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THE O'MALLEY BUDGET SHUFFLE

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INTRODUCTION

GOVERNOR MARTIN O'MALLEY claims Maryland finished fiscal year 2010 with a nearly \$300 million surplus. But the "surplus" is a sham. It was accomplished only after nearly 60 transfers from Special Funds to the General Fund, totaling almost \$600 million, and by cutting the budgets of over 20 programs by \$342 million during the same period. Not only that, but O'Malley's administration paved the way for this spectacular finish to his first term in office by cutting state aid to Special Funds each year.

The Budget Reconciliation and Financing Acts (BRFAs) proposed by the O'Malley administration from 2007-2010,¹ along with the Major Issues Review from 2007-2010,² show over \$2.3 billion that should have gone to Special Funds was moved to the General Fund or simply never awarded at all during O'Malley's time in office. Each of these required changes to existing law and helped keep the sinking ship of the Maryland state government temporarily afloat during difficult economic times without revealing the true extent of the damage.

THE BEGINNING OF THE "BUDGET SHUFFLE"

In 2007, shortly after his election, O'Malley's administration began by freezing inflation in education aid formulas, eliminating electric utility property tax grants to local jurisdictions, reducing the number of executive branch employees by 500, and using surplus funds to reduce state contributions to employee benefits. No money was directly transferred for the 2007 budget, but these actions resulted in savings to the General Fund, totaling approximately \$337 million in 2009 and \$379 million in 2010.

Freezing tuition and eliminating positions (30 percent of which were already vacant) can seem like a good way to reduce costs. Still, actions such as tampering with aid formulas means that universities must increase fees or cut costs to continue to function, much less grow. Asking departments to generate the same level of output with a smaller staff or a diminished budget increases pressure on dedicated programs to cover the gaps — something that O'Malley has continually done to maintain his administration's spending increase of nearly 14 percent since his inauguration.³

For fiscal year 2008 O'Malley's fund transfers and budgetary tricks were less drastic (to the tune of only \$160 million for the year), yet still allowed his administration to keep an "extra" \$36 million in the General Fund for 2009 and \$13 million for 2010. Actions taken include reducing state aid to independent colleges and deferring state library enhancements for two years, as well as a one-time transfer of \$25 million from the Central Collection Fund, which consists of money accumulated from all delinquent accounts and debts owed to the state government other than taxes, child support, unemployment insurance contributions, and overpayments. This fund is meant to be a temporary stop for the money collected from debtors to the government before it is transferred to the accounts where it belonged initially. Instead, it is being tapped for the General Fund before it can be properly distributed.

GETTING INTO IT

O'Malley's "budget shuffle" began in earnest in 2009, with 34 changes to Maryland law that allowed his administra-

tion to maintain \$806 million in the General Fund in that year and secure an estimated \$176 million for 2010. This, of course, is in addition to the funds already earmarked for the General Fund from 2007 and 2008, bringing 2009 and 2010 totals to nearly \$1.2 billion and \$565 million respectively. If you add the 2010 BRFA transfers and “efficiency” savings, the 2010 figure joins that of 2009 at well over \$1.2 billion.

Several of these transfers were quite substantial. A total of \$716 million was taken from the Local Income Tax Reserve Account in 2009 and 2010, which, like the Central Collections Fund, is supposed to be a sort of temporary holding account — this one for tax revenues. Like the transfer of \$25 million the year before from the CCF, this action represents a cavalier attitude towards accounts that were presumably established for a legitimate reason: to aid in the functioning of the state government. If they were truly meant to be treated as backup accounts for the General Fund as O’Malley has done, why label them otherwise? This explains why each of these transfers requires changing existing state law.

Another \$200 million was taken in 2009 and 2010 from the Program Open Space Fund (money to be used for the acquisition and maintenance of land for public use). The Local Share of Highway User Revenue was taken for just shy of \$160 million in 2010 (money collected from gas taxes and tolls to be used for road repairs). Perhaps this is why Maryland ranks 43rd in a national study of highway maintenance.⁴ Not even the Bay Restoration Fund, which was established in 2004 to combat declining water quality in the Chesapeake Bay, could escape the O’Malley budget shuffle. Fiscal year 2010 saw \$155 million transferred to the General Fund, which may explain why the “Save the Bay” effort seems to be an ongoing stalemate.

