CHAPTER 11

State Budget System

ARTICLE 1

General Provisions

**SECTION 11‑11‑10.** Duties of Executive Budget Office and Revenue and Fiscal Affairs Office, and Department of Revenue.

The Executive Budget Office and Revenue and Fiscal Affairs Office shall employ competent budget assistants and such special help as it may require to carry out the provisions of this chapter. It shall fix the compensation of such persons as it shall employ in this connection and cause such compensation, together with their necessary traveling expenses, to be paid out of the civil contingent fund. It shall call upon the State Department of Revenue for any information desired, and the State Department of Revenue shall furnish such information and shall be present at all hearings before the committees having charge of the appropriations in the Senate and House.

HISTORY: 1962 Code Section 1‑721; 1952 Code Section 1‑721; 1942 Code Section 3222; 1932 Code Section 3222; Civ. C. ‘22 Section 918; 1919 (31) 187; 1950 (46) 3605; 1993 Act No. 181, Section 91.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

CROSS REFERENCES

Annual report by South Carolina Jobs ‑ Economic Development Authority, see Section 41‑43‑260.

South Carolina Department of Revenue, generally, see Section 12‑4‑10 et seq.

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑15.** Budget functions devolved on Governor; Budget Office to assist.

The functions of the State Budget and Control Board in the preparation and submission to the General Assembly of the recommended state budget are devolved upon the Governor. Wherever the phrase “State Budget and Control Board” appears in the context of preparing and submitting budget recommendations to the General Assembly, it means the Governor. In preparing the recommended state budget, the Governor may consult with the State Treasurer, the Comptroller General, or other state officials as needed. The Executive Budget Office shall assist the Governor in preparing the budget recommendations, but this function of the Executive Budget Office may not be construed as altering the overall management and administration of the Executive Budget Office.

HISTORY: 1993 Act No. 132, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Editor’s Note

1993 Act No. 132, Section 2, provides as follows:

“This act takes effect July 1, 1993, and first applies for the budget recommendation for fiscal year 1994‑95.”

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Governor Section 28, Preparation of Recommended State Budget; Role as Chairman of Budget and Control Board.

S.C. Jur. Governor Section 29, Governor’s Executive Budget.

S.C. Jur. Governor Section 30, Mid‑Year Budget Cuts.

**SECTION 11‑11‑20.** Information to be secured by Governor.

On or before the first day of November in each year the Governor and his assistants shall complete a careful survey of all the departments, bureaus, divisions, officers, boards, commissions, institutions and other agencies and undertakings of the State, through which it shall be in possession of the working knowledge upon which to base his recommendations to the General Assembly.

HISTORY: 1962 Code Section 1‑722; 1952 Code Section 1‑722; 1942 Code Section 3218; 1932 Code Section 3218; Civ. C. ‘22 Section 914; 1919 (31) 187; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑30.** Annual estimates.

On or before the first day of November, annually, each of the several state departments, bureaus, divisions, officers, commissions, institutions and other agencies and undertakings receiving or asking financial aid from the State shall report to the Governor, on official estimate blanks furnished for such purpose, an estimate in itemized form showing the amount needed for the year beginning with the first day of July thereafter. The official estimate blanks which must be used in making these reports shall be furnished by the board, shall be uniform and shall clearly designate the kind of information to be given thereon.

HISTORY: 1962 Code Section 1‑723; 1952 Code Section 1‑723; 1942 Code Section 3213; 1932 Code Section 3213; Civ. C. ‘22 Section 909; 1919 (31) 187; 1933 (38) 218; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑40.** Annual statements from Comptroller General.

On or before the first day of each November the Comptroller General shall furnish to the Governor the following statements, classified and itemized in strict accordance with the budget classifications adopted by the Governor:

(1) A statement showing the balance standing to the credit of the several appropriations for each department, bureau, division, officer, board, commission, institution or other agency or undertaking of the State at the end of the last preceding appropriation year;

(2) A statement showing the monthly expenditures and revenues from each appropriation account and the total monthly expenditures and revenues from all the appropriation accounts, including special and other appropriations, in the twelve months of the last preceding appropriation year;

(3) A statement showing the annual expenditures in each appropriation account and the revenues from all sources, including expenditures and revenues from special and other appropriations, for each of the last two appropriation years, with a separate column showing the increase or decrease for each item;

(4) An itemized and complete financial balance sheet for the State at the close of the last preceding fiscal year ending June thirtieth; and

(5) Such other statements as the board shall request.

HISTORY: 1962 Code Section 1‑724; 1952 Code Section 1‑724; 1942 Code Section 3215; 1932 Code Section 3215; Civ. C. ‘22 Section 911; 1919 (31) 187; 1933 (38) 218; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑50.** Comptroller General shall furnish annual estimate of needs of State.

On or before the first day of December, annually, the Comptroller General shall furnish to the Governor an estimate of the financial needs of the State, itemized in strict accordance with the budget classifications adopted by the Governor and certified and approved by the presiding officer of each House for each year beginning with the first day of July thereafter; and he shall also furnish an estimate of the financial needs of the judiciary, as provided by law, itemized in strict accordance with the budget classification adopted by the Governor, for each year, beginning with the first day of July thereafter. The Comptroller General shall transmit to the Governor with these estimates full and detailed explanations of all increases or decreases. These estimates together with the accompanying explanations of increases and decreases shall be included in the budget by the Governor without revisions, but with its recommendations thereon.

HISTORY: 1962 Code Section 1‑725; 1952 Code Section 1‑725; 1942 Code Section 3214; 1932 Code Section 3214; Civ. C. ‘22 Section 910; 1919 (31) 187; 1933 (38) 218; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑70.** Budgets submitted to General Assembly.

(A) Within five days after the beginning of each regular session of the General Assembly the Governor shall submit to the presiding officer of each house printed copies of a budget, based on his own conclusions and judgments, containing a complete and itemized plan of all proposed expenditures for each state department, bureau, division, officer, board, commission, institution, or other agency or undertaking, classified by functions, character, and object, and of estimated revenues and borrowings for each year, beginning with the first day of the next fiscal year. Opposite each item of the proposed expenditures the budget must show in separate parallel columns the amount appropriated for the last preceding appropriation year, for the current appropriation year and the increase or decrease.

(B) The budget which is submitted by the board to the presiding officer of each house must conform to the funding requirements contained in Section 36, Article III of the Constitution of this State.

