SENATE CONCURRENT RESOLUTION No. 92

STATE OF NEW JERSEY
216th LEGISLATURE

INTRODUCED MARCH 17, 2014

Sponsored by:
Senator DIANE B. ALLEN
District 7 (Burlington)

SYNOPSIS
Proposes constitutional amendment to establish an annual State appropriations cap based on inflation plus State population growth, a reserve of one-half of revenues collected above State appropriations and directs one-half for direct property tax relief.

CURRENT VERSION OF TEXT
As introduced.
A CONCURRENT RESOLUTION proposing to amend Article VIII, Section II of the Constitution of the State of New Jersey.

BE IT RESOLVED by the Senate of the State of New Jersey (the General Assembly concurring):

1. The following proposed amendments to the Constitution of the State of New Jersey are agreed to:

PROPOSED AMENDMENTS

1. The following proposed amendments to the Constitution of the State of New Jersey are agreed to:

PROPOSED AMENDMENTS

a. Amend Article VIII, Section II, paragraph 2 to read as follows:

2. a. No money shall be drawn from the State treasury but for appropriations made by law. All moneys for the support of the State government and for all other State purposes as far as can be ascertained or reasonably foreseen, shall be provided for in one general appropriation law covering one and the same fiscal year; except that when a change in the fiscal year is made, necessary provision may be made to effect the transition. No annual general appropriation law or other law appropriating money for any State purpose shall be enacted if the appropriations contained therein, together with all prior appropriations made for the same fiscal period, shall exceed the total amount of revenue on hand and anticipated which will be available to meet such appropriations during such fiscal period, as certified by the Governor. Any law appropriating money for any State purpose shall display all appropriations as line-item appropriations designating a specific amount of money expressed as a specific numerical figure for a particular purpose and not by means of general language committing funds in an unspecified, conditional or contingent amount for any purpose.

b. In each State fiscal year commencing after approval of this amendment by the voters, no annual appropriation law or supplemental appropriation law or other law appropriating money from any source, including federal funds, for any State purpose for the same fiscal year shall be enacted if the appropriation or appropriations contained therein, together with all prior appropriations made for the same fiscal year, shall exceed the amount of total State appropriations enacted for the prior fiscal year by an annual percentage change that exceeds the sum of the increase, if any, in the annual inflation rate expressed as a percentage change plus the increase, if any, in the State’s population in the prior fiscal year expressed as a percentage change.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
The following appropriations shall not be subject to the fiscal year appropriation limit established in this paragraph:

1. of State aid for school districts, municipalities and counties;
2. to pay the interest and principal due on State debt authorized by a majority of the legally qualified voters of this State pursuant to the provisions of paragraph 3 of Section II of Article VIII of this Constitution or due on refinancing bonds issued pursuant thereto;
3. of State revenue directed to be credited to a special account in the General Fund for purposes of the State transportation system pursuant to paragraph 4 of Section II of Article VIII of this Constitution and for the line-items for the planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the transportation system in this State pursuant to that paragraph;
4. of State revenue directed to be credited to a special account in the General Fund for purposes of funding, including loans or grants, for the acquisition and development of lands for recreation and conservation purposes, for the preservation of farmland for agricultural or horticultural use and production, and for historic preservation; and satisfy any payments relating to bonds, notes, or other obligations, including refunding bonds, issued by an authority or similar entity established by law to provide funding, including loans and grants, for the acquisition and development of lands for recreation and conservation purposes, for the preservation of farmland for agricultural or horticultural use and production, and for historic preservation pursuant to paragraph 7 of Section II of Article VIII of this Constitution and for the line-items for those purposes;
5. of State revenues derived from the establishment and operation of casino gambling establishments for the purpose of providing funding for reductions in property taxes, rental, telephone, gas, electric, and municipal utilities charges of eligible senior citizens and disabled residents of the State, and for additional or expanded health services or benefits or transportation services or benefits to eligible senior citizens and disabled residents pursuant to paragraph 2 of Section VII of Article IV of this Constitution; and
6. for the purpose of making payments under contracts between the State Treasurer and an autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, on account of debt created through the sale of bonds by that entity or instrumentality which debt is issued before the fiscal year in which this subparagraph b. first applies, shall not be subject to the fiscal year appropriation limit established in this paragraph.

The appropriation limit for the first State fiscal year commencing after approval of the amendment adding subparagraphs b. through e. of this paragraph, shall be determined using as the base for that determination the amount of all appropriations enacted in the prior fiscal year, exclusive of appropriations listed as exceptions in (1)
through (6) of this subparagraph b., but converting all appropriations that were made during that prior fiscal year by means of general language committing funds in an unspecified, conditional or contingent amount to specific amounts of money expressed as specific numerical figures.

