

Department of Legislative Services
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FISCAL AND POLICY NOTE
First Reader

Senate Bill 229
Finance

(Senator Lee, *et al.*)

Toll Roads, Highways, and Bridges - County Government Consent Requirement
- Expansion

This bill expands the requirement that a State agency receive the express consent of a majority of the affected Eastern Shore county governments before it constructs a toll road, toll highway, or toll bridge in those counties. Under the bill, this requirement is expanded to apply to *all counties* in the State (including Baltimore City) if they are affected by any such toll road, toll highway, or toll bridge.

Fiscal Summary

State Effect: To the extent the bill results in a delay or cancellation of transportation projects that otherwise would occur, State operations and finances may be significantly affected.

Local Effect: County governments can approve any toll facility in the manner required by the bill using existing resources. Revenues are not directly affected.

Small Business Effect: Minimal or no direct effect. However, to the extent the bill results in a delay or cancellation of transportation projects that otherwise would occur, small business contractors may be significantly affected.

Analysis

Bill Summary: A State agency, including the Maryland Transportation Authority (MDTA), may not construct any toll road, toll highway, or toll bridge without the express consent of a majority of the governments of the affected counties (including Baltimore City).

Current Law/Background:

Toll Highways in the State

Since 1971, MDTA has been responsible for constructing, managing, operating, and improving the State's toll facilities (for example, the Chesapeake Bay Bridge and Intercounty Connector) and for financing new revenue-producing transportation projects. MDTA has the authority to set tolls on transportation facilities projects under its supervision. There are currently two transportation projects in the planning stage that involve tolls (the third span across the Chesapeake Bay Bridge and the Governor's Traffic Relief Plan) and one project in the construction stage that involves tolls (the extension of I-95 express lanes).

A State agency, including MDTA, must get the approval of the majority of affected governments to construct a toll road, toll highway, or toll bridge in Caroline, Cecil, Dorchester, Kent, Queen Anne's, Somerset, Talbot, Wicomico, and Worcester counties.

Chesapeake Bay Bridge

The Chesapeake Bay Bridge is the only toll bridge in Maryland that currently crosses the Chesapeake Bay. The bridge connects Maryland's Eastern Shore recreational regions with the metropolitan areas of Annapolis, Baltimore, and the District of Columbia. The original two-lane bridge was constructed in 1952, and the second three-lane bridge was constructed in 1973. MDTA estimates that about 25.6 million vehicles crossed the bridge in fiscal 2014. Traffic congestion on the bridge can be severe.

MDTA is currently undertaking a Tier 1 National Environmental Policy Act study for a third crossing of the Chesapeake Bay. One of the issues being explored is the best location for such a bridge. A draft of the study is scheduled to be complete during summer 2020, while the full study is scheduled to be complete during summer 2021. Updates on the progress and findings of the study can be found on [MDTA's website](#).

Traffic Relief Plan

In September 2017, the Governor announced plans to add four new lanes to I-270 in Montgomery County, the Capital Beltway (I-495), and the Baltimore-Washington Parkway (MD 295), with the first two projects expected to be completed using public-private partnerships (P3). In June 2019, the Board of Public Works (BPW) voted to designate the I-270 and I-495 projects as eligible for a P3 and approved the proposed competitive solicitation method for selecting a developer for each phase of the program. On January 8, 2020, BPW approved the plan with amendments – the preliminary solicitation schedule for Phase 1 anticipates execution of the P3 agreement in May 2021.

The *Consolidated Transportation Program (CTP)* for fiscal 2020 through 2025 includes \$95.8 million to continue planning for the new lanes on I-270 and I-495. The Maryland Department of Transportation (MDOT) advises that one of the goals of the I-270 and I-495 project is that there will be no net cost to the State. To that end, MDOT advises that, in time, it will be repaid for these and other project development costs by the P3 partners. The CTP also includes \$25,000 for planning of the MD 295 project.

Extension of Interstate 95 Express Toll Lanes

MDTA is currently in the construction phase of a project to extend two express toll lanes along I-95 to MD 24, including safety enhancements and bridge replacements. The CTP for fiscal 2020 through 2025 includes \$126.8 million in fiscal 2021 for the engineer, right-of-way acquisition, and construction of the project. The total project cost over the six-year period is estimated at \$942.4 million.

State Fiscal Effect: The bill has the potential to affect the State's current plan to create a third span across the Chesapeake Bay, the Governor's Traffic Relief Plan, and the I-95 express lane extension; all of these projects either affect or are likely to affect counties that, under the bill, must approve of any toll road, toll highway, or toll bridge. In addition to projects already underway, the bill could also affect toll facility projects proposed in the State in future years.

Any potential impact on the State cannot be reliably estimated at this time because it depends on numerous unknown factors, including (1) how and where toll roads/highways/bridges would be established in the absence of the bill and (2) whether the affected counties authorize any such toll facility under the bill's provisions.

For example, if, under the bill, the affected counties authorize a proposed toll facility, the bill has no direct effect on State finances; however, to the extent that the additional authorization needed causes a delay in project development, total project costs could increase. On the other hand, if any affected counties do not authorize a proposed toll facility, the State's plans may need to be modified or abandoned, which could have significant fiscal effects.

In addition, MDOT advises that the bill's changes could add risk to private partners participating in P3s in Maryland.

Small Business Effect: Although the bill's requirements have minimal or no direct effect on small businesses, to the extent any proposed transportation projects are delayed or cancelled as a result of the bill, any small business contractors involved in the construction of such projects may be meaningfully affected.

Additional Information

Prior Introductions: SB 442 of 2019 received a hearing in the Senate Finance Committee, but no further action was taken. Its cross file, HB 102, received a hearing in the House Environment and Transportation Committee, but no further action was taken.

Designated Cross File: HB 292 (Delegate Lehman, *et al.*) - Environment and Transportation.

Information Source(s): Maryland Department of Transportation; Anne Arundel, Harford, Howard, Montgomery, and Prince George's counties; Maryland Association of Counties; Department of Legislative Services

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