HISTORY: 1962 Code Section 1‑727; 1952 Code Section 1‑727; 1942 Code Section 3219; 1932 Code Section 3219; Civ. C. ‘22 Section 915; 1919 (31) 187; 1933 (38) 218; 1950 (46) 3605; 1988 Act No. 385, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑80.** Statements, balance sheet, and general survey to accompany budget.

The Governor shall accompany the budget with:

(1) A statement of the revenues and expenditures for each of the two appropriation years next preceding, classified and itemized in accordance with the official budget classification adopted by the board;

(2) A statement of the current assets, liabilities, revenues and surplus or deficit of the State;

(3) A statement of the debts and funds of the State;

(4) A statement showing the board’s itemized estimates of the condition of the State Treasury as of the beginning and end of each year;

(5) An itemized and complete financial balance sheet for the State at the close of the last preceding fiscal year ending June thirtieth; and

(6) A general survey of the State’s financial and natural resources, with a review of the general economic, industrial and commercial condition of the State.

HISTORY: 1962 Code Section 1‑728; 1952 Code Section 1‑728; 1942 Code Section 3219; 1932 Code Section 3219; Civ. C. ‘22 Section 915; 1919 (31) 187; 1933 (38) 218; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code Section 11‑11‑110]. 1976‑77 Op Atty Gen, No 77‑43, p 42.

**SECTION 11‑11‑90.** Joint open meetings of appropriation committees.

The standing committees of the House of Representatives and of the Senate in charge of appropriation measures shall sit jointly in open sessions while considering the budget and shall begin such joint meetings within five days after the budget has been submitted to the General Assembly by the Governor. This joint committee may cause the attendance of heads or responsible representatives of the departments, institutions and all other agencies of the State to furnish such information and answer such questions as the joint committee shall require and to these sessions shall be admitted, with the right to be heard, all persons interested in the estimates under consideration. The Governor, or his representatives, and the Governor‑elect shall have the right to sit at these public hearings and be heard on all matters coming before the joint committee.

HISTORY: 1962 Code Section 1‑729; 1952 Code Section 1‑729; 1942 Code Section 3220; 1932 Code Section 3220; Civ. C. ‘22 Section 916; 1919 (31) 187; 1950 (46) 3605.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 34.

Westlaw Topic No. 360.

C.J.S. States Sections 81, 87, 109 to 111.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑100.** General Assembly may amend budget bill.

The General Assembly may increase or decrease items in the budget bill as it may deem to be in the interest of greater economy and efficiency in the public service.

HISTORY: 1962 Code Section 1‑730; 1952 Code Section 1‑730; 1942 Code Section 3221; 1932 Code Section 3221; Civ. C. ‘22 Section 917; 1919 (31) 187.

Library References

Statutes 16.

Westlaw Topic No. 361.

C.J.S. Statutes Sections 29 to 33.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑110.** Expenses of certain committee chairmen of the General Assembly.

The Chairman of the Ways and Means Committee of the House of Representatives and the Chairman of the Finance Committee of the Senate shall receive, in addition to their per diem, their actual traveling expenses, to be audited and approved by the Comptroller General.

HISTORY: 1962 Code Section 1‑731; 1952 Code Section 1‑731; 1942 Code Section 3217; 1932 Code Section 3217; Civ. C. ‘22 Section 913; 1919 (31) 187; 1951 (47) 506.

Library References

States 62.

Westlaw Topic No. 360.

C.J.S. States Sections 89, 101 to 102, 196 to 198, 202 to 204.

Attorney General’s Opinions

The Legislative Audit Council must comply with the provisions of Section 1‑721 [1976 Code Section 11‑11‑10] through Section 1‑731 [1976 Code 11‑11‑110]. 1977 S.C. Op.Atty.Gen. 42, 1977 S.C. Op.Atty.Gen.No. 7743, (Feb. 2, 1977) 1977 WL 24386.

**SECTION 11‑11‑140.** Limits on appropriation of surplus general fund revenues; revenue derived from change in accounting method.

(A)(1) In the Governor’s annual budget recommendation to the General Assembly, no recommendation may be made for the appropriation of surplus general fund revenues in excess of amounts officially recognized as such by the Board of Economic Advisors.

(2) In any bill or joint resolution appropriating general fund revenues, no surplus general fund revenue may be appropriated in excess of amounts officially recognized as such by the Board of Economic Advisors.

(B) In making the annual budget recommendation to the General Assembly, the Governor shall not incorporate or realize any revenue derived on the basis of any future change in a method of accounting, as determined by the Revenue and Fiscal Affairs Office, unless the change in a method of accounting is based on statutory authority specifically granted to the Revenue and Fiscal Affairs Office or a statutory enactment changing the method of accounting.

HISTORY: 1993 Act No. 162, Section 1; 1994 Act No. 497, Part II, Section 7A; 1995 Act No. 142, Section 1; 1997 Act No. 155, Part II, Section 13A.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 131.

Westlaw Topic No. 360.

C.J.S. States Sections 390 to 392, 398 to 399, 401 to 417.

**SECTION 11‑11‑150.** Estimated income tax revenues; deductions in calculations; Trust Fund for Tax Relief; appropriation of funds.

(A) In calculating estimated state individual and corporate income tax revenues for a fiscal year the Board of Economic Advisors shall deduct amounts sufficient to pay the reimbursement required pursuant to:

(1) Reserved;

(2) Section 12‑37‑270 for the homestead exemption for persons over age sixty‑five or disabled, but not including the portion attributable to school operating millage;

(3) Section 12‑37‑935(B) for manufacturer’s additional depreciation;

(4) Section 12‑37‑450 for the inventory tax exemption; and

(5) Section 4‑10‑540(A) for the reimbursement provided for personal property taxes not collected on private passenger motor vehicles, motorcycles, general aviation aircraft, boats, and boat motors.

(B) There is established in the State Treasury the Trust Fund for Tax Relief (Trust Fund) which must be maintained separately from the general fund of the State and all other funds. The amounts deducted from state income tax revenues pursuant to subsection (A) are automatically credited to the Trust Fund for the applicable fiscal year. The Board of Economic Advisors shall account for the Trust Fund revenue separately from general fund revenues in reports to the Governor and the General Assembly.

(C) The tax as collected must be apportioned to the Trust Fund and to the General Fund in proportion to the reimbursement estimates of the Board of Economic Advisors, as required in subsection (A).

(D) An unexpended balance in the Trust Fund at the end of a fiscal year must remain in the Trust Fund.

(E) The provisions of this section must not be construed as affecting funding levels for public education.

(F) Earnings on the Trust Fund must be credited to the general fund of the State.

(G)(1) Nothing in this section prohibits appropriations by the General Assembly of additional revenues to the Trust Fund.

