



Ralph D. Clark

*Resolution Analysis*  
*Legislative Service Commission*

## **H.J.R. 4**

126th General Assembly  
(As Introduced)

**Reps. Reidelbach, Faber, Brinkman, Fessler, Hood, Wagner, Willamowski**

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### **RESOLUTION SUMMARY**

- Establishes a state expenditure limitation that prevents the General Assembly from enacting or otherwise authorizing an increase in aggregate state expenditures beyond a certain level based on calculations involving the rates of inflation and population change in the state.
- Establishes a political subdivision tax and spending limitation that prevents a political subdivision from (1) enacting or otherwise authorizing an increase in aggregate expenditures above a certain level based on calculations involving the rates of inflation and population change in the subdivision, (2) levying a new tax, or (3) increasing the rate of an existing tax, without voter approval.
- Establishes a prohibition against unfunded mandates being imposed on political subdivisions.
- Imposes duties on the Auditor of State to track state mandated program costs to political subdivisions and to report the costs to the General Assembly and the Governor.
- Creates a local government fund to provide at least 7.25% of aggregate state general revenue funds to political subdivisions each year.
- Creates a budget reserve fund to receive certain amounts of unencumbered state money at the end of each fiscal year, and to be used for tax relief or any lawful purpose.

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## CONTENT AND OPERATION

### State expenditure limit

(Article XII, Section 14(A) and (E), Ohio Constitution)

The resolution provides that the General Assembly is prevented from enacting or otherwise increasing aggregate state expenditures for a fiscal year that exceed the aggregate state expenditures for the previous fiscal year by a percentage that is greater than the sum of the rate of inflation plus the rate of population change.<sup>1</sup> The resolution, however, provides an exception to the expenditure limitation that permits the General Assembly to enact or otherwise authorize an increase in excess of the limitation through the passage of a bill that (1) specifically identifies by appropriation item the amount and purpose of each excess expenditure and the means by which the revenue necessary to fund the excess expenditure is to be generated, (2) limits each excess expenditure to the amount and purpose identified in the bill, (3) receives the affirmative vote of not less than three-fifths of the members of each house of the General Assembly, and (4) if "approved" by the Governor, is also approved by a majority of voters at the next statewide special, primary, or general election held more than 60 days after the filing of the act with the Secretary of State.<sup>2</sup> If approved by the voters, the act takes effect 30 days after the date of the election.

The resolution defines "aggregate state expenditures" to include "all expenditures made by the state." The definition, however, is limited by a number of exceptions. Aggregate state expenditures do not include expenditures (1) the source of funds for which is the federal government, (2) for tax relief, or (3) made from proceeds of gifts or bequests for purposes specified by the donor. In addition, expenditures are excluded that are made pursuant to a bill that:

- is necessitated by an emergency;<sup>3</sup>

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<sup>1</sup> *If the addition of the two rates produce a sum that is a negative percentage, it is not clear whether aggregate state expenditures for the fiscal year must be reduced by that negative percentage or simply may not increase.*

<sup>2</sup> *It is not clear whether the phrase "if approved by the Governor" contemplates that an act of the General Assembly may become law without the Governor's signature and be filed with the Secretary of State. It may be more appropriate to say, "if the act becomes law."*

<sup>3</sup> *"Emergency" is defined in the resolution, with respect to the state expenditure limitation, to mean the existence, as formally declared by the Governor, of conditions of disaster or of extreme peril to the safety of persons and property within the state, or parts*

- authorizes temporary expenditures for the sole purpose of providing relief directly related to the emergency;
- specifically identifies by appropriation item the amount and purpose of each temporary expenditure and the means by which the revenue necessary to fund each temporary expenditure must be generated;
- limits the temporary expenditure to the amount and specific purposes identified in the bill;
- provides for all federal and other funds earmarked or otherwise designated for general emergency relief, and then the entire budget reserve fund (see below), to be expended before any other funds can be expended for the emergency; and
- is approved by a three-fifths majority of the members of each house of the General Assembly.

