

VETOES

which the Comptroller could make the disbursements required by House Bill 134. Nor is House Bill 134 a supplementary appropriation bill.

Article III, § 52(8)(b) requires that "[e]ach Supplementary Appropriation Bill shall provide the revenue necessary to pay the appropriation thereby made by a tax, direct or indirect, to be levied and collected as shall be directed in said bill." An example of a levy of such a tax is the standard clause used in bills that create a State debt; i.e., "[a]n annual tax is imposed on all assessable property in the State in rate and amount sufficient to pay the principal and interest..." House Bill 134 does not levy a tax but rather distributes existing tax revenues that have been appropriated for other purposes by the Budget Bill.⁷

Thus, the Maryland Constitution does not permit House Bill 134 to be given effect without further action. A possible vehicle for such action is the Budget Bill to be considered at the 1991 Session of the General Assembly. Traditionally, a portion of the annual Budget Bill includes deficiency appropriations, to deal with actual expenditures in excess of budgeted estimates. Although it is impossible to foresee the revenue situation at that time, if, when the Governor submits the Budget Bill for fiscal year 1992, funds are available to accommodate the expenditures contemplated by House Bill 134, the Governor in his discretion would be free to include such a deficiency appropriation. If that were possible, the funds could reach the four jurisdictions upon enactment of the Budget Bill, probably in April 1991.⁸

II

Home Rule Issue

We have also considered the question of whether House Bill 134 (assuming it were implemented through the appropriations process described above) would impermissibly intrude on the home rule powers of Baltimore City and Allegany County by mandating that State funds be paid to these subdivisions "only if the property tax rate levied for fiscal year 1991 is at least equal to the property tax rate levied for fiscal year 1990." In our view, House Bill 134 is a public general law that would not violate the home rule provisions in Articles XI-A or XI-F of the Constitution.

⁷ The Budget and Taxation Committee was advised by letter dated March 27, 1990 from Dennis Parkinson, Deputy Secretary of Budget and Fiscal Planning, that no provision had been made in the 1991 budget for the expenditures required under House Bill 134 and that in order to accommodate House Bill 134, appropriations in the Budget Bill would need to be reduced.

⁸ We have considered whether House Bill 134 might be viewed as a mandatory funding law under Article III, § 52(11) and (12) of the Constitution. We think not, given that the bill intends to require outlays in fiscal year 1991 alone, while under § 52(11) and (12) a level of mandatory funding could only be required for fiscal year 1992 at the earliest.

We note that the statutory budget amendment process in § 7-209 of the State Finance and Procurement Article might provide a means by which the goals of House Bill 134 could be pursued. We recognize that the constraints of § 7-209 might limit the availability of this remedy. Additionally, we are advised by the Department of Budget and Fiscal Planning that limited resources might well, as a practical matter, restrict the ability to resort to this remedy.