KLRD

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State Budget

J-3 Kansas Laws to Eliminate Deficit Spending

Various laws or statutory sections are designed to provide certain safeguards with respect to state budgeting and managing of expenditures and to prevent deficit financing. These laws and statutes are summarized below.

Constitutional Provisions

Sometimes certain provisions of the *Kansas Constitution* are cited with regard to financial limitations. For instance, Section 24 of Article 2 says, "No money shall be drawn from the treasury except in pursuance of a specific appropriation made by law." Section 4 of Article 11 states, "The Legislature shall provide, at each regular session, for raising sufficient revenue to defray the current expenses of the state for two years."

Sections 6 and 7 of Article 11 relate to incurring public debt for the purpose of defraying extraordinary expenses and making public improvements. Such debt shall not, in the aggregate, exceed $1.0 million without voter approval of a law passed by the Legislature.

The Kansas Supreme Court, in several cases over the years, has said these sections apply only to debts payable from the levy of general property taxes and thus do not prohibit issuance of revenue bonds to be amortized from non-property tax sources.

Unencumbered Balance Required

KSA 75-3730, enacted in 1953, states that all commitments and claims shall be pre-audited by the Division of Accounts and Reports as provided in KSA 75-3731: "No payment shall be made and no obligation shall be incurred against any fund, allotment, or appropriation, except liabilities representing the expenses of the legislature, unless the Director of Accounts and Reports shall first certify that his or her records disclose there is a sufficient unencumbered balance available in such fund, allotment, or appropriation to meet the same."

State General Fund Ending Balance Law

A portion of 1990 HB 2867 (then KSA 75-6704) provided that the Governor and Legislature must target year-end State General

Fund (SGF) balances expressed as a percentage of fiscal year expenditures and demand transfers, as follows: at least 5.0 percent for FY 1992, 6.0 percent for FY 1993, 7.0 percent for FY 1994, and 7.5 percent for FY 1995 and thereafter (now KSA 2018 Supp. 75-6702).

Beginning in the 1992 Legislative Session, an "Omnibus Reconciliation Spending Limit Bill" is to be relied upon to reconcile total SGF expenditures and demand transfers to the applicable ending balance target. The law does not require any future action by the Governor or Legislature if the target is missed when actual data on receipts, expenditures, and the year-end balance become known.

Allotment System

The allotment system statutes (KSA 2018 Supp. 75-3722 through 3725) were enacted in 1953 as part of the law that created the Department of Administration. In response to a request from Governor Carlin, the Attorney General issued an opinion (No. 82-160) on July 26, 1982, which sets forth some of the things that can and cannot be done under the allotment system statutes. Some of the key points in that opinion are:

- With certain exceptions, noted below, the Governor (through the Secretary of Administration and Director of the Budget) has broad discretion in the application of allotments in order to avoid a situation where expenditures in a fiscal year would exceed the resources of the SGF or a special revenue fund. Allotments need not be applied equally or on a *pro rata* basis to all appropriations from, for example, the SGF. Thus, the Governor may pick and choose "as long as such discretion is not abused."
- Demand transfers from the SGF to another fund are not subject to the allotment system because, technically, appropriations are made from the other fund and not the SGF. Such transfers include those to the Local *Ad Valorem* Tax Reduction Fund, County and City Revenue Sharing Fund, City-County Highway Fund, State Highway Fund, State Water Plan Fund, and School District Capital Improvements Fund.
- The allotment system cannot be used in any fiscal year for the purpose of increasing the year-ending balance of a fund nor for controlling cash shortages that might occur at any time within a fiscal year. Thus, if a "deficit" were to be projected at the end of the fiscal year, the allotment system could be used to restore the SGF balance to zero.

The Legislature and the Courts and their officers and employees are exempt from the allotment system under KSA 2018 Supp. 75-3722.

The $100.0 Million Balance Provision

A provision in 1990 HB 2867 (KSA 2018 Supp. 75-6704) authorizes the Governor to issue an executive order or orders, with approval of the State Finance Council, to reduce SGF expenditures and demand transfers if the estimated year-end balance in the SGF is less than $100.0 million. The Director of the Budget must continuously monitor receipts and expenditures and certify to the Governor the amount of reduction in expenditures and demand transfers that would be required to keep the year-end balance from falling below $100.0 million.

Debt service costs, the SGF contribution to school employees retirement (KPERS-School), and the demand transfer to the School District Capital Improvements Fund created in 1992 are not subject to reduction.

If the Governor decides to make reductions, they must be on a percentage basis applied equally to all items of appropriations and demand transfers (*i.e.*, across-the-board with no exceptions other than the three mentioned above). In contrast to the allotment system law, all demand transfers but one are subject to reduction.

In August 1991 (FY 1992), the Governor issued an executive directive, with the approval of the State Finance Council, to reduce SGF expenditures (except debt service and the KPERS-School employer contributions) by 1.0 percent. At the time of the State Finance Council action, the SGF ending balance was projected at approximately $76.0 million.

Certificates of Indebtedness

KSA 75-3725a, first enacted in 1970, authorizes the State Finance Council to order the Pooled Money Investment Board (PMIB) to issue a certificate of indebtedness when the estimated resources of the SGF will be sufficient to meet in full the authorized expenditures and obligations of the SGF for an entire fiscal year, but insufficient to meet such expenditures and obligations fully as they become due during certain months of a fiscal year. The certificate must be redeemed from the SGF no later than June 30 of the same fiscal year in which it was issued. If necessary, more than one certificate may be issued in a fiscal year. No interest is charged to the SGF.

However, to whatever extent the amount of a certificate results in greater spending from the SGF than would occur if expenditures had to be delayed, there may be some reductions in interest earnings that otherwise would accrue to the SGF.

To cover cash flow issues, the State Finance Council authorized issuance of certificates of indebtedness as follows:

- $65.0 million in December FY 1983;
- $30.0 million in October FY 1984;
- $75.0 million in April FY 1986;
- $75.0 million in July FY 1987;
- $140.0 million in December FY 1987 (replaced the July certificate);
- $75.0 million in November FY 1992;
- $150.0 million in January FY 2000;
- $150.0 million in January FY 2001;
- $150.0 million in September FY 2002;
- $200.0 million in December FY 2002;
- $450.0 million in July FY 2003;
- $450.0 million in July FY 2004;
- $450.0 million in July FY 2005;
- $450.0 million in July FY 2006 ;
- $200.0 million in December FY 2007;
- $350.0 million in December FY 2008;
- $300.0 million in June FY 2009;
- $250.0 million in December FY 2009;
- $225.0 million in February FY 2009;
- $700.0 million in July FY 2010;
- $700.0 million in July FY 2011;
- $600.0 million in July FY 2012;
- $400.0 million in July FY 2013;
- $300.0 million in July FY 2014;
- $675.0 million in July FY 2015;
- $840.0 million in July FY 2016;
- $900.0 million in July FY 2017;
- $900.0 million in July FY 2018; and
- $600.0 million in July FY 2019.

The amount of a certificate is not “borrowed” from any particular fund or group of funds. Rather, it is a paper transaction by which the SGF is temporarily credited with the amount of the certificate and state moneys available for investment and managed by the PMIB.

The PMIB is responsible for investing available moneys of all agencies and funds, as well as for maintaining an operating account to pay daily bills of the state. Kansas Public Employees Retirement System invested money is not part of “state moneys available for investment” nor is certain money required to be separately invested by the PMIB under statutes other than the state moneys law.

Certificates of indebtedness could be used if allotments were imposed or if expenditures were reduced under the $100.0 million balance provision or if neither such action was taken.

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