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Secretary

February 16, 2022

The Honorable Kumar P. Barve
Chairman, Environment and Transportation Committee
251 House Office Building
Annapolis MD 21401

Re: Letter of Clarification – House Bill 141 – Equity in Transportation Sector – Guidelines and Analyses

Dear Chairman Barve and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on the proposed amendments to House Bill 141 but offers the following information for the Committee's consideration.

House Bill 141 would require the MDOT to consider ways to achieve equity in the transportation sector when developing the State Transportation Goals as part of the Maryland Transportation Plan (MTP). Achieving equity in transportation is inherent to MDOT's mission statement and our long-range goals and objectives, which require a collaborative and comprehensive outreach process to State, regional, and local stakeholders.

Some of the analysis and reports required by the Commission on Transportation Equity (CTE) created by House Bill 141 are already underway at MDOT, including equity analyses for service and fare changes, and additional Title VI analyses to meet federal requirements.

The proposed amendments would require that, beginning with the 2024 Attainment Report, the MDOT consult with the CTE to recommend measurable transportation indicators that can be evaluated for racial and ethnic disparities, as well as impacts on persons with disabilities when data is available. The performance measures are selected through the State and federally mandated long-range plan every four to five years, in consultation with the Governor's Attainment Report Advisory Committee. If the newly required data is available, MDOT could assess these indicators and consider metrics that align with the goals and objectives developed in the long-range plan, ensuring that all performance measures are SMART measures, meaning they are specific, measurable, achievable, realistic, and timely.

Amendment No. 1 and portions of Amendment No. 2 focus on the legislation's requirements for capital projects to apply only to capital expansion projects in the construction program of the Consolidated Transportation Program. Equity analysis of reductions in capital projects falls outside the federal Title VI equity analysis paradigm. The Federal Transit Administration (FTA) does not currently have a process whereby an analysis would be conducted for capital projects that are cancelled or for investments not occurring, and there is not an industry approach for conducting such an analysis. These amendments reduce the potential scope of types of projects subject to this analysis, but some expected fiscal impact remains for creation of a methodology and for conducting analyses for canceled or reduced capital projects that would require time and additional resources for staff to research and implement.

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Amendment No. 2 allows the MTA to incorporate public comments into the final Title VI Service Equity Analysis prior to posting it on the agency's website. This will allow the Service Equity Analysis to be posted once it includes all adjustments from the union review and the public comments, rather than having to repeat the Service Equity Analysis a second time after those changes are incorporated. The processes for major service changes are synchronized and balanced to ensure efficient scheduling while completing many inter-related detailed analyses. As amended, House Bill 141 would add to the MDOT MTA's current service change process the development of a cost-benefit analysis that includes impacts on economic development, employment, education, and health. Additionally, the proposed amendments would require that before holding a public hearing on a proposed service change, the MTA provide an evaluation on the Administration's website of the demographics of the riders and the service areas for the routes and lines impacted by the proposed service changes. This helps to reduce redundant analyses, but some fiscal impact remains for additional staff and consultant support, and additional time in the service change process will be needed to complete the additional analyses for each service change.

The proposed amendments to House Bill 141 would reduce the expected fiscal impact from an additional \$7.5 million to an additional \$3.9 million over the next five years for additional staffing for the CTE, additional requirements for transit service changes, capital expansion projects, and intermodal data analyses for performance assessments on racial impacts and impacts to persons with disabilities, including statewide transportation impacts.

The FTA is in the process of updating the Title VI Circular and the MDOT MTA anticipates that there will be new federal Title VI guidance in 2022. Thus, the federal Title VI landscape for equity analyses, capital projects, service changes, and how Disparate Impact and Disparate Burden are calculated could change prior to the June 2022 service change. With the possibility of a regulatory landscape change this year, it is possible that House Bill 141 could be preempted or superseded by new federal guidance and regulations. The conflict between the timing of State and Federal requirements could result in inconsistencies or other unintended consequences.

The Maryland Department of Transportation respectfully requests the Committee consider this updated information when deliberating House Bill 141.

Respectfully submitted,

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cc: Members of the House Environment and Transportation Committee
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