

MARYLAND TAX EDUCATOR

SPENDING LEVELS TOLERABLE

SPENDING AFFORDABILITY BRIEFING ON DEBT, EDUCATION, STATE EMPLOYEES

The second briefing for the Spending Affordability Committee was made on November 20, 2001 by staff of the Office of Policy Analysis in Annapolis. Not one of the four public members attended this briefing. Senators Hoffman, Neal, Hogan, Munson, Currie, Ruben, and Miller attended. Delegates Kopp, Conway, Klima, Kittleman, Rushern Baker, and Healey were present.

Baker and Healey arrived late.

When Delegate Kopp announced at the end of the briefing that Speaker Casper Taylor was attending another legislative meeting and she was supposed to have said this at the beginning of the briefing, Senator Hoffman announced that Senate President Miller had attended only for one minute before leaving.

Executive Summary and Analysis

Warren Descha-

neaux, head of the fiscal policy staff, started and ended the briefing. After laying out the data on the status of various capital debts, the transportation trust fund, higher education spending, the tobacco settlement, aid to local government, Deschaneaux gave a few ideas that staff thought should be on the table as the Committee sets a level of spending from the General Fund Revenues for FY 2003. The Committee meets again December 18 to make decisions.

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Important Dates

December 18, 2001
Spending Affordability Committee, 6:00 P.M. decides target for spending for FY 2003 at Room 110, Lowe Building, Annapolis. The Committee may expand its statutory role and advise in other areas as well.

January 9, 2002
General Assembly meets.

January 16, 2002
Governor announces his last budget.

April 8, 2002
General Assembly adjourns.

May or June, 2002
Tax Freedom Day will be calculated when Congress and the General Assembly finish.

MONTGOMERY COUNTY TARGETS PROPERTY TAXES

Property Taxes and the Constitution By Kevin Schuyler

Property tax assessments are the responsibility of the Maryland Department of Assessments and Taxation. Every three years the Department evaluates the existing assessments on real property and makes changes, if necessary, in

the assessment in order to conform with their determination of fair market value. The General Assembly, recognizing that there are often short-term spikes and valleys in the property market, specifically selected a three-year cycle to avoid annual adjustments. In addition, the General Assembly

also mandated that homeowners be protected from large tax increases by enacting a 10% cap on property tax increases. This 10% cap rule is known as the Homestead Exemption. However, the General Assembly has not adopted a general policy of changing assessments

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Surprisingly, Deschaneaux recommended at the end of this briefing that the Committee should not only select a figure for maximum spending increases from 5.5% to 6.5%, continuing similar levels adopted in the past that are greater than expected increases in personal income, but he said the Committee also should select another figure representing the tolerance level the Committee would approve for spending above and beyond the revenues. This latter figure can be called a measurement of the TOLERATION BUDGET, a new paradigm in the art of not-quite balancing Maryland State budgets. This number would be a figure representing the level of difference between what is spent and what is projected to be received in revenues.

If such a figure is adopted by the Spending Affordability Committee, the legislative recommendation would seem to summarily suspend Section 52 of Article III, the balanced budget amendment, as it would be the same as admitting in legislation that the Legislature recommends ignoring the balanced budget requirement because it has a tolerance for spending some figure more than revenues.

To maintain programs at current levels, the increase in spending affordability will need to be 7% or more. Senator Ruben wanted to know how much could be “saved” if the last part of the 10% tax cut were reversed. Deschaneaux said it could be reversed or deferred and over two years this would al-

low about \$170 million more spending.

Some Factual Details

Steve McCulloch, a fiscal policy staff member said, “There is lots of debt capacity even though personal income is slowing.” He added that if \$1.2 billion of new debt were created, the ability to repay it over 15 years within the long-used limitations of 3.2% of personal income, and 8% of all revenues, was clear. Senator Neal pointed out that unless the State returns to orthodoxy on the operating budget, we have to live with the decision to borrow that much for 15 years with no opportunity to change it for 15 years. When asked by Senator Hogan if the limitations were made in conjunction with the bond companies, he replied that the State had used these numbers for several years and they were adopted with the knowledge of the bond companies who could review the situation in the future. Senator Ruben wanted to know if we could reform the bonds, and staff replied that depends on whether they were callable when issued. There were no callable bonds issued during the last two sales.

Staff member Patrick Frank pointed out that the Transportation Trust Fund was in better shape with \$70 million left over after spending \$2.18 Billion. Deschaneaux came back with a report on Higher Education showing that colleges spent \$90 million more than was in the adopted budget, and the various fund balances increased \$66 million

over what was appropriated. The colleges have unspent fund balances on hand of \$304 million. During the last 10 years the unspent fund balances have grown from \$79 million to \$304 million, with most of the growth coming since 1994 when the balances totaled \$116 million.

Senator Neal suggested that the \$32 million extra income from tuition in 2001 be moved to 2003 in order to get a more accurate tuition estimate. Delegate Kopp wanted to know what the increases in operating expenses were from \$986 million to \$1,028 million since the budget was adopted. Senator Hogan asked, “Is it fair to say they have a rainy day fund” with these fund balances?

On the Tobacco Arbitration issue, readers of the *Maryland Tax Educator* already know far more than was reported to the Spending Affordability Committee. [If you are reading this for the first time, check the Website for more.] Senator Neal suggested that there is no basis for the Tobacco Arbitration Panel to give Maryland anything for its attorneys since its attorneys failed to present information to the Panel.