"Fiscal year" for purposes of the state expenditure limitation means the state fiscal year (July 1 to June 30 of the following year). For the same purposes, "rate of inflation" means the rate of inflation for a one-year period, based on the most recent monthly consumer price index for all urban consumers, Midwest region, all items (or its successive equivalent), as determined by the United States Department of Labor, Bureau of Labor Statistics (or its successor in responsibility). Further, "rate of population change" means the rate of population change in the state for a one-year period, based on the most recent monthly population data available for the state published by the United States Department of Commerce, Bureau of the Census (or its successor in responsibility) in the population estimates program (or its successive equivalent).

**Political subdivision tax and spending limit**

(Art. XII, Sec. 15(A) and (B), Ohio Const.)

The resolution, in addition to the state expenditure limitation, establishes a limitation on the authority of political subdivisions of the state to tax and spend.<sup>4</sup> Under the resolution, no political subdivision of the state may (1) enact or otherwise authorize an increase in aggregate expenditures for a fiscal year beyond

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*thereof, caused by such conditions as attack or probable or imminent attack by an enemy of the United States, or by fire, flood, drought, storm, civil disorder, earthquake, or tornado.*

<sup>4</sup> *The resolution provides no definition of "political subdivision."*

the aggregate expenditures for the previous fiscal year by a percentage that is greater than the sum of the rate of inflation plus the rate of population change, (2) levy a new tax, or (3) increase the rate of an existing tax, without approval of the voters in that political subdivision at the next special, primary, or general election occurring more than 60 days after passage of the ordinance or resolution increasing expenditures beyond the allowable percentage, levying a new tax, or increasing the rate of an existing tax.<sup>5</sup>

The resolution defines "aggregate expenditures" in a manner similar to "aggregate state expenditures" which is applicable to the state expenditure limitation, but instead includes "all expenditures made by the political subdivision." The definition is also limited by similar exceptions, which are made applicable only to political subdivisions. Aggregate expenditures do not include expenditures (1) the source of funds for which is the federal or state government, (2) for tax relief, or (3) made from proceeds of gifts or bequests for purposes specified by the donor. Also excluded are expenditures made pursuant to an ordinance or resolution that:

- is necessitated by an emergency;<sup>6</sup>
- authorizes temporary expenditures for the sole purpose of providing relief directly related to the emergency;
- specifically identifies the amount and purpose of each temporary expenditure and the means by which the revenue necessary to fund each temporary expenditure must be generated;
- limits the temporary expenditure to the amount and specific purpose identified in the ordinance or resolution;
- provides for all federal, state, or other funds earmarked or otherwise designated for emergency relief to be spent before any other funds may be expended for the emergency; and
- is approved by a three-fifths majority of the members of the legislative authority of that political subdivision.

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<sup>5</sup> *If the addition of the inflation and population rates produces a sum that is a negative percentage, it is not clear whether aggregate expenditures in a fiscal year must be reduced by that negative percentage or simply may not increase.*

<sup>6</sup> *The resolution defines "emergency" for purposes of the political subdivision tax and spending limitation the same way it defines the term with respect to the state expenditure limitation, except that is made applicable only to political subdivisions.*

The resolution defines "fiscal year" with respect to the political subdivision tax and spending limitation to mean the fiscal year of the political subdivision. The definition of "rate of inflation" is identical to the definition for that term that is applicable to the state expenditure limitation (see above). "Rate of population change" is nearly identical to the same term as it is defined with respect to the state expenditure limitation, except that it is made applicable only to political subdivision populations and it contains an extra provision stating that if data for a particular political subdivision is not available, the rate of population change for the county in which the political subdivision is located must be used as the rate for that political subdivision.

### **Prohibition against unfunded mandates**

(Art. XII, Sec. 14(C) and (E), Ohio Const.)

