# Senate

General Assembly **File No. 822**

*January Session, 2015* Substitute Senate Bill No. 1135

*Senate, May 14, 2015*

The Committee on Finance, Revenue and Bonding reported through SEN. FONFARA of the 1st Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE MANAGEMENT OF REVENUE VOLATILITY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 4-30a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) (1) For the purposes of this section, "combined revenue" means revenue in any given fiscal year from estimated and final payments of the personal income tax imposed under chapter 229 plus the revenue from the corporation business tax imposed under chapter 208.

(2) There is established a Budget Reserve Fund and a Restricted Grants Fund for the purposes of this section.

**[**(a)**]** (3) After the accounts for the General Fund have been closed for each fiscal year and the Comptroller has determined the amount of unappropriated surplus in **[**said fund**]** the General Fund, after any amounts required by provision of law to be transferred for other purposes have been deducted, the amount of such surplus and the amount transferred to the Restricted Grants Fund pursuant to subdivision (4) of this subsection shall be transferred by the State Treasurer to **[**a special fund to be known as**]** the Budget Reserve Fund.

(4) (A) Commencing in the fiscal year ending June 30, 2017, (i) if, under the consensus revenue estimate maintained or revised not later than January fifteenth annually pursuant to subsection (b) of section 2-36c, as amended by this act, the year-end projection of combined revenue for the current fiscal year is greater than the threshold level for deposits to the Budget Reserve Fund reported pursuant to subsection (f) of section 2-36c, as amended by this act, for the current fiscal year, the amount that is projected to be over the threshold level for deposits to the Budget Reserve Fund shall be transferred by the State Treasurer from the General Fund to the Restricted Grants Fund not later than January thirty-first.

(ii) If, under the consensus revenue estimate maintained or revised not later than April thirtieth annually pursuant to subsection (b) of section 2-36c, as amended by this act, the year-end projection of combined revenue is revised upward, the difference in the combined revenue projection from January fifteenth to April thirtieth shall be transferred by the State Treasurer from the General Fund to the Restricted Grants Fund not later than May fifteenth. If such year-end projection is revised downward, the difference in the combined revenue projection from January fifteenth to April thirtieth shall be transferred back to the General Fund from the Restricted Grants Fund not later than May fifteenth, unless the revised combined revenue projection is less than the threshold level for deposits to the Budget Reserve Fund reported pursuant to subsection (f) of section 2-36c, as amended by this act, in which case only the difference between the combined revenue projection from January fifteenth and the calculated threshold for deposits to the Budget Reserve Fund shall be transferred back to the General Fund from the Restricted Grants Fund.

(B) (i) If, under the consensus revenue estimate maintained or revised not later than January fifteenth annually pursuant to subsection (b) of section 2-36c, as amended by this act, the year-end projection of combined revenue for the current fiscal year is equal to or less than the threshold level for deposits to the Budget Reserve Fund reported pursuant to subsection (f) of section 2-36c, as amended by this act, for the current fiscal year, no transfer to the Restricted Grants Fund shall be made.

(ii) If, under the consensus revenue estimate maintained or revised not later than April thirtieth annually pursuant to subsection (b) of section 2-36c, as amended by this act, the year-end projection of combined revenue is revised upward to an amount greater than the threshold level for deposits to the Budget Reserve Fund reported pursuant to subsection (f) of section 2-36c, as amended by this act, the difference between the combined revenue projection in April and the calculated threshold for deposits to the Budget Reserve Fund shall be transferred by the State Treasurer from the General Fund to the Restricted Grants Fund not later than May fifteenth. If such year-end projection is revised upward but not to an amount greater than the threshold level for deposits to the Budget Reserve Fund calculated pursuant to subsection (f) of section 2-36c, as amended by this act, or is revised downward or remains unchanged, no transfer shall be made.

(C) If the consensus revenue estimate on either January fifteenth or April thirtieth projects a year-end General Fund deficit for the current fiscal year, no transfer to the Restricted Grants Fund shall be made.

(5) Commencing in the fiscal year ending June 30, 2016, the Comptroller shall certify the threshold level for deposits to the Budget Reserve Fund pursuant to section 3-115, as amended by this act, by determining: (A) Combined revenue for each of the prior twenty fiscal years; (B) the ten-year average for the current fiscal year; (C) the ten-year average for each of the ten fiscal years preceding the current fiscal year; (D) the differential for each of the ten fiscal years preceding the current fiscal year; (E) the average of the differentials calculated pursuant to subparagraph (D) of this subdivision; and (F) the number

calculated in subparagraph (E) of this subdivision and adding the number one. The threshold level for deposits to the Budget Reserve Fund shall be the number calculated by multiplying the number calculated under subparagraph (B) of this subdivision by the number calculated under subparagraph (F) of this subdivision. For the purposes of this subdivision, "ten-year average" means the average of combined revenue from the ten fiscal years preceding any given fiscal year; and "differential" means the difference between the actual combined revenue from any given fiscal year and the ten-year average for that same fiscal year, divided by the ten-year average for that fiscal year.

