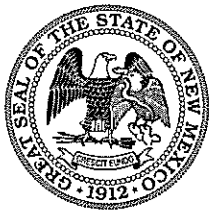
2016
GENERAL ELECTION VOTER GUIDE

November 8, 2016

Ballot Questions

Proposed Constitutional Amendment & General Obligation Bonds



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General Information

In the 2016 legislative session, the New Mexico Legislature passed a joint resolution proposing an amendment to the state constitution. This proposed amendment will appear on the November 8, 2016 election ballot.

The Constitution of New Mexico provides that the legislature may propose amendments revising the constitution. Proposed amendments must then be submitted to the voters of the state for approval. An amendment becomes part of the state's constitution if a majority of the votes cast in the election on the proposition are in its favor unless the proposed amendment affects one of the sections for which a three-fourths' majority is required. (This year's proposed constitutional amendment does not affect one of those sections.). Proposed constitutional amendments become effective upon approval by the voters unless a different effective date is provided within the text of the proposed amendment.

For the proposed amendment that will appear on the November 8, 2016 ballot, this guide contains the text of the joint resolution proposing the amendment and a statement of the purpose of the amendment. Arguments for and against the amendment and additional analysis is available at the websites provided.

The legislature also passed a bill proposing four general obligation (GO) bonds. These proposed bonds must also be submitted to the voters of the state for approval. General obligation bonds are a type of bonds that are secured by the state's use of legally available resources. The text of each ballot question is included along with a statement of the bonds' function and fiscal impact. Arguments for and against the proposed bonds and

additional analysis is available at the websites provided.

Disclaimer

The Secretary of State's office is including the text of each proposed statewide ballot question to appear on the ballot in the 2016 General Election. A brief statement of purpose or function has also been provided for each question. Additional links and references are included for the voter to review full bill language or to obtain additional information on the issues. The analysis presented in this guide was developed by a variety of sources and does not necessarily reflect the views of the Secretary of State's office. Instead, this guide attempts to provide voters with various resources to review the amendments and come to their own conclusions.

Proposed: Constitutional Amendment

Ballot Question

The following constitutional amendment question will appear on all ballots for the General Election on November 8, 2016:

Constitutional Amendment 1

Proposing an amendment to Article 2, Section 13 of the Constitution of New Mexico to protect community safety by granting courts new authority to deny release on bail pending trial for dangerous defendants in felony cases while retaining the right to pretrial release for non-dangerous defendants who do not pose a flight risk.

For: _____Against:_____

Purpose

Constitutional Amendment 1 would amend Article 2, Section 13 of the Constitution of New Mexico to change the conditions under which a defendant can be denied bail. At present, bail may be denied only for a defendant charged with a capital felony, a defendant with two or more felony convictions in New Mexico or a defendant accused of a felony involving the use of a deadly weapon if the defendant has a felony conviction in New Mexico. The proposed amendment would change these requirements, allowing bail to be denied for a defendant who has been charged with a felony if the prosecutor can prove to a judge that the defendant poses a threat to the public. The proposed amendment would

also provide that a defendant who is not a danger to the community or a flight risk cannot be denied bail solely because of the defendant's financial inability to post a money or property bond.

Arguments For

1. Allows judges to keep dangerous defendants off the streets.

Under the current constitutional structure, judges do not have the authority to deny release to a defendant who is known to be a danger to the community or a flight risk. As a result, dangerous defendants who can afford whatever bail is set by the judge are released and might further threaten public safety. The proposed amendment would give judges the power to keep those who need to remain behind bars while they are awaiting trial away from the community.

2. Allows release of people who do not pose a threat.

Many of the defendants incarcerated in New Mexico jails do not pose a danger to the community or are not a flight risk, but are held simply because they cannot afford bail. Often, they have no past criminal histories or are held pending trial for nonviolent offenses. Being held in jail has significant negative impacts on these defendants, who have not yet been found guilty of any crime, and on their families. Moreover, in states that have enacted reforms similar to the proposed amendment, there has been no corresponding negative impact on public safety.

3. Cost savings to counties.

Holding large numbers of people pending trial imposes substantial costs on the counties, which house the vast majority of these defendants. Some

counties have spent up to half of their budgets on jails and correctional officers. Many of the individuals held in county jails could be released without affecting public safety.

4. Protection of basic constitutional rights.

It is a fundamental right since the founding of this nation that people are innocent until proven guilty, and thus the state should have to prove why a defendant should remain incarcerated before any finding of guilt.

Arguments Against

1. The present reliance on bail bonding helps ensure defendants appear in court.

A bond helps ensure that a defendant will appear in court. A defendant released without a bond in a drug or property crime case has no financial incentive to appear in court.

2. Possible negative impact on the bail bonding industry.

With fewer defendants required to post a bond, the proposed amendment would have a negative impact on the bail bonding industry, costing jobs in an already weak economy. The bail bonding industry provides a necessary service by helping to ensure that defendants appear in court.

