

Senate Joint Resolution No. 2-H

A joint resolution proposing an amendment to Section 9 of Article XII of the State Constitution, relating to certain bonds, to continue using gross receipts revenue for educational facilities for public school districts, community college districts, and universities, to continue using motor vehicle license revenues for capital outlay projects and other educational needs of public school districts and community college districts, and to remove interest and maturity restrictions on education bond refunding.

Be It Resolved by the Legislature of the State of Florida:

That the amendment to Section 9 of Article XII of the State Constitution set forth below is agreed to and shall be submitted to the electors of Florida for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE XII

SCHEDULE

SECTION 9. Bonds.—

(a) ADDITIONAL SECURITIES.

(1) Article IX, Section 17, of the Constitution of 1885, as amended, as it existed immediately before this Constitution, as revised in 1968, became effective, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim, except revenue bonds, revenue certificates or other evidences of indebtedness hereafter issued thereunder may be issued by the agency of the state so authorized by law.

(2) That portion of Article XII, Section 9, Subsection (a) of this Constitution, as amended, which by reference adopted Article XII, Section 19 of the Constitution of 1885, as amended, as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this revision as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment all of the proceeds of the revenues derived from the gross receipts taxes, as therein defined, collected in each year shall be applied as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or certificates issued before the effective date of this amendment or any refundings thereof which are secured by such gross receipts taxes. No bonds or other obligations may be issued pursuant to the provisions of Article XII, Section 19, of the Constitution of 1885, as amended, but this provision shall not be construed to prevent the refunding of any such outstanding bonds or obligations pursuant to the provisions of this subsection (a)(2).

Subject to the requirements of the first paragraph of this subsection (a)(2), beginning July 1, 1975, ~~and for fifty years thereafter~~, all of the proceeds of the revenues derived from the gross receipts taxes collected from every person, including municipalities, as provided and levied pursuant to the provisions of chapter 203, Florida Statutes, ~~(hereinafter called "gross receipts taxes")~~, ~~as in existence as of~~

~~the date of the adoption of this amendment~~ or as such chapter is amended from time to time, shall, as collected, be placed in a trust fund to be known as the "public education capital outlay and debt service trust fund" in the state treasury (hereinafter referred to as "capital outlay fund"), and used only as provided herein.

The capital outlay fund shall be administered by the state board of education as created and constituted by Section 2 of Article IX of the Constitution of Florida as revised in 1968 (hereinafter referred to as "state board"), or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this subsection (a)(2). The state board shall be a body corporate and shall have all the powers provided herein in addition to all other constitutional and statutory powers related to the purposes of this subsection (a)(2) heretofore or hereafter conferred by law upon the state board, or its predecessor created by the Constitution of 1885, as amended.

State bonds pledging the full faith and credit of the state may be issued, without a vote of the electors, by the state board pursuant to law to finance or refinance capital projects theretofore authorized by the legislature, and any purposes appurtenant or incidental thereto, for the state system of public education provided for in Section 1 of Article IX of this Constitution (hereinafter referred to as "state system"), including but not limited to institutions of higher learning, community junior colleges, vocational technical schools, or public schools, as now defined or as may hereafter be defined by law. All such bonds shall mature not later than thirty years after the date of issuance thereof July 1, 2025. All other details of such bonds shall be as provided by law or by the proceedings authorizing such bonds; provided, however, that no bonds, except refunding bonds, shall be issued, and no proceeds shall be expended for the cost of any capital project, unless such project has been authorized by the legislature.

Bonds issued pursuant to this subsection (a)(2) shall be primarily payable from such revenues derived from gross receipts taxes, and shall be additionally secured by the full faith and credit of the state. No such bonds shall ever be issued in an amount exceeding ninety percent of the amount which the state board determines can be serviced by the revenues derived from the gross receipts taxes accruing thereafter under the provisions of this subsection (a)(2), and such determination shall be conclusive.

