Bill Analysis

Richard Bloedel *Legislative Service Commission*

Nonappropriation provisions of

Am. S.B. 206

123rd General Assembly
(As Passed by the Senate)

Sens. Carnes, Ray, Cupp, Watts, Prentiss, Oelslager, Blessing, Gardner, Mumper, Spada, Espy

BILL SUMMARY

- Authorizes the Treasurer of State to issue general obligations of the state in an aggregate amount of up to $150 million for the purpose of paying costs of facilities for the state system of common schools.
- Authorizes the Ohio Public Facilities Commission to issue general obligations of the state in an aggregate amount of up to $150 million for the purpose of paying costs of facilities for state-supported and state-assisted institutions of higher education.
- For obligations issued before July 1, 2000, requires the Governor or the Governor's designee to compute the amounts required for debt service payments for the purposes of the new limitation in the Ohio Constitution on the amount of direct obligation debt the state can issue.
- Makes appropriations for paying debt service on the obligations authorized by the bill.
- Declares an emergency.

CONTENT AND OPERATION

Background: Sections 2n and 17 of Article VIII of the Ohio Constitution

In November, 1999, the state's electors approved Sections 2n and 17 of Article VIII of the Ohio Constitution. Section 2n allows the state to issue general obligation bonds to pay the costs of constructing, acquiring, or improving facilities for "a system of common schools throughout the state" and for "state-supported and state-assisted institutions of higher education." The Constitution does not limit the aggregate principal amount of debt that can be issued under Section 2n. But Section 17 imposes a limitation on the state's overall authority to incur debt, by prohibiting the issuance of new bonds under Article VIII if the amount of debt service on the state's direct obligations (obligations on which the state is the primary or only obligor) that must be paid in any future fiscal year from the General Revenue Fund (GRF) and net lottery proceeds would exceed 5% of total estimated GRF and net lottery proceed revenue during the fiscal year of issuance. (The General Assembly can waive the limitation by the vote of at least 3/5 of the members of each house.) Section 17 requires the General Assembly to provide by law for computing the amounts required for debt service payments for the purposes of the 5% limitation.

Bonding authority for primary and secondary education facilities

(Section 1)

The bill authorizes the Treasurer of State to issue general obligations of the state in an aggregate principal amount of up to $150 million for the purpose of paying costs of facilities for the state system of common schools. The net proceeds of the obligations must be deposited into the School Building Program Assistance Fund, which is created in the state treasury under existing law for the use of the Ohio School Facilities Commission (R.C. 3318.25, not in the bill).

The Treasurer of State is authorized to sell the obligations at public or private sale. The state's full faith and credit, revenue, and taxing power are pledged to the timely payment of debt service on the obligations. Net state lottery proceeds can be used to pay the debt service, but revenue relating to the registration, operation, use, or fueling of vehicles on public highways cannot. State revenue pledged to repay the obligations must be credited to the Common Schools Capital Facilities Bond Service Fund, which the bill creates in the state treasury, and debt service payments are to be made from that fund. If at any time the balance in the Common Schools Capital Facilities Bond Service Fund is insufficient to make debt service payments when due, the Office of Budget and Management must transfer the amount needed from state excises, taxes, lottery proceeds, and other receipts as provided in the bond proceedings.

Bonding authority for higher education facilities

(Section 2)

The bill authorizes the Ohio Public Facilities Commission to issue general obligations of the state in an aggregate principal amount of up to $150 million for the purpose of paying costs of facilities for state-supported and state-assisted institutions of higher education.[1] The net proceeds of the obligations must be deposited into the Higher Education Improvement Fund, which is created in the state treasury under existing law for the proceeds of higher education obligations issued by the Commission (R.C. 154.21, not in the bill).

The Commission is authorized to sell the obligations at public or private sale. The state's full faith and credit, revenue, and taxing power are pledged to the timely payment of debt service on the obligations. However, neither net state lottery proceeds nor revenue relating to the registration, operation, use, or fueling of vehicles on public highways can be used to pay the debt service. State revenue pledged to repay the obligations must be credited to the Higher Education Capital Facilities Bond Service Fund, which the bill creates in the state treasury, and debt service payments are to be made from that fund. If at any time the balance in the Higher Education Capital Facilities Bond Service Fund is insufficient to make debt service payments when due, the Office of Budget and Management must transfer the amount needed from state excises, taxes, and other receipts as provided in the bond proceedings.

