

I

Appropriations Issue

A. Description of House Bill 134

House Bill 134 amends § 2-608 of the Tax- General Article, which is part of a subtitle on the distribution of individual income tax revenue. Subsection (a) of § 2-608 provides that after various distributions, including a distribution to municipal corporations and special tax districts, see § 2-607, the Comptroller is to distribute to the counties the remainder of the county income tax revenue (commonly called the "piggyback" tax) for each county. In addition to this distribution, the Comptroller is required in fiscal year 1990 to pay certain specified sums to 16 counties and Baltimore City. § 2-608(c). These sums are to be paid on June 1.<sup>1</sup> See § 2-610.

The bill adds a new subsection (d) to § 2-608 to provide that certain specified sums are to be paid to three counties and Baltimore City. Although the bill provides that the payments are to be made in fiscal year 1991, neither the bill nor existing law provides when this payment is to be made.<sup>2</sup> As a condition on the receipt of these payments, the City and the three counties must at least maintain their current property tax rates.

Because subsection (a) of § 2-608 refers to the distribution of the remaining piggyback tax revenues to each county, the payments to the City and the 16 counties under subsection (c) are from proceeds of the State income tax. The same is true of the new subsection (d). In this regard, subsection (d) is like previous amendments to § 2-608 and its predecessor, which provided for the payment of certain specified sums to particular counties and Baltimore City. See Chapter 13, Laws of Maryland 1987 and Chapter 423, Laws of Maryland 1988.<sup>3</sup> Moreover, the new subsection (d) is similar to a distribution of State income tax proceeds to the State's municipal corporations and special tax districts for fiscal year 1990. See § 2-608.1. Although these various distributions are made from State income tax revenues, the legislative intent is that these distributions are to be made before the remaining revenue is deposited in the General Fund of the State Treasury. § 2-609.

B. Allocation of Revenues - Constitutional Principles

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<sup>1</sup> Section 2 of Chapter 423 of 1988, as amended by Section 2 of Chapters 8 and 9 of the Laws of Maryland 1989, provides that this provisions will be abrogated as of July 1, 1990.

The provisions of subsection 2-608(c) were amended by the Targeted Tax Relief Act of 1989, which became law as of midnight, March 21, 1989. Supplemental Budget No. 3 of the Budget Bill for fiscal year 1990 took account of the legislation through a reduction in the estimated revenue.

<sup>2</sup> As the bill requires the receiving subdivisions to submit a report by September 1 to the Department of Fiscal Services on the use of the funds, arguably this provision implies that the distribution is to be made by that date. However, it can also be interpreted to mean that the subdivisions must submit plans for the use of the funds as a condition of receiving them.

<sup>3</sup> This office approved these bills for constitutionality and legal sufficiency by form letter.