



Am. S.J.R. 1

125th General Assembly

(As Adopted by the General Assembly)

Sens. Austria, Carnes, Amstutz, Harris, Jacobson, Mumper, Dann, Goodman, Stivers, Prentiss

Reps. C. Evans, Aslanides, Brown, Chandler, Distel, Gibbs, Hagan, Harwood, Perry, Schaffer, Schlichter, J. Stewart, Walcher, Wolpert, Allen, Carmichael, Collier, DeBose, DePiero, DeWine, Flowers, Hughes, Husted, Martin, McGregor, Miller, Olman, Otterman, S. Patton, T. Patton, Raussen, Redfern, Reidelbach, Schmidt, Seitz, Setzer, G. Smith, Taylor, Trakas, Widowfield

RESOLUTION SUMMARY

- Proposes a constitutional amendment to:
 - (1) Authorize the use of state and local public moneys, including the proceeds of bonds, notes, and other obligations, to pay costs of or in support of or related to science and technology based research and development purposes, including capital formation, direct operating costs, costs of research and facilities, and support for public and private institutions of higher education, research organizations or institutions, and private sector entities.
 - (2) Authorize the issuance of general obligations of the state to pay costs of these science and technology based research and development purposes, the total amount of which cannot exceed \$500 million and the debt service on which is excluded from the calculation of the limit on the amount of new debt the state can take on in a fiscal year.
 - (3) Authorize state-supported and state-assisted institutions of higher education and local public agencies to issue obligations to pay their costs of participating in and implementing these science and technology based research and development purposes.

CONTENT AND OPERATION

Background

Constitutional limitation on state debt

Article VIII of the Ohio Constitution provides that no debt can be created by or on behalf of the state except as otherwise specifically provided in that Article. A number of amendments to Article VIII have been approved by the electors over the years that allow the state to incur debt, including (1) Section 2n, authorizing state general obligations in amounts determined by the General Assembly for facilities for common schools and state-supported and state-assisted institutions of higher education, (2) Section 2m, authorizing a total of up to \$1.2 billion of state general obligations for local public infrastructure capital improvements, and \$1.2 billion of state general obligations outstanding at any one time for highways, and (3) Section 2o ("Clean Ohio" bonds), authorizing (a) state general obligations, up to \$200 million of which can be outstanding at any one time, for certain conservation purposes, including preservation of natural areas, open spaces, and farmlands, provision of state and local parks, and natural resource management projects and (b) state obligations that are not general obligations, up to \$200 million of which can be outstanding at any one time, for certain revitalization purposes including remediation or cleanup of contamination on publicly and privately owned lands.

Constitutional limitation on public aid to private enterprise

Section 4 of Article VIII of the Ohio Constitution prohibits the state's credit from being given or loaned to, or in aid of, any individual association or corporation. It also prohibits the state from becoming a joint owner or stockholder in a company or association formed for any purpose. Section 6 of Article VIII of the Ohio Constitution similarly prohibits a county, municipal corporation, or township from becoming a stockholder in a joint stock company, corporation, or association, or from raising money for or loaning its credit to or in aid of any such company, corporation, or association.

Proposed new authority to lend public aid and incur debt for "science and technology based research and development purposes"

(Section 2p of Article VIII, Ohio Constitution)

Overview

The resolution proposes enactment of Section 2p of Article VIII of the Ohio Constitution to authorize the use of state and local public moneys, and the issuance of general obligations of the state, to pay the costs of or to support science and



technology based research and development purposes, including research and resulting product innovation, development, and commercialization through efforts by and collaboration among Ohio business and industry, state and local public entities and agencies, public and private higher education institutions, or research organizations and institutions, all as may be further provided for by state or local law (but expressly excluding research and development of coal technology).

Implementation of these science and technology based research and development purposes includes supporting any and all related matters and activities, including:

--Attracting researchers and research teams by endowing research chairs or otherwise;

--Activities to develop and commercialize products and processes;

--Intellectual property matters such as copyrights and patents;

--Property interests, including time sharing arrangements;

--Financial rights and matters such as profit sharing, royalties, licensing, joint ventures, stock ownership, and other financial gain or sharing resulting from these research and development purposes.

Use of state and local public moneys

Under the proposed constitutional amendment, state and local public moneys, including the proceeds of bonds, notes, and other obligations, may be used to pay costs of or in support of or related to these science and technology based research and development purposes, including capital formation, direct operating costs, costs of research and facilities (including interests in real property for such research and facilities), and support for public and private institutions of higher education, research organizations or institutions, and private sector entities. The exercise of these powers by state agencies, including state-supported and state-assisted institutions of higher education, and local public entities and agencies may be jointly or in coordination with each other, with researchers or research organizations and institutions, and with individuals or private sector business entities.

State and local public participation may be in such manner as the entity or agency determines, including by any one or a combination of grants, loans (including loans to lenders or the purchase of loans), subsidies, contributions, advances, or guarantees, or by direct investment of or payment or reimbursement from available moneys, or by providing staffing or other support (including computer or other technology capacity) or equipment or facilities (including interests in real property for such equipment or facilities), and either alone or in

joint, collaborative, or cooperative ventures with other public agencies and private sector entities.

