

UNOFFICIAL COPY OF HOUSE BILL 1444
CONSTITUTIONAL AMENDMENT

Q7
HB 1206/05 - W&M

6lr1097

By: **Delegates McMillan, Aumann, Bartlett, Boschert, Cluster, Costa, Dwyer, Eckardt, Elmore, Frank, Gilleland, Haddaway, Jennings, Kach, Kohl, Krebs, Leopold, McComas, McConkey, McDonough, McKee, Parrott, Shank, Shewell, Smigiel, Sophocleus, Sossi, and Trueschler**

Introduced and read first time: February 10, 2006

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Taxpayers' Bill of Rights**

3 FOR the purpose of proposing an amendment to the Maryland Constitution that
4 establishes a certain Bill of Rights for individual income taxpayers in the State;
5 requiring certain voter approval for new State or local taxes, tax rate increases,
6 and repeal of tax exemptions; imposing certain spending limits on the State;
7 requiring that a certain Rainy Day Fund be maintained; requiring that certain
8 revenues received in excess of certain estimates be transferred to a certain
9 Rainy Day Fund; prohibiting use of the Rainy Day Fund except under certain
10 circumstances; requiring that under certain circumstances certain balances in
11 excess of certain amounts be returned to individual income taxpayers;
12 prohibiting certain transfers from State special funds to the State General
13 Fund; prohibiting appropriations from State special funds that supplant
14 General Fund appropriations or that if not made would necessitate a State
15 General Fund appropriation; prohibiting the State from imposing certain
16 obligations on local units of government under certain circumstances; providing
17 for the severability of certain provisions; and submitting this amendment to the
18 qualified voters of the State of Maryland for their adoption or rejection.

19 BY proposing an addition to the Maryland Constitution

20 Declaration of Rights

21 Article 15A

22 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
23 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
24 concurring), That it be proposed that the Maryland Constitution read as follows:

25 **Declaration of Rights**

26 Article 15A.

27 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
28 INDICATED.

1 (2) "FISCAL YEAR SPENDING" MEANS THE TOTAL AMOUNT OF MONIES
2 APPROPRIATED BY THE STATE OTHER THAN:

3 (I) APPROPRIATIONS FUNDED WITH MONIES RECEIVED FROM THE
4 FEDERAL GOVERNMENT;

5 (II) APPROPRIATIONS FOR THE PAYMENT OF PRINCIPAL AND
6 INTEREST ON STATE DEBT;

7 (III) APPROPRIATIONS FUNDED BY UNEMPLOYMENT AND
8 DISABILITY FUNDS;

9 (IV) APPROPRIATIONS FUNDED BY DISCRETIONARY USER CHARGES
10 TO THE EXTENT THE CHARGES DO NOT EXCEED THE COST OF THE GOODS OR
11 SERVICES PROVIDED AND THE PURCHASE BY THE USER IS DISCRETIONARY;

12 (V) APPROPRIATIONS FUNDED FROM PERMANENT ENDOWMENT,
13 TRUST FUNDS, OR PENSION FUNDS;

14 (VI) APPROPRIATIONS FUNDED FROM THE PROCEEDS OF GIFTS OR
15 BEQUESTS AND MADE FOR PURPOSES SPECIFIED BY THE DONOR; AND

16 (VII) MONIES APPROPRIATED FOR TAX RELIEF.

17 (3) "STATE REVENUES" MEANS ALL MONIES DERIVED FROM THE
18 STATE'S OWN REVENUE SOURCES OTHER THAN REVENUES SUPPORTING
19 APPROPRIATIONS EXCLUDED FROM FISCAL YEAR SPENDING UNDER PARAGRAPH (2)
20 OF THIS SUBSECTION.

21 (B) A MAJORITY OF THE QUALIFIED VOTERS OF THE STATE OR OF A COUNTY,
22 THE CITY OF BALTIMORE, OR A MUNICIPAL CORPORATION, AS APPROPRIATE, SHALL
23 APPROVE, IN ADVANCE, ANY NEW STATE OR LOCAL TAX, TAX RATE INCREASE, OR
24 REPEAL OF A TAX EXEMPTION.

