

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 898
Appropriations

Operating Budget – Unanticipated Federal Funds – Authorized Uses

This emergency bill generally prohibits, in fiscal 2021 and 2022, the expenditure of specified, unanticipated federal funds by budget amendment unless the funds are to be used for specified purposes. The bill's prohibition applies to federal funds that are (1) appropriated by Congress on or after December 14, 2020, or (2) part of a grant that is not included in the fiscal 2022 budget books. However, a budget amendment may permit the expenditure of those federal funds if (1) the funds increase an appropriation in the fiscal 2021 or 2022 budget that provides funding for COVID-19 vaccine acquisition, distribution, and administration or for transit operating costs or (2) the funds increase an appropriation in the fiscal 2022 budget that provides funding for programs authorized in the Blueprint for Maryland's Future or to support eviction assistance and financial support for unemployed individuals. The bill's prohibition does not apply to a budget amendment that the Board of Public Works (BPW) determines is essential to (1) maintaining public safety, health, or welfare of the State or (2) protecting the environment or economic welfare of the State. **The bill terminates June 30, 2022.**

Fiscal Summary

State Effect: State federal fund expenditures are potentially affected in FY 2021 and 2022 to the extent that the purposes for which such funds are used are affected, as discussed below. Revenues are not affected.

Local Effect: Local government revenues and expenditures are potentially affected, as discussed below.

Small Business Effect: Small businesses are potentially affected, as discussed below.

Analysis

Current Law: Section 7-217 of the State Finance and Procurement Article authorizes the expenditure of special or federal funds that are not estimated or included in the State budget, or that exceed the estimate in the State budget, by an approved budget amendment. Such funds may be expended for (1) the specific purpose to which the money is dedicated by State law or act of Congress or (2) if the money is not dedicated to a specific purpose, with the approval of the Governor and as authorized in an approved budget amendment, for necessary current operations.

In addition, language in the annual budget bill expressly authorizes revenues in excess of special or federal fund appropriations in the budget bill to be made available by approved budget amendment. Budget amendments that increase a special, federal, or higher education fund appropriation by \$100,000 or more are generally subject to legislative review. Section 27 of the fiscal 2021 budget bill specifies that such amendments may not be approved by the Governor until (1) the amendment has been submitted to the Department of Legislative Services and (2) the budget committees or the Legislative Policy Committee have considered the amendment, or 45 days have elapsed from the date of submission. Specified budget amendments are excluded from the legislative review requirement, including budget amendments solely for the purpose of appropriating federal disaster relief funds. Section 27 further specifies that a budget amendment may not be amended to increase a federal fund appropriation by \$100,000 or more unless documentation evidencing the increase in funds is provided with the amendment and the fund availability is certified by the Secretary of Budget and Management.

However, notwithstanding the above provisions, Section 27 authorizes any federal, special, or higher education fund appropriation to be increased by budget amendment upon a declaration by BPW that the amendment is essential to maintaining public safety, health, or welfare, including protecting the environment or the economic welfare of the State.

State Fiscal Effect: Under the federal Consolidated Appropriations Act, which was signed into law on December 27, 2020, Maryland is estimated to receive \$7.8 billion in federal stimulus funds, of which \$1.3 billion is expected to flow through the State budget. (For additional information on federal funding for Maryland to address the COVID-19 pandemic, see the **Appendix – COVID-19**.) However, no December stimulus funds are included in the Governor's proposed fiscal 2022 budget, as submitted. Additionally, the proposed fiscal 2022 budget makes no assumptions with respect to future federal stimulus funding.

As discussed above, the bill restricts the purposes for which federal fund revenues that are unanticipated in the State budget bill may be allocated via budget amendment. Thus, the December stimulus funds and any future stimulus funds that the State may receive from

the federal government in fiscal 2021 and 2022 are subject to the bill's provisions to the extent such funds will flow through the State budget.

While *overall* federal fund expenditures are unaffected, the bill potentially affects the purposes for which funds are used. Federal fund expenditures for a particular agency or department may be affected to the extent unanticipated federal funds are directed to a different purpose than they would be in the absence of the bill. Any such impact, however, depends on the amount of unanticipated federal funds received in fiscal 2021 and 2022, the amount of discretion the State has in spending these funds, and the extent to which the purposes specified in the bill and/or otherwise determined by the General Assembly differ from the purposes to which the funds would otherwise be allocated.

Local Fiscal Effect: Local government revenues and expenditures are affected to the extent that State grants to local governments are affected. Any such impact, however, is uncertain, due to the factors discussed above.

