Department of Legislative Services

2010 Session

FISCAL AND POLICY NOTE

House Bill 163 (Delegate Miller, *et al.*)
Ways and Means and Appropriations

Taxpayers' Bill of Rights

This constitutional amendment proposes several changes to State and local budgeting. First, any new State or local tax or tax rate increase, or repeal of a tax exemption, must be approved by a majority of voters. Second, State spending and revenues, except those from federal funds and other exceptions, would be limited as specified by the amendment. Third, the State is required to maintain a Rainy Day Fund equal to at least 5% of general fund revenues. Fourth, the bill limits the use of the Rainy Day Fund and all other State special funds. Fifth, if at any point a specified amount of money is in the Rainy Day Fund, it is to be returned to individual taxpayers through a temporary rate reduction in the tax year that begins in the next fiscal year.

Fiscal Summary

State Effect: If adopted, potentially significant reduction in general fund revenues and expenditures based on the above provisions. This impact will vary by year, and the result cannot be reliably estimated.

Local Effect: If adopted, potentially significant reduction in local revenues and expenditures based on the above provisions. This impact will vary by year, and as a result cannot be reliably estimated. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: Minimal.

Analysis

Bill Summary: The constitutional amendment proposes several changes to State and local budgeting. Any new State or local tax or tax rate increase, or repeal of a tax exemption, must be approved by a majority of voters. The proposed amendment also restricts the amount of State spending in a fiscal year, except: (1) State debt payments; (2) monies appropriated for tax relief; and (3) appropriations funded by: the federal government; unemployment and disability funds; discretionary user charges; permanent endowments, trust funds, pension funds; or gifts or bequests.

The maximum annual percentage change in State spending cannot exceed inflation plus the applicable percentage change in State population in the prior calendar year, adjusted for approved revenue changes.

The limit on State revenues (except those from sources listed above) is limited to:

- if total State revenue in the prior fiscal year is greater than total State revenue for the next preceding fiscal year, the lesser of total revenue in the prior fiscal year or the limit on total State revenue for the prior fiscal year, plus inflation and change in population; or
- if the total State revenue in the prior fiscal year is less than the total State revenue for the next preceding fiscal year, the limit on total State revenue for the most recent fiscal year for which the total State revenue exceeded the total State revenue for the preceding fiscal year.

The State is required to maintain a Rainy Day Fund equal to at least 5% of general fund revenues and can only transfer Rainy Day Funds to the general fund in the amount (if any) by which general fund revenues for the prior fiscal year exceed the estimated general fund revenues for the fiscal year. If, after this transfer, the balance of the Rainy Day Fund exceeds 7% of the estimated general fund revenues for the upcoming fiscal year, the amount in the fund in excess of 5% is to be returned to individual taxpayers through a temporary rate reduction in the tax year that begins in the next fiscal year. Except for these transfers, funds may not be transferred from any special fund to the general fund, and appropriations may not be made for special funds that supplant general fund appropriations; or, if not made, would necessitate a general fund appropriation.

The State may not impose on local governments any part of the costs of a new or expanded program or services, unless a specific appropriation is made to cover local governments' costs.

Background: Since 1982, the General Assembly has employed a "spending affordability" process. The Spending Affordability Committee is composed of 22 legislative members including the presiding officers, the majority and minority leaders, the chairs of the fiscal committees (or their designees), and other members appointed by the presiding officers. A citizen advisory committee assists the committee.

The committee's primary responsibility is to recommend to the Governor and the General Assembly a level of spending for the State operating budget that is reflective of the current and prospective condition of the State's economy. Consideration is given to constraining disproportionate growth in State-funded expenditures in any fiscal year which might necessitate or "build in" unsupportable levels of spending in future years

The Department of Legislative Services prepares a "September Forecast" for the committee that contains an estimate of projected revenues and expenditures for the upcoming fiscal year. The committee reviews these projections and the status of the State economy. By statute, the committee must report to the Legislative Policy Committee by December 1 of each year with recommendations for fiscal goals for the budget to be considered at the next session of the General Assembly. This report includes the following types of recommendations:

- a level of State spending;
- a level of new debt authorization;
- a level of State personnel; and
- the use of anticipated surplus, if any.

The committee may make other appropriate findings and recommendations. By statute, if committee recommendations with respect to State spending exceed the annual increase in relevant economic indicators, the committee must provide an analysis as to the extent the recommendations exceed such indicators. Similarly, if the Governor submits a budget request in excess of the amounts recommended by the Spending Affordability Committee, the Governor must explain the rationale for exceeding the recommendations. The budget committees must also provide an explanation for any amounts exceeding Spending Affordability Committee recommendations that are presented to the Senate and House of Delegates for consideration.

The committee's statutory responsibility is to consider spending growth in relation to growth anticipated in the State's economy. In its review of the State's economy, the committee considers both income and wealth factors in developing a broad understanding of Maryland's economic position. In determining the spending limit, the committee considers economic performance, revenue estimates, and budget requirements.

Tax and Expenditure Limits in Other States

According to the National Conference of State Legislatures, as of December 2008, 30 states operated under a tax or expenditure limitation. Spending limitations were the most common (23 states). Four states operated under tax limitations and three states operated under both spending and tax limitations. About one-half of these limitations are constitutional provisions with the other half statutory. Sixteen states require supermajority votes to increase some or all taxes, three states require both legislative supermajority and voter approval, and one state requires voter approval.

State Fiscal Effect: The actual effect on State revenues and spending cannot be estimated and will vary each year depending on the restrictions specified in the bill. State spending will be impacted to the extent that spending needs exceed the spending limitations imposed by the bill. This will vary by year, and as a result cannot be reliably estimated. State revenues will be impacted to the extent that revenue needs exceed the spending limitations imposed by the bill. This would vary by year, and as a result cannot be reliably estimated.

Local Fiscal Effect: Local spending may be impacted to the extent that spending needs exceed the spending limitations imposed by the bill and local governments are fully reimbursed for the costs of new or expanded programs or services. This will vary by year, and as a result cannot be reliably estimated.

It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2010 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: HB 421 of 2009, HB 1299 of 2008, HB 809 of 2007, HB 1444 of 2006, and HB 1130 of 2004 received a hearing in the House Ways and Means Committee, but no further action was taken. SB 942 of 2007 and SB 963 of 2006 received a hearing in the Senate Budget and Taxation Committee, but no further action was taken. HB 1206 of 2005 received an unfavorable report from the House Ways and Means Committee. SB 601 of 2004 received an unfavorable report from the Senate Budget and Taxation Committee.

Cross File: None.

Information Source(s): Comptroller’s Office, National Conference of State Legislatures, Department of Legislative Services

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Analysis by: Robert J. Rehrmann

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