



Legislative BULLETIN

Public Affairs Research Council of Louisiana, Inc.

RAINY DAYS AND WINDFALLS

Like the weather, Louisiana's fiscal condition has never been entirely predictable. State general fund expenditures have exceeded revenues in 10 of the last 20 years, sometimes by a sizeable amount. In six of those years there were relatively large surpluses. Erratic oil prices and a national recession created a boom and bust in the late 1970s and early 1980s. Mineral revenue settlements, gambling revenue and recent unexpected tax growth have created other windfalls.

In 1980-81, the state used most of a \$1 billion windfall to boost current spending and suffered when revenues fell off. To deal with the problem of fiscal fluctuations, PAR proposed a balanced budget requirement, official revenue estimates, a trust fund for mineral revenue windfalls, and a "rainy day" fund that could be tapped when revenues fell. The following constitutional amendments were adopted to limit the use of windfall or nonrecurring revenue:

- 1983 -- "LIFE" mineral revenue windfall fund
- 1986 -- Louisiana Education Quality Trust (8g) Fund
- 1990 -- Revenue Stabilization/Mineral Trust Fund (Rainy Day Fund)
 - Balanced state budget requirement
 - Constitutional status for Revenue Estimating Conference

- State spending limit
- 1991 -- Mineral Revenue Audit and Settlement Fund
- 1993 -- Use of nonrecurring revenues limited to paying debt early

The major purpose of these reforms was to keep windfalls and nonrecurring revenue from being used for recurring expenditures. Another goal was to find worthwhile uses for these windfall revenues.

(Except as otherwise noted, all bills discussed below are proposed constitutional amendments and are in committee in their house of origin.)

Early Retirement of Debt

Except for money in the special mineral revenue funds, nonrecurring revenue (including surpluses) may now only be used to pay off state debt early.

The 1993 limit on spending one-time money to retire debt has not turned out as intended. Instead of paying off bonds 15 or 20 years early, a 1994-95 state surplus was used to pay off debt maturing in 1995-96, thus effectively freeing money to spend in 1995-96. The procedure was found technically constitutional by the Attorney General and the administration is proposing to use it again to free up money for capital outlay next year, contrary to the spirit of the constitution.

Also in 1993, the voters approved a constitutional debt reduction amendment. The state's debt had grown out of hand and debt service payments were 13.1% of state revenues. While state debt is still high for the South, the ratio is projected to fall below 7.5% by fiscal 1997-98 and to easily meet the 2003-04 target of 6%. This progress has helped raise the state's bond rating and has raised the question of whether debt retirement should still be the sole use for one-time money.

Proposed Legislation

HB 865 would require that nonrecurring revenues be used for retirement in advance of maturity through "redemption, purchase, or repayment of debt" pursuant to a plan proposed by the state Bond Commission which maximizes the savings to the state.

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The bill would also require that any savings in debt service in the following fiscal year attributed to the debt retirement be considered nonrecurring revenue.

Comment

The limits in HB 865 would make it almost impossible to manipulate debt payments from nonrecurring revenue to free up money for other spending in the following fiscal year. The language in the bill, however, would be more precise if it were to specifically authorize the "defeasance" of bonds.

Other Proposed Uses For One-Time Money

A number of bills would add various purposes for which one-time money could be used including: additional payments on the unfunded accrued liabilities (UAL) of public retirement systems, capital outlay, emergency expenses, a return to the agency generating the surplus, and deposit in a "rainy day" fund.

"Rainy Day" Fund

The Revenue Stabilization/Mineral Trust Fund was constitutionally created in 1990 to serve as a "rainy day" fund. It was to receive any state revenue above the expenditure limit and mineral revenue in excess of \$750 million a year. To date, revenues have never been sufficient to trigger deposits into the fund.

Proposed Legislation

SB 248 (reported favorably with amendments in Senate committee), proposes a constitutional amendment to create a "rainy day" fund and to add allowable uses for nonrecurring state revenues.

