

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1070

(Delegate Korman)

Environment and Transportation and
Appropriations

Budget and Taxation

**Maryland Transportation Authority - Tolls - Collection and Use (Maryland Toll
Rate Reform Act of 2024)**

This bill requires the Maryland Transportation Authority (MDTA) to transfer \$75.0 million annually, beginning July 1, 2025, to the Transportation Trust Fund (TTF) until \$750.0 million in total has been transferred; the funds must be transferred only after MDTA has met existing financial obligations, as specified. The bill also (1) requires MDTA to certify annually that its tolled facilities are being adequately maintained in accordance with federal law; (2) requires the Maryland Department of Transportation (MDOT) to certify annually that the use of funds transferred to TTF are eligible expenses under federal law; (3) increases MDTA's debt capacity from \$3.0 billion to \$3.75 billion, subject to existing requirements relating to bond issuances; and (4) authorizes MDTA to consider offering discounts for daily commuters and Maryland E-ZPass account holders, as specified.

Fiscal Summary

State Effect: Nonbudgeted revenues increase, potentially by \$75.0 million annually or more, beginning as early as FY 2025, to the extent that MDTA increases toll rates and/or issues additional bonds to complete the required transfers. Nonbudgeted expenditures may increase as early as FY 2025 to pay debt service on any additional bonds issued. Beginning in FY 2026, nonbudgeted expenditures also increase by \$75.0 million annually to make the required transfers to TTF (until \$750.0 million has been transferred); TTF revenues increase correspondingly each year due to the receipt of the transferred funds. State expenditures (all funds) may increase to pay higher toll rates, as discussed below.

Local Effect: Local government expenditures may increase to pay higher toll rates, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The funds must be transferred from MDTA to TTF only after MDTA has met all of its existing financial obligations as required under its trust agreement and any supplemental trust agreements, or any other financial obligations of MDTA under existing agreements, paid or set aside amounts to fund or meet current expenses, debt service obligations on bonds issued by MDTA, maintenance and operations reserve requirements, and other reserve and junior obligation requirements.

MDTA may consider offering discounts for daily commuters and Maryland E-ZPass account holders as authorized by its trust agreement and other legally binding contractual obligations.

Current Law:

Maryland Transportation Authority – Generally

Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities (for example, the Chesapeake Bay Bridge, the Francis Scott Key Bridge, and the Intercounty Connector) and for financing new revenue-producing transportation projects. MDTA is governed by nine individuals appointed by the Governor with the advice and consent of the Senate. Generally, MDTA may issue revenue bonds without obtaining the consent of any instrumentality, agency, or unit of the State and without any proceedings or the happening of any condition or things other than those specifically required by State law. MDTA is a nonbudgeted State agency, meaning that its budget is not subject to the General Assembly's appropriation process.

MDTA has the authority to set tolls on transportation facilities projects under its supervision. Tolls must provide funds that, when combined with bond proceeds (discussed in more detail below) and other available revenues, are sufficient to pay maintenance, repair, and operating costs for transportation facilities projects, as specified; pay the interest and principal of any outstanding bond issues; create reasonable reserves for these purposes; and provide funds for the cost of replacements, renewals, and improvements. Toll revenues are deposited into the Transportation Authority Fund, which is wholly separate from TTF.

However, any funds collected by MDTA from rentals, rates, fees, tolls, and other charges and revenues that are not needed to meet the obligations of the Transportation Authority Fund and trust agreement and to provide adequate and complete payment of all principal and interest on all bonds issued in connection with specified transportation facilities projects may be transferred to TTF, upon the recommendation of the Secretary of Transportation and after approval of the Board of Public Works.

Prior to fixing or revising tolls on any part of any transportation facilities project, MDTA must provide to specified committees of the General Assembly information on the proposed toll changes, including:

- the annual revenues generated by the toll changes;
- the proposed use of the revenues; and
- the proposed commuter discount rates.

Maryland Transportation Authority – Revenue Bonds

Revenue bonds may be issued by MDTA without obtaining the consent of any instrumentality, agency, or unit of State government and without any proceedings or the happening of any conditions or things other than those specifically required by State law. Revenues bonds secured by toll revenue may be issued in any amount as long as the aggregate outstanding and unpaid principal balance of the revenue bonds secured by toll revenue and revenue bonds of prior issues does not exceed \$3.0 billion on June 30 of any year.

The maximum aggregate amount of revenue bonds that may be outstanding and unpaid must be reduced by the amount of (1) any loan extended to the State under the federal Transportation Infrastructure Finance and Innovation Act and (2) any line of credit extended to the State under the same Act, to the extent the State draws on the line of credit.

