OLR Bill Analysis

sHB 5590

AN ACT CONCERNING BOND COVENANTS AND THE BOND ISSUANCE CAP AND REQUIRING A STUDY OF BOND COVENANTS.

SUMMARY

Current law requires certain state bonds issued from May 15, 2018, to June 30, 2020, to include a pledge to bondholders that the state will comply with specified state laws, except under certain conditions. This bill delays the application of the bond pledge (i.e., covenant) to the state spending and bond cap laws and instead applies the pledge for these laws to bonds issued from July 1, 2019, to June 30, 2021. Under the bill, the current bond covenant provision continues to apply, beginning May 15, 2018, to the Budget Reserve Fund (BRF) law and cap on General Fund and Special Transportation Fund (STF) appropriations.

The bill also requires specified state officials to study the use of bond covenants as a fiscal control mechanism and, by January 1, 2019, report their findings to the Finance, Revenue and Bonding Committee.

Lastly, the bill excludes from the caps on bond issuances and expenditures (1) refunding bonds and (2) bonds and other notes issued in anticipation of certain revenue (e.g., bond anticipation notes).

EFFECTIVE DATE: Upon passage, except the provisions delaying and reinstating the application of the bond covenant to certain laws are effective May 15, 2018, and July 1, 2019, respectively.

§§ 1-2 & 4 — BOND COVENANT

Current law expressly requires the state to comply with certain state laws (described below) for each fiscal year during which state general obligation (GO) or credit revenue bonds issued from May 15, 2018 to June 30, 2020, are outstanding. It also requires, for GO and credit revenue bonds issued during this timeframe, that the treasurer include a pledge to bondholders that the state will not enact any laws taking effect from May 15, 2018, to June 30, 2028, that change the state's obligation to comply with the specified laws until the bonds are fully paid off, unless certain conditions are met. The pledge must apply for 10 years from the bonds' first issuance date.

Under current law, these requirements apply to the following laws:

1. BRF law (CGS § 4-30a);

2. cap on General Fund and STF appropriations in effect on October 31, 2017 (CGS § 2-33c);

3. state spending cap (CGS § 2-33a); and

4. caps on GO and credit revenue bond authorizations, allocations, issuances, and expenditures (CGS §§ 3-20(d) and (g) & 3-21) (see BACKGROUND).

The bill delays the application of these requirements to the state spending and bond cap laws so that they only apply to bonds issued from July 1, 2019 to June 30, 2021. In doing so, it creates two parallel bond covenant provisions that apply to bonds issued during two different, overlapping timeframes, but are tied to different state laws. Under the bill, the current requirements continue to apply to the BRF law and cap on General Fund and STF appropriations for bonds issued from May 15, 2018, to June 30, 2020.

Under current law, the bond pledge prohibits the state from enacting laws taking effect from May 15, 2018, to June 30, 2028, that change the state's obligation to comply with the laws listed above until the bonds are fully paid off, unless one of the following conditions are met:

1. bondholders are protected in another way or

2. (a) the governor declares an emergency or the existence of extraordinary circumstances in which he invokes the statute

allowing him at his discretion, and requiring him, for certain budget deficits, to reduce appropriated accounts by up to 5% and total fund appropriations by up to 3% (CGS § 4-85); (b) at least three-fifths of the members of each house of the General Assembly approve the change in compliance; and (c) the change is limited to the fiscal year in progress.

The bond pledge the bill creates, which applies to the state spending and bond cap laws, prohibits the state from enacting laws taking effect from July 1, 2019, to June 30, 2029, unless the same conditions described above are met. As with the pledge under current law, the pledge the bill creates must apply for 10 years from the bonds' first issuance date but not to refunding bonds issued to pay the original bonds.

§ 3 — BOND ISSUANCE AND EXPENDITURE CAPS

Existing law imposes a $1.9 billion aggregate cap on the amount of GO bonds or notes and credit revenue bonds (1) the treasurer may issue in any fiscal year, beginning with FY 19, and (2) for which the governor may approve allotment requisitions (i.e., expenditures) in any fiscal year, beginning with FY 17.

