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SENATE JOINT RESOLUTION NO. 361

Offered January 12, 2011

Prefiled January 12, 2011

Proposing an amendment to Section 9 of Article X of the Constitution of Virginia, relating to establishing a limit on the amount of revenues that can be used for the payment of principal or interest on debts of the Commonwealth.

Patrons—Saslaw, Barker, Edwards, Howell, Marsden, Marsh, McEachin, Miller, J.C., Miller, Y.B., Petersen and Whipple

Referred to Committee on Privileges and Elections

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 9 of Article X of the Constitution of Virginia as follows:

ARTICLE X

TAXATION AND FINANCE

Section 9. State debt.

No debt shall be contracted by or in behalf of the Commonwealth except as provided herein.

(a) Debts to meet emergencies and redeem previous debt obligations.

The General Assembly may (1) contract debts to suppress insurrection, repel invasion, or defend the Commonwealth in time of war; (2) contract debts, or may authorize the Governor to contract debts, to meet casual deficits in the revenue or in anticipation of the collection of revenues of the Commonwealth for the then current fiscal year within the amount of authorized appropriations, provided that the total of such indebtedness shall not exceed thirty per centum of an amount equal to 1.15 times the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the preceding fiscal year and that each such debt shall mature within twelve months from the date such debt is incurred; and (3) contract debts to redeem a previous debt obligation of the Commonwealth.

The full faith and credit of the Commonwealth shall be pledged to any debt created under this subsection. The amount of such debt shall not be included in the limitations on debt hereinafter established, except that the amount of debt incurred pursuant to clause (3) above shall be included in determining the limitation on the aggregate amount of general obligation debt for capital projects permitted elsewhere in this Article unless the debt so incurred pursuant to clause (3) above is secured by a pledge of net revenues from capital projects of institutions or agencies administered solely by the executive department of the Commonwealth or of institutions of higher learning of the Commonwealth, which net revenues the Governor shall certify are anticipated to be sufficient to pay the principal of and interest on such debt and to provide such reserves as the law authorizing the same may require, in which event the amount thereof shall be included in determining the limitation on the aggregate amount of debt contained in the provision of this Article which authorizes general obligation debt for certain revenue-producing capital projects.

(b) General obligation debt for capital projects and sinking fund.

The General Assembly may, upon the affirmative vote of a majority of the members elected to each house, authorize the creation of debt to which the full faith and credit of the Commonwealth is pledged, for capital projects to be distinctly specified in the law authorizing the same; provided that any such law shall specify capital projects constituting a single purpose and shall not take effect until it shall have been submitted to the people at an election and a majority of those voting on the question shall have approved such debt. No such debt shall be authorized by the General Assembly if the amount thereof when added to amounts approved by the people, or authorized by the General Assembly and not yet submitted to the people for approval, under this subsection during the three fiscal years immediately preceding the authorization by the General Assembly of such debt and the fiscal year in which such debt is authorized shall exceed twenty-five per centum of an amount equal to 1.15 times the average annual tax revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the three fiscal years immediately preceding the authorization of such debt by the General Assembly.

No debt shall be incurred under this subsection if the amount thereof when added to the aggregate

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58 amount of all outstanding debt to which the full faith and credit of the Commonwealth is pledged other
59 than that excluded from this limitation by the provisions of this Article authorizing the contracting of
60 debts to redeem a previous debt obligation of the Commonwealth and for certain revenue-producing
61 capital projects, less any amounts set aside in sinking funds for the repayment of such outstanding debt,
62 shall exceed an amount equal to 1.15 times the average annual tax revenues of the Commonwealth
63 derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the
64 three fiscal years immediately preceding the incurring of such debt.

65 All debt incurred under this subsection shall mature within a period not to exceed the estimated
66 useful life of the projects as stated in the authorizing law, which statement shall be conclusive, or a
67 period of thirty years, whichever is shorter; and all debt incurred to redeem a previous debt obligation of
68 the Commonwealth, except that which is secured by net revenues anticipated to be sufficient to pay the
69 same and provide reserves therefor, shall mature within a period not to exceed thirty years. Such debt
70 shall be amortized, by payment into a sinking fund or otherwise, in annual installments of principal to
71 begin not later than one tenth of the term of the bonds, and any such sinking fund shall not be
72 appropriated for any other purpose; if such debt be for public road purposes, such payment shall be first
73 made from revenues segregated by law for the construction and maintenance of State highways. No such
74 installment shall exceed the smallest previous installment by more than one hundred per centum. If
75 sufficient funds are not appropriated in the budget for any fiscal year for the timely payment of the
76 interest upon and installments of principal of such debt, there shall be set apart by direction of the
77 Governor, from the first general fund revenues received during such fiscal year and thereafter, a sum
78 sufficient to pay such interest and installments of principal.