The bill would create the "Louisiana Stabilization Fund." The fund would receive the following deposits:

- at a minimum, 25% of the non-recurring revenue annually,
- additional nonrecurring revenue, as appropriated,
- revenues in excess of the state's expenditure limit,
- mineral revenues in excess of \$750 million annually, and
- investment earnings of the fund.

The fund balance would be limited to 4% of the total state revenue receipts for the previous fiscal year.

A two-thirds vote of both houses would be required to appropriate money from the fund.

Appropriations would be limited to one-third of the fund balance at the beginning of the current fiscal year to:

- offset a deficit projected for the current fiscal year,
- to make up the difference when the official forecast of recurring revenue for the next fiscal year is less than the official forecast of recurring revenue for the current fiscal year, or
- to offset deficits in both the current and next year.

SB 248 would expand the allowable use of nonrecurring revenue to include:

- a minimum of 25% to the "rainy day" fund, and then:
 - additional appropriations to the fund,
 - additional payments against the UAL, and
 - retirement or defeasance of state debt (currently allowed).

In authorizing UAL payments, the bill would require that such payments be in addition to required payments and prohibits their use, directly or indirectly, to fund cost-of-living adjustments (COLAs).

SB 1387 (reported favorably with amendments in Senate committee) is the companion legislation to SB 248. The bill would statutorily create the same "rainy day" fund effective June 1, 1997. This would allow money to be appropriated to the fund this year prior to adoption of the constitutional amendment proposed in SB 248, which could not go on the ballot until Fall 1998.

Other "rainy day" fund bills offer proposals similar to SB 248. HB 705

would create the fund by giving it all of the state's revenues from the land-based casino.

Comment

Unlike some 38 other states, Louisiana currently has no cushion to fall back on when faced with an unexpected fiscal downturn. In recent years, deficits arising during a fiscal year have been a particular problem. With 70% of the budget essentially uncuttable, programs in the remaining 30% (e.g., higher education and health programs) have taken the brunt of the cuts.

A "rainy day" fund, with adequate funding sources and strict controls on spending could give the state greater fiscal stability.

Louisiana has an opportunity during the current period of revenue growth to begin banking protection against the inevitable downturn. Dedicating 25% of the nonrecurring funds each year to a rainy day fund is a reasonable approach. The proposed 4% cap would allow the fund to build up \$463 million based on estimated fiscal 1998 revenues. Any lower cap would do little to carry the state through a serious fiscal crisis. Limiting use in one year to one-third of the fund balance would give the state several years to work through a recession.

One potential problem does not appear to have been addressed. Since 1986, sales tax exemptions have been suspended, usually for two years at a time. The revenue projections are required to be based on the existing tax law. Thus revenue forecasts for a year in which the suspension of sales tax exemptions is scheduled to expire would not include the potential sales taxes on food and utilities even though they would likely be reinstated. The lower forecast could trigger the "rainy day" fund and might allow the Legislature to tap it rather than, or in addition to, restoring or replacing the tax. The major safeguard is that a two-thirds vote of the Legislature would be required to take money out of the fund.

Paying on the UAL

Three of the state's public retirement systems have a total of \$6.5 billion in unfunded accrued liabilities (UAL). This is the additional amount actuaries have determined should be in the funds to cover the future payment of benefits earned. A 1987 constitutional amendment required a scheduled pay down of the UAL over 40 years. However, the schedule was revised to reduce the payments required in the earlier years to free up money for other spending.

To the state's credit, \$222 million in one-time revenue (Texaco settlement) was paid against the UAL and will shorten the pay-down period by two years. The payment was made from the Mineral Revenue Audit and Settlement Fund. This fund provision was amended in 1995 to make sure that such payments to the retirement system cannot be used, directly or indirectly, to provide COLAs to retirees.

(Current law permits retirement boards to grant COLAs if the funding level is improving and creates "experience accounts" that can be used to pay the COLAs. These accounts siphon off half of any investment earnings above the system's long-run assumed earnings rate.)

