

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 59
Appropriations

(Delegate McMillan)

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 2014.

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 2015. 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.

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.

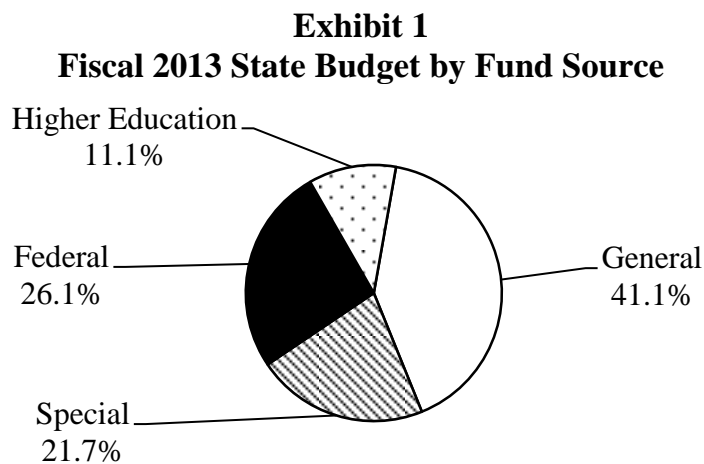
Small Business Effect: None.

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, 2013.

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 \$35.5 billion fiscal 2013 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 the Transportation Trust Fund (TTF). State special fund appropriations in fiscal 2013 totaled \$7.8 billion, and the Governor’s proposed fiscal 2014 budget includes \$7.4 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 transfers of TTF highway user revenues to the general fund.

Exhibit 2
Select Special Fund Transfers to the General Fund
Fiscal 2010-2013
(\$ in Millions)

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>
Pay-as-you-go Capital Funds	\$167.5	\$52.7	\$93.6	\$0
Land Preservation/Waterway Improvement	205.4	27.5	95.6	0
Other State Agency Funds*	42.3	31.7	26.0	0

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

Note: Chapter 1 of the 2012 first special session (SB 1301) authorized the transfer of special funds to the Budget Restoration Fund, a newly established special fund, rather than the general fund.

Source: Department of Legislative Services

Exhibit 3
Highway User Revenue Distributed to the State General Fund
Fiscal 2003-2014
(\$ 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	377
2012	183
2013	0
2014 (est.)	0

Source: Department of Legislative Services

Among other things, the Governor's Budget Reconciliation and Financing Act (BRFA) of 2013 (SB 127/HB 102) proposes to redirect special fund revenue and transfer special fund balances to the general fund. The BRFA of 2013 transfers the following special fund amounts to the general fund: \$1.0 million from the State Insurance Trust Fund in fiscal 2013, \$89.2 million in transfer tax in fiscal 2014, \$75.1 million in transfer tax in fiscal 2015, \$77.7 million in transfer tax in fiscal 2016, \$82.8 million in transfer tax in fiscal 2017, and \$86.0 million in transfer tax in fiscal 2018.

State Fiscal Effect: Assuming approval of the amendment in the November 2014 general election, this bill makes less likely any future transfers from special funds. The Department of 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.

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 (HB 1457), the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

Local Fiscal Effect: To the extent State revenues are affected by the prevention of transfers of dedicated State funds, 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 23 of 2012 and HB 926 of 2011, bills with similar provisions, received unfavorable reports from the House Appropriations Committee.

Cross File: None.

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

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ncs/ljm

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