(2) Regardless of amounts transferred or appropriated to the Trust Fund for a fiscal year, there is appropriated to the Trust Fund from the general fund of the State any additional amounts necessary to pay the reimbursements due from the Trust Fund.

HISTORY: 1998 Act No. 419, Part II, Section 29A; 2000 Act No. 387, Part II, Section 99B; 2006 Act No. 388, Part I, Section 4.A.

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

**SECTION 11‑11‑155.** Homestead Exemption Fund established.

(A) The revenue from the tax imposed pursuant to Article 11, Chapter 36, Title 12 is automatically credited to a fund separate and distinct from the state general fund known as the “Homestead Exemption Fund”. The Board of Economic Advisors shall account for the Homestead Exemption Fund revenue separately from general fund revenues, and the board shall make an annual estimate of the receipts by the Homestead Exemption Fund by February fifteenth of each year. This estimate shall be transmitted to the State Treasurer, Comptroller General, the Chairmen of the House Ways and Means Committee and the Senate Finance Committee, and to each school district and county. No portion of these revenues may be credited to the Education Improvement Act (EIA) Fund.

(B) An amount equal to the total reimbursements paid pursuant to the provisions of Section 12‑37‑251 and the school operating millage portion of the reimbursements paid pursuant to Section 12‑37‑270 in fiscal year 2006‑2007 also must be credited to the Homestead Exemption Fund. Revenue deposited in the Homestead Exemption Fund each year in an amount equal to the total reimbursements paid pursuant to the provisions of Section 12‑37‑251, the school operating portion of the reimbursement paid pursuant to Section 12‑37‑270 in fiscal year 2006‑2007 shall be used together with the revenues from the additional sales and use tax imposed pursuant to Section 12‑36‑1110 to provide reimbursements to school districts in the manner required by law.

(C) Subject to the provisions of Section 11‑11‑156(C), an unexpended balance in the Homestead Exemption Fund at the end of a fiscal year must remain in the Homestead Exemption Fund.

(D) Earnings on the Homestead Exemption Fund must be credited to the Homestead Exemption Fund.

(E) Nothing in this section prohibits appropriations by the General Assembly of additional revenues to the Homestead Exemption Fund and nothing in this section prevents the General Assembly from directing the use of these additional appropriations for specified purposes including a rollback of county operating millage on owner‑occupied residential property.

(F) Revenues credited to this fund must be used as provided pursuant to Section 11‑11‑156.

HISTORY: 2006 Act No. 388, Part I, Section 2; 2007 Act No. 57, Section 4.

Cross References

Revenue from additional sales, use, and casual excise tax credited to Homestead Exemption Fund, see Section 12‑36‑1120.

Library References

States 127.

Westlaw Topic No. 360.

C.J.S. States Sections 386 to 387.

**SECTION 11‑11‑156.** Reimbursement of school districts from Homestead Exemption Fund.

(A)(1) Beginning with fiscal year 2007‑2008, school districts of this State must be reimbursed from the Homestead Exemption Fund in the manner provided in this subsection. The reimbursement due a school district for fiscal year 2007‑2008 and thereafter consists of three tiers. The tier one reimbursement is an amount equal to the amount received by the district pursuant to the provisions of Section 12‑37‑251 as those provisions applied for fiscal year 2006‑2007. The tier one reimbursement is fixed at the fiscal year 2006‑2007 amount and continues into succeeding fiscal years at this fixed amount. The tier two reimbursement is the amount to be received by the district pursuant to the provisions of Section 12‑37‑270 for fiscal year 2006‑2007 for the school operating millage portion of the reimbursement for the homestead exemption allowed pursuant to Section 12‑37‑250. The tier two reimbursement is fixed at this fiscal year 2006‑2007 amount and continues into succeeding fiscal years at this fixed amount. The tier three reimbursement is derived from the revenue of the tax imposed pursuant to Article 11, Chapter 36, Title 12, and for fiscal year 2007‑2008, consists of an amount equal dollar for dollar to the revenue that would be collected by the district from property tax for school operating purposes imposed by the district on owner‑occupied residential property for that fiscal year as if no reimbursed exemptions applied, plus an amount that a district may have received in its fiscal year 2006‑2007 reimbursements pursuant to Section 12‑37‑251 in excess of the computed amount of that exemption from school operating millage for that year, reduced by the total of the district’s tier one and tier two reimbursements.

(2) Beginning in fiscal year 2008‑2009 a school district shall receive in reimbursements the total of what it received in fiscal year 2007‑2008 plus the tier three reimbursement increases provided for in item (3). The tier three reimbursement increases of the several school districts as provided in item (3) for any year must be aggregated and the reimbursement increase a particular school district shall receive for that year must be equal to an amount that is the school district’s proportionate share of such funds based on the district’s weighted pupil units as a percentage of statewide weighted pupil units as determined annually pursuant to the Education Finance Act. For purposes of the reimbursement increases school districts receive under this subsection based on weighted pupil units determined pursuant to the Education Finance Act, an additional add‑on weighting for students in poverty of 0.20 must be included in the weightings provided in Section 59‑20‑40(1)(c) of the 1976 Code. The weighting for poverty shall provide additional revenues for students in kindergarten through grade twelve who qualify for Medicaid or who qualify for reduced or free lunches, or both. Revenues generated by this weighting must be used by districts and schools to provide services and research‑based strategies for addressing academic or health needs of these students to ensure their future academic success, to provide summer school, reduced class size, after school programs, extended day, instructional materials, or any other research‑based educational strategy to improve student academic performance.

(3)(a) Beginning with the fiscal year 2008‑2009 reimbursements, these tier three reimbursements must be increased on an annual basis by an inflation factor equal to the percentage increase in the previous year of the Consumer Price Index, Southeast Region, as published by the United States Department of Labor, Bureau of Labor Statistics plus the percentage increase in the previous year in the population of the State as determined by the Revenue and Fiscal Affairs Office. Distribution of these reimbursement increases must be as provided in this subsection.

(b) If the total increase provided pursuant to subitem (a) of this item is less than four percent, then to the extent revenues are available in the Homestead Exemption Fund, the CPI/population increase provided pursuant to subitem (a) of this item is further increased, not to exceed a total of four percent.

(4) The percentage of population growth in any year for any school district entitled to reimbursements from the Homestead Exemption Fund must be based on estimates for such growth in the county wherein the school district is located as determined by the Revenue and Fiscal Affairs Office. Where the school district encompasses areas in more than one county, the population growth in that entity must be the average of the growth in each county weighted to reflect the existing population of the school district in that county as compared to the existing population of the school district as a whole.