In addition to state-level monetary participation authorized by the proposed constitutional amendment (see "*New debt authority*," below) or otherwise, state-supported and state-assisted institutions of higher education and local public agencies may, as authorized from time to time by law, including the Ohio Constitution, issue obligations to pay their costs of participating in and implementing these science and technology based research and development purposes.

New debt authority

The proposed constitutional amendment authorizes the General Assembly to provide by law for the issuance of general obligation bonds and other general obligations of the state to pay costs of projects implementing these science and technology based research and development purposes. Not more than \$500 million principal amount of obligations can be issued under this authority, and not more than \$50 million principal amount can be issued in any fiscal year. (This \$50 million limit can be exceeded in any fiscal year by the principal amount of obligations that in any prior fiscal year could have been but were not issued within the \$50 million limit.) In the *first* fiscal year of issuance, however, not more than \$100 million principal amount can be issued.

The full faith and credit, revenue, and taxing power of the state is pledged to the payment of debt service on these general obligations as it becomes due. The General Assembly may provide for payments received for or related to the science and technology based research and development purposes to be included in that pledge.

Implementation provisions

This new debt authority, including provision for procedures for incurring, refunding, retiring, and evidencing obligations, is to be implemented in the manner and to the extent provided by the General Assembly by law. For purposes of the full and timely payment of debt service on the obligations, appropriate provisions are to be made or authorized by law for a bond retirement fund, for the sufficiency and appropriation of state excises, taxes, and revenues pledged to the debt service on the obligations, and for covenants to continue the levy, collection, and application of sufficient state excises, taxes, and revenues to the extent needed for those purposes. Money raised by motor vehicle fuel taxes or registration fees cannot be used for the payment of debt service on the obligations.

The obligations must mature not later than December 31 of the 20th calendar year after issuance, except that obligations issued to refund or retire other



obligations must mature not later than December 31 of the 20th calendar year after the year in which the original obligation to pay was issued or entered into. Obligations issued to refund or retire obligations previously issued do not count against the fiscal year or total issuance limitations set forth in the resolution.

The issuance of bond anticipation notes is permitted.

Exemption from constitutional provisions

The proposed constitutional amendment provides that Sections 4 and 6 of Article VIII of the Ohio Constitution (see "**Constitutional limitation on public aid to private enterprise**," above) do not apply to state obligations issued pursuant to the proposed amendment, obligations issued by local public entities or agencies for the science and technology based research and development purposes referred to in the proposed amendment, provisions for payment of debt service on any of those obligations, the purposes and uses to which and the manner in which the proceeds of those obligations or moneys from other sources are to be or may be applied, and other implementation of the science and technology based research and development purposes as referred to in the proposed constitutional amendment.

In addition, Section 6 of Article XII of the Ohio Constitution provides that the state may never contract any debt for purposes of internal improvement. The proposed constitutional amendment states that obligations issued pursuant to it are exempt from this prohibition.

Further, Section 11 of Article XII provides that the state and its political subdivisions may not incur any bonded indebtedness unless the legislation under which the indebtedness is incurred provides for the annual levying and collection of an amount of money sufficient to pay the interest on the bonds and to provide for a sinking fund for the bonds' final redemption. The proposed constitutional amendment provides that obligations issued under it are exempt from this requirement.

Finally, Section 17 of Article VIII of the Ohio Constitution imposes a "5% cap" that limits the amount of new debt the state can take on in a fiscal year: state bonds or other obligations cannot be issued if the total amount of debt service payments that must be made in any future fiscal year from the General Revenue Fund (GRF) and net state lottery proceeds would exceed 5% of the total estimated GRF and net state lottery proceeds revenue during the fiscal year of issuance. The General Assembly can waive this limitation by the vote of at least 3/5 of the members of each house. The proposed amendment states that debt service on the state obligations issued pursuant to the proposed amendment is *not* to be included in the calculation of total debt service for purposes of the 5% cap of Section 17 of Article VIII.

Tax exemption

State and local public agency obligations authorized or referred to in the proposed constitutional amendment, their transfer, and the interest, interest equivalent, and other income or accreted amounts on them (including any profit made on their sale, exchange, or other disposition) are free from taxation within the state.

Declaration of public purpose

The proposed amendment states that the science and technology based research and development purposes described above, and provisions and activities for and supporting them, are proper public purposes of the state and local public entities and agencies, and that they are necessary and appropriate for (1) creating, preserving, and enhancing employment opportunities in, and for the people of, Ohio, (2) economic development to improve the general and economic well-being of the people and business economy of Ohio, (3) better ensuring the public welfare and health, (4) better providing for the fuller utilization and economic viability of public and private Ohio institutions of higher education, and research organizations and institutions, and (4) enhancing and expanding Ohio’s private and public science and technology based research, development, and commercialization capacity and workforce capabilities.

Election and effective date

The resolution provides that the proposed constitutional amendment will be submitted to the electors at the general election to be held on November 4, 2003. If approved by a majority of the electors voting on it, the proposed amendment will take effect immediately.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-23-03	p. 67
Reported, S. Finance & Financial Institutions	02-19-03	p. 119
Adopted Senate (25-8)	02-19-03	pp. 119-123
Reported, H. Economic Development & Technology	04-08-03	p. 331
Adopted House (92-6)	04-08-03	pp. 333-334

