

**JBC STAFF FISCAL ANALYSIS
SENATE APPROPRIATIONS COMMITTEE**

CONCERNING THE STATE PERSONNEL SYSTEM, AND, IN CONNECTION THEREWITH, ENACTING THE "MODERNIZATION OF THE STATE PERSONNEL SYSTEM ACT".

Prime Sponsors: Reps. Ferrandino and Vaad
Sens. Johnston and King K.

JBC Analyst: Eric Kurtz
Phone: 303-866-4952
Date Prepared: April 4, 2012

Summary of Amendments Made to the Bill After the 03/27/12 Legislative Council Staff Revised Fiscal Note Was Prepared (Amended by the State, Veterans, and Military Affairs Committee 03/28/12)

The Senate State, Veterans, and Military Affairs Committee Report:

- Clarified and limited the reversions diverted to the State Employee Reserve Fund;
- Limited the basis for appeals to the State Personnel Board to the comparative analysis process, rather than the selection and comparative analysis process; and,
- Conformed statutory references to the terminology used in this bill.

The amendment reduced the potential reversions diverted to the State Employee Reserve Fund, but the total reversions are not projected in the Legislative Council Staff Fiscal Note. The limitation on the appeals to the State Personnel Board will have a minimal impact on workload that will not impact expenditures.

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

| | | | | | |
|-------------------------------------|---------|--------------------------|-----------------|--------------------------|------------------|
| <input checked="" type="checkbox"/> | Concurs | <input type="checkbox"/> | Does Not Concur | <input type="checkbox"/> | Updated Analysis |
|-------------------------------------|---------|--------------------------|-----------------|--------------------------|------------------|

Amendments/Appropriation Status

The bill neither requires nor contains an appropriation clause for FY 2012-13.

Bill Sponsor Amendments

Sponsor amendment **L.023** (attached) limits the purpose of transfers between department accounts in the State Employee Reserve Fund to providing moneys to a department that is unable to generate substantial reversion amounts. This does not change the fiscal impact of the bill.

Points to Consider

1. The amount of money available in the State Employee Reserve Fund by department will likely reflect the structure of the Long Bill and source of funds for each department more than a department's proportion of total employees, salaries, or reversions.

First, the definition of line items that would revert to the State Employee Reserve Fund misses a category of line items, which may be described as program line items, that include funding for a mixture of personal services, operating expenses, and contract services. For example, the FY 2012-13 Long Bill includes a line item for the Department of Human Services labeled "Child Care Licensing and Administration" with 64.4 FTE and \$2.2 million General Fund that would not fit the bill's definition of a "personal services-related line item" or a line item entitled "operating expenses" that would revert to the State Employee Reserve Fund.

Second, the bill limits moneys deposited in the State Employee Reserve Fund to reversions from the General Fund or a "qualifying cash fund" with an express authorization to revert to the State Employee Reserve Fund. There are no cash funds that currently include such an express authorization, and so effectively the only moneys deposited in the State Employee Reserve Fund will be from the General Fund. This avoids potential conflicts with statutory, constitutional, or federal limitations on the uses of an appropriation from cash funds or federal funds, but it means that departments financed with large portions of cash funds and federal funds will have less money available for merit pay in their department-specific account of the State Employee Reserve Fund than departments financed primarily with the General Fund. For example, the FY 2012-13 Long Bill includes 1,006.3 FTE for the Department of Labor and Employment and no General Fund, and for the Secretary of State includes 133.0 FTE but no General Fund.

The bill provides limited flexibility for the Governor to transfer up to \$2.0 million dollars in a fiscal year between department-specific accounts in the State Employee Reserve Fund.

2. The bill may result in more detailed and less flexible appropriations in the Long Bill, if the General Assembly provides funding for merit pay. The bill adds a new subparagraph (I.9) to Section 24-50-104 (1) (c), C.R.S. that requires appropriations of merit pay, "in a line item entitled "personal services" in the annual general appropriation act." This means that program lines, which include a mixture of personal services, operating expenses, and contract services, must be broken into component parts to provide merit pay in the personal services line item. Breaking apart program line items to detail personal services and other components would address some of the potential disproportionate distribution of funds in department-specific accounts of the State Employee Reserve Fund described in the first point

to consider. It would also result in less flexibility for departments when using these appropriations.

3. Diverting reversions from the General Fund to the State Employee Reserve Fund, and then continuously appropriating money in the State Employee Reserve Fund, delegates a portion of legislative authority over these funds to the executive branch.