3. Puts the public at greater risk.

The proposed amendment, which will require judges to release certain defendants, will almost certainly increase the risk to the public. Defendants who post bonds under the current system frequently commit other crimes while awaiting trial. Making it easier for defendants to be released while awaiting trial will inevitably

result in further danger to the public.

Source:
https://nmlegis.gov/Publications/New_Mexico_State_Government/Constitutional_Amendment/Constitutional_Amendments_2016.pdf

Full Text of Legislation

SENATE JOINT RESOLUTION 1 - Proposed Constitutional Amendment 1

PROPOSING AN AMENDMENT TO ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO PROTECT COMMUNITY SAFETY BY GRANTING COURTS NEW AUTHORITY TO DENY RELEASE ON BAIL PENDING TRIAL FOR DANGEROUS DEFENDANTS IN FELONY CASES WHILE RETAINING THE RIGHT TO PRETRIAL RELEASE FOR NON-DANGEROUS DEFENDANTS WHO DO NOT POSE A FLIGHT RISK.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. It is proposed to amend Article 2, Section 13 of the constitution of New Mexico to read:

"All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great and in situations in which bail is specifically prohibited by this section. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Bail may be denied [~~by the district court for a period of sixty days after the incarceration of the defendant by an order entered within seven days after the incarceration, in the following instances:~~

~~A. the defendant is accused of a felony and has previously been convicted of two or more felonies, within the state, which felonies did not arise from the same~~

~~transaction or a common transaction with the case at bar;~~

~~B. the defendant is accused of a felony involving the use of a deadly weapon and has a prior felony conviction, within the state. The period for incarceration without bail may be extended by any period of time by which trial is delayed by a motion for a continuance made by or on behalf of the defendant~~] by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community. An appeal from an order denying bail shall be given preference over all other matters.

A person who is not detainable on grounds of dangerousness nor a flight risk in the absence of bond and is otherwise eligible for bail shall not be detained solely because of financial inability to post a money or property bond. A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property bond may file a motion with the court requesting relief from the requirement to post bond. The court shall rule on the motion in an expedited manner."

SECTION 2. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

Note:
underscored material = new language proposed for insertion
[~~bracketed material~~] = existing language proposed for deletion

Proposed: General Obligation Bonds

Ballot Questions

The following four general obligation bond questions will appear on all ballots for the General Election on November 8, 2016:

Bond Question A

The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of senior citizen facility improvement, construction and equipment acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed fifteen million four hundred forty thousand dollars ($15,440,000) to make capital expenditures for certain senior citizen facility improvement, construction and equipment acquisition projects and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For: _____Against:_____

Bond Question B

The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of library acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed ten million one hundred sixty-seven thousand dollars ($10,167,000) to make capital expenditures for academic, public school, tribal and public library resource acquisitions and provide for a general property tax imposition and levy for the

payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For: _____Against:_____

Bond Question C

The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of higher education, special schools and tribal schools capital improvement and acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed one hundred forty-two million three hundred fifty-six thousand dollars ($142,356,000) to make capital expenditures for certain higher education, special schools and tribal schools capital improvements and acquisitions and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For: _____Against:_____

Bond Question D

The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of public safety capital improvement and acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed eighteen million one hundred ninety-six thousand dollars ($18,196,000) to make capital expenditures for capital improvements and acquisitions for state police, public safety communications and national guard facilities statewide and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses

incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For: _____Against:_____

Explanation of General Obligation Bonds and Taxes

A bond represents a debt for money borrowed by a government to finance capital improvement projects. The State of New Mexico promises to repay the amount borrowed, plus interest, over a period of time for each General Obligation Bond that is approved by voters. The bonds are called "General Obligation" because payment of the debt service (principal plus interest) is a general obligation of the State and its property owners through property taxation.

According to the Board of Finance, Division of the NM Department of Finance and Administration, the specific amount of property taxes collected in a given year is attributable to a number of factors, including the amount of debt service required for existing general obligation bonds, the projected debt service required for the new bond issue, the latest assessed valuation of net taxable property, cash balances in bond debt service accounts, the date of issuance, and the actual interest rate obtained on the bond sale.

Based on the assumption that all four bond issues will be passed by voters, the property tax year 2016 mill levy has been set at 1.36 mills, which is the same as the 2015 rate. The State Board of Finance estimates that over a ten-year period, the four issues on the ballot would increase the average annual property tax bill by

approximately $9.34 per $100,000 of asset value. Of the annual average $9.34, Bond Issue A accounts for $0.78, Bond Issue B accounts for $0.51, Bond Issue C accounts for $7.14, and Bond Issue D accounts for $0.91.

2016 Capital Projects General Obligation Bond Act (Senate Bill 122)

The New Mexico Legislature passed the 2016 Capital Projects General Obligation Bond Act detailing projects that would be funded by these bonds. No bonds will be issued or sold under the act until the state's registered voters have voted upon and approved the bonds. Each bond is voted upon separately with a "For" or "Against" question.

