
CALIFORNIA BUDGET REPORT

Volume 6 Number 2

January 8, 2008

Backgrounder: What is the Proposition 58 'fiscal emergency' all about?

This coming Thursday, the Governor will release his 2008-09 proposed Budget. All signs point to a budget year shortfall of about \$14.5 billion! The Governor will also announce on Thursday (if he does not do it today), that California faces a 'fiscal emergency' under the provisions of Proposition 58, adopted by the voters in March 2004. Remember, this was the first stage of the Schwarzenegger Revolution, one that would force California to spend within its means. It passed, but has not been triggered until 2008.

You can read the full text of the ballot measure at the bottom of this *California Budget Report*, and also find the LAO summary of the measure at <http://primary2004.sos.ca.gov/propositions/prop58-analysis.html>, plus the pro and con arguments at <http://primary2004.sos.ca.gov/propositions/prop58-arguments.html>.

Here is the operative text of what constitutes a 'fiscal emergency':

(f) (1) If, following the enactment of the budget bill for the 2004—05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect.

There will be endless clucking about how this forces the Legislature "...to face up to our budget problems"....."face fiscal realities and raise taxes'"face reality and cut spending"....or do both, or neither...or something. A few media types started to say that no non-fiscal bills will be heard by the Legislature after (say) April 15, but what does a bill "...to address the fiscal emergency..." really mean? The language does not require that the Legislature adopt a solution; only adopt a bill that 'addresses' the fiscal emergency.

For all practical purposes this language is like a New Years resolution: a hope to do better next year!

Even if it has no clear legal impact, and no clear penalty for non-action, it will be one of the elements that you should think about this year.

More to come.

Proposition 58

TEXT OF PROPOSED LAW

This amendment proposed by Assembly Constitutional Amendment 5 of the 2003—2004 Fifth Extraordinary Session (Resolution Chapter 1, 2003—2004 Fifth Extraordinary Session) expressly amends the California Constitution by adding sections thereto and amending sections thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENTS TO ARTICLES IV AND XVI

First—That Section 10 of Article IV is amended to read:

SEC. 10. (a) Each bill passed by the Legislature shall be presented to the Governor. It becomes a statute if it is signed by the Governor. The Governor may veto it by returning it with any objections to the house of origin, which shall enter the objections in the journal and proceed to reconsider it. If each house then passes the bill by rollcall vote entered in the journal, ~~two-thirds~~ *two-thirds* of the membership concurring, it becomes a statute.

(b) (1) Any bill, other than a bill which would establish or change boundaries of any legislative, congressional, or other election district, passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, that is not returned within 30 days after that date becomes a statute.

(2) Any bill passed by the Legislature before September 1 of the second calendar year of the biennium of the legislative session and in the possession of the Governor on or after September 1 that is not returned on or before September 30 of that year becomes a statute.

(3) Any other bill presented to the Governor that is not returned within 12 days becomes a statute.

(4) If the Legislature by adjournment of a special session prevents the return of a bill with the veto message, the bill becomes a statute unless the Governor vetoes the bill within 12 days after it is presented by depositing it and the veto message in the office of the Secretary of State.

(5) If the 12th day of the period within which the Governor is required to perform an act pursuant to paragraph (3) or (4) of this subdivision is a Saturday, Sunday, or holiday, the period is extended to the next day that is not a Saturday, Sunday, or holiday.

(c) Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house. No bill may be passed by either house on or after September 1 of an even-numbered year except statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes, and bills passed after being vetoed by the Governor.

(d) The Legislature may not present any bill to the Governor after November 15 of the second calendar year of the biennium of the legislative session.

(e) The Governor may reduce or eliminate one or more items of appropriation while approving other portions of a bill. The Governor shall append to the bill a statement of the items reduced or eliminated with the reasons for the action. The Governor shall transmit to the house originating the bill a copy of the statement and reasons. Items reduced or eliminated shall be separately reconsidered and may be passed over the Governor's veto in the same manner as bills.

