HB 202

Department of Legislative Services

Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Enrolled - Revised

House Bill 202 (The Speaker)(By Request - Administration)

Appropriations Budget and Taxation

Budget Reconciliation and Financing Act of 2023

This Administration bill executes actions to provide mandate relief, contain costs, change the use of special funds, and swap funds in the fiscal 2024 operating budget. **The bill takes effect June 1, 2023.**

Fiscal Summary

State Effect: General fund expenditures decrease by $0.2 million in FY 2023 and increase by $49.5 million in FY 2024. General fund revenues are not affected. Special fund expenditures decrease by $40.8 million in FY 2024; special fund revenues decrease by $50.0 million in FY 2024. Effects on general and special fund expenditures in FY 2027 are primarily due to a $500.0 million transfer of general funds to the Blueprint for Maryland's Future Fund (BMFF) in FY 2024, contingent on a provision in this bill. Nonbudgeted revenues (not shown) are also affected. **This bill affects existing mandated appropriations beginning in FY 2024.**

($ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF Revenue	$0	($50.0)	$0	$0	$0
GF Expenditure	($0.2)	$49.5	($0.5)	($0.5)	($500.5)
SF Expenditure	$0	($40.8)	$0	$0	$500.0
Net Effect	$0.2	($58.7)	$0.5	$0.5	$0.5

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: The Administration has determined that this bill has minimal or no impact on small business (attached). The Department of Legislative Services concurs with this assessment. (The attached assessment does not reflect amendments to the bill.)

Analysis

Bill Summary: As described in more detail for each provision in **Appendix A**, the bill:

- provides flexibility with respect to the specializations for faculty that must be assigned to the University of Maryland Capital Region Medical Center by the University of Maryland School of Medicine;
- eliminates the requirement, for fiscal 2024 only, that the Governor provide specified monies to the Revenue Stabilization Account (Rainy Day Fund), resulting in $500.0 million being transferred to BMFF;
- reduces the required fiscal 2024 Medicaid Deficit Assessment in the Medicaid program by $50.0 million;
- repeals the requirement for repayment of the Local Reserve Account over a 15-year period for refunds of recalculated Homeowners' Tax Credits paid out of the account;
- delays the date by which the Bainbridge Development Corporation must transfer a portion of the Bainbridge Naval Training Center site to the Department of Natural Resources by two years, to June 1, 2025;
- reduces the fiscal 2023 appropriation for the Assistance Payments Program within the Department of Human Services by $7.5 million;
- authorizes the Maryland Energy Administration to use $9.25 million of the money derived from the AltaGas Ltd. and WGL Holdings, Inc. merger to support the repair of existing natural gas infrastructure in the Washington Gas service territory; and
- authorizes the Governor to transfer by budget amendment $10.0 million in unexpended funds in the fiscal 2023 budget for Baltimore County to two libraries in the county.

Current Law: The Maryland Constitution requires the Governor to submit, and the General Assembly to pass, a balanced budget. Generally, the General Assembly cannot add more spending to the budget introduced by the Governor, nor can general funds be used to restore reductions made by the General Assembly after adoption of the budget, except through an approved deficiency appropriation in the following year's budget.

Beginning with the 2023 session (fiscal 2024 budget bill), the General Assembly may amend the budget to increase appropriations made by the Governor as well as add items to appropriations for Executive Branch agencies if the total appropriation for the Executive Branch does not exceed the total proposed appropriation submitted by the Governor. Prior to the 2023 session, the legislature could only add or increase funding for the General Assembly and the Judiciary.

Background: In December 2022, the Spending Affordability Committee recommended that the fiscal 2024 budget leave a closing general fund balance of at least $350.0 million.

The committee also recommended maintaining a Rainy Day Fund balance of 10.0% of estimated general fund revenues. The fiscal 2024 budget as passed by the General Assembly leaves a $351 million balance in the general fund and maintains the Rainy Day Fund balance at 10.1% of general fund revenues ($2.5 billion). Combined cash balances at the end of fiscal 2024 of $2.85 billion represent approximately 11.5% of general fund revenues.

Additional Information

Prior Introductions: Budget Reconciliation and Financing Acts have been introduced within the last three years. See SB 493 and HB 589 of 2021 and SB 192 and HB 152 of 2020.

Designated Cross File: SB 183 (The President)(By Request - Administration) - Budget and Taxation.

