**South Carolina General Assembly**

118th Session, 2009-2010

**A152, R171, H3395**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Harrell, Thompson, Cooper, Erickson, Bingham, A.D. Young, Edge, Bedingfield, J.R. Smith, G.R. Smith, D.C. Smith, Bannister, Brady, Cato, Chalk, Forrester, Gambrell, Hamilton, Hiott, Horne, Long, Nanney, Parker, E.H. Pitts, Rice, Scott, Sottile, Stewart, Viers, White, Willis, Toole, Neilson, Bales, T.R. Young and Wylie

Document Path: l:\council\bills\bbm\9084htc09.docx

Companion/Similar bill(s): 3558

Introduced in the House on January 29, 2009

Introduced in the Senate on April 14, 2009

Last Amended on April 14, 2010

Passed by the General Assembly on April 14, 2010

Governor's Action: April 26, 2010, Vetoed

Legislative veto action(s): Veto overridden

Summary: General Reserve Fund

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 1/29/2009 House Introduced and read first time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C01-29-09.docx)‑10

 1/29/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C01-29-09.docx)‑10

 2/19/2009 House Member(s) request name added as sponsor: Toole

 3/31/2009 House Committee report: Favorable **Ways and Means** [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C03-31-09.docx)‑5

 4/1/2009 House Member(s) request name added as sponsor: Neilson, Bales, T.R.Young

 4/1/2009 House Debate adjourned until Thursday, April 2, 2009 [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-01-09.docx)‑35

 4/1/2009 Scrivener's error corrected

 4/2/2009 House Member(s) request name added as sponsor: Wylie

 4/2/2009 House Read second time [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑17

 4/2/2009 House Unanimous consent for third reading on next legislative day [HJ](file:///h%3A%5CHJ%20Archive%5C2009%5C04-02-09.docx)‑17

 4/3/2009 House Read third time and sent to Senate

 4/14/2009 Senate Introduced and read first time [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C04-14-09.docx)‑19

 4/14/2009 Senate Referred to Committee on **Finance** [SJ](file:///h%3A%5CSJ%20Archive%5C2009%5C04-14-09.docx)‑19

 1/27/2010 Senate Committee report: Favorable with amendment **Finance** [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C01-27-10.docx)‑18

 1/28/2010 Scrivener's error corrected

 2/9/2010 Senate Committee Amendment Amended and Adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C02-09-10.docx)‑22

 2/9/2010 Senate Read second time [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C02-09-10.docx)‑22

 2/10/2010 Scrivener's error corrected

 2/10/2010 Senate Read third time and returned to House with amendments [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C02-10-10.docx)‑7

 2/17/2010 House Debate adjourned on amendments [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C02-17-10.docx)‑30

 2/18/2010 House Debate adjourned until Tuesday, February 23, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C02-18-10.docx)‑42

 2/24/2010 House Debate adjourned until Thursday, February 25, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C02-24-10.docx)‑23

 2/25/2010 House Debate adjourned [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C02-25-10.docx)‑28

 3/2/2010 House Debate adjourned until Wednesday, March 3, 2010 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-02-10.docx)‑24

 3/3/2010 House Debate adjourned [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-03-10.docx)‑91

 3/3/2010 House Senate amendment amended [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-03-10.docx)‑107

 3/3/2010 House Returned to Senate with amendments [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-03-10.docx)‑107

 3/10/2010 Senate Non‑concurrence in House amendment

 3/10/2010 House House insists upon amendment and conference committee appointed Reps. Cooper, Bingham, and Battle [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C03-10-10.docx)‑160

 3/17/2010 Senate Conference committee appointed Land, Leatherman and McConnell [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C03-17-10.docx)‑16

 4/13/2010 House Conference report received and adopted [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-13-10.docx)‑40

 4/13/2010 House Roll call Yeas‑105 Nays‑0 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-13-10.docx)‑40

 4/14/2010 Senate Conference report adopted [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C04-14-10.docx)‑83

 4/14/2010 Senate Ordered enrolled for ratification [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C04-14-10.docx)‑89

 4/20/2010 Ratified R 171

 4/26/2010 Vetoed by Governor

 4/28/2010 House Veto overridden by originating body Yeas‑78 Nays‑1 [HJ](file:///h%3A%5CHJ%20Archive%5C2010%5C04-28-10.docx)‑55

 5/6/2010 Senate Veto overridden Yeas‑27 Nays‑8 [SJ](file:///h%3A%5CSJ%20Archive%5C2010%5C05-06-10.docx)‑33

 5/21/2010 Effective date See Act for Effective Date

 5/25/2010 Act No. 152

**VERSIONS OF THIS BILL**

[1/29/2009](file:///p%3A%5Cpprever%5C2009-10%5C3395_20090129.docx)

[3/31/2009](file:///p%3A%5Cpprever%5C2009-10%5C3395_20090331.docx)

[4/1/2009](file:///p%3A%5Cpprever%5C2009-10%5C3395_20090401.docx)

[1/27/2010](file:///p%3A%5Cpprever%5C2009-10%5C3395_20100127.docx)

