
By: **Senators Middleton, DeGrange, Dyson, and Frosh**

Introduced and read first time: February 4, 2005

Assigned to: Budget and Taxation and Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Governor's Budget - Land Preservation Programs - Funding**

3 FOR the purpose of requiring certain transfers from the General Fund to a certain
4 special fund beginning in a certain fiscal year; providing that under certain
5 circumstances a certain amount must be transferred from the General Fund to
6 the special fund annually; providing that a transfer of revenues from a certain
7 special fund to the General Fund may only occur under certain circumstances
8 and providing for a limit on the amount that may be transferred; requiring
9 certain transfers to be replaced with general obligation bonds backed by the
10 General Fund; requiring the submission of a certain repayment plan under
11 certain circumstances; requiring certain transfers to be submitted in an
12 individual bill and providing for a limit on the number of years that certain
13 transfers may occur; declaring the intent of the General Assembly; and
14 generally relating to allocations from a certain special fund to the General Fund.

15 BY repealing and reenacting, without amendments,
16 Article - State Finance and Procurement
17 Section 7-311(e) and (f)
18 Annotated Code of Maryland
19 (2001 Replacement Volume and 2004 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article - State Finance and Procurement
22 Section 7-311(j)
23 Annotated Code of Maryland
24 (2001 Replacement Volume and 2004 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article - Tax - Property
27 Section 13-209(a)
28 Annotated Code of Maryland
29 (2001 Replacement Volume and 2004 Supplement)

1 BY adding to
2 Article - Tax - Property
3 Section 13-209(g) and (h)
4 Annotated Code of Maryland
5 (2001 Replacement Volume and 2004 Supplement)

6 Preamble

7 WHEREAS, Since 1970 State transfer tax revenues have been placed in a
8 special fund and used to fund various land preservation programs including Program
9 Open Space, the Maryland Agricultural Land Preservation Fund, Rural Legacy, and
10 the Heritage Conservation Fund; and

11 WHEREAS, Since 2002 approximately \$390 million has been diverted from the
12 special fund to the General Fund of the State; and

13 WHEREAS, It is the intent of the General Assembly to discourage the practice of
14 diverting land preservation program funds to the General Fund and to discontinue
15 the practice of diverting land preservation funds without a reasonable plan for
16 repayment; now, therefore,

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
18 MARYLAND, That the Laws of Maryland read as follows:

19 **Article - State Finance and Procurement**

20 7-311.

21 (e) Except as provided in subsection (f) of this section, for each fiscal year:

22 (1) if the Account balance is below 3% of the estimated General Fund
23 revenues for that fiscal year, the Governor shall include in the budget bill an
24 appropriation to the Account equal to at least \$100,000,000; and

25 (2) if the Account balance is at least 3% but less than 5% of the estimated
26 General Fund revenues for that fiscal year, the Governor shall include in the budget
27 bill an appropriation to the Account equal to at least the lesser of \$50,000,000 or
28 whatever amount is required for the Account balance to exceed 5% of the estimated
29 General Fund revenues for that fiscal year.

30 (f) The appropriations required by subsection (e) of this section are not
31 required when the Account balance exceeds 5% of the estimated General Fund
32 revenues.

33 (j) (1) Except as provided in paragraph [(2)] (3) of this subsection and §
34 3-216(g) of the Transportation Article, for fiscal year 2006 [and for each subsequent
35 fiscal year], the Governor shall include in the budget bill an appropriation to the
36 Account equal to the amount by which the unappropriated General Fund surplus as
37 of June 30 of the second preceding fiscal year exceeds \$10,000,000.

1 (2) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, §
2 3-216(G) OF THE TRANSPORTATION ARTICLE, AND § 13-209(G) OF THE TAX - PROPERTY
3 ARTICLE, FOR FISCAL 2007 AND FOR EACH SUBSEQUENT FISCAL YEAR, THE
4 GOVERNOR SHALL INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE
5 ACCOUNT EQUAL TO THE AMOUNT BY WHICH THE UNAPPROPRIATED GENERAL
6 FUND SURPLUS AS OF JUNE 30 OF THE SECOND PRECEDING FISCAL YEAR EXCEEDS
7 \$10,000,000.

8 [(2)] (3) The appropriation required under this subsection for any fiscal
9 year may be reduced by the amount of any appropriation to the Account required to be
10 included for that fiscal year under subsection (e) of this section.

11 **Article - Tax - Property**

12 13-209.

13 (a) The revenue from transfer tax is payable to the Comptroller for deposit in
14 a special fund.

