

## Provisos in SECTION 113 - X22-Aid to Subdivisions, State Treasurer

**Proviso: 113.1. (AS-TREAS: Veterans' Affairs-Aid to Counties)** In the allocation of the appropriation in Part IA, Section 113, as adjusted for "Aid to County Veteran Offices," each county shall receive an effective annual amount equal to one hundred percent of the amount allocated to it for the prior fiscal year plus an amount equivalent to base pay increases for state employees, less any adjustments made for budget reductions. This allocation shall be distributed on a quarterly basis to the County Treasurer who will handle and distribute these monies for the sole benefit and use of the County Veterans' Affairs Offices.

### Explanation of Proviso 113.1:

The General Assembly originally inserted this proviso into the budget in FY 06-07. (See 2006 Act No. 397, Proviso 69B.1) Previously, this money was distributed through the Office of Veteran's Affairs within the Governor's Office. The County Veteran Affairs Officers requested the change in 2006.

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**Proviso: 113.2. (AS-TREAS: Quarterly Distributions)** For Fiscal Year 2018-19, one quarter of the amount appropriated in Part IA for Aid to Subdivisions-Local Government Fund shall be distributed as soon after the beginning of each quarter as practical with the four distributions together totaling the Fiscal Year 2018-19 Part IA appropriation for the Local Government Fund.

### Explanation of Proviso 113.2:

This proviso was inserted into the FY 09-10 budget and originally provided, "The amount of the first quarterly distribution for each entity shall equal the amount of the last quarterly distribution for Fiscal Year 2008-2009 and thereafter the next three quarterly distributions shall be in reduced equal amounts, the four distributions together totaling the 2009-2010 appropriation from the Local Government Fund."

Because the FY 09-10 budget reduced the LGF, the intent of the proviso was to "front load" the LGF to hopefully reduce the need for tax anticipation notes. (The bulk of county revenue arrives in the 3rd quarter through real property tax payments.) The proviso remains a place holder in the event the LGF is reduced. Currently the proviso provides for the same distribution as state law (See Section 6-27-40.)

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**Proviso: 113.3. (AS-TREAS: Salary Supplements)** The amounts appropriated in Part IA, Section 113, for Aid Cnty-Clerks of Court, Aid Cnty-Probate Judges, Aid Cnty-Coroners, and Aid Cnty-Sheriffs shall be distributed by the State Treasurer to each county treasurer equally on a quarterly basis, and shall be used as a salary supplement for each clerk of court, probate judge, county coroner, and county sheriff. The amounts appropriated in Part IA, Section 113 for Aid Cnty-Register of Deeds, shall be equally distributed by the State Treasurer to the appropriate county treasurer on a quarterly basis, and shall be used as a salary supplement for registers of deeds.

The amount appropriated in Part IA, Section 113, for Aid Cnty-Auditors and Aid Cnty-Treasurers, shall be equally distributed to each county auditor and county treasurer as a salary supplement in addition to any amounts presently being provided by the county for these positions. It is the intent of the General Assembly that the amount appropriated by the county as salaries for these positions shall not be reduced as a result of the appropriation and that such appropriation shall not disqualify each county auditor and each county treasurer for salary increases that they might otherwise receive from county funds in the future. The salary supplement for each county auditor and county treasurer shall be paid in accordance with the schedule and method of payment established for state employees.

The amounts appropriated in Part IA, Section 113 for Clerks of Court, Probate Judges, Sheriffs, Register of Deeds, Coroners, Auditors, and Treasurers shall be exempt from any across the board cut mandated by the Executive Budget Office or General Assembly. However, the governing body of a county may reduce the expenditures in the operation of the offices of these officials without any required corresponding reduction in the county's state aid to subdivisions distribution. However, any reduction in these officials' budgets must be made in consultation with the affected official.

**Explanation of Proviso 113.3:**

This section provides for the distribution of the salary supplement to the various county officials who also provide service to State Government. Salary supplements on a budgetary line for County Auditors and Treasurers appear to date back at least as far as 1925 (that is the oldest state budget to which I have access) A proviso providing for County Auditors and Treasurer salary supplements can be found in the FY 1942 budget. The proviso was amended in FY 09-10 to clarify that although a county may reduce the expenditures in the operation of these county official's offices after consulting with the official, a county may not reduce the salary of the official, and may not use the supplement to reduce the official's salary.