(5)(a) No later than December thirty‑first of each year, the Revenue and Fiscal Affairs Office shall provide each school district with a preliminary estimate of the district’s reimbursements from the Homestead Exemption Fund for the fiscal year beginning the following July first. A final estimate must be provided to each district by February fifteenth. The February fifteenth forecast may be adjusted if the Office of Research and Statistics determines that changing conditions have affected the forecast.

(b) The Department of Revenue shall pay the reimbursements provided pursuant to this subsection to the county treasurer for the credit of each school district in the county. The reimbursement must be paid on the application of the county treasurer according to the following schedule:

(i) ninety percent of the tier one reimbursement must be paid in the last quarter of the calendar year no later than December first. The balance of the tier one reimbursement must be paid in the last quarter of the fiscal year that ends June thirtieth following the first tier one reimbursement date;

(ii) tier two reimbursements must be paid on the same schedule as the second tier one reimbursement;

(iii) tier three reimbursements must be paid in nine equal monthly installments based on one‑tenth of the Revenue and Fiscal Affairs Office estimate, beginning not later than October fifteenth. A final adjustment balance payment must be made before the closing of the state’s books for the fiscal year.

(6) To the extent revenues in the Homestead Exemption Fund are insufficient to pay all reimbursements to a school district required by this subsection (A) and subsection (B), the difference must be paid from the state general fund. However, no general fund revenues may be used to achieve the distribution provided pursuant to item (3)(b) of this subsection.

(7) Operating millage levied in a county for alternative schools, career and technology centers, and county boards of education whether or not levied countywide or on a school district by school district basis in a county also is considered school operating millage to which the reimbursements provided for in this section apply.

(8) Reimbursements to a school district under this subsection must be considered in the computation of the required Education Improvement Act maintenance of local effort.

(B)(1) After the required reimbursements to school districts in a county have been made from the Homestead Exemption Fund for any year pursuant to subsection (A), a county, if the districts in that county have not together received a total of at least two million five hundred thousand dollars in tier three reimbursements, must receive an additional disbursement from the Homestead Exemption Fund to bring the total reimbursements to the districts in that county to at least two million five hundred thousand dollars. This additional disbursement must be paid to the county for disbursement to the school districts located within that county. These distributions under this subsection to any district in the county must be equal to the one hundred thirty‑five day average daily membership of the district divided by the total average daily membership of all students in the districts in the county times the required amount of funds to bring the total reimbursements to the school districts in that county to at least two million five hundred thousand dollars.

(2) If a school district encompasses more than one county, the one hundred thirty‑five day average daily membership of the students from that county attending schools of the district must be used to compute the distributions required by this subsection.

(3) The distributions to a county and then to a school district under this subsection must be considered to be outside of the Education Finance Act and must not be considered when computing the maintenance of local effort required of that district under the Education Improvement Act.

(C) When determined, any balance in the Homestead Exemption Fund remaining at the end of a fiscal year after the payments to school districts and counties pursuant to subsections (A) and (B) of this section must be segregated within the Homestead Exemption Fund and remitted in the next fiscal year to counties in the proportion that the population of the county is to the total population of the State. Population data must be as determined in the decennial United States Census and the most recent update to that data as determined by the Revenue and Fiscal Affairs Office. Revenues received by the county must be used to provide a property tax credit against the property tax liability for county operations on owner‑occupied residential property classified for property tax purposes pursuant to Section 12‑43‑220(c). The credit is an amount determined by dividing the total estimated revenues credited to the county during the applicable fiscal year by the number of parcels in the county eligible for the credit. Credit that exceeds the tax due on a parcel must be reallocated in a uniform amount to remaining parcels with a property tax liability for county operations. The distributions under this subsection are not an obligation of the state general fund if sufficient funds are not available to make such distributions from the Homestead Exemption Fund.

(D) Notwithstanding another provision of this section, in the case of a redevelopment project area created pursuant to Chapter 6, 7, or 12 of Title 31, the reimbursements provided pursuant to this section for the property tax exemption allowed by Section 12‑37‑220(B)(47) must include full payment to the city or county creating the redevelopment project area for amounts that would have been payable to the special tax allocation fund created pursuant to that chapter if no such exemption existed.

HISTORY: 2006 Act No. 388, Part II, Section 1.A; 2007 Act No. 57, Section 5; 2007 Act No. 110, Section 47; 2007 Act No. 116, Section 52.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Editor’s Note

2007 Acts No. 116, Section 71, provides as follows:

“This act takes effect upon the approval by the Governor, and is applicable for tax years beginning after 2007, except for Section 5, relating to Section 12‑6‑3415(A), which is applicable for tax years beginning after 2006, and Section 6, relating to Section 12‑20‑105, which is applicable for tax years beginning after 2003.”

Library References

Schools 19(1).

Westlaw Topic No. 345.

C.J.S. Schools and Schools Districts Sections 9, 13.

Attorney General’s Opinions

School operating millage for purposes of section 11‑11‑156 includes millage levied for funding education for kindergarten through twelfth grade, school districts and school boards, vocational schools, career and technology centers, and alternative schools. S.C. Op.Atty.Gen. (Nov. 27, 2007) 2007 WL 4284627.

NOTES OF DECISIONS

In general 1

1. In general

School district’s payments under lease/installment‑purchase agreements, for capital construction improvements, including renovation and purchase of school buildings, were within meaning of phrase “school operating purposes,” under exemption, for owner‑occupied residential property, “from all property taxes imposed for school operating purposes,” so as to entitle district to reimbursement from Homestead Exemption Fund for taxes lost as result of exemption; by expressly excluding only general bond indebtedness from the exemption, the General Assembly by implication included the lease/installment‑purchase payments within the definition of school operating purposes. (Per Beatty, J., with one Justice concurring, and one Justice concurring in the result.) Berkeley County School Dist. v. South Carolina Dept. of Revenue (S.C. 2009) 383 S.C. 334, 679 S.E.2d 913, rehearing denied. States 123

**SECTION 11‑11‑157.** Reallocation of local option sales tax.

Beginning June 1, 2007, funds derived from a one percent local option sales tax imposed in a county which are used to reduce ad valorem property taxes imposed on owner‑occupied residential property for school operating purposes must be thereafter applied on a pro rata basis to reduce ad valorem property taxes levied for other purposes as the county governing body shall provide.

HISTORY: 2006 Act No. 388, Part II, Section 3(B).

Library References

Taxation 3713.

Westlaw Topic No. 371.

C.J.S. Taxation Section 2071.