Purpose

The four 2016 bond issues ask for voter approval to issue general obligation bonds as follows:

Bond Issue A, in an amount not to exceed $15,440,000 to make capital expenditures for senior citizen facility improvements, construction, and equipment acquisition projects;

Bond Issue B, in an amount not to exceed $10,167,000 to make capital expenditures for academic, public school, tribal, and public library resource acquisitions;

The following projects have been specifically designated for funding by the sale of Bond Issue B:

> Cultural Affairs Department: $3 million for equipment, library furniture, fixtures and

supplemental library resource acquisitions, including print, non-print and electronic resources, and for the purchase and installation of broadband internet equipment and infrastructure at nontribal public libraries statewide; and $750 thousand for equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, and for the purchase and installation of broadband internet equipment and infrastructure at tribal libraries statewide.

Higher Education Department: $3.25 million for supplemental library resource acquisitions, including books, equipment, electronic resources and collaborative library resources and information technology projects, for academic libraries statewide.

Public Education Department: $3 million for supplemental library resource acquisitions, including print, non-print and electronic resources, at public school libraries statewide.

Bond Issue C, in an amount not to exceed $142.356 million to make capital expenditures for certain higher educational, tribal, and special schools capital improvements and acquisitions;

The following higher education institutions have been specifically designated for funding by the sale of Bond C.

Eastern New Mexico University	$12.7 million
Community Colleges various schools	$32.35 million
NM School for the Blind and Visually Impaired	$1.2 million
Highlands University	$4.5 million
Mining and Technology, NM Institute	$5.5 million

NM Military Institute	$4.856 million
NM School for the Deaf	$2 million
New Mexico State University	$27.5 million
Northern New Mexico College	$1 million
University of New Mexico	$34.5 million

Bond Issue D, in an amount not to exceed $18,196,000 to make capital expenditures for capital improvements and acquisitions for state police, public safety communications and national guard facilities statewide.

The following projects have been specifically designated for funding by the sale of Bond Issue D:

Department of Public Safety: $7 million to plan, design and construct a new state police crime laboratory and evidence and records facility, including expansion of the existing crime laboratory, at the department of public safety headquarters in Santa Fe in Santa Fe County.

Department of Information Technology: $5 million to plan, design, purchase, install and implement infrastructure to stabilize and modernize public safety communications statewide.

Department of Military Affairs: $4 million to plan, design and construct the Las Cruces national guard readiness center in Dona Ana County, and $2 million for improvements, repairs and demolition and to purchase and install systems to improve energy efficiency and for staging areas at facilities statewide.

Fiscal Implications

According to revenue estimators, general obligation bond (GOB) capacity is approximately $185.1

million, or approximately 0.33 percent of net taxable value of property. Authorizing no more than the stated capacity maintains a flat mill levy. The authorization of approximately $186.2 million contained in this bill, including nearly $1 million for the cost of issuance of the bonds, is a non-recurring expense to GOB capacity. Issuance and sale of general obligation bonds requires approval by the electorate in the 2016 November general election. General obligation bonds are payable from ad valorem (property) taxes levied on all property in the state subject to property taxation. The bonds are backed by the full faith and credit of the state. General obligation bonds are approved for issuance by the State Board of Finance in January or February 2017 following the general election. If ratified by the voters, funds authorized in this bill will be available to the recipients in the spring of 2017. The state agencies and state institutions to which money has been appropriated in this bill shall be responsible for monitoring the projects funded in the bill to ensure compliance with the laws and Constitution of New Mexico and shall cause to be reverted any unexpended or unencumbered balance remaining at the earlier of the third full fiscal year after issuance of the bonds or the termination or completion of the specific project. Reverted funds shall be deposited in the debt service fund established by the state treasurer for the purpose of paying the principal and interest on the state's general obligation bonds.

The total for all four questions, including bond issuance costs, is $186,159,000. A complete breakdown of the designated projects under each bond issue can be found on the New Mexico Legislature's website:

https://www.nmlegis.gov/Sessions/16%20Regular/final/SB0122.pdf

Source: NM Department of Finance and Administration

Additional Resources

Additional information on the proposed constitutional amendments and general obligation bonds can be found at the following sites:

Link to full legislation and fiscal impact documents:
Senate Joint Resolution 1 - Constitutional Amendment 1:
https://nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=JR&LegNo=1&year=16

Senate Bill 122 – General Obligation Bonds:
https://nmlegis.gov/Legislation/Legislation?Chamber=S&LegType=B&LegNo=122&year=16

General Obligation Bond Projects Chart by County:
https://www.nmlegis.gov/Publications/Capital_Outlay/Chart%20Funded%20Projects%20by%20County%203A%20GOB%202016.pdf

General Obligation Bond Projects Chart by Agency:
https://www.nmlegis.gov/Publications/Capital_Outlay/Chart%20Funded%20Projects%20by%20Agency%203A%20GOB%202016.pdf

The League of Women Voters of New Mexico:
www.lwvnm.org

The New Mexico Secretary of State's Office:
www.sos.state.nm.us