Massachusetts Taxpayers Foundation

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THE TRANSPORTATION BOND BILL: WHAT IS IT? WHAT'S IN IT?

The Baker Administration filed an $18 billion, five-year transportation bond bill on July 25th for consideration by the legislature later in this legislative session. H.4002, *An Act Authorizing and Accelerating Transportation Investment*, requests the authority to sell bonds to borrow money to fund the Commonwealth's capital budget.

The bill is noteworthy for its inclusion of new sources of revenue, a proposed telecommuting tax credit, and several policy measures. Among the policy provisions are modest proposals to address congestion, the state's capacity to deliver capital projects, and climate resiliency and carbon emission reduction – issues MTF has raised as major impediments to transforming the state's transportation system.

H.4002 provides sufficient authorization for both the current capital investment plan (CIP) (FY 20 – FY 24) as well as next year's CIP (FY 21 – FY 25). It will also authorize the spending of federal funds already received, but not included in the last five-year transportation bond bill because the matching funds exceeded projections. The last five-year transportation bond bill was enacted in 2014 and authorized $14 billion in spending.[1]

This brief summarizes the key provisions in the bond bill, spells out the differences between a bond bill and a capital investments plan, and outlines the sources and uses of these funds.

[1] *AN ACT FINANCING IMPROVEMENTS TO THE COMMONWEALTH'S TRANSPORTATION SYSTEM*

Bond Bill versus Capital Investment Plan (CIP)

It is important to highlight the distinction between the purpose of a bond bill and a capital investment plan. As explained in an earlier MTF publication:[2]

> A bond bill provides the financing mechanism for borrowing money to pay for capital spending. Given the long-term nature of these investments – assets often have life spans of 20 years or more – the state usually uses its borrowing authority to cover capital expenses and spread the cost over several years. Having the authority to borrow is important because, as a practical matter, Massachusetts rarely has the reserves, or "pay as you go" capital as it is sometimes called, to pay for capital projects with cash on hand. More typically, the capital investment plan is financed through the proceeds of state-issued bonds and federal grants.
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> Enactment of a bond bill is effectively the first step in the process, not the last. In the bond bill, the legislature approves a comprehensive list of projects that may potentially receive capital funding.
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> There is a common misunderstanding that a project's inclusion in a bond authorization bill signals that the project has received funding when, in fact, it merely indicates that the project has been authorized for funding for the next five fiscal years should the executive branch choose to include it in the capital spending plan.[3]
>
> It is the Executive Branch, through the CIP process that decides which of the many authorized projects will actually be funded; the sources of funds available; the uses of funds by investment category and beneficiary agency; and the detailed list of projects for the first fiscal year of the five year plan. Legislators can and often do request that the administration include specific projects in that year's capital budget, but the executive branch has ultimate approval over which projects actually advance. In summary, the bond bill is the authorization for paying for capital investments while the capital investment plan specifies which projects will actually be funded.

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[2] *THE COMMONWEALTH'S CAPITAL BUDGET: A PRIMER*, Massachusetts Taxpayers Foundation, June 8, 2016, pp. 5-6.

[3] M.G.L. Chapter 29, Section 14.

After five years, unused bond authorizations expire, although the Legislature frequently extends project authorizations in the hope that funding will become available eventually for them. This practice of extending projects beyond the five years inflates the amount of authorized debt and results in a substantial discrepancy between the amounts of authorized debt and actual appropriations in the annual capital plan.

Borrowing funds to pay for capital investments limits the legislature's role in the capital budget process. Unlike the operating budget, the capital budget is not subject to the legislative appropriation process. Rather, the legislature's role is also limited when it comes to spending bond proceeds. The constitution simply states that for loans other than the defense of the Commonwealth and short-term borrowing in anticipation of tax receipts, "the commonwealth may borrow money only by a vote, taken by the yeas and nays, of two-thirds of each house of the general court present and voting thereon".[4] In other words, the Legislature must pass bond bills that give the executive branch the authority to borrow and spend on state assets, but it has limited influence over where capital investments are actually spent.

