Bond Case Briefs

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Make Prison Financing Transparent.

Wouldn't a constitutional amendment be necessary for prison construction bonds? This is a question I asked state officials last year as the Governor's initial proposal for a mega-prison construction plan was first revealed. The answer was no, because the proposal was funded by revenue bonds, which do not count toward Alabama's constitutional debt limits.

The constitutional limit on general obligation bonds makes lawmakers and state agencies accountable to voters. To fund large capital projects beyond the debt limit, they need voters to approve a constitutional amendment. Revenue bonds avoid that accountability, because in theory they don't require taxpayers to foot the bill.

Some revenue bond projects – toll bridges and hospitals, for example – do generate revenue which can be used to pay back the principal and interest. But do prisons? Not really. While the Alabama Department of Corrections (ADOC) does collect some revenue from prison labor contracts, it is nowhere near enough to cover the tens of millions of dollars required to make the bond payments on even one new 4000-inmate facility. The bonds won't be repaid with revenue at all, but from projected budget savings of lower operating expenses on the new prisons. But to avoid the hurdle of voter approval, the bond issues create a legal fiction, where revenue comes in the form of lease payments from ADOC to a new legislatively-created prison finance authority, headed by the governor.

Essentially, the state would move money from one pocket to the other and call it "revenue" to get around the popular vote required for General Obligation Bonds.

Setting aside the ethical question of avoiding voter approval, Alabamians should be concerned about lease-revenue bonds. Because they rely on uncertain sources of revenue to pay them, revenue bonds are viewed by the market as riskier than general obligation bonds. This means the interest rates are higher, and therefore cost more to pay back.

Perhaps a bigger problem is that these bonds make long-term commitments for state and local governments in response to short-run problems. County and municipal bonds are in some ways even worse; they commit local governments with relatively small tax bases to decades of bond payments and hundreds of millions in total debt. Although they would more plausibly be collecting revenue from the state to pay the bonds, ultimately Alabama taxpayers are still on the hook if ADOC's promised savings don't materialize.

All government debt, including revenue bonds, creates a fiscal illusion. Debt allows large increases in spending with no apparent need for higher taxes. Yet, this mentality only commits more discretionary future tax revenues to servicing past debt. Without reform, state debt will increasingly compound the growing burden of the federal debt. Only fiscal transparency and taxpayer constraint can reverse this trend.

A more transparent approach to fixing the problems of overcrowding and poor conditions would be to fund construction and renovation from existing tax revenue or go through the proper channel of

seeking voter approval. It would cost taxpayers less in interest, and it would be more honest.

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