[When] (6) Whenever the amount in [said fund] the Budget Reserve Fund equals [ten] fifteen per cent or more of the net General Fund appropriations for the [fiscal year in progress] current fiscal year, no further transfers shall be made by the Treasurer to [said fund] the Budget Reserve Fund and the amount of such surplus in excess of that transferred to said fund shall be deemed to be appropriated to the State Employees Retirement Fund, in addition to the contributions required pursuant to section 5-156a, but not exceeding five per cent of the unfunded past service liability of the system as set forth in the most recent actuarial valuation certified by the Retirement Commission. [Such] Commencing in the fiscal year ending June 30, 2017: Whenever the amount in the Budget Reserve Fund equals ten per cent or more but less than fifteen per cent of the net General Fund appropriation for the current fiscal year, fifteen per cent of any amount transferred to the Budget Reserve Fund shall be transferred to the State Employees Retirement Fund; whenever the amount in the Budget Reserve Fund equals five per cent or more but less than ten per cent of the net General Fund appropriation for the current fiscal year, ten per cent of any amount transferred to the Budget Reserve Fund shall be transferred to the State Employees Retirement Fund; and whenever the amount in the Budget Reserve Fund is less than five per cent of the net General Fund appropriation for the current fiscal year, five per cent of any amount transferred to the Budget Reserve Fund shall be transferred to the State Employees Retirement Fund.

(7) Any surplus in excess of the amounts transferred to the Budget Reserve Fund and the state employees retirement system shall be deemed to be appropriated for: [(1)] (A) Redeeming prior to maturity any outstanding indebtedness of the state selected by the Treasurer in the best interests of the state; [(2)] (B) purchasing outstanding indebtedness of the state in the open market at such prices and on such terms and conditions as the Treasurer shall determine to be in the best interests of the state for the purpose of extinguishing or defeasing such debt; [(3)] (C) providing for the defeasance of any outstanding indebtedness of the state selected by the Treasurer in the best interests of the state by irrevocably placing with an escrow agent in trust an amount to be used solely for, and sufficient to satisfy, scheduled payments of both interest and principal on such indebtedness; or [(4)] (D) any combination of [these] the methods set forth in subparagraph (A), (B) or (C) of this subdivision. Pending the use or application of such amount for the payment of interest and principal, such amount may be invested in [(A)] (i) direct obligations of the United States government, including state and local government treasury securities that the United States Treasury issues specifically to provide state and local governments with required cash flows at yields that do not exceed Internal Revenue Service arbitrage limits, [(B)] (ii) obligations guaranteed by the United States government, and [(C)] (iii) securities backed by United States government obligations as collateral and for which interest and principal payments on the collateral generally flow immediately through to the security holder.

(b) Moneys in [said] the Budget Reserve Fund shall be maintained and invested for the purpose of reducing revenue volatility in the General Fund and reducing the need for increases in tax revenue and reductions in state aid due to economic changes, and shall be expended only as provided in this subsection. [When] Whenever in any fiscal year the Comptroller has determined the amount of a deficit applicable with respect to the immediately preceding fiscal year, to the extent necessary, the amount of funds credited to [said] the Budget Reserve Fund shall be deemed to be appropriated for purposes of funding such deficit. Commencing in the fiscal year ending June 30, 2017, if the consensus revenue estimate on April thirtieth pursuant to section 2-36c, as amended by this act, projects a two per cent decline in General Fund tax revenues from the current fiscal year to the subsequent fiscal year, the General Assembly may transfer funds from the Budget Reserve Fund to the General Fund in each of the subsequent three fiscal years.

(c) The Treasurer is authorized to invest all or any part of [said fund] the Budget Reserve Fund or the Restricted Grants Fund in accordance with the provisions of section 3-31a. The interest derived from the investment of said [fund] funds shall be credited to the General Fund.

(d) No bill which, if passed, would reduce or eliminate the amount of any deposit to the Budget Reserve Fund or the Restricted Grants Fund as set forth in this section, shall be enacted by the General Assembly without an affirmative vote of at least three-fifths of the members of the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies and at least three-fifths of the members of the joint standing committee of the General Assembly having cognizance of matters relating to state finance, revenue and bonding.

(e) Not later than December 15, 2020, and every five years thereafter, the Secretary of the Office of Policy and Management, the director of the legislative Office of Fiscal Analysis and the State Comptroller shall each submit a report, in accordance with section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to revenue and the Governor on the Budget Reserve Fund deposit formula set forth in this section. The reports shall include an analysis of the formula's impact on General Fund tax revenue volatility, the adequacy of deposits required by the formula to replace potential future revenue declines resulting from economic downturns, the amount of additional payments toward unfunded liability made as a result of the formula, and an analysis of the adequacy of the maximum cap on Budget Reserve Fund balances. The reports shall include recommended changes, if any, to the deposit formula or maximum balance cap that are consistent with the purposes of the Budget Reserve Fund as set forth in subsection (b) of this section.

Sec. 2. Section 4-85 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) Before an appropriation becomes available for expenditure, each budgeted agency shall submit to the Governor through the Secretary of the Office of Policy and Management, not less than twenty days before the beginning of the fiscal year for which such appropriation was made, a requisition for the allotment of the amount estimated to be necessary to carry out the purposes of such appropriation during each quarter of such fiscal year. Commencing with the fiscal year ending June 30, 2011, the initial allotment requisition for each line item appropriated to the legislative branch and to the judicial branch for any fiscal year shall be based upon the amount appropriated to such line item for such fiscal year minus any amount of budgeted reductions to be achieved by such branch for such fiscal year pursuant to subsection (c) of section 2-35, as amended by this act. Appropriations for capital outlays may be allotted in any manner the Governor deems advisable. Such requisition shall contain any further information required by the Secretary of the Office of Policy and Management. The Governor shall approve such requisitions, subject to the provisions of subsection (b) of this section.