The moneys in the capital outlay fund in each fiscal year shall be used only for the following purposes and in the following order of priority:

- a. For the payment of the principal of and interest on any bonds due maturing in such fiscal year;
- b. For the deposit into any reserve funds provided for in the proceedings authorizing the issuance of bonds of any amounts required to be deposited in such reserve funds in such fiscal year;
- c. For direct payment of the cost or any part of the cost of any capital project for the state system theretofore authorized by the legislature, or for the purchase or redemption of outstanding bonds in accordance with the provisions of the proceedings which authorized the issuance of such bonds.

(b) REFUNDING BONDS. Revenue bonds to finance the cost of state capital projects issued prior to the date this revision becomes effective, including proj-

ects of the Florida state turnpike authority or its successor but excluding all portions of the state highway system, may be refunded as provided by law without vote of the electors at a lower net average interest cost rate by the issuance of bonds maturing not later than the obligations refunded, secured by the same revenues only.

(c) MOTOR VEHICLE FUEL TAXES.

(1) A state tax, designated "second gas tax," of two cents per gallon upon gasoline and other like products of petroleum and an equivalent tax upon other sources of energy used to propel motor vehicles as levied by Article IX, Section 16, of the Constitution of 1885, as amended, is hereby continued. The proceeds of said tax shall be placed monthly in the state roads distribution fund in the state treasury.

(2) Article IX, Section 16, of the Constitution of 1885, as amended, is adopted by this reference as a part of this revision as completely as though incorporated herein verbatim for the purpose of providing that after the effective date of this revision the proceeds of the "second gas tax" as referred to therein shall be allocated among the several counties in accordance with the formula stated therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds, revenue certificates and tax anticipation certificates or any refundings thereof secured by any portion of the "second gas tax."

(3) No funds anticipated to be allocated under the formula stated in Article IX, Section 16, of the Constitution of 1885, as amended, shall be pledged as security for any obligation hereafter issued or entered into, except that any outstanding obligations previously issued pledging revenues allocated under said Article IX, Section 16, may be refunded at a lower average net interest cost rate by the issuance of refunding bonds, maturing not later than the obligations refunded, secured by the same revenues and any other security authorized in paragraph (5) of this subsection.

(4) Subject to the requirements of paragraph (2) of this subsection and after payment of administrative expenses, the "second gas tax" shall be allocated to the account of each of the several counties in the amounts to be determined as follows: There shall be an initial allocation of one-fourth in the ratio of county area to state area, one-fourth in the ratio of the total county population to the total population of the state in accordance with the latest available federal census, and one-half in the ratio of the total "second gas tax" collected on retail sales or use in each county to the total collected in all counties of the state during the previous fiscal year. If the annual debt service requirements of any obligations issued for any county, including any deficiencies for prior years, secured under paragraph (2) of this subsection, exceeds the amount which would be allocated to that county under the formula set out in this paragraph, the amounts allocated to other counties shall be reduced proportionately.

(5) Funds allocated under paragraphs (2) and (4) of this subsection shall be administered by the state board of administration created under said Article IX, Section 16, of the Constitution of 1885, as amended, and which is continued as a body corporate for the life of this subsection 9(c). The board shall remit the proceeds of the "second gas tax" in each county account for use in said county as follows: eighty per cent to the state agency supervising the state road system and twenty per cent to the governing body of the county. The percentage allocated to the county may be increased by general law. The proceeds of the "second gas tax" subject

