SB 401

Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 401 (Senator McCray)
Budget and Taxation and Finance

Transportation - Maryland Area Rail Commuter Rail Authority - Establishment (MARC Rail Authority Act of 2025)

This bill establishes the MARC (*i.e.*, Maryland Area Regional Commuter) Rail Authority (MRA) and its various powers and duties. The Maryland Department of Transportation (MDOT) must, among other things, (1) transition all MARC operations and contracts to MRA to the extent permissible by such agreements and (2) allocate to MRA the revenue needed to support the MARC operating and capital budgets. In general, MARC fares may only be used to support MRA. MRA is also authorized to finance MARC railroad facilities projects through the issuance of various types of bonds (which the bill specifies are not considered State debt). The bill also establishes the MARC Rail Authority Fund (MRAF); all revenues derived from any MARC railroad facilities project are deposited into MRAF and used to pay costs related to bond issuances. **The bill takes effect July 1, 2025.**

Fiscal Summary

State Effect: Beginning in FY 2026, Transportation Trust Fund (TTF) expenditures decrease as the responsibility for MARC projects is transferred from MDOT to MRA but increase as TTF is used to pay for at least some portion of MRA's expenses. TTF revenues from MARC fares decrease significantly, as discussed below. Special fund revenues and expenditures for MRA increase significantly beginning in FY 2026 as funding is provided from TTF, fares are collected, bonds are issued, capital projects are implemented, and debt service is paid. The bill may also affect MDOT's planned capital spending and statewide debt affordability considerations, as discussed below.

Local Effect: The bill does not directly affect local government operations and finances.

Small Business Effect: Minimal.

Analysis

Bill Summary:

MARC Rail Authority – Composition, Authority, and General Duties

MRA is comprised of various appointed members as well as the Secretary of Transportation, who is the chair. An appointed member of MRA is entitled to the compensation provided in the State budget and reimbursement for expenses as provided in the State budget. The Secretary must designate an executive director of MRA, and MRA is entitled to the staff provided in the State budget. The Secretary must provide MRA with the personnel of MDOT that the Secretary considers necessary for performance of the maintenance and other functions required for MRA to meet its obligations with respect to its MARC railroad facilities projects. MRA must employ a general counsel who serves at the pleasure of the Secretary and is entitled to the compensation determined by the executive director.

Acting on behalf of MDOT, MRA has various powers and duties relating to the supervision, financing, construction, operation, maintenance, and repair of MARC railroad facilities projects. MRA may delegate project operations, maintenance and repair to the Maryland Transit Administration (MTA) and use fare revenue to provide MTA with payments for these services. MRA has general supervision of MARC railroad facilities projects and must finance, construct, operate, repair, and maintain in good order the facilities.

The powers and duties of MRA established by the bill broadly include:

- acquiring, holding, and disposing of property;
- making contracts and agreements;
- applying for and receiving federal grants;
- adopting rules and regulations;
- taking any other action necessary or convenient to carry out the powers granted by the bill;
- condemning property for any MARC railroad facilities project, as specified;
- contracting with MTA to authorize MTA police officers to exercise their authority on property owned, leased, or operated by or under the control of MRA;
- adopting a six-year financial forecast for its operations that includes specified information, and submitting the forecast to the General Assembly, as specified;
- adhering to the Open Meetings Act and making publicly available on its website specified information about and video recordings of MRA meetings (with specified assistance from the Department of Information Technology); and

- financing and borrowing money to pay the costs of MARC railroad facilities projects, as specified.

Funding – Generally

On an annual basis, MDOT must allocate to MRA the revenue needed to support the MARC operating and capital budgets. MARC fares and any other revenue from charges imposed for MARC service may be used only to support MRA, except to the extent they are required under established financing agreements, as specified.

If MRA is operating a MARC railroad facilities project, MRA must fix, revise, charge, and collect rentals, rates, fees, fares, and other charges for its use or for its services. In doing so, MRA must comply with the requirements of current law that apply to MTA when it sets and changes its fares and rates.

All rentals, rates, fares, fees, and other charges and revenues derived from any MARC railroad facilities project must be set aside in MRAF, unless those revenues are otherwise pledged under an applicable trust agreement to secure revenue bonds issued by MRA, as specified, or revenue bonds of prior issues. MRAF also consists of money appropriated in the State budget to the fund. Money distributed to MRAF may only be used for MARC railroad facilities projects.

