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CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 15, 2022

**H. 3346**

Introduced by Reps. W. Cox, White, Fry, Haddon, Long, Forrest, G.M. Smith, Caskey, Gagnon, Hyde, West, Thayer, Ligon, Daning, Erickson, Bradley, Weeks, B. Newton, McGarry, Carter, Calhoon and Hixon

S. Printed 5/10/22--H.

Read the first time February 17, 2022.

**A** **BILL**

TO AMEND SECTION 11‑11‑310, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE STATUTORY GENERAL RESERVE FUND, SO AS TO PROVIDE THAT THE GENERAL RESERVE FUND OF FIVE PERCENT OF GENERAL FUND REVENUE OF THE LATEST COMPLETED FISCAL YEAR MUST BE INCREASED EACH YEAR BY ONE‑HALF OF ONE PERCENT OF GENERAL FUND REVENUE OF THE LATEST COMPLETED FISCAL YEAR UNTIL IT EQUALS SEVEN PERCENT OF SUCH REVENUES; TO AMEND SECTION 11‑11‑320, RELATING TO THE STATUTORY CAPITAL RESERVE FUND OF TWO PERCENT OF GENERAL FUND REVENUE OF THE LATEST COMPLETED FISCAL YEAR, SO AS TO INCREASE IT TO THREE PERCENT OF GENERAL FUND REVENUE OF THE LATEST COMPLETED FISCAL YEAR AND TO PROVIDE THAT THE FIRST USE OF THE CAPITAL RESERVE FUND MUST BE TO OFFSET MIDYEAR BUDGET REDUCTIONS; BY ADDING SECTION 11‑11‑325 SO AS TO REQUIRE THE CAPITAL RESERVE FUND BE REDUCED BEFORE MIDYEAR BUDGET REDUCTIONS ARE MADE; TO AMEND SECTION 11‑9‑1140, RELATING TO THE REDUCTION FO GENERAL FUND APPROPRIATIONS, SO AS TO MAKE A CONFORMING CHANGE; AND TO PROVIDE THAT THE ABOVE PROVISIONS TAKE EFFECT UPON RATIFICATION OF AMENDMENTS TO SECTION 36, ARTICLE III OF THE CONSTITUTION OF THIS STATE PROVIDING FOR THE ABOVE.

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

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

“Section 11‑11‑310. (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~~ seven percent of general fund revenue of the latest completed fiscal year. The ~~five~~ seven 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~~ five percent limit applied until the percentage of such revenue equals ~~five~~ seven percent which then and thereafter shall apply.”

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

“Section 11‑11‑320. (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~~ three 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~~ If, before March first, the Board of Economic Advisors’ revenue forecast for the current fiscal year projects that revenues at the end of the fiscal year will be less than expenditures authorized by appropriations for that year, then the current year’s appropriation to the Capital Reserve Fund first must be reduced by the Executive Budget Office to the extent necessary before mandating any reductions in operating appropriations.

(2) ~~Subsequent to appropriations required by item (1)~~ After March first of a fiscal year, 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.”

B. Article 3, Chapter 11, Title 11 of the 1976 Code is amended by adding:

“Section 11‑11‑325. At any time during the current fiscal year, if the Board of Economic Advisors’ revenue forecast projects that revenues for the current fiscal year will be less than appropriated expenditures for this year, the Director of the Executive Budget Office in mandating necessary cuts during the current fiscal year to eliminate the projected deficit must first reduce to the extent necessary the appropriation to the Capital Reserve Fund, prior to mandating any cuts in operating appropriation.”

C. Section 11‑9‑1140(B)(1) of the 1976 Code is amended to read:

“(1) If at the end of the first, second, or third quarter of any fiscal year the Board of Economic Advisors reduces the revenue forecast for the fiscal year by three percent or less below the amount projected for the fiscal year in the forecast in effect at the time the general appropriations bill for the fiscal year is ratified, within three days of that determination, the Director of the Executive Budget Office, after reducing the appropriation to the Capital Reserve Fund pursuant to Section 11‑11‑325, must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Executive Budget Office immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Executive Budget Office. A reduction of rate of expenditure by the Director of the Executive Budget Office, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.”

SECTION 3. (A) The provisions of SECTION 1 of this act take effect upon the ratification of an amendment to Section 36(A), Article III of the Constitution of this State raising the general reserve fund from five percent of general fund revenue of the latest completed fiscal year to seven percent of such revenues in the manner provided in the section and first applies to the state fiscal year beginning thereafter.

(B) The provisions of SECTION 2 of this act take effect upon the ratification of an amendment to Section 36(B), Article III of the Constitution of this State to allow the Capital Reserve Fund to be used first to offset midyear budget reductions and raising the Capital Reserve Fund from two percent of the general fund revenue of the latest completed fiscal year to three percent of such revenues and first applies to the state fiscal year beginning thereafter.

/s/Sen. Harvey S. Peeler, Jr. /s/Rep. G. Murrell Smith, Jr.

/s/Sen. Nikki G. Setzler /s/Rep. J. Gary Simrill

/s/Sen. Thomas C. Alexander /s/Rep. J. Todd Rutherford

On Part of the Senate. On Part of the House.

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