

Regular Session, 2010

SENATE BILL NO. 2

BY SENATOR CHAISSON

FUNDS/FUNDING. Provides relative to deposits into and transfers out of the Budget Stabilization Fund. (See Act)

1 AN ACT

2 To amend and reenact R.S. 39:94(A)(2) and (C), relative to the Budget Stabilization Fund;
3 to provide for the dedication and deposit of certain revenues into the Budget
4 Stabilization Fund; to delete the provisions relative to the amount of mineral
5 revenues received by the state before mineral revenues may be deposited into the
6 Budget Stabilization Fund; to provide for the incorporation of monies in the Budget
7 Stabilization Fund into the official forecast for the current fiscal year and the next
8 fiscal year; to direct the treasurer to transfer monies from the Budget Stabilization
9 Fund to the state general fund in certain circumstances; to suspend or reduce deposits
10 into the Budget Stabilization Fund in certain circumstances; to provide for an
11 effective date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 39:94(A)(2) and (C) are hereby amended and reenacted to read as
14 follows:

15 §94. Budget Stabilization Fund

16 A. There is hereby created in the state treasury a special fund to be designated
17 as the Budget Stabilization Fund, hereafter referred to in this Section as the "fund",

1 which shall consist of all money deposited into the fund in accordance with Article
2 VII, Section 10.3 of the Constitution of Louisiana. Money shall be deposited in the
3 fund as follows:

4 * * *

5 (2)(a) Beginning in Fiscal Year 2012-2013 through Fiscal Year 2013-
6 2014, five percent, and in Fiscal Year 2014-2015 and thereafter, ten percent of
7 all All revenues received in each fiscal year by the state ~~in excess of eight hundred~~
8 ~~fifty million dollars, hereinafter referred to as the "base,"~~ as a result of the production
9 of or exploration for minerals, hereinafter referred to as "mineral revenues,"
10 including severance taxes, royalty payments, bonus payments, or rentals, and
11 excluding such revenues designated as nonrecurring pursuant to Article VII, Section
12 10(B) of the Constitution of Louisiana, any such revenues received by the state as
13 a result of grants or donations when the terms or conditions thereof require otherwise
14 and revenues derived from any tax on the transportation of minerals, shall be
15 deposited in the fund after the following allocations of said mineral revenues have
16 been made:

17 ~~(i)(a)~~ (a) To the Bond Security and Redemption Fund as provided by Article VII,
18 Section 9(B) of the Constitution of Louisiana.

19 ~~(ii)(b)~~ (b) To the political subdivisions of the state as provided in Article VII,
20 Sections 4(D) and (E) of the Constitution of Louisiana.

21 ~~(iii)(c)~~ (c) As provided by the requirements of Article VII, Sections 10-A and
22 10.1 of the Constitution of Louisiana.

23 ~~(b) The base may be increased every ten years beginning in the year 2014 by~~
24 ~~a law enacted by two-thirds of the elected members of each house of the legislature.~~
25 ~~Any such increase shall not exceed fifty percent in the aggregate of the increase in~~
26 ~~the consumer price index for the immediately preceding ten years.~~

27 * * *

28 C. The money in the fund shall not be available for ~~appropriation~~
29 incorporation into the official forecast except under the following conditions:

1 (1)(a) If the official forecast of recurring money for the ensuing fiscal year
2 is less than the official forecast of recurring money for the current fiscal year, the
3 Revenue Estimating Conference shall incorporate a specified amount of the fund into
4 the official forecast for the ensuing year pursuant to a concurrent resolution adopted
5 by a favorable vote of two-thirds of the elected members of each house.

6 (b) If the legislature is not in session, the two-thirds consent requirement shall
7 be obtained as provided in R.S. 39:87.

8 (c) The amount of the fund that may be incorporated into the official forecast
9 for the ensuing fiscal year shall not exceed either of the following:

10 (i) The difference between the official forecast of recurring money for the
11 ensuing fiscal year and the official forecast of recurring money for the current fiscal
12 year.

13 (ii) One-third of the fund balance, determined in accordance with R.S. 39:95,
14 at the beginning of the current fiscal year.

15 **(2)(a) If a decrease in federal financial participation in state assistance**
16 **expenditures for health or social services programs, including Federal Medical**
17 **Assistance Percentages, creates a projected deficit for the next fiscal year, the**
18 **difference between the current fiscal year's federal financial participation and**
19 **the ensuing fiscal year's projected federal financial participation, not to exceed**
20 **one-third of the fund, shall be incorporated into the next fiscal year's official**
21 **forecast only with the consent of two-thirds of the elected members of each**
22 **house of the legislature.**

23 **(b) The decreases in the projected federal financial participation and the**
24 **projected deficit shall be incorporated into the continuation and five-year base**
25 **line budget projection for the next fiscal year as presented to the Joint**
26 **Legislative Committee on the Budget.**

27 **(c) If the legislature is not in session, the two-thirds requirement may be**
28 **satisfied by obtaining the written consent of two-thirds of the elected members**
29 **of each house of the legislature in the manner provided by R.S. 39:87.**

1 ~~(2)~~ **(3)**(a) If a deficit for the current fiscal year is projected due to a decrease
 2 in the official forecast of recurring money, the Revenue Estimating Conference shall
 3 incorporate a specified amount of the fund into the official forecast for the current
 4 fiscal year pursuant to a concurrent resolution adopted by a favorable vote of two-
 5 thirds of the elected members of each house.