Information Source(s): Maryland Department of Health; Treasurer's Office; University System of Maryland; Department of Legislative Services

Fiscal Note History: First Reader - February 24, 2023
rh/ljm Enrolled - May 9, 2023
Revised - Amendment(s) - May 9, 2023
Revised - Budget Information - May 9, 2023
Revised - Other - May 9, 2023

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Appendix A – Contents

Provide Flexibility for Certain Faculty Assignments to the University of Maryland Capital Region Medical Center

Provision in the Bill: Alters a requirement that the University of Maryland School of Medicine assign faculty to the University of Maryland Capital Region Medical Center specializing in four particular areas of medicine to instead require that the assigned faculty specialize in "identified essential areas."

Agency: University System of Maryland

Type of Action: Miscellaneous

State Effect: None.

Local Effect: None.

Program Description/Recent History: Chapters 44 and 418 of 2021 require the University of Maryland School of Medicine to provide clinical care at the University of Maryland Capital Region Medical Center by assigning faculty to the center who specialize in neuroscience, obstetrics and gynecology, oncology, and vascular neurology. For fiscal 2023 through 2025, the Governor must include in the annual budget bill an appropriation of at least $5.0 million to implement this requirement. The fiscal 2024 budget as passed by the General Assembly includes $5.0 million for this purpose.

Location of Provision in the Bill: Section 1 (pp. 2-3)

Reduce Appropriation to the Revenue Stabilization Account in Fiscal 2024 Only

Provision in the Bill: Reduces the fiscal 2024 funding that the Governor must provide to the Revenue Stabilization Account (Rainy Day Fund) by $500.0 million. The fiscal 2024 budget as passed by the General Assembly transfers $500.0 million to the Blueprint for Maryland's Future Fund (BMFF), contingent on the enactment of legislation eliminating the required Rainy Day Fund appropriation for fiscal 2024.

Agency: State Reserve Fund

Type of Action: Mandate relief; fund swap

Fiscal Impact:	*($ in millions)* **FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**
GF Exp	$0	$0	$0	$0	($500.0)	$0
SF Exp	$0	$0	$0	$0	$500.0	$0

State Effect: The bill effectuates a contingent provision in the budget bill. Special fund revenues for the Rainy Day Fund decrease by $500.0 million in fiscal 2024 and special fund revenues for BMFF increase by $500.0 million in fiscal 2024 for no net effect on special fund revenues that year. BMFF special fund revenues are projected to be sufficient to cover mandated annual increases in expenditures for the Blueprint for Maryland's Future through fiscal 2026. However, current projections indicate that, under current law, revenues in BMFF, including prior-year fund balances, will be less than the required increases to annual expenditures under the Blueprint beginning in fiscal 2027. Accordingly, general fund expenditures decrease by $500.0 million in fiscal 2027 and special fund expenditures for BMFF increase by $500.0 million in fiscal 2027 as the transferred funds are spent.

Local Effect: None.

Program Description: The Rainy Day Fund was established to retain State revenues to meet future short-term funding needs and to reduce the need for future tax increases by moderating revenue growth. Statute limits transfers from the fund and prohibits transferring funds by budget amendment.

Chapter 557 of 2017 required that for fiscal 2021 and beyond, for surpluses above $10.0 million, the first $100.0 million be divided among the Rainy Day Fund, the State Retirement and Pension System (SRPS) accumulation funds (trust fund), and the Postretirement Health Benefits Trust Fund so that the Rainy Day Fund receives 50%, the

SRPS trust fund receives 25%, and the Postretirement Health Benefits Trust Fund receives 25% on a dollar-for-dollar basis.

Chapter 391 of 2022 amended this distribution for fiscal 2024 only, reducing the amount distributed to the SRPS trust fund to 15% and directing 10% to the Maryland Equity Investment Fund. Amounts above $110.0 million are credited to the Rainy Day Fund. Fiscal 2022 ended with an unappropriated general fund balance totaling nearly $1.12 billion. The general fund retains $10.0 million of this surplus. Per Chapter 391, the appropriation to the Dedicated Purpose Account includes a $15.0 million supplemental appropriation provided to the SRPS trust fund and a $25.0 million supplemental appropriation to the Postretirement Health Benefits Trust Fund. Another $10.0 million is provided for the Maryland Equity Investment Fund within the Maryland Technology Development Corporation. The remaining surplus, approximately $1.06 billion, was reflected in the fiscal 2024 budget, as introduced, for the Rainy Day Fund. That appropriation would have increased the Rainy Day Fund balance to nearly $4.1 billion, or 16.1%, of general fund revenues. The budget as passed by the General Assembly directly cuts $561.4 million of the $1.06 billion, not contingent on this bill. The remaining $500.0 million is transferred to BMFF, contingent on this bill.