**SECTION 11‑11‑160.** Transfers of appropriations; reduction of authorized spending when receipts less than estimated.

The General Assembly shall appropriate all state funds and authorize or appropriate, or both, the use of all federal and other funds for the operations of state agencies and institutions for the current fiscal year. Transfers of these appropriations or authorizations may be approved by the State Fiscal Accountability Authority under its authority or by the agency as provided in the annual general appropriations act. An agency which requests or transfers personal service funds must indicate on the transfer document whether or not a reduction in force is involved. To the extent practicable, all agencies and institutions having federal or other funds available for the financing of their operation shall expend these funds in accordance with the provisions of the annual general appropriations act. The authorization to spend federal and other funds must be decreased to the extent that receipts from these sources do not meet the estimates as reflected in each section of the annual general appropriations act and any increase must be authorized through the review process as provided in Chapter 65 of Title 2.

HISTORY: 2002 Act No. 356, Section 1, Part XI.A.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 133.

Westlaw Topic No. 360.

C.J.S. States Sections 395, 398 to 399, 401 to 402.

NOTES OF DECISIONS

In general 1

1. In general

General Assembly had the authority to mandate that the Governor apply for State Fiscal Stabilization (SFS) funds under the American Recovery and Reinvestment Act of 2009 (ARRA), which it had appropriated; General Assembly’s authority to make appropriations includes the duty to authorize and/or appropriate the use of all federal funds. Edwards v. State (S.C. 2009) 383 S.C. 82, 678 S.E.2d 412. States 132

**SECTION 11‑11‑170.** Use of revenues payable pursuant to Master Settlement Agreement.

(A) All revenues payable to this State pursuant to the Master Settlement Agreement as described in Section 11‑47‑20(e) must be used in the manner specified in this section.

(B)(1) Seventy‑three percent of the revenues must be used for healthcare programs. These revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Healthcare Tobacco Settlement Trust Fund. Earnings on this fund must be credited to the fund. The principal must remain in the fund and only the interest earnings may be appropriated and used for the following purposes:

(a) for fiscal year 2000‑2001 only, the first twenty million dollars available from the principal derived from securitization must be used for hospital base increase;

(b) the South Carolina Seniors’ Prescription Drug Program, as provided in Chapter 130, Title 44;

(c) home and community‑based programs for seniors coordinated by the Department of Health and Human Services;

(d) youth smoking cessation and prevention programs coordinated by the Department of Health and Environmental Control and the Department of Alcohol and Other Drug Abuse Services;

(e) newborn infants hearing screening initiatives coordinated by the Department of Health and Environmental Control;

(f) disease prevention and elimination of health disparities: diabetes, HIV/AIDS, hypertension, and stroke, particularly in minority populations;

(g) other health related issues as determined by the General Assembly.

(2) Fifteen percent of the revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Tobacco Community Trust Fund. Earnings on the fund must be credited to the fund. This fund must be used to reimburse:

(a) tobacco growers, tobacco quota holders, and tobacco warehousemen for actual losses due to reduced quotas since 1998. For purposes of this subitem, “tobacco quota owner” and “tobacco grower” have the meaning provided in Section 46‑30‑210, and the reimbursement is for losses incurred in reduced cultivation of tobacco in this State. Reimbursements must be made pursuant to eligibility requirements established by the South Carolina Tobacco Community Development Board created pursuant to Section 46‑30‑230;

(b) after the reimbursement provided pursuant to subitem (a), the balance must be held in an escrow account through June 30, 2012, and used as provided in subitem (a). After June 30, 2012, any account balance must be transferred to the Healthcare Tobacco Settlement Trust Fund.

(3) Ten percent of the revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Tobacco Settlement Economic Development Fund. Earnings on the fund must be credited to the fund. This fund must be used for the following programs:

(a) the first eighty million dollars credited to the fund is set aside to be used for the purposes specified in this item except for subitem (b);

(b) for Fiscal Year 2000‑2001 only, the next ten million dollars credited to the fund must be set aside to be available to be appropriated and used in accordance with the provisions of Section 12‑37‑2735; and

(c) the remaining revenue credited to the fund must be used to fund the South Carolina Water and Wastewater Infrastructure Fund as provided in Section 13‑1‑45.

(4) Two percent of the revenues, or the funds obtained pursuant to Chapter 49, Title 11, must be deposited in a fund separate and distinct from the general fund and all other funds, which is hereby established in the State Treasury styled the Tobacco Settlement Local Government Fund. Earnings on the fund must be credited to the fund. This fund must be used to fund the operation of and grants distributed by the Office of Local Government of the Division of Regional Development of the Rural Infrastructure Authority, or its successor in interest.

(C) In addition to those investments allowed pursuant to Section 11‑9‑660, the State Treasurer may invest and reinvest the revenues payable to the State pursuant to the Tobacco Master Settlement Agreement or funds raised pursuant to the provisions of Chapter 49 of this title and credited to the funds established by this section in any obligations of a corporation, state, or political subdivision denominated in United States dollars if the obligations bear an investment grade rating of at least two nationally recognized rating services.

HISTORY: 2000 Act No. 387, Part II, Section 69B; 2001 Act No. 7, Section 1.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 127.

Westlaw Topic No. 360.

C.J.S. States Sections 386 to 387.

**SECTION 11‑11‑180.** Declaration of operating deficit; meeting to address deficit; borrowing of surpluses authorized.

(A) By August thirty‑first of each year, the Comptroller General shall report to the State Budget and Control Board the amounts of general fund revenues and expenditures recorded for the preceding fiscal year and any resulting surplus or deficit of the general fund from a budgetary‑based perspective. If the Comptroller General determines that annual expenditures exceeded revenues, an operating deficit must be declared in the report and the State Budget and Control Board must meet to address the deficit within sixty days of receiving the report or earlier at any previously scheduled meeting. The operating deficit must be the first item on the agenda of the first State Budget and Control Board meeting held after the Comptroller General reports a deficit pursuant to this section.

(B) Notwithstanding any other provision of law, if the Comptroller General reports an operating deficit for the preceding fiscal year and it is determined funds are needed to balance the Budgetary General Fund after the use of the General Reserve Fund as provided in Section 11‑11‑310(B), the State Fiscal Accountability Authority is authorized to borrow the amount needed to balance the Budgetary General Fund by borrowing from any department of state government any surplus to the credit of the state department on hand in the Office of the State Treasurer. Upon approval by the State Fiscal Accountability Authority of a repayment schedule, the State Treasurer is authorized to transfer to the State Fiscal Accountability Authority from the general fund the amount necessary to repay the loan with interest no later than June thirtieth of the following fiscal year.

