

Department of Legislative Services  
Maryland General Assembly  
2016 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1346 (Delegate Simonaire, *et al.*)  
Environment and Transportation

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Chesapeake and Atlantic Coastal Bays 2010 Trust Fund - Use of Funds

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This constitutional amendment includes the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in the Maryland Constitution and places restrictions on transfers from the fund and uses of the fund for purposes not related to the Chesapeake and Atlantic Coastal Bays.

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Fiscal Summary

**State Effect:** If adopted, the constitutional amendment lessens the likelihood of transfers from the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund to the general fund or a special fund beginning in FY 2017. Additionally, if the amendment is adopted, special fund revenues increase by more than \$100,000 annually, and general fund revenues decrease correspondingly, to the extent existing accrual of trust fund interest income to the general fund is considered a transfer and prohibited as a result of the bill.

**Local Effect:** If adopted, local governments benefit to the extent the constitutional amendment prevents transfers from the trust fund, making more funding available for competitive grants to local governments.

**Small Business Effect:** Potential meaningful.

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Analysis

**Bill Summary:** Consistent with current statutory language governing the use of the trust fund, the constitutional amendment requires that the trust fund only be used for the implementation of specified nonpoint source pollution control projects.

Money in the trust fund may not be transferred to the general fund or a special fund of the State or used for a purpose not related to the Chesapeake and Atlantic Coastal Bays unless (1) the Governor, by executive order, declares that a fiscal emergency exists and (2) the General Assembly passes legislation, by a three-fifths majority in each house, concurring with the use or transfer of the funds.

The constitutional restrictions do not apply to specified uses or transfers of funds in accordance with existing statutory law governing the fund.

### **Current Law/Background:**

#### *2010 Trust Fund Background*

The Chesapeake and Atlantic Coastal Bays 2010 Trust Fund was established in 2008 and is funded with a portion of revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals. General obligation (GO) bond capital funding was also allocated to the fund in fiscal 2013 through 2015. The trust fund is used for nonpoint source pollution control projects to help meet Chesapeake Bay restoration goals and to improve the health of the Atlantic Coastal Bays and their tributaries. Money in the trust fund is expended in accordance with work and expenditure plans developed each year and is required to be targeted, geographically and by practice, to proven, scientifically based projects that provide the most cost-effective and measurable water quality benefits to the Chesapeake and Atlantic Coastal Bays. Examples of nonpoint source projects that can be funded with the trust fund include cover crops, natural filters, and local watershed restoration projects, including stormwater management projects.

#### *Fund Financial History*

When the fund was established, it was allocated 2.3% of motor fuel tax revenues and 55% of sales and use tax revenues from short-term vehicle rentals, after certain initial distributions in each case. To date, the trust fund has not received those full distributions, with subsequent legislation temporarily diverting portions of the revenues to the general fund. **Exhibit 1** shows diversions to the general fund over the past six years. It should be noted that this constitutional amendment does not affect the General Assembly's ability to continue diversions of motor fuel tax revenues and sales and use tax revenues from short-term vehicle rentals to the general fund, as it only restricts transfers of money *from* the trust fund.

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**Exhibit 1**  
**Diversions to the General Fund**  
**Fiscal 2011-2016**  
**(\$ in Millions)**

	<u><b>2011</b></u>	<u><b>2012</b></u>	<u><b>2013</b></u>	<u><b>2014</b></u>	<u><b>2015</b></u>	<u><b>2016</b></u>	<u><b>Total</b></u>
Chapter 484 of 2010	\$22.1	-	-	-	-	-	\$22.1
Chapter 397 of 2011	-	20.2	15.1	11.5	8.0	4.6	59.5
Chapter 1 of 2012 First Special Session	-	-	8.0	-	-	-	8.0
Chapter 464 of 2014	-	-	-	8.0	6.2	-	14.2
Chapter 489 of 2015	-	-	-	-	-	8.6	8.6
<b>Total</b>	<b>\$22.1</b>	<b>\$20.2</b>	<b>\$23.1</b>	<b>\$19.5</b>	<b>\$14.2</b>	<b>\$13.3</b>	<b>\$112.4</b>

Note: This exhibit shows diversions of motor fuel tax revenues and sales and use tax revenues from short-term vehicle rentals that otherwise would have been deposited in the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund.

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**Exhibit 2** shows the financial history of the trust fund over the past six years, including transfers of fund balance out of the fund to the general fund.