to allocation to the several counties under this paragraph (5) shall be used first, for the payment of obligations pledging revenues allocated pursuant to Article IX, Section 16, of the Constitution of 1885, as amended, and any refundings thereof; second, for the payment of debt service on bonds issued as provided by this paragraph (5) to finance the acquisition and construction of roads as defined by law; and third, for the acquisition and construction of roads and for road maintenance as authorized by law. When authorized by law, state bonds pledging the full faith and credit of the state may be issued without any election: (i) to refund obligations secured by any portion of the "second gas tax" allocated to a county under Article IX, Section 16, of the Constitution of 1885, as amended; (ii) to finance the acquisition and construction of roads in a county when approved by the governing body of the county and the state agency supervising the state road system; and (iii) to refund obligations secured by any portion of the "second gas tax" allocated under paragraph 9(c)(4). No such bonds shall be issued unless a state fiscal agency created by law has made a determination that in no state fiscal year will the debt service requirements of the bonds and all other bonds secured by the pledged portion of the "second gas tax" allocated to the county exceed seventy-five per cent of the pledged portion of the "second gas tax" allocated to that county for the preceding state fiscal year, of the pledged net tolls from existing facilities collected in the preceding state fiscal year, and of the annual average net tolls anticipated during the first five state fiscal years of operation of new projects to be financed, and of any other legally available pledged revenues collected in the preceding state fiscal year. Bonds issued pursuant to this subsection shall be payable primarily from the pledged tolls, the pledged portions of the "second gas tax" allocated to that county, and any other pledged revenue, and shall mature not later than forty years from the date of issuance.

(d) SCHOOL BONDS.

(1) Article XII, Section 9, Subsection (d) of this constitution, as amended, (which, by reference, adopted Article XII, Section 18, of the Constitution of 1885, as amended) as the same existed immediately before the effective date of this amendment is adopted by this reference as part of this amendment as completely as though incorporated herein verbatim, for the purpose of providing that after the effective date of this amendment the first proceeds of the revenues derived from the licensing of motor vehicles as referred to therein shall be distributed annually among the several counties in the ratio of the number of instruction units in each county, the same being coterminus with the school district of each county as provided in Article IX, Section 4, Subsection (a) of this constitution, in each year computed as provided therein to the extent necessary to comply with all obligations to or for the benefit of holders of bonds or motor vehicle tax anticipation certificates issued before the effective date of this amendment or any refundings thereof which are secured by any portion of such revenues derived from the licensing of motor vehicles.

(2) No funds anticipated to be distributed annually among the several counties under the formula stated in Article XII, Section 9, Subsection (d) of this constitution, as amended, as the same existed immediately before the effective date of this amendment shall be pledged as security for any obligations hereafter issued or entered into, except that any outstanding obligations previously issued pledging such funds may be refunded ~~at a lower net average interest cost rate~~ by the issuance of refunding bonds ~~maturing not later than the obligations refunded, secured by the~~

same revenues and any other security authorized in paragraph (13) of this subsection (d).

(3) Subject to the requirements of paragraph (1) of this subsection (d) beginning July 1, 1973 and for thirty-five years thereafter, the first proceeds of the revenues derived from the licensing of motor vehicles (hereinafter called "motor vehicle license revenues") to the extent necessary to comply with the provisions of this amendment, shall, as collected, be placed monthly in the school district and community junior college district capital outlay and debt service fund in the state treasury and used only as provided in this amendment. Such revenue shall be distributed annually among the several school districts and community junior college districts in the ratio of the number of instruction units in each school district or community junior college district in each year computed as provided herein. The amount of the first motor vehicle license revenues ~~derived from the state motor vehicle license taxes~~ to be so set aside in each year and distributed as provided herein shall be an amount equal in the aggregate to the product of six hundred dollars (\$600) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1967-68, plus an amount equal in the aggregate to the product of eight hundred dollars (\$800) multiplied by the total number of instruction units in all the school districts of Florida for the school fiscal year 1972-73 and for each school fiscal year thereafter which is in excess of the total number of such instruction units in all the school districts of Florida for the school fiscal year 1967-68, such excess units being designated "growth units." The amount of the first ~~revenues derived from the state motor vehicle license~~ revenues ~~taxes~~ to be so set aside in each year and distributed as provided herein shall additionally be an amount equal in the aggregate to the product of four hundred dollars (\$400) multiplied by the total number of instruction units in all community junior college districts of Florida. The number of instruction units in each school district or community junior college district in each year for the purposes of this amendment shall be the greater of (1) the number of instruction units in each school district for the school fiscal year 1967-68 or community junior college district for the school fiscal year 1968-69 computed in the manner heretofore provided by general law, or (2) the number of instruction units in such school district, including growth units, or community junior college district for the school fiscal year computed in the manner heretofore or hereafter provided by general law and approved by the state board of education (hereinafter called the state board), or (3) the number of instruction units in each school district, including growth units, or community junior college district on behalf of which the state board has issued bonds or motor vehicle license revenue tax anticipation certificates under this amendment which will produce sufficient revenues under this amendment to equal one and twelve-hundredths (1.12) times the aggregate amount of principal of and interest on all bonds or motor vehicle license revenue tax anticipation certificates issued under this amendment which will mature and become due in such year, computed in the manner heretofore or hereafter provided by general law and approved by the state board.

