Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 444 (Delegate Krebs, *et al.*)
Ways and Means and Appropriations

Constitutional Amendment - Transportation Trust Fund

This bill proposes to amend the Maryland Constitution to specify that money contained in any Transportation Trust Fund (TTF) created by the General Assembly may not be transferred or diverted to the general fund unless the Governor declares it necessary and includes a provision, in the budget bill, for repayment of the money within five years. This prohibition does not apply in any fiscal year where the amount of money transferred is less than 10% of the balance of TTF.

Fiscal Summary

State Effect: If a repayment plan in the budget bill were effective for more than one year, general fund expenditures could increase in order to repay TTF within the five-year time limit; in addition, a five-year repayment plan could allow the Maryland Department of Transportation (MDOT) to maintain its capital program after a transfer.

Local Effect: The changes could be handled with existing resources of the local boards of elections.

Small Business Effect: None.

Analysis

Current Law: TTF receives all taxes, fees, charges, and revenues collected or received by MDOT or any of its units, in the exercise of their rights, powers, duties, or obligations, including proceeds from consolidated transportation bonds, notes, or other evidences of obligation issued by MDOT. It also receives any general fund appropriation and the proceeds of any State loan or federal grant made for transportation purposes. No part of TTF may revert or be credited to the general fund.

Aside from operating revenues generated by MDOT's modal administrations, TTF also receives vehicle registration fees and portions of the titling tax, the rental car sales tax, the motor vehicle fuel tax, and the corporate income tax.

Background: During times of budget crisis, the Governor at times has had to transfer funds from TTF to the general fund and eliminate general fund support for transportation programs.

In fiscal 1991, $22.2 million was transferred from TTF to the general fund, along with $6.4 million in uninsured motorist penalties from the Motor Vehicle Administration. In fiscal 1992, an additional $48.0 million from TTF and $6.0 million in uninsured motorist penalties was transferred to the general fund.

Although not a transfer from TTF, Chapter 440 of 2002, (the Budget Reconciliation and Financing Act or BRFA) restored revenue streams to the general fund previously redirected to TTF to pay for the Mass Transit Initiative. BRFA also redirected $69.9 million from the Dedicated Purpose Fund to the general fund. The $69.9 million was to support specific MDOT projects.

Even with the redirection of funds by the 2002 BRFA, the 2003 BRFA (Chapter 203 of 2003) included transfers of $314.9 million from TTF to the general fund – $160 million in fiscal 2003 and $154.9 million in fiscal 2004. The Governor was required to submit a plan for replacement of these funds to specified committees of the General Assembly by December 1, 2003.

As the Governor did not submit a plan for replacement of funds, the General Assembly developed a repayment plan by modifying existing provisions relating to the disposition of any unappropriated general fund balance at the end of a fiscal year. Chapter 430 of 2004 (the 2004 BRFA) included TTF in these provisions so that up to $50 million in any such surpluses would be transferred to TTF, beginning in fiscal 2006, until the full amount ($314.9 million) had been repaid.

Although a transfer of $50 million was made in fiscal 2006, subsequent transfers were not required. Instead, the TTF repayment provision was repealed through Chapter 472 of 2005, and a detailed financing plan to fund the InterCounty Connector was established. That plan mandated a series of transfers from the general fund to the Maryland Transportation Authority equal to the remaining $264.9 million that had not yet been repaid.

The State currently faces a structural deficit. Legislative Services advises that, based on its forecast of revenues and spending through fiscal 2012, the State's structural deficit will reach a high of approximately $1.4 billion in fiscal 2009.

State Fiscal Effect: The budget bill is in effect for one year; any repayment plan included in it would not necessarily have any effect after that year.

If a repayment plan included in the budget bill in one fiscal year were renewed annually, mandating a five-year repayment plan for transfers of 10% or more of the balance of TTF could increase general fund expenditures in those out-years to repay TTF. The effect would depend on whether the Governor or the General Assembly intended to repay that transfer and, if so, the length of the repayment plan.

Consolidated Transportation Plan (CTP) is MDOT's six-year budget for the construction, development, and evaluation of transportation capital projects. It is revised annually to reflect updated information and changing priorities. It contains a list of current and anticipated major and minor capital projects for the fiscal year in which it is issued and for the next five fiscal years. It includes MDOT's estimates of the revenues required to fund the projects in CTP and the anticipated source of funding (*i.e.*, federal funds, special funds, etc.). A five-year repayment requirement would allow MDOT to maintain CTP, potentially by shifting funding and deferring certain aspects of projects until later years based on the repayment plan.

Requiring a repayment plan could reduce the flexibility of the Governor or the General Assembly to respond to a budget deficit. For example, projected general fund revenues in the five years after the proposed transfer could be insufficient to guarantee repayment. Alternatively, while projected revenues could be sufficient, the General Assembly and the Governor could be reluctant to dedicate those revenues to repayment and, as such, reduce the amount of the transfer. If the transfer were necessary to cover projected general fund expenditures, reducing the amount of the transfer to less than 10% of the TTF balance could require further cost containment.

Local Fiscal Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either • in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or • by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2008 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Transportation, Department of Budget and Management, Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2007
ncs/ljm

Analysis by: Nora C. McArdle

Direct Inquiries to:
(410) 946-5510
(301) 970-5510