In addition to the state expenditure limitation and the political subdivision tax and spending limitation, the resolution prohibits the state, except under certain circumstances, from mandating that a political subdivision establish, conduct, or otherwise participate in any program and from conditioning the receipt of state funds or other assistance on a political subdivision's establishment of, or conduct or participation in, a program. The state can impose such mandates or conditions only if it provides sufficient funds to political subdivisions to pay for (1) the entire cost of the program, if the program is new, or (2) the increased cost of the program, if the program was already in existence on the effective date of this constitutional provision. The resolution defines "program" to mean an activity, initiative, or service mandated by the state on or after the effective date of this provision, or an activity, initiative, or service that was mandated by the state prior to the effective date of this provision for which the cost to the political subdivision increases after the effective date.

Within 60 days of the effective date of this constitutional provision, and annually thereafter, the Auditor of State must provide to the General Assembly and the Governor a detailed accounting for the preceding state fiscal year of the cost to political subdivisions of all programs. Any funds provided by the state to a political subdivision are to be subject to the state expenditure limitation, and are to be in addition to money from the local government fund established under the resolution (see below).

### **Local government fund**

(Art. XII, Sec. 14(D) and (E), Ohio Const.)

The resolution requires the General Assembly to establish a local government fund to provide state funds to political subdivisions. Ohio law

currently provides for various local government funds, but they are not mandated by the Ohio Constitution, as this fund would be. Each state fiscal year, an amount not less than 7.25% of the "aggregate state general revenues" (defined by the resolution to mean all revenue appropriated by the General Assembly to the general revenue fund) for the immediately preceding state fiscal year must be appropriated directly to the local government fund by the General Assembly. The Treasurer of State must transfer this amount from the local government fund to the several counties in 12 equal installments by no later than the last day of each month. Each county must receive a proportionate amount of the fund, which amount must be determined by formula that equally comprises the percentage of the aggregate state general revenue attributable to that county for the immediately preceding state fiscal year, and the population of the county. The specific formula must be established by the General Assembly. The counties must distribute the amounts received from the fund as the General Assembly directs in law. Any interest earnings of the fund are to be credited to it.

### **Budget Reserve Fund**

(Art. XII, Sec. 14(B), Ohio Const.)

The resolution requires the General Assembly to establish a budget reserve fund (BRF) to receive and hold budgetary reserves for the state. The General Assembly may appropriate money directly to the BRF. All unencumbered money in or accrued to all general revenue funds and 10% of all unencumbered money in or accrued to all non-general revenue funds as of the last day of the state fiscal year, as determined by the Auditor of State, must be transferred to the BRF by the Treasurer of State no later than 30 days after the end of that fiscal year. If at any time the amount of money in or accrued to the BRF exceeds 15% of the aggregate state expenditures for the state's preceding fiscal year, the excess money must immediately be refunded by the Treasurer on a pro rata basis to all individuals who paid Ohio income tax in the preceding calendar year. The General Assembly may expend money in the BRF for any lawful purpose, provided that the expenditures from the BRF are subject to the state expenditure limitation (discussed above). Any interest earnings of the BRF are to be credited to it.

### **Miscellaneous provisions**

(Art. XII, Secs. 14(F) and (G) and 15(C) and (D), Ohio Const.)

The constitutional provisions, if adopted, are self-executing. To the extent that a successive equivalent or successor in responsibility (regarding the Bureau of Labor Statistics and the Consumer Price Index components of "rate of inflation" or the Census Bureau and the Population Estimates Program components of "rate of population change") must be determined, the General Assembly must make the

determination. The resolution also provides that each proposed constitutional provision is intended to be independent and severable, and if any provision is held invalid after its adoption, either on its face or as applied to any person or circumstance, the remaining provisions, and the application thereof to any person or circumstance other than those to which it is held invalid, are not affected by the invalidity.

**Submission to voters and effective date**

If adopted by the General Assembly, the resolution provides that the new constitutional provisions must be presented to the voters at the general election held on November 8, 2005. If adopted by a majority of voters, the provisions shall take effect immediately.

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 84

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