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SENATE JOINT RESOLUTION NO. 396

Offered January 21, 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, Herring, Howell, Marsden, Marsh, McEachin, Miller, J.C., Norment, Stuart, Watkins 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 amount of all outstanding debt to which the full faith and credit of the Commonwealth is pledged other

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than that excluded from this limitation by the provisions of this Article authorizing the contracting of debts to redeem a previous debt obligation of the Commonwealth and for certain revenue-producing capital projects, less any amounts set aside in sinking funds for the repayment of such outstanding debt, shall exceed 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 incurring of such debt.

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

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

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

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

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

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

No debt shall be incurred under this subsection if the amount thereof when added to the aggregate amount of all outstanding debt authorized by this subsection and the amount of all outstanding debt incurred to redeem a previous debt obligation of the Commonwealth which is to be included in the limitation of this subsection by virtue of the provisions of this Article authorizing the contracting of debts to redeem a previous debt obligation of the Commonwealth, less any amounts set aside in sinking funds for the payment of such debt, shall exceed 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 incurring of such debt.

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

(d) Obligations to which section not applicable.

The restrictions of this section shall not apply to any obligation incurred by the Commonwealth or any institution, agency, or authority thereof if the full faith and credit of the Commonwealth is not pledged or committed to the payment of such obligation. *However, obligations incurred pursuant to this subsection shall be subject to the provisions of subsection (e).*

(e) *Additional debt-related limitations.*

In any ten-fiscal-year period beginning with fiscal years of the Commonwealth starting on or after July 1, 2012, no more than five percent of the projected blended revenues for each fiscal year of such ten-year period shall be used directly or indirectly for principal, interest, or other payments on debt. In addition, no more than five percent of the projected blended revenues for each fiscal year of such ten-year period shall be included in the official estimates of the debt capacity of the Commonwealth. This limitation shall be computed annually for the then current fiscal year and, separately and

independently, for each of the nine subsequent fiscal years. The annual limitation shall be reported to the Governor and the General Assembly no later than the date established by law for submission by the Governor of the general appropriation bill. In making the computation herein, no less than two years of estimated debt capacity shall be held in reserve.

The limitation in this subsection shall be in addition to all other limitations and restrictions of this section.

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

"Blended revenues" means general fund revenues; state revenues in the Transportation Trust Fund; certain nongeneral fund transfers to the general fund, including but not limited to Alcoholic Beverage Control profits; and certain recurring nongeneral fund transfers to the general fund.

"Debt" includes any debt authorized by the General Assembly, whether issued or unissued, that is primarily secured by blended revenues. The term includes, but is not limited to, debt entered into for transportation projects and purposes, public buildings, or capital leases and other long-term obligations primarily secured by blended revenues. However, the term shall not include any debt contracted under clause (1) of subsection (a) or subsection (c).