(b) Any allotment requisition and any allotment in force shall be subject to the following: (1) If the Governor determines that due to a change in circumstances since the budget was adopted certain reductions should be made in allotment requisitions or allotments in force or that estimated budget resources during the fiscal year will be insufficient to finance all appropriations in full, the Governor may modify such allotment requisitions or allotments in force to the extent the Governor deems necessary. Before such modifications are effected the Governor shall file a report with the joint standing committee having cognizance of matters relating to appropriations and the budgets of state agencies and the joint standing committee having cognizance of matters relating to state finance, revenue and bonding describing the change in circumstances which makes it necessary that certain reductions should be made or the basis for [his] the Governor's determination that estimated budget resources will be insufficient to finance all appropriations in full. (2) If the cumulative monthly financial statement issued by the Comptroller pursuant to section 3-115, as amended by this act, includes a projected General Fund deficit greater than one per cent of the total of General Fund appropriations, the Governor, within thirty days following the issuance of such statement, shall file a report with such joint standing committees, including a plan which [he] the Governor shall implement to modify such allotments to the extent necessary to prevent a deficit. No modification of an allotment requisition or an allotment in force made by the Governor pursuant to this subsection shall result in a reduction of more than three per cent of the total appropriation from any fund or more than five per cent of any appropriation, except such limitations shall not apply in time of war, invasion or emergency caused by natural disaster. If the Comptroller has projected a General Fund deficit greater than one per cent of the total of General Fund appropriations and any funds have been transferred to the Restricted Grants Fund pursuant to section 4-30a, as amended by this act, the Governor may direct the Treasurer to transfer those funds to the General Fund as part of the Governor's plan to prevent a deficit pursuant to this section.

(c) If a plan submitted in accordance with subsection (b) of this section indicates that a reduction of more than three per cent of the total appropriation from any fund or more than five per cent of any appropriation is required to prevent a deficit, the Governor may request that the Finance Advisory Committee approve any such reduction, provided any modification which would result in a reduction of more than five per cent of total appropriations shall require the approval of the General Assembly.

(d) The secretary shall submit copies of allotment requisitions thus approved or modified or allotments in force thus modified, with the reasons for any modifications, to the administrative heads of the budgeted agencies concerned, to the Comptroller and to the joint standing committee of the General Assembly having cognizance of appropriations and matters relating to the budgets of state agencies, through the Office of Fiscal Analysis. The Comptroller shall set up such allotments on the Comptroller's books and be governed thereby in the control of expenditures of budgeted agencies.

(e) The provisions of this section shall not be construed to authorize the Governor to reduce allotment requisitions or allotments in force concerning (1) aid to municipalities; or (2) any budgeted agency of the legislative or judicial branch, except that the Governor may propose an aggregate allotment reduction of a specified amount in accordance with this section for the legislative or judicial branch. If the Governor proposes to reduce allotment requisitions or allotments in force for any budgeted agency of the legislative or judicial branch, the Secretary of the Office of Policy and Management shall, at least five days before the effective date of such proposed reductions, notify the president pro tempore of the Senate and the speaker of the House of Representatives of any such proposal affecting the legislative branch and the Chief Justice of the Supreme Court of any such proposal affecting the judicial branch. Such notification shall include the amounts, effective dates and reasons necessitating the proposed reductions. Not later than three days after receipt of such notification, the president pro tempore or the speaker, or both, or the Chief Justice, as appropriate, may notify the Secretary of the Office of Policy and Management and the chairpersons and ranking members of the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, in writing, of any objection to the proposed reductions. The committee may hold a public hearing on such proposed reductions. Such proposed reductions shall become effective unless they are rejected by a two-thirds vote of the members of the committee not later than fifteen days after receipt of the notification of objection to the proposed reductions. If the committee rejects such proposed reductions, the Secretary of the Office of Policy and Management shall present an alternative plan to achieve such reductions to the president pro tempore and the speaker for any such proposal affecting the legislative branch or to the Chief Justice for any such proposal affecting the judicial branch. If proposed reductions in allotment requisitions or allotments in force for any budgeted agency of the legislative or judicial branch are not rejected, such reductions shall be achieved as determined by the Joint Committee on Legislative Management or the Chief Justice, as appropriate. The Joint Committee on Legislative Management or the Chief Justice, as appropriate, shall submit such reductions to the Governor through the Secretary of the Office of Policy and Management not later than ten days after the proposed reductions become effective.

