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98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SENATE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT

SC0020

Introduced 2/15/2013, by Sen. Matt Murphy

SYNOPSIS AS INTRODUCED:

Proposes to add a Pension Funding and Fairness Article to the Illinois Constitution. Provides that the maximum annual percentage change in State fiscal year spending may not exceed the inflation adjustment factor plus the population adjustment factor. Provides that, in order to adopt an increase in State spending beyond that limit or an increase in State revenue, the measure must be approved by a three-fifths supermajority vote of each chamber of the General Assembly and must be approved by a majority of voters. Provides for the imposition of an emergency tax. Establishes the Past Due Paydown Fund, into which the Comptroller shall transfer any amount necessary up to the total past due operating debt owed by the State, and provides that the General Assembly may authorize transfers, appropriations, and allocations from the fund to fund only the costs of paying down the remaining past due debt. Requires any remaining funds to be transferred into the State Budget Stabilization Fund. Establishes the State Budget Stabilization Fund to fund the costs of State government up to the expenditure limit in years when State revenues are less than the amount necessary to finance expenditures. Limits the fund to 8% of the total General Fund revenues received in the immediately preceding fiscal year, and requires the transfer of any excess into the Taxpayer Relief Fund. Establishes the Taxpayer Relief Fund, and provides that, if the amount in that fund exceeds 1% of General Fund expenditures, then the General Assembly shall enact legislation to provide for the refund to taxpayers of amounts in the fund. Contains provisions concerning annual pension payments. Effective upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.

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SENATE JOINT RESOLUTION

CONSTITUTIONAL AMENDMENT

RESOLVED, BY THE SENATE OF THE NINETY-EIGHTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to add Article XIII 1/2 of the Illinois Constitution as follows:

(ILCON Art. XIII 1/2 heading new)

ARTICLE XIII 1/2

PENSION FUNDING AND FAIRNESS

(ILCON Art. XIII 1/2, Sec. 1 new)

SECTION 1. DEFINITIONS

As used in this Article:

"Emergency" means extraordinary circumstances outside the control of the General Assembly, including catastrophic events, such as a natural disaster, terrorism, fire, war, and riot, as well as court orders or decrees.

"General Fund" means the General Revenue Fund, Common School Fund, and Education Assistance Fund.

"Increase in State revenue" means any net gain in State revenue of at least 0.01% of General Fund revenue in at least one fiscal year that results from (1) enacting a new tax or fee; (2) increasing the rate or expanding the base of an existing tax or fee; (3) repealing or reducing a tax exemption, credit, or refund; or (4) extending an expiring tax increase or fee.

"Inflation adjustment factor" means the annual percentage increase in the Chicago Metropolitan Statistical Area Consumer Price Index for the most recently available calendar year as calculated by the United States Department of Labor, Bureau of Labor Statistics. The inflation adjustment factor may not be less than zero or more than 10%.

"Monthly pro rata pension payment" means the average monthly pension payment calculated by dividing the total fiscal year annual pension payment by 12 months.

"Pension payment" means the total annual required pension payment for each fiscal year as defined by the Commission on Government Forecasting and Accountability following generally accepted accounting principles.

"Population adjustment factor" means the average annual percentage increase in population for the 3 most recent years for which data is available, as determined annually by the United States Department of Commerce, Census Bureau. The population adjustment factor may not be less than zero.

"Revenue" means taxes and fees collected by the State.

"State spending" means any authorized State appropriations and allocations.

"Tax" means any amount raised for the general support of government functions.

(ILCON Art. XIII 1/2, Sec. 2 new)

SECTION 2. SPENDING GROWTH INDEX

(a) Beginning with the fiscal year that starts after Article XII 1/2 takes effect, the maximum annual percentage change in State fiscal year spending in the categories specified may not exceed the inflation adjustment factor plus the population adjustment factor. This limitation, the Spending Growth Index, must be calculated separately for the following categories: General Fund; Road Fund; and all other funds.

(b) The following may not be counted in calculating expenditure limitations or, if applicable, revenue limitations:

(1) Amounts returned to taxpayers as refunds of amounts exceeding the expenditure limitation in a prior year.

(2) Amounts received from the federal government.

(3) Amounts collected on behalf of another level of government.

(4) Pension contributions by employees and pension fund earnings.

(5) Pension and disability payments made to former government employees.

(6) Amounts received as grants, gifts, or donations

that must be spent for purposes specified by the donor.

(7) Amounts paid pursuant to a court award.

(8) Reserve transfers.

(ILCON Art. XIII 1/2, Sec. 3 new)

SECTION 3. APPROVAL OF EXPENDITURE INCREASES

(a) In order to adopt an increase in State spending beyond the limitation set forth in Section 2 of this Article, the measure must be approved by a three-fifths supermajority vote of all members of each house of the General Assembly and must be approved by a majority of voters. Voter approval is not required if the spending is as a result of an increase in State revenue under Section 4 of this Article.

