

HOUSE BILL 36

Q7, P3
HB 809/07 – W&M

CONSTITUTIONAL AMENDMENT

8lr4597

By: **Delegates Miller, Boteler, Dwyer, Eckardt, Frank, George, Impallaria, Jennings, Krebs, McDonough, and O'Donnell**
Introduced and read first time: October 29, 2007
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.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



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

3 (2) “FISCAL YEAR SPENDING” MEANS THE TOTAL AMOUNT OF
4 MONEYS APPROPRIATED BY THE STATE OTHER THAN:

5 (I) APPROPRIATIONS FUNDED WITH MONEYS RECEIVED
6 FROM THE FEDERAL GOVERNMENT;

7 (II) APPROPRIATIONS FOR THE PAYMENT OF PRINCIPAL
8 AND INTEREST ON STATE DEBT;

9 (III) APPROPRIATIONS FUNDED BY UNEMPLOYMENT AND
10 DISABILITY FUNDS;

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

15 (V) APPROPRIATIONS FUNDED FROM PERMANENT
16 ENDOWMENT, TRUST FUNDS, OR PENSION FUNDS;

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

19 (VII) MONEYS APPROPRIATED FOR TAX RELIEF.

20 (3) “STATE REVENUES” MEANS ALL MONEYS DERIVED FROM THE
21 STATE’S OWN REVENUE SOURCES OTHER THAN REVENUES SUPPORTING
22 APPROPRIATIONS EXCLUDED FROM FISCAL YEAR SPENDING UNDER
23 PARAGRAPH (2) OF THIS SUBSECTION.

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

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

1 **(II) POPULATION SHALL BE DETERMINED BY THE U.S.**
2 **CENSUS BUREAU.**

3 **(III) INFLATION SHALL BE DETERMINED BY USING THE**
4 **CONSUMER PRICE INDEX FOR THE WASHINGTON-BALTIMORE METROPOLITAN**
5 **AREA, AS COMPUTED BY THE U.S. DEPARTMENT OF LABOR'S BUREAU OF**
6 **LABOR STATISTICS.**

7 **(2) IF THE TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR**
8 **IS GREATER THAN THE TOTAL STATE REVENUE FOR THE NEXT PRECEDING**
9 **FISCAL YEAR, THE LIMIT ON TOTAL STATE REVENUE UNDER THIS SUBSECTION**
10 **FOR A FISCAL YEAR SHALL BE AN AMOUNT EQUAL TO THE LESSER OF THE**
11 **TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR OR THE LIMIT ON TOTAL**
12 **STATE REVENUE UNDER THIS SUBSECTION FOR THE PRIOR FISCAL YEAR,**
13 **INCREASED BY A PERCENTAGE EQUAL TO THE SUM OF INFLATION PLUS THE**
14 **PERCENTAGE CHANGE IN STATE POPULATION IN THE PRIOR CALENDAR YEAR.**

15 **(3) IF THE TOTAL STATE REVENUE FOR THE PRIOR FISCAL YEAR**
16 **IS LESS THAN THE TOTAL STATE REVENUE FOR THE NEXT PRECEDING FISCAL**
17 **YEAR, THE LIMIT ON TOTAL STATE REVENUE UNDER THIS SUBSECTION FOR A**
18 **FISCAL YEAR SHALL BE AN AMOUNT EQUAL TO THE LIMIT ON TOTAL STATE**
19 **REVENUE UNDER THIS SUBSECTION FOR THE MOST RECENT FISCAL YEAR FOR**
20 **WHICH THE TOTAL STATE REVENUE EXCEEDED THE TOTAL STATE REVENUE**
21 **FOR THE PRECEDING FISCAL YEAR.**

