


Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** December 6, 2016

**SUBJECT:** Fiscal Impact Statement – Metro Safety Commission Interstate Compact Establishment Act of 2016

**REFERENCE:** Bill 828, Draft Committee Print as shared with the Office of Revenue Analysis on November 30, 2016

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**Conclusion**

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill. The cost to the District is approximately \$640,000 to \$1.3 million annually and depends heavily on the final structure of the Metrorail Safety Commission (MSC) once it is established.

**Background**

The bill approves an interstate MSC Compact among the District of Columbia, the State of Maryland, and the Commonwealth of Virginia that will govern the jurisdictions' safety oversight of the Washington Metropolitan Area Transit Authority (WMATA) Metrorail system. The Federal Transit Administration<sup>1</sup> (FTA) has mandated the creation of the MSC, which will focus on six areas:

1. Safety oversight over the Metrorail system
2. Develop and adopt a written safety oversight program standard
3. Review and approve the WMATA Public Transportation Agency Safety Plan
4. Investigate hazards and incidents on the Metrorail system
5. Review, approve, and enforce corrective action plans
6. Meet all federal and state safety oversight requirements

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<sup>1</sup> 49 U.S.C. § 5329(e), Public Transportation Safety System, and 49 C.F.R. Part 674, State Safety Oversight.

The MSC will be comprised of six board members with each signatory jurisdiction appointing two members and one alternate member for four-year terms.<sup>2</sup> All members must have a background in transit, safety, public finance, or engineering and may not hold any other elective or appointive office. A member can be reimbursed for expenses at a rate of \$200 per day when working on MSC business. The MSC Compact authorizes the Board to establish its own operational procedures, but ensures its meetings and reports will be made public, members are free from conflicts of interest, financial records are retained for a reasonable period of time, and that the MSC establishes an office. The MSC Compact makes all services and property related activities of the MSC tax exempt in all three jurisdictions.

The MSC must also hire a chief executive officer who will act as the chief administrative officer of the MSC and may hire any employees on a regular, part-time, or as-needed basis as its operations require.

The MSC must produce and make publically available an annual safety report on the WMATA Metrorail system and an annual report on its own operations and finances. The MSC is also financially independent<sup>3</sup> and must commission an annual independent audit of its finances.

If any jurisdiction decides to leave the MSC Compact, it must repeal the enabling legislation and receive, from the MSC, the mechanism for ending the MSC's operations, a proposal to maintain safety oversight of the WMATA Metrorail system, and a plan to meet all its outstanding financial obligations.

The FTA assumed control of safety oversight of the WMATA Metrorail system in October 2015 because it determined that the existing oversight body, the Tri-State Oversight Committee, was ineffective.<sup>4</sup> The FTA will continue oversight until the MSC is operational.

## **Financial Plan Impact**

Funds are not sufficient in the fiscal year 2017 through fiscal year 2020 budget and financial plan to implement the bill.

The District Department of Transportation (DDOT) is working with its counterparts in Maryland and Virginia and a consulting team to determine the most appropriate structure for the MSC to comply with the federal requirements. The MSC Compact requires the MSC to hire a chief executive officer, but gives discretion to that individual and the board to determine which functions will require MSC staff, which should be outsourced to specialists, and the level of any other resources needed to support these functions, including office space. Preliminary estimates from this work estimate the cost of the MSC to be between \$3.5 million and \$5.5 million. The jurisdictions currently receive \$1.6 million annually for state safety oversight from the federal Department of

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<sup>2</sup> Initially, each jurisdiction will appoint one member for a four-year term, one for a two-year term, and the alternate member for a three-year term.

<sup>3</sup> The three jurisdictions will fund MSC, but MSC can also borrow from private financial institutions or receive grants or payments from the federal government or any public or private entity.

<sup>4</sup> <https://www.transit.dot.gov/regulations-and-guidance/safety/fta-safety-oversight-washington-metropolitan-area-transit-authority>

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FIS: Bill 21-828, "Metro Safety Commission Interstate Compact Establishment Act of 2016," Draft Committee Print as shared with the Office of Revenue Analysis on November 30, 2016

Transportation<sup>5</sup> that will partially offset the cost of the MSC. The three jurisdictions will each pay one third of the remaining \$1.9 million to \$3.9 million annual cost.<sup>6</sup> Therefore, the potential cost to the District will be approximately \$640,000 to \$1.3 million annually. DDOT is unable to absorb this cost within its existing resources.

The FTA's oversight is currently funded out of the federal resources that are provided to the jurisdictions, but that arrangement will terminate once the MSC is operational.

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<sup>5</sup> As authorized in the Fixing America's Surface Transportation (FAST) Act, approved December 4, 2015 (P. L. No. 114-94; 129 Stat. 1312).

<sup>6</sup> This remaining amount includes a local jurisdiction match for the federal funds and direct appropriations from each jurisdiction to support the MSC's operations.