

# COMMENTARY



## Public Affairs Research Council of Louisiana

The 2015 Executive Budget

### PAR evaluates revenue enhancements and calls for proper use of Coastal Fund

**February 12, 2014:**

The Jindal administration's proposed state budget for the next fiscal year is commendable in several important respects but contains some techniques for short-term revenue enhancements that are not in the state's best interest in the long term.

For those – including PAR – who want to see tight reins on government growth, the overall budget offers a slight decrease in spending compared with the current year, a continued effort to limit the number of state employees and initiatives to consolidate back-office functions. On the other hand, the executive budget provides the means of turning one-time revenue into substantial sums of spending for ongoing operations, an aspect of the governor's plan that deserves close scrutiny by the Legislature and the public. In particular, the state's past practice of using the Coastal Protection and Restoration Fund as a pass-through to balance the state operating budget should be stopped.

Presented to the Joint Legislative Committee on the Budget on January 24, the executive budget was well received as it included spending for several initiatives valued by legislators. The major increases include \$99.8 million for K-12 schools through an almost 3% increase in the previous Minimum Foundation Program (MFP) formula, \$26 million to expand home and community-based waivers and \$11.7 million for State Police and Department of Wildlife and Fisheries cadet classes. An additional \$142 million is proposed for higher education, although this amount is paid mostly with a tuition increase and a one-time investment.

These increases are aimed at programs that generated negative headlines for the administration last year when the governor's treatment of them was less-generous, though in some cases prudent. These are in addition to planned increases in government's continuing personnel costs such as state employee pay, healthcare premiums and retirement contributions.

How does the executive budget pay for these additional costs? The spending budget is limited by the latest state revenue projections adopted by the Revenue Estimating Conference (REC). The REC met January 15 to update its previous estimates. State general fund revenue for Fiscal Year 2015, which begins on July 1, is projected to increase by \$186.1 million (2.2%) over FY 2014. In addition, fees and self-generated revenue are projected to increase by \$173 million (7.6%). However, statutory dedications are projected to decrease by \$458 million (-10.2%). Some of the changes are a matter of reclassifying particular revenue streams. The overall change in total state funds is a net reduction of \$99.7 (-0.7%).

The executive budget also shows a decrease in federal funds in FY 2015 of \$524 million (-5.03%). Some of this decrease results from changes in the state's drawdown of federal disaster funds and do not affect the state's core operating budget.\*

Since the Revenue Estimating Conference projected state revenues for next year at essentially a standstill level, the administration's initiatives cannot be paid with higher expected income.

Part of the answer can be found in reductions to other expenditures such as the centralization of procurement in the Division of Administration, a statewide information technology consolidation and the establishment of regional training hubs at the Department of Children and Family Services. Anticipated cost-saving measures at the Division, the Department of Revenue and other agencies should be closely followed by the Legislature to ensure these initiatives produce the fiscal results predicted.

In addition, the budget reduces 1,101 funded positions across state government. The Commissioner of Administration testified that most of these positions are vacant, avoiding the need for layoffs. The elimination of these positions could result in savings because when an agency leaves a position vacant, the Legislature still appropriates funding for the position. Thus an executive budget that proposes to eliminate the ability of agencies to hire for those positions should eliminate the funding related to them.

### **Other means of finance**

The funding for the administration's initiatives draws on means of finance other than just the general fund. For example, \$40 million for higher education comes from the newly proposed Workforce and Innovation for a Stronger Economy (WISE) program, which will be coupled with matching dollars from private industry to help Louisiana meet its regional job development needs. Of that \$40 million, \$33 million is slated as a one-time expenditure from the state's Overcollections Fund. This fund is where so-called excess revenue from other dedicated funds and some one-time windfall revenues often are placed. In essence, it is the vehicle for "fund sweeps," in which cash is taken from various state funds and then spent from the Overcollections Fund to help balance the budget.\*\* For example, the administration might sweep as much as \$40 million from a Louisiana Housing Corp. fund.

Another significant part of the answer can be found in how non-recurring money can be used. The state has at its disposal a large amount of non-recurring revenue, boosted by some of the collections from the Tax Amnesty program and a surplus left over from last year. One plan calls for taking \$50 million out of the New Orleans convention center fund to apply to next year's budget. The convention center fund would be paid back over time through the capital outlay process, meaning that part of next year's state operating budget would be financed with an expensive loan.

For the FY 2015 budget, the Commissioner of Administration has designated \$300 million in non-recurring revenue allocated this way:

- \$210 million for defeasance, or retirement of state debt
- \$51 million to the Coastal Protection and Restoration Fund
- \$25 million to the Budget Stabilization Fund (rainy day fund)
- \$14 million for the unfunded liability of the state public retirement systems

Under the state constitution, all of these expenditures are allowable uses for non-recurring money. The \$25 million for the Budget Stabilization Fund and the \$14 million for the retirement systems can be viewed as removing or reducing future obligations of the state. The \$210 million for defeasance and the \$51 million for the Coastal Fund are essentially potential methods of turning non-recurring dollars into spending for recurring costs. The mechanism for doing so is different in each case.