(4) Such funds so distributed shall be administered by the state board as now created and constituted by Section 2 of Article IX of the State Constitution as revised in 1968, or by such other instrumentality of the state which shall hereafter succeed by law to the powers, duties and functions of the state board, including the powers, duties and functions of the state board provided in this amendment. For the purposes of this amendment, said state board shall be a body corporate and shall have all the powers provided in this amendment in addition to all other

constitutional and statutory powers related to the purposes of this amendment heretofore or hereafter conferred upon said state board.

(5) The state board shall, in addition to its other constitutional and statutory powers, have the management, control and supervision of the proceeds of the first ~~part of the revenues derived from the licensing of motor vehicle license revenues~~ vehicles provided for in this subsection (d). The state board shall also have power, for the purpose of obtaining funds for the use of any school board of any school district or board of trustees of any community junior college district in acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes to issue bonds or motor vehicle license revenue tax anticipation certificates, and also to issue such bonds or motor vehicle license revenue tax anticipation certificates to pay, fund or refund any bonds or motor vehicle license revenue tax anticipation certificates theretofore issued by said state board. All such bonds or motor vehicle license revenue tax anticipation certificates shall bear interest at not exceeding the rate provided by general law and shall mature not later ~~than thirty years after the date of issuance thereof, five per centum per annum, or such higher interest rate as may be authorized by statute heretofore or hereafter passed by a three-fifths (3/5) vote of each house of the legislature.~~ All such bonds shall mature serially in annual installments commencing not more than three (3) years from the date of issuance thereof and ending not later than thirty (30) years from the date of issuance, or July 1, 2007, A.D., whichever is earlier. All such motor vehicle tax anticipation certificates shall mature prior to July 1, 2007, A.D. The state board shall have power to determine all other details of the said bonds or motor vehicle license revenue tax anticipation certificates and to sell in the manner provided by general law at public sale after public advertisement, or exchange the said bonds or motor vehicle license revenue tax anticipation certificates, upon such terms and conditions as the state board shall provide.

(6) The state board shall also have power to pledge for the payment of the principal of and interest on such bonds or motor vehicle license revenue tax anticipation certificates, including refunding bonds or refunding motor vehicle license revenue tax anticipation certificates, all or any part from the ~~anticipated revenues to be derived from the licensing of motor vehicle license revenues~~ vehicles provided for in this amendment and to enter into any covenants and other agreements with the holders of such bonds or motor vehicle license revenue tax anticipation certificates at the time of the issuance thereof concerning the security thereof and the rights of the holders thereof, all of which covenants and agreements shall constitute legally binding and irrevocable contracts with such holders and shall be fully enforceable by such holders in any court of competent jurisdiction.

(7) No such bonds or motor vehicle license revenue tax anticipation certificates shall ever be issued by the state board, except to refund outstanding bonds or motor vehicle license revenue anticipation certificates, until after the adoption of a resolution requesting the issuance thereof by the school board of the school district or board of trustees of the community junior college district on behalf of which the obligations are to be issued. The state board of education shall limit the amount of such bonds or motor vehicle license revenue tax anticipation certificates which can be issued on behalf of any school district or community junior college district to ninety percent (90%) of the amount which it determines can be serviced by the revenue accruing to the school district or community junior college district under

the provisions of this amendment, and shall determine the reasonable allocation of the interest savings from the issuance of refunding bonds or motor vehicle license revenue anticipation certificates, and such determinations ~~determination~~ shall be conclusive. All such bonds or motor vehicle license revenue tax anticipation certificates shall be issued in the name of the state board of education but shall be issued for and on behalf of the school board of the school district or board of trustees of the community junior college district requesting the issuance thereof, and no election or approval of qualified electors shall be required for the issuance thereof.

