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Resolution Analysis
Legislative Service Commission

H.J.R. 5
127th General Assembly
(As Introduced)

Rep. Sears

RESOLUTION SUMMARY

- Proposes a constitutional amendment to:
 - Authorize the issuance of general obligations of the state, up to \$200 million, for certain conservation purposes.
 - Authorize the issuance of state obligations that are not general obligations, up to \$200 million, for certain revitalization purposes.
 - Authorize the state to participate in the financing of projects undertaken by, or at the direction or authorization of, local governments for conservation or revitalization projects.
 - Allow the state and local governments to lend aid and credit to nongovernmental entities to pay the cost of conservation and revitalization projects.

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, for example, authorizing state general obligations for facilities for common schools and state-supported and state-assisted institutions of higher education, local public infrastructure capital improvements, and state and local parks and recreation facilities, land and water management, and other natural resource purposes.

Proposed new authority to incur debt

(Section 2q of Article VIII, Ohio Constitution)

The resolution proposes to enact Section 2q of Article VIII of the Ohio Constitution to authorize the General Assembly to provide by law for the issuance of bonds and other obligations of the state for the purpose of paying costs of projects implementing certain conservation and revitalization purposes as described below.¹

Conservation purposes

Obligations issued to pay costs of projects implementing conservation purposes could be used for the following:

--Conservation and preservation of natural areas, open spaces, farmlands, and other lands devoted to agriculture, including by acquiring land or interests in land;

--Provision of state and local park and recreation facilities, and other actions that permit and enhance the availability, public use, and enjoyment of natural areas and open spaces in the state;

--Land, forest, water, and other natural resource management projects.

Obligations issued for conservation purposes would be general obligations of the state, with the full faith and credit, revenue, and taxing power of the state pledged to the payment of debt service on them. Not more than \$200 million principal amount of conservation obligations could be outstanding at any one time, and not more than \$50 million principal amount could be issued in any fiscal year. (However, the \$50 million limit could 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.)

¹ The authority provided for in the bill is in addition to identical authority granted in Section 2o of Article VIII of the Ohio Constitution in H.J.R. 15 of the 123rd General Assembly. As of May 1, 2008, \$200 million in general obligation bonds have been issued for conservation purposes and \$166,425,000 remain outstanding. \$150 million of revenue bonds backed by net liquor profits have been issued for revitalization purposes, and \$132,090,000 remain outstanding.

Revitalization purposes

Obligations issued to pay costs of projects implementing revitalization purposes could be used for the following:

--Providing for and enabling the environmentally safe and productive development and use or reuse of publicly and privately owned lands, including those within urban areas, by the remediation or cleanup, or planning and assessment for remediation or cleanup, of contamination;

--Addressing, by clearance, land acquisition or assembly, infrastructure, or otherwise, contamination and other property conditions or circumstances that may be deleterious to the public health and safety, the environment, and water and other natural resources, or that preclude or inhibit environmentally sound or economic use or reuse of the property.

Obligations issued for revitalization purposes would *not* be general obligations of the state, and the full faith and credit, revenue, and taxing power of the state would *not* be pledged to the payment of debt service on them. Not more than \$200 million principal amount of revitalization obligations could be outstanding at any one time, and not more than \$50 million principal amount could be issued in any fiscal year. (However, as with conservation obligations, the \$50 million limit could 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.) Revitalization obligations would be secured by a pledge of all or such portion of designated state revenues and receipts as the General Assembly authorizes, including (1) receipts from designated taxes or excises, (2) revenues from sources other than taxes or excises, such as state enterprise activities, and (3) payments for or related to revitalization purposes made by or on behalf of local governmental entities, responsible parties, or others.

Declaration of public purpose

The resolution states that the environmental and related conservation, preservation, and revitalization purposes described above, and provisions for them, are proper public purposes of the state and local governmental entities and are necessary and appropriate means (1) to improve the quality of life and the general and economic well-being of the state's people, (2) to better ensure the public health, safety, and welfare, (3) to protect water and other natural resources, (4) to provide for the conservation and preservation of natural and open areas and farmlands, including by making urban areas more desirable or suitable for development and revitalization, (5) to control, prevent, minimize, clean up, or remediate certain contamination of or pollution from lands in the state and also water contamination or pollution, (6) to provide for safe and productive urban land

use or reuse, (7) to enhance the availability, public use, and enjoyment of natural areas and resources, and (8) to create and preserve jobs and enhance employment opportunities.

Implementation provisions

The 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 provision is to be made or authorized by law for bond retirement funds, for the sufficiency and appropriation of state taxes, excises, and revenues pledged to 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 could not be used for the payment of debt service on the obligations.

The obligations must mature no later than December 31 of the 25th calendar year after issuance, except that obligations issued to refund or retire other obligations must mature no later than December 31 of the 25th calendar year after the year in which the original obligation to pay was issued or entered into. The issuance of bond anticipation notes would be permitted.

Exemption from other constitutional provisions

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.

The resolution provides that these provisions would not apply to state obligations issued pursuant to the resolution, obligations issued by local governments for the public purposes referred to in the resolution, provisions for payment of debt service on any of those obligations, and the purposes and uses to which the proceeds of the state or local obligations, or moneys from other sources, are to be or may be applied.

Restrictions on grants or loans to responsible parties

The resolution requires the General Assembly to establish prohibitions or restrictions on the granting or lending of the proceeds of revitalization obligations to parties to pay contamination cleanup or remediation costs for which the parties are determined to be responsible.

State participation in local projects

The resolution authorizes the state, in addition to undertaking its own projects, to participate or assist, by grants, loans, loan guarantees, or contributions, in the financing of projects that are undertaken for purposes referred to in the resolution by local governmental entities or by others (including not-for-profit organizations) at the direction or authorization of local governmental entities.

Tax exemption

Obligations issued pursuant to the resolution, their transfer, and the interest and other income made on them (including any profit made on their sale or exchange) would be free from taxation within the state.

Election and effective date

The resolution proposes submitting the constitutional amendment to the electors at the general election to be held on November 4, 2008. If approved by a majority of the electors voting on it, the amendment would take effect immediately.

HISTORY

ACTION	DATE
Introduced	05-12-08

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