25 (C) (1) (I) THE MAXIMUM ANNUAL PERCENTAGE CHANGE IN STATE
26 FISCAL YEAR SPENDING SHALL EQUAL INFLATION PLUS THE PERCENTAGE CHANGE
27 IN STATE POPULATION IN THE PRIOR CALENDAR YEAR, ADJUSTED FOR REVENUE
28 CHANGES APPROVED BY A MAJORITY OF THE QUALIFIED VOTERS OF THE STATE.

29 (II) POPULATION SHALL BE DETERMINED BY THE U.S. CENSUS
30 BUREAU.

31 (III) INFLATION SHALL BE DETERMINED BY USING THE CONSUMER
32 PRICE INDEX FOR THE WASHINGTON-BALTIMORE METROPOLITAN AREA, AS
33 COMPUTED BY THE U.S. DEPARTMENT OF LABOR'S BUREAU OF LABOR STATISTICS.

34 (2) IF THE TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR IS
35 GREATER THAN THE TOTAL STATE REVENUE FOR THE NEXT PRECEDING FISCAL
36 YEAR, THE LIMIT ON TOTAL STATE REVENUE UNDER THIS SUBSECTION FOR A
37 FISCAL YEAR SHALL BE AN AMOUNT EQUAL TO THE LESSER OF THE TOTAL STATE

1 REVENUE FOR THE PRIOR FISCAL YEAR OR THE LIMIT ON TOTAL STATE REVENUE
2 UNDER THIS SUBSECTION FOR THE PRIOR FISCAL YEAR, INCREASED BY A
3 PERCENTAGE EQUAL TO THE SUM OF INFLATION PLUS THE PERCENTAGE CHANGE
4 IN STATE POPULATION IN THE PRIOR CALENDAR YEAR.

5 (3) IF THE TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR IS LESS
6 THAN THE TOTAL STATE REVENUE FOR THE NEXT PRECEDING FISCAL YEAR, THE
7 LIMIT ON TOTAL STATE REVENUE UNDER THIS SUBSECTION FOR A FISCAL YEAR
8 SHALL BE AN AMOUNT EQUAL TO THE LIMIT ON TOTAL STATE REVENUE UNDER THIS
9 SUBSECTION FOR THE MOST RECENT FISCAL YEAR FOR WHICH THE TOTAL STATE
10 REVENUE EXCEEDED THE TOTAL STATE REVENUE FOR THE PRECEDING FISCAL
11 YEAR.

12 (D) (1) THE STATE SHALL MAINTAIN A RAINY DAY FUND EQUAL TO AT
13 LEAST 5% OF THE ESTIMATED GENERAL FUND REVENUES FOR EACH FISCAL YEAR.

14 (2) IF THE TOTAL GENERAL FUND REVENUES RECEIVED FOR ANY
15 FISCAL YEAR EXCEED THE AMOUNTS ESTIMATED TO BE RECEIVED FOR THE FISCAL
16 YEAR, AS ESTIMATED AFTER ADJOURNMENT SINE DIE OF THE REGULAR SESSION AT
17 WHICH THE BUDGET FOR THE FISCAL YEAR PASSED, THE TOTAL AMOUNT OF THAT
18 EXCESS SHALL BE DISTRIBUTED TO THE RAINY DAY FUND.

19 (3) MONIES IN THE RAINY DAY FUND MAY BE USED ONLY AS PROVIDED
20 IN THIS SUBSECTION.

21 (4) FOR ANY FISCAL YEAR FOR WHICH THE ESTIMATED GENERAL FUND
22 REVENUES FOR A FISCAL YEAR ARE LESS THAN THE GENERAL FUND REVENUES FOR
23 THE PRECEDING FISCAL YEAR, AN AMOUNT SHALL BE TRANSFERRED FROM THE
24 RAINY DAY FUND TO THE GENERAL FUND EQUAL TO THE AMOUNT BY WHICH
25 GENERAL FUND REVENUES FOR THE PRECEDING FISCAL YEAR EXCEED THE
26 ESTIMATED GENERAL FUND REVENUES FOR THE FISCAL YEAR.