Small Business Effect: Small businesses may be affected to the extent that State assistance to small businesses is affected. Any such impact, however, is uncertain.

Additional Information

Prior Introductions: None.

Designated Cross File: None.

Information Source(s): Department of Budget and Management; Board of Public Works; Department of Legislative Services

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Appendix – COVID-19

In December 2019, a novel strain of coronavirus known as severe acute respiratory syndrome coronavirus 2 emerged in Wuhan, China. Coronavirus disease (COVID-19) is an infectious disease caused by this virus. As the number of cases spread globally by March 2020, the World Health Organization declared COVID-19 a pandemic.

Testing, Cases, and Deaths in Maryland

Maryland's first three confirmed cases of COVID-19 were recorded on March 6, 2020, with the first two deaths occurring March 16, 2020. As of January 27, 2021, Maryland reported a total of 346,559 confirmed cases, 31,468 individuals ever hospitalized, and 6,821 confirmed deaths. The jurisdictions with the highest number of cases have been Prince George's, Montgomery, and Baltimore counties and Baltimore City. Statewide, 8.4% of cases (28,954) and 45.9% of COVID-19 deaths (3,130) occurred in congregate living settings (*i.e.*, nursing homes, assisted living, and group homes). Updated data on COVID-19 in Maryland is available on the Maryland Department of Health (MDH) dashboard: <https://coronavirus.maryland.gov>.

Vaccines

In December 2020, the U.S. Food and Drug Administration approved both Pfizer-BioNTech and Moderna's COVID-19 vaccines for emergency use. Due to limited quantities, distribution began with priority groups as determined by states. Maryland began distribution in January 2021 with Phase 1A, which includes health care workers, residents and staff of nursing homes, first responders, public safety, corrections staff, and front-line Judiciary staff. Phase 1B began January 18, 2021, and includes residents of assisted living facilities and other congregate settings, adults age 75 and older, staff of K-12 schools and child care facilities, high-risk incarcerated individuals, and those involved in continuity of government. As of January 27, 2020, the State is in Phase 1C, which includes adults aged 65 and older, additional public safety and public health workers, and essential workers in food/agriculture, manufacturing, public transit, and the postal service. Phase 2 will include individuals aged 16 to 64 at increased risk of severe illness, incarcerated adults, and remaining essential workers. Phase 3 will include the general public. As of January 27, 2021, 852,625 doses of the vaccine have been distributed, and 419,579 doses have been administered (363,282 first doses and 56,297 second doses). Updated data is available on the MDH dashboard: coronavirus.maryland.gov/#Vaccine.

Declaration of a State of Emergency and Initial Executive Orders

On March 5, 2020, Governor Lawrence J. Hogan, Jr. declared a state of emergency and the existence of a catastrophic health emergency to deploy resources and implement the emergency powers of the Governor to control and prevent the spread of COVID-19. The declaration, which has been renewed several times (most recently January 21, 2021), initiated a series of executive actions, including moving the Maryland Emergency Management Agency to its highest activation level, activating the National Guard, and closing all public schools. The Governor then ordered the closure of in-house dining at bars and restaurants and banned mass gatherings of more than 50 people. This action was followed by a more extensive stay-at-home order on March 30, 2020, requiring closure of all nonessential businesses. This order remained in effect until May 15, 2020.

Emergency Legislation

Chapters 13 and 14 of 2020 (the COVID-19 Public Health Emergency Protection Act of 2020) authorized the Governor, for the duration of the emergency, to take actions relating to health insurance, Medicaid, retailer profits, employer actions, and personnel at State health care facilities as a result of the state of emergency and catastrophic health emergency. The Acts also authorize the Secretary of Labor to determine certain individuals eligible for unemployment insurance (UI) benefits due to COVID-19. The Acts terminate April 30, 2021.

Subsequent Executive Orders and Advisories

Since March 2020, the Governor has issued numerous executive orders relating to COVID-19, including (1) closing Maryland ports and harbors to passenger vessels; (2) expanding child care access; (3) expanding the scope of practice for health care practitioners, activating the Maryland Responds Medical Reserve Corps, controlling and restricting elective medical procedures, closing adult day care centers, and providing additional health care regulatory flexibility; (4) augmenting emergency medical services; (5) prohibiting price gouging; (6) fast tracking lab testing processes; (7) authorizing expanded telehealth services; (8) delegating authority to local health officials to control and close unsafe facilities; (9) extending certain licenses, permits, and registrations; (10) authorizing remote notarizations; (11) prohibiting evictions of tenants suffering substantial loss of income due to COVID-19, additionally prohibiting certain repossessions, restricting initiation of residential mortgage foreclosures, and prohibiting commercial evictions; (12) regulating certain businesses and facilities and generally requiring the use of face coverings; (13) establishing alternate health care sites and authorizing regulation of patient care space in health care facilities; and (14) implementing alternative correctional detention and supervision.

