

SENATE BILL 362

Q4, R2

3lr0551

By: **Senator Young**

Introduced and read first time: January 25, 2013

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Sales and Use Tax – Motor Fuel – Local Transportation Tax**

3 FOR the purpose of authorizing the governing body of a county or a municipal
4 corporation to impose a sales and use tax on motor fuel for the purpose of
5 financing local road and transit capital projects; defining the county or
6 municipal corporation sales and use tax on motor fuel authorized by this Act as
7 a “local transportation tax”; providing that the local transportation tax rate may
8 not exceed a certain amount; providing that State laws and regulations
9 applicable to the State sales and use tax apply to a local transportation tax;
10 requiring the Comptroller to collect a local transportation tax and distribute the
11 revenue to the county or municipal corporation where the tax was collected;
12 prohibiting a local transportation tax from being imposed within a municipal
13 corporation by both a county and the municipal corporation; requiring a county
14 to take certain actions before imposing a local transportation tax within a
15 municipal corporation; requiring a municipal corporation to take certain actions
16 before imposing a local transportation tax if the county already imposes a local
17 transportation tax in the municipal corporation; requiring that revenue
18 attributable to a local transportation tax be used only for transportation capital
19 projects in the county or municipal corporation where the tax is collected;
20 authorizing the governing body of a county or municipal corporation to establish
21 the local transportation tax rate and allocate the revenue raised by a local
22 transportation tax to projects of its choosing; requiring the Department of
23 Transportation to give preference to projects to which a county or municipal
24 corporation proposes to contribute funds raised by a local transportation tax
25 when selecting projects for inclusion in the Consolidated Transportation
26 Program; making conforming changes; defining certain terms; and generally
27 relating to authorizing a county or a municipal corporation to impose a sales
28 and use tax on motor fuel to finance local transportation capital projects.

29 BY adding to

30 Article – Tax – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 2–1302.2, 11–102.1, and 11–104(b–1)
 2 Annotated Code of Maryland
 3 (2010 Replacement Volume and 2012 Supplement)

4 BY repealing and reenacting, without amendments,
 5 Article – Tax – General
 6 Section 11–102(a) and 11–104(a) and (b)
 7 Annotated Code of Maryland
 8 (2010 Replacement Volume and 2012 Supplement)

9 BY repealing and reenacting, with amendments,
 10 Article – Tax – General
 11 Section 11–102(c) and 11–221(a)
 12 Annotated Code of Maryland
 13 (2010 Replacement Volume and 2012 Supplement)

14 BY repealing and reenacting, without amendments,
 15 Article – Transportation
 16 Section 2–103.1(c)(5)
 17 Annotated Code of Maryland
 18 (2008 Replacement Volume and 2012 Supplement)

19 BY repealing and reenacting, with amendments,
 20 Article – Transportation
 21 Section 2–103.1(c)(6)
 22 Annotated Code of Maryland
 23 (2008 Replacement Volume and 2012 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article – Tax – General**

27 **2–1302.2.**

28 **AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2–1301**
 29 **THROUGH 2–1302.1 OF THIS SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE**
 30 **THE REVENUE ATTRIBUTABLE TO A LOCAL TRANSPORTATION TAX IMPOSED**
 31 **UNDER § 11–102.1 OF THIS ARTICLE TO THE COUNTY OR MUNICIPAL**
 32 **CORPORATION WHERE THE TAX WAS COLLECTED.**

33 11–102.

34 (a) Except as otherwise provided in this title, a tax is imposed on:

35 (1) a retail sale in the State; and

1 (2) a use, in the State, of tangible personal property or a taxable
2 service.