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

25 **(2) IF THE TOTAL GENERAL FUND REVENUES RECEIVED FOR ANY**
26 **FISCAL YEAR EXCEED THE AMOUNTS ESTIMATED TO BE RECEIVED FOR THE**
27 **FISCAL YEAR, AS ESTIMATED AFTER ADJOURNMENT SINE DIE OF THE REGULAR**
28 **SESSION OF THE GENERAL ASSEMBLY AT WHICH THE BUDGET FOR THE FISCAL**
29 **YEAR PASSED, THE TOTAL AMOUNT OF THAT EXCESS SHALL BE DISTRIBUTED TO**
30 **THE RAINY DAY FUND.**

31 **(3) MONEYS IN THE RAINY DAY FUND MAY BE USED ONLY AS**
32 **PROVIDED IN THIS SUBSECTION.**

33 **(4) FOR ANY FISCAL YEAR FOR WHICH THE ESTIMATED GENERAL**
34 **FUND REVENUES FOR A FISCAL YEAR ARE LESS THAN THE GENERAL FUND**
35 **REVENUES FOR THE PRECEDING FISCAL YEAR, AN AMOUNT SHALL BE**
36 **TRANSFERRED FROM THE RAINY DAY FUND TO THE GENERAL FUND EQUAL TO**

1 THE AMOUNT BY WHICH GENERAL FUND REVENUES FOR THE PRECEDING
2 FISCAL YEAR EXCEED THE ESTIMATED GENERAL FUND REVENUES FOR THE
3 FISCAL YEAR.

4 (5) AFTER ANY AUTHORIZED TRANSFER UNDER PARAGRAPH (4)
5 OF THIS SUBSECTION, IF THE BALANCE IN THE RAINY DAY FUND AT THE END
6 OF ANY FISCAL YEAR EXCEEDS 7% OF THE ESTIMATED GENERAL FUND
7 REVENUES FOR THE UPCOMING FISCAL YEAR, AN AMOUNT EQUAL TO THE
8 DIFFERENCE BETWEEN THE BALANCE IN THE RAINY DAY FUND AND 5% OF THE
9 ESTIMATED GENERAL FUND REVENUES FOR THE UPCOMING FISCAL YEAR
10 SHALL BE RESERVED IN THE UPCOMING FISCAL YEAR AND RETURNED TO
11 INDIVIDUAL TAXPAYERS IN THE TAXABLE YEAR THAT BEGINS DURING THE
12 UPCOMING FISCAL YEAR, THROUGH A TEMPORARY INCOME TAX RATE
13 REDUCTION.

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

17 (2) NO APPROPRIATIONS MAY BE MADE FROM STATE SPECIAL
18 FUNDS THAT:

19 (I) SUPPLANT STATE GENERAL FUND APPROPRIATIONS;
20 OR

21 (II) IF NOT MADE, WOULD NECESSITATE A STATE GENERAL
22 FUND APPROPRIATION.

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

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

33 (G) IF A COURT OF COMPETENT JURISDICTION ADJUDGES IN A FINAL
34 ORDER THAT ANY EXPENDITURE CATEGORY OR REVENUE SOURCE IS EXEMPT
35 FROM THIS ARTICLE, THE PROCESS OF COMPUTING THE EXPENDITURE

1 **LIMITATION SHALL BE ADJUSTED ACCORDINGLY AND REMAINING PROVISIONS**
2 **SHALL BE IN FULL FORCE AND EFFECT.**

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

8 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
9 proposed as an amendment to the Maryland Constitution shall be submitted to the
10 legal and qualified voters of this State at the next general election to be held in
11 November, 2008 for their adoption or rejection pursuant to Article XIV of the
12 Maryland Constitution. At that general election, the vote on this proposed amendment
13 to the Constitution shall be by ballot, and upon each ballot there shall be printed the
14 words "For the Constitutional Amendment" and "Against the Constitutional
15 Amendment," as now provided by law. Immediately after the election, all returns shall
16 be made to the Governor of the vote for and against the proposed amendment, as
17 directed by Article XIV of the Maryland Constitution, and further proceedings had in
18 accordance with Article XIV.