



# Ohio Legislative Service Commission

## Final Analysis

Jennifer A. Parker

### **Am. Sub. H.J.R. 12** 128th General Assembly (As Adopted by the General Assembly)

**Reps.** S. Williams and Goyal, Belcher, Bolon, Book, Boyd, Brown, Budish, Carney, Celeste, Chandler, DeBose, DeGeeter, Dodd, Domenick, Driehaus, Dyer, Fende, Foley, Garland, Garrison, Gerberry, Hagan, Harris, Harwood, Heard, Koziura, Letson, Luckie, Lundy, Mallory, Moran, Murray, Newcomb, Okey, Otterman, Patten, Phillips, Pillich, Pryor, Sayre, Schneider, Skindell, Slesnick, Stewart, Sykes, Szollosi, Ujvagi, Weddington, B. Williams, Winburn, Yates, Yuko, Amstutz, Grossman, Hottinger, Martin, Snitchler, Batchelder, Blessing, Combs, Derickson, Dolan, Hackett, McGregor, Mecklenborg, Oelslager, Stautberg

**Sens.** Niehaus, Grendell, Harris, Patton, Wagoner, Gillmor, Hughes

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## RESOLUTION SUMMARY

- Proposes to amend Section 2p, Article VIII, of the Ohio Constitution to increase the state general obligation bond authority for research and development ("Third Frontier") purposes from \$500 million to \$1.2 billion.

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## CONTENT AND OPERATION

### **State research and development bond authority**

#### **Background**

Section 2p, Article VIII, of the Ohio Constitution, approved by Ohio electors in November 2005, authorizes the state to issue general obligation bonds and other state obligations to finance, among other things, "[r]esearch and development in support of Ohio industry, commerce, and business . . . ." (Division (A)(2).) "Research and development" is stated to include any and all research and development-related matters and activities, such as 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 this research and development. Bond proceeds may be used to support 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. Funds may be in any manner, such as through grants, loans, subsidies, contributions, or direct investments.<sup>1</sup> (Division (D)(2).)

Section 2p's research and development provisions were implemented by S.B. 236 of the 126th General Assembly. (See, generally, Chapters 151. and 184.) R.C. 151.10 requires the Ohio Public Facilities Commission (OPFC) to issue bonds for research and development purposes, the net proceeds of which must be credited to the Third Frontier Research and Development Fund. The Third Frontier Commission in the Department of Development is charged with the duty of awarding Fund money, with the approval of the Controlling Board, through a competitive process. Funds may be awarded to individuals; public and private entities, agencies, and institutions; private companies or organizations, partnerships, business trusts, or other business entities or ventures; or research organizations. (R.C. 184.11 and 184.112.) Generally, only those with a "substantial presence in Ohio" are eligible to receive support (R.C. 184.10 and 184.111). Persons receiving funds are required to enter into an agreement with the Commission governing fund use (R.C. 184.113).

### **Bond issuance limits**

Currently, Section 2p limits the state's bond issuing authority for research and development purposes to not more than \$500 million in principal. Not more than \$100 million in principal may be issued in each of the first three fiscal years of issuance (2006, 2007, and 2008), and not more than \$50 million in principal may be issued in any other fiscal year. If annual limits are not reached, the amount not issued may be issued in a subsequent year and does not count towards that fiscal year's limit.

The proposed constitutional amendment increases the total bond issuance limit to \$1.2 billion. Not more than \$450 million in principal may be issued in total from fiscal years 2006 through 2011, not more than \$225 million in principal may be issued in the next fiscal year of issuance, and not more than \$175 million in principal may be issued in any other fiscal year. These limits do not include the amount of obligations that in any prior fiscal year could have been but were not issued. (Division (B)(2).)

### **Independent reviewers**

When implementing the research and development purposes of Section 2p, the proposed amendment requires the utilization of independent reviewers to review the

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<sup>1</sup> Section 2p exempts the state and local governments from the general constitutional prohibition against investing public money in, or loaning public money to, individuals and private entities. R.C. 184.13, however, prohibits the state from possessing an ownership interest in any entity that has received support for a research and development project, or assuming a shared risk or liability.

merits of proposed research and development projects and to make recommendations concerning which proposed projects should be awarded support from the proceeds of the sale of obligations under Section 2p. Prior to the utilization of an independent reviewer, however, the state agency proposing to award the support for a project must provide the name and other descriptive information regarding the reviewer to the Governor, the President and Minority Leader of the Senate, and the Speaker and Minority Leader of the House of Representatives. Additionally, if the recommendations of an independent reviewer with respect to a proposed project are not adopted by the state agency, the agency is required to notify the persons listed above and explain the reasons for not adopting the recommendations. (Division (D)(2)(b).)

### **Award limits**

The proposed amendment states that, from the proceeds of the sale of obligations issued for research and development purposes, not more than \$450 million may be awarded, promised, or otherwise committed in total from fiscal years 2006 through 2011, not more than \$225 million may be awarded, promised, or otherwise committed in fiscal year 2012, and not more than \$175 million may be awarded, promised, or otherwise committed in any other fiscal year beginning in fiscal year 2013 and thereafter, plus in each case the amount of proceeds that in any prior fiscal year could have been but were not awarded. (Division (D)(2)(c).)

### **Election and effective date**

The resolution provides that the proposed constitutional amendment will be submitted to the electors at the special election to be held on May 4, 2010. If approved by a majority of the electors voting on the proposal, the amendment will take effect immediately.

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## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	12-07-09
Reported, H. Economic Development	01-13-10
Adopted House (85-13)	01-13-10
Reported, S. Finance & Financial Institutions	01-26-10
Adopted Senate (21-12)	01-26-10
House refused to concur in Senate amendments (25-72)	01-27-10
Senate requested conference committee	01-28-10
House acceded to request for conference committee	02-01-10
House agreed to conference committee report (83-14)	02-03-10
Senate agreed to conference committee report (30-2)	02-03-10