

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

House Bill 926
Appropriations

(Delegate McMillan, *et al.*)

Dedicated State Funds Protection Act

This proposed constitutional amendment restricts the use of dedicated State funds to the specific purposes that are set forth in law and prohibits the transfer of dedicated State funds to the general fund. The bill creates exceptions to the prohibition on dedicated State fund transfers but only for specified defense or relief purposes. 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 2012.

Fiscal Summary

State Effect: If adopted, the constitutional amendment could limit budget flexibility by reducing or eliminating special fund transfers to the general fund beginning in FY 2013. This may result in significant general fund expenditure reductions or revenue-raising measures in order to meet the constitutional requirement to enact a balanced State budget bill. However, the budgetary impact would be moderated to the extent that the laws dedicating State revenues for specific purposes are changed to make the funds available to the general fund. Potentially significant increase in special fund revenues and expenditures to the extent that future transfers are not made to the general fund.

Local Effect: If adopted by the voters, local aid may be affected to the extent State revenues are affected by the prevention of transfers of dedicated State funds. If passed by the General Assembly, it is assumed that local election boards will have sufficient resources in their budgets to administer this constitutional amendment.

Small Business Effect: None.

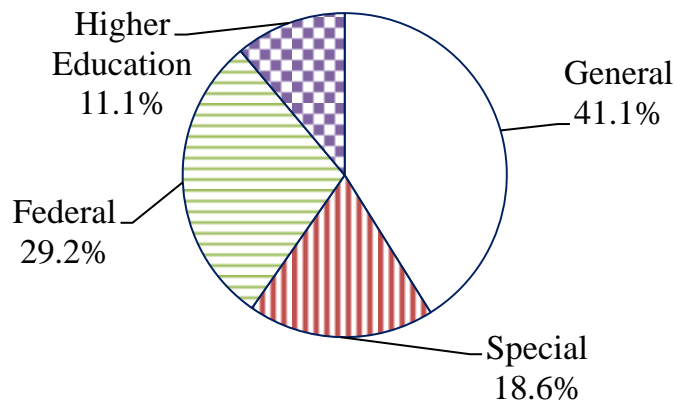
Analysis

Bill Summary: “Dedicated State funds” are revenues collected by the State that are dedicated by law to a specific purpose.

The bill creates exceptions to the prohibition on dedicated State fund transfers for defense or relief purposes if (1) the State is invaded or a major catastrophe occurs; (2) the Governor proclaims a state of emergency, declares that the funds are necessary for the immediate preservation of public health or safety, and proposes a plan to repay the funds within five years; and (3) the General Assembly approves legislation, by a three-fifths vote of both houses, authorizing the use of the funds for defense or relief purposes and approving a repayment plan. If the Governor includes a provision in the budget to transfer or divert dedicated State funds to the general fund for defense or relief purposes, another provision requiring repayment of the funds, within five years, must be included.

Current Law/Background: Section 52 of Article III of the Maryland Constitution requires the State budget bill to be balanced, meaning that total proposed appropriations cannot exceed total estimated revenues. The budget bill appropriates general, special, federal, and higher education funds in specific line items. The bill also authorizes the use of reimbursable funds, though not in specific line items. The total State budget is a composite of these fund types, most of which are appropriated each year in the budget bill. An individual agency budget may have only a single funding source, while others draw from a variety of sources. **Exhibit 1** presents the fiscal 2011 budget by fund source.

Exhibit 1
Fiscal 2011 State Budget by Fund Source



Source: Department of Legislative Services, *Legislative Handbook Volume IV* (page 11)

Dedicated State Funds

Dedicated State funds, known as special funds, consist of revenues collected by the State, the use of which is statutorily limited to certain purposes. Special funds may be derived from fees (*e.g.*, car and boat registration and child support applications), taxes levied for a specific purpose (*e.g.*, State property taxes, motor fuel and vehicle taxes, and property transfer tax), local government payments for services, and gifts or donations. The largest special fund, by a significant margin, is the Transportation Trust Fund (TTF). State special fund appropriations in fiscal 2011 totaled \$6.0 billion, and the Governor's proposed fiscal 2012 budget includes \$6.5 billion in special funds.

Dedicated State Fund Transfers

Special funds have been transferred to the general fund to help balance the budget on numerous occasions in the past. **Exhibit 2** illustrates some of the special funds transferred to the general fund in recent years. **Exhibit 3** details recent and planned transfers of TTF highway user revenues to the general fund under current law.

