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**Resolution Analysis**  
*Legislative Service Commission*

**Sub. H.J.R. 2\***  
126th General Assembly  
(As Reported by H. Economic Development and Environment)

**Rep. Martin**

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**RESOLUTION SUMMARY**

- Proposes to amend the Ohio Constitution to authorize the issuance of general obligations of the state to finance local government public infrastructure capital improvements, research and development, and the development of certain sites and facilities in Ohio.

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**CONTENT AND OPERATION**

**Overview of the proposed amendment**

The proposed amendment proposes to amend the Ohio Constitution to authorize the issuance of general obligations of the state to finance three types of economic development projects: (1) public infrastructure capital improvements, (2) research and development, and (3) development of sites and facilities in Ohio in support of industry, commerce, distribution, and research and development. The bill also authorizes the state to cooperate with local governments; for-profit and nonprofit private sector entities; and universities in the implementation of each type of project. The proposed amendment declares these projects to be necessary and appropriate means to create and preserve jobs and enhance employment and educational opportunities; to improve the quality of life and the general economic well-being of the people of Ohio; and to preserve and expand the public capital infrastructure, all to better ensure the public health, safety, and welfare (proposed Section 2p, Article VIII--division (A)). The proposed amendment is independent of, and neither derogates nor limits, other constitutional provisions or laws enacted thereunder having the same purposes (proposed Section 2p, Article VIII--division (G)).

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\* *This analysis was prepared before the report of the House Economic Development and Environment Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

## **Public infrastructure capital improvements**

### **Overview**

In 1995 and 1987, the Ohio Constitution was amended to authorize the issuance of general obligations of the state to finance or assist in the financing of the cost of public infrastructure capital improvements of municipal corporations, counties, townships, and other governmental entities and the cost of capital improvements for highways (Sections 2k and 2m, Article VIII, Ohio Constitution). Sub. H.J.R. 2 proposes to amend the Ohio Constitution to authorize another issuance of general obligations of the state to finance or assist in the financing of the cost of public infrastructure capital improvements of municipal corporations, counties, townships, and other governmental entities designated by statute.

### **Amount and use of infrastructure obligations**

(proposed Section 2p, Article VIII--divisions (A)(1), (B)(1), and (D)(1))

Under the proposed amendment, not more than \$120 million principal amount of infrastructure obligations, plus the principal amount of obligations that in any prior fiscal year could have been but were not issued within the fiscal year limit, may be issued in each of the first five fiscal years of the issuance. In addition, not more than \$150 million principal amount of infrastructure obligations, plus the principal amount of obligations that in any prior fiscal year could have been but were not issued within the fiscal year limit, may be issued in the next five fiscal years. The aggregate total principal amount of infrastructure obligations authorized and issued under the proposed amendment cannot exceed \$1.35 billion. Furthermore, no infrastructure obligations may be issued until not more than \$500,000 of obligations remain to be issued under Section 2m of Article VIII, which authorizes the issuance of up to \$1.2 billion in general obligations for public infrastructure capital improvements.

The public infrastructure capital improvements that may be financed by these obligations are limited to roads and bridges, waste water treatment systems, water supply systems, solid waste disposal facilities, and storm water and sanitary collection, storage, and treatment facilities, including the costs of real property, interests in real property, facilities, and equipment related or incidental to the improvements, as well as acquisition, construction, reconstruction, expansion, improvement, planning, and equipping costs.

The entire proceeds of the infrastructure obligations must be used for public infrastructure capital improvements of municipalities, counties, townships, or other governmental entities, except that the General Assembly may enact laws providing for the state to be reasonably compensated from the proceeds for

planning, financial management, or administrative services performed in relation to the issuance of the obligations.

**State participation permissible**

(proposed Section 2p, Article VIII--division (D)(1))

Under the proposed amendment, the state may participate in any public infrastructure capital improvement with municipalities, counties, townships, or other governmental entities designated by law. Participation may be by grants, loans, or contributions to these governmental entities for any capital improvement.

**Buy Ohio provision**

(proposed Section 2p, Article VIII--division (D)(1))

The proposed amendment requires the General Assembly to provide by law for the use to the extent practicable of Ohio products, materials, services, and labor in the making of any public infrastructure project financed, in whole or in part, under the amendment.

