

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

House Bill 121
Appropriations

(Delegate Beitzel)

**Dedicated Funds - Prohibition of Transfer - Chesapeake and Atlantic Coastal
Bays 2010 Trust Fund and Bay Restoration Fund**

This proposed constitutional amendment restricts the use of Chesapeake and Atlantic Coastal Bays 2010 Trust Fund and Bay Restoration Fund (BRF) funds to the specific purposes that are set forth in State law on or after July 1, 2012, and prohibits the transfer of these funds to the general fund. 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 would limit the State's flexibility to address future general fund shortfalls by preventing the transfer of trust fund and BRF revenues to the general fund. The bill does not affect transfers of trust fund or BRF revenue to the general fund that are already authorized in statute on July 1, 2012.

Local Effect: None. It is assumed that the potential for increased costs to notify voters of any constitutional amendments proposed by the General Assembly, and to include any proposed constitutional amendments on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

Small Business Effect: None.

Analysis

Current Law/Background:

Chesapeake and Atlantic Coastal Bays 2010 Trust Fund

Chapter 6 of the 2007 special session established the Chesapeake Bay 2010 Trust Fund and provided financing for the fund by dedicating a portion of existing revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals to the trust fund. The trust fund was expanded and renamed the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund by Chapters 120 and 121 of 2008. The BayStat Subcabinet is responsible for administering the trust fund. When possible, trust fund revenues must be allocated to local governments and other political subdivisions for agricultural, forestry, stream and wetland restoration, and urban and suburban stormwater nonpoint source pollution control projects.

Exhibit 1 shows the trust fund's financial history since its inception in fiscal 2009 to 2012. Throughout this period, budget reconciliation legislation diverted revenues and transferred fund balance from the trust fund to the State's general fund to help balance the State's operating budget. During this time, revenues increased from \$38.2 million to \$43.5 million annually while transfers varied from a high of \$32.0 million in fiscal 2010 to a low of \$20.2 million in fiscal 2012.

Exhibit 1
2010 Trust Fund History (Fiscal 2009-2012)
(\$ in Millions)

	<u>FY 2009</u>	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>
Opening Balance	\$0.00	\$3.63	\$5.84	\$3.23
New Revenue	\$38.23	\$41.50	\$43.10	\$43.50
Transfers to the General Fund				
Chapter 414 of 2008	-\$25.00			
Chapter 487 of 2009		-\$21.49		
Chapter 484 of 2010		-10.50	-\$22.10	
Chapter 397 of 2011			-0.97	-\$20.17
Subtotal General Fund Transfers	-\$25.00	-\$31.99	-\$23.07	-\$20.17
Available Revenue	\$13.23	\$13.14	\$25.87	\$26.56
Spending				
Maryland Department of Agriculture	-\$6.93	-\$3.92	-\$12.34	-\$13.18
Maryland Department of the Environment	-1.83	-1.65	-2.10	0.00
Department of Natural Resources	-0.84	-1.73	-8.20	-9.73
Subtotal Agency Spending	-\$9.60	-\$7.30	-\$22.64	-\$22.91
Ending Balance	\$3.63	\$5.84	\$3.23	\$3.65

Notes: Under transfers, the \$10.5 million transferred by Chapter 484 of 2010 included \$8.0 million in fiscal 2010 revenues and \$2.5 million in fund balance. Fiscal 2012 numbers are estimates. Numbers may not sum due to rounding.

Source: Department of Legislative Services

As illustrated in **Exhibit 2**, the Budget Reconciliation and Financing Act (BRFA) of 2011 (Chapter 397) requires annual transfers from the trust fund to the general fund during the fiscal 2012 through 2016 period.