(b) The question of whether to adopt legislation to allow an increase in State spending beyond the limitation set forth in Section 2 of this Article must be submitted to the voters for approval at the next general election. If the General Assembly determines by a three-fifths supermajority vote that legislation to increase spending beyond the limitation should take effect sooner than the next general election, the General Assembly may provide for submission of the question to the voters at any regular or special election.

A measure submitted to the voters must include an estimate as set forth in the legislation of the spending increase resulting from the measure for the first 3 fiscal years of its implementation.

(c) At least 30 days before an election at which voter approval of an increase in State spending is sought, the Secretary of State shall mail, at least once, a titled notice or set of notices addressed to all registered voters in the State at each address of every registered voter. Notices must include all of the following information and may not include any additional information:

(1) The election date, hours, ballot title, and text.

(2) For each proposed spending increase, the estimated or actual total of fiscal year spending for the current year and each of the past 4 years, and the overall percentage and dollar change.

(3) For the first full fiscal year of each proposed spending increase, estimates of the maximum dollar amount of each increase and of fiscal year spending without the increase.

(d) Ballot questions for spending increases must begin: "Shall State spending increase by (amount of first or, if phased in, full fiscal year dollar increase) annually for the purpose of . . .?".

(e) The State shall reimburse municipalities and counties for the costs of a special election.

(ILCON Art. XIII 1/2, Sec. 4 new)

SECTION 4. APPROVAL OF REVENUE INCREASES

(a) In order to adopt an increase in State revenue, the measure must be approved by a three-fifths supermajority vote of all members of each house of the General Assembly and must be approved by a majority of voters. Voter approval is not required if annual State revenue is less than annual payments on general obligation bonds, required payments relating to pensions, and final court judgments or if the measure is an emergency tax.

(b) The question of whether to adopt legislation to impose an increase in revenue of the State must be submitted to the voters for approval at the next general election. If the General Assembly determines by a three-fifths supermajority vote that legislation to increase revenue via an emergency tax should take effect sooner than the next general election, the General Assembly may provide for submission of the question to the voters at any regular or special election.

A measure submitted to the voters must include an estimate of the amount to be raised by the measure for the first 3 fiscal years of its implementation.

(c) At least 30 days before an election at which voter approval of a revenue increase is sought, the Secretary of State shall mail, at least once, a titled notice or set of notices addressed to all registered voters at each address of every registered voter. Notices must include all of the following information and may not include any additional information:

(1) The election date, hours, ballot title, and text.

(2) For each proposed revenue increase, the estimated or actual total of fiscal year spending for the current year and each of the past 4 years, and the overall percentage and dollar change.

(3) For the first full fiscal year of each proposed revenue increase, estimates of the maximum dollar amount of each increase and of fiscal year spending without the increase.

(d) Ballot questions for revenue increases must begin: "Shall (description of the tax increase) to increase State revenues by (amount of first or, if phased in, full fiscal year dollar increase) annually for the purpose of . . .?".

(e) The State shall reimburse municipalities and counties for the costs of a special election.

(ILCON Art. XIII 1/2, Sec. 5 new)

SECTION 5. EMERGENCY TAXES

(a) The State may impose emergency taxes only in accordance with this Section.

(b) The tax must be approved for a specified time period by a three-fifths majority of the members of each house of the General Assembly.

(c) Emergency tax revenue may be spent only after other available reserves are depleted and must be refunded 180 days after the emergency ends if not spent on the emergency.

(d) The tax must be submitted for approval by the voters at the next regular election.

(e) If not approved by the voters as provided in subsection (d), the emergency tax expires 30 days following the election.

(f) The provisions of this Section apply notwithstanding Article IX.

(ILCON Art. XIII 1/2, Sec. 6 new)

SECTION 6. PAST DUE PAYDOWN FUND

(a) The Past Due Paydown Fund is established and must be administered for the purposes identified in this Section. At the close of the lapse period of each fiscal year, the State Comptroller shall identify the amount of General Fund unappropriated surplus above the Spending Growth Index limitation and transfer to the fund any amount necessary up to the total past due operating debt owed by the State as of the close of that fiscal year.

(b) The General Assembly may authorize transfers, appropriations, and allocations from the fund only to fund the costs of paying down the remaining past due debt until such debt is zero. Any remaining funds shall be transferred to the State Budget Stabilization Fund.

(ILCON Art. XIII 1/2, Sec. 7 new)

SECTION 7. STATE BUDGET STABILIZATION FUND

(a) The State Budget Stabilization Fund is established and must be administered for the purposes identified in this

Section. At the close of the lapse period of each fiscal year, the State Comptroller shall identify the amount of General Fund unappropriated surplus above the State Spending Growth Index expenditure limitation and above the amount necessary to fully fund and pay down the past due operating debt to zero. The fund may not exceed 8% of the total General Fund revenues received in the immediately preceding fiscal year.

