

I have provided notes in response to the fiscal analysis provided for this piece of legislation. I have highlighted and provided comments in black boxes directly into the fiscal note below.

SB 162

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 162
Finance

(Senator Lam, *et al.*)

Maryland Aviation Commission - Duties, Composition, and Member Orientation

This bill requires the Maryland Aviation Commission (MAC) to establish policies directed toward the Maryland Aviation Administration’s (MAA) ability to best mitigate negative impacts of the local aviation and airport industries, as informed by the accepted scientific research on creating and maintaining healthy and livable communities. Further, the bill (1) requires MAC to consider information and advice from additional stakeholders in carrying out its duties; (2) modifies provisions governing the membership of MAC; (3) requires commissioners to receive an orientation session relating to MAC’s duties, as specified; and (4) expands MAC’s annual report to include information related to its additional duties under the bill.

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) expenditures increase by \$343,600 in FY 2024. Future years reflect annualization and inflation. TTF expenditures may further increase, potentially significantly, depending on the policies implemented and projects undertaken as a result of the bill, as discussed below. Revenues are not affected.

This is an unsubstantiated and possibly political assertion. How has MDOT MAA predicted an increase in expenditures for programs and policies while simultaneously declaring that revenues will be unaffected?

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
SF Expenditure	343,600	423,100	437,500	452,400	470,900
Net Effect	(\$343,600)	(\$423,100)	(\$437,500)	(\$452,400)	(\$470,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local governments can cooperate with MAC as necessary and appropriate using existing budgeted resources. Revenues are not affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: The list of stakeholders MAC must consider information and advice from in carrying out its duties is expanded to include airport employees or their representatives, local government, citizens from communities near airports, and other Maryland communities that have, or are predicted to have, adverse health or livability impacts from airport infrastructure and economic growth decisions.

Each member of MAC must receive an orientation session to educate the member on the commission's dual responsibilities regarding the improvement and promotion of Baltimore-Washington International (BWI) Thurgood Marshall Airport and the mitigation of negative impacts of the local aviation and airport industries.

Of the eight commissioners appointed by the Governor with the advice and consent of the Senate, four must be selected from a list of proposed candidates designated by a resolution of the DC Metroplex BWI Community Roundtable or its successor organization.

The annual report submitted by MAC to the General Assembly must include a summary of commission initiatives supporting healthy, livable communities and any recommendations to improve the mitigation of adverse health and livability impacts on neighboring and impacted communities.

Current Law:

Maryland Aviation Administration and Maryland Aviation Commission

MAA, as a unit of the Maryland Department of Transportation, has responsibility for fostering, developing, and regulating aviation activity throughout the State. MAA is responsible for operating, maintaining, and developing State-owned airports, including BWI Thurgood Marshall Airport. MAA is governed by its executive director and MAC.

MAC is comprised of eight individuals appointed by the Governor with the advice and consent of the Senate. The Secretary of Transportation serves as the commission's chairman. The chairman must appoint the Executive Director of MAA based on the advice of the commission, subject to the approval of the Governor. The commission is responsible for:

- establishing policies directed toward MAA's ability to improve and promote the role of BWI Thurgood Marshall Airport as an airport of service to the Washington-Baltimore metropolitan area;
- approving regulations for the operation of State-owned airports, as specified;

- directing MAA in developing and implementing airport management policy for all State-owned airports;
- approving major capital projects, as specified; and
- excising the powers granted to it, as specified.

In carrying out its duties, MAC must consider information and advice from the air carrier industry, airport concessionaire industry, airline support services industry, and citizen advisory groups.

MAC must submit an annual report to the General Assembly by January 15 of each year on its activities during the previous year. The report must include (1) a review of the financial and operational results for all State-owned airports during the previous year and any recommendations for future changes in legislation, capital funding, or operational flexibility; (2) subject to review by the Department of Budget and Management, an estimate of necessary commission expenditures, as specified; and (3) certain actions taken by the commission relating to managerial staffing and salaries.