79 (c) Debt for certain revenue-producing capital projects.

80 The General Assembly may authorize the creation of debt secured by a pledge of net revenues
81 derived from rates, fees, or other charges and the full faith and credit of the Commonwealth, and such
82 debt shall not be included in determining the limitation on general obligation debt for capital projects as
83 permitted elsewhere in this Article, provided that

84 (1) the creation of such debt is authorized by the affirmative vote of two thirds of the members
85 elected to each house of the General Assembly; and

86 (2) such debt is created for specific revenue-producing capital projects (including the enlargement or
87 improvement thereof), which shall be distinctly specified in the law authorizing the same, of institutions
88 and agencies administered solely by the executive department of the Commonwealth or of institutions of
89 higher learning of the Commonwealth.

90 Before any such debt shall be authorized by the General Assembly, and again before it shall be
91 incurred, the Governor shall certify in writing, filed with the Auditor of Public Accounts, his opinion,
92 based upon responsible engineering and economic estimates, that the anticipated net revenues to be
93 pledged to the payment of principal of and interest on such debt will be sufficient to meet such
94 payments as the same become due and to provide such reserves as the law authorizing such debt may
95 require, and that the projects otherwise comply with the requirements of this subsection, which
96 certifications shall be conclusive.

97 No debt shall be incurred under this subsection if the amount thereof when added to the aggregate
98 amount of all outstanding debt authorized by this subsection and the amount of all outstanding debt
99 incurred to redeem a previous debt obligation of the Commonwealth which is to be included in the
100 limitation of this subsection by virtue of the provisions of this Article authorizing the contracting of
101 debts to redeem a previous debt obligation of the Commonwealth, less any amounts set aside in sinking
102 funds for the payment of such debt, shall exceed an amount equal to 1.15 times the average annual tax
103 revenues of the Commonwealth derived from taxes on income and retail sales, as certified by the
104 Auditor of Public Accounts, for the three fiscal years immediately preceding the incurring of such debt.

105 This subsection shall not be construed to pledge the full faith and credit of the Commonwealth to the
106 payment of any obligation of the Commonwealth, or any institution, agency, or authority thereof, or to
107 any refinancing or reissuance of such obligation which was incurred prior to the effective date of this
108 subsection.

109 (d) Obligations to which section not applicable.

110 ~~The~~ *With the exception for provisions of subsection (e), the* restrictions of this section shall not apply
111 to any obligation incurred by the Commonwealth or any institution, agency, or authority thereof if the
112 full faith and credit of the Commonwealth is not pledged or committed to the payment of such
113 obligation.

114 (e) *Additional debt-related limitations.*

115 *In any ten fiscal year period beginning with fiscal years of the Commonwealth starting on or after*
116 *July 1, 2012, no more than the amount computed by first multiplying each year's realized and projected*
117 *blended revenues by five percent and then taking an average of the resulting products shall be used*
118 *directly or indirectly for principal, interest, or other payments on debt during such ten-year period. This*
119 *limitation shall be computed annually using a rolling ten-year period using the same definitions and*

120 *assumptions used by the Debt Capacity Advisory Committee of the Commonwealth for its December*
121 *2010 report to the Governor and the General Assembly. This limitation shall be in addition to all other*
122 *limitations and restrictions of this section.*

123 *The General Assembly shall by general law provide for the implementation of the provisions of this*
124 *subsection.*

125 *"Blended revenues" means the same as such term is described in the December 2010 report of the*
126 *Debt Capacity Advisory Committee of the Commonwealth made to the Governor and the General*
127 *Assembly, including revenues from Commonwealth sources deposited into the Transportation Trust*
128 *Fund.*

129 *"Debt" includes any debt issued or entered into for transportation projects and purposes, public*
130 *buildings, or capital leases and other long-term obligations primarily secured by blended revenues.*
131 *However, the term shall not include any debt contracted under clause (1) of subsection (a) or subsection*
132 *(c).*