MRAF must be pledged to and charged with the payment of (1) the interest on bonds issued pursuant to the bill as it falls due; (2) the principal of the bonds as it falls due; (3) the necessary charges of paying agents for paying principal and interest; and (4) the redemption price or purchase price of bonds by call or purchase as provided in the bond authorizing resolution or trust agreement. The bill includes additional specifications regarding the validity and binding nature of pledged payments from the fund. The use and disposition of money to the credit of MRAF is subject to the provision of the applicable bond authorizing resolution or trust agreement.

Revenue and Other Bonds

MRA is authorized to issue bonds from time to time to finance the cost of any one or more or combination of MARC railroad facilities projects.

Revenue bonds secured by fare revenue may be issued in any amount. By April 1, 2026, MRA must submit a report to the General Assembly that, among other things, includes a recommendation on the maximum aggregate amount of revenue bonds that may be outstanding and unpaid in a fiscal year. Without the approval of the General Assembly, MRA may issue bonds to refinance all or any part of the cost of a passenger rail or transit project for which MRA previously issued bonds authorized under the bill. The bill also establishes provisions relating to the issuance of additional revenue bonds if the proceeds of the revenue bonds of any issue are less than the amount required for the purpose for which the bonds are authorized.

The revenue bonds, notes, and other evidences of obligation issued by MRA may not be considered to constitute a debt or a pledge of the faith and credit of the State, but must be payable only from the funds or revenues provided by the bill for that purpose. Additionally, revenue bonds, notes, and other evidences of obligation, their transfer, the interest payable on them, and any income derived from them, including any profit realized in their sale or exchange must be exempt at all times from every kind and nature of taxation by the State or by any of its political subdivisions or by public agencies of any kind.

The bill includes requirements that must be adhered to and followed by MRA when issuing its bonds, including, among other things, requirements related to:

- the timing, terms, and structure of the issuance of such bonds;
- the issuance of revenue refunding bonds;
- the preparation of definitive bonds;
- the issuance of bond anticipation notes secured by a pledge of a line of credit extended to the State under the federal Transportation Infrastructure Finance and Innovation Act;
- the use of a trust agreement between MRA and a corporate trustee to secure any bonds issued;
- the authority of trustees or bondholders to take legal action against MRA to protect and enforce their rights, as specified; and
- the issuance of bonds supported by future federal aid (commonly known as Grant Anticipation Revenue Vehicle bonds).

Current Law: 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. Aside from 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.

MTA is required to submit a report to specified committees of the General Assembly by December 1 of each year that includes separate farebox recovery ratios for the prior fiscal year for its services and a comparison to the farebox recovery ratios of other similar transit systems nationwide. MTA may not reduce the level of services it provides for the purposes of achieving a specific farebox recovery requirement.

To the extent practicable and consistent with providing adequate service at reasonable fares, the rentals, rates, fees, fares, and other charges imposed for and the services provided by MTA's transit facilities and railroad facilities must be fixed and adjusted to ensure the funds, together with any other revenues, are sufficient to:

- maintain, repair, and operate the transit facilities and railroad facilities;
- provide for depreciation of the transit facilities and railroad facilities;
- replace, enlarge, extend, reconstruct, renew, and improve the transit facilities and railroad facilities;
- pay the costs of purchasing, leasing, or otherwise acquiring and installing rolling stock and other equipment;
- pay the principal of and interest on any outstanding obligations of MTA, including obligations incurred for the acquisition of rolling stock;
- pay the current expenses of MTA; and
- provide for any purpose that MTA considers necessary and desirable to carry out the requirements of State law.

Until MTA has a public hearing on the matter, it is prohibited from fixing or revising any fare or rate charged to the general public and from making specified services changes to its commuter bus and commuter rail services. MTA must give at least a 30-day notice before any such hearing and must follow other specified processes when it seeks to make a change to its fares, rates, or services.

State Fiscal Effect: Given the various unknown factors associated with MRA (including how many staff are needed and the timing and amount of bonds issued by MRA), a reliable estimate of the bill's overall impact on State finances cannot be made at this time. However, the following sections discuss the bill's various effects.

Notably, because the bill requires MDOT, on an annual basis, to allocate to MRA the revenue needed to support the MARC operating and capital budgets, and because MRAF is only authorized to be used to pay *costs related to bond issuances and debt service*, it is assumed that TTF pays for the entirety of MRA's operating expenses and may also need to provide significant financial support for MRA's capital expenses.

For context, MDOT advises that in fiscal 2024, MARC revenues totaled $23.0 million, while its operating costs totaled $166.0 million. In that year, fare revenues only covered 13.9% of MARC's operating costs. In addition, the *Consolidated Transportation Program* (CTP) for fiscal 2025 through 2030 includes tens of millions of dollars in capital costs for various MARC service-related projects.