Generally, MDTA may issue bonds to refinance all or any part of the cost of a transportation facility project for which MDTA previously issued bonds without the approval of the General Assembly.

Federal Law Governing Toll Roads, Bridges, and Tunnels

[Federal law](#) (Title 23 U.S.C. § 129) requires each toll highway, bridge, tunnel, or approach to a highway, bridge, or tunnel to be (1) publicly owned or (2) privately owned if the public authority with jurisdiction over the highway, bridge, tunnel, or approach has entered into a contract with one or more private persons to design, finance, construct, and operate the facility and the public authority will be responsible for complying with all applicable requirements of federal law with respect to the toll facility.

Generally, a public authority with jurisdiction over a toll facility must ensure that all toll revenues received from operation of the toll facility are used only for:

- debt service with respect to projects on or for which the tolls are authorized, including funding of reasonable reserves and debt service on refinancing;

- a reasonable return on investment of any private person financing the project, as determined by the state or interstate compact of states concerned;
- any costs necessary for the improvement and proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation;
- if the toll facility is subject to a public-private partnership (P3) agreement, payments that the party holding the right to toll revenues owes to the other party under the P3; and
- if the public authority certifies annually that the tolled facility is being adequately maintained, any other purpose for which federal funds may be obligated by a state under federal law.

Maryland Commission on Transportation Revenue and Infrastructure Needs

Chapter 455 of 2023 established the Maryland Commission on Transportation Revenue and Infrastructure Needs and required the commission to 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 P3s, 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 was required to 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.

State Fiscal Effect:

Maryland Transportation Authority and Transportation Trust Fund

While not explicitly required by the bill, MDTA advises that the transfer of \$75.0 million annually to TTF beginning on July 1, 2025, likely requires (1) toll rates to be increased sooner than they otherwise would be under current law and/or (2) the issuance of additional bonds under the authority granted by the bill. Thus, nonbudgeted revenues for MDTA are anticipated to increase significantly (potentially by \$75.0 million or more annually to ensure that MDTA can complete the required transfers) beginning as early as fiscal 2025. A precise estimate of the increase in nonbudgeted revenues is unknown. The ultimate impact depends on numerous unknown factors, including the extent to which MDTA increases toll rates, whether MDTA chooses to implement any discounts for daily commuters or Maryland E-ZPass holders, and the timing and amount of any additional bonds issued by MDTA.

Nonbudgeted expenditures for MDTA may increase beginning as early as fiscal 2025 to pay debt service on any additional bonds issued under the bill. Nonbudgeted expenditures for MDTA also increase by \$75.0 million annually beginning in fiscal 2026 to make the required transfers to TTF.

TTF revenues increase by \$75.0 million annually beginning in fiscal 2026 due to the receipt of the transferred funds from MDTA.

The required transfers from MDTA to TTF must continue until a total of \$750.0 million has been transferred – well beyond the five-year period covered by this fiscal and policy note. Assuming transfers are made each year beginning in fiscal 2026, the last required transfer occurs in fiscal 2035.

State Agency Toll Costs

To the extent that MDTA increases its tolls in order to be able to complete the required transfers to TTF, expenditures for State agencies that regularly use, or reimburse their employees for using, MDTA's toll facilities increase to pay the higher toll rates. The magnitude of any such impact, however, is unknown.

Local Expenditures: Similar to the effect discussed above for State agencies, expenditures for local governments that regularly use, or reimburse their employees for using, MDTA's toll facilities may increase to pay higher toll rates; however, the magnitude of any such impact is unknown.

Small Business Effect: Similar to the effect discussed above on State agencies and local governments, small businesses that regularly use MDTA's toll facilities may incur an increase in costs to pay tolls to the extent that MDTA increases its tolls as a result of the bill. Some small businesses, such as independent truck drivers and owners that deliver cargo to and from the Helen Delich Bentley Port of Baltimore, frequently use MDTA's toll facilities in their daily operations. A toll increase could have a meaningful impact on some businesses; however, the impact could be mitigated to the extent MDTA offers discounts for daily commuters and Maryland E-ZPass account holders as a result of the bill.

Additional Comments: The [interim report of the Maryland Commission on Transportation Revenue and Infrastructure Needs](#) includes a recommendation that the General Assembly consider requiring MDTA to adjust toll rates, including on out-of-state E-ZPasses, to maximize toll revenues to generate new revenue to support projects in Maryland's broader transportation system outside of MDTA. The report also includes a letter from the Office of the Attorney General addressing potential legal issues related to setting tolls at or near an optimal tolling rate and transferring some or all of the excess toll revenues to TTF.

Additional Information

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

Designated Cross File: SB 1093 (Senator Guzzone) - Budget and Taxation.

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

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