



Alabama trust fund referendum Sept. 18 may mean major financial shift

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By **David White -- The Birmingham News**



Alabama voters will determine Sept. 18 whether the trust fund will be used to beef up the General Fund. Gov. Robert Bentley said the monies would help avoid hefty cuts in state services.

MONTGOMERY -- Alabama voters will decide Sept. 18 whether to rewrite the state constitution to allow \$437.4 million in special transfers from a trust fund to the state General Fund.

Spending from the General Fund -- which supports Medicaid, prisons and other non-education services -- has fallen since the 2008 fiscal year in the wake of the recession.

Supporters of the amendment say the extra money, paid over three years, would be a bridge to prop up government spending as cost-cutting efforts continue.

"This amendment will allow us to use savings the state already has in order to avoid further, devastating cuts," Gov. Robert Bentley said last week in a written statement. "This will allow us to maintain a basic level of services we all depend on."

Opponents say that the move would decrease the value of the Alabama Trust Fund, which now gives most of its income to the General Fund, and that state leaders, instead, should do more to squeeze efficiencies out of state agencies.

"There are better ways for us to deal with the budget problems of the General Fund than taking \$437 million out of our state savings account," said former state Sen. Bradley Byrne of Fairhope, who lost to Bentley in the governor's race in 2010.

The trust fund now collects most of the royalties paid the state by companies that pump natural gas offshore. It has

about \$2.3 billion in invested assets.

Bentley has vowed to oppose broad-based tax increases, and legislative leaders say his position means the Legislature almost certainly would not raise taxes to patch the General Fund if the referendum fails.

State Rep. Greg Wren, R-Montgomery, who chairs a joint legislative committee on Medicaid, said voters face a choice: pass the Sept. 18 referendum or see a big cut in General Fund spending, which is budgeted at about \$1.7 billion for the fiscal year that starts Oct. 1.

"There is no alternative to preventing massive reductions and elimination of many health care and public services," said Wren, who is urging people to vote yes.

Other supporters said the trust fund would have to be tapped for only a few years because cuts already are being made to state spending.

"We remain confident that the public will approve this temporary transfer so the common-sense conservative budgeting practices and cost-cutting measures we have already put in place will have time to take effect and produce results," said Speaker Mike Hubbard, R-Auburn, leader of the state House of Representatives.

But Gary Palmer, president of the non-partisan Alabama Policy Institute in Birmingham, said rejection of the referendum would force leaders to get more serious about making state government efficient and able to live within its means.

"Basically, what this \$437 million does is it covers them through the next three budgets. What this will be doing is subsidizing the inefficiencies and waste that need to be dealt with," Palmer said.

Sen. Dick Brewbaker, R-Pike Road, said he thinks Bentley and legislators as a whole want to take the easy way out, raiding the trust fund to avoid making tough decisions on taxes or cost-cutting before they all face re-election in 2014.

"It just doesn't seem to be a responsible act," he said.

The unknowns

Many details are known about the referendum proposal, but unknowns abound.

For instance, if the referendum fails, it's uncertain just how much money would be chopped from next year's General Fund spending plan as passed by the Legislature, since the proposed constitutional amendment would do more than approve special transfers from the trust fund. It also would change the decades-old, regular annual transfers of money from the trust fund to the General Fund.

Actual cuts in budgeted General Fund spending in the next fiscal year might range from \$110.1 million, 6.5 percent, to \$184.4 million, 10.9 percent, depending on how the stock market performs between now and Sept. 30.

It's also uncertain, if the referendum fails, how each state agency that gets General Fund money would be affected by the cuts.

Bentley hasn't said whether he would declare proration, to chop next year's General Fund spending across-the-board and evenly spread the cuts, or whether he would ask lawmakers to adjust the budget to limit or erase cuts for some agencies while deepening them for others.

"We would have to look at all options, except for raising taxes on Alabama families," Bentley said.

Besides making special transfers of \$145.8 million a year in each of the next three fiscal years, the proposed amendment also would change how annual payments would be made year after year from the trust fund to the General Fund in a way that could boost the payment by as much as \$52 million next year, estimated the Legislative Fiscal Office.

So in all, the General Fund budget that lawmakers approved for the fiscal year that starts Oct. 1 counts on spending as much as \$197.8 million that would be available only if voters say yes Sept. 18. If the referendum passes, \$13.4 million in conditional spending would be added to next year's budgeted General Fund spending, bringing the total to \$1.698 billion.

