transportation Sector - Guidelines and Analyses

This bill requires the Maryland Department of Transportation (MDOT) beginning July 1, 2024, in collaboration with the Maryland Transit Administration (MTA), to conduct two transit equity analyses, perform a cost-benefit analysis, consult with members and leaders of affected communities, and take specified actions based on the results of these activities before announcing (1) any service change that would constitute a major service change under specified federal guidelines or (2) any reduction or cancellation of a capital expansion project in the construction program of the Consolidated Transportation Program (CTP) that exceeds transit equity thresholds developed by MTA pursuant to the bill. The bill also expands existing transportation plans, reports, and committees to include transportation equity issues. Specified provisions take effect June 1, 2023, and specified provisions take effect July 1, 2024.

Fiscal Summary

State Effect: No effect in FY 2023 or 2024. Transportation Trust Fund (TTF) expenditures increase by \$602,600 in FY 2025; future years reflect inflation and ongoing costs. Revenues are not directly affected.

Table with 6 columns: (in dollars), FY 2023, FY 2024, FY 2025, FY 2026, FY 2027. Rows include Revenues, SF Expenditure, and Net Effect.

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:

Transit Equity Policies, Guidelines, and Analyses

The following provisions related to MTA service changes, the reduction or cancellation of a capital expansion project in the CTP, and required analyses and reports, take effect July 1, 2024.

Before announcing any service change that would constitute a major service change under the Federal Transit Administration's (FTA's) Title VI Requirements and Guidelines for FTA Recipients, and before announcing any reduction or cancellation of a capital expansion project in the construction program of the CTP that exceeds the thresholds developed by MTA, MDOT, in collaboration with MTA, must:

- conduct a transit equity analysis in accordance with the federal Americans with Disabilities Act Amendments Act and the federal Rehabilitation Act of 1973 as amended to determine whether the change will create a disparate impact on persons with disabilities;
- conduct a transit equity analysis in accordance with FTA guidelines and, if applicable, the guidelines developed by MTA, to determine whether the change or reduction/cancellation will create a disparate impact or disproportionate burden;
- perform a cost-benefit analysis, including an analysis of impacts on economic development, employment, education, health, and environmental justice; 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, transit-reliant riders, and senior riders.

Major Service Change: For a major service change, if a transit equity analysis reveals disparate impact or disproportionate burden, MTA must develop alternatives that would meet the goals of the proposed service change and conduct a transit equity analysis of those 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 or disproportionate burden, MTA (1) may not implement the proposed service change unless a substantial justification exists that necessitates the change and (2) must implement the alternative that causes the least disparate impact or disproportionate burden.

Before holding a public hearing on a proposed service change, MTA must publish on its website, for the routes or lines impacted by the service change, an evaluation of the demographics of the riders of the routes or lines and the service area. After completing the public hearings, MTA must publish the transportation equity analysis and cost-benefit analysis on its website and compile a report on the impacts of the proposed service change. The report must include the various analyses conducted, a community outreach report, any alternatives analyzed, and, if applicable, the final alternative selected with any substantial justification statements. The report must be made available to the public, as specified, and distributed to specified entities, including the members of the Board of Public Works (BPW), specified elected officials, community leaders, and legislative committees.

Reduction or Cancellation of a Capital Expansion Project: For a reduction or cancellation of a capital expansion project, after completing the required transit equity analysis and cost-benefit analysis, MTA must compile a report on the impacts of the proposed reduction or cancellation that includes (1) the transit equity analysis; (2) the cost-benefit analysis; and (3) a community outreach report. The report must be made available to the public, as specified, and distributed to specified entities, including the members of BPW, specified elected officials, community leaders, and legislative committees.

Expansion of Existing Plans, Reports, and Committees

Effective June 1, 2023, the bill makes the following changes to existing transportation plans, reports, and committees:

- MTA must develop transit equity analysis policies and guidelines, including thresholds for when a reduction or cancellation of a capital expansion project in the construction program of the CTP requires analysis.
- Beginning with the 2045 Metropolitan Transportation Plan (MTP), MDOT must consider ways to achieve equity in the transportation sector when developing the State transportation goals.
- The advisory committee that advises MDOT on the State transportation goals, benchmarks, and indicators is expanded to include a representative of (1) the Maryland State Conference of the NAACP and (2) a transportation labor organization, designated by the Maryland State and District of Columbia AFL-CIO.
- 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.
- Beginning with the 2024 Attainment Report on Transportation System Performance, the committee must recommend measurable transportation indicators that can be evaluated for racial, disability, ethnic, and low-income disparities based on available sources or information.

- MDOT must evaluate these indicators to identify any racial, disability, ethnic, or low-income disparities.

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, MARC trains, and mobility/paratransit vehicles. With the exception of the District of Columbia transit 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 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. Therefore, TTF expenditures increase by \$602,601 in fiscal 2025, which assumes that no costs are incurred in fiscal 2023 or 2024. This estimate reflects costs for new staff, consultants, and required analyses beginning July 1, 2024. It includes one-time start-up costs and ongoing operating expenses. A more extensive discussion of the anticipated costs is provided below.

Positions	3.0
Salaries and Fringe Benefits	\$264,547
Contractual Costs	182,500
Cost-Benefit and Equity Analyses	132,500
Other Operating Expenses	<u>23,054</u>
Total FY 2025 MDOT and MTA Expenditures	\$602,601

Future year expenditures reflect salaries with annual increases and employee turnover, ongoing contractual services, and annual increases in other ongoing operating costs.

Maryland Department of Transportation – Staff and Consultant Costs

The bill expands the Maryland Transportation Plan, the Attainment Report on Transportation System Performance, and the responsibilities of the advisory committee that advises MDOT regarding State transportation goals to include transportation equity issues. To assist with the additional research and evaluation necessary to include these items into the planning documents and activities, MDOT anticipates needing to (1) hire one permanent full-time planning analyst and (2) engage contractual assistance at an estimated cost of \$100,000 in fiscal 2025 and \$50,000 annually thereafter.

Maryland Transit Administration – Staff and Consultant Costs

MTA requires one 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. In addition, MTA incurs additional contractual consultant costs of \$82,500 annually beginning in fiscal 2025 to assist with capital project analysis and quality assurance and quality control.

Cost-benefit and Transit Equity Analyses

Before announcing any service change that would constitute a major service change under specified federal guidelines, and before announcing any reduction or cancellation of a capital expansion project in the construction program of the CTP that exceeds the thresholds developed by MTA, MDOT and MTA must conduct two transit equity analyses and a cost-benefit analysis related to the proposal. MTA advises that these types of analyses are generally conducted by consultants. MTA further estimates a cost of \$55,000 for each cost-benefit analysis, \$27,500 for each FTA-focused transit equity analysis, and \$50,000 for each transit equity analysis focused on disparate impacts for persons with disabilities conducted under the bill.

For the purposes of this fiscal and policy note, it is assumed that one of each type of analysis is conducted each year beginning in fiscal 2025, for a total estimated cost of \$132,500 annually; however, costs may be significantly higher if additional transit equity analyses and cost-benefit analyses must be conducted in any given year.

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

Additional Information

Prior Introductions: Similar legislation has been introduced within the last three years. See SB 23 and HB 141 of 2022 and HB 1204 of 2021.

Designated Cross File: SB 19 (Senator Carter) - Finance.

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

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