Sec. 3. Section 3-115 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

The Comptroller shall prepare all accounting statements relating to the financial condition of the state as a whole, the condition and operation of state funds, appropriations, reserves and costs of operations; shall furnish such statements when they are required for administrative purposes; and shall issue cumulative monthly financial statements concerning the state's General Fund which shall include a statement of revenues and expenditures to the end of the last-completed month together with the statement of estimated revenue by source to the end of the fiscal year and the statement of appropriation requirements of the state's General Fund to the end of the fiscal year furnished pursuant to section 4-66 and itemized as far as practicable for each budgeted agency, including estimates of lapsing appropriations, unallocated lapsing balances and unallocated appropriation requirements. The Comptroller shall provide such statements, in the same form and in the same categories as appears in the budget act enacted by the General Assembly, on or before the first day of the following month. The Comptroller shall submit a copy of the monthly trial balance and monthly analysis of expenditure run to the <u>legislative</u> Office of Fiscal Analysis. On or before September thirtieth, annually, the Comptroller shall submit a report, prepared in accordance with generally accepted accounting principles, to the Governor which shall include (1) a statement of all appropriations and expenditures of the public funds during the fiscal year next preceding itemized by each appropriation account of each budgeted agency; (2) a statement of the revenues of the state classified as far as practicable as to budgeted agencies, sources and funds during such year; (3) a statement setting forth the total tax receipts of the state during such year; (4) a balance sheet setting forth, as of the close of such year, the financial condition of the state as to its funds; (5) a statement certifying the threshold level for deposits to the Budget Reserve Fund under subdivision (5) of subsection (a) of section 4-30a, as amended by this act, for the current fiscal year; and (6) such other information as will, in the Comptroller's opinion, be of interest to the public or as will convey to the General Assembly and the Governor the essential facts as to the financial condition and operations of the state government. The annual report of the Comptroller shall be published and made available to the public on or before the thirty-first day of December.

Sec. 4. Section 2-35 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) All bills carrying or requiring appropriations and favorably reported by any other committee, except for payment of claims against the state, shall, before passage, be referred to the joint standing committee of the General Assembly having cognizance of matters relating to appropriations and the budgets of state agencies, unless such reference is dispensed with by a vote of at least two-thirds of each house of the General Assembly. Resolutions paying the contingent expenses of the Senate and House of Representatives shall be referred to said committee. Said committee may originate and report any bill which it deems necessary and shall, in each odd-numbered year, report such appropriation bills as it deems necessary for carrying on the departments of the state government and for providing for such institutions or persons as are proper subjects for state aid under the provisions of the statutes, for the ensuing biennium. In each even-numbered year, the committee shall originate and report at least one bill which adjusts expenditures for the ensuing fiscal year in such manner as it deems appropriate. Each appropriation bill shall specify the particular purpose for which appropriation is made and shall be itemized as far as practicable. The state budget act may contain any legislation necessary to implement its appropriations provisions, provided no other general legislation shall be made a part of such act.

(b) The state budget act passed by the legislature for funding the expenses of operations of the state government in the ensuing biennium shall contain a statement of estimated revenue, based upon the most recent consensus revenue estimate or the revised consensus revenue estimate issued pursuant to section 2-36c, as amended by this act, itemized by major source, for each appropriated fund. Commencing in the fiscal year ending June 30, 2016, such itemization shall include the estimate for each major component of the personal income tax imposed pursuant to chapter 229 as follows: Withholding payments, estimated payments and final payments. The statement of estimated revenue applicable to each such fund shall include, for any fiscal year, an estimate of total revenue with respect to such fund, which amount shall be reduced by (1) an estimate of total refunds of taxes to be paid from such revenue in accordance with the authorization in section 12-39f, and (2) an estimate of total refunds of payments to be paid from such revenue in accordance with the provisions of sections 3-70a and 4-37. Such statement of estimated revenue, including the estimated refunds of taxes to be offset against such revenue, shall be supplied by the joint standing committee of the General Assembly having cognizance of matters relating to state finance, revenue and bonding. The total estimated revenue for each fund, as adjusted in accordance with this section, shall not be less than the total net appropriations made from each fund plus, for the fiscal year ending June 30, 2014, and each fiscal year thereafter, the amount necessary to extinguish any unassigned negative balance in each fund as reported in the most recently audited comprehensive annual financial report issued by the Comptroller prior to the start of the fiscal year, reduced, in the case of the General Fund, by (A) the negative unassigned fund balance, as reported by the Comptroller for the fiscal year ending June 30, 2013, then unamortized pursuant to section 3-115b, and (B) any funds from other resources deposited in the General Fund for the purpose of reducing the negative unassigned balance of the fund. On or before July first of each fiscal year said committee shall, if any revisions in such estimates are required by virtue of legislative amendments to the revenue measures proposed by said committee, changes in conditions or receipt of new information since the original estimate was supplied, meet and revise such estimates and, through its cochairpersons, report to the Comptroller any such revisions.

(c) If the state budget act passed by the legislature for funding the expenses of operations of the state government in the ensuing biennium or making adjustments to a previously adopted biennial budget contains state-wide budgeted reductions not allocated by a budgeted agency, such act shall specify the amount of such budgeted reductions to be achieved in each branch of state government.

Sec. 5. Section 2-36c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) Not later than November tenth annually, the Secretary of the Office of Policy and Management and the director of the legislative Office of Fiscal Analysis shall issue the consensus revenue estimate for the current biennium and the next ensuing three fiscal years. <u>Such revenue shall be itemized in accordance with the provisions of subsection (b) of section 2-35, as amended by this act.</u> If no agreement on a revenue estimate is reached by November tenth, (1) the Secretary of the Office of Policy and Management and the director of the <u>legislative</u> Office of Fiscal Analysis shall each issue an estimate of state revenues for the current biennium and the next ensuing three fiscal years, and (2) the Comptroller shall, not later than November twentieth, issue the consensus revenue estimate for the current biennium and the next ensuing three fiscal years. In issuing the consensus revenue estimate required by this subsection, the Comptroller shall consider such revenue estimates provided by the

Office of Policy and Management and the legislative Office of Fiscal Analysis, and shall issue the consensus revenue estimate based on such revenue estimates, in an amount that is equal to or between such revenue estimates.