Personnel, Administrative, and Other Operating Costs

MDOT advises that the portions of MTA directly related to MARC will be transferred to MRA pursuant to the bill's requirement for MDOT to provide MRA with staff. However, duplication of certain staff (such as police, engineering, finance, and human resources) and other resources (such as costly information technology systems) may still be necessary, increasing total staffing and administrative costs paid by TTF. Moreover, the bill requires MRA to have an executive director and general counsel and specifies that board members are entitled to the compensation provided in the State budget and reimbursement for expenses, further increasing costs associated with MRA staff and personnel. As noted above, this analysis assumes that TTF must support MRA's operating costs.

Delegation of Certain Duties to the Maryland Transit Administration

The bill authorizes MRA to delegate project operations, maintenance, and repair of MARC rail facilities to MTA and use fare revenue to provide MTA with payments for those activities. To the extent that any such delegation and payment takes place, TTF finances are likely affected.

MARC Facilities Projects, Capital Costs, and the MARC Rail Authority Fund

Although not specified by the bill, for purposes of this fiscal and policy note, it is assumed that MRAF is established as a special fund. Thus, special fund revenues to and expenditures from MRAF increase significantly as the responsibility for MARC railroad facilities projects is transferred from MTA to MRA, as fare revenues from MARC projects are redirected from TTF to MRAF, bonds are issued, capital projects are implemented, and debt service is paid. Likely included in the transfer, the CTP for fiscal 2025 through 2030 includes $57.2 million for various MARC service-related projects that have been identified at this time.

Additionally, as discussed in more detail above, it is assumed that TTF may need to provide significant financial support to MRA for MARC capital costs. Accordingly, to the extent additional funding is needed by MRA to pay the capital costs associated with MARC projects, TTF expenditures and MRA revenues and expenditures increase correspondingly as funding is transferred from MDOT to MRA for this purpose.

Fare Revenues and the Potential Effect on Planned Transportation Activities

The bill requires that all fare revenues from MARC services be directed to MRAF instead of TTF. TTF revenues decrease by an estimated $23.0 million annually beginning in fiscal 2026, which reflects the estimated revenue from existing MARC services based on actual revenues from fiscal 2024. The decrease in revenues, in combination with the increase in expenditures discussed above, may require MDOT to reassess its planned activities in the upcoming years to ensure funding to pay debt service on outstanding bond issuances. However, given the many unknown fiscal implications of the bill, any such impact cannot be reliably estimated at this time.

Purple Line Debt Service and Other Debt Affordability Considerations

MDOT advises that MARC revenues are already pledged as a payment source for the Purple Line availability payments; these payments were structured in a manner so that they would not be considered State debt. Although the bill excludes fares from a MARC railroad facilities project from accruing to MRAF if they are pledged under an applicable financing agreement, it is unclear whether the Purple Line financing agreement meets this exclusion; however:

- if the exclusion applies, then MARC revenues do not accrue to MRAF until the Purple Line availability payments are paid off; in this case, TTF expenditures likely increase significantly further to provide additional financial support for MRA; and
- if the exclusion does not apply, then MARC revenues accrue to MRAF; in this case, MDOT advises that the Purple Line availability payments, which would need to be paid with other TTF revenues, would likely be considered State debt, thereby significantly increasing the State's debt outstanding, resulting in a likely violation of the State's debt affordability criteria.

The State Treasurer's Office (STO) further notes that because the bill specifies that one of the revenue sources for MRAF is *money appropriated in the State budget to the fund*, the bill does not preclude the possibility of tax revenues being used to support the fund. If State taxes are used to support the debt service of any bonds issued by MRA, the debt would need to be evaluated for inclusion in the State debt and other Capital Debt Affordability Committee calculations. While this would result in an increase in workload for STO, it is likely able to be handled with existing resources. However, STO advises that if taxes are deposited into the fund and the intended revenue bonds morph into constitutional debt, this increases the State's overall debt burden, limits opportunity for other types of State debt being issued while remaining within debt affordability limits, and could create an unintended violation if the debt were issued for a time period beyond the constitutional limit of 15 years.

Additional Information

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

Designated Cross File: HB 517 (Delegates Korman and Solomon) - Environment and Transportation and Appropriations.

Information Source(s): Maryland Department of Transportation; Office of the Attorney General; Maryland State Treasurer's Office; Judiciary (Administrative Office of the Courts); Department of Budget and Management; Department of Legislative Services

Fiscal Note History: First Reader - February 4, 2025
km/lgc

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510