Federal Legislation Regarding COVID-19

Five federal emergency bills have been enacted to address the COVID-19 pandemic:

- the **Coronavirus Preparedness and Response Supplemental Appropriations Act**, which provided \$8.3 billion in emergency funds for federal agencies (including \$950 million through the U.S. Centers for Disease Control and Prevention for state and local response);
- the **Families First Coronavirus Response Act**, which addressed emergency family and medical leave and paid sick leave, specified insurance coverage of COVID-19 testing, and provided additional funding for nutrition assistance programs and unemployment benefits;
- the **Coronavirus Aid, Relief, and Economic Security (CARES) Act**, which included a Coronavirus Relief Fund for state and local governments; an Education Stabilization Fund for states, school districts, and institutions of higher education; a Disaster Relief Fund for state and local governments; additional funding for public health agencies to prevent, prepare for, and respond to COVID-19; funding for transit systems; an expansion and extension of eligibility for UI benefits, and additional temporary unemployment compensation of \$600 per week; \$349 billion for the establishment of the Paycheck Protection Program (PPP); a \$500 billion lending fund for businesses, cities, and states; and Economic Impact Payments to American households of up to \$1,200 per adult and \$500 per child;
- the **Paycheck Protection Program and Health Care Enhancement Act**, which provided an additional \$310 billion to PPP, \$75 billion for health care providers, \$60 billion for small business disaster loans, and \$25 billion for increased testing capacity; and
- the **Consolidated Appropriations Act, 2021, and Other Extensions Act**, which included \$908 billion in relief, including another \$284 billion for PPP, \$82 billion for schools, \$45 billion for transportation, \$25 billion in emergency assistance to renters, \$20 billion for vaccine distribution, \$13 billion for a major expansion in Supplemental Nutrition Assistance benefits, \$13 billion for agriculture and rural programs, \$10 billion for child care assistance, extended federal unemployment benefits of up to \$300 per week, extended the federal moratorium on evictions through January 31, 2021, and provided a second stimulus payment of up to \$600 per person.

Federal Funding for Maryland to Address COVID-19

The CARES Act and the Families First Coronavirus Response Act provided Maryland with a significant amount of federal aid. More than \$6 billion in assistance has been made available to the State and local governments, including an enhanced federal matching rate for Medicaid. More than \$900 million was directly provided to local governments. The largest and most flexible portion of CARES Act funding is the Coronavirus Relief Fund, which totals \$2.3 billion, \$691 million of which was allocated directly to Baltimore City and Anne Arundel, Baltimore, Montgomery, and Prince George's counties.

CARES Act funding also included \$800 million for the Disaster Recovery Fund; \$696 million for transit grants; \$575 million in enhanced Medicaid matching funds (through December 2020); \$239 million in CDC grants; \$108 million for airports; \$74 million for community development block grants; \$50 million for homelessness assistance; \$46 million for grants for local education agencies and higher education institutions; \$46 million for child care and development block grants; \$36 million for public housing and rental assistance grants; \$24 million for community health centers; \$20 million for senior nutrition; \$19 million for energy assistance; \$18 million for justice assistance grants; \$17 million for administration of the UI program; \$14 million for community service block grants; \$13 million for emergency food assistance; \$8 million for Head Start; \$8 million for the Women, Infants, and Children program; and \$7 million for election security.

The Consolidated Appropriations Act is estimated to provide Maryland with \$1.2 billion for education (including \$869 million for K-12 education, \$306 million for higher education, and \$57.7 million for the Governor's Fund); \$1.1 billion for transportation (including \$830.3 million for transit in the Washington, DC area, \$149.3 million for highways, \$76.2 million for transit in Baltimore, \$22.5 million for airports, and \$9.1 million for rural area grants); more than \$475 million for health (including \$335.6 million for testing, \$75.3 million for vaccines, \$32.6 million for mental health assistance, and \$31.9 million for substance use assistance); \$402.4 million for rental assistance; and \$140.6 million for human services (including \$130.4 million for child care).