Lori O’Brien spoke about the increase in state employment. For FY 2002 the State authorized 2,681 FTE positions over FY 2001. Over the last five years the workforce increased 9,015 FTEs or 11.1%. In that same time, regular

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employees expanded by 9,924 while contractual employment dropped 909 FTEs. Health care costs for State employees will increase 14% for FY 2003. Several members of the Committee wanted it noted that the shift to regular employment was a definite strategy of the Legislature who wanted to convert the contract employees.

Hiram Burch spoke about aid to local government saying that for FY 2003 the increase would be 4.9% or \$191 million. Public

schools will get a 4.8% increase, compared to a 15% increase for community colleges and a 10.7% for colleges and universities.

Theresa Tuszynski indicated that the tax amnesty income was still being counted and has reached \$38 million. The annual audit by the Comptroller will probably add \$50 to 100 million to the revenues. The Congressional stimulus package is still unknown and its affect on State income uncertain. Personal income taxes are slightly down

from last month, but sales taxes are recovering to projected levels. Comparison of the September chart of General Revenues with the October chart of the same, shows wide variances in many base figures. No Committee member asked why.



Property Taxes and the Constitution — continued from page 1

upon the sale of a home.

Montgomery County is largely ignoring the intent of the law as written by the General Assembly. The County has been challenging property owners outside the regular three-year cycle and is systematically targeting recent homebuyers in order to circumvent the Homestead Exemption.

In 2001 the County filed 783 off-cycle challenges, formally known as Petitions for Review. Of these, nearly 99% targeted recent homebuyers. For these targeted homeowners the County has created a de facto annual assessment system. In addition, these homeowners are not protected by the Homestead Exemption since the County is retroactively challenging them back to the date they purchased their home. My taxes have been increased 64% in a single year by the County. And more than 750 other homeowners are seeing similar increases.

Some homeowners are collectively working on the County's unfair practices. I am leading the effort for equal protection and fair taxation. We are engaging County and State officials. Through these discussions, we have determined that the County is the only major roadblock to reaching a fair resolution. The County Department of Finance defends their tactics in the name of higher revenues. And the County Council has not taken a position. We are hopeful that our ally in the County, Council Member Howard Denis, will introduce a bill that forces the County to end its profiling practices and off-cycle challenges. Council Member Phil Andrews has stated his support for the County's unequal revenue generation activities. The rest of the Council is silent on the issue.

On the State level, elected officials are taking a cautious approach, but generally siding with the homeowners. The State Attor-

ney General has sided with the targeted homeowners. The AG believes that the County is acting outside of the intent of the law and is likely undermining the Constitutional guarantees of equal treatment under the law. Specifically, the AG notes, "The State Department of Assessments and Taxation believes and therefore avers that the systematic triggering of a reassessment of sold properties by Montgomery County based on the recent sale of a subject property is inappropriate under the triennial assessment process established in the Tax-Property article and contrary to the law." The AG further notes that, "The Supreme Court has held that 'the equal protection clause...protects the individual from state action which selects him out for discriminatory treatment by subjecting him to taxes not imposed on others of the same class.'"

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TO GOVERN THEMSELVES A
PEOPLE MUST HAVE KNOWLEDGE

MTEF

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Ultimately, the County is only hurting the people it is supposed to protect. By engaging in a systematic process that targets a subset of the population and by circumventing the Homestead Exemption, the County will get more revenue. But challenging the Constitutional principle of equal protection and circumventing the State General Assembly is not the right way to address revenue issues.

To comment please email:
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MTEF will report any other prop-

erty tax difficulties facing Taxpayers, but we have to know about them to do so. Remember, MTEF does not lobby specific bills or support candidates for office. MTEF's role is to educate Taxpayers about tax issues.

The Fifth Maryland Institute on State Budget Analysis was a successful program. A total of 37 people, including speakers, signed up for the 4 hour effort. A few ended up not being able to attend, but the program was videoed by two MTEF members and we hope to have a two-tape set available in the near future. The General Assembly, Governor's Office, MTA, and MTEF provided speakers for the event. *WJS*

www.marylandtaxeducation.org

MESSAGE FROM THE PRESIDENT

This newsletter is being prepared the week of Thanksgiving as the December issue. Therefore, it is the last chance we will have to tell you how much we appreciate your being a member this year. Without your ideas and financial support, we would be getting nowhere.

And this will be MTEF's last chance to ask that you make a tax deductible contribution to its programs during the year.

Sometime after the first of the year, we will is-

sue an annual report listing contributors, unless you told us not to do so, and we will be sending you a receipt for your financial contributions for the year.

If you believe it is important to keep informed about your Maryland taxes and you believe MTEF has helped you do so, then be sure to support our efforts.



MTEF will work hard to educate Maryland Taxpayers about state spending.

Consider the idea that if many more Maryland citizens could speak intelligently with their elected officials about taxes, the decisions they

make will be more reasonable and more satisfactory to more Taxpayers.

And help us spread the word. Tell friends and neighbors they can read our newsletters on the website or at the main reference desk at all county public libraries.

Check your label on the envelop to see when we recorded your last contribution, and if you have not made one this year, we are hoping you will not pass up this one last chance.

Best wishes for the holiday season from all the MTEF Board.

William J. Skinner, R.Ph., Esq.
President