MARYLAND DEPARTMENT OF TRANSPORTATION

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Lt. Governor

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Secretary

March 8, 2022

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
121 House Office Building
Annapolis, MD 21401

Re: Letter of Opposition – House Bill 1324 – Transportation – Maryland Rail Authority – Establishment (Maryland Rail Investment Act of 2022)

Dear Chair McIntosh and Members of the Committee:

The Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MDTA) respectfully oppose House Bill 1324 due to fiscal and operational impacts to the MDOT, the MDTA, and customers who utilize any of the MDTA's eight toll facilities.

House Bill 1324 requires the MDTA to determine the optimal tolling rate for transportation facilities projects and set toll rates so that it obtains 95% or more of the maximum revenue possible on its facilities. This will result in an increase to MDTA's existing toll rates and requires a discontinuation of current commuter and E-ZPass discounts. Many of MDTA's facilities provide critical transportation links in high-volume areas with limited competing facilities. Toll rates on MDTA's facilities reflect the fact that drivers often do not have reasonable travel alternatives. The increase in toll rates may result in motorists and commercial vehicles diverting to local roads and neighboring jurisdictions, which may be negatively impacted from the additional traffic.

Under House Bill 1324, additional revenue generated by the increase in toll rates would be diverted to the newly created Maryland Rail Authority to fund existing and expanded MARC service, the Baltimore and Potomac Tunnel, and the Southern Maryland Rapid Transit System. This revenue diversion violates the MDTA's Trust Agreement and existing tolling agreements in place with the federal government.

The transit expansion contemplated in House Bill 1324 requires a significant investment, in the billions of dollars. The bill seems to focus on the cost of constructing the facilities, but responsibility for operation and maintenance of the facilities is unclear. Transit systems have high costs and are unable to generate sufficient revenue to construct, operate, and maintain their systems. Even in the most robust transit systems, farebox recovery typically does not exceed 50%. Sufficient financial analysis has not been done to determine if the proposed financing structure provides adequate funding for the Rail Authority to carry out its charge. It is also unclear how the rating agencies would view this entity.

The MDTA is governed by a Trust Agreement with its bondholders, as allowed by statute. Revenues from Transportation Facilities Projects are pledged as bondholder security to repay the MDTA's debt. If House Bill 1324 were to be enacted, the MDTA would be in violation of its Trust Agreement in multiple fashions: it would reduce the independence of the MDTA Board to set toll rates, operate and maintain the facilities, and issue debt; the $2.8 billion restriction on the operating budget and capital improvement plan could cause the MDTA to fail to meet its financial covenants and its ability to properly operate and maintain its facilities; to the extent that future debt issuances are not approved; the MDTA may be unable to meet the obligations to maintain its facilities and projects in good repair and in sound operating condition Violations of the Trust Agreement may result in a downgrading of the MDTA credit rating by the rating agencies or actions from bondholders. Other toll agencies such as the Miami-Dade County Expressway Authority have experienced bond rating downgrades due to similar interventions. A downgrade of MDTA's credit would lead to lower credit worthiness as well as higher financing rates for capital projects.

Currently, the MDTA is statutorily required to hold public hearings and seek public comment on the reasonableness of any proposed toll rate adjustments, prior to adjusting toll rates. The bill's effective date of July 1, 2022 does not provide the MDTA the necessary time to seek thorough and adequate public input prior to adjusting rates. Additionally, the MDTA Board has the independent authority to set or adjust toll rates based on public policy considerations, but House Bill 1324 would be in direct conflict with this current law.

House Bill 1324 requires that all transit revenues from the existing MARC system and other "railroad facilities projects," as well as the toll revenues transferred from the MDTA, be placed into the Rail Authority Fund. Pre-pandemic, MARC revenues were approximately $50 million per year, and these revenues flowed to the Transportation Trust Fund (TTF). Shifting these funds to the Rail Authority Fund would result in a $50 million decrease to the TTF, reducing funding available for MDOT's currently planned activities. Additionally, without MARC revenues, there will not be sufficient transit revenues available to pay the debt portion of availability payments for the Purple Line. The use of Transportation Trust Fund revenues to supplement transit revenues to pay the debt portion of availability payments may result in re-consideration by the State Treasurer's Office of whether debt associated with the Purple Line counts toward Sate debt affordability.

As Maryland continues to recover from the COVID-19 pandemic, the MDTA currently serves an estimated 500,000 road users every day on MDTA facilities and the MDOT Maryland Transit Administration (MTA) reports that 5,835 individuals currently use MARC rail transit daily. While MDOT and MDTA seek to deliver a balanced and integrated transportation system for all modes, the proposed legislation would result in increases in toll rates for roadway users to divert funds to expand transit services.

For these reasons, The Maryland Department of Transportation and the Maryland Transportation Authority respectfully request the Committee grants House Bill 1324 an unfavorable report.

Respectfully submitted,

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