(b) Not later than January fifteenth annually and April thirtieth annually, the Secretary of the Office of Policy and Management and the director of the legislative Office of Fiscal Analysis shall issue revisions to the consensus revenue estimate developed pursuant to subsection (a) of this section, or a statement that no revisions are necessary. If no agreement on revisions to the consensus revenue estimate revenue estimate is reached by the required date, (1) the Secretary of the Office of Policy and Management and the director of the Office of Fiscal Analysis shall each issue a revised estimate of state revenues for the current biennium and the next ensuing three fiscal years, and (2) the Comptroller shall, not later than five days after the failure to issue revisions to the consensus revenue estimate, issue the revised consensus revenue estimate. In issuing the revised consensus revenue estimate required by this subsection, the Comptroller shall consider such revised revenue estimates provided by the Office of Policy and Management and the legislative Office of Fiscal Analysis, and shall issue the revised consensus revenue estimate based on such revised revenue estimates, in an amount that is equal to or between such revised revenue estimates.

(c) If (1) a revised consensus revenue estimate pursuant to subsection (b) of this section is issued in January or April of any fiscal year, (2) such revised consensus revenue estimate has changed from the previous consensus revenue estimate or revised consensus revenue estimate to forecast a deficit or an increase in a deficit either of which is greater than one per cent of the total of General Fund appropriations for the current year, (3) a budget for the prospective fiscal year has not become law, and (4) the General Assembly is in session, then the General Assembly and the Governor shall take such action as provided in subsection (d) of this section.

(d) (1) The joint standing committees of the General Assembly having cognizance of matters relating to appropriations and finance, revenue and bonding shall, on or before the tenth business day after a revised consensus revenue estimate is issued in April pursuant to subsection (c) of this section, prepare and vote on adjusted appropriation and revenue plans, if necessary to address such revised consensus revenue estimate.

(2) The Governor shall provide the General Assembly with a budget document, prepared in accordance with the requirements of section 4-74, if necessary to address the most recent consensus revenue estimate or revised consensus revenue estimate issued pursuant to subsection (b) or (c) of this section. The budget document required by this subdivision shall be issued not later than twenty-five calendar days after a revised consensus revenue estimate is issued in January, and not later than ten calendar days after a revised consensus revenue estimate is issued in April.

(e) Notwithstanding the provisions of subsections (a) to (d), inclusive, of this section, if any deadline imposed pursuant to said subsections (a) to (d), inclusive, falls on a Saturday, Sunday or legal holiday, such deadline shall be extended to the next business day.

(f) (1) Commencing in the fiscal year ending June 30, 2016, not later than November tenth annually, the Secretary of the Office of Policy and Management and the director of the legislative Office of Fiscal Analysis shall each report the threshold level for deposits to the Budget Reserve Fund in the current fiscal year as certified by the Comptroller on September thirtieth pursuant to section 3-115, as amended by this act, unless any public act that has been enacted has an estimated revenue impact pursuant to section 2-24a, as amended by this act, of greater than one per cent of tax revenue from the estimated and final portion of the personal income tax imposed under chapter 229 or one per cent of tax revenue from the corporation business tax imposed under chapter 208, in which case the Secretary of the Office of Policy and Management and the director of the legislative Office of

Fiscal Analysis shall report a threshold level for deposits to the Budget Reserve Fund that is adjusted to account for such revenue impact.

(2) If any revision in the January or April consensus revenue estimate for the current fiscal year impacts the estimated and final payments portion of the personal income tax imposed under chapter 229 or the corporation business tax imposed under chapter 208, the Secretary of the Office of Policy and Management and the director of the legislative Office of Fiscal Analysis may recalculate any adjustment made to the threshold level for deposits to the Budget Reserve Fund pursuant to subdivision (1) of this subsection and shall report such revised threshold in the January and April consensus revenue estimates, if applicable.

(3) Any such adjustment may be continued to be made to the threshold level for deposits to the Budget Reserve Fund certified pursuant to section 3-115, as amended by this act, until ten fiscal years have passed from the date of implementation of a public act that created the revenue impact or until there is no longer a revenue impact pursuant to section 2-24a, as amended by this act, of greater than one per cent of tax revenue from the estimated and final portion of the personal income tax imposed under chapter 229 or one per cent of tax revenue from the corporation business tax imposed under chapter 208, whichever occurs first. The secretary and director shall detail any such adjustment in the report with information on how the secretary and director determined the revenue impact and how the secretary and director used that information to adjust the threshold level for deposits to the Budget Reserve Fund. The secretary and director of the legislative Office of Fiscal Analysis shall each also report the estimated threshold level for deposits to the Budget Reserve Fund for the next ensuing three fiscal years in accordance with the formula set forth in subdivision (1) of this subsection.