Recent History: The Spending Affordability Committee recommended the Rainy Day Fund end fiscal 2024 with an estimated balance equivalent to 10.0% of general fund revenues (approximately $2.5 billion). The fiscal 2023 budget included an appropriation of $2.3 billion to the fund.

Location of Provision in the Bill: Section 1 (p. 3)

Reduce Medicaid Deficit Assessment in Fiscal 2024 Only

Provision in the Bill: Reduces the required Medicaid Deficit Assessment in the Medicaid program from $294,825,000 to $244,825,000 in fiscal 2024 only. The fiscal 2024 budget as passed by the General Assembly includes a $50.0 million general fund expenditure increase and a $50.0 million special fund expenditure reduction, both contingent on the enactment of legislation decreasing the Medicaid Deficit Assessment for fiscal 2024.

Agency: Maryland Department of Health

Type of Action: Fund swap

Fiscal Impact:	*($ in millions)* **FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**
SF Rev	$0	($50.0)	$0	$0	$0	$0
GF Exp	$0	$50.0	$0	$0	$0	$0
SF Exp	$0	($50.0)	$0	$0	$0	$0

State Effect: The bill effectuates contingent provisions in the budget bill. Accordingly, special fund revenues and expenditures for Medicaid decrease by $50.0 million in fiscal 2024 due to the reduction in the Medicaid Deficit Assessment. General fund expenditures increase by $50.0 million in fiscal 2024 to backfill the foregone special funds.

Local Effect: None.

Program Description: Following the 2007-2009 recession, a Medicaid Deficit Assessment was imposed on Maryland hospitals to support the Medicaid program. The assessment consists of (1) an amount included in hospital rates (and paid by hospital users) and (2) a remittance from hospitals (currently $56.5 million).

Recent History: Since its imposition, budget reconciliation legislation in numerous years has altered the Medicaid Deficit Assessment. The Budget Reconciliation and Financing Act (BRFA) of 2017 (Chapter 23) specified the deficit assessment level and BRFAs in the three subsequent years amended the proposed assessment level. The BRFA of 2020 (Chapter 528) established the assessment level at $294,825,000 for fiscal 2021 and each fiscal year thereafter.

Location of Provision in the Bill: Section 1 (pp. 3-4)

Repeal Requirement to Repay Local Reserve Account for Recalculated Homeowners' Tax Credits

Provision in the Bill: Repeals the requirement to repay the Local Reserve Account over a 15-year period for refunds of recalculated Homeowners' Tax Credits paid out of the account under Chapters 717 and 718 of 2021. The fiscal 2024 budget includes a general fund deficiency appropriation of $7,287,531 for the State Department of Assessments and Taxation (SDAT) to fund repayment to the Local Reserve Account, contingent on the enactment of legislation that allows full repayment to the account for refunds paid to homeowners in fiscal 2022 due to Chapter 717. The fiscal 2024 budget also includes a general fund expenditure decrease of $529,836 for SDAT, contingent on the enactment of legislation to modify the repayment schedule to the Local Reserve Account due to refunds paid to homeowners impacted by Chapter 717.

Agency: State Department of Assessments and Taxation

Type of Action: Mandate relief

Fiscal	*($ in millions)*					
Impact:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**
GF Exp	$7.3	($0.5)	($0.5)	($0.5)	($0.5)	($0.5)

State Effect: The bill effectuates contingent provisions in the budget bill. Accordingly, general fund expenditures increase by $7,287,531 in fiscal 2023 and decrease by $529,836 annually from fiscal 2024 through 2028 (and annually thereafter through fiscal 2037). Nonbudgeted revenues for the Local Income Tax Reserve Fund increase correspondingly in fiscal 2023 and decrease correspondingly thereafter.

Local Effect: None.

Program Description: The State maintains a Local Reserve Account utilized for holding and disbursing income taxes collected by the State for local jurisdictions. According to generally accepted accounting principles, the State is supposed to maintain a sufficient fund balance to pay future refunds realized during the fiscal year in case the income tax is no longer collected. If the account is insufficiently capitalized at the end of a fiscal year, the State is required to report the underfunding as an unfunded liability in the *Comprehensive Annual Financial Report* (CAFR). If the State has a plan in place to reimburse the account, the State does not need to show an unfunded liability in CAFR.

