

Department of Legislative Services  
Maryland General Assembly  
2014 Session

FISCAL AND POLICY NOTE

House Bill 711  
Appropriations

(Delegates Kach and Olszewski)

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Transfer Tax Revenues - Special Fund Transfers - Two-Thirds Vote

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This proposed constitutional amendment, if approved by the voters at the next general election, prohibits transfer tax revenues from being transferred or diverted to the general fund of the State for fiscal 2016 through 2018 unless the funding transferred is replaced, on a dollar-for-dollar basis, through the State Consolidated Capital Bond Funding Program in the same fiscal year in which the special fund transfer takes place.

Beginning in fiscal 2019, transfer tax revenues may not be transferred or diverted to the general fund of the State unless legislation is passed on a ye and nay vote supported by two-thirds of all the members elected to each of the two Houses of the General Assembly.

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Fiscal Summary

**State Effect:** If adopted, the constitutional amendment would delay certain capital projects and limit budget flexibility due to the modified transfer fund replacement schedule. The constitutional amendment may benefit specified State agencies, most notably the Maryland Department of Agriculture (MDA) and the Department of Natural Resources (DNR), due to the proposal's accelerated replacement schedule but would not net those agencies additional funds over the long term.

**Local Effect:** The constitutional amendment may benefit local jurisdictions that receive Program Open Space (POS) funding due to the proposal's accelerated replacement schedule but would not net those local jurisdictions additional funds over the long term. Further, it is assumed that the potential for increased costs to notify voters of any constitutional amendments proposed by the General Assembly, and to include any proposed constitutional amendments on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

**Small Business Effect:** Minimal.

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### **Analysis**

**Current/Background:** The State transfer tax rate is 0.5% of the consideration payable for an instrument of writing. Any person or business conveying title to real property by means of an instrument of writing recorded with the clerk of the circuit court or filed with the State Department of Assessments and Taxation (SDAT) is required to pay the transfer tax. State transfer tax revenues are paid to the Comptroller by the clerks of the circuit courts and SDAT and are used to fund several programs in DNR and MDA.

Transfer tax revenues for debt service on POS Acquisition Opportunity Loan of 2009 general obligation (GO) bond authorizations are credited to the Annuity Bond Fund. A portion of State transfer tax revenues (3%) is earmarked to defray administrative costs within DNR, the Department of General Services, and the Maryland Department of Planning. Approximately 76% of the transfer tax historically has been allocated to POS, which has three main components: a State share, a local share, and Maryland Park Service operations share. All other funds are allocated to the Rural Legacy Program, Maryland Agriculture Land Preservation Foundation, and the Heritage Conservation Fund pursuant to statute.

The Budget Reconciliation and Financing Act (BRFA) of 2013 authorized the transfer of transfer tax revenues to the general fund in the following amounts as shown below in **Exhibit 1**. The transfers may not be taken into account for purposes of determining any allocation or appropriation required under the statutory provisions relating to the repayment of the transfers in subsequent years.

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**Exhibit 1**  
**Fund Balance Transfers**  
**Authorized in 2013 BRFA**  
**Fiscal 2015-2018**  
**(\$ in Millions)**

<b>Fiscal Impact:</b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>	<b><u>FY 2018</u></b>	<b><u>Total</u></b>
General Fund Revenues	\$75.1	\$77.7	\$82.8	\$86.0	\$321.6
Special Fund Expenditures	(\$75.1)	(\$77.7)	(\$82.8)	(\$86.0)	(\$321.6)

Source: Department of Legislative Service

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As the 2013 BRFA specifies that the transfers may not be considered for purposes of determining any allocation or appropriation required for the repayment of the State transfer tax, the funds may be transferred without future repayment to the affected programs. However, although not required by the BRFA, the Maryland Consolidated Capital Bond Loan (MCCBL) of 2013 (Chapter 424) preauthorized GO bond funding in fiscal 2016 through 2020 to replace those funds transferred by the BRFA. The replacement schedule is shown below in **Exhibit 2**. Exhibit 2 also shows how the proposed constitutional amendment, if approved, would accelerate the replacement schedule.

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**Exhibit 2**  
**Replacement Schedule Transfer Tax Transfers**  
**Made in the 2013 BRFA**  
**Fiscal 2016-2020**  
**(\$ in Millions)**

	<u>Preauthorized 2013 MCCBL</u>	<u>Required Under the Bill</u>
FY 2016 GO Bond Replacement	\$37.5	\$77.7
FY 2017 GO Bond Replacement	76.4	82.8
FY 2018 GO Bond Replacement	80.2	86.0
FY 2019 GO Bond Replacement	84.4	-
FY 2020 GO Bond Replacement	43.0	-
<b>FY 2016-2020 Total Replacement</b>	<b>\$321.6</b>	<b>\$246.5</b>

Numbers may not sum to total due to rounding.

Source: Department of Legislative Services

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The proposed 2014 BRFA would authorize the transfer of an additional \$69.1 million in transfer tax revenues to the general fund in fiscal 2015 as shown below in **Exhibit 3**. Exhibit 3 also includes the proposed replacement schedules. As that transfer would take place in fiscal 2015, it is not affected by the proposed constitutional amendment.

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**Exhibit 3**  
**2014 BRFA Proposed Transfer Tax and Transfers**  
**and Replacement Schedule**  
**Fiscal 2015-2020**  
**(\$ in Millions)**

<b>Fiscal Impact:</b>	<b><u>FY 2015</u></b>	<b><u>FY 2016</u></b>	<b><u>FY 2017</u></b>	<b><u>FY 2018</u></b>	<b><u>FY 2019</u></b>
General Fund Revenues	\$69.1	\$0	\$0	\$0	\$0
Special Fund Expenditures	(\$69.1)	\$0	\$0	\$0	\$0
GO Bond Replacement	\$0	\$23.04	\$23.04	\$23.04	\$0

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**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 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.

Overall, GO bond funding is not affected as the total amount of GO authorizations is not increased; shifting GO funds to replace transfer tax revenues for these projects will result in less GO bonds available for other projects and will delay or eliminate capital projects that are projected to be funded in the out-years.

If future transfers from special funds are made, capital project flexibility would be diminished, requiring the delay of certain projects.

The net effect to MDA and DNR is minimal; however, those departments may see an increase in the funds available to them due to the proposed constitutional amendment's accelerated replacement schedule.

**Local Fiscal Effect:** POS, established in 1969 and administered by DNR, provides funds for State and local acquisition and development of public outdoor recreational sites, facilities, and open space. To the extent that local jurisdictions receive POS funds, those jurisdictions may benefit from the constitutional amendment due to the accelerated repayment schedule.

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## Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Department of Natural Resources, Comptroller's Office, Maryland State Treasurer's Office, Department of Legislative Services

**Fiscal Note History:** First Reader - March 5, 2014  
ncs/ljm

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Analysis by: Matthew B. Jackson

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