HB 444

Department of Legislative Services

Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE
Revised

House Bill 444 (Delegate Heller, *et al.*)
(Joint Committee on the Management of Public Funds)

Appropriations Budget and Taxation

General Obligation Bonds - Termination of Authorization

This bill provides for a seven-year limitation on the authority to spend an appropriation for a capital expenditure and a seven-year limitation on the authorization for State debt. Exemptions to this limitation include: if the funds are encumbered by the Board of Public Works, if enabling legislation provides for a different authorization period; or if an emergency one-year extension is granted by the Board of Public Works. The bill also provides that the authority to spend a capital appropriation or create a State debt terminates if the required matching funds are not provided within two years of the enactment of such authority. The disposition of terminated State debt authorizations and unspent bond proceeds is also specified in the bill. The State Treasurer, in consultation with the Comptroller, must submit a report on January 1 each year to the Governor and the General Assembly that lists all projects or programs for which authorization would be terminated in the upcoming year due to the bill's provisions.

The bill takes effect June 1, 2003.

Fiscal Summary

State Effect: Federal tax liability on unexpended bond proceeds would decrease. Unexpended bond proceeds for projects with an authorization exceeding seven years would be used for capital projects that are ready to move forward. Any administrative costs associated with implementing the bill's provisions are assumed to be minimal and could be covered with existing resources within the Comptroller's and Treasurer's offices.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The authority to spend an appropriation for a capital expenditure terminates two years after the effective date of a project's enabling act, if no part of the project is under contract and the Board of Public Works has not committed the money for any part of the project; or one year after the latest abandonment, completion, or acceptance of the project. State law, however, does not provide an expiration date on a bond authorization.

Background: The Treasurer's Office reports that there are open bond authorizations extending back more than 30 years to 1968. At the end of fiscal 2002, approximately $28 million in authorized, but unissued debt existed for projects that were authorized prior to fiscal 1996. As a result, the State is unnecessarily reducing its debt capacity by holding open these authorizations for projects that for a variety of reasons may never move forward, but have not been abandoned. Since State law requires that bond proceeds be allocated to individual capital project accounts and expended only on those individual projects, unexpended bond proceeds have accumulated in the individual projects accounts.

The federal tax law of 1986 requires an entity that sells tax-exempt bonds to spend down the proceeds within 18 to 24 months, depending on the project. This law prevents arbitrage abuses by which an entity earns a higher rate of interest from the investment of bond proceeds than the interest paid on the bonds. The accumulation of unexpended bond proceeds for projects over seven years old has resulted in the State earning arbitrage interest on those proceeds and becoming subject to a federal tax rebate liability.

State Fiscal Effect: Under the State's current accounting basis, bond proceeds are allocated to individual capital project accounts and expended only on those individual projects. If a specific project is not ready to move forward when the bond financing becomes available, the bond proceeds are not expended and remain in the individual capital project account. Until the capital project is ready, the State earns interest on the unexpended bond proceeds. If the bond proceeds are not expended within a certain period and the interest earnings from the investment of the bond proceeds exceed the interest paid on the bonds, the State has to pay federal taxes on the additional interest earnings.

Approximately $28 million in authorized, but unissued debt exists for projects that were authorized prior to fiscal 1996. Pursuant to this legislation, the authorization for these projects will terminate thereby providing additional debt capacity for other capital projects. In addition, approximately $20.8 million in unexpended bond proceeds remain in individual capital project accounts for projects with an authorization exceeding seven years. Pursuant to this legislation, the unexpended bond proceeds would revert from the individual project accounts and be used for other authorized capital projects that are ready to move forward. This will eliminate the need for the State to issue additional debt for these capital projects.

Any administrative costs associated with implementing the bill's provisions are assumed to be minimal and can be covered with existing resources within the Comptroller's and Treasurer's offices.

Additional Information

Prior Introductions: None.

Cross File: SB 316 (Senator Lawlah, *et al.*) – Budget and Taxation.

Information Source(s): Department of Budget and Management, Comptroller's Office, Maryland State Treasurer's Office, Department of Legislative Services

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Analysis by: Hiram L. Burch Jr.	Direct Inquiries to: (410) 946-5510 (301) 970-5510