3 (c) (1) A county, municipal corporation, special taxing district, or other
4 political subdivision of the State may not impose any retail sales or use tax except:

5 (i) a sales tax or use tax that was in effect on January 1, 1971;

6 **(II) A SALES AND USE TAX FOR LOCAL TRANSPORTATION**
7 **PURPOSES AUTHORIZED UNDER § 11-102.1 OF THIS SUBTITLE;**

8 **[(ii)](III)** a tax on the sale or use of:

9 1. fuels;

10 2. utilities;

11 3. space rentals; or

12 4. any controlled dangerous substance, as defined in §
13 5-101 of the Criminal Law Article, unless the sale is made by a person who registers
14 under and complies with Title 5, Subtitle 3 of the Criminal Law Article; or

15 **[(iii)](IV)** a tax imposed by a code county on the sale or use of
16 food and beverages authorized under Article 25B, § 13H of the Code.

17 (2) Paragraph (1) of this subsection may not be construed as
18 conferring authority to impose a sales and use tax.

19 **11-102.1.**

20 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
21 **MEANINGS INDICATED.**

22 **(2) “GOVERNING BODY” MEANS:**

23 **(I) FOR BALTIMORE CITY, THE MAYOR AND THE CITY**
24 **COUNCIL;**

25 **(II) FOR A CHARTER COUNTY:**

26 1. **THAT DOES NOT HAVE AN ELECTED CHIEF**
27 **EXECUTIVE OFFICER, THE COUNTY COUNCIL; OR**

1 **2. THAT HAS AN ELECTED CHIEF EXECUTIVE**
2 **OFFICER, THE COUNTY COUNCIL OR THE COUNTY EXECUTIVE AND THE COUNTY**
3 **COUNCIL AS PROVIDED BY THE COUNTY CHARTER;**

4 **(III) FOR A CODE COUNTY, THE COUNTY COMMISSIONERS;**

5 **(IV) FOR A COMMISSION COUNTY, THE COUNTY**
6 **COMMISSIONERS; AND**

7 **(V) FOR A MUNICIPAL CORPORATION, THE BODY PROVIDED**
8 **UNDER THE MUNICIPAL CHARTER.**

9 **(3) “LOCAL TRANSPORTATION TAX” MEANS A SALES AND USE TAX**
10 **ON MOTOR FUEL IMPOSED BY A COUNTY OR A MUNICIPAL CORPORATION FOR**
11 **TRANSPORTATION PURPOSES UNDER THIS SECTION.**

12 **(4) “MOTOR FUEL” HAS THE MEANING STATED IN § 9-101 OF**
13 **THIS ARTICLE.**

14 **(B) SUBJECT TO SUBSECTIONS (C) AND (F) OF THIS SECTION, THE**
15 **GOVERNING BODY OF A COUNTY OR A MUNICIPAL CORPORATION MAY IMPOSE A**
16 **LOCAL TRANSPORTATION TAX ON MOTOR FUEL FOR THE PURPOSE OF**
17 **FINANCING LOCAL ROAD AND TRANSIT CAPITAL PROJECTS.**

18 **(C) THE LOCAL TRANSPORTATION TAX RATE MAY NOT EXCEED 2% OF**
19 **THE TAXABLE PRICE OF MOTOR FUEL.**

20 **(D) EXCEPT AS OTHERWISE EXPRESSLY PROVIDED BY LAW, ALL**
21 **REFERENCES TO THE STATE SALES AND USE TAX IN STATE LAW AND**
22 **REGULATIONS APPLY TO A LOCAL TRANSPORTATION TAX.**

23 **(E) THE COMPTROLLER SHALL:**

24 **(1) COLLECT AND ADMINISTER A LOCAL TRANSPORTATION TAX IN**
25 **THE SAME MANNER AS THE STATE SALES AND USE TAX; AND**

26 **(2) DISTRIBUTE THE REVENUE ATTRIBUTABLE TO A LOCAL**
27 **TRANSPORTATION TAX TO THE COUNTY OR MUNICIPAL CORPORATION WHERE**
28 **THE TAX WAS COLLECTED.**