With the \$210 million, the state will use those non-recurring funds to pay off bonds that would otherwise require general fund (recurring) dollars. This move frees up general fund dollars, which can then be spent on other recurring programs. Defeasance has been practiced under past administrations and can have positive impacts on the state's long-term fiscal outlook. But its impact on the budget also should be noted. This type of spending next year will have an effect on budget sustainability in the subsequent year. The plan for defeasance essentially inflates the FY 2015 general fund with money that will not be available to the FY 2016 general fund.

### **The Coastal Fund**

The \$51 million that will be put in the Coastal Fund could later be moved out through the "funds bill." The executive budget does not specify this transfer, which would take place during the Legislature's budget-making process during the upcoming session. The funds bill is a routine piece of legislation that provides for the transfer of deposits and monies among state funds (an example would be Act 420 of the 2013 session). Under past practice, one-time money that moves through the funds bill can end up paying for the ongoing operating expenses of the state. The time has come to stop using the Coastal Fund this way.

Under the state constitution, money in the Coastal Fund can be **appropriated** only for expenditures related to coastal restoration and protection.\*\*\* In the view of budget drafters in recent years, the funds bill **transfers** money but does not appropriate it. Purportedly under this rationale, the transfer does not violate the constitutional protections surrounding the Coastal Fund. In a recent letter to House members, Rep. Joel Robideaux, chairman of the House Ways and Means Committee, addressed the question of

how excess collections from this year's Tax Amnesty program might be used in the operating budget. He reminded members how \$90 million in non-recurring money from the 2010 Tax Amnesty program was first deposited in the Coastal Fund and then transferred into the Overcollections Fund and appropriated to the Department of Health and Hospitals' operating budget.

To be clear, no action has been taken yet to convert deposits in the Coastal Fund to other purposes in FY 2015. And the options to do so may be limited because the Revenue Estimating Conference restricted certain Overcollections Fund spending next year to one-time purposes. Whatever the mechanics of the spending limits and the potential conversion of funds might be, the main point is that the state should reject its past practice and set a more appropriate course for handling the Coastal Fund.

Through BP oil-spill settlements, increased offshore revenue sharing and other sources, Louisiana is poised to receive and spend billions of dollars for coastal protection and restoration in the next few years. Some of this is new federal money and much of it is BP money regulated through the courts and federal agencies. The state's handling of the Coastal Fund is being watched closely by Congress, federal regulators, stakeholder organizations, national policy think tanks and the media.

Louisiana has established a good reputation compared to other Gulf Coast states because it has developed a strong consensus behind a scientifically designed coastal master plan. The Jindal administration's coastal management plan and practices are viewed positively by many observers inside and outside the state. Now the state will be increasingly judged on the level of responsibility, transparency and accountability used in the fiscal administration of its Coastal Fund and project spending, especially as massive sums flow.

There is a temptation to think that the one-time money currently budgeted for the Coastal Fund is state money and therefore we can do with it whatever we want, even if that means turning the Coastal Fund into a device to generate spending on the state operating budget. This approach diminishes the integrity of the Coastal Fund and will not instill public confidence that the fund is being used properly. That could jeopardize critical future coastal funding. Lawmakers should seriously consider whether the negative image and risks associated with this practice are worth the additional short-term funding it provides.

State decision-makers should not view the budget process as a game of finding convenient means to balance the budget but as an opportunity to reinforce sound fiscal policies that have been put in place through various rules, statutes and constitutional provisions. The emphasis should be placed on good judgment in policy-making rather than on finding technicalities that circumvent the fundamental intent of the law. The focus should be on what is sustainable in the long term. During the upcoming session, PAR encourages the administration and the Legislature to look hard at this issue and to form a new respect for the Coastal Fund.

\*The disaster funds were a special appropriation from Congress. As those programs wind down, less money needs to be appropriated in the state budget. Some of the reduction is also partly because those federal funds were intentionally over-appropriated in previous years, with good reason. That is, the budget appropriated more federal funds than were likely to be spent in a single year. This was done so that agencies would not have to keep returning to the Legislature for spending authority to use the federal dollars, which could have slowed the recovery process. The reduction in federal appropriation should not be a major factor for the state operating budget in that the federal government did not reduce what was pledged to Louisiana for the recovery effort.

\*\*The Revenue Estimating Conference designated \$214 million of the Overcollections Fund for FY 2014 as recurring money, but placed limits on expenditures from the Overcollections Fund by designating \$132 million of the fund as non-recurring in FY 2015. At this time it is unclear whether additional revenue might be passed through the fund next year. Non-recurring funds can be appropriated only for a narrow list of purposes as delineated in the constitution. It is unclear at this point how the WISE program would meet these restrictions or if other sources of revenue will pay for the program.

\*\*\* "No appropriation shall be made from the fund inconsistent with the purposes of the (Coastal Protection) plan." Louisiana Constitution, Article VII Section 10.2 (D).

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