~~Indicates Matter Stricken~~

Indicates New Matter

AMENDED

February 9, 2010

**S. 1085**

Introduced by Senators Leatherman, Leventis, Massey, Ford, Ryberg, Setzler, Nicholson, Fair, Bryant, Alexander, Cromer, Land, Rankin, McConnell, O’Dell, Thomas, Courson, L. Martin, Campbell, Matthews, McGill, Hayes, Knotts and Rose

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Read the first time January 21, 2010.

**A** **BILL**

TO AMEND SECTION 11‑11‑310 OF THE 1976 CODE, RELATING TO THE GENERAL RESERVE FUND, TO INCREASE THE PERCENTAGE AMOUNT REQUIRED TO BE DEPOSITED IN THE GENERAL RESERVE FUND FROM THREE TO FIVE PERCENT OF THE GENERAL FUND REVENUE OF THE LATEST COMPLETED FISCAL YEAR, AND TO PROVIDE THAT THE PERCENTAGE AMOUNT MAY BE INCREASED OR DECREASED BY A TWO‑THIRDS VOTE OF EACH HOUSE; TO AMEND SECTION 11‑11‑320, RELATING TO THE CAPITAL RESERVE FUND, TO PROVIDE THAT IF IN ANY FISCAL YEAR IN WHICH THE GENERAL RESERVE FUND DOES NOT MAINTAIN THE APPLICABLE PERCENTAGE AMOUNT, MONIES FROM THE CAPITAL RESERVE FUND FIRST MUST BE USED, TO THE EXTENT NECESSARY, TO FULLY REPLENISH THE REQUISITE PERCENTAGE AMOUNT IN THE GENERAL RESERVE FUND; TO REPEAL SECTION 11‑11‑325; TO AMEND SECTION 11‑9‑890, RELATING TO ACTIONS TO AVOID A YEAR‑END DEFICIT, TO EXTEND THE TIME PERIOD IN WHICH ACTION MAY BE TAKEN INTO THE THIRD QUARTER, TO REDUCE THE PERCENTAGE BELOW THE PROJECTED AMOUNT THAT IS REQUIRED TO TAKE ACTION FROM FOUR TO TWO PERCENT, TO REDUCE THE TIME IN WHICH THE BUDGET AND CONTROL BOARD MUST TAKE ACTION FROM FIFTEEN TO SEVEN DAYS, AND TO PROVIDE THAT IF NO ACTION IS TAKEN, THE DIRECTOR OF THE OFFICE OF STATE BUDGET MUST REDUCE GENERAL FUND APPROPRIATIONS BY THE REQUISITE AMOUNT; AND TO AMEND SECTION 1‑11‑495, RELATING TO A REDUCTION IN THE RATE OF EXPENDITURE, TO PROVIDE THAT ANY CUT IS SUBJECT TO ANY BILL OR RESOLUTION ENACTED BY THE GENERAL ASSEMBLY.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. A. Section 11‑11‑310 of the 1976 Code is amended to read:

“Section 11‑11‑310. (A) The State Budget and Control Board shall provide for a General Reserve Fund. Funds accumulating in excess of the annual operating expenditures must be transferred to the General Reserve Fund and the transfer must continue to be made in succeeding fiscal years until the accumulated total in this reserve reaches an amount equal to ~~three percent~~ the applicable percentage amount of the general fund revenue of the latest completed fiscal year. If on September first of any fiscal year the accumulated total in the General Reserve Fund exceeds the fully implemented applicable percentage amount as defined in subsection (E)(1) or the percentage amount enacted by the General Assembly pursuant to subsection (E)(2), any excess amount in the General Reserve Fund shall lapse to the general fund.

(B) If there is a year‑end operating deficit, so much of the General Reserve Fund as is necessary must be used to cover the deficit. The amount so applied must be restored to the General Reserve Fund out of future revenues as provided in Section 36 of Article III of the Constitution of this State and out of funds accumulating in excess of annual operating expenditures as provided in this section until the ~~three percent maximum~~ the applicable percentage amount is ~~again~~ reached and actually maintained.

(C) In the event of a year‑end operating deficit, so much of the reserve fund as may be necessary must be used to cover the deficit, and the amount must be restored to the reserve fund within five fiscal years out of future revenues until the applicable percentage amount required to be transferred to the General Reserve Fund, is reached and maintained. Provided, that a minimum of one percent of the general fund revenue of the latest completed fiscal year, if so much is necessary, must be restored to the reserve fund each year following the deficit until the applicable percentage amount required by general law to be transferred to the General Reserve Fund is restored.

(D) The applicable percentage amount required to be transferred to the General Reserve Fund in this section may be increased or decreased by legislative enactment passed by a two‑thirds vote of the total membership of the Senate and a two‑thirds vote of the total membership of the House of Representatives, with the yeas and nays recorded in the respective journal of each house. The legislation must be separate and enacted solely for the purpose of increasing or decreasing the percentage amount. Any vote taken to increase or decrease the percentage amount must be taken by roll call vote with yeas and nays recorded in the journal.