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**Proviso: 113.4. (AS-TREAS: Legislative Delegations)** In the current fiscal year, a county government must fund its legislative delegation budget pursuant to Section 3, Act No. 283 of 1975. If a county council does not meet that funding level, the amount of the shortfall must be deducted from the responsible county's Aid to Subdivisions allocation and forwarded to the legislative delegation of the county. Additionally, the responsible county's remaining Aid to Subdivisions allotment must be reduced by twenty-five percent of the shortfall amount, which sum must be forwarded to the legislative delegation to be used for its administrative costs.

**Explanation of Proviso 113.4:**

This proviso was originally inserted into the FY 03-04 budget. It was amended in FY10-11 to reflect the need to reference "Section 3, Act No. 283 of 1975." This addition refers to an uncodified section of the Home Rule Act. The relevant section of the act reads:

"Under all forms of county government except the board of commissioners form, county councils shall provide office space and appropriations for the operation of the county legislative delegation office including compensation for staff personnel and necessary office supplies and equipment. The amount of such appropriations shall be determined by the legislative delegation and included in the annual county budget by the council. The delegation shall be responsible for the employment, supervision and discharge of all personnel employed in the delegation office."

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**Proviso: 113.5. (AS-TREAS: LGF)** For Fiscal Year 2018-19, the provisions of Section 6-27-30 and Section 6-27-50 of the 1976 Code are suspended.

**Explanation of Proviso 113.5:**

This proviso was originally inserted into the FY 09-10 budget. This proviso suspends §§ 6-27-30 and 6-27-50. Section 6-27-30 requires 4.5% of general fund revenues of the latest completed fiscal year be appropriated to the Local Government Fund. Section 6-27-50 states that the Aid to Subdivisions Act, which includes the LGF, may not be amended or repealed except in separate legislation solely for that purpose.

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**Proviso: 113.6. (AS-TREAS: Transparency-Political Subdivision Appropriation of Funds) (A)** A political subdivision receiving aid from the Local Government Fund may not:

(1) appropriate money to any entity unless that appropriation appears as a separate and distinct line item in the political subdivision's budget or in an amendment to the political subdivision's budget;

(2) except in cases of emergency or unforeseen circumstances, donate funds to a nonprofit organization unless the amounts donated are appropriated on a separate and distinct line item in the political subdivision's budget or an amendment to the political subdivision's budget that includes the names of the entities to which the donations are being made. In the case of an emergency or unforeseen circumstances, a political subdivision may donate funds to a nonprofit organization if the amount and purpose of the proposed donation and the nature of the emergency or unforeseen circumstances necessitating the donation are announced in open session at a public meeting held by the governing body of the political subdivision and the funds are not delivered to the organization for five days following the announced intent to make the donation; or

(3) accept any funds from nongovernmental and inter-governmental organizations as defined in Agenda 21, adopted by the United Nations in 1992 at its Conference on Environment and Development, accredited and enlisted by the United Nations to assist in the implementation of its policies relative to Agenda 21 around the world without posting the following on the political subdivision's website for ten days:

(a) a full and detailed list of the funding program, including a designation that the funding program is associated with Agenda 21,

(b) the amount of funds involved,

(c) every mandate or requirement or action that will result from the grant or funding program's implementation,

(d) any and all projected costs to the political subdivision, business, or individual associated with the grant or funding program, and

(e) the stated goals and expected results of the grant or funding program.

(B) A political subdivision receiving aid from the Local Government Fund may not appropriate money to any entity without the requirement that the entity provides at the end of the fiscal year a detailed description of the purposes for which the money was used.

**Explanation of Proviso 113.6:**

This proviso first appeared in the FY 11-12 budget. It requires any appropriation made by a county or city to appear as a separate and distinct line item in the budget. The proviso also requires the county or city to require any entity that receives an appropriation from the local government to provide a detailed description of the purposes for which the appropriation was used.

This proviso was amended in FY 14-15 budget to state that a political subdivision may not accept any funds from organizations as defined in Agenda 21, adopted by the United Nations in 1992 at its Conference on Environment and Development, without posting certain information regarding the funding on the political subdivision's website for 10 days.