Sec. 6. Section 2-24a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

No bill without a fiscal note appended thereto which, if passed, would require the expenditure of state or municipal funds or affect state or municipal revenue in the current fiscal year or any of the next ensuing five fiscal years shall be acted upon by either house of the General Assembly unless said requirement of a fiscal note is dispensed with by a vote of at least two-thirds of such house. Such fiscal note shall clearly identify the cost and revenue impact to the state and municipalities in the current fiscal year and in each of the next ensuing five fiscal years. If the bill has any impact on the personal income tax imposed under chapter 229 or the corporation business tax imposed under chapter 208, or both, such fiscal note shall clearly identify any resulting impact on the deposits to the Budget Reserve Fund pursuant to section 4-30a, as amended by this act.

| This act shall take effect as follows and shall amend the following sections: | | |
|---|---|---|
| Section 1 | *July 1, 2015* | 4-30a |
| Sec. 2 | *July 1, 2015* | 4-85 |
| Sec. 3 | *July 1, 2015* | 3-115 |
| Sec. 4 | *July 1, 2015* | 2-35 |
| Sec. 5 | *July 1, 2015* | 2-36c |
| Sec. 6 | *July 1, 2015* | 2-24a |

***FIN*** *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## OFA Fiscal Note

### State Impact:

| Agency Affected | Fund-Effect | FY 16 $ | FY 17 $ |
|---|---|---|---|
| Resources of the General Fund | GF - Revenue Impact | None | Potential Significant |
| Budget Reserve Fund | App Fund - Revenue Impact | None | Potential Significant |
| State Employees Retirement System | SERF - Revenue Impact | None | Potential Significant |

Note: GF=General Fund; App Fund=All Appropriated Funds; SERF=State Employees Retirement Fund

***Municipal Impact:*** None

### Explanation

Beginning in FY 17, the bill establishes a transfer of General Fund (GF) revenue to the Budget Reserve Fund (BRF) and the State Employees Retirement Fund (SERF), which is determined by a statutory formula. This results in a potentially significant diversion of revenue from the GF to the BRF and SERF in FY 17 and annually thereafter.[1]

In order for a revenue transfer to be triggered, total "combined revenue" [2] must be in excess of a calculated threshold based on the average difference (as a percentage) between actual revenue and the ten year average. The bill allows for the threshold to be adjusted for changes in tax policy that impact the corporation business tax or the personal income tax.

[1] Per the bill, BRF revenue can be accessed in the event of a decrease in GF revenue greater than 2% over the prior year (for example, during a recession).

[2] For the purposes of the bill "combined revenue" is equal to the sum of: 1) the corporation business tax, and 2) the estimated & final payments portion of the personal income tax.

Based on current revenue estimates the bill will not result in a GF revenue transfer until FY 18, at which point approximately $10 million will be diverted. Under this scenario, the FY 17 threshold is $5,086 million while combined revenue is $4,930 million, or approximately $156 million less than the threshold. Due to the historical volatility of combined revenue the bill may still result in a transfer from the General Fund in FY 17 depending on actual revenue collected.

Based on historical data, the transfer of GF revenue to the BRF and SERF may exceed $800 million in a fiscal year. The table below compares actual deposits into the BRF to deposits that would have occurred under the provisions of the bill.

| FY | Actual Deposit into BRF $ | Transfers as Calculated Under the Bill $ |
|---|---|---|
| 2004 | 302,200,000 | 24,557,248 |
| 2005 | 363,900,000 | 433,646,700 |
| 2006 | 446,500,000 | 697,097,504 |
| 2007 | 269,200,000 | 815,841,033 |
| 2008 | - | 818,479,382 |
| 2009 | - | - |
| 2010 | (1,278,500,000) | - |
| 2011 | (103,200,000) | - |
| 2012 | 93,500,000 | 74,994,072 |
| 2013 | 177,200,000 | 200,364,682 |
| 2014 | 248,500,000 | - |

The breakout of the transfer from the GF to the BRF or SERF varies based on the amount of funds currently in the BRF relative to total GF appropriations, which is illustrated in the table below.

| BRF Balance / Appropriations | Budget Reserve Fund | State Employees Retirement Fund |
|---|---|---|
| 0 to 5% | 95% | 5% |
| 5 to 10% | 90% | 10% |
| 10 to 15% | 85% | 15% |
| Greater than 15% | 0% | 100% |

### *The Out Years*

The ongoing fiscal impact identified above would continue into the future subject to the degree in which actual revenues exceed the threshold calculated by the formula. The bill also increases the maximum amount allowed to be in the BRF from 10% to 15% of appropriations. This allows for additional funds to be transferred from the GF to the BRF.

*Sources: Department of Revenue Services Historical Tax Data*

## OLR BILL ANALYSIS
## sSB 1135

***AN ACT CONCERNING THE MANAGEMENT OF REVENUE VOLATILITY.***

**SUMMARY:**

This bill establishes a mechanism for diverting projected surpluses in certain tax revenues to the Budget Reserve ("Rainy Day") Fund (BRF). It establishes a (1) formula and process for calculating the revenue diversion and (2) Restricted Grants Fund (RGF) to hold the diverted funds until after the close of General Fund accounts each fiscal year, at which point they transfer to the BRF.

The bill applies to revenue (referred to as "combined revenue") from the (1) corporation income tax and (2) personal income tax's estimated and final payments (i.e., income tax revenue generated from taxpayers who make estimated income tax payments on a quarterly basis). It establishes a formula for calculating a threshold level, based on the average revenue from these two sources over 10 years, that forms the basis for the revenue diversions. It requires the (1) state comptroller to begin certifying the threshold in FY 16 and (2) state treasurer to begin diverting the revenue in FY 17. It establishes narrow conditions for transferring funds out of the RGF.

