Department of Legislative Services

Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE
Revised

House Bill 23 (Delegate McMillan, *et al.*)
Appropriations

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. Funds in the Gasoline and Motor Vehicle Revenue Account (GMVRA) must be distributed in accordance with the statutory formula in effect on October 1, 2008. 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 is 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. Transportation Trust Fund (TTF) revenues available to the Maryland Department of Transportation (MDOT) decrease \$326.0 million in FY 2013, \$361.9 million in FY 2014, \$374.7 million in FY 2015, \$383.9 million in FY 2016, and \$388.0 million in FY 2017.

Local Effect: If adopted by the voters, local aid is impacted to the extent State revenues are affected by the prevention of transfers of dedicated State funds. Also, altering the distribution of GMVRA revenues increases local highway user revenues by $326.0 million in FY 2013, $361.9 million in FY 2014, $374.7 million in FY 2015, $383.9 million in FY 2016, and $388.0 million in FY 2017.

Small Business Effect: None.

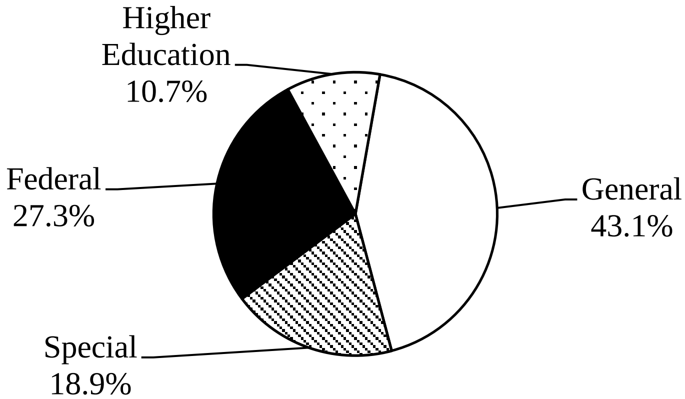
Analysis

Bill Summary: "Dedicated State funds" are revenues collected by the State that are dedicated by law to a specific purpose in accordance with State law on or after July 1, 2012.

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. Some agencies may have only a single funding source, while others draw from a variety of sources. **Exhibit 1** presents the $34.1 billion fiscal 2012 budget by fund source.

Exhibit 1
Fiscal 2012 State Budget by Fund Source



Source: Department of Legislative Services

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 TTF. State special fund appropriations in fiscal 2012 totaled $6.4 billion, and the Governor's proposed fiscal 2013 budget includes $7.2 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 2
Select Special Fund Transfers to the General Fund
Fiscal 2009-2012
($ in Millions)

	FY 2009	FY 2010	FY 2011	FY 2012
Pay-as-you-go Capital Funds	$6.0	$167.5	$52.7	$93.6
Land Preservation/Waterway Improvement	137.1	205.4	27.5	95.6
Other State Agency Funds*	154.3	42.3	31.7	27.0

*"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

Transportation Trust Fund's Gasoline and Motor Vehicle Revenue Account

TTF is a nonlapsing special fund that provides funding for transportation. It consists of tax and fee revenues, operating revenues, bond proceeds, and fund transfers. MDOT issues bonds backed by TTF revenues and invests the TTF fund balance to generate investment income. The tax and fee revenues allocated to TTF include motor fuel taxes, titling taxes, vehicle registration fees, a portion of the rental car sales and corporate income taxes, and other miscellaneous motor vehicle fees. Some of these funds are retained by TTF for MDOT's capital program, debt service, and operating costs. However, a portion is credited to GMVRA, commonly known as highway user revenue, and must be distributed to the general fund, MDOT, and local jurisdictions as follows:

- 23% in fiscal 2011 and 11.3% in fiscal 2012 to the general fund;
- 68.5% in fiscal 2011, 79.8% in fiscal 2012, 90% in fiscal 2013, and 90.4% in fiscal 2014 and future years to MDOT; and
- the balance to counties, municipalities, and Baltimore City.

Exhibit 3 summarizes the distribution of highway user revenue in fiscal 2012 through 2015 under current law. The funds retained by TTF support MDOT's capital program, debt service, and operating costs. Local governments use highway user revenues to assist in the development and maintenance of local transportation projects.