27 (5) AFTER ANY AUTHORIZED TRANSFER UNDER PARAGRAPH (4) OF THIS
28 SUBSECTION, IF THE BALANCE IN THE RAINY DAY FUND AT THE END OF ANY FISCAL
29 YEAR EXCEEDS 7% OF THE ESTIMATED GENERAL FUND REVENUES FOR THE
30 UPCOMING FISCAL YEAR, AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE
31 BALANCE IN THE RAINY DAY FUND AND 5% OF THE ESTIMATED GENERAL FUND
32 REVENUES FOR THE UPCOMING FISCAL YEAR SHALL BE RESERVED IN THE
33 UPCOMING FISCAL YEAR AND RETURNED TO INDIVIDUAL TAX PAYERS IN THE
34 TAXABLE YEAR THAT BEGINS DURING THE UPCOMING FISCAL YEAR, THROUGH A
35 TEMPORARY INCOME TAX RATE REDUCTION.

36 (E) (1) EXCEPT FOR TRANSFERS FROM THE RAINY DAY FUND TO THE
37 GENERAL FUND AS AUTHORIZED UNDER THIS ARTICLE, FUNDS MAY NOT BE
38 TRANSFERRED FROM ANY STATE SPECIAL FUND TO THE GENERAL FUND.

39 (2) NO APPROPRIATIONS MAY BE MADE FROM STATE SPECIAL FUNDS
40 THAT:

41 (I) SUPPLANT STATE GENERAL FUND APPROPRIATIONS; OR

1 (II) IF NOT MADE, WOULD NECESSITATE A STATE GENERAL FUND
2 APPROPRIATION.

3 (3) FOR PURPOSES OF THIS SUBSECTION, AN APPROPRIATION FUNDED
4 BY USER CHARGES OR FEES IMPOSED ON GOODS OR SERVICES THAT DO NOT EXCEED
5 THE COST OF THE GOODS OR SERVICES PROVIDED MAY NOT BE DEEMED TO BE AN
6 APPROPRIATION THAT SUPPLANTS A GENERAL FUND APPROPRIATION.

7 (F) THE STATE MAY NOT IMPOSE ON ANY LOCAL UNIT OF GOVERNMENT ANY
8 PART OF THE TOTAL COSTS OF NEW PROGRAMS OR SERVICES, OR INCREASES IN
9 EXISTING PROGRAMS OR SERVICES, UNLESS A SPECIFIC APPROPRIATION IS MADE
10 SUFFICIENT TO PAY THE LOCAL UNIT OF GOVERNMENT FOR THAT PURPOSE.

11 (G) IF A COURT OF COMPETENT JURISDICTION ADJUDGES IN A FINAL ORDER
12 THAT ANY EXPENDITURE CATEGORY OR REVENUE SOURCE IS EXEMPT FROM THIS
13 ARTICLE, THE PROCESS OF COMPUTING THE EXPENDITURE LIMITATION SHALL BE
14 ADJUSTED ACCORDINGLY AND REMAINING PROVISIONS SHALL BE IN FULL FORCE
15 AND EFFECT.

16 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
17 determines that the amendment to the Maryland Constitution proposed by this Act
18 affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the
19 Maryland Constitution concerning local approval of constitutional amendments do
20 not apply.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
22 proposed as an amendment to the Maryland Constitution shall be submitted to the
23 legal and qualified voters of this State at the next general election to be held in
24 November, 2006 for their adoption or rejection in pursuance of directions contained in
25 Article XIV of the Maryland Constitution. At that general election, the vote on this
26 proposed amendment to the Constitution shall be by ballot, and upon each ballot
27 there shall be printed the words "For the Constitutional Amendment" and "Against
28 the Constitutional Amendment," as now provided by law. Immediately after the
29 election, all returns shall be made to the Governor of the vote for and against the
30 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
31 further proceedings had in accordance with Article XIV.