Exhibit 2
2010 Trust Fund Transfers to the General Fund
Under Current Law (Fiscal 2012-2016)
(\$ in Millions)

<u>Fiscal Year</u>	<u>Motor Fuel Tax</u>	<u>Short-term Vehicle Rentals</u>		<u>Total</u>
		<u>Sales and Use Tax</u>		
2012	\$5.0		\$15.2	\$20.2
2013	5.0		10.1	15.1
2014	5.0		6.5	11.5
2015	5.0		3.0	8.0
2016	4.6		0	4.6

Source: Department of Legislative Services

Bay Restoration Fund

BRF, established by Chapter 428 of 2004, was created to address the significant decline in Chesapeake Bay water quality due to over-enrichment of nutrients such as nitrogen and phosphorus. As a revenue source for the fund, Chapter 428 established a fee on users of wastewater facilities, septic systems, and sewage holding tanks. The revenue collected from wastewater facility users is deposited in the BRF wastewater account and used primarily to provide grants to wastewater treatment plant owners to implement enhanced nutrient removal technology upgrades. Of the revenue collected from users of septic systems and sewage holding tanks, which goes into the BRF septic account, 60% is used for upgrades of failing septic systems, while 40% is transferred to the Maryland Department of Agriculture to provide financial assistance to farmers for cover crops.

Exhibit 3 shows BRF wastewater account revenues from the beginning of fee collection in fiscal 2005 through December 31, 2011, of fiscal 2012. A total of \$371.2 million has been collected from wastewater facility users, net of billing authority and Comptroller of Maryland administrative cost recoveries. In recent years, BRF prior year special fund balances and current year revenues have been transferred to the State's general fund pursuant to budget reconciliation legislation in order to help balance the State operating budget. However, the total amount of special funds transferred (\$290.0 million) is anticipated to be fully replaced with general obligation bond funding. The fiscal 2013

capital budget bill (SB 151/HB 86 of 2011) includes the final \$18.2 million general obligation bond repayment amount.

Exhibit 3
Bay Restoration Fund Wastewater Account Revenue (Fiscal 2005-2012)
(\$ in Millions)

<u>Fiscal Year</u>	<u>Amount</u>
2005	\$7.0
2006	57.7
2007	69.1
2008	54.7
2009	53.3
2010	54.4
2011	55.5
2012	19.5
Total	\$371.2

Note: Fiscal 2012 data is partial year data through December 31, 2011.

Source: Comptroller of Maryland

Exhibit 4 shows BRF septic account revenues from the beginning of fee collection in fiscal 2005 through December 31, 2011, of fiscal 2012. A total of \$86.8 million was collected from users of septic systems and sewage holding tanks, net of county and Comptroller of Maryland administrative cost recoveries.

2012 Budget Reconciliation Legislation

The BRFA of 2012 (SB 152/HB 87) transfers \$13.0 million, instead of the \$5.0 million in current law, in trust fund revenue to the general fund in fiscal 2013. The BRFA of 2012 does not affect the required annual transfers from the trust fund to the general fund in fiscal 2014 through 2016.

Exhibit 4
Bay Restoration Fund Septics Account Revenue Allocation (Fiscal 2005-2012)
(\$ in Millions)

<u>Fiscal Year</u>	<u>Septic Systems</u>	<u>Cover Crops</u>	<u>Total</u>
2005	\$0.2	\$0.1	\$0.3
2006	4.8	3.2	8.0
2007	8.1	5.4	13.5
2008	8.5	5.7	14.1
2009	9.5	6.3	15.8
2010	3.1	10.8	13.9
2011	8.2	5.4	13.6
2012	4.5	3.0	7.5
Total	\$46.8	\$39.9	\$86.8

Notes: Numbers may not sum to total. Fiscal 2010 reflects a change in the distribution of revenue for that year only (22.4% septic systems, 77.6% cover crops). Fiscal 2012 data is partial year data through December 31, 2011.

Source: Comptroller of Maryland

State Expenditures: State costs of printing absentee and provisional ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001, the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Expenditures: Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

Additional Information

Prior Introductions: None.

Cross File: SB 65 (Senator Astle) - Budget and Taxation.

Information Source(s): Department of Budget and Management, Department of Natural Resources, Maryland Department of the Environment, Department of Legislative Services

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ncs/lgc

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