As of FY 2019, authorized but unissued debt is expected to reach nearly $29 billion, up from $21 billion in 2018 (Table 1).[5]

Table 1

Authorized and Unissued Debt (in thousands)

Fiscal Year	Authorized and Unissued Debt
2015	$29,071,339
2016	26,145,997
2017	22,716,302
2018	20,860,482
2019 (1)	28,898,700

SOURCE: Office of the Comptroller.
(1) Preliminary; unaudited.

[4] Constitution of the Commonwealth of Massachusetts, Article LXII, Section 3.
[5] SUPPLEMENT DATED AUGUST 19, 2019 TO THE COMMONWEALTH OF MASSACHUSETTS INFORMATION STATEMENT DATED AUGUST 9, 2019, p. A-89.

Sources of Capital Funds

To fund long-term capital investments, the states relies on a variety of sources, several of which are long-established and two of which are newly proposed in this bond bill. While the specific amount of funding from various sources is detailed in the annual capital investment plan rather than in the bond bill, the sources are summarized below.

- **State bond cap for MassDOT & the MBTA.** The administrative bond cap for FY 2020 is set at $2.43 billion, an increase of 3.8 percent from FY 2019. While the bond cap can increase by up to $125 million per year, the latest recommendation from the Debt Affordability Committee would increase the bond cap by a more modest 2 percent, or approximately $50 million starting in FY 2021.
- **Federal Aid Highway Fund (FAHP).** Federal funds for road projects on designated federal-aid highways are apportioned to the states by a formula with the states required to provide matching funds. In 2020, the federal share is 80 percent for non-interstate projects and 90 percent for the interstate system.
- **Federal Transit Administration's New Starts Program.** Federal funds for the Green Line Extension project are provided under this program.
- **Rail Enhancement Program.** Rail enhancement bonds were authorized in 2014 to fund capital expenditures by MassDOT to fund rail improvements for the MBTA that include payment for new Red and Orange Line cars and the state portion of the Green Line Extension.

The administration has introduced two significant potential sources of funding:

- **A Next Generation Bridge Financing Program**. $1.25 billion supported by the issuance of Federal Highway Grant Anticipation Notes or GANs. There is precedent for this practice, as the state previously relied on borrowing against future federal funds to help pay for the Central Artery Project and the Accelerated Bridge Program
- **Transportation and Climate Initiative (TCI)**. The administration plans to dedicate up to half of all revenues generated from the TCI, a multistate plan for reducing greenhouse gas emissions through a cap and trade program, to the MBTA.

It is important to note that the $18 billion bond bill does not include MBTA sources such as sales tax revenue bonds, federal matching funds from the Federal Transit Administration, and pay-as-you-go capital from surplus funds from the T's operating budget. The MBTA has its own bonding capacity and therefore those sources would be used for payment of MBTA-issued bonds.

Uses of Capital Funds

The vast majority of the transportation bond bill authorizations are for maintenance of state roads and bridges (58 percent) and the MBTA (32 percent), as outlined in Table 2. The remaining ten percent of authorizations, approximately $1.8 billion, is for congestion, resiliency or capacity building initiatives. These include projects to: mitigate congestion through dedicated bus lanes and improving local bottlenecks; fix local roads and bridges; invest in the 15 regional transit authorities; invests in climate resiliency infrastructure; and reduce carbon emissions.

Table 2 – Authorized Transportation Uses

($ millions)

MassHighway	
Federal-aid Highway Program (FAHP)	5,600
Non-FAHP	
Non-federal roads and bridges	2,750
Bourne & Sagamore Bridges	350
State numbered routes/municipal road	150
Next gen. bridge financing program	1,250
Allston multimodal project	250
MassHighway Total	**10,350**
MBTA	
Maintenance and modernization	3,400
Rail, track, and signal improvements	300
South Coast Rail	825
Green Line Extension	595
South Station improvements	400
Rail expansion projects	175
MBTA Total	**5,695**
Municipal projects	
Small bridge program	70
Local bottlenecks, improve traffic flows	50
Municipal roads	100
Chapter 90	200
Dedicated bus lanes, signal prioritization	50
Municipal Projects Total	**470**
Climate resiliency and carbon emissions	475
General rail improvements	400
Regional Transit Authorities	330
Other	260
Total	**17,980**

MassHighway

The $10.35 billion authorization for MassHighway projects includes $5.6 billion for designated federal-aid highways, $3.25 billion for state funded road and bridge projects and $350 million for the planning, design, and reconstruction of infrastructure for the approaches to the Bourne and Sagamore bridges (both were built and are operated by the U.S. Army Corps of Engineers), and $1.25 billion for a new bridge repair program that relies on selling bonds backed by future federal funds (Table 2).