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**Proviso: 113.7. (AS-TREAS: Political Subdivision Flexibility)** For Fiscal Year 2018-19, a political subdivision receiving aid from the Local Government Fund may reduce its support to any state mandated program or requirement, by up to a percentage equal to the percentage reduction in the actual amount appropriated to the Local Government Fund as compared to the amount required to be appropriated pursuant to Section 6-27-30. Excluded from said reductions are Administrative Law Judges and their offices, Court of Appeals and their offices, Circuit and Family Courts and their offices, Magistrates and their offices, Masters-in-Equity and their offices, Probate Courts and their offices, Public Defenders and their offices, Solicitors and their offices, and the Supreme Court and their offices, and assessment for indigent medical care pursuant to Section 44-6-146 of the 1976 Code.

**Explanation of Proviso 113.7:**

This proviso was inserted into the FY10-11 budget. It states that a political subdivision receiving aid from the Local Government Fund may reduce its support to any state mandated program or requirement by up to a percentage equal to the percentage reduction in the actual amount appropriated to the Local Government Fund as compared to the amount required to be appropriated pursuant to § 6-27-30. An amendment in the FY 12-13 budget excluded from reductions the Administrative Law Judges and their offices, Court of Appeals and their offices, Circuit and Family Courts and their offices, Magistrates and their offices, Masters in Equity and their offices, Probate Courts and their offices, Public Defenders and their offices, Solicitors and their offices, and the Supreme Court and their offices. An amendment in the FY 17-18 excluded from reductions assessment for indigent medical care.

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**Proviso: 113.8. (AS-TREAS: Agricultural Use Exemption)** A county shall have its portion of the Aid to Subdivisions, Local Government Fund withheld if the county imposes any additional requirements for an agricultural use exemption for a landowner's timberland beyond what is required by Section 12-43-230(a) and Section 12-43-232 of the 1976 Code.

**Explanation of Proviso 113.8:**

This proviso was adopted at the Senate Finance in the FY 16-17 budget. The proviso penalizes a county by withholding local government fund money if the county imposes any additional requirements for an agricultural use exemption for a landowner's timberland beyond what is required by Section 12-43-230(a) and Section 12-43-232.

December 13, 2018

Please see below for our official policy position on the Local Government Fund (LGF) as well as an explanation of the position. I am also attaching a draft bill that encompasses this position and that we will support.

At this year's legislative conference, The South Carolina Association of Counties' Legislative Committee adopted its position on the Local Government Fund. That position is as follows:

***Support amending the Local Government Fund Formula to set the base funding level at \$223.2 million with a yearly increase in the fund that corresponds with the growth in the State General Fund up to 5%. Also, standardize a list of state mandates that all counties are responsible for in order to quantify the need for the LGF.***

An increase of \$7.9 million to the LGF line in the FY19-20 budget plus the adoption of the legislation below would fully implement our position. We look forward to a collaborative approach with the General Assembly on this and all other issues and thank you and Chairman Smith for your willingness to address it.

## **A BILL**

TO AMEND CHAPTER 27, TITLE 6, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATE AID TO SUBDIVISIONS ACT, SO AS TO CHANGE THE NAME OF THE LOCAL GOVERNMENT FUND, TO DELETE THE REQUIREMENT THAT THE FUND RECEIVE NOT LESS THAN FOUR AND ONE-HALF PERCENT OF THE GENERAL FUND REVENUES OF THE LATEST COMPLETED FISCAL YEAR, TO DELETE A PROVISION REGARDING MIDYEAR CUTS, TO PROVIDE THAT THE APPROPRIATION TO THE FUND MUST BE INCREASED BY THE SAME PERCENTAGE THAT GENERAL FUND REVENUES ARE PROJECTED TO INCREASE, IF APPLICABLE, BUT NOT TO EXCEED FIVE PERCENT, TO REQUIRE THAT THE PERCENTAGE INCREASE, IF APPLICABLE, BE INCLUDED IN ALL STAGES OF THE BUDGET PROCESS, TO AMEND THE DISTRIBUTION PERCENTAGE OF THE FUND, AND TO DELETE A PROVISION REQUIRING AMENDMENTS TO THE STATE AID TO SUBDIVISIONS ACT BE INCLUDED IN SEPARATE LEGISLATION.

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

SECTION 1. Chapter 27, Title 6 of the 1976 Code is amended to read:

## “CHAPTER 27

### State Aid to Subdivisions Act

Section 6-27-10. This chapter may be cited as the ‘State Aid to Subdivisions Act.