HISTORY: 2002 Act No. 356, Section 6; 2004 Act No. 256, Section 2.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in (A) to the former Budget and Control Board have not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly. References in (B) to the former State Budget and Control Board were changed to the State Fiscal Accountability Authority, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

**SECTION 11‑11‑190.** Transfer of funds to offset deficits.

(A) At the close of the state’s 2003‑2004 fiscal year, the State Treasurer is directed to transfer an amount up to fifty million dollars from the General Reserve Fund to partially offset the fiscal year 2001‑2002 accumulated general fund operating deficit.

(B) To the extent balances in the Capital Reserve Fund for fiscal years 2004‑2005 and 2005‑2006 are available for appropriation by the General Assembly, as provided in Section 36(B)(2), Article III of the Constitution of this State and Section 11‑11‑320, it is the intent of the General Assembly to offset any remaining fiscal year 2001‑2002 accumulated operating deficit in an amount not to exceed fifty million dollars in fiscal year 2004‑2005 and fifty‑five million dollars in fiscal year 2005‑2006, if so much is necessary, as the first order of priority in the appropriation of the Capital Reserve Fund for the respective fiscal years.

(C) The General Assembly declares that the term “other nonrecurring purposes” pursuant to Section 36(B)(2), Article III of the Constitution of this State includes operating deficits from previous fiscal years.

HISTORY: 2004 Act No. 256, Section 3.

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

**SECTION 11‑11‑220.** Contingency Reserve Fund established.

(A) There is created in the state treasury a fund separate and distinct from the general fund of the State, the Capital Reserve Fund, and all other funds entitled the Contingency Reserve Fund. All general fund revenues accumulated in a fiscal year in excess of general appropriations and supplemental appropriations must be credited to this fund. Revenues credited to this fund in a fiscal year may be appropriated by the General Assembly. Upon determination by the Comptroller General as to the amount to be deposited in the Contingency Reserve Fund, the Comptroller General shall notify the Board of Economic Advisors and the board shall recognize that amount as surplus funds.

(B) If the balance in the general reserve fund established pursuant to Section 36, Article III of the Constitution of this State and Section 11‑11‑310 is less than the required balance, there must be appropriated to it all amounts in the Contingency Reserve Fund up to the total necessary to replenish the general reserve fund. This amount does not replace or supplant the minimum replenishment amount otherwise required to be made to the general reserve fund.

HISTORY: 2007 Act No. 115, Section 1.

Library References

States 127.

Westlaw Topic No. 360.

C.J.S. States Sections 386 to 387.

**SECTION 11‑11‑230.** Creation of Smoking Prevention and Cessation Trust Fund and South Carolina Medicaid Reserve Fund.

(A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program. The funds must not be appropriated for any other purpose and the Department of Health and Environmental Control may not use the funds for any purposes other than administering a statewide smoking prevention and cessation program.

(B) There is created the South Carolina Medicaid Reserve Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The fund only may be appropriated for the restoration and maintenance of effort of the Medicaid program as structured at the time this act takes effect, and must not be appropriated for any other purpose. The fund must not be used to expand any component of the existing Medicaid program.

HISTORY: 2010 Act No. 170, Section 3, eff May 13, 2010.

CROSS REFERENCES

Cigarette surtax, imposition, crediting of revenues, definition of “cigarette”, see Section 12‑21‑625.

**SECTION 11‑11‑240.** Safety Maintenance Account.

(A) There is created in the State Treasury the Safety Maintenance Account. This account is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year, subject to the provision of Section 12‑6‑3780(C). Notwithstanding Section 56‑3‑627, the account must be credited any funds collected pursuant to Section 56‑3‑627(D). The funds in the account only must be appropriated to offset the costs of the refundable income tax credit allowed pursuant to Section 12‑6‑3780.

(B) Notwithstanding subsection (A), after December 31, 2022, the Safety Maintenance Account shall no longer be credited funds collected pursuant to Section 56‑3‑627(D). Once the account has expended all its funds on the costs of the credit or are transferred to the Infrastructure Maintenance Trust Fund pursuant to Section 12‑6‑3780(C), this section is repealed.

HISTORY: 2017 Act No. 40 (H.3516), Section 15.B, eff May 10, 2017.

CROSS REFERENCES

Vehicles, infrastructure maintenance fee, see Section 56‑3‑627.

ARTICLE 3

General Reserve Fund and Capital Reserve Fund

**SECTION 11‑11‑310.** General Reserve Fund; deficit.

(A) The State Fiscal Accountability Authority 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 the applicable percentage amount of the general fund revenue of the latest completed fiscal year.

(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, 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 applicable percentage amount is 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) For purposes of this section “applicable percentage amount” means 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.

HISTORY: 1977 Act No. 219, Part II, Section 12; 1978 Act No. 644, Part II, Section 36; 1983 Act No. 151, Part II, Section 56; 1984 Act No. 487, Section 2; 1985 Act No. 201, Part II, Sections 21, 34; 1986 Act No. 540, Part II, Section 47; 1988 Act No. 385, Section 1; 2010 Act No. 152, Section 1.A., eff May 8, 2012.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Editor’s Note

2010 Act No. 152, Section 1.B., provides:

“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.”

Effect of Amendment

The 2010 amendment, in subsection (A), substituted “the applicable percentage amount” for “three percent”; in subsection (B), substituted “the applicable percentage amount is reached” for “three percent maximum is again reached”; and added subsections (C) and (D).

CROSS REFERENCES

Constitutional requirement that General Assembly establish general fund reserve and purpose of such fund, see SC Const. Art. III Section 36.

Library References

States 126.

Westlaw Topic No. 360.

C.J.S. States Sections 383 to 385.

Attorney General’s Opinions

The General Assembly may reduce the General Fund Reserve from four (4) percent to three (3) percent prior to 1990, provided the necessary vote required by Section 36, Article III is obtained. 1988 S.C. Op.Atty.Gen. 20, 1988 S.C. Op.Atty.Gen. No. 88‑2, (Jan. 13, 1988) 1988 WL 383486.

All surpluses must be applied to the General Reserve Fund until the 5 percent amount is reached. 1983 S.C. Op.Atty.Gen. 111, 1983 S.C. Op.Atty.Gen. No. 83‑70, (Sept. 15, 1983) 1983 WL 142739.

