

HOUSE BILL 848

Unofficial Copy
R2
HB 994/01 - W&M

2002 Regular Session
2lr2001

By: **Delegates Carlson, Phillips, R. Baker, Barve, W. Baker, Baldwin, Barkley, Bartlett, Benson, Boschert, Boutin, Branch, Brinkley, Bronrott, Brown, Burns, Busch, Cane, Clagett, Cole, Conroy, Conway, Cryor, C. Davis, DeCarlo, Dembrow, Dobson, Donoghue, Edwards, Elliott, Franchot, Fulton, Getty, Giannetti, Gladden, Glassman, Goldwater, Greenip, Grosfeld, Harrison, Hecht, Hurson, Hutchins, James, Kach, Kagan, Kelly, Kirk, Klausmeier, Klima, La Vay, Linton, Love, McClenahan, McKee, McHale, Menes, Minnick, Mitchell, Montague, Moe, Murphy, Oaks, O'Donnell, Owings, Paige, Parrott, Patterson, Pitkin, Riley, Rosso, Rzepkowski, Shank, Sher, Shriver, Snodgrass, Sophocleus, Stocksdale, Stull, Valderrama, Walkup, Weir, Wood, and Zirkin**

Introduced and read first time: February 7, 2002
Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Transportation Funding - Mass Transit - Sales and Use Tax**

3 FOR the purpose of altering the distribution of sales and use tax revenue; creating a
4 Mass Transit Account within the Transportation Trust Fund; providing for the
5 distribution of certain sales and use tax revenue to the Mass Transit Account
6 within the Transportation Trust Fund; pledging certain taxes collected to pay
7 the principal and interest on certain bonds; limiting the use of the Mass Transit
8 Account to funding certain transit expenses; providing that certain revenues
9 distributed to the Mass Transit Account are in addition to and may not supplant
10 certain other funds for mass transit; providing for a delayed effective date; and
11 generally relating to certain taxes used for certain transportation funding.

12 BY repealing

13 Article - Transportation

14 The subtitle designation "Subtitle 4. Transportation Revenue Sharing Fund" of
15 Title 3

16 Annotated Code of Maryland
17 (2001 Replacement Volume)

18 BY adding to

19 Article - Tax - General

20 Section 2-1302.2

21 Annotated Code of Maryland

1 (1997 Replacement Volume and 2001 Supplement)

2 BY repealing and reenacting, with amendments,

3 Article - Tax - General

4 Section 2-1303

5 Annotated Code of Maryland

6 (1997 Replacement Volume and 2001 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article - Transportation

9 Section 3-215(b) and 3-216

10 Annotated Code of Maryland

11 (2001 Replacement Volume)

12 BY adding to

13 Article - Transportation

14 Section 3-401 to be under the new subtitle "Subtitle 4. Mass Transit Account"

15 Annotated Code of Maryland

16 (2001 Replacement Volume)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the subtitle designation "Subtitle 4. Transportation Revenue
19 Sharing Fund" of Title 3 of Article - Transportation of the Annotated Code of
20 Maryland be repealed.

21 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
22 read as follows:

23 **Article - Tax - General**

24 2-1302.2.

25 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, AFTER
26 MAKING THE DISTRIBUTION REQUIRED UNDER §§ 2-1301 THROUGH 2-1302.1 OF THIS
27 SUBTITLE, THE COMPTROLLER SHALL DISTRIBUTE MONTHLY 20% OF THE
28 REMAINING SALES AND USE TAX REVENUE TO THE MASS TRANSIT ACCOUNT OF THE
29 TRANSPORTATION TRUST FUND ESTABLISHED UNDER § 3-216 OF THE
30 TRANSPORTATION ARTICLE.