The bill increases the BRF's maximum balance, from 10% to 15% of net General Fund appropriations for the current fiscal year but appears to allow the balance to exceed 15% under certain circumstances. It also expands the BRF's allowable uses. Current law restricts the use of money in the BRF to cover any deficit that remains after the end of a fiscal year. The bill additionally allows money in the BRF to be used in the three fiscal years that follow a year in which the Office of Policy and Management (OPM) and Office of Fiscal Analysis (OFA) project a decline in General Fund tax revenue larger than a specified level. It

also requires that a portion of the funds transferred to the BRF be used to pay the State Employee Retirement Fund's unfunded liability. This portion ranges from 5% to 15% of the amount deposited in the BRF, depending on the BRF's balance.

The bill requires (1) consensus revenue estimates (see BACKGROUND) and the revenue statement included in the state budget act to itemize the withholding, estimated, and final payment components of personal income tax revenue and (2) the fiscal note on any bill impacting the personal or corporation income tax to clearly identify any impact to BRF deposits.

Lastly, beginning by December 15, 2020, the bill requires the OPM secretary, OFA director, and state comptroller to report every five years to the legislature and the governor on the bill's BRF deposit formula and include any recommended changes.

The bill also makes technical changes.

EFFECTIVE DATE: July 1, 2015

## THRESHOLD LEVEL FOR BRF DEPOSITS

Beginning in FY 16, the bill requires the state comptroller to annually certify the threshold level for BRF deposits using a formula based on (1) a 10-year average of the state's combined revenue and (2) the rate of growth in combined revenue. Under the bill, a "10-year average" is the average amount of combined revenue in the 10 fiscal years preceding a given fiscal year.

### *Formula*

The comptroller must determine the threshold using a three-step calculation. The first step is to calculate the 10-year average for the current fiscal year.

The second step is to calculate the rate of growth in combined revenue over the preceding 10 years. To do so, the comptroller must:

1. calculate the 10-year average for each fiscal year preceding the

current fiscal year;

2. calculate, for each of these years, the difference between the actual combined revenue for the given fiscal year and the 10-year average for that same fiscal year, divided by the 10-year average for that fiscal year ("differential"); and

3. take the average of these 10 differentials and add one.

The last step is to multiply the two numbers derived from steps one and two. The threshold level for BRF deposits is the product of this multiplication.

### *Certifying and Reporting the Threshold Level*

***Comptroller's Certification.*** Beginning in FY 16, the bill requires the comptroller to include a statement certifying the threshold level for the current fiscal year in the annual report he submits to the governor on the state's financial condition. By law, he must submit this report by September 30 and make a published copy available to the public by December 31.

***OPM and OFA Report.*** The bill requires the OPM secretary and OFA director to annually report the comptroller's certified threshold level by November 10, after adjusting for enacted laws projected to impact the estimated and final portion of the income tax or corporation income tax revenue by more than 1%. Presumably, the threshold is adjusted upward by the amount of a projected revenue increase and downward by the amount of a projected revenue decrease.

The OPM secretary and OFA director may (1) recalculate their threshold level adjustments to reflect any consensus revenue revisions in January and April impacting these revenue sources and (2) continue making the adjustments (a) for up to 10 fiscal years following the implementation of the law that created the revenue impact or (b) until there is no longer a revenue impact of more than 1%, whichever comes first. They must report any such revisions in their January and April consensus revenue estimates and include information on how (1) they determined the revenue impact and (2) used that information to adjust the threshold level.

The bill also requires the OPM secretary and OFA director to each report the estimated threshold level, using the bill's formula, for the three fiscal years following the current fiscal year.

## REQUIRED TRANSFERS FROM GENERAL FUND TO RGF AND BRF

Beginning in FY 17, the bill diverts, to the newly created RGF, projected surpluses in combined revenue based on January and April consensus revenue estimates. The bill requires the state treasurer to transfer the surpluses from the RGF to the BRF after the close of General Fund accounts each fiscal year. As with the BRF under existing law, the bill authorizes the treasurer to invest all or part of the RGF in certain statutorily prescribed investments and directs her to credit all investment interest to the General Fund.

### *January*

The bill requires the state treasurer to transfer funds from the General Fund to the RGF if the January 15 consensus revenue estimate projects combined revenue for the current fiscal year that exceeds the threshold level. The treasurer must transfer the amount projected to exceed this level annually by January 31.

Under the bill, there is no transfer if (1) combined revenue is projected to be less than or equal to the threshold level or (2) the consensus revenue estimate for the current fiscal year projects a year-end General Fund deficit.

### *April*

The bill requires the treasurer to adjust the amount diverted to the RGF in January based on the April 30 revised consensus estimate for combined revenue. It does so by requiring the state treasurer to transfer (1) additional funds from the General Fund to the RGF or (2) funds out of the RGF and back into the General Fund. In certain cases, it requires a transfer to the RGF after the April 30 estimate even if no transfer was made in January.

