

LD4520356

## HOUSE JOINT RESOLUTION NO. 649

Offered January 23, 1995

*Proposing amendments to Section 10 of Article VII and Section 9 of Article X of the Constitution of Virginia, pertaining to state and local debt.*

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Patron—Miller

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Referred to Committee on Rules

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, 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 10 of Article VII and Section 9 of Article X of the Constitution of Virginia as follows:

ARTICLE VII  
LOCAL GOVERNMENT

Section 10. Debt.

(a) No city or town shall issue any bonds or other interest-bearing obligations which, including existing indebtedness, shall at any time exceed ten per centum of the assessed valuation of the real estate in the city or town subject to taxation, as shown by the last preceding assessment for taxes. In determining the limitation for a city or town there shall not be included the following classes of indebtedness:

(1) Certificates of indebtedness, revenue bonds, or other obligations issued in anticipation of the collection of the revenues of such city or town for the then current year; provided that such certificates, bonds, or other obligations mature within one year from the date of their issue, be not past due, and do not exceed the revenue for such year.

(2) Bonds pledging the full faith and credit of such city or town authorized by an ordinance enacted in accordance with Section 7, and approved by the affirmative vote of the qualified voters of the city or town voting upon the question of their issuance, for a supply of water or other specific undertaking from which the city or town may derive a revenue; but from and after a period to be determined by the governing body not exceeding five years from the date of such election, whenever and for so long as such undertaking fails to produce sufficient revenue to pay for cost of operation and administration (including interest on bonds issued therefor), the cost of insurance against loss by injury to persons or property, and an annual amount to be placed into a sinking fund sufficient to pay the bonds at or before maturity, all outstanding bonds issued on account of such undertaking shall be included in determining such limitation.

(3) Bonds of a city or town the principal and interest on which are payable exclusively from the revenues and receipts of a water system or other specific undertaking or undertakings from which the city or town may derive a revenue or secured, solely or together with such revenues, by contributions of other units of government.

(4) Contract obligations of a city or town to provide payments over a period of more than one year to any publicly owned or controlled regional project, if the project has been authorized by an interstate compact or if the General Assembly by general law or special act has authorized an exclusion for such project purposes.

(b) No debt shall be contracted by or on behalf of any county or district thereof or by or on behalf of any regional government or district thereof except by authority conferred by the General Assembly by general law. The General Assembly shall not authorize any such debt, except the classes described in paragraphs (1) and (3) of subsection (a), refunding bonds, and bonds issued, with the consent of the school board and the governing body of the county, by or on behalf of a county or district thereof for capital projects for school purposes and sold to the Literary Fund, the Virginia Retirement System, or other State agency prescribed by law, unless in the general law authorizing the same, provision be made for submission to the qualified voters of the county or district thereof or the region or district thereof, as the case may be, for approval or rejection by a majority vote of the qualified voters voting in an election on the question of contracting such debt. Such approval shall be a prerequisite to contracting such debt.

*For purposes of this subsection, the term "debt" shall encompass any agreement or undertaking of a county which provides for the payment by the county of debt service on any bond or obligation, whether*

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60 of the county or any other person or entity, issued or incurred after December 31 of the year in which  
61 this provision is approved by the voters pursuant to Article XII, which payment is contingent upon, or  
62 subject to, future, nonenforceable appropriations of the governing body of the county.

63 Any county may, upon approval by the affirmative vote of the qualified voters of the county voting  
64 in an election on the question, elect to be treated as a city for the purposes of issuing its bonds under  
65 this section. If a county so elects, it shall thereafter be subject to all of the benefits and limitations of  
66 this section applicable to cities, but in determining the limitation for a county there shall be included,  
67 unless otherwise excluded under this section, indebtedness of any town or district in that county  
68 empowered to levy taxes on real estate.

## 69 ARTICLE X 70 TAXATION AND FINANCE

### 71 Section 9. State debt.

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

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

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

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

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

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

109 No debt shall be incurred under this subsection if the amount thereof when added to the aggregate  
110 amount of all outstanding debt to which the full faith and credit of the Commonwealth is pledged other  
111 than that excluded from this limitation by the provisions of this Article authorizing the contracting of  
112 debts to redeem a previous debt obligation of the Commonwealth and for certain revenue-producing  
113 capital projects, less any amounts set aside in sinking funds for the repayment of such outstanding debt,  
114 shall exceed an amount equal to 1.15 times the average annual tax revenues of the Commonwealth  
115 derived from taxes on income and retail sales, as certified by the Auditor of Public Accounts, for the  
116 three fiscal years immediately preceding the incurring of such debt.

117 All debt incurred under this subsection shall mature within a period not to exceed the estimated  
118 useful life of the projects as stated in the authorizing law, which statement shall be conclusive, or a  
119 period of thirty years, whichever is shorter; and all debt incurred to redeem a previous debt obligation of  
120 the Commonwealth, except that which is secured by net revenues anticipated to be sufficient to pay the  
121 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 or 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, notwithstanding the immediately preceding sentence, the term "debt" shall encompass any agreement or undertaking of the Commonwealth which provides for the payment by the Commonwealth of debt service on any bond or obligation, whether of the Commonwealth or any other person or entity, issued or incurred after December 31 of the year in which this provision is approved by the voters pursuant to Article XII, which payment is contingent upon, or subject to, future, nonenforceable appropriations of the General Assembly.*