MBTA

The MBTA would obtain the authority to spend $5.7 billion with $3.4 billion for maintenance and modernization projects that include implementation of the Better Bus Project, and planning, design, and procurement of rolling stock for the Green Line Transformation Project. An additional $1.8 billion would be authorized for South Coast Rail improvements, the Green Line Extension, and improvements to South Station.

Congestion, Capacity, Climate

As noted above, H.4002 included several policy measures to address the impacts of congestion, as well as tools for MassDOT and the MBTA to increase the delivery of capital projects through procurement and project delivery changes, and authorization for projects to address climate resilient infrastructure and carbon emission reductions.

Congestion mitigation

The administration requests authorization of funds to:

- Invest in dedicated bus lanes and transit signal prioritization that would allow buses to reduce the amount of time tied in traffic.
- Eradicate vehicle bottlenecks on municipal roads which would also reduce carbon emissions.
- Increase the value of public transit costs paid with pre-tax income to $265 per month from $140 per month so that it aligns with the federal tax code while reducing the costs of MBTA transit passes.
- Provide a $2,000 per-employee tax credit to employers who eliminate or substantially reduce commuting as a result of an approved telecommuting program. The program is capped at $50 million annually.

Increase project delivery capacity

As MTF has noted, both MassDOT and the MBTA have struggled to increase capital project delivery. The growth in combined available sources for capital investments climbed from approximately $2 billion in 2018 to over $3 billion in 2020, taxing current staff to oversee the growing number and scope of capital projects. While both agencies have accelerated their focus on hiring personnel, there are several proposals in the bond bill that would alleviate some choke points that restrain project delivery including:

- Authorization of job order contracting for MassDOT and the MBTA. Modeled after DCAM's program, this would allow small jobs under the $500,000 threshold to be awarded based on best value (highest value considering cost and quality) without going through a lengthy public procurement process.
- Authorization for MassDOT and the MBTA to use a cost-plus-time bidding procurement method ('A+B' bidding), allowing both agencies to consider the value of the number of days to complete the project in addition to costs when evaluating a bid.
- Allowing the MBTA to utilize design/build/finance/operate/maintain project delivery alternative, which was used in the development of Assembly and Boston Landing stations. This project delivery method would encourage multi-use developments of some MBTA assets including garages.
- Clarifying and streamlining the MBTA and MassDOT's authority to enter into and utilize public-private partnerships (P3).
- Authorizing MassDOT to create new job titles for highway maintenance work to increase hiring flexibility.

Climate resiliency and carbon emission reduction

In the 2017 report, *Transportation in an Era of Transition: Rethinking Resources*, MTF noted:

> Climate change has emerged as one of the most pressing problems as both a long-term trend and a short-term shock. The state must contend with the impact of more frequent and more severe heat waves, storm surges, floods, heavy rainfall events, sea rises, and their impact on roads, rails, power, signals, tunnels, culverts and more.
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> Current capital plans are not developed and reviewed within this context, and projected expenditures do not reflect the priorities or costs associated with necessary climate change adaptations. Going forward, project selection and capital planning must incorporate the implications and costs of maintaining transportation services in an era of rapidly changing climate conditions, or risk exposing our transportation systems to potentially catastrophic damage or investing in obsolete assets.[6]

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[6] *Transportation in an Era of Transition: Rethinking Resources*, September 2017, p. 4.

The bond bill begins to tackle the impact of climate on the state's transportation infrastructure, as well as the reduction of carbon emission, by:

- Authorizing $475 million for transportation and planning for all modes that improve mobility, will result in climate change resiliency and/or reduce carbon emissions. $25 million of this money is available for municipal matching grants.
- Dedicating up to half of the revenue generated from regional, market-based compliance programs in the transportation sector, most notably Transportation and Climate Initiative funds, to the MBTA for the purchase of low and zero emission vehicles and planning studies for climate change adaptation projects.