Recent History: Chapters 717 and 718 of 2021 required SDAT to provide a one-time property tax refund to homeowners for property taxes paid by the homeowner as a result of certain changes made to the calculation of the homeowners' property tax credit by the

Acts. Refunds were required to be paid by the Comptroller's Office from the Local Reserve Account. The Acts required that beginning in fiscal 2023 the Governor include an appropriation in the State budget to the Local Reserve Account in an amount equal to one-fifteenth of the total property tax refunds paid due to the legislation during fiscal 2022.

The amount of refunds repaid in fiscal 2022 totaled $7.9 million. The fiscal 2023 budget prior to the deficiency appropriation included $0.6 million for the anticipated repayment in that year, which when combined with the fiscal 2023 deficiency appropriation fully repays the Local Reserve Account.

Location of Provisions in the Bill: Section 1 (pp. 4-6)

Delay Bainbridge Naval Training Center Site Transfer Deadline by Two Years

Provision in the Bill: Changes the date by which the Bainbridge Development Corporation (BDC) must transfer specified property to the Department of Natural Resources (DNR) for the Port Deposit State Historical Park – from June 1, 2023, to June 1, 2025.

Agency: Department of Natural Resources

Type of Action: Miscellaneous

State Effect: None. The provision is not expected to affect the timing of any State expenditures to establish and maintain the Port of Deposit State Historical Park pursuant to Chapter 39 of 2022.

Local Effect: None.

Program Description/Recent History: Chapter 39 of 2022 requires DNR to establish the Port of Deposit State Historical Park as a specified partnership park that seeks to educate the public about and preserve and interpret the lives and experiences of Black Americans both before and after the abolition of slavery. The park must be held by the State as a State park under the protection and administration of DNR. The park must consist of a portion of the Bainbridge Naval Training Center site – measuring not less than 120 acres and not more than 150 acres – that BDC transfers to DNR, including (1) the historic Tome School; (2) the Snow Hill archaeological site; and (3) the adjacent wooded conservation area. Chapter 39 requires BDC to transfer that specified portion of the site to DNR by June 1, 2023. The provision in this bill mirrors one of several provisions in Senate Bill 517 of 2023, enacted as Chapter 602.

Location of Provision in the Bill: Section 1 (p. 6)

Withdraw Unspent Fiscal 2023 Funds for Assistance Payments Program

Provision in the Bill: Reduces the fiscal 2023 general fund appropriation for the Assistance Payments Program within the Department of Human Services (DHS) by $7.5 million.

Agency: Department of Human Services

Type of Action: Cost containment

Fiscal Impact:	*($ in millions)* **FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**
GF Exp	($7.5)	$0	$0	$0	$0	$0

State Effect: General fund expenditures for DHS decrease by $7.5 million in fiscal 2023. Revenues are not affected.

Local Effect: None.

Program Description: The DHS Family Investment Administration administers cash benefits and other grant programs that provide assistance to individuals and families in financial need as well as employment programs to promote self-sufficiency. The Assistance Payments Program is the program in which public benefits are budgeted. The three largest programs by spending are the Supplemental Nutrition Assistance Program, the Temporary Cash Assistance Program, and the Temporary Disability Assistance Program (TDAP), which account for the vast majority of annual spending.

The fiscal 2023 budget as enacted could support an average of 11,282 TDAP recipients per month, which was near the level of recipients in the beginning of fiscal 2022 leading up to the budget introduction. However, with the restart of recertifications for public benefits across DHS-administered programs, the number of recipients decreased substantially. Although the number of recipients rebounded from the initial decline, the number of recipients in the first half of fiscal 2023 was 8,025. Spending in certain other public benefit programs in fiscal 2023 has also been below budgeted levels due to the availability of federal pandemic-related assistance.

Recent History: None.

Location of Provision in the Bill: Section 2 (p. 6)

Authorize Use of Merger Funds for Natural Gas Infrastructure

Provision in the Bill: Authorizes the Maryland Energy Administration (MEA) to use $9.25 million of the money derived from the AltaGas Ltd. and WGL Holdings, Inc. merger (and deposited as the Maryland Gas Expansion Fund into the Strategic Energy Investment Fund (SEIF)) to support the repair of existing natural gas infrastructure in the Washington Gas service territory. The fiscal 2024 budget as passed by the General Assembly includes a $9.25 million special fund expenditure increase, contingent on the enactment of legislation that authorizes Maryland Gas Expansion Fund monies to be used for repair of existing natural gas infrastructure in the Washington Gas service territory.

