Department of Legislative Services

Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1068 (Delegates J. Long and Stewart)

Environment and Transportation and Appropriations

Maryland Transportation Authority - Tolls - Collection and Use (Maryland Toll Rate Reform Act of 2025)

This bill establishes the Transportation Facilities Overage Account (TFOA) within the Transportation Trust Fund (TTF) and requires the account to be used for specified transportation projects. The bill requires the Maryland Transportation Authority (MDTA) to (1) fix, revise, charge, and collect fees, tolls, and other charges at the "near optimal toll rate" and (2) distribute to TFOA any revenues collected above the amounts required by MDTA to pay for specified costs (and create reasonable reserves) pursuant to existing statute (including operating costs and the payment of the principal of and the interest on any outstanding bonds). The bill requires MDTA to consider specified items in determining the optimal toll rate.

Fiscal Summary

State Effect: Nonbudgeted revenues for MDTA increase significantly – likely by hundreds of millions of dollars annually – beginning in FY 2026 as tolls are increased as a result of the bill; nonbudgeted expenditures increase correspondingly as MDTA uses some portion of the revenues to pay its costs (and create reasonable reserves) and remits the remainder to TFOA within TTF. TTF expenditures increase correspondingly as the additional revenues are used for required purposes. The bill may have other significant impacts on MDTA's operations and finances, as discussed below. State expenditures (all funds) increase to pay higher toll rates.

Local Effect: Local government expenditures increase, as discussed below. Revenues are not affected.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: The bill establishes TFOA as a subaccount within TTF. The Maryland Department of Transportation (MDOT) must allocate the funds in TFOA, in the manner it determines appropriate, for:

- the construction and maintenance of State highways that feed vehicular traffic to an MDTA transportation facility; and
- State highway or transit construction maintenance projects that (1) relieve traffic congestion at an MDTA transportation facility by providing alternative transportation options for commuters and cargo and (2) are located in the general vicinity of an MDTA transportation facility.

MDTA must fix, revise, charge, and collect fees, tolls, and other charges at the near optimal toll rate. "Near optimal toll rate" means a toll rate that provides at least 95% of the maximum revenue possible based on a transportation facilities project's "optimal toll rate". "Optimal toll rate" means a toll rate for a transportation facilities project that maximizes revenue, as determined by MDTA.

To determine the optimal toll rate, MDTA must consider (1) market forces, including the types of traffic that use a particular transportation facility, the elasticity of demand, and the availability of alternate routes and (2) assessing varying toll rates based on the time of day, the time of year, and any anticipated weekend and holiday travel. MDTA must consider offering discount rates for seniors, daily commuters, low-income State residents, Maryland E-ZPass holders, and State residents who live in the vicinity of the transportation facility. MDTA must also consider such discount rates in determining the near optimal toll rate.

MDTA must distribute to TFOA any revenue collected above the amounts required for MDTA 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.

Current Law:

Maryland Transportation Authority

Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities (for example, the Chesapeake Bay Bridge, the former

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 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 comply with various public notice, review, and comment requirements. Among other things, 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 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 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 submitted an interim report of its findings and recommendations to the Governor and the General Assembly in January 2024.

The Budget Reconciliation and Financing Act of 2024 (Chapter 717 of 2024) repealed and reestablished the commission – making it permanent – and altered its statutory duties. Specifically, Chapter 717 modified the membership of the commission, limited the scope of the issues required to be studied by the commission, and established a separate advisory committee to review, evaluate, and make recommendations regarding items requested by the commission.

State Fiscal Effect:

Toll Revenue Increase and Resulting Fiscal Effects

Generally, the requirement to establish near optimal tolling increases MDTA's toll rates – and resulting nonbudgeted revenues – significantly. MDOT advises that, even in the absence of the bill, MDTA is already planning a systemwide toll increase in fiscal 2028 to ensure that it can continue to meet its debt coverage requirements for its outstanding bonds. The bill expedites – and increases – the planned increase in toll rates. While a precise estimate cannot be reliably made at this time, as it ultimately depends on how toll rates are increased and discount rates are determined by MDTA under the bill, revenues are anticipated to increase by hundreds of millions of dollars annually.