(f) (1) If, following the enactment of the budget bill for the 2004—05 fiscal year or any subsequent fiscal year, the Governor determines that, for that fiscal year, General Fund revenues will decline substantially below the estimate of General Fund revenues upon which the budget bill for that fiscal year, as enacted, was based, or General Fund expenditures will increase substantially above that estimate of General Fund revenues, or both, the Governor may issue a proclamation declaring a fiscal emergency and shall thereupon cause the Legislature to assemble in special session for this purpose. The proclamation shall identify the nature of the fiscal emergency and shall be submitted by the Governor to the Legislature, accompanied by proposed legislation to address the fiscal emergency.

(2) If the Legislature fails to pass and send to the Governor a bill or bills to address the fiscal emergency by the 45th day following the issuance of the proclamation, the Legislature may not act on any other bill, nor may the Legislature adjourn for a joint recess, until that bill or those bills have been passed and sent to the Governor.

(3) A bill addressing the fiscal emergency declared pursuant to this section shall contain a statement to that effect.

Second—That Section 12 of Article IV is amended to read:

SEC. 12. (a) Within the first 10 days of each calendar year, the Governor shall submit to the Legislature, with an explanatory message, a budget for the ensuing fiscal year containing itemized statements for recommended state expenditures and estimated state revenues. If recommended expenditures exceed estimated revenues, the Governor shall recommend the sources from which the additional revenues should be provided.

(b) The Governor and the Governor-elect may require a state agency, officer, or employee to furnish whatever information is deemed necessary to prepare the budget.

(c) (1) The budget shall be accompanied by a budget bill itemizing recommended expenditures. ~~The~~

(2) *The budget* bill shall be introduced immediately in each house by the persons chairing the committees that consider ~~appropriations. The~~ *the budget*.

(3) *The* Legislature shall pass the budget bill by midnight on June 15 of each year. ~~Until~~

(4) *Until* the budget bill has been enacted, the Legislature shall not send to the Governor for consideration any bill appropriating funds for expenditure during the fiscal year for which the budget bill is to be enacted, except emergency bills recommended by the Governor or appropriations for the salaries and expenses of the Legislature.

(d) No bill except the budget bill may contain more than one item of appropriation, and that for one certain, expressed purpose. Appropriations from the General Fund of the State, except appropriations for the public schools, are void unless passed in each house by rollcall vote entered in the journal, ~~two-thirds~~ *two-thirds* of the membership concurring.

(e) The Legislature may control the submission, approval, and enforcement of budgets and the filing of claims for all state agencies.

(f) For the 2004—05 fiscal year, or any subsequent fiscal year, the Legislature may not send to the Governor for consideration, nor may the Governor sign into law, a budget bill that would appropriate from the General Fund, for that fiscal year, a total amount that, when combined with all appropriations from the General Fund for that fiscal year made as of the date of the budget bill's passage, and the amount of any General Fund moneys transferred to the Budget Stabilization Account for that fiscal year pursuant to Section 20 of Article XVI, exceeds General Fund revenues for that fiscal year estimated as of the date of the budget bill's passage. That estimate of General Fund revenues shall be set forth in the budget bill passed by the Legislature.

Third—That Section 1.3 is added to Article XVI thereof, to read:

SEC. 1.3. (a) *For the purposes of Section 1, a "single object or work," for which the Legislature may create a debt or liability in excess of three hundred thousand dollars (\$300,000) subject to the requirements set forth in Section 1, includes the funding of an accumulated state budget deficit to the extent, and in the amount, that funding is authorized in a measure submitted to the voters at the March 2, 2004, statewide primary election.*

(b) As used in subdivision (a), "accumulated state budget deficit" means the aggregate of both of the following, as certified by the Director of Finance:

(1) The estimated negative balance of the Special Fund for Economic Uncertainties arising on or before June 30, 2004, not including the effect of the estimated amount of net proceeds of any bonds issued or to be issued pursuant to the California Fiscal Recovery Financing Act (Title 17 (commencing with Section 99000) of the Government Code) and any bonds issued or to be issued pursuant to the measure submitted to the voters at the March 2, 2004, statewide primary election as described in subdivision (a).

