

**ASSEMBLY CONCURRENT
RESOLUTION No. 173**

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 4, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Proposes constitutional amendment to require voter approval whenever State independent authorities issue bonds backed by annual appropriations.

CURRENT VERSION OF TEXT

As introduced.



1 **A CONCURRENT RESOLUTION** proposing to amend Article VIII,
2 Section II, paragraph 3 of the Constitution of the State of New
3 Jersey.

4
5 **BE IT RESOLVED** *by the General Assembly of the State of New*
6 *Jersey (the Senate concurring):*

7
8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is agreed to:

10
11 PROPOSED AMENDMENT

12
13 Amend Article VIII, Section II, paragraph 3 to read as follows:

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25 be repealed until such debt or liability and the interest thereon are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

30 b. **【On and after the date on which this subparagraph b.**
31 **becomes part of the Constitution, the Legislature shall not enact any**
32 **law that, in any manner, creates or authorizes the creation of a debt**
33 **or liability of an】** An autonomous public corporate entity,
34 established either as an instrumentality of the State or otherwise
35 exercising public and essential governmental functions, **【which】**
36 shall not issue any debt or liability that has a pledge of an annual
37 appropriation as the ways and means to pay the interest of such debt
38 or liability as it falls due and pay and discharge the principal of
39 such debt, unless **【a law authorizing】** the creation of that debt for
40 some single object or work distinctly specified **【therein】** shall have
41 been submitted to the people at a general election and approved by
42 a majority of the legally qualified voters of the State voting thereon.
43 Voter approval shall not be required for any **【such law】** debt or
44 liability providing that the ways and means to pay the interest 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.

1 and to pay and discharge the principal of such debt or liability shall
2 be subject to appropriations of an independent non-State source of
3 revenue paid by third persons for the use of the single object or
4 work thereof, or from a source of State revenue otherwise required
5 to be appropriated pursuant to another provision of this
6 Constitution.

7 c. No voter approval shall be required for any such law under
8 **【subparagraphs】** subparagraph a. 【or b.】 of this paragraph
9 authorizing the creation of a debt or debts in a specified amount or
10 an amount to be determined in accordance with such law , or the
11 issuance of any debt or liability under subparagraph b. of this
12 paragraph in a specified amount, for the refinancing of all or a
13 portion of any outstanding debts or liabilities of the State, or of an
14 autonomous public corporate entity, established either as an
15 instrumentality of the State or otherwise exercising public and
16 essential governmental functions, heretofore or hereafter created, so
17 long as such law shall require , or such issuance shall require, that
18 the refinancing provide a debt service savings determined in a
19 manner to be provided in such law , or by the action of the
20 autonomous public corporate entity, and that the proceeds of such
21 debt or debts and any investment income therefrom shall be applied
22 to the payment of the principal of, any redemption premium on, and
23 interest due and to become due on such debts or liabilities being
24 refinanced on or prior to the redemption date or maturity date
25 thereof, together with the costs associated with such refinancing.

26 d. All money to be raised by the authority of such law , or by
27 the action of the autonomous public corporate entity, shall be
28 applied only to the specific object stated therein, and to the payment
29 of the debt thereby created.

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

36 (cf: Article VIII, Section II, paragraph 3 amended effective
37 December 4, 2008)

38
39 2. When this proposed amendment to the Constitution is finally
40 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
41 shall be submitted to the people at the next general election
42 occurring more than three months after the final agreement and
43 shall be published at least once in at least one newspaper of each
44 county designated by the President of the Senate, the Speaker of the
45 General Assembly and the Secretary of State, not less than three
46 months prior to the general election.

- 1 3. This proposed amendment to the Constitution shall be
2 submitted to the people at that election in the following manner and
3 form:
4 There shall be printed on each official ballot to be used at the
5 general election, the following:
6 a. In every municipality in which voting machines are not used,
7 a legend which shall immediately precede the question as follows:
8 If you favor the proposition printed below make a cross (X), plus
9 (+), or check (✓) in the square opposite the word "Yes." If you are
10 opposed thereto make a cross (X), plus (+), or check (✓) in the
11 square opposite the word "No."
12 b. In every municipality the following question:
13

	YES	<p>CONSTITUTIONAL AMENDMENT TO REQUIRE VOTER APPROVAL OF CERTAIN BONDING BACKED BY STATE APPROPRIATIONS</p> <p>Do you approve amending the Constitution to require voter approval for certain State debt? Voter approval would be needed when a State independent authority issues debt that is to be repaid from State funds. Under current law, voter approval is not needed if the debt is based on a law that was enacted before December 4, 2008.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>Voters have to approve certain State debt. Under current law, this generally includes when a State independent authority issues debt that the Legislature promises to repay each year and State funds are used to make the payments. An independent authority is an entity created by law that exercises certain government functions but is not under direct control of the State. However voter approval is not needed if the debt issued by an independent authority is based on a law that was enacted before December 4, 2008.</p> <p>The amendment ends this exception. It requires voter approval for all borrowing by a State independent authority when the Legislature promises to appropriate funds as the means to repay the debt.</p> <p>This does not affect bonds that have already been issued.</p>

SCHEDULE

The Constitutional amendment shall, if approved, take effect immediately.

STATEMENT

This concurrent resolution proposes to amend the State Constitution to require voter approval whenever debt is issued through State independent authority bonds that are backed by annual State appropriations.

Pursuant to an amendment to the New Jersey Constitution that became effective on December 4, 2008 (known as the “Lance Amendment”), voter approval is generally required before State independent authorities can issue debt that is backed by annual appropriations by the Legislature to pay the principal and interest on the debt. However, this voter approval prerequisite has been held to be inapplicable when a State independent authority that issues appropriations-backed debt is granted authority to undertake such borrowing based upon statutes enacted prior to December 4, 2008 (*ie.*, the date the Lance Amendment became effective).

This concurrent resolution amends the State Constitution to close this loophole. Any future borrowing by a State independent authority, when backed by an annual State appropriation, will be subject to approval by the voters in this State.

This proposed constitutional amendment does not affect borrowing that has already taken place. In addition, if the debt issued by a State independent authority is supported by a constitutional dedication of State revenue or by an independent non-State source of revenue paid by third persons for the use of the financed project, then voter approval of the borrowing is not required.