

# HOUSE BILL 898

B1

EMERGENCY BILL

11r2013  
CF 11r2014

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By: **Delegate McIntosh**

Introduced and read first time: February 2, 2021

Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Operating Budget – Unanticipated Federal Funds – Authorized Uses**

3 FOR the purpose of prohibiting the expenditure of certain money from the federal  
4 government by amendment of an appropriation in the fiscal year 2021 or 2022 State  
5 budget unless the money is used for certain purposes; providing that the prohibition  
6 does not apply to the amendment of an appropriation if the Board of Public Works  
7 makes a certain determination; making this Act an emergency measure; providing  
8 for the termination of this Act; and generally relating to the amendment of certain  
9 federal fund appropriations.

10 BY repealing and reenacting, without amendments,  
11 Article – State Finance and Procurement  
12 Section 7–209(c)  
13 Annotated Code of Maryland  
14 (2015 Replacement Volume and 2020 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Article – State Finance and Procurement  
17 Section 7–217  
18 Annotated Code of Maryland  
19 (2015 Replacement Volume and 2020 Supplement)

20 BY repealing and reenacting, with amendments,  
21 Chapter 19 of the Acts of the General Assembly of 2020  
22 Section 5, 7, and 27

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
24 That the Laws of Maryland read as follows:

25 **Article – State Finance and Procurement**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 7-209.

2 (c) (1) An amendment of an appropriation for a program:

3 (i) except as provided in paragraph (2) of this subsection, may not  
4 increase the sum of the appropriations from the General Fund of the State for all the  
5 programs of the officer or unit; and

6 (ii) may permit the expenditure of money from a special fund or the  
7 federal government as provided in § 2-201 of this article or § 7-217(a) of this subtitle.

8 (2) An amendment of an appropriation for a program of the Executive  
9 Branch may increase the sum of the appropriations from the General Fund of the State for  
10 all programs of the officer or unit if money from the Contingent Fund of the Board of Public  
11 Works is transferred to the program.

12 7-217.

13 (a) (1) An officer or unit of the State government may spend money from a  
14 special fund or the federal government that is not estimated or included in the State budget  
15 or exceeds the estimate in the State budget and is paid into the State Treasury for a  
16 program after an approved amendment of a special **FUND APPROPRIATION** or, **SUBJECT**  
17 **TO PARAGRAPH (2) OF THIS SUBSECTION, A federal fund appropriation for the program:**

18 [(1)] (I) for the specific purpose to which the money is dedicated by State  
19 law or act of Congress; or

20 [(2)] (II) if the money is not dedicated to a specific purpose, with the  
21 approval of the Governor and as authorized in an approved budget amendment, for  
22 necessary current operations.

23 (2) (I) **EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF**  
24 **THIS PARAGRAPH, AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR A**  
25 **PROGRAM IN THE FISCAL YEAR 2021 OR 2022 STATE BUDGET MAY NOT PERMIT THE**  
26 **EXPENDITURE OF MONEY FROM THE FEDERAL GOVERNMENT IF THE FEDERAL**  
27 **FUNDS ARE:**

28 1. **APPROPRIATED BY CONGRESS ON OR AFTER**  
29 **DECEMBER 14, 2020; OR**

30 2. **PART OF A GRANT THAT IS NOT INCLUDED IN THE**  
31 **FISCAL YEAR 2022 BUDGET BOOKS REQUIRED UNDER § 7-115 OF THIS TITLE.**

32 (II) **AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR**  
33 **A PROGRAM MAY PERMIT THE EXPENDITURE OF MONEY FROM THE FEDERAL**

1 GOVERNMENT IF:

2 1. THE FUNDS INCREASE AN APPROPRIATION IN THE  
3 FISCAL YEAR 2021 OR 2022 STATE BUDGET THAT PROVIDES FUNDING FOR:

4 A. COVID-19 VACCINE ACQUISITION, DISTRIBUTION,  
5 AND ADMINISTRATION; OR

6 B. TRANSIT OPERATING COSTS; OR

7 2. THE FUNDS INCREASE AN APPROPRIATION IN THE  
8 FISCAL YEAR 2022 STATE BUDGET THAT PROVIDES FUNDING:

9 A. FOR PROGRAMS AUTHORIZED IN THE BLUEPRINT FOR  
10 MARYLAND'S FUTURE; OR

11 B. TO SUPPORT EVICTION ASSISTANCE AND FINANCIAL  
12 SUPPORT FOR UNEMPLOYED INDIVIDUALS.

13 (III) SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH DO NOT  
14 APPLY TO AN AMENDMENT OF A FEDERAL FUND APPROPRIATION FOR A PROGRAM  
15 IF THE BOARD OF PUBLIC WORKS DETERMINES THAT THE AMENDMENT IS  
16 ESSENTIAL TO:

17 1. MAINTAINING PUBLIC SAFETY, HEALTH, OR WELFARE  
18 OF THE STATE; OR

19 2. PROTECTING THE ENVIRONMENT OR ECONOMIC  
20 WELFARE OF THE STATE.

21 (b) Money that is derived from a source estimated and included in an  
22 appropriation act and that is in excess of the estimate shall remain in the General Fund of  
23 the State until appropriated by a subsequent appropriation act.

24 **Chapter 19 of the Acts of 2020**

25 SECTION 5. AND BE IT FURTHER ENACTED, That amounts received pursuant  
26 to Sections 2-201 and 7-217 of the State Finance and Procurement Article may be  
27 expended, **SUBJECT TO SECTION 7-217(A)(2) OF THE STATE FINANCE AND**  
28 **PROCUREMENT ARTICLE**, by approved budget amendment.