The list goes on and on, with a total of 126 transfers or mandated freezes on General Fund expenditures affecting fiscal years 2009 and 2010. The bottom line shows over \$2.3 billion moved from Special Funds to the General Fund from 2007 to 2010. All of these budget transfers and funding cuts still will not stop Maryland from facing a projected structural deficit of \$1.5 billion for 2012 — made public thanks to the newspapers. O’Malley’s official “Budget Highlights” for Fiscal Year 2011 does not include a single use of the word ‘deficit’ in all 186 pages.⁵

IGNORING THE RAINY DAY FUND

In fact, Maryland has a Rainy Day Fund (RDF), but the O’Malley administration has not touched it during the past two years. In 2009, O’Malley pointed out, “Even if we were to wipe out our entire rainy day fund, we’d still have a lot of cutting we’d have to do.”⁶ Maintaining at least 5 percent of the state’s operating budget in savings is one of the criteria used by bond rating agencies to evaluate the solvency of the government. Since Maryland wants to keep its AAA bond rating — something achieved by only eight states during

the recession — the administration has kept the RDF intact and instead decided to short-change special funds.⁷

The reasoning behind O’Malley’s decision to leave the RDF untapped is simple: AAA bond ratings make it easier and cheaper for states to borrow money, and borrowing money is yet another tactic O’Malley has used to balance the budget in 2010. Many of the funds being tapped for the General Fund still need to maintain their operating budgets, so General Obligation (GO) bonds are being issued in certain (but not nearly all) cases to make up the difference — sometimes used to put off scheduled cash payments. In other words, O’Malley is switching out cash for debt in order to maintain the appearance of a balanced budget.

With the service of public debt comprising 3 percent (an increase of 7.1 percent over last year) of the operating budget for fiscal year 2011⁸ and federal funding expected to decrease by about \$1.3 billion next year⁹ with the expiration of the American Recovery and Reinvestment Act (ARRA) of 2009, it begs the question of whether adding to the state’s debt is a wise decision. O’Malley is in a difficult spot. He does not want to be saddled with the responsibility for cutting funding to so many Special Funds in the final year of his first term in office. Indeed, this seems the primary motivation for his four years of “budget shuffles.”

CONCLUSION

O’Malley’s administration brags that Maryland is weathering the recession better than the majority of other states, yet the rosy budget situation in the state is largely a result of slick accounting, increased debt along with reliance on federal funding, and passing the buck to special programs that will now have to deal with large chunks of their operating budgets gone missing. If he were really “making the tough decisions” as he claims in his campaign ads, O’Malley would be working hard to rein in the runaway train of the Maryland state budget and get spending in check — not continuing to grease its wheels by looting special funds and programs.

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1 The BRFA Fiscal and Policy Notes for 2007-2010 are available here:

2010: http://mlis.state.md.us/2010rs/fnotes/bil_0001/hb0151.pdf

2009: http://mlis.state.md.us/2009rs/fnotes/bil_0001/hb0101.pdf

2008: http://mlis.state.md.us/2008rs/fnotes/bil_0001/hb0101.pdf

2007: http://mlis.state.md.us/2007s1/fnotes/bil_0001/hb0001.pdf

2 See page A-7, exhibit A-1.5 in the Major Issues Review 2007-2010:

<http://mlis.state.md.us/2010rs/misc/MajorIssuesReview2007-2010.pdf>

3 Bill Webster and Sisi Wei, “Ehrlich vs. O’Malley: Their records compared,” *The Washington Post*, April 8,

2010, at <http://www.washingtonpost.com/wp-srv/special/metro/ehrllich-omalley-record-comparison/>

4 Megan Poinski, “Officials, lobbyists defend Maryland’s roads against poor report card, but feel there are many improvements to make,” at <http://marylandreporter.com/Officials-defend-Md.-roads-against-report.aspx>.

5 2011 Budget Highlights, at <http://www.dbm.maryland.gov/agencies/operbudget/Documents/2011/FY2011BudgetHighlights.pdf>

6 Sean R. Sedam, “O’Malley, Education, rainy day fund off limits,” *The Gazette*, October 16, 2009, at http://www.gazette.net/stories/10162009/polinew200351_32528.shtml

7 Pamela M. Prah, “Is it ‘raining’ hard enough?” *Stateline*, February 22, 2010, at <http://www.stateline.org/live/details/story?contentId=462179>

8 See page 7, <http://www.dbm.maryland.gov/agencies/operbudget/Documents/2011/FY2011BudgetHighlights.pdf>

9 See page 2, <http://mlis.state.md.us/2010rs/misc/QuickLookFY2011Budget.pdf>