6 (b) If the legislature is not in session, the two-thirds consent requirement shall
 7 be obtained as provided in R.S. 39:87.

8 (c) The amount of the fund that may be incorporated into the official forecast
 9 for the current fiscal year shall not exceed either of the following:

10 (i) The amount of the projected deficit.

11 (ii) One-third of the fund balance, determined in accordance with R.S. 39:95,
 12 at the beginning of the current fiscal year.

13 ~~(3)~~ **(4)** In no event shall the amount included in the official forecast for the
 14 ensuing fiscal year pursuant to Paragraph (1) of this Subsection plus the amount
 15 included in the official forecast in the current fiscal year pursuant to Paragraph (2)
 16 of this Subsection exceed one-third of the fund balance, determined in accordance
 17 with R.S. 39:95, at the beginning of the current fiscal year.

18 **(5) If two-thirds of the elected members of each house of the legislature**
 19 **give consent for a specified amount of the fund to be incorporated into the**
 20 **official forecast, the state treasurer shall transfer the amount of monies so**
 21 **authorized from the fund to the state general fund.**

22 ~~(4)(a) No~~ **(6) For Fiscal Years 2009-2010, 2010-2011, and 2011-2012, no**
 23 **deposit shall be made to the fund except pursuant to a specific appropriation by**
 24 **the legislature. For any fiscal year thereafter except pursuant to a specific**
 25 **appropriation by the legislature, no** appropriation or deposit to the fund shall be
 26 made if such appropriation or deposit would cause the balance in the fund to exceed
 27 four percent of total state revenue receipts for the previous fiscal year **one billion**
 28 **dollars**. For the purposes of this Section, total state revenue receipts shall not
 29 include any monies received by the state from the Federal Emergency Management

1 Administration or other federal sources providing disaster relief assistance.

2 ~~(b) (7)~~ Notwithstanding any provision of this Section to the contrary, **and**
 3 except pursuant to a specific appropriation by the legislature, no appropriation or
 4 deposit to the fund shall be made **in Fiscal Year 2010-2011, Fiscal Year 2011-2012,**
 5 **nor** in the same fiscal year **in which a specified amount of the fund is**
 6 **incorporated into the official forecast or** as an appropriation, ~~use or withdrawal or~~
 7 **transfer** is made from the fund ~~or until such time as the official forecast exceeds the~~
 8 ~~actual collections of state general fund (direct) revenue for Fiscal Year 2008.~~
 9 **Notwithstanding any other provision of this Section to the contrary, in the fiscal**
 10 **year immediately following the fiscal year in which a specified amount of the**
 11 **fund is incorporated into the official forecast or an appropriation or transfer is**
 12 **made from the fund, no more than five percent of mineral revenues shall be**
 13 **deposited in the fund, except pursuant to a specific appropriation by the**
 14 **legislature to the fund.**

15 Section 2. Section 1 of this Act shall take effect and become operative if the
 16 amendment of Article VII, Section 10.3(C) of the Constitution of Louisiana contained in the
 17 Act which originated as Senate Bill No. 1 of this 2010 Regular Session of the Legislature
 18 is adopted at the statewide election to be held on November 2, 2010 and at the same time as
 19 such proposed amendment becomes effective.

20 Section 3. Sections 2 and 3 of this Act shall become effective on July 1, 2010. If
 21 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 22 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Martha S. Hess.

DIGEST

Chaisson (SB 2)

Present law establishes the Budget Stabilization Fund and provides for the monies to be deposited into the fund.

Present law provides that all mineral revenues received in each fiscal year by the state in excess of \$750 million (the "base") shall be deposited in the fund after allocations are made to the Bond Security and Redemption Fund, the political subdivisions for severance taxes and royalties, the Conservation Fund, and the Louisiana Quality Trust Fund. Present law

further provides that the base may be increased every 10 years by a law enacted by 2/3's of the elected members of each house of the legislature.

Proposed law provides that beginning in FY 2012-2013 and FY 2013-2014, 5%, and in FY 2014-2015 and thereafter, 10% of all mineral revenues received in each fiscal year, after the allocations are made to the Bond Security and Redemption Fund, the political subdivisions for severance taxes and royalties, the Conservation Fund, and the Louisiana Quality Trust Fund, are dedicated to the Budget Stabilization Fund. Proposed law deletes the base and the provision regarding changing the base every 10 years.