As Table 1 shows, the transfer depends on whether the (1) January estimate was more or less than the threshold level and (2) April estimate (a) increases or decreases the January estimate or (b) is more or less than the threshold level. The treasurer must transfer the required amounts to or from the RGF annually by May 15. As with the January estimate, there is no transfer if the April 30 estimate for the current fiscal year projects a year-end General Fund deficit.

**Table 1: Transfers Required Following April 30 Consensus Revenue Estimate**

| *January 15 Combined Revenue Projection* | *April 30 Combined Revenue Projection* | *Transfer Required Under the Bill* |
|---|---|---|
| Exceeded the threshold level | Revised upward | Difference between January and April combined revenue projection must be transferred to RGF |
| | Revised downward but still more than the threshold level for deposits | Difference between January and April combined revenue projection must be transferred from RGF to the General Fund |
| | Revised downward to a level less than the threshold level for deposits | Difference between January combined revenue projection and the threshold level must be transferred from RGF to the General Fund |
| Less than or equal to the threshold level | Revised upward to a level exceeding the threshold level | Difference between April combined revenue projection and threshold level must be transferred to the RGF |
| | Revised upward, but remaining less than the threshold level | No transfer to RGF |

### *Deficit Mitigation Plans*

The bill authorizes the governor to direct the treasurer to transfer money in the RGF to the General Fund as part of a required deficit mitigation plan. By law, the governor must submit a deficit mitigation plan whenever the comptroller projects a current year deficit of more than 1% of General Fund appropriations.

### *Reducing or Eliminating Transfers to RGF or BRF*

The bill requires at least three-fifths of the members of the Appropriations and Finance, Revenue and Bonding committees to approve any bill that, if passed, would reduce or eliminate the amount of any deposit to the BRF or RGF. It is unclear whether this provision is enforceable against future legislatures (see BACKGROUND).

## BRF

### *Purpose*

The bill expressly provides that the BRF is to be maintained and invested to reduce revenue volatility in the General Fund and reduce the need for tax increases and state aid cuts due to economic changes.

### *Maximum Balance*

The bill increases the BRF's maximum balance from 10% to 15% of net General Fund appropriations for the current fiscal year but appears to allow the balance to exceed 15% under certain circumstances. Specifically, if a required transfer to the BRF would cause the balance to exceed 15%, the bill appears to allow such a transfer to be made in whole, thus causing the balance to exceed 15%. As under existing law, once the BRF reaches the maximum, the treasurer may not transfer additional funds to it. Any remaining funds must go towards (1) the State Employee Retirement Fund's unfunded liability and (2) paying off outstanding state debt.

### *Authorized Use of Funds in the BRF*

Beginning in FY 17, the bill provides statutory authority for the legislature to transfer funds from the BRF to the General Fund in the three fiscal years following a fiscal year in which the April 30 consensus revenue estimate projects a 2% drop in General Fund tax revenue from the current fiscal year to the next fiscal year.

### *Directing BRF Transfers to Pay Unfunded Pension Liability*

By law, any unappropriated surplus that remains after the BRF reaches its maximum balance must be used for paying the State Employee Retirement Fund's unfunded liability. Beginning in FY 17, the bill additionally earmarks for that purpose a percentage of any amount transferred to the BRF. The percentage depends on the BRF's balance, as shown in Table 2.

**Table 2: BRF Transfer Directed to Unfunded Pension Liabilities**

| *BRF's Balance as a % of Net General Fund Appropriations* | *Percentage of BRF Transfer Directed to State Employee Retirement Fund* |
|---|---|
| Less than 5% | 5% |
| 5% ≤ balance < 10% | 10% |
| 10% ≤ balance < 15% | 15% |

## REPORTS TO THE LEGISLATURE

Beginning by December 15, 2020, and every five years thereafter, the bill requires the OPM secretary, OFA director, and state comptroller to each report to the Finance, Revenue and Bonding Committee and the governor on the bill's BRF deposit formula and include any recommended changes to the formula or BRF cap that are consistent with the BRF's purpose, as described above.

The reports must analyze the:

1. formula's impact on General Fund tax revenue volatility,
2. adequacy of the formula's required deposits to replace potential future revenue declines resulting from economic downturns,
3. amount of additional payments toward unfunded liability made as a result of the formula, and
4. adequacy of the BRF's cap.

## BACKGROUND

### *Consensus Revenue Estimates*

By law, the OPM secretary and OFA director must annually issue consensus revenue estimates by November 10 and any necessary consensus revisions of those estimates by January 15 and April 30. The estimates must (1) cover the current biennium and the three following years and (2) be the basis for the governor's proposed budget and the revenue statement included in the budget act the legislature passes.

### *Legislative Entrenchment*

Legislative entrenchment refers to one legislature restricting a future legislature's ability to enact legislation. For example, CGS § 2-35 previously prohibited appropriations bills from containing general legislation. (This provision has since been repealed.) In *Patterson v. Dempsey*, 152 Conn. 431 (1965), the Connecticut Supreme Court held that this provision of CGS § 2-35 was unenforceable, writing that, "to hold otherwise would be to hold that one General Assembly could effectively control the enactment of legislation by a subsequent General Assembly. This obviously is not true, except where vested rights, protected by the constitution, have accrued under the earlier act. "

### *Related Bill*

sSB 946, reported favorably by the Finance, Revenue and Bonding Committee, includes identical provisions.

## COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 48 Nay 0 (04/30/2015)