

Bill Testimony HB 133
Dr. David B. Juppe

Position: Support with Amendments

I would like to submit this written testimony in support of House Bill 133 with amendments. Thank you for the opportunity to comment on this legislation. Some of you may remember me, as I spent 30 years with the Department of Legislative Services (DLS) in the budget function. During my time with DLS I served as a budget analyst for k-12 education, public safety, and transportation, Capital Budget Manager for one session, and Operating Budget Manager for 22 years. After retirement I began working at the local government level, but I am not representing my employer, only myself as a taxpaying citizen. I will state that if enacted, HB 133 could be of benefit to my employer.

During my 30 year career I saw the booms and busts of the business cycle play out on the State budget. When times are lean and the legislature is out of session, State law provides the opportunity for the Administration to respond to revenue shortfalls by withdrawing spending through the Board of Public Works (BPW). There is also the option to call the legislature into special session. Both avenues were pursued after the 1991 recession, but since then Governors chose to only reduce spending through the BPW after the 2001 and 2008 recessions and during the coronavirus pandemic on the first day of fiscal 2021.

Section 7-213 of the State Finance and Procurement Article allows BPW to cut up to 25% of any appropriation in the budget with certain limitations (debt service, certain k-12 spending, and the salaries of constitutional officers may not be cut). Apart from that there is not much direction on how the Administration may implement this section. My observation on this power is as follows:

1. Cuts have been taken at the agency level; and
2. In particularly bad years when more than one round of BPW cuts have been adopted the interpretation appears to be that each round of cuts can be for 25%

Let me explain why I think that this is not the most equitable approach to reducing spending. Maryland has a program budget. If you look in the budget bill, spending is organized by agency, but the appropriations are made at the eight-digit program organized by alpha-numeric codes. If up to 25% is cut from the entire agency appropriation it permits the Administration to cut disproportionately large amounts from individual programs. For example, when the Administration was planning to implement a round of budget cuts on July 1, 2020 one of the options to be cut was the Teacher Retirement Supplemental Grants under Payment to Civil Divisions of the State (the budget codes starting with the letter "A"). This budget is not an agency per se, but has the funding for two general fund programs: Disparity Grants and the Teacher Retirement Supplemental Grants. If the 25% was to be cut from the Supplemental Grants budget of approximately \$28 million it would result in a \$7 million cut. However, the Administration

proposed cutting the entire \$28 million appropriation. It was able to do this by its interpretation that the 25% cut could be applied to entire Civil Divisions budget of \$186 million. Since \$28 million is about 15% of \$186 million then it would be fine to wipe out an entire program's funding.

This is not the first time the Administration has focused reductions on specific programs within an agency that were not viewed favorably. After the 2008 recession there were multiple rounds of BPW cuts in fiscal 2009 and 2010. Within the Maryland Higher Education Commission (budget code R62), round after round of BPW cuts implemented significantly greater than 25% cuts on the Sellinger program. The same applied to the Funding for Educational Organizations funding in the Maryland State Department of Education. Arguably there is nothing wrong or illegal with this approach, but this approach can greatly affect the operations of entities that receive funding from the State.

Related to the interpretation of the 25% cut at the agency level is the impact of levying 25% cuts with each new round of BPW action. If an agency, for example, had a budget of \$10.0 million, it could theoretically be cut by 75% using three BPW cuts of 25% each or \$2.5 million per cut.

HB 133 addresses how BPW cuts are implemented and makes the process more equitable by limiting the cuts to 25% in any one fiscal year (i.e., reducing no more than 25% of the Legislative Appropriation (i.e., the July 1 starting point for a fiscal year). It also attempts to limit the reduction to any line item in the budget. This would also address the issue of targeting spending cuts to specific programs within an agency. I would like to offer one amendment to the bill to clarify that 25% is the maximum cut from any "eight-digit program" which I think more accurately references the spending format of the budget (see SF&P 7-119 which uses this terminology for PAYGO capital programs in the budget bill). I respectfully offer this for your consideration.

Article – State Finance and Procurement

7-213

(a) (1) Subject to paragraph (2) of this subsection and except as provided in subsection (b) of this section, with the approval of the Board of Public Works, the Governor may reduce, by not more than 25% OF THE TOTAL APPROPRIATION FOR ANY ~~LINE ITEM~~ EIGHT-DIGIT PROGRAM IN THE STATE OPERATING BUDGET IN ANY FISCAL YEAR, any appropriation: