

LAWS OF DELAWARE
VOLUME 84
CHAPTER 294
152nd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 270

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO BUDGET AND FISCAL REGULATIONS, ESTABLISHING A BUDGET STABILIZATION FUND, DEFINING DEPOSIT AND WITHDRAWAL STANDARDS FOR THE FUND, AND IMPOSING DEPOSIT AND WITHDRAWAL NORMS THROUGHOUT THE ANNUAL GOVERNOR'S RECOMMENDED BUDGET PROCESS.

WHEREAS, a bipartisan commitment to balanced budgets and sound financial planning has fostered Delaware's reputation for fiscal prudence and budgetary restraint which are further bolstered by the State's constitutional limitations on state government expenditures as well as its Budget Reserve Account and statutory limits on State indebtedness; and

WHEREAS, this bipartisan commitment has been strengthened and reinforced by the availability of credible, nonpartisan, and expert projections of the State's revenues and expenditures and of important national and state economic trends by the Delaware Economic and Financial Advisory Council ("DEFAC"); and

WHEREAS, DEFAC has, since 1977, provided a sound basis on which to make determinations regarding the State's operating and capital budgets; and

WHEREAS, the 149th General Assembly enacted and the Governor signed House Joint Resolution No. 8 creating an Advisory Panel to the DEFAC on Potential Fiscal Controls and Budget Smoothing Mechanisms; and

WHEREAS, the budget stabilization process, as established in Executive Order No. 21 and implemented by DEFAC and the Director of the Office of Management and Budget and budgets enacted by the General Assembly and signed by the Governor, has enabled Delaware to build substantial and accessible reserves and manage expected budget deficits without the necessity for major tax policy changes or budget cuts over the past 6 budget cycles; and

WHEREAS, DEFAC's expertise should be used to advise the Governor and General Assembly on an objective, sustainable growth rate for budgetary appropriations to inform ongoing adjustments to the State's revenue and expenditure portfolios.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 6335, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6335. Changes in budget plan by Governor; submission of proposed budget and Budget Appropriation Bill to General Assembly.

(a) (1) The Governor, upon receipt of the report of the Director of the Office of Management and Budget under § 6334 of this title, may make such changes in the report as the Governor may deem necessary or desirable in accordance with the Governor's own best judgment and conclusion and shall submit the budget report as prepared by the Governor based upon the report of the Director of the Office of Management and Budget to each House of the General Assembly, on or before February 1 of each year.

(2) At the same time the Governor submits the proposed budget, the Governor shall submit copies of a tentative bill for all proposed appropriations for the budget, clearly itemized and properly classified for the ensuing fiscal year. This bill shall be known as the "Budget Appropriation Bill."

(3) The Budget Appropriation Bill shall include the appropriation to the OPEB Fund required under § 5544(c)(2) of this title.

(4) The Budget Appropriation Bill submitted by the Governor must consider the Benchmark Appropriation and Budget Stabilization Fund requirements, as set forth in § 6533 (i) through (l) of this title, unless the Governor deems any changes necessary or desirable, in accordance with the Governor's own best judgement and conclusion, and detail the proposed plan for financing these requirements and measures, if any, in relation to state revenue or reserve funding under § 6533(i)(2) of this title. The Governor may explain in the budget report any changes from the Benchmark Appropriation and Budget Stabilization Fund requirements.

Section 2. Amend § 6533, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6533. Limitation on ~~appropriations.~~ appropriations; advisory benchmark; budget stabilization fund.

(i) A Benchmark Appropriation is established, and is to be calculated for a fiscal year as the sum of the product of the Benchmark Index for the fiscal year and the sum of the previous fiscal year's Budget Act and appropriations for grants-in-aid and the appropriation to the OPEB Fund, required under § 5544(c)(2) of this title, plus an amount not to exceed 1% of the previous fiscal year's Budget Act, but only to the extent that the amount is directed as a supplemental appropriation to the bond and capital improvements act for the fiscal year.

