ASSEMBLY CONCURRENT RESOLUTION No. 16

STATE OF NEW JERSEY
214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:
Assemblywoman ALISON LITTELL MCHOSE
District 24 (Sussex, Hunterdon and Morris)

Co-Sponsored by:
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SYNOPSIS
Proposes constitutional amendment to remove and preclude exceptions to voter approval for laws authorizing the issuance of debt.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel
A CONCURRENT RESOLUTION proposing to amend Article VIII, Section II, paragraph 3 of the Constitution of the State of New Jersey.

BE IT RESOLVED by the General Assembly of the State of New Jersey (the Senate concurring):

1. The following proposed amendment to the Constitution of the State of New Jersey is agreed to:

PROPOSED AMENDMENT

Amend Article VIII, Section II, paragraph 3 to read as follows:

3. a. The Legislature shall not, in any manner, create in any fiscal year a debt or debts, liability or liabilities of the State, which together with any previous debts or liabilities shall exceed at any time one per centum of the total amount appropriated by the general appropriation law for that fiscal year, unless the same shall be authorized by a law for some single object or work distinctly specified therein. Regardless of any limitation relating to taxation in this Constitution, such law shall provide the ways and means, exclusive of loans, to pay the interest of such debt or liability as it falls due, and also to pay and discharge the principal thereof within thirty-five years from the time it is contracted; and the law shall not be repealed until such debt or liability and the interest thereon are fully paid and discharged. Except as hereinafter provided, no such law shall take effect until it shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon.

b. On and after the date on which this subparagraph b. becomes part of the Constitution, the Legislature shall not enact any law that, in any manner, creates or authorizes the creation of a debt or liability of an autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, which debt or liability has a pledge of an annual appropriation as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt, unless a law authorizing the creation of that debt for some single object or work distinctly specified therein shall have been submitted to the people at a general election and approved by a majority of the legally qualified voters of the State voting thereon. [Voter approval shall not be required for any such law providing that the ways and means to pay the interest of and to pay and discharge the principal of such debt or liability shall be subject to appropriations of an independent non-State source of

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
revenue paid by third persons for the use of the single object or work thereof, or from a source of State revenue otherwise required to be appropriated pursuant to another provision of this Constitution.]

c. [No] (1) Before sub-subparagraph (2) to this subparagraph c. becomes part of the Constitution, no voter approval shall be required for any such law enacted under subparagraphs a. or b. of this paragraph authorizing the creation of a debt or debts in a specified amount or an amount to be determined in accordance with such law for the refinancing of all or a portion of any outstanding debts or liabilities of the State, or of an autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, [heretofore or hereafter created.] so long as such law shall require that the refinancing provide a debt service savings determined in a manner to be provided in such law and that the proceeds of such debt or debts and any investment income therefrom shall be applied to the payment of the principal of, any redemption premium on, and interest due and to become due on such debts or liabilities being refinanced on or prior to the redemption date or maturity date thereof, together with the costs associated with such refinancing.

(2) After this sub-subparagraph (2) becomes part of the Constitution, voter approval shall be required for any such law enacted under subparagraphs a. or b. of this paragraph authorizing the creation of a debt or debts in a specified amount or an amount to be determined in accordance with such law for the refinancing of all or a portion of any outstanding debts or liabilities of the State, or of an autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions.

d. All money to be raised by the authority of such law shall be applied only to the specific object stated therein, and to the payment of the debt thereby created.

e. This paragraph shall not be construed to refer to any money that has been or may be deposited with this State by the government of the United States. Nor shall anything in this paragraph contained apply to the creation of any debts or liabilities for purposes of war, or to repel invasion, or to suppress insurrection or to meet an emergency caused by disaster or act of God.

f. No other paragraph of this Constitution for any other purpose whatsoever shall be construed as providing any other exception for voter approval of any law described in this paragraph.

(cf: Article VIII, Section II, paragraph 3 effective Dec. 4, 2008.)

2. When this proposed amendment to the Constitution is finally agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
shall be submitted to the people at the next general election occurring more than three months after the final agreement and shall be published at least once in at least one newspaper of each county designated by the President of the Senate, the Speaker of the General Assembly and the Secretary of State, not less than three months prior to the general election.

3. This proposed amendment to the Constitution shall be submitted to the people at that election in the following manner and form:

There shall be printed on each official ballot to be used at the general election, the following:

a. In every municipality in which voting machines are not used, a legend which shall immediately precede the question as follows:

If you favor the proposition printed below make a cross (X), plus (+), or check (☐) in the square opposite the word "Yes." If you are opposed thereto make a cross (X), plus (+) or check (☐) in the square opposite the word "No."

b. In every municipality the following question:
CONSTITUTIONAL AMENDMENT TO REMOVE AND PRECLUDE EXCEPTIONS TO VOTER APPROVAL FOR LAWS AUTHORIZING ISSUANCE OF DEBT

Do you approve of the proposed constitutional amendment to: (1) require voter approval for all laws authorizing autonomous public corporate entities to issue debt backed by State appropriations; (2) require voter approval for laws that authorize the creation of debt for the purposes of refinancing debt; and (3) prohibit exceptions to voter approval for laws authorizing debt construed from paragraphs outside the Constitution’s Debt Limitation Clause?

INTERPRETIVE STATEMENT

At present, the State Constitution explicitly allows the Legislature to pass laws that authorize autonomous public corporate entities to issue debt backed by State appropriations if the debt is to be repaid from one of two sources: a user fee generated from the project for which the debt was issued; or an appropriation required under another provision of the State Constitution. This amendment removes those two exceptions to voter approval. This amendment also requires voter approval for laws authorizing the creation of debt for the refinancing of debt. Lastly, the amendment provides that no other paragraph of the Constitution, beyond the Debt Limitation Clause, is to be used to create an exception to the voter approval requirement.

STATEMENT

This amendment to the State Constitution is offered to restore the original intent of the framers and subject laws authorizing State debt to voter approval. Having circumvented the framers safeguards, New Jersey’s debt has grown to approximately $32 billion, which is over five times the amount of State debt just a
decade and a half ago. Moreover, much of that debt has never been
directly approved by the voters.

At present, the State Constitution allows the Legislature to pass
laws that authorize autonomous public corporate entities to issue
appropriation backed debt without voter approval if the debt is to be
repaid with: (1) a user fee generated from the project for which the
debt was issued; or (2) an appropriation required pursuant to
another provision of the Constitution. This amendment removes
those two exceptions.

Additionally, this amendment requires voter approval for laws
authorizing the creation of debt for the refinancing of debt. Lastly,
the amendment provides that no other paragraph outside the
Constitution’s Debt Limitation Clause is to be construed to create
an exception to the voter approval requirements for laws that
authorize the issuance of debt.