“Nonrecurring” purposes as used in Section 11‑11‑120 means those purposes for which it is not anticipated that continuing, repeated appropriations will be required; it means, in the context of the statute, appropriations for capital improvements or other like purposes. 1978 S.C. Op.Atty.Gen. 109, 1978 S.C. Op.Atty.Gen. No. 78‑79, (May 3, 1978) 1978 WL 22560.

**SECTION 11‑11‑320.** Capital Reserve Fund.

(A) The General Assembly, in the annual general appropriations act, shall appropriate, out of the estimated revenue of the general fund for the fiscal year for which the appropriations are made, into a Capital Reserve Fund, which is separate and distinct from the General Reserve Fund, an amount equal to two percent of the general fund revenue of the latest completed fiscal year.

(B) This appropriation must be contained in the Ways and Means Committee report on the general appropriations bill, the general appropriations bill at the time of third reading in the House of Representatives, the Senate Finance Committee report on the general appropriations bill, the general appropriations bill at the time of a third reading in the Senate, and in any conference report on the general appropriations bill.

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

(1) 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), 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 midyear budget reduction.

(2) 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.

(D)(1) Any appropriation of monies from the Capital Reserve Fund as provided in subsection (C) of this section must be ranked in priority of expenditure and is effective on September first of the following fiscal year. If it is determined that the fiscal year has ended with an operating deficit, then the monies appropriated from the Capital Reserve Fund must be reduced by the State Budget and Control Board based on the rank of priority, beginning with the lowest priority, to the extent necessary and applied by the board to the year‑end operating deficit before withdrawing monies from the General Reserve Fund.

(2) At the end of the fiscal year, any monies in the Capital Reserve Fund that are not appropriated as provided in subsection (C) of this section or any appropriation for a particular project or item which has been reduced due to application of the monies to a year‑end deficit must lapse and be credited to the General Fund.

HISTORY: 1988 Act No. 385, Section 1; 2005 Act No. 156, Sections 1, 6; 2010 Act No. 152, Section 2.A., eff May 8, 2012.

Code Commissioner’s Note

At the direction of the Code Commissioner, reference in this section to the former Budget and Control Board has not been changed pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), until further action by the General Assembly.

Editor’s Note

2010 Act No. 152, Section 2.C., provides:

“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.”

Effect of Amendment

The 2010 amendment rewrote subsection (C)(1) and in subsection (C)(2), substituted “Subsequent to appropriations required by item (1),” for “ After March first of a fiscal year,”.

Library References

States 127.

Westlaw Topic No. 360.

C.J.S. States Sections 386 to 387.

**SECTION 11‑11‑325.** Repealed by 2010 Act No. 152, Section 2.B., eff May 8, 2012.

Editor’s Note

2010 Act No. 152, Section 2.C., provides:

“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.”

Former Section 11‑11‑325 was entitled “Budget shortfall; reduction of appropriation to Capital Reserve Fund” and was derived from 2002 Act No. 356, Section 1, Part IX.L.

**SECTION 11‑11‑330.** Trust Fund for Tax Relief; use of funds.

Funds credited to the “Trust Fund for Tax Relief” must be used to provide property tax relief in the manner prescribed in Section 12‑37‑251. As provided in Section 11‑11‑150, there is transferred to the Trust Fund for each fiscal year an amount sufficient to reimburse sums equal to the amount of taxes that were not collected for school districts by reason of the exemption provided in Section 12‑37‑251.

HISTORY: 1995 Act No. 145, Part II, Section 119A; 1996 Act No. 458, Part II, Section 33A; 1998 Act No. 419, Part II, Section 29B.

**SECTION 11‑11‑335.** Availability of funds and revenues.

Beginning July 1, 2005, surplus General Fund Revenues for any fiscal year not otherwise obligated and appropriations to the Capital Reserve Fund are deemed to have occurred and are available for expenditure after September first of the next fiscal year and after the state’s financial books for the previous fiscal year have been closed.

HISTORY: 2005 Act No. 156, Section 2.

**SECTION 11‑11‑340.** State Institution Bonds and State Highway Bonds Debt Service Fund; credit of funds.

There is established in the State Treasury the State Institution Bonds and State Highway Bonds Debt Service Fund which must be maintained separately from the general fund and other funds. Annually there must be credited to this account amounts sufficient for debt service payments on state institution bonds and state highway bonds. Amounts credited to this fund are not considered state general fund revenues.

HISTORY: 1998 Act No. 419, Part II, Section 36.

Library References

States 127.

Westlaw Topic No. 360.

C.J.S. States Sections 386 to 387.

**SECTION 11‑11‑345.** Suspension of appropriations; negative GAAP Fund balance defined.

(A) Beginning July 1, 2006, if the Comptroller General determines upon the closing of the state’s financial books for a fiscal year that the State has a negative Generally Accepted Accounting Principles Fund balance (GAAP Fund Deficit), any appropriations contained in a general or supplemental appropriations act which expends surplus general fund revenues or in a Capital Reserve Fund appropriations act to be effective during the next fiscal year are suspended and must be used to the extent necessary to offset the GAAP Fund Deficit in the manner the General Assembly shall provide.

(B) A negative GAAP Fund balance is defined as the amount remaining after subtracting all state liabilities and reserve funds from state assets on an accrual basis.

HISTORY: 2005 Act No. 156, Section 3.

Library References

States 132.

Westlaw Topic No. 360.

C.J.S. States Sections 390 to 392, 394, 398 to 399, 401 to 402.

**SECTION 11‑11‑350.** Estimates of planned general fund expenditures.

Each state agency, department, institution, or entity receiving in the aggregate one percent or more of the state’s general fund appropriations for any fiscal year shall provide to the Revenue and Fiscal Affairs Office, and the Executive Budget Office an estimate of its planned general fund expenditures for the next three fiscal years. This data, in conjunction with the Board of Economic Advisors’ long‑term revenue estimate, must be compiled by the Revenue and Fiscal Affairs Office, and the Executive Budget Office into a three‑year financial plan that will assist the State in determining and planning for its long‑term financial commitments. The plan must be updated annually and prepared for submission to the State Fiscal Accountability Authority and the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate during the second quarter of each fiscal year.

HISTORY: 2005 Act No. 156, Section 4.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 121.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 372.

ARTICLE 5

Appropriations Limitations

**SECTION 11‑11‑410.** Appropriations subject to spending limitation; financial emergency; surplus funds.

(A) State appropriations in any fiscal year may not exceed appropriations authorized by the spending limitation prescribed in this section. State appropriations subject to the spending limitation are those appropriations authorized annually in the State General Appropriation Act and acts supplemental thereto which fund general, school, and highway purposes. A statement of total “General, School, and Highway Revenues” must be included in each annual General Appropriation Act. As used in this section the appropriations so limited as defined above must be those funded by “General, School, and Highway Revenues” that must be defined as such in the 1985‑86 General Appropriation Act; it being the intent of this section that all additional nonfederal and nonuser fee revenue items must be included in that category as they may be created by act of the General Assembly.