The bill excludes from these caps (1) any bonds, notes, or other evidences of indebtedness for borrowed money which are issued to refund other debt (i.e., refunding bonds) and (2) obligations issued in anticipation of revenues to be received by the state during the 12 calendar months following a debt issuance (e.g., bond anticipation notes).

By law, GO bonds issued as part of the Connecticut State Colleges and Universities 2020 or UConn 2000 infrastructure programs are also excluded from these caps.

§ 4 — BOND COVENANT STUDY

The bill requires the Office of Policy and Management secretary, attorney general, comptroller, and treasurer (or their designees) to study the use of bond covenants, including Connecticut's, as a mechanism to control state spending and bonding. The study must consider the covenants':

1. legality;
2. potential long-term financial and economic effects; and
3. impact on state government operations, including the state's ability to fund social service programs, public education, and workforce development programs.

By January 1, 2019, the officials must report, to the Finance, Revenue and Bonding Committee, their findings and recommendations for alternative methods the General Assembly may use to implement prudent long-term fiscal decision-making.

BACKGROUND

BRF Law

Existing law directs to the BRF any (1) unappropriated General Fund surplus at the end of each fiscal year and (2) revenue the state receives each fiscal year in excess of $3.15 billion from personal income tax estimated and final payments (referred to as the "volatility cap").

BRF funds are deemed appropriated in any fiscal year in which the comptroller has certified a deficit for the immediately preceding fiscal year. The legislature may also transfer funds from the BRF to (1) the General Fund when a deficit is projected, under specified conditions, and (2) pay unfunded pension liabilities when the fund's balance equals 5% or more of net General Fund appropriations for the current fiscal year.

The BRF's maximum balance is 15% of net General Fund appropriations for the current fiscal year; once it reaches the 15% ceiling, the treasurer must transfer any remaining surplus funds, as she determines to be in the state's best interests, for reducing either the State Employee Retirement Fund's or Teachers' Retirement Fund's unfunded liability. Any amounts that remain after this transfer may be used to make additional payments for outstanding state debt (CGS § 4-

30a).

Cap on General Fund and STF Appropriations

Beginning in FY 20, the law prohibits the General Assembly from authorizing for any fiscal year General Fund and STF appropriations that, in the aggregate, exceed a specified percentage of the estimated revenues included in the budget act, unless certain conditions are met. The percentage ranges from 99.5% in FY 20 to 98% in FY 26 and thereafter. The General Assembly may exceed the specified percentage if either of the following conditions is met:

1. the governor declares an emergency or the existence of extraordinary circumstances, specifying the nature of the emergency or circumstances; at least three-fifths of the members of each chamber of the General Assembly vote to exceed the percentage; and the appropriation is limited to the fiscal year in progress; or

2. the General Assembly approves the appropriation, by majority vote, for an adjusted appropriation and revenue plan (CGS § 2-33c).

State Spending Cap

The state's statutory and constitutional spending cap bars the legislature from authorizing an increase in general budget expenditures for any fiscal year that exceeds the greater of the percentage increase in personal income or inflation unless (1) the governor declares an emergency or extraordinary circumstances and (2) at least three-fifths of each house of the legislature approves the extra expenditure for those purposes (CGS § 2-33a & Conn. Const., art. III, § 18(b)).

Bond Caps

The law imposes caps on GO and credit revenue bond authorizations, allocations, issuances, and spending. Specifically, it caps at:

1. 1.6 times the estimated net General Fund tax receipts for the

fiscal year, the total amount of General Fund-supported state debt the legislature may authorize (CGS § 3-21);

2. $2 billion, the amount of GO and credit revenue bonds the State Bond Commission may allocate in any calendar year to (CGS § 3-20(d) and (g)); and

3. $1.9 billion, the amount of GO bonds and credit revenue bonds, with certain exceptions, (a) the treasurer may issue in any fiscal year, beginning with FY 19, and (b) for which the governor may approve allotment requisitions in any fiscal year, beginning with FY 18 (CGS § 3-21(f)).

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute

Yea	26	Nay	25	(04/05/2018)