29 **(F) (1) A LOCAL TRANSPORTATION TAX MAY NOT BE IMPOSED**
30 **WITHIN A MUNICIPAL CORPORATION BY BOTH A COUNTY AND THE MUNICIPAL**
31 **CORPORATION.**

1 **(2) (I) BEFORE A COUNTY MAY IMPOSE A LOCAL**
2 **TRANSPORTATION TAX WITHIN A MUNICIPAL CORPORATION, THE COUNTY**
3 **SHALL:**

4 **1. NOTIFY THE MUNICIPAL CORPORATION OF THE**
5 **COUNTY'S INTENT TO IMPOSE A LOCAL TRANSPORTATION TAX WITHIN THE**
6 **MUNICIPAL CORPORATION; AND**

7 **2. PROVIDE THE MUNICIPAL CORPORATION**
8 **REASONABLE TIME TO IMPOSE A MUNICIPAL LOCAL TRANSPORTATION TAX**
9 **INSTEAD OF THE COUNTY LOCAL TRANSPORTATION TAX.**

10 **(II) IF A COUNTY CURRENTLY IMPOSES A LOCAL**
11 **TRANSPORTATION TAX WITHIN A MUNICIPAL CORPORATION AND THE**
12 **GOVERNING BODY OF THE MUNICIPAL CORPORATION DECIDES TO IMPOSE A**
13 **MUNICIPAL LOCAL TRANSPORTATION TAX, THE MUNICIPAL CORPORATION**
14 **SHALL:**

15 **1. NOTIFY THE COUNTY AND THE COMPTROLLER OF**
16 **THE MUNICIPAL CORPORATION'S INTENT TO IMPOSE A MUNICIPAL LOCAL**
17 **TRANSPORTATION TAX; AND**

18 **2. PROVIDE THE COUNTY AND THE COMPTROLLER**
19 **REASONABLE TIME TO DISCONTINUE THE IMPOSITION AND COLLECTION OF THE**
20 **COUNTY LOCAL TRANSPORTATION TAX WITHIN THE MUNICIPAL CORPORATION**
21 **BEFORE THE MUNICIPAL LOCAL TRANSPORTATION TAX TAKES EFFECT.**

22 **(G) REVENUE ATTRIBUTABLE TO A LOCAL TRANSPORTATION TAX**
23 **SHALL BE USED TO PAY THE COST OF ROAD AND TRANSIT CAPITAL PROJECTS**
24 **ONLY IN THE COUNTY OR MUNICIPAL CORPORATION WHERE THE TAX IS**
25 **COLLECTED.**

26 **(H) THE GOVERNING BODY OF A COUNTY OR A MUNICIPAL**
27 **CORPORATION MAY:**

28 **(1) SUBJECT TO SUBSECTION (C) OF THIS SECTION, ESTABLISH**
29 **THE LOCAL TRANSPORTATION TAX RATE; AND**

30 **(2) ALLOCATE THE REVENUE RAISED BY A LOCAL**
31 **TRANSPORTATION TAX TO ROAD AND TRANSIT CAPITAL PROJECTS OF ITS**
32 **CHOOSING.**

1 11–104.

2 (a) Except as otherwise provided in this section, the sales and use tax rate is:

3 (1) for a taxable price of less than \$1:

4 (i) 1 cent if the taxable price is 20 cents;

5 (ii) 2 cents if the taxable price is at least 21 cents but less than
6 34 cents;

7 (iii) 3 cents if the taxable price is at least 34 cents but less than
8 51 cents;

9 (iv) 4 cents if the taxable price is at least 51 cents but less than
10 67 cents;

11 (v) 5 cents if the taxable price is at least 67 cents but less than
12 84 cents; and

13 (vi) 6 cents if the taxable price is at least 84 cents; and

14 (2) for a taxable price of \$1 or more:

15 (i) 6 cents for each exact dollar; and

16 (ii) for that part of a dollar in excess of an exact dollar:

17 1. 1 cent if the excess over an exact dollar is at least 1
18 cent but less than 17 cents;

19 2. 2 cents if the excess over an exact dollar is at least 17
20 cents but less than 34 cents;

21 3. 3 cents if the excess over an exact dollar is at least 34
22 cents but less than 51 cents;

23 4. 4 cents if the excess over an exact dollar is at least 51
24 cents but less than 67 cents;

25 5. 5 cents if the excess over an exact dollar is at least 67
26 cents but less than 84 cents; and

27 6. 6 cents if the excess over an exact dollar is at least 84
28 cents.

1 (b) If a retail sale of tangible personal property or a taxable service is made
2 through a vending or other self-service machine, the sales and use tax rate is 6%,
3 applied to 94.5% of the gross receipts from the vending machine sales.

4 **(B-1) THE RATE OF A LOCAL TRANSPORTATION TAX IMPOSED UNDER §**
5 **11-102.1 OF THIS SUBTITLE SHALL BE IN ADDITION TO THE SALES AND USE TAX**
6 **RATES IMPOSED UNDER THIS SECTION.**

7 11-221.

8 (a) The sales and use tax does not apply to:

9 (1) a sale of an admission by a person whose gross receipts from the
10 sale are subject to the admissions and amusement tax;

11 (2) a sale of a communication service, other than a taxable service,
12 rendered by a person whose charge for a communication service is or would be subject
13 to the federal excise tax as described in § 4251 of the Internal Revenue Code in effect
14 on July 1, 1979;

15 (3) **EXCEPT AS PROVIDED IN § 11-102.1 OF THIS TITLE**, a sale of a
16 motor fuel that is subject to the motor fuel tax or the motor carrier tax;

17 (4) except for a rental, a sale of a motor vehicle, other than a house or
18 office trailer, that is subject to the motor vehicle excise tax under § 13-809 or § 13-811
19 of the Transportation Article;

20 (5) a lease of a motor vehicle that is leased for a period of at least 1
21 year;

22 (6) a rental of a motion picture, motion picture trailer, or advertising
23 poster for display on theater premises by a person whose gross receipts from the
24 activity related to the rental is subject to the admissions and amusement tax; or

25 (7) except for a rental, a sale of a vessel that is subject to the excise
26 tax under § 8-716 of the Natural Resources Article.

27 **Article – Transportation**

28 2-103.1.

29 (c) (5) For a major capital project to be considered for inclusion in the
30 construction program of the Consolidated Transportation Program, a request must be
31 submitted to the Secretary by the proposing entity along with a purpose and need
32 summary statement justifying the project that includes:

1 (i) The location of the project, including a map of the project
2 limits, project area, or transportation corridor;

3 (ii) The need for the project; and

4 (iii) A discussion of how the project:

5 1. Addresses State transportation goals; and

6 2. Supports local government land use plans and goals.

7 (6) (i) The Department shall evaluate requests for major capital
8 projects based on the State's goals and, as appropriate, criteria as determined by the
9 information submitted by the proposing entity and the availability of funding.

10 (ii) As part of the evaluation under this paragraph, the
11 Department shall acknowledge the difference between urban and rural transportation
12 needs.

13 **(III) IN SELECTING MAJOR CAPITAL PROJECTS FOR**
14 **INCLUSION IN THE CONSTRUCTION PROGRAM OF THE CONSOLIDATED**
15 **TRANSPORTATION PROGRAM, THE DEPARTMENT SHALL GIVE PREFERENCE TO**
16 **PROJECTS TO WHICH A COUNTY OR A MUNICIPAL CORPORATION PROPOSES TO**
17 **CONTRIBUTE FUNDS RAISED BY A LOCAL TRANSPORTATION TAX IMPOSED**
18 **UNDER § 11-102.1 OF THE TAX - GENERAL ARTICLE.**

19 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
20 June 1, 2013.