(B) The limitation on state appropriations prescribed in subsection (A) is an amount equal to either those state appropriations authorized by the spending limit for the previous fiscal year increased by the average percentage rate of growth in state personal income for the previous three completed calendar years or nine and one‑half percent of the total personal income of the State for the calendar year ending before the fiscal year under consideration, whichever is greater. As used in this section, “state personal income” means total personal income for a calendar year as determined by the Revenue and Fiscal Affairs Office or its successor based on the most recent data of the United States Department of Commerce or its successors. During the initial year this spending limit is in effect, the actual state appropriations for general, school, and highway purposes for the fiscal year 1985‑1986 must be used as the base figure for computation of the spending limitation if the average rate of growth method is used.

(C) The Comptroller General, or any other authorized agency, commission, or officer, may not approve or issue warrants which would allow disbursements above the amount appropriated for general fund purposes unless and until the General Assembly authorizes expenditures in excess of the limitation through procedures provided for in this article. This subsection may not apply to funds transferred from the reserve fund to the general fund.

(D) The Office of Research and Statistics of the Revenue and Fiscal Affairs Office shall annually compute and certify to the General Assembly a current figure to limit appropriations as provided in subsection (B) of this section prior to the Governor’s submission of his recommended budget to the House Ways and Means Committee.

(E) Notwithstanding the provisions of subsection (A) of this section, the General Assembly may declare a financial emergency and suspend the spending limitation for any one fiscal year for a specific amount by a special vote as provided in this subsection by enactment of legislation which relates only to that matter. The authorized state appropriations for the fiscal year following the suspension must be determined as if the suspension had not occurred and, for purposes of determining subsequent limits, must be presumed to have been the maximum limit which could have been authorized if such limitation had not been suspended.

The special vote referred to in this subsection means 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.

(F) In any year when surplus funds are collected, such revenue surplus may be appropriated by the General Assembly to match funds for public education, public welfare, public health, road and highway construction, rehabilitation, replacement, or maintenance financed in part with federal participation funding or federal grants or tolls, or to accelerate the retirement of bonded indebtedness or transferred to the general fund reserve, or tax relief or for avoiding the issuance of bonds for projects that are authorized but not issued or any combination of these purposes without regard to the spending limitation. For the purposes of this section, surplus funds mean that portion of revenues, as defined in subsection (A) of this section, over and above revenues authorized for appropriation in subsection (B).

HISTORY: 1984 Act No. 487, Section 3.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 131.

Westlaw Topic No. 360.

C.J.S. States Sections 390 to 392, 398 to 399, 401 to 417.

**SECTION 11‑11‑420.** Limitation on permanent state positions; emergency suspension.

(A) In any fiscal year, the ratio of the number of permanent state positions to the total annually up‑dated resident population of the State may not exceed that ratio of permanent state positions as existed in fiscal year 1980‑81 compared to the total resident population of the State as determined by the 1980 decennial census. The number of permanent state positions shall be based on full‑time annual equivalency funded in whole or in part by appropriations of the General Assembly as defined by the South Carolina Classification and Compensation System or its successor.

(B) To insure compliance with subsection (A) of this section, the Executive Budget Office shall annually and prior to December first determine the total number of permanent state positions based on full‑time annual equivalency and the total resident population of the State for which data are available.

(C) The Governor may not present to the Ways and Means Committee of the House of Representatives and the committee may not introduce any appropriation bill which provides for an increase in state employment in excess of the ratio prescribed in subsection (A) of this section. The committee may alter the specific positions created or eliminated so long as the total employment remains within the prescribed limitation.

(D) Notwithstanding the provisions of subsection (A) of this section, the General Assembly may declare an emergency and suspend the employment limitation for any one fiscal year for a specific number by a special vote as provided in this subsection by enactment of legislation which relates only to that matter. The authorized state employment for the fiscal year following the suspension must be determined as if the suspension had not occurred and, for purposes of determining subsequent limits, must be presumed to have been the maximum limit which could have been authorized if such limitation had not been suspended.

The special vote referred to in this subsection means 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.

(E) When an appropriation bill is under consideration by the House of Representatives or the Senate, the presiding officer of either House of the General Assembly shall not allow to be introduced an amendment to the bill which increases the number of state employees unless there is attached to the amendment a certificate of the Revenue and Fiscal Affairs Office that the increase in state employees is within the limitations prescribed.

HISTORY: 1984 Act No. 487, Section 3; 2005 Act No. 164, Section 10.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1).

Library References

States 44.

Westlaw Topic No. 360.

C.J.S. States Sections 145 to 146, 156, 158 to 161.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Public Officers and Public Employees Section 54, State Employees.

**SECTION 11‑11‑430.** State bonds.

(A) In order to continue to maintain the fiscal integrity of the State, the proceeds of the state bonds must not be used to fund operating expenses of state government and such proceeds must be used only for capital improvements.

(B) In order to continue the policy of the State to maintain the full faith and credit of the State with respect to any existing or future bonded indebtedness, the principal and interest payments on general obligation bonds shall constitute priority state expenditures.

(C) The issuance of general obligation bonds of the State must be limited so that the maximum annual debt service on all general obligation bonds of the State (excluding highway bonds, state institution bonds, tax anticipation notes, and bond anticipation notes) may not exceed five percent of the general revenues of the State for the fiscal year next preceding (excluding revenues which are authorized to be pledged for state highway bonds and state institution bonds).

HISTORY: 1984 Act No. 487, Section 3; 1985 Act No. 201, Part II, Section 64; 1986 Act No. 540, Part II, Section 24.

Library References

States 149, 166.

Westlaw Topic No. 360.

C.J.S. States Sections 437, 443 to 445, 448.

**SECTION 11‑11‑440.** Limitation on tax increases and new taxes.

(A) The General Assembly may not provide for any general tax increase or enact new general taxes in the permanent provisions of the State General Appropriation Act or acts supplemental thereto, and any such general tax increases or new general taxes must be enacted only by separate act.

(B) General tax increases and new general taxes as used in this section mean tax increases and new taxes which apply to over fifty percent of the population as a whole.

HISTORY: 1984 Act No. 487, Section 3.

Library References

Statutes 11.

Westlaw Topic No. 361.

C.J.S. Statutes Section 18.