If the referendum fails, budgeted General Fund spending next year would total \$1.685 billion, which would exceed available revenues by as much as \$184.4 million, a shortfall of 10.9 percent.

But the shortfall might not be that severe.

If the referendum fails, the current way that regular, annual payments are made from the Alabama Trust Fund to the General Fund would continue, with the General Fund getting most of the interest and other income generated by the trust fund. The Legislative Fiscal Office estimates the General Fund would get \$62 million in income from the trust fund next year if the referendum fails. But the LFO assumed the General Fund would not collect any capital gains from increases in value of stock sold by the trust fund or held by it.

The constitution lets the trust fund's board transfer to the General Fund most of the trust fund's annual capital gains on stocks as of Sept. 30, either profits from sales of stock or increases in the value of stock kept by the trust fund.

If the deadline had been June 30, given the trust fund's capital gains at that time, the board could have transferred as much as \$74.3 million to the General Fund, according to state Treasurer Young Boozer's office.

That big a transfer of capital gains would reduce the General Fund's estimated shortfall next year to \$110.1 million, 6.5 percent.

Of course, between now and Sept. 30 a sharp drop in the stock market could slash the trust fund's capital gains and a sharp uptick could boost them.

Corrections Commissioner Kim Thomas said that, if the referendum fails and his agency sees an 8.6 percent cut in its

budgeted General Fund spending for next year, it could lose 1,100 of its roughly 4,000 employees and be forced to close prisons and work release centers. That could lead to the release of at least 9,000 of the roughly 25,400 inmates now in state facilities.

"If it's voted down, the criminal justice system in Alabama is going to be significantly disrupted," Thomas said.

Human resources department Commissioner Nancy Buckner said she's preparing for a 13 percent cut in her agency's budgeted General Fund spending for next year, which could happen if the referendum fails and lawmakers protect Medicaid and prisons from some of the impact, thus increasing cuts at other agencies.

Buckner said a 13 percent cut likely would end subsidized child care for 7,500 children with foster parents or low-income parents who work or take classes. About 28,200 children are in the program.

State Health Officer Don Williamson said that, with a 13 percent cut in the public health department's budgeted General Fund spending next year, the agency likely would close some county health departments, though he didn't know how many. There now is an office in each county.

Williamson also said deep cuts in General Fund spending for Medicaid might not be possible without triggering reductions in patient access. That could spark a federal lawsuit the state well could lose, and a judge could wind up telling the state how it must fund Medicaid, he said.

"That will end up costing you more, not only in legal fees, but more in state dollars to provide the services," he said.

If voters say yes Sept. 18, the Legislative Fiscal Office estimates that revenues would match the General Fund's \$1.698 billion spending target for fiscal 2013, which still would be about \$36 million, 2 percent, less than this year's expected General Fund spending.

Smaller fund

But special transfers to the General Fund likely would mean the Alabama Trust Fund would be \$437.4 million smaller than it otherwise would have been about three years from now. The smaller the trust fund, the less money it could give the General Fund in annual payments in coming decades.

Bentley and many top-ranking legislators have promised to eventually repay the \$437.4 million to the trust fund.

"We are committed to paying the fund back," Bentley said.

But Rep. Craig Ford, D-Gadsden, said that, if Bentley and the Republicans who run the Legislature were serious, they would have required repayment in the proposed constitutional amendment.

"I seriously doubt they're going to do it," said Ford, leader of the 39 Democrats in the Alabama House.

The Alabama Trust Fund gets 64.35 percent of the state's natural gas royalties. The General Fund each year gets about 69 percent of the trust fund's dividends and other income.

The trust fund's nine-member board, which is led by the governor, also can transfer to the General Fund as much as 52.5 percent of the trust fund's annual capital gains on stocks.

Smaller shares of earnings, or in some cases capital gains, from the trust fund now are distributed to cities and counties, the state's Forever Wild conservation program, a senior services trust fund and a trust fund for cities and counties.

If voters approve the referendum Sept. 18, the current system for annually transferring money from the trust fund to the General Fund and those other recipients would change.

Under the new system, the trust fund would keep its income and capital gains. Instead, the General Fund and other recipients each year could get an amount equal to 32.7 percent of the state's natural gas royalties from an earlier year plus 5 percent of the value of the trust fund's invested assets averaged over three years.

However, six or more of the trust fund's nine board members could vote to reduce payments if they judged that payments would be "detrimental" to the preservation of the trust fund's assets.

The General Fund and other recipients next year would share as much as \$163 million under the new system.

The regular annual payments would be in addition to the special transfers of \$145.8 million in each of the next three fiscal years.

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