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**Exhibit 2**  
**Trust Fund Financial History**  
**Fiscal 2011-2016**  
**(\$ in Millions)**

	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b><u>Appropriation</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Actual</u></b>	<b><u>Est.</u></b>
<b>Opening Balance</b>	<b>\$5.84</b>	<b>\$3.23</b>	<b>\$3.43</b>	<b>\$3.44</b>	<b>\$0.00</b>	<b>\$2.10</b>
<b>Tax Revenue</b>	<b>\$21.00</b>	<b>\$21.62</b>	<b>\$21.21</b>	<b>\$30.06</b>	<b>\$38.60</b>	<b>\$38.15</b>
<b>Transfers to the General Fund<sup>1</sup></b>						
Chapter 397 of 2011	-\$0.97					
Chapter 464 of 2014				-\$2.40		
<i>Subtotal GF Transfers</i>	<i>-\$0.97</i>	<i>\$0.00</i>	<i>\$0.00</i>	<i>-\$2.40</i>	<i>\$0.00</i>	<i>\$0.00</i>
<b>General Fund Deficiency</b>			<b>\$2.80</b>			
<b>Available Revenue</b>	<b>\$25.87</b>	<b>\$24.85</b>	<b>\$27.44</b>	<b>\$31.10</b>	<b>\$38.60</b>	<b>\$40.25</b>
<b>Spending</b>	<b>-\$22.64</b>	<b>-\$21.42</b>	<b>-\$24.01</b>	<b>-\$31.10</b>	<b>-\$36.50</b>	<b>-\$39.43</b>
<b>Available Balance</b>	<b>\$3.23</b>	<b>\$3.43</b>	<b>\$3.44</b>	<b>\$0.00</b>	<b>\$2.10</b>	<b>\$0.82</b>

<sup>1</sup>Transfers of fund balance.

Source: Department of Natural Resources

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In addition to the transfers identified in Exhibit 2, since fiscal 2010, pursuant to budget reconciliation legislation, interest income on money in the trust fund has accrued to the general fund. Between fiscal 2010 and 2015, interest income ranged from a low of approximately \$92,400 to highs of \$287,800 in fiscal 2014 and \$261,400 in fiscal 2015. Accrual of interest income to the general fund may be considered a transfer under this constitutional amendment, and therefore prohibited under the bill, absent a declaration of a fiscal emergency and concurrence of three-fifths of each house of the General Assembly.

## **State Fiscal Effect:**

### *Prohibition on Transfers*

Assuming approval of the amendment in the November 2016 general election, this bill makes less likely any future transfers from the trust fund to the general fund or another special fund. As shown in Exhibits 1 and 2, relatively little funding has been *transferred from* the trust fund in the past compared to the revenues *diverted to* the general fund that otherwise would have been deposited in the trust fund.

To the extent that the accrual of trust fund interest income to the general fund is considered a *transfer* prohibited under the constitutional amendment (absent declaration of a fiscal emergency and concurrence of three-fifths of each house of the General Assembly), special fund revenues increase by more than \$100,000 annually, and general fund revenues decrease correspondingly.

### *Submitting the Constitutional Amendment for Voter Approval*

State costs of printing ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). However, it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

## **Local Fiscal Effect:**

### *Prohibition on Transfers*

Assuming approval of the amendment in the November 2016 general election, local governments benefit to the extent the amendment prevents transfers from the trust fund that otherwise would have been made. The Department of Natural Resources (DNR) indicates that decreases in funding most directly affect competitive grants available to local governments and nongovernmental organizations.

### *Submitting the Constitutional Amendment for Voter Approval*

Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on ballots. It is assumed,

however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

**Small Business Effect:** Assuming approval of the amendment in the November 2016 general election, small businesses may meaningfully benefit to the extent the amendment prevents transfers from the trust fund that otherwise would have been made. DNR indicates that a number of subcontractors used on funded projects are small businesses.

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### **Additional Information**

**Prior Introductions:** SB 28 of 2015 passed in the Senate, received a hearing in the House Environment and Transportation Committee, and had no further action taken on it. Its cross file, HB 302, received a hearing in the House Environment and Transportation Committee, but no further action was taken. SB 1116 of 2014 was referred to the Senate Rules Committee, but no further action was taken.

**Cross File:** SB 45 (Senator Simonaire) - Education, Health, and Environmental Affairs and Budget and Taxation.

**Information Source(s):** Comptroller's Office, Department of Budget and Management, Department of Natural Resources, Department of Legislative Services

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