Exhibit 2
Select Special Fund Transfers to the General Fund
Fiscal 2009-2011
(\$ in Millions)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>
Pay-As-You-Go Capital Funds	\$6.0	\$167.5	\$53.7
Land Preservation/Waterway Improvement	137.1	205.4	58.0
Other State Agency Funds*	154.3	42.3	30.6

* "Other State Agency Funds" includes all other special funds except the Transportation Trust Fund, State Reserve Fund, and higher education funds.

Source: Department of Legislative Services

Exhibit 3
Highway User Revenue Distributed to the General Fund under Current Law
Fiscal 2003-2016
(\$ in Millions)

<u>Fiscal Year</u>	<u>Amount</u>
2003	\$18
2004	102
2005	102
2006	23
2007	0
2008	0
2009	0
2010	304
2011	370
2012 (est.)	338
2013 (est.)	338
2014 (est.)	353
2015 (est.)	365
2016 (est.)	373

Source: Department of Legislative Services

Among other things, the Governor's Budget Reconciliation and Financing Act (BRFA) of 2011 (HB 72/SB 87) proposes to redirect special fund revenue and transfer special fund balances to the general fund. As illustrated in **Exhibit 4**, the BFRA of 2011 includes provisions that transfer \$31.0 million in special funds in fiscal 2011, and \$325.2 million in special funds in fiscal 2012, to the general fund.

Exhibit 4
Proposed Special Fund Transfers to the General Fund
Fiscal 2011-2012

<u>General Fund Revenues</u>	<u>FY 2011</u>	<u>FY 2012</u>
Dedicated Revenue Redirection		
Medicare Prescription Drug Subsidies	\$23,000,000	\$24,000,000
Traffic Conviction Surcharges	266,875	4,100,656
Gasoline and Motor Vehicle Revenue Account		60,000,000
Chesapeake and Atlantic Coastal Bays 2010 Trust Fund		18,669,444
Special Fund Interest to General Fund		11,000,000
Preservation of Cultural Arts Fund		3,200,000
<i>Subtotal – Dedicated Revenue Relief</i>	<i>\$23,266,875</i>	<i>\$120,970,100</i>
Fund Balance Transfers		
Transfer Tax Revenues	5,591,172	94,491,115
Maryland Health Care Commission Fund	1,000,000	
Used Tire Cleanup and Recycling Fund	500,000	
Forest or Park Reserve Fund	256,000	
Not-for-profit Development Center Fund	250,000	125,000
Board of Veterinary Medical Examiners Fund	150,000	
Bay Restoration Fund		90,000,000
Real Property Records Improvement Fund		10,000,000
Special Loan Program Fund		2,200,000
Neighborhood Business Development Fund		2,050,000
State Insurance Trust Fund		2,000,000
Homeownership Programs Fund		1,500,000
Waterway Improvement Fund		1,090,000
Spinal Cord Injury Research Trust Fund		500,000
Board of Pharmacy Fund		237,888
Board of Examiners of Psychologists Fund		44,888
<i>Subtotal – Fund Balance Transfers</i>	<i>\$7,747,172</i>	<i>\$204,238,891</i>
Total	\$31,014,047	\$325,208,991

Source: Department of Legislative Services (HB 72 of 2011 Fiscal and Policy Note, page 113)

State Fiscal Effect: Assuming approval of the amendment in the November 2012 general election, this bill makes less likely any future transfers from special funds. Legislative Services advises that, in the absence of the availability of transfers from State special funds, any future shortfalls in the general fund could require additional and possibly significant expenditure reductions or new or increased revenues in order for the State to maintain a balanced budget; however, this budgetary impact would be moderated to the extent that the laws dedicating State revenues for specific purposes are changed to make the revenues available to the general fund.

The Department of Budget and Management advises the bill decreases the State's flexibility to balance the budget and may negatively impact the State's bond rating.

Local Fiscal Effect: To the extent State revenues are affected by the prevention of transfers of dedicated State funds, local aid may be affected.

The Maryland Constitution requires that proposed amendments to the constitution be publicized either (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2012 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Department of Budget and Management, Governor's Office, Department of Legislative Services

Fiscal Note History: First Reader - March 9, 2011
ncs/rhh

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