[1/28/2010](file:///p%3A%5Cpprever%5C2009-10%5C3395_20100128.docx)

[2/9/2010](file:///p%3A%5Cpprever%5C2009-10%5C3395_20100209.docx)

[2/10/2010](file:///p%3A%5Cpprever%5C2009-10%5C3395_20100210.docx)

[3/3/2010](file:///p%3A%5Cpprever%5C2009-10%5C3395_20100303.docx)

[4/14/2010](file:///p%3A%5Cpprever%5C2009-10%5C3395_20100414.docx)

(A152, R171, H3395)

**AN ACT TO AMEND SECTION 11‑11‑310, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE GENERAL RESERVE FUND, SO AS TO MAKE CONFORMING AMENDMENTS TO REFLECT ANY CHANGE IN THE AMOUNT REQUIRED TO BE HELD IN THE GENERAL RESERVE FUND PURSUANT TO THE CONSTITUTION OF THIS STATE AND THE RATE AND MANNER OF REPLENISHMENT OF THAT AMOUNT; TO AMEND SECTION 11‑11‑320, AS AMENDED, RELATING TO THE CAPITAL RESERVE FUND, SO AS TO FURTHER PROVIDE FOR THE MANNER IN WHICH REVENUES IN THE FUND MUST BE USED IN EACH FISCAL YEAR INCLUDING A REQUIREMENT THAT THE CAPITAL RESERVE FUND MAY NOT BE USED TO OFFSET A MIDYEAR BUDGET REDUCTION; TO AMEND SECTION 11‑9‑890, RELATING TO THE DELINEATION OF FISCAL YEAR REVENUE ESTIMATES BY QUARTERS AND ACTIONS REQUIRED TO AVOID YEAR‑END DEFICITS, SO AS TO REVISE PROCEDURES REQUIRED TO REDUCE GENERAL FUND APPROPRIATIONS AND EXPENDITURES AND THE CRITERIA WHICH REQUIRES SUCH REDUCTIONS; TO AMEND SECTION 1‑11‑495, RELATING TO MONITORING REVENUES AND EXPENDITURES TO DETERMINE YEAR‑END DEFICITS, SO AS TO FURTHER PROVIDE FOR WHEN REDUCTIONS BY THE STATE BUDGET AND CONTROL BOARD MAY BE ORDERED, TO PROVIDE THAT THE REDUCTIONS ARE SUBJECT TO ANY BILL OR RESOLUTION ENACTED BY THE GENERAL ASSEMBLY, AND TO ADD A REQUIREMENT THAT TO RECOGNIZE A DEFICIT REQUIRES FOUR VOTES OF THE MEMBERS OF THE STATE BUDGET AND CONTROL BOARD; TO REPEAL SECTION 11‑11‑325 RELATING TO BUDGET SHORTFALLS AND THE REQUIREMENT THAT THE STATE BUDGET AND CONTROL BOARD FIRST MUST REDUCE THE CAPITAL RESERVE FUND BEFORE MANDATING CUTS TO OPERATING APPROPRIATIONS IF A REVENUE SHORTFALL IS PROJECTED; AND TO PROVIDE FOR THE MANNER IN WHICH AND CONDITIONS UNDER WHICH THESE PROVISIONS TAKE EFFECT.**

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

**General Reserve Fund amounts and replenishment**

SECTION 1. A. Section 11‑11‑310 of the 1976 Code, as last amended by Act 385 of 1988, is further amended to read:

 “Section 11‑11‑310. (A) The State Budget and Control Board shall provide for a General Reserve Fund. Funds accumulating in excess of the annual operating expenditures must be transferred to the General Reserve Fund and the transfer must continue to be made in succeeding fiscal years until the accumulated total in this reserve reaches an amount equal to the applicable percentage amount of the general fund revenue of the latest completed fiscal year.

 (B) If there is a year‑end operating deficit, so much of the General Reserve Fund as is necessary must be used to cover the deficit. The amount so applied must be restored to the General Reserve Fund out of future revenues as provided in Section 36, Article III of the Constitution of this State and out of funds accumulating in excess of annual operating expenditures as provided in this section until the applicable percentage amount is reached and actually maintained.

 (C) In the event of a year‑end operating deficit, so much of the reserve fund as may be necessary must be used to cover the deficit, and the amount must be restored to the reserve fund within five fiscal years out of future revenues until the applicable percentage amount required to be transferred to the General Reserve Fund, is reached and maintained. Provided, that a minimum of one percent of the general fund revenue of the latest completed fiscal year, if so much is necessary, must be restored to the reserve fund each year following the deficit until the applicable percentage amount required by general law to be transferred to the General Reserve Fund is restored.

 (D) For purposes of this section ‘applicable percentage amount’ means five percent of general fund revenue of the latest completed fiscal year. The five percent requirement shall be reached by adding a cumulative one‑half of one percent of such revenue in each fiscal year succeeding the last fiscal year to which the three percent limit applied until the percentage of such revenue equals five percent which then and thereafter shall apply.”