Appropriations enacted as fiscal emergency measures pursuant to subparagraph c. of this paragraph shall not be used in determining the base amount of enacted appropriations for the prior fiscal year for the purpose of determining an annual appropriation limit for any fiscal year.

c. Provided however, that the Legislature may, from time to time, provide by law for an appropriation or appropriations in excess of the appropriation limit provided in subparagraph b. of this paragraph if the bill that proposes to enact such excess appropriation or appropriations is passed by the Legislature as a fiscal emergency measure by the affirmative vote of two-thirds of the authorized membership of each house of the Legislature, notwithstanding the provisions of Article IV, Section IV, paragraph 6 of this Constitution to the contrary.

d. As used in this paragraph, "annual inflation" means the annual percentage increase, if any, rounded to the nearest half-percent, in a federally published national measure of inflation, as shall be established by law.

State population shall be determined by annual federal census estimates and shall be adjusted every decade to match the federal census.

e. No transfer of an item of appropriation or other budgetary mechanism shall allow for an appropriation in excess of the appropriation limit provided in subparagraph b. of this paragraph except under the procedure in subparagraph c. of this paragraph.

(bf: Art.VIII, Sec.II, par.2, January 1, 1948)

b. Amend Article VIII, Section II by adding a new paragraph 9 to read as follows:

9. a. There shall be credited annually, on or before the last day of the sixth month of the State fiscal year, to a special restricted reserve fund in the State Treasury to be known as the State Surplus Revenue Fund, an amount which shall be in addition to any sums appropriated to the State Surplus Revenue Fund, and equal to one-half of the remainder, if any, of the amount of revenue actually deposited in the State General Fund and the Property Tax Relief Fund in the fiscal year immediately preceding the fiscal year in which a credit is to be made after subtracting the total amount appropriated from those funds in the annual appropriation act and any supplements thereto for the fiscal year immediately preceding the fiscal year in which a credit is to be made.

b. The Governor shall include in the annual budget message to the Legislature an estimate of the credit to be made to the State
Surplus Revenue Fund as a reduction of the estimated undesignated fund balances in the General Fund and the Property Tax Relief Fund as of July 1 of the fiscal year for which the Governor is making the budget recommendations. The Governor shall provide a report of the status of the State Surplus Revenue Fund to the Legislature periodically, but not less often than annually in the annual budget message to the Legislature.

c. Balances in the State Surplus Revenue Fund shall not be available for appropriation except for appropriations that are within the annual State appropriation limit established pursuant to another provision of this Constitution or that are approved pursuant to the constitutionally permitted exceptions to that limit. Provided however, that balances in the State Surplus Revenue Fund that are in excess of five percent of the total amount appropriated pursuant to the annual general appropriation law shall be transferred annually for deposit in the Real Property Taxpayers' Dividend Fund established pursuant to another provision of this Constitution for appropriation solely for the purposes of that fund.

d. Balances in the State Surplus Revenue Fund credited on account of the remainder of an amount of revenue actually deposited in the Property Tax Relief Fund shall remain subject to the appropriation restrictions on the receipts placed in that perpetual fund established pursuant to Article VIII, Section I, paragraph 7 of this Constitution.

c. Amend Article VIII, Section II by adding a new paragraph 10 to read as follows:

10. a. There shall be credited annually, on or before the last day of the sixth month of the State fiscal year, to a special restricted reserve fund in the State Treasury to be known as the Real Property Taxpayers' Dividend Fund, an amount which shall be in addition to any sums appropriated to the State Surplus Revenue Fund, and equal to one-half of the remainder, if any, of the amount of revenue actually deposited in the State General Fund and the Property Tax Relief Fund in the fiscal year immediately preceding the fiscal year in which a credit is to be made after subtracting the total amount appropriated from those funds in the annual appropriation act and any supplements thereto for the fiscal year immediately preceding the fiscal year in which a credit is to be made.

b. The Governor shall include in the annual budget message to the Legislature an estimate of the credit to be made to the Real Property Taxpayers' Dividend Fund as a reduction of the estimated undesignated fund balances in the General Fund and the Property Tax Relief Fund as of July 1 of the fiscal year for which the Governor is making the budget recommendations. The Governor shall provide a report of the status of the Real Property Taxpayers' Dividend Fund to the Legislature periodically, but not less often than annually in the annual budget message to the Legislature.
c. Balances in the Real Property Taxpayers' Dividend Fund shall be appropriated annually for the sole purpose of providing direct real property tax relief for taxpayers as the Legislature shall provide, and such appropriations shall not be appropriations subject to the fiscal year appropriation limit established in Article VIII, Section II, paragraph 2 of this Constitution.

d. Balances in the Real Property Taxpayers' Dividend Fund credited on account of the remainder of an amount of revenue actually deposited in the Property Tax Relief Fund shall remain subject to the appropriation restrictions on the receipts placed in that perpetual fund established pursuant to Article VIII, Section I, paragraph 7 of this Constitution.