Agency: Maryland Energy Administration

Type of Action: Change use of special funds

Fiscal			*($ in millions)*			
Impact:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**	**FY 2028**
SF Exp	$0	$9.3	$0	$0	$0	$0

State Effect: The bill effectuates a contingent provision in the budget bill. Accordingly, special fund expenditures for SEIF increase by $9.25 million in fiscal 2024. Revenues are not affected.

Local Effect: None.

Program Description: In April 2018, the Public Service Commission approved the merger of AltaGas Ltd. and WGL Holdings, Inc. with a number of conditions, including the contribution of $30.3 million to create a Maryland Gas Expansion Fund to be administered by MEA. The fund must be used to promote the expansion of natural gas infrastructure, more than half of which must be spent in the Washington Gas service territory and at least $4.6 million of which must be used in the combination of Calvert, Charles, Frederick, and St. Mary's counties.

The funds were subsequently deposited into SEIF as the Maryland Gas Expansion Fund and have been used to support MEA's Maryland Energy Infrastructure Program (MEIP), which promotes natural gas *expansion* by making it available to new customers, reconnecting previous natural gas customers, or expanding its usage by current customers.

Recent History: The fiscal 2023 appropriation for the Maryland Gas Expansion Fund totaled $18.5 million, which was originally intended to be used in full for MEIP. However, language in the fiscal 2023 budget restricted half of those funds to be used for bill payment assistance and arrearage retirement for certain residential electric and natural gas customers. The restricted funds were not transferred, and $9.3 million was instead included for MEIP in the fiscal 2024 budget as introduced. However, the fiscal 2024 budget as passed by the General Assembly deletes that funding; it also includes a $9.3 million expenditure increase, contingent on the enactment of legislation that authorizes Maryland Gas Expansion Fund monies to be used for repair of *existing* natural gas infrastructure in the Washington Gas service territory.

Location of Provision in the Bill: Section 3 (p. 6)

Authorize Transfer of Unexpended Funds for Baltimore County in Fiscal 2023

Provision in the Bill: Authorizes the Governor to transfer by budget amendment $10.0 million in unexpended pay-as-you-go (PAYGO) general funds in the fiscal 2023 budget to Woodlawn Library ($9.0 million) and Essex Library ($1.0 million). The unexpended funds were included in the fiscal 2023 operating budget to provide funding to Baltimore County to acquire Stevenson University's Greenspring Campus.

Agency: Department of General Services

Type of Action: Miscellaneous

State Effect: None. Changing the potential purpose for the use of existing authorized PAYGO general funds does not affect State finances. In absence of the provision, the fiscal 2023 funding would remain available to Baltimore County for its original purpose through fiscal 2024, or longer if a portion of the funds were to be encumbered.

Local Effect: None. Funds available to Baltimore County are unchanged by the provision. Both libraries are located in Baltimore County.

Program Description: At the end of a fiscal year, the unspent part of an appropriation for a capital expenditure made through the State budget or a supplementary appropriation act other than an enabling act for a general obligation loan (1) does not revert to the general fund and (2) with the approval of the Board of Public Works (BPW), may be carried in a capital account until it is spent for a capital purpose or until the authority to spend the appropriation for a project terminates.

Generally, the authority to spend the appropriation for a project terminates two years after the effective date of the appropriation act that authorizes the project if (1) evidence that a required matching fund will be provided has not been presented to BPW or (2) no part of the project is under contract and BPW has not encumbered money for any part of the project. Subject to limited exceptions, authorization terminates seven years after the effective date of the appropriation act that authorized the project.

Recent History: The fiscal 2023 budget included $10.0 million in PAYGO general funds to provide funding to Baltimore County to acquire Stevenson University's Greenspring Campus to create a headquarters and training facilities for Baltimore County's police and fire departments.

Location of Provision in the Bill: Section 4 (p. 6)

ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Budget Reconciliation and Financing Act of 2023

BILL NUMBER: HB 202

PREPARED BY: Department of Budget and Management

PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

_X_ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL BUSINESS

OR

___ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL BUSINESSES

PART B. ECONOMIC IMPACT ANALYSIS