Proposed Legislation

SB 248, the major "Rainy Day" Fund bill, would also expand the use of nonrecurring revenues to make additional UAL payments. It also includes a prohibition against using the payments, directly or indirectly to generate COLAs for system retirees.

In addition, a number of other bills also deal with using nonrecurring revenues to make UAL payments:

HB 264 and HB 858 offer constitutional provisions similar to SB 248.

HB 88 would require the first \$20 million of nonrecurring funds annually to be applied toward additional payments against the UAL. The bill includes the COLA prohibition.

HB 265, a companion bill to HB 264, would statutorily require payments from the first \$20 million.

SB 293 would allow the use of nonrecurring funds in fiscal years 1999, 2000 and 2001 to make additional payments against the UAL. (This apparently would allow systems to recoup some of the funding lost when the UAL schedule was revised.) This bill does not include the COLA prohibition language.

Comment

The state's UAL problem will be solved if the 40-year amortization program is followed. Considering the presence of the retirement systems' "experience accounts" and the addition of liberal benefit programs in recent years, there is some danger that the systems might take advantage of further funding improvements to seek even more expanded benefits.

Any proposal to extend nonrecurring revenues to payment of the UAL should require that such payments not be converted into COLAs or other benefits and that they not be used to free general funds that otherwise would go to scheduled UAL payment.

In addition, the proposals to give UAL payments the first claim on nonrecurring funds would give undue priority to this use. At the very least, the fiscal advantage of making such payments should be weighed against other potential uses.

Capital Outlay

Under the debt reduction plan, adopted in 1993, the state is constitutionally limited to issuing about \$240 million in bonds each year for capital improvements. The Legislature has followed a self-imposed limit of \$200 million in recent years. This has helped to bring down the state's outstanding debt and to improve the bond rating. However, the administration argues that the limits have resulted in a growing backlog of construction and maintenance needs, particularly

for state facilities, universities and road overlay.

In the past, year-end surplus money was often used to provide cash for capital outlay. Now, a surplus can only go to debt retirement. Using cash instead of bonds for capital projects saves interest costs. Regular maintenance work can help avoid future costs. On the other hand, while capital outlay is essentially a one-time expenditure, some projects entail increased program and maintenance costs. There also is the potential that extra cash for capital outlay can result in political pork barrel projects.

Proposed Legislation

SB 325 would expand the allowable use of nonrecurring revenues to include capital outlay and expenses deemed by the Legislature to be "extraordinary and nonrecurring in nature."

Comment

If the 1995-96 surplus and any surplus that might materialize in 1996-97 are used to retire debt in a manner that maximizes the savings, the state should meet its year 2004 debt reduction target in the next few years. This progress would make allowing the use of nonrecurring funds for capital outlay a viable option. It would give legislators an opportunity to determine whether using nonrecurring funds for capital outlay or debt reduction would be more fiscally advantageous. The Bond Commission should be asked to provide guidance in making this determination.

Unfortunately the bill proposing this option, SB 325, also would allow the Legislature to tap nonrecurring revenues for expenses it deems "extraordinary and nonrecurring in nature." This grant of broad discretion could open the door to unwise spending requests.

The leading "Rainy Day" Fund proposal, SB 248, does not include an authorization for capital outlay spending.

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STANDING COMMITTEES OF THE 1997 LEGISLATURE

SENATE

Agriculture: Cain, chr.; Short, v. chr.;
Hines, Jones, Siracusa, Smith and Theunissen

Commerce: Hollis, chr.; Smith, v. chr.;
Branch, Fields, Heitmeier, Lambert and
Robichaux

Education: Greene, chr.; Branch, v. chr.;
Campbell, Casanova, Fields, Short and
Theunissen

Environmental Quality: Lambert, chr.;
Malone, v. chr.; Bean, Dean, Johnson,
Robichaux and Siracusa

Finance: Hainkel, chr.; Dardenne, v. chr.;
Bagneris, Campbell, Casanova, Cravins,
Greene, Hollis, Irons, Tarver, Ullo and
Barham (ex-officio)

