
February 22, 2023

The Honorable Melony Griffith
Chair, Senate Finance Committee
3 East, Senate Office Building
Annapolis MD 21401

RE: Letter of Information – Senate Bill 412 – Transportation – Maryland Rail Authority – Establishment (Maryland Rail Investment Act of 2023)

Dear Chair Griffith and Committee Members:

The Maryland Department of Transportation (MDOT) and the Maryland Transportation Authority (MDTA) take no position on Senate Bill 412 but offer the following information for the Committee's consideration.

Senate Bill 412 requires the MDTA to set toll rates so that it obtains 95% or more of the maximum revenue possible on its facilities and additional revenue generated by the required 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.

The requirements of Senate Bill 412 would violate MDTA's Trust Agreement and existing tolling agreements with the federal government, prohibit MDTA from offering commuter and E-ZPass discounts, erode the statutory independence of the MDTA Board, and result in significant increases to MDTA's existing toll rates. The MDTA currently offers lower toll rates to MD E-ZPass account holders. It is important to note that residency is not a requirement to become a MD E-ZPass account holder and take advantage of the lower toll rates. Additionally, MDTA offers numerous discount plans for customers who frequently use certain facilities; however, offering discounts or differential toll rates based on other criteria such as residency, age, and socioeconomic class is not authorized under MDTA's Trust Agreement and could likely result in legal challenges under the Commerce Clause of the U.S. Constitution.

Many of MDTA's facilities provide critical transportation links in high-volume areas with limited competing facilities. The increase in toll rates may result in motorists and commercial vehicles diverting to local roads and communities, which may be negatively impacted from the additional traffic.

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

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MDTA's debt. If Senate Bill 412 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.

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 requirement to hold public hearings by December 1, 2023 prior to implementing optimal toll rates is impracticable with a June 1, 2023 effective date. Additionally, the MDTA Board has the independent authority to set or adjust toll rates based on public policy considerations, but Senate Bill 412 would be in direct conflict with current law.

The Maryland Department of Transportation and the Maryland Transportation Authority respectfully request the Committee consider this information when deliberating Senate Bill 412.

Respectfully submitted,

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