

Department of Legislative Services
Maryland General Assembly
2004 Session

FISCAL AND POLICY NOTE

House Bill 19
Appropriations

(Delegate Leopold, *et al.*)

Constitutional Amendment - Transportation Trust Fund

This bill proposes to amend the Maryland Constitution to include the Transportation Trust Fund (TTF) and establish rules for its operation and funding. The bill places constitutional restrictions on transfers from the TTF. It states that constitutional requirements for a majority approval of the amendment in a local jurisdiction do not apply and calls for the amendment to be submitted for a statewide vote at the next general election to be held in November 2004.

Fiscal Summary

State Effect: If adopted, the constitutional amendment would allow TTF expenditures to continue and would eliminate or reduce any transfers from the TTF to the general fund beginning in FY 2005. The effect on TTF revenues and expenditures cannot be reliably estimated at this time and would depend on whether, and to what extent, TTF revenues are not transferred as a result of the amendment.

Local Effect: To the extent that State revenues may be affected by the prevention of transfers of TTF funds, local highway user aid could be affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill provides that TTF funds may only be used to pay the principal of and interest on transportation bonds and for any lawful purpose related to construction and maintenance of an adequate highway system or any other transportation-related

purpose. No part of the TTF may revert or be credited to general funds and no part may revert or be credited to a State special fund unless otherwise provided by law that was in effect on or before October 1, 2003.

The bill creates exceptions to the prohibition on transfers for defense or relief purposes if: (1) the State is invaded or a major catastrophe occurs; or (2) the Governor proclaims a state of emergency, declares that the TTF funds are necessary for the immediate preservation of public health or safety, and proposes a plan to repay the TTF within five years. If the Governor includes a provision in the budget to transfer or divert revenues from the TTF to the general fund, the Governor must include a provision that provides for the repayment within five years of that transfer. Such a transfer requires the General Assembly to approve, by a three-fifths vote of both houses, the repayment plan and the necessity of the transfer or diversion.

The bill creates constitutional authority for the TTF's current statutory sources of revenue.

Current Law: TTF revenues include all motor fuel and vehicle excise taxes, as well as all vehicle registration fees, a portion of the corporate income tax and the rental vehicle sales tax, and cash proceeds from the sale of consolidated transportation bonds. State law prohibits any part of the TTF to revert or be credited to the general fund. Similarly, no part of the TTF may revert or be credited to a special fund unless the transfer is approved by the Legislative Policy Committee. If the committee fails to reject the transfer within 15 days after the transfer is presented, it is deemed to be approved.

TTF funds may be used by the Maryland Department of Transportation (MDOT) for any lawful purpose related to the exercise of its rights, powers and duties, after meeting debt service requirements.

Background: Notwithstanding statutory restrictions, TTF funds have been transferred to the general fund six times between 1984 and 2004 (including one in fiscal 2004). In 1984, approximately \$29 million was transferred for a budget shortfall and, in 1986, \$100 million was transferred to the Maryland Deposit Insurance Fund (MDIF) during the savings and loan crisis. These funds were repaid. During the State's budget crisis in 1991 and 1992, \$70.2 million was transferred from the TTF to reduce a general fund shortfall with no repayment required or made. Additionally, approximately \$315 million (\$160 million in fiscal 2003 and \$154.9 million in 2004) was transferred from the TTF to the State's general fund through the Budget Reconciliation and Financing Act of 2003 (BRFA), which became effective June 1, 2003.

The Transportation Task Force, appointed by the Governor in 2003 to find new funding options for future transportation projects, concluded that unfunded transportation needs for all modes total \$10.5 billion between fiscal 2005 and 2010. The task force recommended against a firewall between the general fund and the TTF, stating that “the Administration and the General Assembly should have maximum flexibility to address statewide funding crises.” It did state, however, that any transfer should be replenished as quickly as possible. The task force also supported a departmental proposal to add a \$20 surcharge to moving traffic violations that would generate approximately \$20 million of general fund revenues annually that could be transferred to the TTF to repay past transfers.

Twenty-five states have provisions in their constitution that govern use of transportation funds and place some type of restriction on their use. California’s constitution requires transportation tax revenues that are loaned to the general fund be repaid in full within the same fiscal year or three fiscal years, depending on the circumstances. The Kentucky constitution specifies the use of transportation fees and revenues to include the cost of administration, statutory refunds and adjustments, highway obligations, costs for highways and bridges, and state traffic law enforcement. Georgia restricts gasoline tax revenue to transportation needs but provides an exception for invasions or major catastrophes declared by the Governor.

State Fiscal Effect: Assuming approval of the amendment in the November 2004 general election, this bill will make less likely future transfers from the State’s portion of the TTF. Absent one of the specified emergencies, any proposed transfers would require an additional constitutional amendment. The Department of Legislative Services advises that in the absence of the availability of transfers from the TTF any future shortfalls in the general fund could require additional and possibly significant expenditure reductions or revenue increases.

MDOT advises that the bill could affect the way it administers its funds in the future due to the bill’s more narrow definition of the authorized use of funds from “any lawful purpose” under current law to “any lawful purpose related to the construction and maintenance of an adequate highway system or any other transportation-related purpose.”

The bill also establishes the TTF revenue sources as part of the constitution rather than statute, which would render making any alteration in the distribution of TTF revenue sources subject to the constitutional amendment process and could restrict the State’s flexibility to increase or change those revenues.

Additional Comments: The bill creates a constitutional requirement to dedicate all motor fuel taxes to the TTF (except those already dedicated to a special fund). While

under current law the vast majority of motor fuel tax revenues are dedicated to the TTF (and certain natural resources special funds), there is a portion dedicated to the general fund (of approximately \$12 million) and targeted to Chesapeake Bay programs.

Additional Information

Prior Introductions: Similar bills were introduced as HB 1157 and SB 757 in the 2003 session. HB 1157 was not reported on by the Appropriations Committee. SB 757 was not reported on by the Senate Budget and Taxation Committee.

Cross File: None.

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

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