(b) The General Assembly may authorize transfers, appropriations, and allocations from the fund to fund only the costs of State government up to the expenditure limit calculated under Section 2 in years when State revenues are less than the amount necessary to finance the level of expenditures permitted under Section 2. Transfers require a three-fifths supermajority vote of the General Assembly.

(c) The money in the fund may be invested as provided by law, with the earnings credited to the fund. At the close of every month during which the fund is at the 8% limitation, the State Comptroller shall transfer the excess to the Taxpayer Relief Fund.

(ILCON Art. XIII 1/2, Sec. 8 new)

SECTION 8. TAXPAYER RELIEF FUND

(a) The Taxpayer Relief Fund is established and must be administered for the purposes identified in this Section. At the close of the lapse period of each fiscal year, the State Comptroller shall identify the amount of the General Fund unappropriated surplus above the State expenditure limitation and above the amount necessary to fully fund the Past Due Paydown Fund and the Budget Stabilization Fund.

(b) By August 1st annually, the State Comptroller shall notify the Commission on Government Forecasting and Accountability and the Department of Revenue of the amount in the fund as a result of the transfers.

(c) If the amount in the fund exceeds 1% of General Fund expenditures, then the General Assembly shall, by November 15th, enact legislation to provide for the refund to taxpayers of amounts in the fund. Refunds may take the form only of temporary or permanent broad-based tax rate reductions.

(d) If the General Assembly does not enact legislation by November 15th to provide refunds, then the State Comptroller shall, by November 30th, notify the Department of Revenue of the amount in the fund. The Department of Revenue shall calculate a one-time bonus personal exemption refund. The amount of the personal exemption refund must be calculated by dividing the amount in the fund identified by the State Comptroller by the number of personal exemptions claimed on income tax returns filed for the tax year beginning in the previous calendar year. The Department of Revenue shall issue a refund by December 30th to a taxpayer who filed an income tax return by April 15th of the same calendar year based on the number of exemptions claimed (times refund per exemption) on the taxpayer's return without regard to the taxpayer's tax liability for the year.

(ILCON Art. XIII 1/2, Sec. 9 new)

SECTION 9. PENSION PAYMENTS

(a) Notwithstanding any other law, beginning with fiscal year following the adoption of this Article and for each budget year thereafter, the General Assembly's first appropriation each year must be directed to make the full annual pension payment defined by the Commission on Government Forecasting and Accountability, acting in compliance with generally accepted accounting principles. This appropriation must be made first, and executing it (making the actual payments required by it) shall take precedence over any other appropriation or expenditure.

Exceptions may be made to the pension payment requirement in this subsection (a) if authorized by a law approved by a three-fifths vote of each chamber of the General Assembly and approved by the Governor. Any exceptions made by the General Assembly shall specify the dollar amount and purposes of appropriations that shall be made prior to the pension payment.

(b) By March 1 of each year, the State Comptroller shall take the total annually required pension payment for the upcoming fiscal year (beginning on July 1) and divide that number by 12. This amount becomes the monthly pro rata pension payment for each month of the upcoming fiscal year.

If, during the fiscal year, the Commission on Government

Forecasting and Accountability adjusts the annually required pension payment for the current year upward, the State Comptroller shall recalculate the monthly pro rata pension payment upward accordingly and allocate the increase evenly over the remaining months to ensure that the full annual pension payment is made for the fiscal year.

If, during the fiscal year, the Commission on Government Forecasting and Accountability adjusts the annually required pension payment downward, the original payment schedule shall be maintained. Payments in excess of the revised payment schedule shall be allocated to any existing unfunded pension liability.

If, during the fiscal year, the Commission on Government Forecasting and Accountability adjusts the annually required pension payment downward, and if there is no remaining unfunded pension liability as calculated by the Commission on Government Forecasting and Accountability in compliance with generally accepted accounting principles, then the State Comptroller shall recalculate the monthly pro rata pension payment downward accordingly and allocate the reduction evenly over the remaining months to ensure that the full annual pension payment is made for the fiscal year.

By no later than the 5th of each month, the Comptroller shall disburse funds as authorized by the pension payment appropriation to the various State retirement systems so that the total payment equals the monthly pro rata pension payment.

The payments shall be allocated proportionally to each retirement fund as calculated by the Commission on Government Forecasting and Accountability.

There shall be no exceptions to this subsection (b) except as authorized by a law approved by a three-fifths vote of each chamber of the General Assembly and approved by the Governor.

(c) If for any reason the monthly pro rata pension payment is not made by the 5th of the month, or if for any reason the accumulated payments for the year do not equal the sum of the monthly pro rata pension payments for the months having passed during the fiscal year, then the State Comptroller shall cease all payments from State resources until such time as the pension payment is brought current for the year.

There shall be no exceptions to this subsection (c) except as authorized by a law approved by a three-fifths vote of each chamber of the legislature and approved by the Governor.

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act.