(8) The state board shall in each year use the funds distributable pursuant to this amendment to the credit of each school district or community junior college district only in the following manner and in order of priority:

a. To comply with the requirements of paragraph (1) of this subsection (d).

b. To pay all amounts of principal and interest due maturing in such year on any bonds or motor vehicle license revenue tax anticipation certificates issued under the authority hereof, including refunding bonds or motor vehicle license revenue tax anticipation certificates, issued on behalf of the school board of such school district or board of trustees of such community junior college district; subject, however, to any covenants or agreements made by the state board concerning the rights between holders of different issues of such bonds or motor vehicle license revenue tax anticipation certificates, as herein authorized.

c. To establish and maintain a sinking fund or funds to meet future requirements for debt service or reserves therefor, on bonds or motor vehicle license revenue tax anticipation certificates issued on behalf of the school board of such school district or board of trustees of such community junior college district under the authority hereof, whenever the state board shall deem it necessary or advisable, and in such amounts and under such terms and conditions as the state board shall in its discretion determine.

d. To distribute annually to the several school boards of the school districts or the boards of trustees of the community junior college districts for use in payment of debt service on bonds heretofore or hereafter issued by any such school boards of the school districts or boards of trustees of the community junior college districts where the proceeds of the bonds were used, or are to be used, in the acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects in such school districts or community junior college districts and which capital outlay projects have been approved by the school board of the school district or board of trustees of the community junior college district, pursuant to the most recent survey or surveys conducted under regulations prescribed by the state board to determine the capital outlay needs of the school district or community junior college district. The state board shall have power at the time of issuance of any bonds by any school board of any school district or board of trustees of any community junior college district to covenant and agree with such school board or board of trustees as to the rank and priority of payments to be made for different issues of bonds under this subparagraph d., and may further agree that any amounts to be distributed under this subparagraph d. may be pledged for the debt service on bonds issued by any school board of any school district or board of trustees of any community junior college district and for the rank and priority of such pledge. Any such covenants

or agreements of the state board may be enforced by any holders of such bonds in any court of competent jurisdiction.

e. To pay the expenses of the state board in administering this subsection (d), which shall be prorated among the various school districts and community college districts and paid out of the proceeds of the bonds or motor vehicle license revenue anticipation certificates or from the funds distributable to each school district and community college district on the same basis as such motor vehicle license revenues are distributable to the various school districts and community college districts.

f.e. To distribute annually to the several school boards of the school districts or boards of trustees of the community junior college districts for the payment of the cost of acquiring, building, constructing, altering, remodeling, improving, enlarging, furnishing, equipping, maintaining, renovating, or repairing of capital outlay projects for school purposes in such school district or community junior college district as shall be requested by resolution of the school board of the school district or board of trustees of the community junior college district.

g.f. When all major capital outlay needs of a school district or community junior college district have been met as determined by the state board, on the basis of a survey made pursuant to regulations of the state board and approved by the state board, all such funds remaining shall be distributed annually and used for such school purposes in such school district or community junior college district as the school board of the school district or board of trustees of the community junior college district shall determine, or as may be provided by general law.

(9) Capital outlay projects of a school district or community junior college district shall be eligible to participate in the funds accruing under this amendment and derived from the proceeds of bonds and motor vehicle license revenue tax anticipation certificates and from the motor vehicle license revenues taxes, only in the order of priority of needs, as shown by a survey or surveys conducted in the school district or community junior college district under regulations prescribed by the state board, to determine the capital outlay needs of the school district or community junior college district and approved by the state board; provided that the priority of such projects may be changed from time to time upon the request of the school board of the school district or board of trustees of the community junior college district and with the approval of the state board; and provided, further, that this paragraph (9) shall not in any manner affect any covenant, agreement or pledge made by the state board in the issuance by said state board of any bonds or motor vehicle license revenue tax anticipation certificates, or in connection with the issuance of any bonds of any school board of any school district; or board of trustees of any community junior college district.