31 (B) FOR A FISCAL YEAR BEGINNING BEFORE JULY 1, 2013, INSTEAD OF THE
32 DISTRIBUTION REQUIRED UNDER SUBSECTION (A) OF THIS SECTION, THE
33 COMPTROLLER SHALL DISTRIBUTE MONTHLY TO THE MASS TRANSIT ACCOUNT THE
34 FOLLOWING PERCENTAGE OF THE REMAINING SALES AND USE TAX REVENUE:

35 (1) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2004, 2%;

36 (2) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2005, 4%;

- 1 (3) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2006, 6%;
- 2 (4) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2007, 8%;
- 3 (5) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2008, 10%;
- 4 (6) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2009, 12%;
- 5 (7) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2010, 14%;
- 6 (8) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2011, 16%; AND
- 7 (9) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2012, 18%.

8 2-1303.

9 After making the distributions required under §§ 2-1301 through [2-1302.1]
10 2-1302.2 of this subtitle, the Comptroller shall pay the remaining sales and use tax
11 revenue into the General Fund of the State.

12 **Article - Transportation**

13 3-215.

14 (b) The tax levied and imposed by this section consists of that part of the
15 following taxes that are retained to the credit of the Department after distributions to
16 the political subdivisions:

17 (1) The motor fuel tax revenue distributed under §§ 2-1103(2) and
18 2-1104(4) of the Tax - General Article;

19 (2) The income tax revenue distributed under §§ 2-614 and 2-616 of the
20 Tax - General Article;

21 (3) The excise tax imposed on vehicles by Part II of Title 13, Subtitle 8 of
22 this article; [and]

23 (4) The sales and use tax revenues distributed under § 2-1302.1(a) of the
24 Tax - General Article; AND

25 (5) THE SALES AND USE TAX REVENUES DISTRIBUTED UNDER § 2-1302.2
26 OF THE TAX - GENERAL ARTICLE.

27 3-216.

28 (a) There is a Transportation Trust Fund for the Department.

29 (b) Except as otherwise expressly provided by statute, there shall be credited
30 to the Transportation Trust Fund for the account of the Department all taxes, fees,
31 charges, and revenues collected or received by or paid, appropriated, or credited to the
32 account of the Department or any of its units in the exercise of their rights, powers,

1 duties, or obligations, including the cash proceeds of the sale of consolidated
2 transportation bonds, notes, or other evidences of obligation issued by the
3 Department, any general fund appropriations, and the proceeds of any State loan or
4 federal grant made for transportation purposes.

5 (c) (1) There shall be maintained in the Transportation Trust Fund one or
6 more sinking fund accounts to which shall be credited and from which shall be paid,
7 from the proceeds of the taxes levied and imposed for that purpose or from any other
8 funds of the Department, amounts sufficient at all times to meet the debt service on
9 all bonds of prior issues and consolidated transportation bonds from time to time
10 outstanding and unpaid.

11 (2) (i) The Gasoline and Motor Vehicle Revenue Account, the Driver
12 Education Account, [and] the Motorcycle Safety Program Account, AND THE MASS
13 TRANSIT ACCOUNT shall be maintained in the Transportation Trust Fund.

14 (ii) In each fiscal year, the Department shall budget from federal
15 funds available to the Department, other funds in the Transportation Trust Fund, and
16 any other funds available to the Department, an amount sufficient to fund projects
17 and programs determined by the Secretary to be necessary to achieve the bicycle and
18 pedestrian transportation goals identified for the fiscal year under Title 2, Subtitle 6
19 of this article.

20 (d) (1) After meeting its debt service requirements, the Department may use
21 the funds in the Transportation Trust Fund for any lawful purpose related to the
22 exercise of its rights, powers, duties, and obligations.