Health & Welfare: Hines, chr.; Casanova,
v. chr.; Bajoie, Dyess, Irons, Landry and
Schedler

Insurance: Tarver, chr.; Bean, v. chr.;
Cravins, Guidry, Hainkel, Lentini and Malone

Judiciary A: Ullo, chr.; Schedler, v. chr.;
Barham, Cox, Guidry, Hainkel and Romero

Judiciary B: Cravins, chr.; Dyess, v. chr.;
Branch, Dardenne, Ellington, Hollis and Jones

Judiciary C: Jordan, chr.; Lentini, v. chr.;
Fields, Heitmeier, Landry, Short and Tarver

Labor & Industrial Relations: Ellington,
chr.; Cox, v. chr.; Barham, Cravins, Dardenne,
Hainkel and Schedler

Local & Municipal Affairs: Bajoie, chr.;
Johnson, v. chr.; Bagneris, Dean, Ellington,
Heitmeier and Jordan

Natural Resources: Romero, chr.;
Robichaux, v. chr.; Cain, Hines, Malone,
Siracusa and Ullo

Retirement: Heitmeier, chr.; Dean, v. chr.;
Branch, Bajoie, Jordan, Lambert, Landry and
Siracusa

Revenue & Fiscal Affairs: Barham, chr.;
Johnson, v. chr.; Bean, Cain, Cox, Guidry,
Romero, Schedler, Smith and Hainkel (ex-
officio)

Senate & Governmental Affairs:
Dardenne, chr.; Jones, v. chr.; Bagneris,
Barham, Ellington, Greene and Jordan

Transportation: Landry, chr.; Irons, v.
chr.; Bean, Dyess, Jones, Lentini and Smith

HOUSE OF REPRESENTATIVES

Administration of Criminal Justice:
Windhorst, chr.; McCain, v. chr.; Bruce,
Dupre, Heaton, Jenkins, Kennard,
Marionneaux, Morrell, Perkins and Romero

Agriculture: Strain, chr.; Hill, v. chr.;
Baudoin, Bruce, Carter, Doerge, Frith, Fruge',
Gautreaux, Hudson, Iles, Kenney,
Marionneaux, McCain, McDonald, Morrish,
Jack D. Smith and Thompson

Appropriations: LeBlanc, chr.; Triche, v.
chr.; Crane, Deville, DeWitt, Hebert, Hopkins,
Jetson, Long, McDonald, Pratt, Riddle, Salter,
Scalise, Jack D. Smith, Stelly, Thompson,
Thornhill and Welch

Civil Law & Procedure: McMains, chr.;
Green, v. chr.; Ansardi, Bowler, Clarkson,
Dimos, Farve, Fruge', Johns, McCallum,
Walsworth, Wiggins and Wright

Commerce: Travis, chr.; Schneider, v. chr.;
Barton, Durand, Flavin, Frith, Gautreaux, Hill,
Michot, Morrell, Murray, Pinac, Powell and
Weston

Education: Brun, chr.; McDonald, v. chr.;
Barton, Baudoin, Crane, Curtis, Doerge,
Farve, Kenney, Long, Powell, Pratt, Salter,
Shaw and Wright

Environment: Damico, chr.; Martiny, v.
chr.; A. Alexander, Baudoin, Carter, Fontenot,
Guillory, Holden, Kenney, Morrish, Perkins
and Romero

Health & Welfare: R. Alexander, chr.;
Riddle, v. chr.; A. Alexander, Carter, Clarkson,
DeWitt, Durand, Glover, Guillory, Iles, Jetson,
McCallum, Mitchell, Thomas, Thompson,
Wiggins and Wilkerson

House & Governmental Affairs:
Lancaster, chr.; Hunter, v. chr.; Bruneau,
Copelin, Fontenot, Green, Montgomery,
Rousselle, Scalise, Toomy, Vitter, Walsworth,
Welch, Willard-Lewis and Winston