Present law permits up to 1/3 of the Budget Stabilization Fund, subject to 2/3 approval of each house of the legislature, to be incorporated in the next fiscal year's official forecast if revenue estimates for the next fiscal year are less than the official forecast for the current fiscal year. Present law provides that if the legislature is not in session, the 2/3 requirement may be satisfied by obtaining the written consent of 2/3's of the elected members of each house of the legislature in a manner provided by law.

Proposed law permits up to 1/3 of the Budget Stabilization Fund, subject to 2/3 approval of each house of the legislature, to be incorporated in the next fiscal year's official forecast if a decrease in federal financial participation in state assistance expenditures for health or social services programs, including Federal Medical Assistance Percentages, creates a projected deficit for the next fiscal year. The amount that may be incorporated shall be the difference between the current fiscal year's federal financial participation and the ensuing fiscal year's projected federal financial participation, not to exceed 1/3 of the fund.

Proposed law further provides that the changes in the projected federal financial participation and projected deficit shall be incorporated into the continuation and five-year base line budget projection for the next fiscal year as presented to the Joint Legislative Committee on the Budget.

Present law further permits up to 1/3 of the Budget Stabilization Fund, subject to 2/3 approval of each house of the legislature, to be appropriated for the current fiscal year budget if a deficit for the current fiscal year is projected due to a decrease in the official forecast.

Proposed law permits up to 1/3 of the Budget Stabilization Fund, subject to 2/3 approval of each house of the legislature, to be incorporated into the current fiscal year's official forecast if a deficit for the current fiscal year is projected due to a decrease in the official forecast.

Proposed law provides that if 2/3 of each house of the legislature approves a portion of the Budget Stabilization Fund to be incorporated into the official forecast, the state treasurer shall transfer the amount of monies so authorized to the general fund.

Present law provides that no appropriation or deposit shall be made to the Budget Stabilization Fund if such appropriation or deposit would cause the balance in the fund to exceed 4% of total state revenue receipts for the previous fiscal year.

Proposed law provides that for FY 2009-2010, 2010-2011, and 2011-2012, no deposit shall be made to the fund except pursuant to a specific appropriation by the legislature. For any fiscal year thereafter, except pursuant to a specific appropriation by the legislature, no deposit to the fund shall be made if such deposit would cause the balance in the fund to exceed \$1 billion.

Proposed law provides that except pursuant to a specific appropriation by the legislature to the fund, no appropriation or deposit to the fund shall be made in FY 2010-2011, 2011-2012 nor in the same fiscal year in which a specified amount of the fund is incorporated into the official forecast or an appropriation or transfer is made from the fund.

Proposed law provides that except pursuant to a specific appropriation by the legislature to

the fund, no appropriation or deposit to the fund shall be made in FY 2010-2011, 2011-2012 nor in the same fiscal year in which a specified amount of the fund is incorporated into the official forecast or an appropriation or transfer is made from the fund. Further provides that in the fiscal year immediately following the fiscal year in which a specified amount of the fund is incorporated into the official forecast or an appropriation or transfer is made from the fund, no more than 5% of mineral revenues shall be deposited in the fund, except pursuant to a specific appropriation by the legislature to the fund.

Section 1 of the Act becomes effective and operative if the amendment of Article VII, Section 10.3(C) of the Constitution of Louisiana contained in the Act which originated as SB 1 of the 2010 RS is adopted at the statewide election to be held on November 2, 2010, and at the same time as such proposed amendment becomes effective. Sections 2 and 3 of the Act, which are the effective date provisions, become effective on July 1, 2010.

(Amends R.S. 39:94(A)(2) and (C))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Finance to the original bill.

1. Dedicates a percentage of mineral revenues to the fund each year, 5% in FY 2012-2013 and 2013-2014 and 10% in FY 2014-2015 and thereafter.
2. Removes provisions relative to the amount of mineral revenues received by the state before deposits may be made to the fund (the \$750 million/\$850 million base).
3. Removes provisions relative to changing the base every 10 years.
4. Provides that in FY 2009-2010, 2010-2011 and 2011-2012, no deposit shall be made to the fund except pursuant to a specific appropriation.
5. Changes cap on fund to provide that in FY 2012-2013 and thereafter, except pursuant to a specific appropriation, no deposit shall be made to the fund if such would cause the fund balance to exceed \$1 billion.
6. Provides that in the fiscal year immediately following the fiscal year in which a portion of the fund is incorporated into the official forecast or an appropriation is made from the fund, no more than 5% of mineral revenues shall be deposited in the fund, except pursuant to a specific appropriation.

Senate Floor Amendments to engrossed bill.

1. Technical amendments.