DC Metroplex BWI Community Roundtable

[The DC Metroplex BWI Community Roundtable](#) is an initiative MAA formed at the request of the Federal Aviation Administration (FAA). The roundtable is responsible for (1) monitoring the implementation of air traffic procedures established by FAA in the District of Columbia Metroplex Project, including, but not limited to, the procedures implemented under the NextGen program; (2) identifying possible alternative routings and procedures; (3) evaluating noise effects and other environmental effects of possible route changes; and (4) making recommendations to FAA for further consideration.

State Expenditures: MAA advises that it currently follows the requirements of the [National Environmental Policy Act \(NEPA\)](#) with respect to identifying potentially significant environmental and community impacts of airport safety, efficiency, and capacity enhancing projects. While NEPA generally focuses on the direct environmental impacts of proposed airport actions, the bill expands the scope of MAC by requiring the establishment of policies to mitigate actual and potential negative impacts of the local aviation and airport industries, as informed by the accepted scientific research on creating and maintaining healthy and livable communities.

To administer its noise abatement program, MAA currently employs three staff (one manager, one environmental specialist, and one administrator) and engages contractual assistance. Because MAA provides the information, research, and data necessary for MAC to fulfill its duties, MAA advises that it needs to expand its noise abatement program in order to handle the expanded scope of MAC under the bill.

This piece of legislation does not apply to the Noise Abatement Program and nowhere in this legislation is noise abatement mentioned. This legislation will help lessen and even prevent noise abatement needs through better planning of airport infrastructure that reduces negative impacts on existing local communities and municipal infrastructure.

Thus, TTF expenditures increase by an estimated \$343,614 in fiscal 2024, which accounts for the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring one manager, one environmental specialist, and one administrator within MAA to address the expanded scope of MAC. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses, including costs for a consultant.

Positions	3.0
Salaries and Fringe Benefits	\$246,387
Consultant Costs	75,000
Operating Expenses	22,227
Total FY 2024 State Expenditures	\$343,614

This legislation will enhance the credentials of the appointed body. It is unclear why that would require MDOT MAA to duplicate its staff. And why a new, special administrator would be required.

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, including \$100,000 annually in consultant costs. A combination of new and existing staff can likely handle the orientation required for new and existing MAC commissioners.

Additionally, TTF expenditures may increase, potentially significantly, depending on the policies implemented and projects undertaken as a result of the bill's changes; however, any such impact cannot be reliably predicted beforehand. For example, MAA advises that the DC Metroplex BWI Community Roundtable has previously recommended mitigation down to a 40 decibel Day-Night average sound Level (DNL); according to MAA, meeting that DNL would cost approximately \$32.0 billion.

The BWI Roundtable has never recommended mitigation down to 40 DNL. What is troubling about this assertion is that the requirements for qualifying and implementing a sound insulation program are contained in Appendix R "Noise Compatibility Planning/Projects" of the Federal Aviation Administration Order 5100.38D Airport Improvement Program Handbook (AIP

Handbook). Specifically, structures must have an existing exterior noise exposure no less than 65 dB DNL and an existing interior noise exposure no less than 45 dB DNL to be eligible for a sound insulation program. Mitigating noise below 65 DNL is prohibited.

Further, pursuant to the Airport Noise and Capacity Act of 1990 local governments are prohibited from assessing passenger facility charges, while airports are permitted to do so. Any additional expenses the MDOT MAA finds are do not necessarily need to be borne by the hardworking citizens of Maryland. The airport can adjust its passenger facility charges as necessary.

Additional Information

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

Designated Cross File: SB 162 (Senator Lam, *et al.*) - Finance.

Information Source(s): Maryland Department of Transportation; Maryland Association of Counties; Maryland Municipal League; Federal Aviation Administration; Department of Legislative Services

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