**Research and development**

**Amount and use of research and development obligations**

(proposed Section 2p, Article VIII--divisions (A)(2) and (B)(2))

Under the proposed amendment, not more than \$500 million principal amount of state general obligations may be issued for research and development, which includes research and 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 educational institutions, or research organizations and institutions, all as may be provided for by state or local law. Not more than \$100 million principal amount of research and development obligations, plus the principal amount of obligations that in any prior fiscal year could have been but were not issued within the fiscal year limit, may be issued in the first three fiscal years of issuance. In addition, not more than \$50 million principal amount of research and development obligations, plus the principal amount of obligations that in any prior fiscal year could have been but were not issued, may be issued in any other fiscal year. Research and development obligations may not be issued under the proposed amendment to finance research and development of coal technology that will encourage use of Ohio coal. Obligations already can be issued for this purpose under Article VIII, Section 15.

**Research and development activities--state participation permissible**

(proposed Section 2p, Article VIII--division (D)(2))

Under the proposed amendment, the state may act in support of research and development. Permissible state action includes, but is not limited to, 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; and financial rights and matters such as royalties, licensing, and other financial gain or sharing resulting from research and development.

The proposed amendment authorizes the use of state and local public moneys, including the proceeds of obligations, to fund the following types of activities: capital formation; direct operating costs; costs of research and facilities, including interests in real property; and support for public and private institutions of higher education, research organizations and institutions, and private sector entities. The state, state agencies, local governments, research organizations and institutions, private sector entities, and public and private institutions of higher education are authorized to act jointly or to coordinate with one another in the exercise of these activities.

State and local participation in research and development activities may be in any manner as the entity or agency determines is appropriate. Such participation may take the form of grants; loans, including loans to lenders or the purchase of loans; subsidies; contributions; advances; guarantees; direct investments of, or payment or reimbursement from, available moneys; or the provision of staffing and other support, including computer and technological support.

In addition to the state general obligations authorized by the proposed amendment, the amendment also authorizes the General Assembly (1) to permit state-supported and state-assisted institutions of higher education to issue obligations to pay cost of participating in and implementing research and development purposes and (2) to permit the state, its agencies, local public agencies and entities, and nonprofit corporations designated by the state or its agencies or local agencies or entities as state or local agencies or instrumentalities, to issue obligations for the purpose of borrowing and lending or otherwise providing money for research and development purposes, including obligations for which, unlike the state general obligations authorized under the proposed amendment, the taxing power of the state and its subdivisions are not pledged in support of the obligations (see "**Debt service**," below).

## *Development of sites and facilities*

### *Amount and use of sites and facilities obligations*

(proposed Section 2p, Article VIII--divisions (A)(3) and (B)(3))

Under the proposed amendment, not more than \$150 million principal amount of state general obligations may be issued for development of sites and facilities for industry, commerce, distribution, and research and development. Not more than \$30 million principal amount of sites and facilities obligations, plus the principal amount of obligations that in any prior fiscal year could have been but were not issued within the fiscal year limit, may be issued in the first three fiscal years of issuance. In addition, not more than \$15 million principal amount of sites and facilities obligations, plus the principal amount of obligations that in any prior fiscal year could have been but were not issued within the fiscal year limit, may be issued in any other fiscal year.

### *Development of sites and facilities--state participation permissible*

(proposed Section 2p, Article VIII--division (D)(3))

The bill authorizes the use of state and local public moneys, including the proceeds of bonds, notes, and other obligations, to pay the costs of the following in developing sites and facilities for and in support of industry, commerce, distribution, and research and development: acquiring real estate and interests in real estate; site preparation, including any necessary remediation and cleanup; constructing and improving facilities; and providing public infrastructure capital improvements and other transportation and communications infrastructure improvements for and in support of the use of the sites and facilities. The state, state agencies, local public entities and agencies, and individuals or private sector business entities are authorized to work together jointly or to coordinate with one another in the completion of these projects.

State and local public participation in the development of sites and facilities may be in any manner that the entity or agency determines, including grants; loans, including loans to lenders or the purchase of loans; subsidies; contributions; advances; guarantees; reimbursements; or direct investments of, or payment or reimbursement from, available moneys.

The bill authorizes the General Assembly to permit state-supported and state-assisted institutions of higher education and local public entities and agencies to issue obligations to pay costs of participating in and implementing the development of sites and facilities.