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question, as follows: If you favor the proposition printed below make a cross (X), plus (+), or check (☑) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (☑) in the square opposite the word "No."

b. In every municipality the following question:
ESTABLISHES AN ANNUAL STATE APPROPRIATIONS CAP, A STATE SURPLUS REVENUE FUND AND A REAL PROPERTY TAXPAYERS' DIVIDEND FUND

Do you approve amending the Constitution to limit the amount the State can spend annually to support the State government. Every dollar from all sources will count under this limit. The limit allows for annual increases in spending up to certain rates of growth. The limit will not control amounts spent on several types of State aid and debt payments, and constitutionally dedicated revenues. Spending above the limit may be allowed if passed by the Legislature by a two-thirds majority vote of the Legislature.

The constitutional amendment also creates reserve funds to annually set aside taxes collected in the prior year above the amount of taxes spent in that year. One-half of the excess revenue can only be spent if within the annual spending limit, or within an exception. Also, one-half of the excess revenue must be returned annually to real property taxpayers as direct real property tax relief. If these excess revenue funds grow to exceed 5% of total annual State spending, all the amount over that level must be returned annually to real property taxpayers as direct real property tax relief.
INTERPRETIVE STATEMENT

This amendment limits the amount that the State can spend for the support of State government in a budget year. The spending limit applies to moneys from all sources, including federal funds. Excluded from this limit are spending for State aid to school districts, municipalities and counties, revenue constitutionally dedicated for certain purposes, and spending on certain bond debts. This limit allows State spending to increase from year to year, but only at a rate equal to inflation plus the rate of annual State population growth. A fiscal emergency measure passed by a two-thirds majority vote of the Legislature is needed to exceed the spending limit.

The amendment also requires taxes collected higher than the amount of State spending to be kept as surplus revenue. Up to one-half of the surplus revenue can be spent if it stays under the State spending limit, or if it is for an exception to the limit. Certain surplus revenue must be returned annually to real property taxpayers as direct real property tax relief.

SCHEDULE

This constitutional amendment shall apply to the fiscal year beginning on July 1 next following its approval by the people pursuant to Article IX, paragraph 1 of the Constitution, and each fiscal year thereafter.

STATEMENT

This concurrent resolution proposes to amend the New Jersey Constitution to establish an annual State appropriation limit and a State surplus revenue reserve fund.

All appropriations must be made as line-items in dollar amounts, are all counted under this limit, and include moneys from all sources, including moneys from the federal government. This will require the full disclosure through line-item display of all "off-budget" expenditures that are typically authorized by the several hundred language provisions in the annual appropriations act. The
only exceptions to the appropriations limit are appropriations for State aid to school districts, municipalities and counties, debt service on Statewide voter approved bonds, revenue constitutionally dedicated to finance the State transportation system and pay for its costs, revenue constitutionally dedicated for financing and paying the costs of open space preservation and historic preservation, revenue constitutionally dedicated from casino gambling operations for the purpose of assisting senior citizens and disabled citizens, and appropriations that the State has agreed to pay for State independent authorities' appropriation-backed contract bonds issued after the constitutional amendment is in effect.

This appropriations limit allows annual State appropriations increases but only at a rate that equals the sum of the annual rate of increase, if any, in inflation and the annual rate of any increase in State population. The annual State appropriations limit may only be exceeded by passage by the Legislature of a fiscal emergency measure by the affirmative vote of two-thirds of the authorized membership of each house of the Legislature.

The constitutional amendment also creates two reserve funds in the State Treasury to annually set aside State General Fund taxes and gross income taxes collected in the prior year which exceed the amounts appropriated therefrom. One half of the excess revenue would be placed in a Surplus Revenue Fund and could only be appropriated for State spending that is within the annual State appropriations limit, or falls within the exceptions to that limit. When balances in the Surplus Revenue Fund are greater than 5% of the total annual appropriations the amount in excess of 5% must be returned to real property taxpayers as direct real property tax relief. One half of the excess revenue would be placed in a Real Property Taxpayers Dividend Fund and must be returned annually to real property taxpayers as direct real property tax relief.

These changes shall first apply during the next State fiscal year after approval of the amendment by the voters.