B. This section takes effect upon ratification of an amendment to Section 36, Article III of the Constitution of this State authorizing its terms submitted to the electors of this State at the general election of 2010 and first applies for the state fiscal year beginning after that date.

**Capital Reserve Fund uses; section repealed**

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

 “(C) Revenues in the Capital Reserve Fund only may be used in the following manner:

 (1) In any fiscal year in which the General Reserve Fund does not maintain the percentage amount required by Section 11‑11‑310, monies from the Capital Reserve Fund first must be used, to the extent necessary, to fully replenish the requisite percentage amount in the General Reserve Fund. The Capital Reserve Fund’s replenishment of the General Reserve Fund is in addition to the replenishment requirement provided in Section 36(A), Article III of the Constitution of this State. After the General Reserve Fund is fully restored to the requisite percentage, the monies in the Capital Reserve Fund may be appropriated pursuant to item (2) of this subsection. The Capital Reserve Fund may not be used to offset a midyear budget reduction.

 (2) Subsequent to appropriations required by item (1), monies from the Capital Reserve Fund may be appropriated by the General Assembly in separate legislation upon an affirmative vote in each branch of the General Assembly by two‑thirds of the members present and voting but not less than three‑fifths of the total membership in each branch for the following purposes:

 (a) to finance in cash previously authorized capital improvement bond projects;

 (b) to retire interest or principal on bonds previously issued;

 (c) for capital improvements or other nonrecurring purposes.”

B. Section 11‑11‑325 of the 1976 Code is repealed.

C. This section takes effect upon ratification of an amendment to Section 36, Article III of the Constitution of this State authorizing its terms submitted to the electors of this State at the 2010 general election and first applies for the state fiscal year beginning after that date.

**Procedures and criteria revised**

SECTION 3. Section 11‑9‑890 B. of the 1976 Code is amended to read:

“B. If at the end of the first, second, or third quarter of any fiscal year quarterly revenue collections are two percent or more below the amount projected for that quarter by the Board of Economic Advisors, the State Budget and Control Board, within seven days of that determination, shall take action to avoid a year‑end deficit. Notwithstanding Section 1‑11‑495, if the State Budget and Control Board does not take unanimous action within seven days, the Director of the Office of State Budget must reduce general fund appropriations by the requisite amount in the manner prescribed by law. Upon making the reduction, the Director of the Office of State Budget immediately must notify the State Treasurer and the Comptroller General of the reduction, and upon notification, the appropriations are considered reduced. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the Director of the Office of State Budget. A reduction of rate of expenditure by the Director of the Office of State Budget, under authority of this section, must be applied as uniformly as shall be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government.”

**Reductions and deficit recognitions**

SECTION 4. Section 1‑11‑495(A) and (B) of the 1976 Code, as added by Act 353 of 2008, is amended to read:

 “(A) The State Budget and Control Board is directed to survey the progress of the collection of revenue and the expenditure of funds by all agencies, departments, and institutions. If the board determines that a year‑end aggregate deficit may occur by virtue of a projected shortfall in anticipated revenues, it shall utilize those funds as may be available and required to be used to avoid a year‑end deficit and after that take action as necessary to restrict the rate of expenditure of all agencies, departments, and institutions consistent with the provisions of this section. No agencies, departments, institutions, activity, program, item, special appropriation, or allocation for which the General Assembly has provided funding in any part of this section may be discontinued, deleted, or deferred by the board. A reduction of rate of expenditure by the board, under authority of this section, must be applied as uniformly as may be practicable, except that no reduction must be applied to funds encumbered by a written contract with the agency, department, or institution not connected with state government. This reduction is subject to any bill or resolution enacted by the General Assembly.

 (B) As far as practicable, all agencies, departments, and institutions of the State are directed to budget and allocate appropriations as a quarterly allocation, so as to provide for operation on uniform standards throughout the fiscal year and in order to avoid an operating deficit for the fiscal year. It is recognized that academic year calendars of state institutions affect the uniformity of the receipt and distribution of funds during the year. The Comptroller General or the Office of State Budget shall make reports to the board as they consider advisable on an agency, department, or institution that is expending authorized appropriations at a rate which predicts or projects a general fund deficit for the agency, department, or institution. The board is directed to require the agency, department, or institution to file a quarterly allocations plan and is further authorized to restrict the rate of expenditures of the agency, department, or institution if the board determines that a deficit may occur. It is the responsibility of the agency, department, or institution to develop a plan, in consultation with the board, which eliminates or reduces a deficit. If the board makes a finding that the cause of, or likelihood of, a deficit is unavoidable due to factors which are outside the control of the agency, department, or institution, then the board may determine that the recognition of the agency, department, or institution is appropriate and shall notify the General Assembly of this action or the presiding officer of the House and Senate if the General Assembly is not in session. The board only may recognize a deficit by a vote of at least four members of the board.”

**Time effective**

SECTION 5. Except where otherwise stated, this act takes effect upon approval by the Governor.

Ratified the 20th day of April, 2010.

Vetoed by the Governor -- 4/26/2010.

Veto overridden by House -- 4/28/2010.

Veto overridden by Senate -- 5/6/2010.

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