As MDTA is required to hold public hearings prior to any toll increases, nonbudgeted expenditures increase (likely in fiscal 2026) to hold additional public hearings in order to establish near optimal toll rates under the bill.

The bill specifies that MDTA must distribute to TFOA any revenue collected above the amounts required by MDTA to pay specified costs and create reasonable reserves for those costs. It is anticipated that some portion of the increase in revenues will likely be retained by MDTA to pay its costs (and create reasonable reserves) pursuant to existing statute, while the remainder will be remitted to TFOA within TTF; however, the distribution of funding cannot be reliably estimated at this time.

Thus, nonbudgeted revenues for MDTA increase significantly beginning in fiscal 2026, and nonbudgeted expenditures increase correspondingly as MDTA uses some portion of the increased revenues to pay its costs (and create reasonable reserves) pursuant to existing statute and remits the remainder to TTF. TTF revenues increase as this additional funding is deposited into TFOA; TTF expenditures increase correspondingly as the revenues are used for the construction or maintenance of specified State highway and transit projects as required by the bill.

Potential Legal and Financial Considerations

MDOT advises that MDTA's operations and finances may be significantly affected to the extent that the bill results in (1) a violation of MDTA's trust agreement with its bondholders; (2) a violation of MDTA's various agreements with the federal government; and (3) a downgrading of MDTA's credit rating with Moody's Analytics. While any such impact cannot be predicted in advance, a more detailed discussion of each of the potential issues is provided below.

Trust Agreement: A trust agreement is in place with MDTA's bondholders that requires MDTA to maintain certain financial metrics, set toll rates at a rate sufficient to repay bondholders, and maintain its facilities in a state of good repair, among other things. MDOT advises that the bill may violate MDTA's trust agreement and could result in the agency being sued by its bondholders. If that occurs, MDTA could incur potentially significant legal costs and, depending on the results of the lawsuit, its operations and finances could be significantly affected.

Federal Agreements: MDOT advises that the bill may violate (1) several of MDTA's agreements with the Federal Highway Administration (FHWA) that restrict the use of toll revenues for certain toll facilities and (2) the terms and conditions of MDTA's $200.0 million Transportation Infrastructure Finance and Innovation Act (TIFIA) loan agreement with the U.S. Department of Transportation. If a violation is determined to exist, MDTA could be subject to punitive action by FHWA or need to refund or replace the TIFIA loan with other debt, likely resulting in increased debt service costs.

Credit Rating: By requiring MDTA to establish "near optimal toll rates," MDOT advises that the bill may result in a credit downgrade by Moody's. Specifically, MDOT advises that independent rate setting ability makes up 15% of Moody's scorecard methodology in rating toll sector issuers and that MDTA has already been placed on "negative credit watch" by Moody's, due, in large part, to the collapse of the Francis Scott Key Bridge. If MDTA's credit rating is downgraded as a result of the bill's changes, it would experience higher financing rates for capital projects, directly increasing project costs.

State Agency Toll Costs

The toll increase required by the bill is anticipated to be substantial, resulting in increased costs for State agencies that regularly use, or reimburse their employees for using, MDTA's toll facilities.

Local Expenditures: The toll increase required by the bill is anticipated to be substantial, resulting in increased costs for local governments that regularly use, or reimburse their employees for using, MDTA's toll facilities. In addition, to the extent that higher tolls result in traffic diversions to alternative routes, the bill could lead to increased traffic volume on local roads, resulting in higher road maintenance costs for local governments.

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 a significant increase in costs to pay tolls as 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. In addition, small businesses near MDTA facilities could be affected to the extent the bill results in diversions to alternative routes and increased congestion.

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 discussing 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 been considered within the last three years. See HB 1070 and SB 1093 of 2024.

Designated Cross File: None.

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

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