29 SECTION 7. AND BE IT FURTHER ENACTED, That, except as otherwise provided,  
30 amounts received from sources estimated or calculated upon in the budget in excess of the  
31 estimates for any special or federal fund appropriations listed in this bill may be made

1 available, **SUBJECT TO SECTION 7-217(A)(2) OF THE STATE FINANCE AND**  
2 **PROCUREMENT ARTICLE**, by approved budget amendment.

3 SECTION 27. AND BE IT FURTHER ENACTED, That any budget amendment to  
4 increase the total amount of special, federal, or higher education (current restricted and  
5 current unrestricted) fund appropriations, or to make reimbursable fund transfers from the  
6 Governor's Office of Justice, Youth, and Victim Services or the Maryland Emergency  
7 Management Agency made in Section 1 of this Act shall be subject to the following  
8 restrictions:

9 (1) This section may not apply to budget amendments for the sole purpose of:

10 (a) appropriating funds available as a result of the award of federal  
11 disaster assistance; and

12 (b) transferring funds from the State Reserve Fund – Economic  
13 Development Opportunities Account for projects approved by the Legislative Policy  
14 Committee (LPC).

15 (2) Budget amendments increasing total appropriations in any fund account by  
16 \$100,000 or more may not be approved by the Governor until:

17 (a) that amendment has been submitted to the Department of Legislative  
18 Services (DLS); and

19 (b) the budget committees or LPC has considered the amendment or 45  
20 days have elapsed from the date of submission of the amendment. Each amendment  
21 submitted to DLS shall include a statement of the amount, sources of funds and purposes  
22 of the amendment, and a summary of the impact on regular position or contractual  
23 full-time equivalent payroll requirements.

24 (3) Unless permitted by the budget bill or the accompanying supporting  
25 documentation or by any other authorizing legislation, and notwithstanding the provisions  
26 of Section 3-216 of the Transportation Article, a budget amendment may not:

27 (a) restore funds for items or purposes specifically denied by the General  
28 Assembly;

29 (b) fund a capital project not authorized by the General Assembly provided,  
30 however, that subject to provisions of the Transportation Article, projects of the Maryland  
31 Department of Transportation (MDOT) shall be restricted as provided in Section 1 of this  
32 Act;

33 (c) increase the scope of a capital project by an amount 7.5% or more over  
34 the approved estimate or 5.0% or more over the net square footage of the approved project  
35 until the amendment has been submitted to DLS and the budget committees have  
36 considered and offered comment to the Governor or 45 days have elapsed from the date of

1 submission of the amendment. This provision does not apply to MDOT; and

2 (d) provide for the additional appropriation of special, federal, or higher  
3 education funds of more than \$100,000 for the reclassification of a position or positions.

4 (4) A budget may not be amended to increase a federal fund appropriation by  
5 \$100,000 or more unless documentation evidencing the increase in funds is provided with  
6 the amendment and fund availability is certified by the Secretary of Budget and  
7 Management.

8 (5) No expenditure or contractual obligation of funds authorized by a proposed  
9 budget amendment may be made prior to approval of that amendment by the Governor.

10 (6) Notwithstanding the provisions of this section, any federal, special, or higher  
11 education fund appropriation may be increased by budget amendment upon a declaration  
12 by the Board of Public Works that the amendment is essential to maintaining public safety,  
13 health, or welfare, including protecting the environment or the economic welfare of the  
14 State.

15 (7) Budget amendments for new major information technology projects, as  
16 defined by Sections 3A-301 and 3A-302 of the State Finance and Procurement Article,  
17 must include an Information Technology Project Request, as defined in Section 3A-308 of  
18 the State Finance and Procurement Article.

19 (8) Further provided that the fiscal 2021 appropriation detail as shown in the  
20 Governor's budget books submitted to the General Assembly in January 2021 and the  
21 supporting electronic detail may not include appropriations for budget amendments that  
22 have not been signed by the Governor, exclusive of the MDOT pay-as-you-go capital  
23 program.

24 (9) Further provided that it is the policy of the State to recognize and appropriate  
25 additional special, higher education, and federal revenues in the budget bill as approved by  
26 the General Assembly. Further provided that for the fiscal 2022 allowance, the Department  
27 of Budget and Management shall continue policies and procedures to minimize reliance on  
28 budget amendments for appropriations that could be included in a deficiency appropriation.

29 **(10) EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SECTION, AN**  
30 **AMENDMENT OF A FEDERAL FUND APPROPRIATION MAY NOT PERMIT THE**  
31 **EXPENDITURE OF MONEY FROM THE FEDERAL GOVERNMENT IF THE FEDERAL**  
32 **FUNDS ARE APPROPRIATED BY CONGRESS ON OR AFTER DECEMBER 14, 2020,**  
33 **UNLESS THE FUNDS ARE PART OF A FEDERAL GRANT PROGRAM THAT IS INCLUDED**  
34 **IN THE FISCAL 2022 BUDGET BOOKS AS REQUIRED UNDER SECTION 7-115 OF THE**  
35 **STATE FINANCE AND PROCUREMENT ARTICLE OR THE FUNDS INCREASE AN**  
36 **APPROPRIATION THAT PROVIDES FUNDING FOR COVID-19 VACCINE ACQUISITION,**  
37 **DISTRIBUTION, AND ADMINISTRATION OR TRANSIT OPERATING COSTS.**

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency  
2 measure, is necessary for the immediate preservation of the public health or safety, has  
3 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
4 each of the two Houses of the General Assembly, and shall take effect from the date it is  
5 enacted. It shall remain effective through June 30, 2022, and, at the end of June 30, 2022,  
6 this Act, with no further action required by the General Assembly, shall be abrogated and  
7 of no further force and effect.