~~(10) The state board may invest any sinking fund or funds created pursuant to this amendment in direct obligations of the United States of America or in the bonds or motor vehicle tax anticipation certificates, issued by the state board on behalf of the school board of any school district or board of trustees of any junior college district.~~

~~(10)(11)~~ The state board shall have power to make and enforce all rules and regulations necessary to the full exercise of the powers herein granted and no legislation shall be required to render this amendment of full force and operating effect. The legislature shall not reduce the levies of said motor vehicle license revenues

taxes during the life of this amendment to any degree which will fail to provide the full amount necessary to comply with the provisions of this amendment and pay the necessary expenses of administering the laws relating to the licensing of motor vehicles, and shall not enact any law having the effect of withdrawing the proceeds of such motor vehicle license revenues taxes from the operation of this amendment and shall not enact any law impairing or materially altering the rights of the holders of any bonds or motor vehicle license revenue tax anticipation certificates issued pursuant to this amendment or impairing or altering any covenant or agreement of the state board, as provided in such bonds or motor vehicle license revenue tax anticipation certificates.

(12) ~~The state board shall have power to appoint such persons and fix their compensation for the administration of the provisions of this amendment as it shall deem necessary, and the expenses of the state board in administering the provisions of this amendment shall be prorated among the various school districts and junior college districts and paid out of the proceeds of the bonds or motor vehicle tax anticipation certificates or from the funds distributable to each school district or junior college district on the same basis as such motor vehicle license taxes are distributable to the various school districts or junior college districts under the provisions of this amendment. Interest or profit on sinking fund investments shall accrue to the school districts or junior college districts in proportion to their respective equities in the sinking fund or funds.~~

(11)(13) Bonds issued by the state board pursuant to this subsection (d) shall be payable primarily from said motor vehicle license revenues taxes as provided herein, and if heretofore or hereafter authorized by law, may be additionally secured by pledging the full faith and credit of the state without an election. When heretofore or hereafter authorized by law, bonds issued pursuant to Article XII, Section 18 of the Constitution of 1885, as amended prior to 1968, and bonds issued pursuant to Article XII, Section 9, subsection (d) of the Constitution as revised in 1968, and bonds issued pursuant to this subsection (d), may be refunded by the issuance of bonds additionally secured by the full faith and credit of the state only at a lower net average interest cost rate.

(e) DEBT LIMITATION. Bonds issued pursuant to this Section 9 of Article XII which are payable primarily from revenues pledged pursuant to this section shall not be included in applying the limits upon the amount of state bonds contained in Section 11, Article VII, of this revision.

(f) ~~If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (a) differs from that contained herein, then such other language as to subsection (a) shall prevail over the language of subsection (a) as contained herein.~~

(g) ~~If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (d) differs from that contained herein, then such other language shall prevail over the language of subsection (d) as contained herein.~~

(h) ~~If, at the general election at which this amendment is adopted, there is also adopted an amendment to this section wherein the proposed language of subsection (c) differs from that contained herein, then such other language as to subsection (c) shall prevail over the language of subsection (c) as contained herein. This amendment shall take effect as of July 1, 1975.~~

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

**BONDS FOR THE CONSTRUCTION OF
EDUCATIONAL FACILITIES**

Proposing an amendment to Section 9 of Article XII of the State Constitution to:

(1) Continue indefinitely the current dedication of gross receipts taxes to fund construction of educational facilities for the state's public education system.

(2) Continue indefinitely the current dedication of some motor vehicle license taxes to fund construction of educational facilities for public schools and community colleges.

(3) Remove interest and maturity restrictions on education bond refunding.

Filed in Office Secretary of State June 29, 1992.