(2) Other General Fund obligations incurred by the State prior to June 30, 2004, to the extent not included in that negative balance.

(c) Subsequent to the issuance of any state bonds described in subdivision (a), the State may not obtain moneys to fund a year-end state budget deficit, as may be defined by statute, pursuant to any of the following: (1) indebtedness incurred pursuant to Section 1 of this article, (2) a debt obligation under which funds to repay that obligation are derived solely from a designated source of revenue, or (3) a bond or similar instrument for the borrowing of moneys for which there is no legal obligation of repayment. This subdivision does not apply to funding obtained through a short-term obligation incurred in anticipation of the receipt of tax proceeds or other revenues that may be applied to the payment of that obligation, for the purposes and not exceeding the amounts of existing appropriations to which the resulting proceeds are to be applied. For purposes of this subdivision, "year-end state budget deficit" does not include an obligation within the accumulated state budget deficit as defined by subdivision (b).

Fourth—That Section 20 is added to Article XVI thereof, to read:

SECTION 20. (a) The Budget Stabilization Account is hereby created in the General Fund.

(b) In each fiscal year as specified in paragraphs (1) to (3), inclusive, the Controller shall transfer from the General Fund to the Budget Stabilization Account the following amounts:

(1) No later than September 30, 2006, a sum equal to 1 percent of the estimated amount of General Fund revenues for the 2006—07 fiscal year.

(2) No later than September 30, 2007, a sum equal to 2 percent of the estimated amount of General Fund revenues for the 2007—08 fiscal year.

(3) No later than September 30, 2008, and annually thereafter, a sum equal to 3 percent of the estimated amount of General Fund revenues for the current fiscal year.

(c) The transfer of moneys shall not be required by subdivision (b) in any fiscal year to the extent that the resulting balance in the account would exceed 5 percent of the General Fund revenues estimate set forth in the budget bill for that fiscal year, as enacted, or eight billion dollars (\$8,000,000,000), whichever is greater. The Legislature may, by statute, direct the Controller, for one or more fiscal years, to transfer into the account amounts in excess of the levels prescribed by this subdivision.

(d) Subject to any restriction imposed by this section, funds transferred to the Budget Stabilization Account shall be deemed to be General Fund revenues for all purposes of this Constitution.

(e) The transfer of moneys from the General Fund to the Budget Stabilization Account may be suspended or reduced for a fiscal year as specified by an executive order issued by the Governor no later than June 1 of the preceding fiscal year.

(f) (1) Of the moneys transferred to the account in each fiscal year, 50 percent, up to the aggregate amount of five billion dollars (\$5,000,000,000) for all fiscal years, shall be deposited in the Deficit Recovery Bond Retirement Sinking Fund Subaccount, which is hereby created in the account for the purpose of retiring deficit recovery bonds authorized and issued as described in Section 1.3, in addition to any other payments provided for by law for the purpose of retiring those bonds. The moneys in the sinking fund subaccount are continuously appropriated to the Treasurer to be expended for that purpose in the amounts, at the times, and in the manner deemed appropriate by the Treasurer. Any funds remaining in the sinking fund subaccount after all of the deficit recovery bonds are retired shall be transferred to the account, and may be transferred to the General Fund pursuant to paragraph (2).

(2) All other funds transferred to the account in a fiscal year shall not be deposited in the sinking fund subaccount and may, by statute, be transferred to the General Fund.

Fifth—That this measure shall become operative only if the bond measure described in Section 1.3 of Article XVI of the Constitution, as added by this measure, is submitted to and approved by the voters at the March 2, 2004, statewide primary election.

Sixth—That this measure shall be submitted to the voters at the March 2, 2004, statewide primary election.

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