Exhibit 3
Highway User Revenue Distribution under Current Law
Fiscal 2012-2015
($ in Millions)

	Fiscal 2012		Fiscal 2013		Fiscal 2014		Fiscal 2015	
	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars
MDOT	79.8%	$1,317	90.0%	$1,467	90.4%	$1,604	90.4%	$1,661
General Fund	11.3%	186	0.0%	0	0.0%	0	0.0%	0
Baltimore City	7.5%	124	8.1%	132	7.7%	137	7.7%	141
Counties	0.8%	13	1.5%	24	1.5%	26	1.5%	28
Municipalities	0.6%	10	0.4%	7	0.4%	7	0.4%	7
Total	**100.0%**	**$1,650**	**100.0%**	**$1,630**	**100.0%**	**$1,774**	**100.0%**	**$1,837**

MDOT: Maryland Department of Transportation

Source: Department of Legislative Services

In recent years, a significant portion of the local share of highway user revenue has been diverted to the State's general fund to help balance the State's budget. Previously, the statutory distribution formula allocated 70.0% of highway user revenue to MDOT and 30.0% to local jurisdictions. However, the Budget Reconciliation and Financing Act (BRFA) of 2009 (Chapter 487) reduced the local share of highway user revenues for fiscal 2010 and 2011 and transferred the revenues to the general fund. That legislation also adjusted the State-local distribution of highway user revenue, beginning in fiscal 2012, to 71.5% to TTF and 28.5% to local jurisdictions. The distribution of highway user revenues was adjusted further in fiscal 2010 and 2011. Most recently, in accordance with the BRFA of 2011 (Chapter 397), the $1.65 billion in estimated fiscal 2012 highway user revenue was distributed as follows: $1.3 billion (79.8%) to MDOT; $186.5 million (11.3%) to the general fund; $123.8 million (7.5%) to Baltimore City; $13.2 million (0.8%) to counties; and $9.9 million (0.6%) to municipalities. **Exhibit 4** details recent transfers of highway user revenues to the general fund.

Exhibit 4
Highway User Revenue Distributed to the General Fund under Current Law
Fiscal 2003-2013
($ in Millions)

Fiscal Year	Amount
2003	$18
2004	102
2005	102
2006	23
2007	0
2008	0
2009	0
2010	304
2011	377
2012	186
2013 (est.)	0

Source: Department of Legislative Services

Budget Reconciliation and Financing Act of 2012

Among other things, the Governor's BRFA of 2012 (SB 152/HB 87) proposes to redirect special fund revenues and transfer special fund balances to the general fund. The BFRA of 2012 transfers $2.8 million in fiscal 2012 special funds and $101.3 million in fiscal 2013 special funds to the general fund.

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.

If the constitutional amendment is approved, GMVRA revenues must be distributed as they were on October 1, 2008, which was as follows: 70.0% to MDOT and 30.0% to local jurisdictions. Under current law, MDOT retains 90.0% of GMVRA revenues in fiscal 2013 and 90.4% in fiscal 2014 and future years; however, under the bill, MDOT would retain only 70%. Thus, altering the distribution formula decreases TTF revenues available to MDOT by 20 to 20.4 percentage points or $326.0 million in fiscal 2013, $361.9 million in fiscal 2014, $374.7 million in fiscal 2015, $383.9 million in fiscal 2016, and $388.0 million in fiscal 2017, totaling $1.7 billion over the five-year period. (For fiscal 2013, this assumes the allocation of GMVRA revenues would, in the absence of the bill, occur after the general election.)

To the extent the loss of GMVRA revenue prevents MDOT from meeting debt service obligations, significant budget reductions, primarily to MDOT's capital program, are required. MDOT advises that it would be required to reduce its 2012-2017 capital budget by approximately one-third, or $3.2 billion, to meet required bond coverage ratios. Without a new source of revenue, a reduction of this magnitude would effectively end all State-funded expansion projects, significantly reduce system preservation projects, and limit major equipment purchases.

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.

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 Fiscal Effect: Current law requires 10% of GMVRA revenues to be allocated to local jurisdictions as highway user revenue in fiscal 2013 and 9.6% in fiscal 2014 and future years. However, if the constitutional amendment is approved, 30% of GMVRA revenues must be allocated to local jurisdictions. Thus, altering the distribution formula increases local jurisdictions' highway user revenues by 20 to 20.4 percentage points or $326.0 million in fiscal 2013, $361.9 million in fiscal 2014, $374.7 million in fiscal 2015, $383.9 million in fiscal 2016, and $388.0 million in fiscal 2017.

To the extent State revenues are affected by the prevention of transfers of dedicated State funds, other types of local aid may be affected.

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: HB 926 of 2011, a bill with similar provisions, received an unfavorable report from the House Appropriations Committee.

Cross File: None.

Information Source(s): Department of Budget and Management, Department of Health and Mental Hygiene, Maryland Department of Transportation, Department of Legislative Services

Fiscal Note History: First Reader - January 30, 2012
ncs/rhh Revised - Correction - January 30, 2012

Analysis by: Amanda Mock

Direct Inquiries to:
(410) 946-5510
(301) 970-5510