Insurance: Donelon, chr.; Ansardi, v. chr.;
Baylor, Bowler, Chaisson, Dimos, Johns,
Martiny, Morrish, Murray, Pinac, Theriot and
Thornhill

Judiciary: Toomy, chr.; McCallum, v. chr.;
A. Alexander, Chaisson, Faucheux, Heaton,
Hebert, Kennard, Romero, Theriot, Warner
and Welch

Labor & Industrial Relations: Forster,
chr.; Guillory, v. chr.; Barton, Bowler, Crane,
Deville, Farve, Hunter, Michot, Murray,
OINET, Powell, Scalise and Wiggins

**Municipal, Parochial & Cultural
Affairs:** Weston, chr.; Pierre, v. chr.; Baylor,
Clarkson, Dupre, Glover, Green, Pratt,
Quezaire, Rousselle, Willard-Lewis, Winston
and Wright

Natural Resources: John R. Smith, chr.;
Jack D. Smith, v. chr.; Daniel, Deville,
Faucheux, Flavin, Frith, Fruge', Gautreaux,
Hammett, Hebert, Hill, Hopkins, Hudson,
Michot, OINET, Pierre, Schneider and Triche

Retirement: Stelly, chr.; Wilkerson, v.
chr.; Curtis, Daniel, Durand, Flavin, Johns,
Perkins, Shaw, Thornhill, Triche and
Walsworth

**Transportation, Highways and Public
Works:** Diez, chr.; Theriot, v. chr.; Bruce,
Curtis, Dupre, Hudson, Iles, Kennard,
Marionneaux, McCain, Mitchell, Quezaire,
Rousselle, Shaw, Thomas, Wilkerson and
Winston

Ways and Means: Alario, chr.; Chaisson,
v. chr.; Baylor, Copelin, Daniel, Doerge,
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Pierre, Vitter, Warner and Willard-Lewis



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1997 SUPPLEMENT TO "PAR GUIDE TO THE 1996 LOUISIANA LEGISLATURE"

SENATE



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DISTRICT 25
(Replaced Cecil J. Picard)

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GENERAL INFORMATION: Legislator; born 8/19/33; married (Pat Reaud); Catholic
EDUCATION: Jennings H.S.; B.G.S., Univ. of Nebraska (Omaha); attended, Univ. of Southwestern La.
PUBLIC SERVICE: State senator (1996 to date); state representative (1992 to 1996); retired Lt. Col., Air Force (1953-74)
MEMBERSHIPS: Greater Jennings, Welsh, Lake Arthur Chambers of Commerce; Am. Legislative Exchange Council; Jefferson Davis Farm Bureau; Jefferson Davis Arts Council; Jefferson Davis Rice Growers Assn.; VFW; Retired Officers' Assn. (Acadiana)
PARISHES REPRESENTED: Cameron; parts of Acadia, Calcasieu, Jefferson Davis and Vermilion

PUBLIC SERVICE: State representative (1996 to date)
MEMBERSHIP: Pres., 21st Judicial Dist. Bar Assn.
PARISHES REPRESENTED: Parts of East and West Feliciana, Pointe Coupee, St. Helena and Tangipahoa



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EDUCATION: Jennings H.S.; B.S., McNeese State Univ.
PUBLIC SERVICE: State representative (1996 to date)
PARISHES REPRESENTED: Jefferson Davis; parts of Acadia and Calcasieu

HOUSE



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GENERAL INFORMATION: Attorney; born 10/20/60; married (Kerry Anthony); Methodist
EDUCATION: Greensburg H.S.; B.A., Southeastern La. Univ.; J.D., LSU Law School



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GENERAL INFORMATION: Plumber; born 2/27/37; married (Mary Joyce Chevalon); Catholic
EDUCATION: New Iberia Senior High
CAREER HISTORY: Sheriff (1980-96); teacher (1970-80)
PUBLIC SERVICE: State representative (1996 to date); police juror (1968-80)
PARISHES REPRESENTED: Parts of Iberia and St. Martin