15 (G) (1) NOTWITHSTANDING § 7-311(J) OF THE STATE FINANCE AND
16 PROCUREMENT ARTICLE, FOR FISCAL 2007 AND FOR EACH SUBSEQUENT FISCAL
17 YEAR, IF THE UNAPPROPRIATED GENERAL FUND SURPLUS AS OF JUNE 30 OF THE
18 SECOND PRECEDING YEAR EXCEEDS \$60,000,000, EXCEPT AS PROVIDED IN
19 PARAGRAPH (3) OF THIS SUBSECTION, THE GOVERNOR SHALL INCLUDE IN THE
20 BUDGET BILL A GENERAL FUND APPROPRIATION TO THE SPECIAL FUND IN AN
21 AMOUNT EQUAL TO THE LESSER OF \$50,000,000 OR THE EXCESS SURPLUS OVER
22 \$60,000,000.

23 (2) FOR ANY FISCAL YEAR TO WHICH THIS SUBSECTION APPLIES:

24 (I) UNLESS THE UNAPPROPRIATED GENERAL FUND SURPLUS AS
25 OF JUNE 30 OF THE SECOND PRECEDING FISCAL YEAR EXCEEDS THE SUM OF
26 \$60,000,000 AND THE AMOUNT REQUIRED TO BE APPROPRIATED TO THE SPECIAL
27 FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE APPROPRIATION TO THE
28 REVENUE STABILIZATION ACCOUNT UNDER § 7-311(J) OF THE STATE FINANCE AND
29 PROCUREMENT ARTICLE IS NOT REQUIRED; AND

30 (II) IF THE UNAPPROPRIATED GENERAL FUND SURPLUS AS OF
31 JUNE 30 OF THE SECOND PRECEDING FISCAL YEAR EXCEEDS THE SUM OF \$60,000,000
32 AND THE AMOUNT REQUIRED TO BE APPROPRIATED TO THE SPECIAL FUND UNDER
33 PARAGRAPH (1) OF THIS SUBSECTION, THE APPROPRIATION REQUIRED TO THE
34 REVENUE STABILIZATION ACCOUNT UNDER § 7-311(J) OF THE STATE FINANCE AND
35 PROCUREMENT ARTICLE SHALL EQUAL THE AMOUNT BY WHICH THAT SURPLUS
36 EXCEEDS THE SUM OF \$60,000,000 AND THE AMOUNT APPROPRIATED TO THE SPECIAL
37 FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION.

38 (3) (I) THE CUMULATIVE AMOUNT APPROPRIATED TO THE SPECIAL
39 FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION FOR ALL FISCAL YEARS MAY NOT
40 EXCEED \$390,000,000.

1 (II) THIS SUBSECTION DOES NOT APPLY TO ANY FISCAL YEAR IF A
2 CUMULATIVE AMOUNT EQUAL TO AT LEAST \$390,000,000 HAS BEEN APPROPRIATED
3 TO THE SPECIAL FUND FOR PRIOR FISCAL YEARS UNDER THIS SUBSECTION.

4 (H) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A TRANSFER OF
5 REVENUES FROM THE SPECIAL FUND TO THE GENERAL FUND OF THE STATE MAY
6 OCCUR ONLY IN A FISCAL YEAR IMMEDIATELY FOLLOWING A REPORT OF THE
7 SPENDING AFFORDABILITY COMMITTEE SUBMITTED TO THE GOVERNOR AND THE
8 LEGISLATIVE POLICY COMMITTEE PURSUANT TO § 2-1005 OF THE STATE
9 GOVERNMENT ARTICLE THAT STATES THAT STATE EXPENDITURES EXCEED STATE
10 REVENUES.

11 (2) NO MORE THAN 50% OF THE REVENUES IN THE SPECIAL FUND MAY
12 BE TRANSFERRED TO THE GENERAL FUND OF THE STATE.

13 (3) IF REVENUES ARE TRANSFERRED FROM THE SPECIAL FUND TO THE
14 GENERAL FUND OF THE STATE:

15 (I) THE TRANSFER OF REVENUES SHALL BE REPLACED WITH
16 GENERAL OBLIGATION BONDS BACKED WITH GENERAL FUNDS; OR

17 (II) THE FUNDS SHALL BE REPLACED BY A COMBINATION OF
18 GENERAL OBLIGATION BONDS BACKED WITH GENERAL FUNDS AND A REASONABLE
19 THREE YEAR REPAYMENT PLAN SUBMITTED BY THE GOVERNOR.

20 (4) THE TRANSFER OF REVENUES FROM THE SPECIAL FUND TO THE
21 GENERAL FUND SHALL BE:

22 (I) SUBMITTED BY THE GOVERNOR AS AN INDIVIDUAL BILL AND
23 MAY NOT BE PART OF A BUDGET RECONCILIATION AND FINANCING ACT; AND

24 (II) LIMITED TO TWO CONSECUTIVE YEARS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
26 June 1, 2005.