



LEAGUE OF WOMEN VOTERS®  
OF NEW JERSEY EDUCATION FUND

**November 4 -- General Election  
Voters Decide Yes or No on Two Ballot Questions**

**Public Question #1  
VOTERS TO APPROVE STATE AUTHORITY BONDS PAYABLE FROM  
STATE APPROPRIATIONS**

**QUESTION**

Do you approve the proposed amendment to the State Constitution which provides that, after this amendment becomes part of the Constitution, a law enacted thereafter that authorizes State debt created through the sale of bonds by any autonomous public corporate entity, established either as an instrumentality of the State or otherwise exercising public and essential governmental functions, such as an independent State authority, which debt or liability has a pledge of an annual appropriation as the ways and means to pay the interest of such debt or liability as it falls due and pay and discharge the principal of such debt, will be subject to voter approval, unless the payment of the debt is made subject to appropriations of an independent non-State source of revenue paid by third persons for the use of the object or work bonded for, or are from a source of State revenue otherwise required to be appropriated pursuant to another provision of the Constitution?

**INTERPRETIVE STATEMENT (on the ballot)**

This amendment to the State Constitution will require voter approval of new laws that allow the State to borrow money by issuing bonds through any State agency or independent authority backed by a pledge of an annual appropriation to pay the principal and interest on the bonds. New laws to allow the issuance of these State authority bonds for State government purposes will be subject to voter approval. State courts have ruled that the State constitutional requirement that the Legislature and Governor must seek voter approval for bonded debt does not apply to such borrowing. That requirement is followed only for proposed State bonds that contain a binding, non-repealable pledge to pay off the bonds directly with State taxes. Most State authority bonds can be issued without voter approval because the payment of the bonds is backed only by a promise of the Legislature and the Governor that they will enact appropriations in the future to meet the bond payments. The courts have said this is a legal means of avoiding submitting the issuance of debt for voter approval. Laws to permit such debt that are enacted after this amendment becomes part of the Constitution will have to authorize voter referenda for approval of such debts.

Exceptions to voter approval for authority bonds will be permitted if the bonds are to be paid off from 1) a source of revenue dedicated by the State Constitution, which only the voters can establish, or 2) an independent non-State government



source of payments for use of projects built or obtained with the borrowed money, such as highway tolls or user fees.

**Background:**

This question is an amendment to Article VIII, Section II paragraph 3, the debt limitation clause in the State Constitution. That clause limits the Legislature from creating any debts greater than one percent of the annual budget without approval of the voters. The Supreme Court of New Jersey has ruled that the debt limitation clause does not apply to municipalities, counties or independent bodies such as State authorities. The Court found that appropriation debt incurred by State authorities without a vote of the people is not "State debt."

**This ballot question, if approved, will add language that requires voter approval for State authorities to borrow money to finance projects.** At the present time only legislative approval is required for State authorities to borrow money to finance projects.

Authorities, which exist at the state, county and municipal levels, are independent public corporations created to finance, build or maintain public capital projects. Some examples of State authorities are the Economic Development Authority, Garden State Preservation Trust Authority, Health Care Facilities Authority, Sports & Exposition Authority, and the Transportation Trust Fund Authority.

The bonds that authorities sell depend on their repayment from money collected from user fees or from appropriations by the governing body as part of the budget process. As the number of independent State authorities and projects undertaken has increased over the years, so has the amount of debt subject to appropriation by the State Legislature. Although not carrying the full faith and credit of the State as do general obligation bonds approved by the voters, it is unlikely that the State would default on these bonds because of the impact on its future ability to borrow.

If this question is approved by the voters, future debt of State authorities will require voter approval. There are two exceptions to this voter approval.

- (1) If the money borrowed by a State authority will be repaid by user fees. An example would be the Turnpike Authority borrowing for road construction with repayment based upon tolls collected or
- (2) If an authority borrows from a State revenue source that is constitutionally dedicated for specific uses. An example is the Transportation Trust Fund Authority borrows for projects against the constitutionally dedicated gasoline tax. Likewise the Garden State Preservation Trust Authority borrows from the constitutionally dedicated portion of the sales tax.



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**Reasons to Vote Yes:**

- Supporters believe the framers of the Constitution envisioned public approval for borrowing since the debt limitation clause was in the 1844 and 1947 Constitution.
- State authorities have been used increasingly for the purpose of bonding for projects.
- Citizens need to constrain the Legislature from borrowing without voter approval. The November 2007 State of New Jersey Debt Report places general obligation debt (approved by voters) at 2.8 billion dollars. By contrast, the same report puts debt subject to appropriation (State authority bonds) at 25.2 billion dollars.

**Reasons to Vote No:**

- We have a representative form of government. It is the job of the Legislature, elected by the people, to make funding decisions. Voters should not constrain the Legislature which must weigh the need for public capital projects against available resources.
- Passage is likely to make it more difficult to address regional capital or infrastructure needs that will not have support of the entire state.
- Ballot questions cannot accurately present complicated appropriation issues to voters for an effective government process.

**Public Question # 2**

**PROVIDES THAT METHOD OF SELECTION AND APPOINTMENT OF CERTAIN MUNICIPAL COURT JUDGES BE SET BY STATUTE RATHER THAN BY THE CONSTITUTION**

**QUESTION**

Shall the amendment to Article VI, Section VI, paragraph 1 of the New Jersey Constitution, agreed to by the Legislature, providing that judges of inferior courts with jurisdiction extending to more than one municipality be appointed as provided in law rather than as provided in the Constitution which requires nomination by the Governor and appointment with the advice and consent of the Senate, be approved?

**INTERPRETIVE STATEMENT (on the ballot)**

This constitutional amendment would provide that the method of selection and appointment of certain municipal court judges would be set by statute, rather than be provided for in the Constitution. These judges may include judges of joint municipal courts and judges of central municipal courts with jurisdiction extending to the territorial boundaries of a county. This constitutional amendment



does not preclude the possibility that a statute would continue to provide for nomination by the Governor with the advice and consent of the Senate, but it does permit a statute to set forth another method of selection and appointment that may not involve the Governor and the Senate.

**Background:**

Inferior courts are municipal courts. Inferior courts with jurisdiction extending to more than one municipality are joint municipal courts or central municipal courts.

If two or more municipalities establish a joint municipal court, Article VI, Section VI paragraph 1 of the State constitution provides that the Governor with the advice and consent of the Senate appoints the judge of the joint municipal court. A county with a county police department or county park police force may establish a central municipal court whose jurisdiction is the county. Since the boundaries of a central municipal court include more than one municipality, these judges are also appointed by the Governor with the advice and consent of the Senate. In contrast, the judge for a municipal court with jurisdiction only within the boundaries of the town is appointed by that municipality's governing body. This latter power is provided for in law not the Constitution.

If this ballot question is passed, this amendment will essentially delete from the State Constitution the appointment power of the Governor for "judges of the inferior courts with jurisdiction extending to more than one municipality." That is the first step in changing the appointment power. Legislation must then be introduced to place in the law, rather than the Constitution, how joint and central municipal court judges are appointed.

**Reasons to vote yes:**

- Appointment of municipal court judges should be a local issue. Removing the Governor's appointment power for some municipal judges from the Constitution is the first step toward this goal.
- Proponents believe that removing the Governor and Senate from the appointment process will make it more likely that towns will explore consolidating municipal courts.

**Reasons to vote no:**

- The courts in question operate as regional courts and appointment by the Governor with the advice and consent of the Senate ensures that the interest of the entire region is considered.
- The current process makes local politics less likely to play a part in the appointment process. The Senate Judiciary Committee and full Senate are required to vote on the appointment.