



Legislative Fiscal Bureau

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March 11, 2010

TO: Representative Mark Gottlieb
Room 309 North, State Capitol

FROM: Bob Lang, Director

SUBJECT: Fiscal Responsibility Fund Constitutional Amendment

At your request, I am providing information relating to a proposal to amend the State Constitution to establish a mechanism to transfer excess general fund tax revenues to a proposed fiscal responsibility fund. A copy of the draft Assembly Joint Resolution (LRB-4252/4) is attached.

Summary of Proposal

The proposal would amend the state's Constitution to specify that the Legislature shall provide by law for the establishment of a fiscal responsibility fund in the state treasury. The proposal would require that in each fiscal year ending in an even-numbered calendar year, the state shall deposit in the fund the greater of: (a) one percent of the actual general fund tax collections in the second preceding fiscal year; or (b) the amount, if any, by which actual general fund tax collections in the second and third preceding fiscal years exceeded 6.5% of state personal income in the third and fourth preceding calendar years, respectively. The proposal would provide that the Legislature could increase or decrease the 6.5% threshold by law by a two-thirds vote of the members present in each house of the Legislature.

The proposal would specify that, in this section of the Constitution, "general fund taxes" would mean: (a) those taxes that were treated as general purpose revenue under the statutes in effect on January 1, 2011; and (b) new, increased, or expanded taxes or fees used to support programs that derived a majority of their state funding from general purpose revenue under those statutes.

The proposal would provide that the Legislature could appropriate or transfer from the fiscal responsibility fund by law by a two-thirds vote of the members present in each house of the Legislature, or by a majority vote of the members present in each house of the Legislature if the Governor declares that the national real gross domestic product or its successor index is projected

to decline for two or more quarters in the current or succeeding fiscal year. The proposal would specify that in each fiscal year following a fiscal year in which the balance in the fiscal responsibility fund exceeded 10% of actual general fund tax collections in that fiscal year, the Legislature shall appropriate by law from the fund the excess to be used for property tax relief in the same manner as the net proceeds of the state lottery under Article IV, Section 24(6)(a) of the Constitution.

Discussion of Proposal

Timing of the Deposit to the Fiscal Responsibility Fund. To illustrate the potential timing of required actions under the proposal, the following example describes the fiscal and calendar years that would be considered, if the proposal would first apply in the 2013-15 biennium. Because fiscal year 2013-14 ends in an even-numbered calendar year, a deposit would need to be made to the fiscal responsibility fund in 2013-14. The required deposit would equal the greater of: (a) 1% of actual GPR tax collections in 2011-12; or (b) the amount by which actual general fund tax collections in 2011-12 exceeded 6.5% of state personal income in 2011 plus the amount by which actual general fund tax collections in 2010-11 exceeded 6.5% of state personal income in 2010. The Legislature could deposit additional funds by law, if it chose to do so. As an example of the minimum required deposit, if the proposal would apply in 2013-14, 1% of general fund tax collections in 2011-12 could range from \$130 to \$140 million, which would be a floor on the amount of the required deposit to the fund.

Under current law, the state's Annual Fiscal Report is completed by October 15 after the close of the fiscal year, so that actual general fund tax collections are known by that date. Estimates of state personal income for the preceding calendar year are released in March and September. Therefore, at the time the Governor would be preparing his or her budget recommendations for the 2013-15 biennium in late 2012 and early 2013, the required amount of the deposit to the fiscal responsibility fund would be known, because actual state collections data for 2010-11 and 2011-12 and federal estimates of state personal income for calendar years 2010 and 2011 would all be available. This would allow the Governor and Legislature to allocate revenues from the general fund to make that deposit in the context of their deliberations on the 2013-15 biennial budget. The Legislature could, by law, by a two-thirds vote in each house, modify the 6.5% of state personal income threshold.

Timing of Withdrawal of Moneys from the Fiscal Responsibility Fund. In this section, the 2013-15 biennium is again used as a starting point. If in late 2012 and early 2013 (when the Governor is preparing his or her budget recommendations), it would be projected that national real gross domestic product would decline for two or more quarters in 2012-13 or 2013-14, the Governor could make a declaration to this effect. Under this scenario, the Legislature could appropriate or transfer moneys from the fiscal responsibility fund with a majority vote in each house. This would allow any moneys in the fund, or that would be transferred to the fund, to be used to balance the 2013-15 budget at the discretion of the Legislature, without needing a two-thirds vote. With a two-thirds vote in each house, the Legislature could withdraw moneys at any time.

Limit on Balance in the Fiscal Responsibility Fund. As an example of the potential balance that could accumulate in the proposed fiscal responsibility fund, it is estimated that general purpose revenue taxes will total \$12.80 billion in 2010-11. If the proposal had been in effect in 2010-11, the maximum balance in the fund would have been \$1.28 billion, before payments of the excess from the fund for property tax relief would have been required. Since actual tax collections for the prior fiscal year are known on October 15 of the current fiscal year, any excess moneys in the fund could be distributed as property tax relief on tax bills issued in that December.

Use of Excess Balances for Property Tax Relief. The proposal would specify that any excess moneys in the fiscal responsibility fund (above 10% of actual general fund tax collections) must be appropriated for property tax relief in the same manner that the Constitution requires for net proceeds of the state lottery. The Constitution specifies the following regarding the use of net lottery proceeds: (a) the net proceeds must be used for property tax relief for residents of the state; (b) the distribution of the net proceeds may not vary based on the income or age of the person provided the property tax relief; and (c) the distribution of the net proceeds is not subject to the Constitution's uniformity clause.

Under current law, net lottery proceeds in 2010-11 will be used to fund the lottery and gaming credit (\$117,957,000) and a portion of the school levy credit (\$14,850,000). The lottery and gaming credit offsets school property taxes on a portion of the value of primary residences. The school levy credit offsets a portion of school levies on all taxable property (by administrative rule, the portion of the school levy credit funded from the lottery must be used only for state residents). Under the proposal, the Legislature could use one of these mechanisms to distribute excess fund balances or could choose to create a different form of property tax relief. However, since the amount, if any, available to be distributed in December of an even-numbered year would not be known until after the Legislature's regular session is typically adjourned, the Legislature could establish a prospective mechanism for distributing excess funds.

I hope that this information is helpful. Please contact me if you have any questions.

BL/DL/sas
Attachment