

SENATE BILL 679

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HB 1/00 - W&M

2004 Regular Session
4r2480

By: **Senators Colburn, Hogan, and Mooney**
Introduced and read first time: February 6, 2004
Assigned to: Budget and Taxation

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 the funding of certain transit expenses; providing that certain
9 revenues distributed to the Mass Transit Account are in addition to and may not
10 supplant certain other funds for mass transit; and generally relating to certain
11 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 and 2003 Supplement)

18 BY adding to

19 Article - Tax - General
20 Section 2-1302.2
21 Annotated Code of Maryland
22 (1997 Replacement Volume and 2003 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Tax - General
25 Section 2-1303
26 Annotated Code of Maryland
27 (1997 Replacement Volume and 2003 Supplement)

28 BY repealing and reenacting, with amendments,

29 Article - Transportation

1 Section 3-215(b) and 3-216
2 Annotated Code of Maryland
3 (2001 Replacement Volume and 2003 Supplement)

4 BY adding to
5 Article - Transportation
6 Section 3-401 to be under the new subtitle "Subtitle 4. Mass Transit Account"
7 Annotated Code of Maryland
8 (2001 Replacement Volume and 2003 Supplement)

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12 Maryland be repealed.

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

15 **Article - Tax - General**

16 2-1302.2.

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

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

- 27 (1) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2004, 2%;
- 28 (2) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2005, 4%;
- 29 (3) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2006, 6%;
- 30 (4) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2007, 8%;
- 31 (5) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2008, 10%;
- 32 (6) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2009, 12%;
- 33 (7) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2010, 14%;
- 34 (8) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2011, 16%; AND

1 (9) FOR THE FISCAL YEAR THAT BEGINS JULY 1, 2012, 18%.

2 2-1303.

3 After making the distributions required under §§ 2-1301 through [2-1302.1]
4 2-1302.2 of this subtitle, the Comptroller shall pay the remaining sales and use tax
5 revenue into the General Fund of the State.

6 **Article - Transportation**

7 3-215.

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

11 (1) The motor fuel tax revenue distributed under §§ 2-1103(2) and
12 2-1104(4) of the Tax - General Article;

13 (2) The income tax revenue distributed under § 2-614 of the Tax -
14 General Article;

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

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

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

21 3-216.

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

23 (b) Except as otherwise expressly provided by statute, there shall be credited
24 to the Transportation Trust Fund for the account of the Department all taxes, fees,
25 charges, and revenues collected or received by or paid, appropriated, or credited to the
26 account of the Department or any of its units in the exercise of their rights, powers,
27 duties, or obligations, including the cash proceeds of the sale of consolidated
28 transportation bonds, notes, or other evidences of obligation issued by the
29 Department, any General Fund appropriations, and the proceeds of any State loan or
30 federal grant made for transportation purposes.

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

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

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

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

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

28 (3) (i) During the period of fiscal years 1988 through 1992 as included
29 in the annual State Report on Transportation, the Department shall utilize all of its
30 share of the revenues attributable to the 5 cent increase of the motor fuel tax under
31 the provisions of Chapter 291 of the Acts of 1987 and credited to the Transportation
32 Trust Fund under § 2-1104 of the Tax - General Article and the proceeds of any
33 increased indebtedness based on that revenue and credited to the Transportation
34 Trust Fund to fund Department projects for the construction, reconstruction, and
35 rehabilitation of the State highway system.

36 (ii) During the period of fiscal year 1988 through fiscal year 1992
37 the total level of State funds appropriated to the State Highway Administration for
38 construction, reconstruction and rehabilitation of the State highway system,
39 including the revenues referred to in subparagraph (i) above, shall be at least 70
40 percent of the total appropriation of State funds in the consolidated transportation
41 capital program.

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

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

6 2. Prior to the beginning of each session beginning with the
7 1989 session and through the 1993 session, detailing the actual use of the new
8 revenues in the prior fiscal year.

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

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

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

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

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

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

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

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

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

31 (2) Nothing in this section may adversely affect in any way the security
32 of any of the following bonds while they are outstanding and unpaid:

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

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

35 (iii) County highway construction bonds; or

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

2 (3) It is the intent of the General Assembly that, as long as any of the
3 bonds listed in paragraph (2) of this subsection are outstanding and unpaid:

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

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

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

12 2. Adequate and complete provision for payment of the
13 principal and interest has been made.

14 (f) (1) No part of the Transportation Trust Fund may revert or be credited to
15 the general funds of this State. No part of the Transportation Trust Fund may revert
16 or be credited to a special fund of the State, unless otherwise provided by law. No part
17 of the Transportation Trust Fund may revert or be credited to a special fund of the
18 State pursuant to the provisions of § 7-209(e)(2) of the State Finance and
19 Procurement Article, unless the transfer is approved by the Legislative Policy
20 Committee. Failure of the Legislative Policy Committee to reject the transfer within
21 15 days after presentation before the Legislative Policy Committee shall be deemed to
22 be approval.

23 (2) Notwithstanding any other provision of law, for fiscal year 1984 only,
24 \$29,000,000 of the funds in the Transportation Trust Fund which are not required by
25 law to be distributed to the counties or Baltimore City and which have not been
26 pledged or otherwise committed to the payment of or as security for the payment of
27 any bonds or debt issued or incurred pursuant to this article shall be transferred and
28 credited to the general funds of the State on or before June 30, 1984 and shall be
29 available for appropriation from the general funds in fiscal year 1984.

30 SUBTITLE 4. MASS TRANSIT ACCOUNT.

31 3-401.

32 (A) THERE IS A MASS TRANSIT ACCOUNT IN THE TRANSPORTATION TRUST
33 FUND.

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

37 (C) THE MASS TRANSIT ACCOUNT SHALL BE USED ONLY TO FUND THE
38 CAPITAL AND OPERATING EXPENSES OF THE MASS TRANSIT ADMINISTRATION, THE

1 CAPITAL AND OPERATING EXPENSES OF THE WASHINGTON METROPOLITAN AREA
2 TRANSIT AUTHORITY, AND GRANTS TO LOCAL JURISDICTIONS FOR MASS TRANSIT
3 CAPITAL AND OPERATING EXPENSES.

4 (D) (1) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE THAT THE
5 MASS TRANSIT ACCOUNT BE THE SOLE SOURCE OF FUNDING FOR THE CAPITAL AND
6 OPERATING EXPENSES OF THE MASS TRANSIT ADMINISTRATION, THE CAPITAL AND
7 OPERATING EXPENSES OF THE WASHINGTON METROPOLITAN AREA TRANSIT
8 AUTHORITY, OR LOCAL GRANTS TO LOCAL JURISDICTIONS FOR MASS TRANSIT
9 CAPITAL AND OPERATING EXPENSES.

10 (2) THE REVENUES CREDITED TO THE MASS TRANSIT ACCOUNT UNDER
11 THIS SECTION ARE IN ADDITION TO AND MAY NOT SUPPLANT ANY FUNDS WITHIN
12 THE TRANSPORTATION TRUST FUND NECESSARY TO PAY THE PROJECTED MASS
13 TRANSIT OPERATING AND CAPITAL COSTS IDENTIFIED IN THE DEPARTMENT'S
14 APPROVED CONSOLIDATED TRANSPORTATION PROGRAM FOR FISCAL YEARS 2004
15 THROUGH 2009.

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