

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 730
Ways and Means

(Delegate Fisher, *et al.*)

Constitutional Amendment - Alteration of Rate of Taxation - Legislation by
General Assembly Required

This proposed constitutional amendment, if approved by the voters at the next general election, establishes that the General Assembly may not, by law, provide for the automatic alteration of the rate of an existing State tax based on inflation or formula. An increase or decrease of a rate of a State tax, including an alteration of the rate of an existing tax based on inflation or formula, may not take effect and must be deemed null and void unless the General Assembly, by legislation passed by a yea and nay vote, explicitly approves the new tax rate.

Fiscal Summary

State Effect: State revenues – particularly Transportation Trust Fund (TTF) revenues – are potentially affected beginning as early as FY 2026, as discussed below. Expenditures are not directly affected.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Current Law/State Fiscal Effect: As discussed above, the proposed constitutional amendment prohibits the General Assembly from providing for by law the automatic alteration of an existing State tax rate based on inflation or formula. The proposed constitutional amendment further specifies that an increase or decrease of a State tax rate,

including an alteration of the rate of an existing tax based on inflation or formula, may not take effect unless the General Assembly explicitly approves the new tax rate by legislation.

At minimum, the proposed constitutional amendment affects motor fuel tax rates. Pursuant to the Transportation Infrastructure Investment Act of 2013 (Chapter 429), motor fuel tax rates for all motor fuels except aviation and turbine fuel are indexed to the annual change in the Consumer Price Index (CPI). The revenue generated as a result of the CPI component of the motor fuel tax rates is distributed to the TTF and retained by the Maryland Department of Transportation. As of July 1, 2022, the cumulative CPI component accounts for 5.4 cents of the motor fuel tax rates for (1) gasoline and clean burning fuel and (2) special fuel and diesel, for which the total per-gallon motor fuel tax rate is equal to 42.70 cents and 43.45 cents, respectively.

It is unclear to what extent the proposed constitutional amendment, if approved by the voters, invalidates the existing CPI component of the motor fuel tax, or simply prohibits future indexing absent legislative approval of the new rates. *For illustrative purposes only*, were motor fuel tax rates frozen at their current rates, it is estimated that TTF revenues would decrease by a total of \$570.4 million over fiscal 2024 through 2028.

In addition to indexing specified motor fuel tax rates to inflation, Chapter 429 imposed a 5% sales and use tax equivalent rate on all motor fuels except aviation and turbine fuel; the rate was phased in over fiscal 2014 to 2017. The rate is determined annually based on the average annual retail price for regular unleaded motor fuel, as specified. It is unclear to what extent the proposed constitutional amendment affects the sales and use tax equivalent rate for motor fuel. To the extent this tax rate is affected, TTF revenues are potentially further affected.

It is also worth noting that the State property tax rate is established by the Board of Public Works, which is required by law to calculate the rate necessary to support debt service on general obligation bonds. It is unclear to what extent the proposed constitutional amendment may affect the determination of State property tax rates.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Comptroller's Office; Maryland Department of Transportation; State Department of Assessments and Taxation; Department of Legislative Services

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km/hlb

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