23 (2) Expenditures under this subsection shall be made in accordance with
24 any appropriation provided for in any applicable budget bill or supplementary
25 appropriation bill. However, an appropriation proposed to be made to any unit in the
26 Department or proposed to be made for any designated transportation activity,
27 function, or undertaking that has been reduced by the General Assembly may not be
28 restored, for the same purpose as originally proposed, except in an emergency, by the
29 budget amendment procedure of § 7-209 of the State Finance and Procurement
30 Article, or otherwise if the General Assembly in striking or reducing the
31 appropriation, prohibited its restoration. However, except for emergency capital
32 projects, if the General Assembly explicitly reduces in the budget bill an
33 appropriation proposed for a major capital project as defined in § 2-103.1(a)(4) of this
34 article, the appropriation may not be restored for the same purpose as originally
35 proposed by the budget amendment procedure of § 7-209 of the State Finance and
36 Procurement Article or otherwise unless the General Assembly, in striking or
37 reducing the appropriation, expressly authorized its restoration.

38 (3) (i) During the period of fiscal years 1988 through 1992 as included
39 in the annual State Report on Transportation, the Department shall utilize all of its
40 share of the revenues attributable to the 5 cent increase of the motor fuel tax under
41 the provisions of Chapter 291 of the Acts of 1987 and credited to the Transportation
42 Trust Fund under § 2-1104 of the Tax - General Article and the proceeds of any
43 increased indebtedness based on that revenue and credited to the Transportation

1 Trust Fund to fund Department projects for the construction, reconstruction, and
2 rehabilitation of the State highway system.

3 (ii) During the period of fiscal year 1988 through fiscal year 1992
4 the total level of State funds appropriated to the State Highway Administration for
5 construction, reconstruction and rehabilitation of the State highway system,
6 including the revenues referred to in subparagraph (i) above, shall be at least 70
7 percent of the total appropriation of State funds in the consolidated transportation
8 capital program.

9 (iii) The Secretary of the Department shall submit, subject to §
10 2-1246 of the State Government Article, to the Legislative Policy Committee and the
11 Department of Legislative Services a report:

12 1. Prior to the beginning of each session through the 1991
13 session, detailing the intended use of the new revenues; and

14 2. Prior to the beginning of each session beginning with the
15 1989 session and through the 1993 session, detailing the actual use of the new
16 revenues in the prior fiscal year.

17 (4) Of the new revenues derived under the provisions of Chapter 291 of
18 the Acts of 1987 and credited to the Department, \$31,000,000 shall be transferred to
19 the Maryland Emergency Medical Service System Fund at such time as determined
20 by the Secretary of Budget and Management.

21 (5) For each fiscal year, the Department shall use the funds in the
22 Transportation Trust Fund for the purposes specified in subsection (c)(2)(ii) of this
23 section, which may include construction and maintenance of:

24 (i) Public bicycle areas as defined in § 21-101(k) of this article;

25 (ii) Bicycle ways as defined in § 21-101(l) of this article; and

26 (iii) Sidewalks as defined in § 21-101(t) of this article.

27 (6) Each year, before the General Assembly considers the proposed
28 Maryland Transportation Plan and the Consolidated Transportation Program, the
29 Department shall report to the General Assembly, in accordance with § 2-1246 of the
30 State Government Article, on:

31 (i) The expenditures made toward the attainment of the bicycle
32 and pedestrian transportation goals during the preceding fiscal year under Title 2,
33 Subtitle 6 of this article; and

34 (ii) The progress made toward attainment of the bicycle and
35 pedestrian transportation goals identified for the fiscal year under Title 2, Subtitle 6
36 of this article.

1 (e) (1) Except as otherwise provided in this subsection, this section is
2 effective notwithstanding any other provision of law.

3 (2) No portion of the Right-of-Way Revolving Fund may be used for any
4 purpose other than as specified in § 8-305 of this article.

5 (3) Nothing in this section may adversely affect in any way the security
6 of any of the following bonds while they are outstanding and unpaid:

7 (i) State highway construction bonds, second issue;

8 (ii) State highway construction bonds, third issue;

9 (iii) County highway construction bonds; or

10 (iv) County highway construction bonds, second issue.