Common procedures and requirements

(Sections 1, 2, and 3)

For both the common school and higher education obligations, the bill's requirements with respect to the procedure for the issuance of the obligations, their characteristics, the costs that can be paid with the proceeds, and the rights, remedies, powers, and duties of the issuer and the bondholders generally parallel the provisions of existing law governing the state's issuance of general obligations for park and recreation projects and local government infrastructure projects.[2]

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[1] For the bill's purposes, a "state-supported or state-assisted institution of higher education" means one of the 13 state universities, a community college district, a technical college district, a university branch district, a state community college, the Northeastern Ohio Universities College of Medicine, the Medical College of Ohio at Toledo, or any two or more of these institutions acting jointly.

[2] Under the bill, the "costs of capital facilities" that can be paid with bond proceeds are defined as the costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping, or furnishing facilities, including the financing of such costs. Allowable costs also include those of site preparation, surety bonds and insurance premiums, engineering and architectural services, planning and making feasibility determinations, and a number of other related items.

Obligations can have maturities of up to 25 years, can be anticipated by bond anticipation notes, can be refunded, and are free from taxation within the state.

Money credited to the Common Schools Capital Facilities Bond Service Fund, the Higher Education Capital Facilities Bond Service Fund, and any special fund created under bond proceedings can be invested only in one or more of the following:

--Direct obligations of the United States or a federal agency or instrumentality, collective investment funds or no-front-end-load money market mutual funds consisting exclusively of such obligations, or repurchase agreements secured by such obligations;

--Obligations of the state or a political subdivision of the state;

--Certificates of deposit of a national bank located in Ohio or a bank subject to inspection by the Superintendent of Financial Institutions;

--The Treasurer of State's pooled investment program for political subdivisions.

Section 17 debt service computation

(Section 4)

As mentioned above, Section 17 of Article VIII of the Ohio Constitution requires the General Assembly to provide by law for computing the amounts required for debt service payments for the purposes of the new limitation on the amount of direct obligation debt the state can issue. The bill provides for this computation for purposes of any direct obligations the state may issue during the remainder of fiscal year 2000 (which ends June 30, 2000).

The bill states that debt service, for the purposes of the computation, includes debt service payable on securities that are direct obligations of the state issued under Article VIII of the Ohio Constitution (and on bonds anticipated by bond anticipation notes), to the extent the debt service is anticipated to be paid from the GRF or net state lottery proceeds.[3] An example given by the bill of securities for which debt service is not anticipated to be paid from either the GRF or net lottery proceeds is state bonds for highway purposes issued under Section 2i or 2m of Article VIII of the Ohio Constitution. These bonds, although general

[3] *"Debt service" is defined to mean principal (including any mandatory sinking fund deposits and mandatory redemption payments) and interest or interest equivalent payable on securities, as those payments are stated to come due and to be payable.*

obligations of the state, have been and are anticipated to be paid from highway user receipts and not from the GRF or net lottery proceeds.

Absent any other applicable constitutional or statutory provision, the amount of debt service on bonds anticipated by bond anticipation notes is to be estimated by taking the amount that would have been payable on bonds maturing serially in each fiscal year after the fiscal year of issuance over the maximum period of maturity authorized for the bonds, as if the bonds had been issued without the prior issuance of the notes, and computed on a substantially level debt service basis applying an interest rate or rates certified to be market rates at the time. For securities issued to refund or retire other securities, the debt service on the new securities is to be counted and the debt service on the securities being refunded or retired is not to be counted, to the extent that the principal amount of the new securities does not exceed the then outstanding principal of the old securities.

With regard to the Section 17 limitation on debt, the bill requires the Governor to determine and certify all of the following:

--The fiscal year amounts required to be applied or set aside for payment of debt service;

--The securities to which the debt service relates;

--The total estimated state GRF revenues and net state lottery proceeds during the fiscal year in question;

--Any other financial data necessary or appropriate for the purpose of the computations required by Section 17.

The Governor must file the determinations and certifications with the Director of Budget and Management, the Treasurer of State, and the issuing authority for the particular obligations, at or prior to the time the securities are issued. The Governor can designate the Director or Assistant Director of Budget and Management or any employee or official of the Governor's office to perform the Governor's functions under the bill.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	11-09-99	p. 1147
Reported, Joint Select Committee to Implement State Issue 1	---	---
Passed Senate	---	---

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