

Department of Legislative Services
Maryland General Assembly
2001 Session

FISCAL NOTE
Revised

Senate Bill 60 (Chairman, Budget and Taxation Committee)
(Departmental – General Services)

Budget and Taxation

Appropriations

State Finance - Capital Program - Construction Contingency Fund

This departmental bill increases the limitation on the balance in the Construction Contingency Fund from 0.75% to 1.25% of the capital debt affordability limit for the fiscal year. An appropriation or allocation to the fund cannot be made if it would cause the total balance in the fund to exceed the limitation.

The bill is effective June 1, 2001.

Fiscal Summary

State Effect: Potential increase in appropriations to the fund of \$2.53 million in FY 2002 growing to \$2.68 million in FY 2006.

Local Effect: None.

Small Business Effect: The Department of General Services has determined that the bill will have minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

Analysis

Current Law: The Construction Contingency Fund is a continuing, nonlapsing fund consisting of:

- money appropriated in the annual budget;

- money appropriated in, or excess project funds from, an annual General Construction Loan Act or a Maryland Consolidated Capital Bond Loan Act; and
- unspent funds from an enabling act (Creation of a State Debt Act).

The Board of Public Works, with the advice and assistance of the Department of Budget and Management (DBM) and the Department of General Services (DGS), administers the Construction Contingency Fund. The Secretaries of DBM and DGS, with the approval of the Governor, may request authorization from the Board of Public Works for supplemental funding for a capital appropriation or value engineering on a project. Before requesting an expenditure from the fund, DGS and DBM must provide written notice to the budget committees on the planned use of the funds. The budget committees have 45 days to review and comment. DBM and DGS must also evaluate each project for additional funding and certify in writing that the project meets the following criteria:

- the funding is for a capital project to be owned by the State or a unit of State government;
- that funding for the project was included in a capital appropriation in an annual budget, an annual construction loan, or an annual consolidated capital bond loan; and
 - the initial appropriation was not enough to permit the initial award of a contract or additional funds are needed to cover change orders during construction that do not increase the scope of the project; or
 - DGS believes that the cost of the project could be reduced through the use of value engineering, or the budget committees' request that the project cost be reduced through the use of value engineering.

In addition, DGS must also certify in writing that:

- all reasonable attempts have been made to reduce the project cost;
- no practicable alternative exists for additional funding; and
- the additional funding does not increase the scope of the project.

Background: Chapter 304 of 1988 created the Construction Contingency Fund with a limitation on the fund balance of \$4.0 million. Chapter 73 of 1993 reduced the limitation to \$2.0 million, and Chapter 463 of 1995 altered the balance limitation to 0.75% of the capital debt affordability limit.

Exhibit 1 below shows the use of the fund for the 1995 - 2000 period. The capital debt affordability limit is on a fiscal year basis and the balance in the fund is calculated on a calendar year basis for the corresponding fiscal year. The balance for 1998 was above the limitation, which was allowed, because of a fiscal 1999 appropriation of \$1.0 million,

a reversion of previously approved funds, and a transfer of funds from the Department of Public Safety and Correctional Services.

Exhibit 1
Construction Contingency Fund (CCF)
(\$ in millions)

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>
Capital Debt Affordability Limit	370.00	385.00	400.00	415.00	430.00	445.00	460.00
CCF Limitation	2.78	2.89	3.00	3.11	3.23	3.34	3.45
Actual Balance	0.97	1.13	2.82	3.49	1.70	2.67	(*)
Difference (+/-)	-1.81	-1.76	-0.18	0.38	-1.53	-0.67	N/A
Number of Times CCF Used	5	6	6	8	4	4	(*)

(*) Information not available

State Effect: DGS is concerned that because of the rapid increase in costs in the construction market, particularly for skilled construction labor, projects currently authorized may require additional funds for the initial award of contracts and for cost overruns. The ability to appropriate additional funds for the Construction Contingency Fund will allow expenditures to be made for these projects as needed in the future.

If the limitation is increased from 0.75% to 1.25%, the projected change in the allowable balance is shown in **Exhibit 2** for the 2002 – 2006 period. Exhibit 2 includes the \$30 million increase in the limit for fiscal 2002 adopted on March 28, 2001, but for 2003-2006 assumes the original planned amounts.

Exhibit 2
Construction Contingency Fund Balance Comparison
(\$ in millions)

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>
Capital Debt Affordability Limit	505.00	490.00	505.00	520.00	535.00
0.75% Limitation	3.79	3.68	3.79	3.90	4.01
1.25% Limitation	6.31	6.13	6.31	6.50	6.69
Difference	2.53	2.45	2.53	2.60	2.68

Additional Information

Prior Introductions: None.

Cross File: None.

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

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