# HB 1274

# Department of Legislative Services
Maryland General Assembly
2006 Session

## FISCAL AND POLICY NOTE

House Bill 1274 (Delegate James, *et al.*)
Appropriations

**Land Preservation Programs - Repayment of Transfers to the General Fund**

This bill alters provisions of Chapter 473 of 2005 so as to: (1) require the repayment of State transfer tax revenues transferred to the general fund for fiscal 2004 and subsequent years, thereby requiring an additional $292.1 million to be repaid; and (2) repeal, as obsolete, a provision that provides that the repayment would only take effect once the Transportation Trust Fund has been fully repaid. However, the bill does not otherwise modify the current repayment schedule.

The bill takes effect July 1, 2006.

## Fiscal Summary

**State Effect:** General fund expenditures and special fund revenues could increase beginning in FY 2013. The amount of each increase depends on the amount of any unappropriated general fund surplus. The bill would not require additional special fund expenditures.

**Local Effect:** Local Program Open Space (POS) funds could increase beginning in FY 2013 due to the bill's repayment provisions.

**Small Business Effect:** Meaningful.

## Analysis

**Current Law:** Provisions relating to the Revenue Stabilization Account (Rainy Day Fund) provide that, when there is a surplus of unappropriated funds in the general fund at the close of a fiscal year, there must be an appropriation to the account in the second subsequent fiscal year equal to the amount by which the unappropriated surplus exceeds $10 million. Beginning in fiscal 2012, an amount equal to any unappropriated surplus between $11 million and $60 million must be appropriated to the transfer tax special fund until such time as a specified amount has been repaid to the transfer tax special fund. This provision applies to any appropriation or transfer from the transfer tax special fund to the general fund for fiscal 2006 or later.

The State transfer tax funds several programs in the Department of Natural Resources (DNR) and the Maryland Department of Agriculture. A portion of State transfer tax revenues (3%) is earmarked to defray administrative costs within DNR, the Department of General Services, and the Maryland Department of Planning (MDP). The remainder of the revenue is dedicated to various programs including POS, the Maryland Agricultural Land Preservation Foundation (MALPF), Rural Legacy, and the Heritage Conservation Fund. **Exhibit 1** shows the normal distribution of State transfer tax revenues after administrative costs are deducted.

**Exhibit 1**
**Distribution of State Transfer Tax Revenues**

| | |
|---|---|
| POS | 75.15% |
| POS Land Acquisition | 1.00% |
| MALPF | 17.05% |
| Rural Legacy | 5.00% |
| Heritage Conservation Fund | 1.80% |
| **Total** | **100.0%** |

Of the transfer tax revenues distributed to POS, $3 million may be transferred by an appropriation in the State budget or by budget amendment to the Maryland Heritage Areas Authority Financing Fund within MDP. Of the remaining funds, half is allocated for State acquisition and half is allocated to local governments for acquisition and development of land for recreation and open space purposes. A portion of the State's share of POS funds must be used to make grants to Baltimore City for projects that meet park purposes. Baltimore City also receives an allocation from the local share of funds under POS.

**Background:** While the State's land preservation programs enjoyed healthy funding through 2002, in recent years the General Assembly has used transfer tax revenues as a means to balance the State's operating budget. Budget reconciliation legislation enacted in the 2002 through 2005 sessions diverted approximately $480 million of transfer tax revenues to the general fund; as shown in **Exhibit 2**, $382.1 million of that amount was transferred for fiscal 2004 or later. To compensate, other funding sources, primarily bond funds, played an important role in funding land preservation activities.

Chapter 473 of 2005 provides for, beginning in fiscal 2012, the repayment of State transfer tax revenues transferred to the general fund *after fiscal 2005* by including the transfer tax special fund in the provisions relating to the disposition of any unappropriated general fund surplus. The Budget Reconciliation and Financing Act of 2005 (Chapter 444) transferred $90 million of State transfer tax revenues to the general fund for fiscal 2006.

Chapter 473 states that the repayment provisions will only take effect once the Transportation Trust Fund (TTF) has been fully repaid in accordance with the statutory requirements governing the disposition of any unappropriated general fund surplus. However, Chapters 471 and 472 of 2005 repealed the provisions requiring repayment to the TTF from the unappropriated general fund surplus.

The Governor's proposed fiscal 2007 budget does not assume the transfer of any State transfer tax revenues to the general fund. The extent to which future budget reconciliation legislation will provide for future transfers is unknown.

**Exhibit 2**
**Transfer Tax Allocation to the General Fund**
**Fiscal 2004 – 2006**

| | Transfer to General Fund |
|---|---|
| FY 2004 | $102,834,000 |
| FY 2005 | 189,260,000 |
| FY 2006 | 90,000,000 |
| **Total Transferred** | **$382,094,000** |

**State Fiscal Effect:** Based on transfers for fiscal 2006, the current amount to be repaid totals $90 million. Under the bill, the repayment provisions relating to the transfer tax special fund would become applicable to transfers for fiscal 2004 and 2005 as well, totaling another $292.1 million. Accordingly, if the unappropriated general fund surplus as of June 30 of the second preceding fiscal year is sufficient, up to $50 million annually beginning in fiscal 2012 would be directed to the transfer tax special fund until a specified amount has been repaid.

However, since $90 million is already due to be repaid in installments of up to $50 million each year, the fiscal impact of this bill would not be felt until fiscal 2013 at the earliest. Repayment of the additional transferred special funds would require at least another six installments from the general fund. Any unappropriated general fund surplus cannot be reliably estimated at this time.

Special fund revenues would increase correspondingly. **Exhibit 3** shows the distribution of funds for each $50 million repaid.

**Exhibit 3**
**Distribution of Transfer Tax Revenue per $50 Million Repayment**

| Amounts Distributed to Special Funds | Percentage | Amount |
|---|---|---|
| POS | 75.15% | $37,575,000 |
| POS Land Acquisition | 1.00 | 500,000 |
| MALPF | 17.05 | 8,525,000 |
| Rural Legacy | 5.00 | 2,500,000 |
| Heritage Conservation Fund | 1.80 | 900,000 |
| **Total** | | **$50,000,000** |

**Local Fiscal Effect:** Because local governments receive funding from POS, any increase in the repayment amount to the transfer tax special fund would result in an increase in State aid, potentially beginning in fiscal 2013. For every $50 million repaid, State aid to local governments under POS would increase by an estimated $18.8 million.

**Small Business Effect:** Any increase in the repayment amount to the transfer tax special fund would benefit farmers, most of which are small businesses. For every $50 million repaid, funding for MALPF would increase by approximately $8.5 million. This additional funding could leverage the purchase of easements on an additional 2,428 acres (based on an average purchase price of $3,500 per acre anticipated for fiscal 2007). In addition, the increase in the repayment amount of POS funds could benefit small businesses to the extent that additional recreation and conservation areas increase tourism.

## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** State Department of Assessments and Taxation, Department of Legislative Services

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