

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: *HB 9

49th Legislature, 1st Session, 2009

Short Title: Capital Outlay Cuts & Reauthorizations

Sponsor(s): Representative Edward C. Sandoval and Others

Analyst: Peter B. van Moorsel

Date: January 21, 2009

Bill Summary:

Among its provisions, HB 9:

- reverts to the General Fund certain capital projects appropriations, including several education-related appropriations;
- changes the purpose of certain capital project appropriations that are funded through severance tax bond proceeds, including several education-related appropriations;
- requires the State Board of Finance to determine which bond proceeds from the original capital projects to allocate to which new projects;
- requires the agencies that receive funds as a result of the project reauthorizations to certify that projects can be begun and completed, and that funds can be expended in a timely manner; and
- requires that unexpended severance tax bond proceeds be reverted to the Severance Tax Bonding Fund.

* The bill contains an emergency clause.

Fiscal Impact:

- HB 9 reverts to the General Fund approximately \$104.9 million in capital projects appropriations, including six education-related appropriations totaling \$869,000, including:
 - \$30,000 to the Public Education Department (PED) for improvements at the Española Military Academy (2006 appropriation);
 - \$75,000 to PED for improvements to the Española Military Academy (2005);
 - \$59,000 to PED for information technology for the Española Military Academy (2008);
 - \$500,000 to the Department of Finance and Administration (DFA) for Pre-K classrooms, including portables, statewide (2007); and
 - \$205,000 to the Local Government Division of DFA for a gym to be jointly used by East Mountain High School and Vista Grande Community Center (2005).
- The bill also changes the purpose of 24 capital project appropriations totaling approximately \$26.6 million in severance tax bond proceeds, including two education-related appropriations totaling \$811,000, including:
 - \$275,000 to PED for a building for the Española Military Academy (2008); and
 - \$536,000 to DFA for Pre-K classrooms, including portables, statewide (2007).

- The new purposes identified in the bill comprise 10 projects, totaling approximately \$26.5 million of the reauthorized funds, and include no education-related projects.
- The bill provides that the approximately \$92,000 that was deauthorized, but not reauthorized with a new purpose shall revert to the Severance Tax Bonding Fund on the bill's effective date.

Issues:

The Legislative Finance Committee (LFC) reports in its Fiscal Impact Report (FIR) that the new purposes for the approximately \$26.5 million in Severance Tax Proceeds are intended to continue viable General Fund projects, while at the same time enabling additional reversions of General Fund dollars as part of the Legislature's FY 09 solvency plan.

The FIR states that LFC staff identified capital projects to consider for reversion using the following criteria:

- inadequate planning or funding to move the project forward;
- idle funds or funds that have been unspent for more than two to three years;
- lacking local funding to support the operational and maintenance costs;
- lacking federal funding needed for the project;
- lacking third-party agreements necessary for the project;
- unmet contingencies; and
- declined or rejected funds.

According to LFC, the majority of projects reviewed for potential reversion to the General Fund were identified from a list, updated by state and local government entities as of December 5, 2008, of projects valued at \$1.0 million or greater. According to the FIR, LFC staff further reviewed and verified the projects listed within HB 9; and DFA reviewed and verified state agency balances to ensure that there were no third-party obligations for the funds selected for potential reversion.

FY 09 Solvency Plan

Due in part to the current economic recession and reduced oil and natural gas revenues, the December 2008 consensus revenue estimate projected a \$454.0 million deficit for FY 09.

HB 10 is part of a three-pronged solvency plan proposed by the LFC to address the projected revenue shortfall. The solvency plan comprises four bills or in addition to HB 10, the LFC solvency plan includes the following legislation:

- *HB 10, *Appropriation Reduction & Budget Adjustment* or Reduces General Fund appropriations in Laws 2008, Chapter 3 (*General Appropriation Act of 2008*) in Section 4 by various amounts, including \$4.0 million for public school transportation related to supplemental funding provided in the 2008 special session for fuel costs; reduces General Fund compensation and other distributions contained in Section 8; provides authority for DFA to reduce other appropriations, including other state funds, internal service/interagency transfers and federal funds, as necessary; provides for additional budget adjustment authority in FY 09; and reduces a special appropriation to DFA in Section 5.

- *SB 79, *Fund Transfers & Appropriation Cuts* ó Reduces certain appropriations from the General Fund, including a 2.5 percent reduction of FY 09 appropriations for the legislative branch; appropriations in Laws 2008, Chapter 6 (SB 165, also known as HB 2 Jr.); and appropriations enacted in the 2008 special session. Transfers money from other state funds to the General Fund; distributes annual payment from participating tobacco manufacturers to the Tobacco Settlement Program Fund and dollars from the Tax Stabilization Reserve to the General Fund appropriation account for meeting FY 09 appropriations. Among its other provisions, appropriates \$35.8 million from the appropriation contingency fund (education lockbox) to the State Equalization Guarantee for distribution to public schools.
- *SB 80, *Corporate Income Tax Reporting Dates* ó Amends the *Corporate Income and Franchise Tax Act* to require four (rather than three) payments of estimated corporate income tax. The emergency clause makes the Corporate Income Tax payment change effective in tax year 2009.

Related Bills:

- *HB 8 *Estimated Tax Payments & Withholding*
- *HB 10 *Appropriation Reduction & Budget Adjustment*
- *SB 79 *Fund Transfers & Appropriation Cuts*
- *SB 80 *Corporate Income Tax Reporting Dates*