Section 6-27-20. There is created the Local Government Revenue Sharing Fund administered by the State Treasurer. This fund is part of the general fund of the State. ~~It is the intent of the General Assembly that this fund not be subject to mid-year cuts. However, if mid-year cuts are mandated by the State Budget and Control Board to avoid a year-end deficit, this fund is not subject to such cuts, except by a majority vote of the entire State Budget and Control Board which is separate and apart from any other reduction. These cuts are permitted only to the extent that counties and municipalities do not receive less funding than received in the immediate preceding fiscal year.~~ The Local Government Revenue Sharing Fund must be financed as provided in this chapter.

Section 6-27-30. (A) In the annual general appropriations act, ~~an amount equal to not less than four and one-half percent of general fund revenues of the latest completed fiscal year must be appropriated~~ the General Assembly must appropriate funds to the Local Government Revenue Sharing Fund.

(B)(1) In any fiscal year in which general fund revenues are projected to increase, the appropriation to the Local Government Revenue Sharing Fund for the upcoming fiscal year must be increased by the same projected percentage increase, but not to exceed five percent, when compared to the appropriation in the current fiscal year. For purposes of this subsection, beginning with the initial forecast required pursuant to Section 11-9-880, the percentage increase in general fund revenues must be determined by the Revenue and Fiscal Affairs Office by comparing the current fiscal year’s recurring general fund expenditure base with the Board of Economic Advisors’ most recent projection of recurring general fund revenue for the upcoming fiscal year. Upon the issuance of the initial forecast, the Executive Director of the Revenue and Fiscal Affairs Office, or his designee, shall notify the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor of the projected percentage increase. The executive director, or his designee, shall provide similar notice if subsequent modifications to the forecast change the projected percentage increase. However, the forecast in effect on May thirty-first of the current fiscal year is the final forecast for which the percentage increase is determined, and no subsequent forecast modifications shall have any effect on that determination.

(2) The Governor shall include the appropriation increase to the Local Government Revenue Sharing Fund in the Executive Budget.

(3) The Revenue and Fiscal Affairs Office shall determine the current fiscal year’s recurring general fund expenditure base, and determine any projected increase in general fund revenues. If an increase is projected, the appropriation for the upcoming fiscal year must be adjusted accordingly.

(C) For purposes of this section:

(1) ‘Recurring general fund revenue’ means the forecast of recurring general fund revenues pursuant to Section 11-9-880 after the amount apportioned to the Trust Fund for Tax Relief, as required in Section 11-11-150, is deducted.

(2) ‘Recurring general fund expenditure base’ means the total recurring general fund appropriations authorized in the current general appropriations act less any reduced appropriations mandated by the General Assembly or the Executive Budget Office pursuant to Section 11-9-890B.

Section 6-27-40. (A) Not later than thirty days after the end of the calendar quarter, the State Treasurer shall distribute the monies appropriated to the Local Government Revenue Sharing Fund as follows:

(1) Eighty-three and two hundred seventy-eight thousandths percent must be distributed to counties. Of the total distributed to counties, each county must receive an amount based on the ratio that the

county's population is of the whole population of this State according to the most recent United States Census.

(2) Sixteen and seven hundred twenty-two thousandths percent must be distributed to municipalities. Of the total distributed to municipalities, each municipality must receive an amount based on the ratio that the municipality's population is of the population of all municipalities in this State according to the most recent United States Census.

(B) In making the quarterly distribution to counties, the State Treasurer must notify each county of the amount that must be used for educational purposes relating to the use of alcoholic liquors and for the rehabilitation of alcoholics and drug addicts. Counties may pool these funds with other counties and may combine these funds with other funds for the same purposes. The amount that must be used as provided in this subsection is equal to twenty-five percent of the revenue derived pursuant to Section 12-33-245 allocated on a per capita basis according to the most recent United States Census.

~~Section 6-27-50. No section of this chapter may be amended or repealed except in separate legislation solely for that purpose.~~

Section 6-27-55. From funds distributed to the county pursuant to Section 6-27-40, a county council shall provide a reasonable amount of funds for all county offices of state agencies for which the council is required to provide funding by state law."

SECTION 2. This act takes effect upon approval of the Governor.

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