

Department of Legislative Services  
Maryland General Assembly  
2015 Session

FISCAL AND POLICY NOTE

House Bill 787  
Appropriations

(Delegate McMillan, *et al.*)

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Dedicated State Funds Protection Act

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This proposed constitutional amendment, if approved by the voters at the next general election, establishes that dedicated State funds may be used only for the specific purposes set forth in law as of July 1, 2015, and may not be transferred to the general fund. An exception is made for instances in which the State is invaded or a major catastrophe occurs and the Governor (1) proclaims a state of emergency; (2) declares that use of the funds for defense or relief purposes is necessary for the immediate preservation of the public health or safety; and (3) proposes a plan to repay the funds within five years. The General Assembly, by three-fifths vote, must concur in the use of the funds. If the Governor includes a provision in the budget to transfer dedicated funds to the general fund, the Governor must include a plan to repay the funds within five years.

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Fiscal Summary

**State Effect:** If the proposed constitutional amendment is approved by the voters at the next general election, it could limit budget flexibility by reducing or eliminating special fund transfers to the general fund beginning in FY 2018. 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. Potential significant increase in special fund revenues and expenditures to the extent that future transfers are not made to the general fund.

**Local Effect:** If approved by the voters at the next general election, local aid may be affected to the extent State revenues are affected by the prevention of transfers of dedicated State funds.

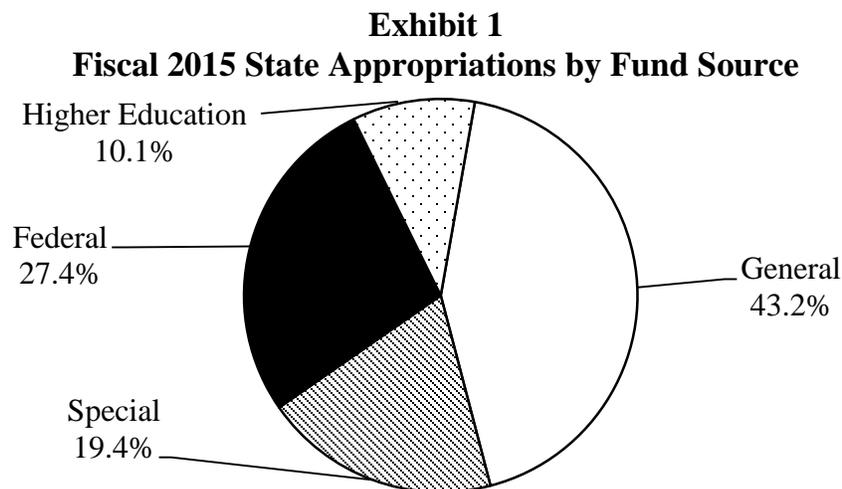
**Small Business Effect:** None.

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## Analysis

**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 \$40.0 billion fiscal 2015 budget by fund source.

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Source: Department of Budget and Management

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### *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 revenues in fiscal 2015 totaled \$7.8 billion, and the Governor's proposed fiscal 2016 State budget includes \$8.0 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. In more recent years, the transfers have largely been replaced with general obligation bond funding over a multiyear period.

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**Exhibit 2**  
**Select Special Fund Transfers to the General Fund**  
**Fiscal 2011-2015**  
**(\$ in Millions)**

	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
Pay-as-you-go Capital Funds	\$52.7	\$93.6	\$0.4	\$19.1	\$0.0
Land Preservation/Waterway Improvement	27.5	95.6	96.9	89.2	156.9
Other State Agency Funds*	31.7	26.0	5.9	6.2	27.2

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

Note: For fiscal 2013, Chapter 1 of the 2012 first special session authorized the transfer of special funds to the Budget Restoration Fund, a newly established special fund, rather than the general fund. This exhibit treats those transfers as transfers to the general fund.

Source: Department of Legislative Services

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At the 2014 general election, voters approved an amendment to the Maryland Constitution proposed by the General Assembly (Chapter 422 of 2013) that restricts transfers from TTF to the general fund or other special funds. However, it creates an exception if the Governor, by executive order, declares a fiscal emergency and the General Assembly approves legislation by three-fifths vote of both houses that concurs with the use or transfer of funds.

The Budget Reconciliation and Financing Act of 2015 (Senate Bill 57/House Bill 72) proposes additional transfers from special funds to the general fund in both fiscal 2015 and 2016, as shown in **Exhibit 3**.

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**Exhibit 3**  
**Budget Reconciliation and Financing Act of 2015**  
**Proposed Transfers to the General Fund**

	<u><b>FY 2015</b></u>	<u><b>FY 2016</b></u>
Local Income Tax Reserve Fund	\$100,000,000	
Transfer Tax		\$37,712,700
Program Open Space	10,500,000	
Strategic Energy Investment Fund	6,000,000	
Baltimore City Community College	4,000,000	
State Unemployment Trust Fund	4,000,000	4,000,000
Jane E. Lawton Conservation Trust Fund	3,000,000	
Mortgage Lender Originator Fund	3,000,000	
Board of Nursing	2,500,000	
Waterway Improvement Fund	2,180,000	
Board of Physicians	1,800,000	
Board of Pharmacy	1,600,000	
Spinal Cord Injury Trust Fund	1,000,000	
Health Personnel Shortage Incentive Fund	1,700,000	
Bay Restoration Fund	1,375,000	
Helicopter Replacement Fund	269,741	
<b>Total</b>	<b>\$142,924,741</b>	<b>\$41,712,700</b>

Source: Department of Legislative Services

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**State Fiscal Effect:** Assuming approval of the amendment in the November 2016 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, 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.

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### **Additional Information**

**Prior Introductions:** HB 754 of 2014 received a hearing in the House Appropriations Committee, but no further action was taken on the bill. HB 59 of 2013 received a hearing in the House Appropriations Committee, but no further action was taken. HB 23 of 2012 and HB 926 of 2011, both similar bills, received unfavorable reports from the House Appropriations Committee.

**Cross File:** None.

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

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