11 (4) It is the intent of the General Assembly that, as long as any of the
12 bonds listed in paragraph (3) of this subsection are outstanding and unpaid:

13 (i) The sinking fund requirements established for the payment of
14 the principal of and interest on those bonds shall remain unchanged, as if this section
15 had not been enacted; and

16 (ii) The taxes and revenues pledged to the payment of the principal
17 of and interest on those bonds as they become due and payable may not be repealed,
18 diminished, or applied to any other purpose until:

19 1. The bonds and the interest on them have become due and
20 fully paid; or

21 2. Adequate and complete provision for payment of the
22 principal and interest has been made.

23 (f) (1) No part of the Transportation Trust Fund may revert or be credited to
24 the general funds of this State. No part of the Transportation Trust Fund may revert
25 or be credited to a special fund of the State, unless otherwise provided by law. No part
26 of the Transportation Trust Fund may revert or be credited to a special fund of the
27 State pursuant to the provisions of § 7-209(e)(2) of the State Finance and
28 Procurement Article, unless the transfer is approved by the Legislative Policy
29 Committee. Failure of the Legislative Policy Committee to reject the transfer within
30 15 days after presentation before the Legislative Policy Committee shall be deemed to
31 be approval.

32 (2) Notwithstanding any other provision of law, for fiscal year 1984 only,
33 \$29,000,000 of the funds in the Transportation Trust Fund which are not required by
34 law to be distributed to the counties or Baltimore City and which have not been
35 pledged or otherwise committed to the payment of or as security for the payment of
36 any bonds or debt issued or incurred pursuant to this article shall be transferred and

1 credited to the general funds of the State on or before June 30, 1984 and shall be
2 available for appropriation from the general funds in fiscal year 1984.

3 SUBTITLE 4. MASS TRANSIT ACCOUNT.

4 3-401.

5 (A) THERE IS A MASS TRANSIT ACCOUNT IN THE TRANSPORTATION TRUST
6 FUND.

7 (B) ALL REVENUES DISTRIBUTED TO THE TRANSPORTATION TRUST FUND
8 UNDER § 2-1302.2 OF THE TAX - GENERAL ARTICLE SHALL BE CREDITED TO THE MASS
9 TRANSIT ACCOUNT.

10 (C) THE MASS TRANSIT ACCOUNT SHALL BE USED ONLY TO FUND THE
11 CAPITAL AND OPERATING EXPENSES OF THE MASS TRANSIT ADMINISTRATION, THE
12 CAPITAL AND OPERATING EXPENSES OF THE WASHINGTON METROPOLITAN AREA
13 TRANSIT AUTHORITY, AND GRANTS TO LOCAL JURISDICTIONS FOR MASS TRANSIT
14 CAPITAL AND OPERATING EXPENSES.

15 (D) (1) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THAT THE
16 MASS TRANSIT ACCOUNT BE THE SOLE SOURCE OF FUNDING FOR THE CAPITAL AND
17 OPERATING EXPENSES OF THE MASS TRANSIT ADMINISTRATION, THE CAPITAL AND
18 OPERATING EXPENSES OF THE WASHINGTON METROPOLITAN AREA TRANSIT
19 AUTHORITY, OR LOCAL GRANTS TO LOCAL JURISDICTIONS FOR MASS TRANSIT
20 CAPITAL AND OPERATING EXPENSES.

21 (2) THE REVENUES CREDITED TO THE MASS TRANSIT ACCOUNT UNDER
22 THIS SECTION ARE IN ADDITION TO AND MAY NOT SUPPLANT ANY FUNDS WITHIN
23 THE TRANSPORTATION TRUST FUND NECESSARY TO PAY THE PROJECTED MASS
24 TRANSIT OPERATING AND CAPITAL COSTS IDENTIFIED IN THE DEPARTMENT'S
25 APPROVED CONSOLIDATED TRANSPORTATION PROGRAM FOR FISCAL YEARS 2002
26 THROUGH 2007.

27 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect July 1, 2004.