(E) For purposes of this section ‘applicable percentage amount’ means:

(1) five percent of general fund revenue of the latest completed fiscal year. The five percent requirement shall be reached by adding a cumulative one‑half of one percent of such revenue in each fiscal year succeeding the last fiscal year to which the three percent limit applied until the percentage of such revenue equals five percent which then and thereafter shall apply; or

(2) the percentage amount subsequently enacted by the General Assembly pursuant to subsection (C).”

B. This section takes effect upon ratification of an amendment to Section 36, Article III of the Constitution of this State authorizing its terms submitted to the electors of this State at the general election of 2010 and first applies for the state fiscal year beginning after that date.

SECTION 2. A. Section 11‑11‑320(C) of the 1976 Code is amended to read:

“(C) Revenues in the Capital Reserve Fund only may be used in the following manner:

(1) ~~If, before March first, the Board of Economic Advisors’ revenue forecast to the State Budget and Control Board for the current fiscal year projects that revenues at the end of the fiscal year will be less than expenditures authorized by appropriations for that year, then the current year’s appropriation to the Capital Reserve Fund first must be reduced by the Board to the extent necessary before mandating any reductions in operating appropriations.~~ In any fiscal year in which the General Reserve Fund does not maintain the percentage amount required by Section 11‑11‑310, monies from the Capital Reserve Fund first must be used, to the extent necessary, to fully replenish the requisite percentage amount in the General Reserve Fund. The Capital Reserve Fund’s replenishment of the General Reserve Fund is in addition to the replenishment requirement provided in Section 36(A) of Article III of the Constitution of this State. After the General Reserve Fund is fully restored to the requisite percentage, the monies in the Capital Reserve Fund may be appropriated pursuant to item (2) of this subsection. The Capital Reserve Fund may not be used to offset a mid‑year budget reduction.

(2) ~~After March first of a fiscal year,~~ Subsequent to appropriations required by item (1), monies from the Capital Reserve Fund may be appropriated by the General Assembly in separate legislation upon an affirmative vote in each branch of the General Assembly by two‑thirds of the members present and voting but not less than three‑fifths of the total membership in each branch for the following purposes:

(a) to finance in cash previously authorized capital improvement bond projects;

(b) to retire interest or principal on bonds previously issued;

(c) for capital improvements or other nonrecurring purposes.”

B. Section 11‑11‑325 of the 1976 Code is repealed.

C. This section takes effect upon ratification of an amendment to Section 36, Article III of the Constitution of this State authorizing its terms submitted to the electors of this State at the 2010 general election and first applies for the state fiscal year beginning after that date.

SECTION 3. Section 11‑9‑890 B of the 1976 Code is amended to read:

“B. If at the end of the first, ~~or~~ second, or third quarter of any fiscal year quarterly revenue collections are ~~four~~ two percent or more below the amount projected for that quarter by the Board of Economic Advisors, the Budget and Control Board, within ~~fifteen~~ seven days of that determination, shall take action to avoid a year‑end deficit. Notwithstanding Section 1‑11‑495, if the Budget and Control Board does not take unanimous action within seven days, the Director of the Office of State Budget must reduce General Fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Office of State Budget immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Office of State Budget. A reduction of rate of expenditure by the Director of the Office of State Budget, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.”

SECTION 4. Section 1‑11‑495(A) and (B) of the 1976 Code is amended to read:

“(A) The State Budget and Control Board is directed to survey the progress of the collection of revenue and the expenditure of funds by all agencies, departments, and institutions. If the board determines that a year‑end aggregate deficit may occur by virtue of a projected shortfall in anticipated revenues, it shall utilize those funds as may be available and required to be used to avoid a year‑end deficit and after that take action as necessary to restrict the rate of expenditure of all agencies, departments, and institutions consistent with the provisions of this section. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the board. A reduction of rate of expenditure by the board, under authority of this section, must be applied as uniformly as may be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government. This reduction ~~must not be ordered by the board while the General Assembly is in session without first reporting such necessity to the General Assembly and the General Assembly takes no action to prevent the reduction within five statewide session days of formal written notification~~ is subject to any bill or resolution enacted by the General Assembly.

(B) As far as practicable, all agencies, departments, and institutions of the State are directed to budget and allocate appropriations as a quarterly allocation so as to provide for operation on uniform standards throughout the fiscal year and in order to avoid an operating deficit for the fiscal year. It is recognized that academic year calendars of state institutions affect the uniformity of the receipt and distribution of funds during the years. The Comptroller General or the Office of State Budget shall make reports to the board as they consider advisable on an agency, department, or institution that is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency, department, or institution. The board is directed to require the agency, department, or institution to file a quarterly allocations plan and is further authorized to restrict the rate of expenditures of the agency, department, or institution if the board determines that a deficit may occur. It is the responsibility of the agency, department, or institution to develop a plan, in consultation with the board, which eliminates or reduces a deficit. If the board makes a finding that the cause of or likelihood of a deficit is unavoidable due to factors which are outside the control of the agency, department, or institution, then the board may determine that the recognition of the agency, department, or institution is appropriate and shall notify the General Assembly of this action or the presiding officer of the House and Senate if the General Assembly is not in session. The board may only recognize a deficit by a vote of at least four members of the board.”

SECTION 5. Except where otherwise stated, this act takes effect upon approval by the Governor.

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