(1) The Benchmark Index must be comprised of relevant indicators of growth in the State's economy and initially be comprised of equal weightings of the 3-year average from the current and 2 preceding fiscal years of all of the following:

a. Delaware personal income growth.

b. Delaware population growth, plus the growth in the implicit price deflator for state and local government purchases.

(2) The Benchmark Index must be estimated and reported to the Governor and General Assembly by the Delaware Economic and Financial Advisory Council in December and May of each fiscal year. The report must include a statement of existing reserve funding available, including all of the following:

a. The balance in the Budget Reserve Account, established under § 6 of Article VIII of the Delaware Constitution.

b. The 2% set-aside, as determined by the 98% appropriation limit under § 6 of Article VIII of the Delaware Constitution.

c. The balance that was allocated to the Budget Stabilization Fund that is established under subsection (k) of this section.

(3) The Delaware Economic and Financial Advisory Council shall review the impacts of, and recommend changes to, the calculation of the Benchmark Index with a report to the Governor and General Assembly not later than October 31 of the fiscal year of a general election for the Governor of this State.

(j) Except as provided under § 6335(a)(4) of this title, aggregate General Fund appropriations in the Budget Appropriation Bill required to be submitted by the Governor under § 6335(a) of this title, and supplemental appropriations for grants-in-aid, may not exceed the product of 1 plus the Benchmark Index and the sum of aggregate General Fund appropriations in the prior year's Budget Act plus supplemental appropriations for grants-in-aid.

(k) A Budget Stabilization Fund is established as a reserve account. Deposits to and appropriations and withdrawals from the Budget Stabilization Fund are authorized as follows:

(1) Whenever estimated unencumbered funds are projected to be negative during the current fiscal year, the General Assembly, by joint revenue resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor under § 6(b) of Article VIII of the

Delaware Constitution or act, may subtract funds from the Budget Stabilization Fund and include the funds in a revision of estimated unencumbered funds.

(2) The Director of the Office of Management and Budget shall transfer to the Budget Stabilization Fund the unencumbered balance at the end of each fiscal year in excess of the 2% set-aside, as determined by the most recent joint revenue resolution for the fiscal year under § 6 of Article VIII of the Delaware Constitution and this section.

(3) For purposes of the Budget Appropriation Bill required under § 6335(a) of this title, whenever the 98% limit under § 6 of Article VIII of the Delaware Constitution for the subsequent fiscal year is more than the Benchmark Appropriation for the fiscal year, the excess is considered “extraordinary revenues” available for allocation only to the Budget Stabilization Fund, non-recurring expenditures, or reducing long-term liabilities. The distribution of extraordinary revenues and any such changes may be detailed in the report and the Budget Appropriation Bill as required under § 6335(a) of this title.

(4) For purposes of the Budget Appropriation Bill required under § 6335(a) of this title, whenever the 98% limit under § 6 of Article VIII of the Delaware Constitution for any given fiscal year is less than the Benchmark Appropriation for the fiscal year, the report and the Budget Appropriation Bill required under § 6335(a) of this title must detail whether and how much funding is proposed to be subtracted from the Budget Stabilization Fund and included in estimated unencumbered funds when determining the joint revenue resolution approved from time to time by a majority of the members elected to each House of the General Assembly and signed by the Governor under § 6(b) of Article VIII of the Delaware Constitution.

(l) Notwithstanding subsection (k) of this section, deposits to and appropriations and withdrawals from the Budget Stabilization Fund solely for the report and the Budget Appropriation Bill required under § 6335(a) of this title to be proposed and submitted by the Governor are limited as follows:

(1) A deposit is not required when the balance of the Budget Stabilization Fund is at or above 5% of only the estimated State General Fund revenues, as determined under subsection (b) of this section.

(2) A deposit may not be made that would increase the balance of the Budget Stabilization Fund to more than 7% of only the estimated State General Fund revenues.

(3) Appropriations and withdrawals from the Budget Stabilization Fund for any given fiscal year may not exceed 50% of the balance of the Budget Stabilization Fund.

Section 3. This Act takes effect on December 1, 2024.

Approved June 30, 2024