Ohio Legislative Service Commission

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Office of Research
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Office

S.J.R. 4
133rd General Assembly

Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Peterson

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SUMMARY

- Proposes a constitutional amendment to permit the issuance of obligations to repay outstanding advances made by the federal government to Ohio's unemployment compensation program.
- Specifies that the obligations issued under the proposed amendment are not general obligations of the state.
- Requires obligations issued under the proposed amendment to be secured by a pledge of all or a portion of taxes, excises, assessments, or surcharges imposed by the General Assembly on employers who are subject to Ohio's unemployment laws, along with other moneys generated as part of the sale of the obligations and pledged to the bond proceedings for the payment of the debt service.

DETAILED ANALYSIS

Authority to issue obligations to finance advances

The resolution proposes an amendment to the Ohio Constitution authorizing the General Assembly to enact laws for the issuance of obligations for the purpose of financing or assisting in the financing of the cost to repay outstanding advances made by the federal government (essentially, loans) to the Ohio unemployment compensation program (see "**Background**," below). For purposes of the proposed amendment, "obligations" means bonds, notes, or other evidence of obligation, including interest coupons pertaining to the obligation.

Under the proposed amendment, obligations to finance or assist in financing the cost of outstanding federal advances can be issued only if the Governor or the Governor's designee determines and certifies that the interest rate charged by the federal government for outstanding advances exceeds the expected interest rate to be paid on the obligations.[1]

Maturity of obligations

The proposed amendment authorizes the General Assembly to determine the maturity dates and the principal amounts of any obligations issued. The authority provided by the proposed amendment is in addition to, cumulative with, and not a limitation on, the General Assembly's authority under other provisions of the Ohio Constitution. The proposed amendment specifies that it does not impair any law previously enacted by the General Assembly and that laws implementing the proposed amendment must be consistent with federal law.[2]

Debt service

Obligations issued under the proposed amendment are not general obligations of the state. The proposed amendment generally prohibits the full faith and credit, revenue, and taxing power of the state from being pledged to the payment of the principal, interest, and other accreted amounts payable on the obligations (known as "debt service"). However, the proposed amendment requires the obligations to be secured by a pledge of all or a portion of taxes, excises, assessments, or surcharges imposed by the General Assembly on employers who are subject to Ohio's unemployment laws, along with other moneys generated as part of the sale of the obligations and pledged in the bond proceedings for the payment of debt service.

For the purpose of the full and timely payment of debt service on obligations issued under the proposed amendment, the General Assembly is required to enact laws for all of the following:

1. The creation of bond retirement funds;
2. The sufficiency and appropriation of revenues and receipts pledged;
3. Covenants to continue to impose, collect, and apply sufficient taxes, excises, assessments, and surcharges pledged under the proposed amendment, including any revenue therefrom.

No further act of appropriation is necessary for the purpose of paying debt services on obligations issued under the proposed amendment.

The obligations authorized by the proposed amendment, and the provisions for the payment of them, are not subject to the following provisions in the Ohio Constitution:

1. A requirement that every tax be imposed in pursuance of a law, and that every law imposing a tax state the purpose to which the tax must be applied;

[1] Proposed Article VIII, Section 18(A)(2), (B), (C), and (H), Ohio Constitution.

[2] Proposed Article VIII, Section 18(H), Ohio Constitution.

2. A prohibition against the state contracting debt for internal improvements;
3. A prohibition against the state, or any political subdivision, issuing or renewing bonds unless the legislation issuing or renewing the bonds provides for annual taxes that are sufficient to pay the interest on the bonds and provides a sinking fund for their final redemption;
4. A prohibition against the state giving or loaning its credit to, or in aid of, an association or corporation or becoming a joint owner, or stockholder in a company or association;
5. A prohibition against the state assuming the debts of any county, city, town, or township, or of any corporation unless the debt was created to repel invasion, suppress insurrection, or defend the state during a war;
6. Limitations on the state's ability to issue obligations on which principal and interest exceed 5% of estimated revenues from the General Revenue Fund and state lottery proceeds during the fiscal year in which the obligations are issued.

Fees and taxes received in connection with the use of public highways by motor vehicles may not be pledged to the payment of debt service on the general obligations authorized under the amendment.[3]

Tax exemption

Under the proposed constitutional amendment, the obligations, their transfer, and the interest or other income from the obligations, including any profit made on the sale, exchange, or other disposition of them, are at all times free from taxation within Ohio.[4]

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 3, 2020. If approved by a majority of the electors voting on the proposal, the constitutional amendment takes effect immediately.

Background – advances under the Federal Unemployment Tax Act

The Federal Unemployment Tax Act[5] creates a federal-state partnership for unemployment under which employers who contribute to a state unemployment compensation system approved by the U.S. Department of Labor receive a significant tax credit on their federal unemployment taxes. If the state has insufficient funds to pay unemployment

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[3] Proposed Article VIII, Section 18(A)(1), (C), (D), (E), and (F), Ohio Constitution, by reference to Ohio Const., art II, sec. 22, Ohio Const., art. XII, secs. 5, 5a, 6, and 11, and Ohio Const., art. VIII, secs. 4, 5, and 17 not in the resolution.

[4] Proposed Article VIII, Section 18(G), Ohio Constitution.

[5] 26 United States Code (U.S.C.) 3301 *et seq*.

benefits, federal law permits a state's governor, or the governor's designee (in Ohio, the JFS Director) to apply to the U.S. Secretary of Labor to receive three-month "advances" (loans).[6] If a state does not repay advances as required, the basic penalty is a "graduated" loss of the federal tax credit for all employers in the state.[7]

HISTORY

Action	Date
Introduced	05-12-20

SJR0004-I-133/ts

[6] 42 U.S.C. 1321, 20 Code of Federal Regulations 606.4, and R.C. 4141.43(F).

[7] 26 U.S.C. 3302(c)(2).