
The FISCAL REPORT an informational update

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Volume 30

For Publication Date: July 2, 2010

No. 13

Assembly Democrats Modify Borrowing Scheme

Several weeks ago, as an alternative to the Governor's May Revision, the Assembly Democratic leadership released a complex plan to bridge the state's \$19 billion Budget Gap by borrowing funds from the Beverage Recycling Fund and repaying those funds from a new oil severance tax. The additional one-time revenues would be used to avoid many of the cuts proposed by the Governor in his revised spending plan and increase the 2010-11 Proposition 98 funding level by \$6 billion to \$54.4 billion. In reaction to mounting criticism of this plan, the Assembly leaders are reducing the level of borrowing.

Dubbed the "California Jobs Budget," the original plan called for raising more \$10 billion in one-time funds through a complex series of revenue raising maneuvers designed to avoid the two-thirds vote requirement. The multitiered package, which makes the "triple-flip" of 2004-05 seem simple by comparison, includes the following major provisions: (1) borrowing almost \$10 billion from the Beverage Recycling Fund and the Disability Insurance Fund, (2) repaying those funds from revenues raised by a newly established oil severance tax, (3) coupling the tax increase on oil extraction with a decrease in the state sales tax in a single bill, thereby avoiding a supermajority vote, (4) increasing the amount of property tax transferred to schools, thereby reducing the state's outlay to support schools and at the same time reducing the amount available to local governments, and (5) raising the local sales tax to offset local governments' loss of property tax revenues.

Earlier this week, State Treasurer Bill Lockyer announced that he would not be able to market California bonds to Wall Street investors if the state adopts the Assembly's Budget plan. Lockyer indicated that, in order to sell state bonds, the Attorney General's Office would have to issue a "clean opinion" on the bonds and such an opinion was in doubt.

The week of June 14, 2010, the Attorney General's Office raised serious concerns about the Assembly's plan, warning that a court could find that the transaction involving the Beverage Recycling Fund and the oil severance tax could constitute borrowing in violation of Proposition 58. (Governor Schwarzenegger sponsored that initiative to accompany his \$15 billion deficit bond to prohibit state from borrowing to cover future Budget deficits.)

In reaction to this latest development, the Assembly leadership appears poised to modify its original proposal. Indications are that revenues raised from the oil severance tax would be used to support K-12 education, higher education, and local governments. It is unclear whether borrowing from the "bottle fund" or other funds will be part of the revised plan.

Since few details have been released in writing, these plans could—and likely will—change significantly before they emerge as a formal proposal to be voted on by both houses.

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posted 06/24/2010