

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 370

(Delegate Korman, *et al.*)

Environment and Transportation

Finance

Metro Board Member Act

This bill requires one of Maryland's two principal members on the Washington Metropolitan Area Transit Authority's (WMATA) Metro Board of Directors to be the Secretary of Transportation or the Secretary's designee, as specified. The bill also (1) encourages each signatory of the WMATA Compact to support reform of WMATA's governance structure to improve efficiency, accountability, and effectiveness of WMATA's performance, oversight, safety, accessibility, environmental quality, economic development, and quality of life in Maryland and (2) provides examples of the types of reforms that may be appropriate. **The bill takes effect July 1, 2018.**

Fiscal Summary

State Effect: The bill's changes can be handled with existing budgeted resources.

Local Effect: The bill does not materially affect local operations or finances.

Small Business Effect: None.

Analysis

Bill Summary: Instead of the Governor's two appointees to the Washington Suburban Transit Commission (WSTC) serving as the State's principal members to the Metro Board of Directors, the principal members must be (1) one of the Governor's appointees and (2) the Secretary of Transportation or the Secretary's designee. The Governor's appointee that serves as a board member may not be succeeded by a member who is a resident of the same county.

In order to serve as the Secretary of Transportation's designee on the board, an individual must be an employee of the Maryland Department of Transportation (MDOT) and have

experience with and possess qualifications related to transit. The designee may only attend meetings on behalf of the Secretary if there is a scheduling conflict.

The existing eligibility requirement for appointment to the board related to WMATA ridership does not apply to the Secretary or the designee. Neither the Secretary nor the designee may receive compensation for service as a principal member of the board.

Current Law/Background: More information on recent safety and funding issues with Metrorail can be found in the **Appendix – Metrorail Safety and Funding**.

WSTC is responsible for administering the Washington Suburban Transit District and is authorized to develop a transportation system, including mass transit facilities, for Montgomery and Prince George's counties. It coordinates mass transit programs with the two county governments, WMATA, and MDOT. MDOT provides annual operating grants to WSTC, which then provides funding to WMATA for the operation of the Metrorail, Metrobus, and MetroAccess systems. The commission consists of seven members: two appointed by the County Executive of Montgomery County; two appointed by the County Executive of Prince George's County; two appointed by the Governor; and one that is the Secretary of Transportation as an ex officio member. The compact that establishes WMATA requires the State's principal board members to be chosen from existing commissioners from WSTC.

One of the two commissioners appointed by the Governor must be a resident of Montgomery County and the other must be a resident of Prince George's County. These two commissioners must serve as the State's principal voting members on the Metro Board of Directors. One of the two appointees selected by each county executive must serve as the State's alternate, nonvoting members on the board.

A commissioner serving on the Metro Board of Directors (1) may not hold elected office at any time during the term of appointment; (2) may not have been employed by WMATA for at least one year prior to appointment; (3) must have specified experience; (4) must be a regular passenger and customer of one of WMATA's services; and (5) must submit specified reports to the Governor and county executives each year.

The Metro Board of Directors is responsible for determining WMATA policy and providing oversight of the funding, operation, and expansion of WMATA transit facilities. The board is comprised of eight voting members and eight alternate members. Maryland, Virginia, the District of Columbia, and the federal government each appoint two voting and two alternate members. The terms of the board members coincide with the terms of the commissioners on WSTC.

Additional Information

Prior Introductions: None.

Cross File: SB 279 (Senator Feldman) - Finance.

Information Source(s): Maryland Department of Transportation; Washington Metropolitan Area Transit Authority; Department of Legislative Services

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Appendix – Metrorail Safety and Funding

Metrorail Safety

After a fatal Metrorail crash on the Red Line between Takoma and Fort Totten, the July 2012 enactment of the Moving Ahead for Progress in the 21st Century Act (MAP-21) included provisions granting the Federal Transit Administration (FTA) new regulatory and enforcement responsibilities governing the federal State Safety Oversight (SSO) Program. MAP-21 requires that a rail transit agency's SSO agency (1) be legally and financially independent of the rail transit agency it oversees and (2) have investigative and enforcement authority to ensure that its safety findings are addressed. Subsequently, FTA found that the Washington Metropolitan Area Transit Authority's (WMATA) SSO agency failed to comply with MAP-21's requirements and, in October 2015, assumed direct safety oversight for the WMATA Metrorail system. By February 2017, FTA began withholding federal transit funding until the compact signatories – Maryland, Virginia, and the District of Columbia – establish a compliant SSO agency.

Washington Metrorail Safety Commission Compact

In response to FTA's actions, Chapter 3 of 2017 established the Washington Metrorail Safety Commission (MSC) compact and designated MSC to act as the SSO agency for the WMATA Metrorail system. Identical legislation was also approved by the other compact signatories and given federal approval in August 2017. MSC is funded independently of WMATA by the compact signatories and, when available, by federal funds. The compact signatories must unanimously agree on adequate funding levels for MSC and make equal funding contributions to cover the portion of operating costs not funded by federal funds.

The enactment of MSC legislation is only the first step in fully establishing MSC and restoring withheld federal transit funding, however. FTA indicates that in order for it to certify MSC as WMATA's SSO agency, the compact signatories must also:

- submit a certification and documentation to FTA showing that MSC (1) is independent from WMATA; (2) has enforcement and investigation authority; (3) has adequate staffing and training; (4) has FTA grant recipient status; and (5) has met general program requirements;
- participate in a transitional hand-off period whereby FTA officials work side-by-side with new MSC officials to ensure that they are capable of conducting all oversight responsibilities required by federal law; and

- verify with FTA that MSC’s enforcement and oversight capabilities, as well as its inspection, investigation, and audit activities, are adequate and meet all statutory requirements.

The compact signatories are currently working toward certification.

WMATA Funding

WMATA’s operations are funded through operating revenues and subsidies provided by the compact signatories. Since fiscal 2012, WMATA has seen a decline in ridership, resulting in decreased operating revenues. Service quality and reliability issues, combined with the disruptions caused by WMATA’s maintenance initiative, are cited as leading factors in the decline in ridership. WMATA instituted fare increases and a reduction of service for fiscal 2018 in order to address the decrease in operating revenues.

WMATA’s six-year capital program is comprised of mostly state, local, and federal funds. General parameters on capital funding levels are typically established in a six-year Capital Funding Agreement developed through negotiations between WMATA and its local funding partners.

WMATA Report

In April 2017, WMATA released a report, *Keeping Metro Safe, Reliable, and Affordable*, which proposed a number of changes to WMATA funding and operations. The report called for compact signatories to establish a “stable revenue source to generate \$500 million per year” for capital projects. The report further stated that WMATA has \$25 billion in unfunded capital needs and will need \$15.5 billion over the next 10 years for its most critical capital projects. Additionally, the report notes that, without a change to WMATA’s business model, operating subsidies from compact signatories will continue to increase.

Compact signatories have yet to agree on a stable revenue source for WMATA, although some organizations and government officials have suggested a regional sales tax as a potential source. In a letter dated September 11, 2017, Maryland Governor Laurence J. Hogan, Jr. committed an additional \$500 million over four years (\$125 million per year) for WMATA from the Transportation Trust Fund. The funds are contingent upon Virginia, the District of Columbia, and the federal government doing the same. In the letter, Governor Hogan stated that the increased funding “would give the region and the jurisdictions who are party to the compact four years to formulate a long-term, more permanent solution to WMATA’s fiscal challenges.”