### **Maturity of obligations**

(proposed Section 2p, Article VIII--division (C))

Each issue of state general obligations for public infrastructure capital improvements or development of sites and facilities matures not later than 30 years from the date of issuance, or within 30 years from the date the debt originally was contracted if issued to retire or refund other obligations. Each issue of state general obligations for research and development matures not later than 20 years from the date of issuance, or within 20 years from the date the debt originally was contracted if issued to retire or refund other obligations.

If obligations are issued as notes in anticipation of the issuance of bonds, the General Assembly must provide for the establishment and maintenance, during the period in which the notes are outstanding, of one or more special funds into which must be paid, from sources authorized for payment of the bonds, amounts that would have been sufficient, if bonds maturing within the permitted period of years had been issued without the prior issuance of notes, to pay the principal that would have been payable on the bonds during that period. The special fund may not be used for any purpose other than payment of principal on the notes or bonds for which anticipation notes were issued.

The bill specifies that obligations issued to retire or refund obligations previously issued under the proposed amendment or under the state's existing constitutional authority to issue obligations for public infrastructure capital improvements (Section 2k and 2m, Article VIII, Ohio Constitution) are not to be counted against the fiscal year or total issuance limitations applicable to those issuances.

### **Debt service**

(proposed Section 2p, Article VIII--division (C))

The obligations authorized by the proposed amendment are general obligations of the state, and the full faith and credit, revenue, and taxing power of the state is pledged to the timely payment of the principal and interest and other accreted amounts (known as "debt service") payable on the obligations. Accordingly, the General Assembly is required to provide by law for the sufficiency and appropriation of excises, taxes, and revenues pledged or committed to debt service and for covenants to continue the levy, collection, and application of sufficient excises, taxes, and revenues to the extent needed for purposes of paying debt service. The General Assembly is also required to establish a bond retirement fund.

Fees and taxes received in connection with the use of public highways by motor vehicles may not be pledged to or used for the payment of debt service on the obligations authorized under the proposed amendment.

**Existing constitutional limitation on state general obligations not to apply**

(proposed Section 2p, Article VIII--division (C))

Section 17, Article VIII of the Ohio Constitution prohibits the total debt service on state general obligations for any fiscal year from exceeding 5% of the state's estimated General Revenue Fund moneys and net state lottery proceeds for the fiscal year of issuance. The proposed amendment provides that debt service on obligations issued for research and development purposes and for development of sites and facilities is not to be included in calculating the 5% limitation set forth in Section 17, Article VIII.

**Tax exemption**

(proposed Section 2p, Article VIII--division (E))

Obligations issued under the proposed amendment, their transfer, and interest, interest equivalent, and other income and accreted amounts from them, including any profit made on their sale, exchange, or other disposition, are at all times free from taxation within the state.

**Inapplicable constitutional provisions**

(proposed Section 2p, Article VIII--divisions (C) and (E))

The obligations and the state and local governmental participation authorized under the proposed amendment are not subject to the following existing constitutional provisions:

- Sections 4 and 6, Article VIII, Ohio Constitution--Prohibit the state and its political subdivisions from lending aid and credit to private entities or otherwise engaging in joint ventures with such entities. (This exemption applies to only research and development and site and facility purposes.)
- Section 5, Article XII, Ohio Constitution--Specifies that every tax shall state its object to which only it shall apply.
- Section 6, Article XII, Ohio Constitution--Specifies that the state may not contract debts for purposes of internal improvements.

- Section 11, Article XII, Ohio Constitution--Specifies that no bonded indebtedness may be incurred unless provision is made for annual tax levies to pay interest on the bonds and to provide a sinking fund for their final redemption.

**Implementation by the General Assembly**

(proposed Section 2p, Article VIII--division (F))

The proposed amendment is to be implemented in the manner and to the extent provided by the General Assembly by law, including provision for a procedure for incurring and issuing obligations, separately or in combination with other obligations, and for refunding, retiring, and evidencing obligations.

**Submission to the voters**

(effective date provision)

If approved by three-fifths of the members of both houses of the General Assembly, the proposed amendment will be submitted to the voters at the November 8, 2005, general election. If adopted by a majority of the voters voting upon it at that election, the amendment will take effect immediately.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-18-05	p. 68
Reported, H. Economic Development & Environment	---	---

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